



# THE OFFICIAL GAZETTE

## OF THE COLONY AND PROTECTORATE OF KENYA

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Bill for introduction into the Legislative Council—

An Ordinance to Consolidate and Replace the Law relating to  
Traffic on the Roads.

## GOVERNMENT NOTICE No. 1003

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,  
Clerk of the Legislative Council.

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**A BILL ENTITLED  
AN ORDINANCE TO CONSOLIDATE AND REPLACE  
THE LAW RELATING TO TRAFFIC ON THE  
ROADS**

**PART I—PRELIMINARY**

Short title.

1. This Ordinance may be cited as the Traffic Ordinance, 1953.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“bicycle” means any bicycle or tricycle not self-propelled; 5

“cattle” includes oxen, bulls, cows, horses, camels, mules, asses, sheep, goats and swine;

“commercial vehicle” means a motor vehicle constructed or adapted for the carriage of goods or burdens of any description in connexion with any trade, business or agriculture, but 10 does not include any type or class of motor vehicle which the Registrar may declare by notice in the Gazette to be excluded from the term “commercial vehicle”;

“dealer” means any person who deals by way of business in motor vehicles or trailers; 15

“dealer’s general licence” means a licence issued under the provisions of section 23 of this Ordinance;

“drive” in relation to a motor vehicle includes the steering of a motor vehicle;

“driver” means any person who drives a vehicle, or 20 guides draught, pack or saddle animals or herds or flocks on a road, or who is in actual physical control of same;

“driving licence” means a licence to drive a motor vehicle issued under the provisions of this Ordinance and any document deemed to be a driving licence by any rules made under 25 this Ordinance;

“heavy commercial vehicle” means a commercial vehicle whose tare weight exceeds six thousand seven hundred and twenty pounds;

No. 64 of 1950.

“highway authority” means the Road Authority established under the provisions of the Road Authority Ordinance, 1950, except where a road in any area or district has been vested in a local authority under any Ordinance, in which case such local authority is the highway authority for the purposes of this Ordinance in relation to such road; 35

“inspector” means any person appointed to be an inspector of vehicles for the purpose of this Ordinance;

“invalid carriage” means a motor vehicle specially designed and constructed for the use of persons suffering from some physical defect or disability; 40

“licensing officer” means a licensing officer appointed under section 3 of this Ordinance;

“manufacturer” means a manufacturer of motor vehicles and trailers;

“motor car” means a motor vehicle having seating accommodation for not more than seven passengers excluding the driver but does not include a motor cycle; 45

“motor cycle” means a motor vehicle with less than four wheels the weight of which unladen does not exceed eight hundredweights; 50

“motor omnibus” means a public service vehicle having seating accommodation for more than seven passengers exclusive of the driver;

“motor vehicle” means any mechanically propelled vehicle excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Ordinance be declared not to be motor vehicles for the purpose of this Ordinance;

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

“plying for hire” shall include—

- (i) standing on any public taxi stand;
- (ii) being offered for hire by any notice, advertisement or announcement;
- 15 (iii) standing or travelling whilst exhibiting a “For Hire” notice of any kind;

“provisional licence” means a licence issued under the provisions of section 31 of this Ordinance

“private hire vehicle” means any public service vehicle constructed or adapted to carry not more than seven passengers, exclusive of the driver, such vehicle not being a taxicab;

“public service vehicle” means any motor vehicle which—

- (i) is licensed under Part XI of the Ordinance to carry passengers for hire or reward;
- 25 (ii) plies for hire or reward or is let out for hire or reward;
- (iii) is carrying passengers for hire or reward;

“Registrar” means the Registrar of motor vehicles appointed under the provisions of section 3 of this Ordinance;

“road” means any public road within the meaning of the Public Roads Ordinance and includes any other road or way, wharf, car park, footpath or bridlepath on which vehicles are capable of travelling and to which the public has access; Cap. 229.

“tare weight” means the weight of a vehicle when unladen, inclusive of the weight of the body and all parts (the heavier being taken when alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle when used on the road;

“taxicab” means any public service vehicle constructed or adapted to carry not more than seven passengers, exclusive of the driver, which is registered under the provisions of any by-laws relating to the licensing and operation of taxicabs to ply for hire from a taxi rank or other public place within the area where such by-laws are in force;

“tractor” means a motor vehicle constructed or adapted for the purpose of hauling trailers but which is not itself designed to carry goods or passengers;

“trailer” means any vehicle designed to be drawn by a motor vehicle but does not include a sidecar attached to a motor cycle;

“traffic signs” means any sign, notice, signal, light or other device erected or in any way displayed by, or with the consent of the Highway Authority, for the purpose of regulating, restricting or prohibiting traffic and vehicles of any kind, on a road. Provided that all traffic signs shall conform to any regulations as to size, colour and type which may be prescribed by Rules made under this Ordinance;

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on a road.

Appointment  
of officers.

3. (1) The Governor shall, by notice published in the Gazette, appoint a Registrar of motor vehicles who shall be responsible for the registration and licensing of motor vehicles and trailers and for the licensing of drivers and for the keeping of such records in relation thereto as required by the provisions of this Ordinance. 5

(2) The Registrar shall, by notice published in the Gazette, appoint such licensing officers as may be necessary for the carrying out of the provisions of this Ordinance.

(3) The Commissioner of Police shall, by notice published in the Gazette, appoint such inspectors of vehicles and driving test examiners as may be necessary for the carrying out of the provisions of this Ordinance. 10

Classification  
of vehicles.

4. For the purpose of this Ordinance motor vehicles shall be divided into the following classes— 15

- (a) motor omnibuses;
- (b) heavy commercial vehicles;
- (c) commercial vehicles;
- (d) tractors;
- (e) motor cars; 20
- (f) motor-cycles not exceeding fifty cubic centimetres engine capacity;
- (g) motor-cycles exceeding fifty cubic centimetres engine capacity;
- (h) invalid carriages; 25
- (i) special types of motor vehicles for which special authorization is required from the Registrar before such vehicles can be registered or used on a road.

#### PART II—REGISTRATION OF VEHICLES

Records of  
vehicles.

5. (1) The Registrar shall keep records of all motor vehicles and trailers registered in the Colony and shall cause every licensing officer to keep records of all vehicles registered by him. 30

(2) Vehicle records maintained by the Registrar or licensing officer shall be open for inspection by any police officer, any collector of Customs and the Chairman of the Transport Licensing Board, who shall be entitled to copy any entry in such records free of charge. 35

(3) Any person who satisfies the Registrar that he has reasonable cause therefor shall be entitled on payment of the prescribed fee to a copy of any entry in such vehicle records. 40

Motor vehicles  
and trailers to  
be registered.

6. (1) No person shall possess a motor vehicle or trailer, other than a vehicle exempted from the provisions of this Part of the Ordinance, unless such vehicle is registered under the provisions of this Ordinance. 45

(2) Application for the registration of any vehicle shall be made to a licensing officer on the prescribed form and shall be accompanied by the prescribed fee.

(3) A licensing officer, before he registers any motor vehicle or trailer may verify all the particulars in the form of application and may, if he thinks fit, send the vehicle to an inspector for examination in order to satisfy himself that the vehicle is in a fit and proper condition for the purpose for which it is intended to be used and to conform in all respects to the provisions of this Ordinance. 50 55

(4) If any application is made to register any commercial vehicle or trailer the load capacity of which has not been declared by the manufacturers of the chassis, a licensing officer shall not register the vehicle or trailer until an inspector has determined its load capacity. Such determination shall be final. 60

(5) A licensing officer on being satisfied as to the accuracy of the particulars contained in a form of application for the registration of a vehicle shall assign the vehicle a registration number which shall be the identification mark of the vehicle. Particulars of the vehicle shall be forwarded by the licensing officer to the Registrar who shall enter such particulars in his records and shall issue to the owner of the vehicle a registration book, which book, or a duplicate thereof, shall be proof of registration of the vehicle.

10 (6) If a registration book has been lost, destroyed or defaced or the particulars thereon have become illegible the owner of the vehicle shall apply on the prescribed form for a duplicate thereof and the Registrar, if satisfied as to such loss, destruction, defacement or illegibility, shall, upon payment of 15 the prescribed fee, issue a duplicate registration book:

Provided that where any registration book which has been lost is subsequently found, the holder of the duplicate registration book shall forthwith return to the Registrar such registration book.

20 (7) In the event of any change of circumstance which affects the accuracy of the registered particulars of any vehicle the owner of the vehicle shall inform the Registrar of such change and shall forward to him the registration book in order that it may be amended and shall supply the Registrar with 25 any further information which he may require.

7. Where under the provisions of this Part of the Ordinance the owner of any vehicle is required to have his vehicle inspected by an inspector such fees as are incurred for such inspection shall be paid by the owner of the vehicle. Such fees 30 shall be as determined from time to time by the Registrar.

Fees payable  
to inspector  
of vehicles.

8. The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle.

Owner of a  
vehicle.

9. (1) No motor vehicle or trailer the ownership of which 35 has been transferred by the registered owner shall be used on a road for more than fourteen days after the date of such transfer unless the new owner is registered as the owner thereof.

Change of  
ownership.

(2) Upon the transfer of ownership of a motor vehicle or 40 trailer the registered owner thereof shall, within seven days from the date of such transfer, inform the Registrar on the prescribed form of the name and address of the new owner and deliver to the new owner the registration book in respect of such vehicle. The new owner shall, after inserting particulars of the change of ownership, forward the registration book 45 with the prescribed fee to the Registrar, whereupon the vehicle shall be registered in the name of the new owner:

Provided that where in any case the registered owner of a vehicle has failed to comply with the provisions of this subsection the Registrar, on being satisfied that such registered 50 owner has died or has left the Colony or cannot be traced or refuses to comply with the provisions of this sub-section, may on payment of the prescribed fee cause the vehicle to be registered in the name of the new owner.

55 (3) Sub-sections (1) and (2) of this section shall not apply to a change of possession consequent on a contract of hiring where the period of hiring does not exceed three months, or where the registered owner continues to employ and pay the driver of the vehicle.

(4) Application for registration of a new owner may be made before the actual transfer of the vehicle, but the registration of a new owner shall not be effective until the registration book has been surrendered to and re-issued by the Registrar.

(5) Sub-sections (1), (2) and (4) of this section shall not apply to any change of possession of a vehicle which occurs by reason of the vehicle being lawfully seized under a hire-purchase agreement, but in such event the following provisions shall apply—

(a) the registered owner or his representative shall, within fourteen days of the seizure, deliver the registration book to the person who has seized the vehicle, and inform the Registrar in writing of the change of possession;

(b) such person shall, within fourteen days of receiving the registration book, apply to the Registrar to be registered as the owner thereof in place of the registered owner, and shall on payment of the prescribed fee be registered accordingly.

(6) On the registration of a new owner, the Registrar shall make the necessary alterations to the registration book, and shall deliver the amended registration book to the new registered owner. The Registrar, if he thinks fit, may issue a new registration book.

Registration of motor vehicles exported or imported unlawfully prohibited.

10. Notwithstanding the provisions of this Ordinance a licensing officer shall not register a motor vehicle unless the owner of the vehicle satisfies him—

(a) that the vehicle has been lawfully exported from its country of origin or the country in which it was last registered, and that such owner is in possession of any export permit in relation to the export of such vehicle required by the law of the country of origin or of last registration; and

(b) that the vehicle has been lawfully imported into the Colony.

Vehicles may be exempted from registration.

11. The Governor in Council may, by notice in the Gazette, exempt any vehicle, class or description of vehicle from the provisions of this Part of this Ordinance.

Vehicles to carry identification plates.

12. (1) No motor vehicle or trailer registered under this Ordinance or driven under the authority of a general dealer's licence shall be used on a road unless there is fixed thereto in the prescribed manner the prescribed number of identification plates of the prescribed design and colour on which shall be inscribed the identification mark of the vehicle or of the general dealer's licence:

Provided that identification plates used under the authority of a general dealer's licence may be suspended from the vehicle and not fixed.

(2) In place of the plate or plates referred to in sub-section (1) of this section the identification mark of a vehicle may be painted on the vehicle, but the design and colour of such mark shall in all respects conform to the requirements prescribed for the fixed plates and the mark shall be in the position prescribed for fixed plates. For all other purposes of this Ordinance and any regulations made thereunder such a painted mark shall be deemed to be an identification plate.

Production of registration book.

13. The owner of a vehicle shall, when requested by a police officer, produce for inspection, either immediately to such police officer or within five days of such request being made at a police station nominated by such owner, the registration book issued in respect of such vehicle.



- 14.** Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalties.

### PART III—LICENSING OF VEHICLES

- 15.** (1) No person shall possess or use a motor vehicle or trailer on a road unless the vehicle is licensed under the provisions of this Part of this Ordinance, nor shall any person use such a vehicle on the road in contravention of any provision or condition contained in such licence.

Motor vehicles and trailers to be licensed.

- (2) The Governor in Council may by notice in the Gazette exempt any vehicle, class or description of vehicle from the provisions of this Part of this Ordinance.

- (3) Notwithstanding the provisions of sub-section (1) of this section if the owner of any vehicle informs the Registrar in writing that he does not intend to use such vehicle on a road for a stated period then for that period, if the vehicle is not used on a road, it shall be exempt from the provisions of sub-section (1) of this section.

- 16.** Applications for licences under this Part of this Ordinance shall be made to a licensing officer on the prescribed form accompanied by the fee payable and the vehicle registration book.

Applications for licences.

- 17.** (1) A licensing officer shall only issue a licence if he is satisfied—

Conditions for issue of licence.

- (a) that the vehicle is duly registered;
- (b) that the particulars in the registration book are correct; and
- (c) that the vehicle is insured against third party risks in accordance with the provisions of the Motor Vehicles Insurance (Third Party Risks) Ordinance;
- (d) that the licence in respect of such vehicle has not been cancelled under the provisions of sub-section (3) of section 55 of this Ordinance.

Cap. 233.

- (2) Before issuing a licence in respect of any vehicle a licensing officer may, and shall in the case of a vehicle which in his opinion is more than ten years old, require the applicant for a licence to produce a certificate from an inspector that the vehicle conforms in all respects with the provisions of this Ordinance and any rules made thereunder in regard to construction and equipment. Every such certificate shall be valid for a period of two years from the date of issue.

- 18.** Every vehicle licence shall be in the prescribed form, and a fee shall be paid on such licence in accordance with the First Schedule to this Ordinance.

Fees on licences.

- 19.** (1) A vehicle licence, not being a dealer's general licence, may be issued for—

Duration of licence.

- (a) one year; or
- (b) three-quarters of a year; or
- (c) half a year; or
- (d) a quarter of a year; or
- (e) one calendar month:

Provided that licences under paragraph (e) of this sub-section shall be issued only at the absolute discretion of the licensing officer.



(2) Licences shall continue in force from the date of issue thereof until—

- (a) in the case of a yearly licence, the following thirty-first day of December;
- (b) in the case of a licence for three-quarters of a year, 5 the following thirtieth day of September, or if issued on or after the first day of April, the following thirty-first day of December;
- (c) in the case of a half-yearly licence, the following thirtieth day of June or thirty-first day of December, 10 whichever shall first ensue, or if issued between the first day of April and the thirtieth day of June, the following thirtieth day of September;
- (d) in the case of a quarterly licence, the following thirty-first day of March, thirtieth day of June, thirtieth 15 day of September or thirty-first day of December, whichever shall first ensue;
- (e) in the case of a monthly licence, the last day of the month for which the licence was issued.

(3) The holder of a vehicle licence, other than the holder 20 of a dealer's general licence, shall, on surrendering it for cancellation to the Registrar, be entitled to a refund of one-fifteenth part of the annual fee payable, in respect of the vehicle for which the licence is issued, for each complete calendar month remaining in the period for which the licence 25 was issued:

Provided that where the refund of fee, calculated in accordance with the provisions of this sub-section, includes part of a shilling, the refund shall exclude such part of a 30 shilling.

Licence to be carried on vehicle.

20. No vehicle which is required to be licensed shall be used on a road unless the licence, which shall be legible and in no way defaced, is carried on the vehicle in the prescribed manner.

Duplicate licences.

21. If a vehicle licence is lost, defaced, mutilated, or 35 rendered illegible, the Registrar shall issue a duplicate licence on payment of the prescribed fee:

Provided that where any licence which has been lost is subsequently found, the holder of the duplicate licence shall forthwith deliver up to the Registrar such duplicate. 40

New licence to be applied for in certain circumstances.

22. (1) The holder of a vehicle licence shall apply for a new licence—

- (a) where he desires to use the vehicle for any purpose not authorized by the licence; and
- (b) where the vehicle is so altered that a higher duty or a 45 duty of a different class is required.

(2) A new licence under this section shall not be issued until the old licence has been surrendered and in respect of every such new licence there shall be deducted from the fee payable therefor a rebate calculated in like manner as is pro- 50 vided in sub-section (3) of section 19 of this Ordinance.

Dealer's general licence.

23. (1) The Registrar may issue to a dealer in, or manufacturer or-repairer of, motor vehicles, upon application in the prescribed form and upon payment of the prescribed fees, such number of dealer's general licences, as the applicant may re- 55 quire, and with each such licence shall issue two identification plates.

(2) Subject to the provisions of sections 24, 25, 26 and 27 of this Ordinance, and to any other conditions which may, from time to time, be prescribed, the holder of a dealer's general licence shall only use the said licence in respect of 5 vehicles in his possession; and shall not use more than one such vehicle under the authority of one licence at any one time.

**24.** (1) No vehicle shall be used on any road under the authority of a dealer's general licence— Use of dealer's general licence.

- 10     (a) to convey passengers or goods for profit or reward;
- (b) to carry or convey any goods whatsoever except such load as may be necessary for the purpose of testing the motor vehicle or trailer, and no such load, and no part thereof, shall be removed from the motor vehicle or trailer at any time between the departure 15 from and the return to the loading place of the motor vehicle or trailer, save in the case of an accident;
- (c) except with the permission in writing of the Registrar, for any purpose other than—
- 20       (i) for proceeding to or returning from any inspection, examination or test as provided for by this Ordinance;
- (ii) for proceeding from the premises of a dealer to a railway station or wharf for entraining or 25 shipment, or from a train or ship to such premises; or
- (iii) for test or trial during or after completion, construction, assembly or repair; or
- (iv) for test or trial by or on behalf of an intending purchaser, or for proceeding to or from the place where the purchaser intends to keep it; or 30
- (v) for proceeding to or from a public weighbridge for the purpose of its weight being ascertained or to or from a place for registration;
- 35       (vi) for exportation to any territory in East Africa, the Sudan, or the Belgian Congo;
- (vii) for proceeding from the premises of a dealer to the premises of a purchaser or of another dealer or manufacturer;
- 40       (viii) for towing a motor vehicle which while being driven upon a road has become unable to proceed under its own power from the place where it has broken down to a place for repair or storage;
- 45       (ix) for proceeding to or returning from a workshop in which a body is to be or has been fitted to the motor vehicle or where the motor vehicle is to be or has been painted or repaired;
- (x) for proceeding to or returning from an exhibition 50 of motor vehicles.

(2) In any proceedings under this section the burden of proving the fact of an accident for the purposes of sub-section (1) (b) of this section, shall lie on the person charged.

(3) No vehicle shall be used on any road under the authority of a dealer's general licence unless the holder of the licence, or a person duly authorized by him, accompanies such vehicle. 55

(4) Not more than two persons, in addition to the driver, shall be carried within or upon any such vehicle, and such 60 persons shall be limited to a prospective purchaser and his agent or a member of his family, or in the case of a vehicle proceeding to or from an accident, two mechanics.

(5) Upon the issue of a General Dealer's Licence the Registrar shall also supply to the person to whom such licence is issued a book in a form approved by the Registrar in which the holder of such licence shall on each occasion and before such licence is used complete in duplicate the entries for which provision is therein made. One copy of such entries shall remain in the book and the other copy shall be carried with the vehicle during the whole of the journey to which such entries relate, and shall be produced at any time during such journey by the driver for inspection upon demand made by any Police or Licensing Officer.

(6) Every such book shall be produced at all reasonable times for inspection by any Police or Licensing Officer and shall be kept available for inspection at the place specified in the declaration made on application for the General Dealer's Licence as the place at which the book will be kept.

(7) No person shall deface or mutilate any such book or make any entry therein which is to his knowledge false or misleading or alter or obliterate any entry made therein or except as provided by this Ordinance make any entry therein or addition thereto, or after its removal from such book make, alter or obliterate any entry in any copy to be carried on the vehicle.

Duration of  
dealer's general  
licence.

**25.** (1) A dealer's general licence shall continue in force until the thirty-first day of December next following the date of issue.

(2) Every such licence shall cease to be valid if the dealer ceases to carry on business in the district for which it is issued.

(3) When a Dealer's General Licence expires or is cancelled or otherwise ceases to be valid under the provisions of this Ordinance, the holder of the licence shall deliver to the Registrar the identification plates which were issued to such holder with such licence, provided that upon the expiry of the licence the holder may retain the identification plates issued with such licence if he shall apply for and be issued with a new licence in respect of the same identification plates and such new licence would during the period of its validity authorize the use of such identification plates in the same manner as the expired licence.

Cancellation of  
dealer's general  
licence.

**26.** (1) The Registrar may at any time cancel a dealer's general licence for a breach of any of the provisions of this Ordinance or of any regulations made thereunder which relate to dealers' general licences.

(2) The Registrar shall give notice of such cancellation to the person to whom such licence was issued, and may make to such person a refund calculated in like manner as is provided in sub-section (3) of section 19 of this Ordinance.

(3) Any person holding a dealer's general licence aggrieved by the decision of the Registrar under this section may within one month from the date of the service on him of notice of cancellation appeal to a magistrate of the first class whose decision shall be final.

Dealer's general  
licence not to be  
transferred, etc.

**27.** A dealer's general licence shall not be used for any purpose other than a purpose provided for in this Ordinance, and shall not be transferred or assigned to any other person without the authority of the Registrar.

Penalties.

**28.** Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or

to both such fine and imprisonment. In addition to any other penalty which may be imposed under this section, the Court may in any case involving the non-payment of licence fee, order the accused to pay to the Commissioner for Inland Revenue a sum equal to that which would have been due had such licence fee been paid for any period during which the vehicle was unlicensed.

#### PART IV—DRIVING LICENCES

29. (1) No person shall drive any class of motor vehicle on a road unless he is the holder of a valid driving licence or a provisional licence endorsed in respect of such class of vehicle.

Drivers to be licensed.

(2) No person who owns or who has charge of a motor vehicle of any class shall cause or permit any person to drive such motor vehicle unless such person is the holder of a valid driving licence or a provisional licence endorsed in respect of that class of motor vehicle.

(3) No person shall be entitled to more than one driving licence, but a driving licence may be endorsed to permit the holder to drive one or more classes of motor vehicle.

(4) Driving licences shall be issued by a licensing officer and shall expire on the 31st December each year, but any such licence may on application being made on the prescribed form accompanied by the prescribed fee and by the licence to be renewed be renewed for a further period of twelve months.

30. (1) A licensing officer shall not grant an applicant a driving licence endorsed in respect of any class of motor vehicle unless the applicant—

Conditions precedent to the granting of a licence.

(a) satisfies the licensing officer that he has passed a test of competence to drive that class of motor vehicle conducted under the provisions of section 38 of this Ordinance, or that he holds a certificate of competency for that class of motor vehicle issued under the provisions of the Traffic Ordinance (Chapter 232 of the Revised Edition), or is the holder of a valid driving licence for that class of motor vehicle granted by a competent authority in some part of Her Majesty's dominions where such driving licences are only granted after a prescribed test has been passed;

(b) makes a declaration in the prescribed form as to whether or not he is suffering from any such disease or physical disability as may be specified in the form, or any other physical disability which would be likely to cause the driving by him of a motor vehicle, being a vehicle of such class as he would be authorized by the licence to drive, to be a source of danger to the public;

(c) is able to read, with glasses, if worn, a motor vehicle identification plate at a distance of twenty-five yards.

(2) If it appears to a licensing officer that there is reason to believe an applicant for any driving licence is suffering from disease or physical disability likely to cause the driving by him of a motor vehicle, of the class or classes in respect of which the application for a licence is made, to be a source of danger to the public, he may refuse to grant such application unless the applicant—

(a) produces a certificate from a medical practitioner, named by the Registrar, stating that in the opinion of such medical practitioner the applicant is physically fit to drive the class or classes of motor vehicle in question; and

(b) undergoes and passes a driving test.

Provisional  
driving licence.

**31.** (1) Notwithstanding the provisions of sub-section (1) of section 30 of this Ordinance a licensing officer may grant an applicant for a driving licence a provisional licence endorsed in respect of any class or classes of motor vehicle which if he held a driving licence he would be entitled to drive in order that the applicant may learn to drive such class or classes of vehicle. 5

(2) Whenever the driving licence of any person has been cancelled or suspended a licensing officer may, on application, so soon as the period of cancellation or suspension is over, 10 grant to such person a provisional licence endorsed in respect of any class or classes of vehicle which if he held a driving licence he would be entitled to drive with a view to such person passing any necessary test.

(3) Provisional licences shall be valid for three months 15 only but may, in the discretion of the licensing officer, be renewed for further periods of three months on payment of the prescribed fee for granting a provisional licence.

(4) Any person holding a provisional licence driving a motor vehicle shall comply with all such conditions as shall 20 be prescribed.

Driving licence  
not to be  
granted to  
persons under  
certain ages.

**32.** (1) No driving licence or provisional licence shall be granted to any person—

- (a) under the age of sixteen years endorsed in respect of a motor cycle; 25
- (b) under the age of eighteen years endorsed in respect of a motor car;
- (c) under the age of twenty-one years endorsed in respect of any other class of vehicle, and
- (d) who has not held a licence endorsed in respect of 30 motor cars or commercial vehicles for two years to drive a motor omnibus or heavy commercial vehicle:

Provided that any person who satisfies the licensing officer that he has, before the coming into 35 operation of this Ordinance, been in possession of a licence authorizing him to drive a motor vehicle in Kenya shall, subject to the provisions of sub-section (2) of section 30 of this Ordinance, notwithstanding the provisions of this section, be entitled to receive a 40 licence in respect of the same class or description of vehicles which he is by such licence authorized to drive.

(2) If the applicant for a driving licence fails to produce his birth certificate the opinion of the licensing officer shall be 45 conclusive as to a person's age.

Applications  
for driving  
licences, and  
to drive  
further class  
of vehicle.

**33.** (1) Applications for driving licences and provisional licences shall be made to a licensing officer on the prescribed form, accompanied by the prescribed fee, and the particulars required in such form shall be signed by the 50 applicant.

(2) Subject to the provisions of sub-section (3) of section 29 of this Ordinance, any person holding a driving licence endorsed in respect of any class of motor vehicle who wishes his licence endorsed in respect of another class or classes of motor 55 vehicles shall apply to a licensing officer on the prescribed form accompanied by the prescribed fee, and the particulars and declarations in such form shall be signed by the applicant.

34. Notwithstanding the provisions of this Part of this Ordinance the Governor in Council may make rules prescribing special terms and conditions for the issue of driving licences to members of Her Majesty's Forces for the purpose of driving service vehicles while on duty and he may in such rules order that such licences shall be issued without the payment of any fee.

Issue of driving licences to members of H.M. Forces.

35. (1) Any person driving a motor vehicle on a road shall carry his driving licence or provisional licence, and on being so required by a police officer, produce it for examination:

Production of driving licence on demand.

Provided that a person shall not be convicted of an offence under this section by reason only of failure to carry or to produce his driving licence or provisional licence if he produces it within two days at such police station within the Colony as may be specified by him at the time its production was required.

(2) For the purposes of this section "driving licence or provisional licence" shall include such other evidence as will satisfy the police that there is no contravention of the provisions of section 29 of this Ordinance

36. (1) Driving licences and provisional licences shall be in the prescribed form, and there shall be affixed to each driving licence a photograph of the licence holder which shall be impressed with the official stamp of the Registrar.

Form of driving licence.

(2) The signature or thumb mark of the licence holder shall also be affixed to the licence.

(3) No person shall use a mutilated, or defaced driving licence or provisional licence.

30 (4) A driving licence issued to any person who is suffering from any disease or disability to whom under the provisions of section 30 of this Ordinance a licence has been granted shall be subject to such restrictions or conditions as may be decided by the Licensing Officer. Such restrictions or conditions shall be entered on the licence which shall not be valid unless such conditions or restrictions are complied with by the holder thereof.

37. If a driving licence or provisional licence is lost, defaced or mutilated, the Registrar shall upon application being made on the prescribed form and upon payment of the prescribed fee, issue to the holder a duplicate licence or provisional licence:

Duplicate licences.

Provided that where any licence or provisional licence which has been lost is subsequently found the holder shall forthwith deliver up to the licensing officer such duplicate.

38. (1) Driving tests for the purpose of this Ordinance shall be conducted by such persons or class of persons as the Registrar shall appoint by notice in the Gazette.

Driving tests.

(2) Driving tests shall be carried out in such manner as the Registrar shall direct but shall in any case include a test of the applicant's—

(a) knowledge of the rules of the road;

(b) knowledge of recognized road signals and road signs;

(c) knowledge of any authorized road or highway code;

55 and

(d) physical fitness to drive a motor vehicle of the class for which the licence is required.

(3) No person shall undergo a test until he has paid the prescribed fee.



Revocation, etc.,  
of driving  
licences upon  
application by  
police.

**39.** (1) Upon application by a police officer of or above the rank of Assistant Superintendent, the Registrar may—

- (a) revoke the driving licence of any person who appears, in the opinion of the Registrar, to be suffering from a disease or disability likely to cause the driving by him of a motor vehicle to be a source of danger to the public; or
- (b) order a fresh driving test in the case of any holder of a driving licence who appears to the Registrar to be so deficient in driving ability as to be a source of danger to the public, and if the licence holder fails to pass such test, order that his licence shall be revoked.

(2) Where the Registrar has revoked a driving licence under the provisions of sub-section (1) of this section the owner of such licence shall deliver his driving licence to the Registrar, who shall endorse on it the reason for its revocation.

(3) The Registrar shall restore a driving licence revoked under sub-section (1) of this section to the person in question under the following conditions—

- (a) in the case of a licence revoked under paragraph (a) of sub-section (1) of this section if he satisfies the Registrar by means of a certificate from a medical practitioner named by the Registrar, that he is suffering from no disease or physical disability likely to cause the driving by him of a motor vehicle, of the class or classes in respect of which his licence was issued, to be a source of danger to the public; and
- (b) in the case of a licence revoked under paragraph (b) of sub-section (1) of this section if he passes the prescribed test for the class or classes of motor vehicle in respect of which his licence was originally granted.

(4) Any person aggrieved by the refusal of the Registrar or a Licensing Officer to grant a licence, or by the revocation of a licence under the provisions of this section may, after giving to the Registrar notice of his intention so to do, appeal to any magistrate, who shall after considering the grounds for such refusal or revocation, make such order as he thinks fit and any order so made shall be binding on the Registrar.

Penalties.

**40.** Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

#### PART V—DRIVING AND OTHER OFFENCES RELATING TO THE USE OF VEHICLES ON ROADS

Speed of  
motor vehicles.

**41.** (1) No person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive, a vehicle on a road at a speed greater than the speed specified in the Second Schedule to this Ordinance as the maximum speed for that class of vehicle.

(2) Every vehicle which is subject to a speed limit under the provisions of sub-section (1) of this section shall have painted or affixed to the rear thereof, as close to the rear number plate as possible, and in such a manner as to be conspicuous to any person within twenty-five feet of the rear of such vehicle a mark in the prescribed form indicating its maximum speed.



(3) No person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive any vehicle at a rate of speed exceeding thirty miles per hour on any road within the boundaries of any Trading Centre, Township or Municipality:

Provided that it shall be lawful for a Highway Authority to permit any vehicle, other than a vehicle which is subject to a speed limit of thirty miles per hour or less under the provisions of sub-section (1) of section 41 of this Ordinance to exceed thirty miles per hour on any road:

Provided also that any such Highway Authority shall erect and maintain traffic signs as prescribed so as plainly to indicate to drivers entering or leaving such roads or areas where the thirty mile per hour speed limit restriction begins and ends.

(4) Notwithstanding the provisions of sub-sections (1) and (3) of this section it shall be lawful for the Highway Authority—

(i) to impose on any road such lower limit of speed as it considers necessary in circumstances when, by reason of repairs, reconstruction or damage to the road or condition of the road, any lower limit of speed is necessary for the public safety or to prevent damage to the road, provided that such lower limit shall be imposed only for such period as is necessary to carry out repairs or reconstruction or until the condition of the road is satisfactory;

(ii) to impose on any road or area such lower limit of speed as may be necessary for the safety of the public having regard to the width of streets, nature of traffic or general development of the area:

Provided that in any case whilst such lower limit is in force under the provisions of this sub-section indication of the maximum speed permitted shall be given by prescribed traffic signs erected and maintained so as plainly to indicate to drivers entering or leaving such restricted road where the lower speed limit begins and ends.

**42.** (1) Any person who contravenes or fails to comply with any of the provisions of section 41 of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment. Penalties, etc

(2) A person charged with the offence of driving a motor vehicle of any class or description on a road at a speed greater than the maximum speed allowed, shall not be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of the witness the person charged was driving the vehicle at such greater speed.

**43.** (1) Any person who, when driving or attempting to drive, or when in charge of a motor vehicle on a road or other public place, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be liable on conviction to a fine not exceeding shillings five thousand or to imprisonment for a period not exceeding two years or to both such fine and imprisonment. Driving when under the influence of drink.

(2) A person convicted of an offence under this section shall be disqualified for a period of six months, or for such longer period of disqualification as the Court thinks fit to order, from the date of the conviction for holding or obtaining a driving licence of any description. 5

(3) A police officer may arrest without warrant any person committing an offence under this section.

Prohibition of drinking when driving or in charge of a public service vehicle.

44. (1) Any person who, when driving or in charge of, or during any period of duty in connexion with the driving of a public service vehicle, drinks any intoxicating liquor, shall be 10 guilty of an offence and on conviction shall be liable to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(2) Any person who gives any driver or any person in 15 charge of a public service vehicle any intoxicating liquor, whether for reward or not, shall be guilty of an offence and shall be liable on conviction to the same penalties as a person guilty of an offence under sub-section (1) of this section.

Reckless driving.

45. (1) Any person who drives a motor vehicle on a road 20 recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition, and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be on the road, shall be guilty of an 25 offence and shall be liable on conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment, and the court shall order particulars of any such conviction to be endorsed on any driving licence held by the person 30 convicted.

(2) On a second or subsequent conviction for reckless or dangerous driving the court shall exercise the power conferred by Part VIII of this Ordinance of ordering that the offender shall be disqualified for holding or obtaining a driving licence 35 for such period as it thinks fit, unless the court having regard to the lapse of time since the date of the previous or last previous conviction or for any other special reason thinks fit to order otherwise, but this provision shall not be construed as affecting the right of the court to exercise the power aforesaid 40 on a first conviction.

(3) Where a person is convicted of aiding, abetting, counselling, procuring, or inciting the commission of an offence under this section, and it is proved that he was present in the vehicle at the time, the offence of which he is convicted shall 45 for the purpose of the provisions of this Ordinance relating to disqualification for holding or obtaining driving licences, be deemed to be an offence in connexion with the driving of a motor vehicle.

Power to convict for reckless or dangerous driving on trial for manslaughter.

46. Upon the trial of a person who is charged with man- 50 slaughter in connexion with the driving of a motor vehicle by him, if the court is satisfied that such person is guilty of an offence under section 45 of this Ordinance, he may be found guilty of such offence whether or not the requirements of section 48 of this Ordinance have been satisfied as regards that 55 offence.

Careless driving.

47. (1) Any person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road shall be guilty of an offence, and shall be liable on conviction to a fine not 60 exceeding shillings one thousand or to imprisonment for a period not exceeding three months.

(2) A first or second conviction for an offence under this section shall not render the offender liable to be disqualified for holding or obtaining a licence for a longer period than in the case of a first conviction, one month, or in the case of a second conviction, three months:

Provided that if the offender has been convicted of reckless or dangerous driving within the three years immediately preceding the date of his conviction for an offence under this section such previous conviction shall be treated for the purposes of this sub-section as if it had been a conviction for an offence under this section.

(3) Where any person is charged with an offence under section 45 of this Ordinance, and the court considers that the evidence is such as to justify a conviction under this section but not under section 45, the court may convict such person of an offence against this section whether or not the requirements of section 48 of this Ordinance have been satisfied as regards that offence.

**48.** Where a person is prosecuted for an offence under any of the sections of this Ordinance relating respectively to the maximum speed at which motor vehicles may be driven, to reckless or dangerous driving, or to careless driving, he shall not be convicted unless—

Warning to be given before prosecution.

(a) he was warned at the time the offence was committed that the question of prosecuting him for an offence under some one or other of the sections aforesaid would be considered; or

(b) within fourteen days of the commission of the offence a summons for the offence was served on him; or

(c) within the said fourteen days a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or to the person registered as the owner of the vehicle at the time of the commission of the offence:

Provided that—

(i) failure to comply with this requirement shall not be a bar to the conviction of the accused in any case where the court is satisfied that—

(1) neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent as aforesaid; or

(2) the accused by his own conduct contributed to the failure;

and

(ii) the requirement of this section shall in every case be deemed to have been complied with unless and until the contrary is proved.

**49.** The driver of a vehicle shall at all times—

(a) obey any directions given, whether verbally or by signal, by a police officer in uniform, in the execution of his duty, and

(b) conform to the indications given by any traffic sign, and

Signals and signs to be obeyed

(c) stop his vehicle on being so required by a police officer in uniform, and

(d) when any person in charge of any horse, mule, donkey or camel raises his hand or in any manner gives a signal to stop forthwith stop his vehicle and keep it stationary for as long as it is reasonably necessary.

**Obstruction.**

**50.** (1) No vehicle shall be allowed to remain in any position on any road so as to obstruct or to be likely to obstruct or cause inconvenience or danger to other traffic using the road and, save where the contrary is expressly provided in this Ordinance, every vehicle on a road, when not in motion, shall be drawn up as close to the side of the road as possible.

(2) The driver of any vehicle shall, in case of a breakdown, remove such vehicle from the road as soon as possible and until so removed the vehicle shall be placed as close to the side of the road as possible. If the vehicle remains on the road between the hours of 6.45 p.m. and 6.15 a.m. its position shall be clearly indicated by a light or lights visible to drivers of vehicles approaching from either direction.

(3) Any person who leaves any vehicle on a road in such a position or manner or in such a condition as to cause or be likely to cause any danger to any person shall upon conviction be liable to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding six months.

**Racing,  
pacemaking  
or trial of speed.**

**51.** (1) It shall not be lawful for any person, without the written consent of the highway authority and of the Commissioner of Police, to promote or take part in any race or trial of speed between vehicles on a road.

(2) A person convicted of an offence under this section shall, unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to order a longer period of disqualification, be disqualified for a period of twelve months from the date of conviction for holding or obtaining a driver's licence.

**Condition  
of vehicles.**

**52.** (1) No vehicle shall be used on a road unless such vehicle and all parts and equipment thereof, including lights and tyres, comply with the requirements of this Ordinance, and such parts and equipment shall at all times be maintained in such a condition that the driving of the vehicle is not likely to be a danger to other users of the road or to persons travelling on the vehicle.

(2) No motor vehicle the weight or dimensions of which laden or unladen exceeds the maximum weight or dimensions provided for such vehicles by Rules made under this Ordinance shall be used on a road.

**Limitation  
of loads.**

**53.** (1) No vehicle shall be used on a road with a load greater than the load specified by the manufacturer of the chassis of the vehicle or than the load capacity determined by an inspector under the provisions of this Ordinance.

(2) No vehicle shall be used on a road if it is loaded in such a manner as to make it a danger to other persons using the road or to persons travelling on the vehicle. Should any load or part of a load fall from any vehicle on to a road such fact shall be prima facie evidence that the vehicle was loaded in a dangerous manner until the contrary is proved to the satisfaction of the court.

(3) For the purpose of this section persons travelling on a vehicle shall be deemed to be part of the load.

**54.** (1) A highway authority may grant a permit subject to such conditions as may be specified therein—

Exemptions.

5 (a) for the use on a road of a vehicle the weight or dimensions of which exceeds the maximum weight or dimensions provided for by Rules made under this Ordinance;

10 (b) for the carriage by a vehicle on a road of any specified load which it is unlawful to place on the vehicle under the provisions of any Rules made under this Ordinance.

(2) Every permit granted under the provisions of this section shall be in writing and shall be carried on the vehicle in question whenever such vehicle is being used under the authority of such permit.

15 **55.** (1) Any person who drives or uses on a road a vehicle in contravention of the provisions of sections 52 or 53 of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings three thousand or to imprisonment for a period not exceeding six months or

Penalty.

20 to both such fine and imprisonment.

(2) For the purpose of sub-section (1) of this section any person who is shown to the satisfaction of the court to be responsible for the maintenance of the vehicle, and any person who is shown to the satisfaction of the court to have

25 been responsible for the loading of the vehicle shall be deemed to have used the vehicle on the road.

(3) In any case where a motor vehicle or trailer is twice or more times, in a period of twelve months, the subject of a successful prosecution under any of the provisions of sections 52 or 53 of this Ordinance the court may order the Registrar to suspend the licence of such vehicle for a period of six months. The Registrar shall thereupon suspend the licence of such vehicle for such period and the owner of the vehicle shall return the licence of the vehicle to the Registrar,

30 who in no case shall issue another licence in respect of such vehicle until the termination of the period of suspension. No vehicle licence shall be returned or new licence granted in respect of a vehicle whose licence has been so suspended unless an inspector certifies that the vehicle is fit in all respects

40 for use upon the road.

(4) When a vehicle licence has been suspended under sub-section (3) of this section no refund of licence fee shall be made.

**56.** (1) No person in a motor vehicle shall molest or

Obstructing driver of a motor vehicle.

45 obstruct the driver of such motor vehicle while it is in motion.

(2) In no motor vehicle shall passengers be carried in such numbers or in such a position as to be likely to interfere with the safe driving of such motor vehicle. In the event of a contravention of the provisions of this sub-section the driver

50 and the person in charge of the motor vehicle shall be guilty of an offence.

(3) No person driving a motor vehicle shall be in such a position that he cannot control the same or obtain a full view of the road and traffic ahead.

55 **57.** (1) It shall not be lawful for more than one person in addition to the driver to be carried on any two-wheeled motor cycle, nor shall it be lawful for any such one person to be so carried otherwise than sitting astride the motor cycle and on a proper seat securely fixed to the motor cycle behind

Restrictions on pillion riding

60 the driver's seat.

(2) If any person is carried on any such motor cycle in contravention of the provisions of this section, the driver of the motor cycle shall be liable upon conviction to a fine of shillings two hundred.

Riding in a dangerous position.

**58.** (1) Except for the purpose of testing or repairing a motor vehicle no person shall ride or be carried on the foot-board, tailboard, steps, mudguards, canopy, roofing or elsewhere on the outside of any vehicle. 5

(2) No person shall ride or be carried on any load upon a vehicle if such a proceeding is unsafe by reason of the insufficiency of space available for such person to stand or sit or by reason of the position in which he is carried or the height or arrangement of the load. 10

Restrictions on persons being towed.

**59.** No person otherwise than with lawful authority or reasonable cause, shall take or retain hold of, or get on or off, a motor vehicle or trailer while in motion on any road. 15

Causing damage to a motor vehicle.

**60.** No person shall throw any object at any vehicle or at any person in or on such vehicle, nor shall he place any object on any road nor by any means impede the progress of any vehicle whereby injury or damage might be caused to such vehicle or any person. 20

Tampering with motor vehicle.

**61.** No person shall, without the knowledge or permission of the owner, or without reasonable excuse, get on to a motor vehicle or trailer or attempt to manipulate any of the levers, the starter, brakes or machinery of such a vehicle, or in any way tamper with a motor vehicle or trailer while it is standing on a road or parking place. 25

Taking motor vehicle without consent.

**62.** (1) If any person, whether employed by the owner or not, shall take and drive away any motor vehicle without the consent of the owner thereof or other lawful authority, he shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding shillings three thousand or to both such imprisonment and fine: 30

Provided that if the court is satisfied that the accused acted in the reasonable belief that he had lawful authority, or in the reasonable belief that the owner would, in the circumstances of the case, have given his consent, if he had been asked therefor, the accused shall not be liable to be convicted of an offence. 35

(2) If, in any prosecution for stealing a motor vehicle, the court is of opinion that the defendant is not guilty of stealing the motor vehicle, but was guilty of an offence under this section, the court may find him guilty of an offence under this section. 40

(3) In addition to any penalty specified in this section, the court may order that the convicted person shall pay to the owner of the motor vehicle such sum as represents fair compensation for any damage sustained by the owner of the motor vehicle. 45

Unattended motor vehicles.

**63.** No person shall— 50

(a) leave unattended on a road any motor vehicle with the engine running;

(b) quit any vehicle without having taken due precautions against its moving along the road from its stationary position. 60

**64.** Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable, where no penalty is specifically provided, on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment. Penalties.

10

## PART VI—REGULATION OF TRAFFIC

**65.** (1) The Member shall as soon as may be after the commencement of this Ordinance prepare a code (in this section referred to as the "highway code") comprising such directions as appear to him to be proper for the guidance of persons using roads and may from time to time revise the highway code by revoking, varying, amending or adding to the provisions thereof in such manner as he thinks fit. Issue by Member of directions for guidance of users of roads.

(2) The highway code and any alterations proposed to be made in the provisions thereof shall be laid before the Legislative Council, and the highway code or revised highway code, as the case may be, shall not be issued until approved by the Legislative Council.

(3) A failure on the part of any person to observe any provisions of the highway code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under this Ordinance) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

**66.** Without prejudice to any powers or duties of the police under this Ordinance or any other Ordinance it shall be the duty of the police— Power to regulate traffic

(a) to regulate all traffic and to keep order and prevent obstruction in all roads, parking places and other places of public resort;

(b) to divert traffic temporarily, to restrict or close and deny public access to any road, parking place or other place of public resort, where any emergency or any assembly or other event appear to render advisable such a course.

**67.** (1) Subject to and in conformity with such general or other directions as may be given by the Member a highway authority may cause or permit traffic signs to be placed on or near a road. Traffic signs.

(2) Traffic signs shall be of the prescribed size, colour and type except where the Member authorizes the erection or retention of a sign of another character.

(3) After the commencement of this Ordinance no traffic signs shall be placed on or near any road except under and in accordance with the preceding provisions of this section:

Provided that nothing in this sub-section shall apply to any notice in respect to the use of a bridge:



Provided also that a Highway Authority or police officer of or above the rank of Inspector may authorize the erection of any traffic sign for any special purpose for a period not exceeding seven days and such traffic sign shall be deemed to be lawful even though it does not conform to the requirements of this section.

(4) All traffic signs shall be deemed to have been lawfully erected until the contrary is proved.

(5) A highway authority may by notice in writing require the owner or occupier of any land on which there is any traffic sign or any object which so closely resembles a traffic sign that it might reasonably be taken to be such a sign to remove it, and if any person fails to comply with such a notice the highway authority may effect the removal, do as little damage as may be, and may recover summarily as a civil debt from the person so in default the expense incurred in so doing:

Provided that the provisions of this sub-section shall not apply in the case of any sign or object so long as its retention is expressly authorized by the highway authority.

Closure  
of roads.

**68.** (1) It shall be lawful for the highway authority, or its authorized representative for the purpose of preventing damage being caused to any road or for the purpose of carrying out any works which it may consider necessary or desirable in connexion with the maintenance or improvement of any road, to close the whole or any part of such road to all vehicles or any particular type of vehicles at any time for any period it may think fit.

(2) It shall not be lawful for the driver or person in charge of a vehicle to drive or haul the vehicle or cause it to be driven or hauled over any bridge on or near which a conspicuous notice has been placed to the effect that such bridge is insufficient to carry traffic in excess of a specified weight, unless the gross weight of such vehicle and any trailer attached thereto is less than the weight specified or unless he has obtained the consent in writing of the highway authority.

(3) It shall not be lawful for the driver or person in charge of any vehicle to drive or haul the vehicle or cause it to be driven or hauled over any portion of a road which is closed to traffic and where a conspicuous notice is displayed to the effect that the road is closed, unless he has received the permission in writing of the highway authority.

Injury to  
bridges.

**69.** If any injury to a bridge or road be caused through any contravention of this Ordinance it shall be lawful for the highway authority to make good such injury and to recover the cost thereof from the owner of the vehicle, and the certificate of the highway authority of the amount of the cost of making good such injury shall be conclusive evidence of the amount payable by such owner.

## PART VII—ACCIDENTS

Duty to stop  
and report.

**70.** (1) If, in any case, owing to the presence of a motor vehicle on a road, an accident occurs whereby damage or injury is caused to any person, vehicle, dog or cattle, the driver of the motor vehicle shall stop, and, if required to do so by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner and the identification marks of the vehicle. The driver shall as soon as possible report the accident at a police station or to a police officer.

(2) Any other person in the vehicle at the time of the accident shall also, if required to do so, give his name and address.

(3) The owner of a motor vehicle shall supply the police with all information necessary for the identification of a driver involved in an accident.

71. Where an accident arises out of the presence of a motor vehicle on a road any police officer may inspect any vehicle in connexion with which the accident arose, and for that purpose may enter at any reasonable time any premises where the vehicle is, and if any person obstructs such police officer in the performance of his duty under this section, he shall be guilty of an offence.

Inspection of vehicle involved in an accident.

72. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty.

#### PART VIII—SUSPENSION, CANCELLATION AND ENDORSEMENT OF DRIVING LICENCES

73. (1) Any court before which a person is convicted of any offence in connexion with the driving of a motor vehicle may—

Powers of the Court.

(a) if the person convicted holds a driving licence or provisional driving licence suspend the licence for such time as the court thinks fit, or cancel the licence and declare the person convicted disqualified for obtaining another licence for a stated period;

(b) if the person convicted holds a driving licence suspend the licence until such time as the person passes a driving test under the provisions of section 38 of this Ordinance;

(c) if the person convicted does not hold a driving licence or provisional driving licence, declare him disqualified for obtaining a licence for a stated period;

(d) limit any suspension, cancellation or disqualification imposed under this section to the driving of a motor vehicle of the same class or description as the vehicle in relation to which the offence was committed;

(e) if the person convicted holds a driving licence order that particulars of the conviction be endorsed thereon;

(2) In any case where a court disqualifies a person for obtaining a driving licence until he has passed a driving test a licensing officer shall issue such person on application and on payment of the prescribed fee with a provisional driving licence.

(3) An order disqualifying a person from obtaining a driving licence shall be deemed to be an order disqualifying him from obtaining either a driving licence or provisional driving licence.

Right of  
appeal.

**74.** An appeal shall lie against any order made by a court under section 73 of this Ordinance in the same manner as against a conviction, and the court making the order or the court to which the appeal lies may suspend the operation of the order pending the determination of the appeal. 5

Cancellation of  
driving licence.

**75.** (1) In any case where a court under any provisions of this Ordinance has ordered the suspension of a driving licence or provisional driving licence, the licence shall be deemed to be cancelled in respect of the class or classes of motor vehicles in respect of which the order was made. 10

(2) On the application of any person for a new driving licence endorsed in respect of any class or classes of motor vehicles in respect of which the applicant's licence has been cancelled, the licensing officer shall treat such person as if he was applying for a driving licence in respect of such class or classes of motor vehicles for the first time and shall in no circumstances issue him with a driving licence until he has passed the prescribed test. 15

(3) Notwithstanding the provisions of paragraph (a) of sub-section (1) of section 30 of this Ordinance, the possession of a driving licence or certificate of competency issued by a competent authority shall not, in any case, exempt an applicant for a driving licence from passing the prescribed driving test, if such applicant has been disqualified for holding or obtaining a driving licence. 25

Production of  
driving licence  
for endorsement.

**76.** Every person who is convicted before any court of an offence in connexion with the driving of a motor vehicle, shall, if he holds a driving licence or provisional driving licence, produce such licence within such time as the court may direct for the purpose of endorsement. 30

Custody of  
licence while  
suspended or  
cancelled.

**77.** (1) Where a court orders particulars to be endorsed on a driving licence or provisional driving licence held by any person, or where by a conviction or order of a court such a licence is cancelled, the court shall send notice of this conviction or order to the Registrar and, in a case where a person's licence is cancelled, shall also on the production of the licence for the purpose of endorsement retain it and forward it to the Registrar. 35

(2) Where the suspension, cancellation or disqualification to which a person has become subject is limited to the driving of a motor vehicle of a particular class or description, the Registrar to whom that person's licence has been forwarded under this section shall forthwith after the receipt thereof issue to that person a new licence on which there shall be indicated in the prescribed manner the class or description of vehicle which the holder of the licence is thereby authorized to drive. 45

Fraudulent  
application for  
driving licence.

**78.** If any person who under the provisions of this Part of this Ordinance is disqualified for holding or obtaining a driving licence or provisional driving licence applies for or obtains a licence while he is so disqualified, or if any person while he is so disqualified drives a motor vehicle or, if the disqualification is limited to the driving of a motor vehicle of a particular class or description, drives a motor vehicle of that class or description, on a road or if any person who has been refused a licence applies for or obtains a licence without disclosing such refusal, he shall be liable on conviction to imprisonment for a period not exceeding six months or to a fine not exceeding shillings three thousand. A licence obtained by any person disqualified as aforesaid shall be of no effect. 60

79. On the issue of a driving licence or provisional driving licence to any person, the particulars endorsed on any previous licence held by him shall be inserted in the new licence, unless he has previously become  
5 entitled under the provisions of section 81 of this Ordinance to the issue of a licence free from endorsement.

Particulars of endorsement to be inserted in new licence.

80. If any person whose driving licence or provisional driving licence has been ordered to be endorsed, and who has not previously become entitled  
10 under the provisions of section 81 of this Ordinance to have a licence issued to him free from endorsement, applies for or obtains a licence without giving particulars of the order, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding three months. Any licence so  
15 obtained shall be of no effect.

Applying for licence without disclosing endorsement.

81. Where a person in respect of whom an order has been made under this Part of this Ordinance requiring the endorsement of any licence or provisional driving licence held  
20 by him, has during a continuous period of three years or upwards since the order was made had no other such order made against him, he shall be entitled, at any time, on application and subject to the payment of the prescribed fee and to the surrender of any subsisting permit to have issued to him a new  
25 licence free from endorsement:

Issue of new licence free from endorsement.

Provided that in reckoning the said period of three years any period during which the person was by virtue of the order disqualified for holding or obtaining a permit shall be excluded.

### 30 PART IX—OFFENCES BY DRIVERS OF VEHICLES OTHER THAN MOTOR VEHICLES AND OTHER ROAD USERS

82. Any person who when driving or attempting to drive, or when in charge of a vehicle other than a motor vehicle, on a road or other public place is under the influence  
35 of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be liable on conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Driving when under influence of drink.

40 83. Any person who on any road or in any public place drives any vehicle, other than a motor vehicle, recklessly or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition, and use of the road, and the amount of  
45 traffic which is actually at the time or which might reasonably be expected to be on the road shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Reckless driving.

50 84. Any person who on any road or in any public place drives a vehicle, other than a motor vehicle without due care or attention, or in such a manner as to be an annoyance to the public, shall on conviction be liable to a fine not exceeding shillings two hundred.

Careless driving.

Carelessness  
while in charge  
of animals.

**85.** Any person in charge of any cattle, dog or other animal or animals who, on any road or in any public place, fails to keep it or them under proper control, or allows it or them to become a danger or annoyance to the public shall on conviction be liable to a fine not exceeding shillings two hundred.

Restrictions on  
riding bicycles.

**86.** (1) Not more than one person shall be carried in addition to the rider on any bicycle, nor shall any such one person be so carried otherwise than sitting on a carrier securely fixed to the bicycle or on a step especially fitted to carry a passenger.

(2) No person shall carry on a bicycle a load which because of its size or the manner in which it is carried is likely to be a danger to other persons using a road.

(3) Any person contravening the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two hundred.

#### PART X—MISCELLANEOUS PROVISIONS AS TO ROADS

Offences in  
connexion with  
roads.

**87.** (1) No owner or person in charge of a vehicle drawn by animals shall allow an animal which is of materially defective vision to be used for drawing such vehicle on a road.

(2) No person shall do any of the following on a road—

(a) wilfully or negligently lead or drive any animal or vehicle on a footpath or in a road drain;

(b) play any games to the annoyance, inconvenience or danger of persons using the road;

(c) wilfully obstruct the free passage of persons or vehicles passing along the road;

(d) drive or conduct any vehicle drawn by animals without having reins to guide the animals, unless a person leads the animals in such a manner as to have proper control over them;

(e) when driving a vehicle, sleep whilst such vehicle is in motion;

(f) permit any cattle to be at large without being under such efficient control as to prevent their damaging the road or obstructing traffic;

(g) outspan any animals from a wagon or cart.

Encroachment  
on and damage  
to roads.

**88.** (1) Every person who, without the written permission of the highway authority—

(a) encroaches on a road or on any land reserved therefor at the side or sides thereof by making or erecting any building, fence, ditch, advertisement sign, or other obstacle, or by digging thereon or by planting or sowing any tree, shrub, or seeds thereon;

(b) leaves on a road any timber, stones or other material so as to obstruct or endanger persons using the road;

(c) digs up, removes or alters in any way the soil or surface of a road, or of any land reserved therefor at the side or sides thereof, or if done for the purpose of moving a vehicle without immediately thereafter making good the damage;

5 (d) wilfully fills up, alters or obstructs any ditch or drain, whether on a road or contiguous thereto, made by or under the control of the highway authority, to carry water off the road or to keep it from flowing on to the road;

(e) allows any sludge or any filthy or noisome matter to flow from any building or land in his occupation on to a road or into any ditch or drain made by the highway authority;

10 (f) causes or allows any timber, sledge, plough or other heavy material, vehicle or implement not wholly raised, above the ground on wheels, to be dragged on a road;

(g) pitches any tent, booth or stall on a road;

15 (h) makes any fire on any road;

shall be guilty of an offence.

(2) It shall be lawful for the Highway Authority to remove anything whatsoever which has been placed or erected on a road or land reserved therefor in contravention of this  
20 section.

**89. (1)** No person shall use or cause or permit to be used on any road any vehicle or trailer having ribbed, spudded or spiked wheels or fitted with chain or crawler type metal track, provided that this sub-section shall not apply—

Prohibition on  
use of tracked  
vehicles, etc

25 (a) where such wheels or tracks are fitted with special rims or street plates which would ensure an even contact with the road surface;

(b) to any road set aside by a highway authority for the use of ox-drawn vehicles;

30 (c) in any case where the highway authority has given permission in writing for the use of such a vehicle and such permission is carried on the vehicle to which it relates.

(2) No person shall use or cause or permit to be used  
35 on any road any ox-drawn vehicle not fitted with pneumatic tyres except on a road set aside for ox-drawn vehicles or on a road where no alternative route exists for ox-drawn vehicles.

(3) No person shall use or cause or permit to be used on any road which has a bituminous surface any vehicle the  
40 wheels of which are fitted with non-skid chains or any device of a similar kind for a similar purpose.

**90. (1)** The highway authority shall not be liable for any loss or damage which may be caused to any person or property through the condition of a road or the failure of a  
45 road to sustain the weight of a vehicle.

Non-liability  
of highway  
authority for  
damage.

(2) Nothing in this Ordinance shall affect the right of the highway authority or of any person to recover compensation from the owner or driver of any vehicle for any loss, damage or injury which may be sustained by the highway  
50 authority or such person by the use of a vehicle.

**91.** Any person who contravenes or fails to comply  
with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable to a fine not exceeding shillings two hundred. Penalty.

## PART XI—PUBLIC SERVICE VEHICLES

Unlicensed  
public service  
vehicle.

**92.** (1) No person shall own, or drive, or be in charge of any public service vehicle on a road, unless there is in force in relation to such vehicle a public service vehicle licence issued under this part of this Ordinance. 5

(2) Any person who is convicted of an offence under this section shall be liable to a fine not exceeding shillings two thousand.

Application for  
public service  
vehicle licence.

**93.** (1) Application for the licensing of any motor vehicle as a public service vehicle shall be made by the registered 10 owner of such vehicle. Such application shall be made to a licensing officer on the prescribed form and in the prescribed manner.

(2) No public service vehicle licence shall be issued in respect of any motor vehicle— 15

(a) other than to the registered owner of such vehicle;

(b) which is not registered and licensed under Parts II and III of this Ordinance;

(c) which does not comply with the provisions of this Ordinance as to construction, equipment and use; 20

(d) which is intended to be used as an omnibus unless the owner of such vehicle is in possession of a valid Road Service Licence in respect thereof issued under the provisions of the Transport Licensing Ordinance and unless such vehicle complies with any conditions 25 attached to such licence;

(e) which is intended to be used as a taxicab unless such vehicle has been registered as a taxicab under the provisions of any by-laws in force in a Municipality or Township; 30

(f) unless a certificate authorizing the issue of such a licence is granted to the applicant by a police officer of or above the rank of Assistant Superintendent who shall certify that the applicant is a fit and proper person to hold such a licence. 35

Cap. 237.

Issue and  
conditions of  
licence.

**94.** (1) The Licensing Officer, if he is satisfied that the provisions of sub-section (2) of section 93 of this Ordinance have been complied with shall, upon payment of the prescribed fee, issue such licence as may be prescribed.

(2) Public service vehicle licences shall be issued for a 40 period not exceeding twelve months and shall expire on the 31st of December each year unless previously cancelled or withdrawn.

(3) Where any public service vehicle licence is cancelled or withdrawn for any reason during the period of its validity 45 no refund of licence fee shall be made in respect of the unexpired period of such licence.

(4) Every licence issued under the provisions of this section shall be carried on the vehicle to which it relates in the prescribed manner. 5

(5) A public service vehicle licence shall not be transferred or assigned to any other person or vehicle;

(6) Whenever the holder of any public service vehicle licence ceases to be the owner of the vehicle specified in the licence he shall forthwith return such licence to the Registrar 55 and the vehicle shall from the date of such change of ownership, cease to be licensed as a public service vehicle.



(7) If any public service vehicle licence is lost, or becomes illegible, the owner of the vehicle to which such licence relates shall where the licence is illegible forthwith apply to the Registrar on the prescribed form for a duplicate thereof and shall  
5 return it to the Registrar. The Registrar shall, on payment of the prescribed fee, issue a duplicate licence. Where any public service vehicle licence which has been lost is subsequently found, the holder of a duplicate public service vehicle licence issued under the provisions of this sub-section shall forthwith  
10 deliver up to the Registrar such duplicate

95. (1) A person shall not drive or act as the conductor of a public service vehicle on a road unless he is licensed for the purpose under this Part of this Ordinance and a person shall not employ or permit any person who is not so licensed  
15 to drive or act as the conductor of a public service vehicle on a road:

Drivers' and  
conductors'  
licences.

Provided that the provisions of this sub-section shall not apply to any person who has hired a public service vehicle for the purpose of driving such vehicle himself and whose passengers, if any, are not carried for hire or reward, nor to any  
20 driver or conductor of a public service vehicle which is not carrying passengers.

(2) A person shall be disqualified for obtaining a licence to drive or act as the conductor of a public service vehicle  
25 unless he is, in the case of a licence to drive, over the age of twenty-one years, and in the case of a licence to act as a conductor, over the age of eighteen years.

(3) Upon application being made in the prescribed manner and upon the prescribed form the Registrar, if he is satisfied that the information given in the application form is correct, and that the applicant—  
30

- (a) is the holder of a valid driving licence in respect of that class or classes of vehicles for which a public service vehicle driver's licence is required;
- 35 (b) is not disqualified under the provisions of any Ordinance from holding or obtaining a driving licence, public service vehicle driver's or conductor's licence;
- (c) fulfils and complies with such other conditions as may be prescribed and is not disqualified by reason of age,
- 40 shall, upon payment of the prescribed fee, issue such licence:

Provided that no licence to drive or act as the conductor of a public service vehicle shall be issued to any person unless such person has been granted a certificate by a police officer not below the rank of Assistant Superintendent to the effect  
45 that he is a fit and proper person to hold such a licence.

(4) A licence to drive or act as the conductor of a public service vehicle shall be valid for two years from the date of issue unless it is previously cancelled, suspended or revoked under the provisions of this Part of this Ordinance. Where  
50 any such licence is cancelled, suspended or revoked for any reason, no refund of licence fee shall be payable in respect of any unexpired period of the licence.

(5) A person licensed as a driver or conductor of a public service vehicle shall not drive or act as a conductor of such  
55 vehicle on a road without wearing the prescribed badge; provided that the provisions of this sub-section shall not apply to any person who hires a motor vehicle for the purpose of driving such a vehicle himself and whose passengers, if any, are not carried for hire or reward nor to any driver or conductor of a public service vehicle which is not carrying passengers.  
60

(6) In the event of any public service vehicle driver's or conductor's licence or badge, becoming lost or rendered illegible, the holder thereof shall forthwith apply to the Registrar on the prescribed form which shall be accompanied by the prescribed fee, for a duplicate thereof. Where any original licence or badge is found after being lost the duplicate thereof, if any, shall forthwith be returned to the Registrar.

Power to  
cancel or  
suspend, etc.

**96.** (1) Any licence issued under the provisions of this Part of this Ordinance may be cancelled at any time by the Registrar if he is satisfied that by reason of the conduct of the holder of such licence or the condition of any vehicle in respect of which the licence is issued, such cancellation would be, in the public interest. Upon receipt of a notice of such cancellation, the licence holder shall forthwith deliver up such licence to the Registrar.

(2) Any court before which a person is convicted of any offence under this Part of this Ordinance or any offence relating to the construction, equipment, condition or use of a public service vehicle, may—

(i) if the person convicted holds a licence issued under this Part of this Ordinance, cancel such licence and declare the person convicted disqualified for holding or obtaining another such licence for a stated period and any licence so cancelled shall be surrendered to the court which shall forward it to the Registrar;

(ii) if the person convicted is not the holder of any licence under this Part of this Ordinance, declare him disqualified for obtaining such a licence for a stated period and shall in such case notify the Registrar of such order,

and shall—

(i) if the person convicted holds a licence to drive or act as the conductor of a public service vehicle endorse the details of such conviction on the licence within such time as the court may direct for the purpose of endorsement;

(ii) if the person convicted is not the holder of such a licence order the Registrar to endorse such details on any such licence subsequently issued to such person.

(3) Any person aggrieved by the refusal or failure to grant or by the suspension or cancellation of a licence under this Part of this Ordinance or by any limitation imposed thereon by the Registrar or by a Police Officer may appeal in writing to a Magistrate whose decision shall be final and any such licence shall continue in force during the period of its validity until the appeal has been disposed of.

Numbers of  
passengers and  
loads.

**97.** (1) The Registrar shall in respect of any public service vehicle determine the maximum number of passengers, whether sitting or standing, and the weight of baggage or goods allowed to be carried at any time on such vehicle or on any vehicle of a similar class or description:

Provided that such determination shall have regard to the provisions of this Ordinance with regard to construction, seating capacity and weight.

(2) If any public service vehicle carries more persons, baggage or goods than it is licensed to carry, the driver, conductor and the owner of such vehicle shall each be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two thousand.

(3) No person who is requested by the owner, driver or conductor of a public service vehicle not to enter the vehicle, shall enter or attempt to enter the vehicle when it is carrying the full number of persons it is licensed to carry. Any person disobeying such a request shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two hundred.

(4) For the purposes of this section—

- (a) "owner" shall include the owner and the agent of such owner;
- (b) a child, who is under the apparent age of five years and who does not occupy a seat shall not count as a person;
- (c) any two children, each of whom is over the apparent age of five years and under the apparent age of twelve years, shall count as one passenger.

98. (1) Where, at any place on its scheduled route, a motor omnibus is, by reference to the relevant timetable, more than four hours late, owing to a breakdown or any fault or neglect of the owner, his servants or agents, any passenger who has paid his fare may elect to alight from the motor omnibus, and recover that proportion of the fare paid by him in respect of the uncompleted portion of his journey.

Recovery of  
and non-  
payment of  
fares.

(2) Where a fare is recoverable under sub-section (1) of this section, it shall be the duty of the person who received the fare to repay it to the passenger on demand. Any person failing so to repay a fare shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding shillings two hundred in addition to being ordered to repay the fare, and the amount of the fare shall be recoverable as a fine.

(3) Any person who fails to pay any sum due from him by way of fare for accommodation in a public service vehicle shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding shillings two hundred.

(4) Upon any conviction for an offence under this section the magistrate may in addition to the imposition of a fine, make an order for the payment of any sum due by the offender by way of fare and may further, if he thinks fit, award costs and compensation against the offender in respect of any loss of time incurred by the owner, driver or conductor of the vehicle in attending the court.

99. (1) No person shall cause or permit any private hire car to stand or ply for hire on any taxi rank, road, car park or other public place.

Regulation of  
public service  
vehicles.

(2) No person shall own, drive or be in charge of any taxicab unless such vehicle is painted in such colour or colours or is permanently marked in such manner as may be prescribed, and no vehicle, not being a taxicab, shall be painted or marked in the manner prescribed for a taxicab.

(3) The owner of every taxicab and private hire vehicle shall keep or cause to be kept, a record in the prescribed form of every journey made by such vehicle. Such record shall be made available for inspection by the police on demand; provided that the provisions of this sub-section shall not apply to any taxicab in respect of any journey which is wholly within the boundaries of the Municipality or Township in which it is registered.

(4) The Highway Authority may, after consultation with the officer in charge of the police in the area concerned, appoint stopping places where omnibuses may set down and pick

up passengers and no driver of an omnibus shall stop his vehicle to set down or pick up passengers on any road where stopping places have been provided other than at such stopping places.

(5) No person shall drive or permit to be used a public service vehicle in a dirty or neglected condition.

**100.** No person shall, for the purpose of obtaining passengers for any public service vehicle make any noise or sound any instrument, or do anything which causes or is likely to cause annoyance, inconvenience or danger to the public. 10

**101.** Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable, where no penalty is specifically provided, to a fine not exceeding shillings two hundred. 15

#### PART XII—GENERAL

Inspection of  
vehicles.

**102.** (1) It shall be lawful for any police officer or for any licensing officer or inspector to—

- (a) stop and enter any vehicle;
- (b) drive or cause any vehicle to be driven; 20
- (c) order and require the owner of any vehicle to bring the vehicle to him,

for the purpose of carrying out any examination and test of any vehicle with a view to ascertaining whether the provisions of this Ordinance are being complied with or with a view to 25 ascertaining whether any vehicle is being used in contravention of this Ordinance.

(2) Any person who fails to comply with any instruction or order given under the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine 30 not exceeding shillings five hundred.

Removal of  
vehicles from  
road.

**103.** (1) Where any vehicle is found in use on a road in contravention of the provisions of this Ordinance, or where any vehicle has been left on any road or other public place in such circumstances as to make it appear that such vehicle 35 has been abandoned or should be removed to a place of safety, or where any vehicle has been left on a road in a position which causes or is likely to cause danger to other road users and the owner or driver cannot readily be found it shall be lawful for any police officer or any Inspector to take the 40 vehicle or cause the same to be taken to a police station or other place of safety by such method, route and under such conditions as he may consider necessary having regard to all the circumstances of the case.

(2) Where under the provisions of sub-section (1) of this 45 section it is considered necessary to have a vehicle towed, transported, driven or otherwise removed, or where it is considered necessary to carry out emergency repairs or to adjust or off-load any part of the load of such vehicle, any expense incurred thereby shall be payable by the owner of the 50 vehicle and no such vehicle shall be released from the police station or other place of safety until either—

- (a) such expenses have been paid to the person to whom they are due; or
- (b) such person certifies in writing that he is willing to 55 allow the vehicle to be removed before he receives such expenses due to him.

(3) A police officer or Inspector who orders the removal of a vehicle under the provisions of this section shall not be held liable for any damage to or loss of any item from such vehicle during its removal to or detention at a police station or other place of safety.

(4) Any police officer, licensing officer or Inspector, if he is of the opinion that any vehicle is being used in contravention of section 52 or section 53 of this Ordinance or in contravention to any rules relating to the construction, use and equipment of vehicles may by order prohibit the use of such vehicle under such conditions and for such purposes as he may consider necessary for the safety of the public or to ensure that such vehicle does comply with the aforementioned provisions. Any such order shall remain in force until either the repairs specified therein have been satisfactorily completed and the vehicle has been certified as complying with the aforesaid conditions with respect to construction, use, equipment and weight.

(5) Any person who permits the use of, or drives, any vehicle in respect of which any prohibition or restriction is in force other than in conformity with any conditions or for such purpose as may have been specified shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(6) Any order issued under the provisions of this section shall be in writing.

(7) Where any vehicle is required to be examined and tested for the purpose of being certified as complying with the provisions of this Ordinance the fee, if any, shall be paid by the owner of the vehicle.

(8) Any person who fails to comply with any instruction or order given under the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings five hundred.

**104.** It shall be lawful for any police officer to detain at a police station or other place of safety any vehicle which has been removed from a road or other public place under the provisions of section 103 of this Ordinance until such inquiries have been made by the police as they may think necessary in the circumstances of the case.

Detention  
of vehicles.

**105.** (1) If in any proceedings under this Ordinance any question arises as to whether a vehicle does or does not comply with any provisions of this Ordinance, the certificate of an inspector to the effect that he has examined the vehicle and as to the result of his examination may be read as evidence although the inspector is not called as a witness.

Certificate of  
inspector to  
be admissible  
in evidence.

(2) The court, if it thinks fit, may summon and examine the inspector as to the subject matter of his certificate.

**106.** In any proceedings under this Ordinance an extract from the records of registered vehicles, certified under the hand of a licensing officer, may be received in evidence although the licensing officer is not called as a witness, and shall be prima facie evidence of the facts therein set forth.

Certified extract  
from records  
to be admissible  
in evidence.

Owner or other person to furnish name and address of driver of vehicle.

**107.** The owner of any vehicle and any other person who is able to provide such information shall, as soon as reasonably possible and in any case within seven days after having received a verbal or written request for such information, give such information as he may be required by a police officer to give as to the identity of the driver of such vehicle. 5

Owner to keep list of drivers employed.

**108.** (1) Any person who employs any other person to drive a motor vehicle shall keep a written record of the name, address and driving licence number of such other person. Such record shall be preserved for a period of six months after 10 the date that such person ceases to be employed as a driver and shall be made available to any police officer on demand.

(2) Any person who fails to comply with the provisions of sub-section (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 15 shillings five hundred.

Verification of facts.

**109.** Any person to whom any application is made for anything to be done under this Ordinance may require any facts stated in the information to be verified to his satisfaction.

Giving false information.

**110.** Any person who makes any statement which to 20 his knowledge is false or in any respect misleading in connexion with any information lawfully demanded or required under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding six 25 months or to both such fine and imprisonment, and if such statement is made to any person in connexion with an application for any licence or permit the court convicting such person may also order that such licence or permit be not granted for a stated period. 30

Fraudulent imitation, etc., of documents.

**111.** (1) Any person who fraudulently imitates, alters, mutilates, destroys, or uses, or fraudulently lends or allows to be used by any other person any licence, document, plate or mark issued or prescribed under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not 35 exceeding shillings five thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(2) A police officer may take possession of any licence, document, plate or mark relating to any suspected offence, 40 under this section.

Endorsement of licence to be proof of conviction.

**112.** Notwithstanding any provisions to the contrary in any Ordinance contained it shall be lawful for a court to accept the particulars of endorsements on any licence issued in compliance with the provisions of this Ordinance as prima 45 facie evidence of previous convictions recorded against the holder thereof.

Notice to attend court.

**113.** (1) Notwithstanding the requirements of or provisions in any Ordinance contained it shall be lawful for any police officer to serve, either personally or by registered post, 50 upon any person who is reasonably suspected of having committed any offence in connexion with the driving or use of any vehicle which is punishable only by a fine or by a fine and imprisonment for a period not exceeding six months, a notice in the prescribed form requiring such person to 55 attend court in answer to the charges stated thereon, at such place and on such date and time as shown on such notice or to appear by advocate or to enter a written plea of guilty.

(2) Such notice as aforesaid shall for all purposes be regarded as a summons issued under the provisions of the 60 Criminal Procedure Code.



(3) A copy of such notice as aforesaid shall be placed before the court by which the charge is to be heard before the time fixed for such hearing.

**114.** (1) Any person who acts in contravention of or fails to comply with the provisions of this Ordinance or of any regulations made thereunder or who acts in contravention of or who fails to comply with the conditions of any licence, order, demand, requirement, or direction issued under or in pursuance of this Ordinance, shall be guilty of an offence against this Ordinance.

(2) Any person who is guilty of an offence against this Ordinance for which no penalty is specially provided shall be liable on conviction—

(a) for a first offence to a fine not exceeding shillings five hundred or to imprisonment for a period not exceeding three months;

(b) for a second or subsequent offence to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(3) All offences under this Ordinance shall be cognizable to the police.

**115.** (1) The Governor in Council may make rules prescribing—

Power of Governor in Council to make rules.

(a) anything required by this Ordinance to be prescribed;

(b) the forms to be used for any purposes of this Ordinance;

(c) the weight of goods and passengers, the number of passengers which vehicles may carry, the method by which seating capacity is to be determined and the gross weight of vehicles;

(d) the weight and size of vehicles which may be permitted on any class of road and the manner in which, if at all, vehicles whose weight or size is in excess of the prescribed maximum weight or size may be allowed to use any road;

(e) the construction of, and equipment to be carried by any class of vehicle and in particular the type of tyres, lights, and warning instruments to be carried by any class of vehicle, and any restriction in the carrying or use of lights and warning instruments;

(f) the carrying on any class of vehicle of any special identification plates and the fees to be charged for such plates;

(g) all matters relating to the inspection, registration, licensing, regulation and control of vehicles and to the conditions which may be imposed in regard thereto;

(h) the regulation of the conduct of drivers and conductors of public service vehicles and the wearing by them of special badges and uniforms and the fees to be paid for any badges provided by an authority;

(i) conditions of service and hours of work for persons employed by owners of public service and commercial vehicles;

(j) the regulation of the carriage of luggage and goods on public service vehicles;

(k) the rules of the road and the signals to be given and obeyed by the drivers of vehicles;

(l) the procedure to be adopted and the conditions to be observed in connexion with the issue of documents necessary for international travel and the use of such documents in the Colony;



- (m) the conditions on which motor vehicles licensed outside the Colony may be used within the Colony and on which persons holding driving licences or permits issued outside the Colony may be allowed to drive within the Colony; 5
- (n) measures for controlling or prohibiting the movement of vehicles of any specified class or description between the hours of 6.45 p.m. and 6.15 a.m.;
- (o) measures for controlling or prohibiting the use of vehicles of any specified class or description on any sea beach or foreshore or other place to which the public have access; 10
- (p) measures for generally restricting or regulating the use of vehicles in such manner as the circumstances and safety on the roads may appear to him to require and for the further, better or more convenient carrying out of any provisions of this Ordinance; 15
- (q) the penalties which may be imposed for the breach of such rules, which penalties shall not exceed, unless a higher penalty is provided for under the provisions of this Ordinance— 20
  - (i) in the case of a first conviction, a fine not exceeding shillings six hundred, or imprisonment for a term not exceeding three months, or both such fine and imprisonment; 25
  - (ii) in the case of a second or subsequent conviction, a fine not exceeding shillings one thousand or imprisonment for a term not exceeding six months, or both such fine and imprisonment.

(2) In any case when the Governor in Council has not prescribed a suitable form under the provisions of paragraph (b) of sub-section (1) of this section the Registrar may direct that a particular form shall be used for a particular purpose. 30

Power to  
suspend and  
exempt from  
provisions.

**116.** The Governor in Council may, by notice published in the Gazette, suspend, restrict, or limit the application of any of the provisions of this Ordinance, either generally or in respect of any particular class or classes or description of vehicle, for such period and subject to such conditions as he may think fit and, similarly, may exempt any vehicle or any class or classes or description of vehicle from all or any of such provisions. 35 40

Repeal.  
Cap. 232.

**117.** The Traffic Ordinance is hereby repealed:

Provided that all licences and permits granted under such Ordinance shall be deemed to have been granted under this Ordinance and shall be subject to the provisions of this Ordinance and all rules, orders and conditions made under this Ordinance. 45

Date of  
commencement.

**118.** This Ordinance shall come into operation on such day as the Governor may by order appoint; and an order under this section may appoint different days in relation to different provisions of this Ordinance and may appoint different days in relation to the same provision for different purposes. 50

**FIRST SCHEDULE**  
**LICENCE FEES ON VEHICLES**

	Yearly	Three-quarterly	Half-yearly	Quarterly	Monthly
(a) For a motor cycle without sidecar .. .. .	30 00	25 50	16 50	9 00	3 75
(b) For a motor cycle with sidecar .. .. .	40 00	34 00	22 00	12 00	5 00
(c) For a motor vehicle with pneumatic tyres (see note below—					
(i) Not exceeding 1,500 lb. tare weight .. .. .	80 00	68 00	44 00	24 00	10 00
(ii) For every additional 250 lb. or part thereof ..	20 00	17 00	11 00	6 00	2 50
(d) For a motor vehicle with pneumatic tyres, the motor unit of which uses any power fuel other than dangerous petroleum—					
(i) Not exceeding 1,500 lb. tare weight .. .. .	160 00	136 00	88 00	48 00	20 00
(ii) For every additional 250 lb. or part thereof ..	40 00	34 00	22 00	12 00	5 00
(e) For a motor vehicle with solid or cushion rubber tyres—					
(i) Not exceeding 1,500 lb. tare weight .. .. .	100 00	85 00	55 00	30 00	12 50
(ii) For every additional 250 lb. or part thereof ..	25 00	21 25	13 75	7 50	3 15
(f) For a motor vehicle with metal tyres—					
(i) Not exceeding 1,500 lb. tare weight .. .. .	160 00	136 00	88 00	48 00	20 00
(ii) For every additional 250 lb. or part thereof ..	40 00	34 00	22 00	12 00	5 00
(g) For a trailer—					
(i) With pneumatic tyres;					
(ii) With solid or cushion rubber tyres;					
(iii) With metal tyres.					
Half the rates set out in paragraphs (c), (e) and (f) respectively.					
(h) For a tractor used solely for agricultural purposes ..	40 00				
(i) Vehicles designed, constructed and used for the purpose of road construction, trench digging or any kind of excavating or shovelling work, which—					
(i) are used on public roads only for that purpose or for the purpose of proceeding to and from the place where they are to be used for that purpose, and					
(ii) when so proceeding neither carry nor haul any load other than such as is necessary for their propulsion or equipment .. .. .	100 00				
(j) Vehicles designed and constructed as mobile cranes which—					
(i) are used on public roads only either as cranes in connection with work being carried on on a site in the immediate vicinity or for the purpose of proceeding to and from a place where they are to be used as cranes; and					
(ii) when so proceeding neither carry nor haul any load other than such as is necessary for their propulsion or equipment .. .. .	100 00				
(k) For a public service vehicle for each passenger which the vehicle is licensed to carry, an additional fee of ..	10 00	8 50	5 50	3 00	1 25

**SECOND SCHEDULE**

**SPEED LIMITS**

CLASS OF VEHICLE	Maximum speed in miles per hour
1. Motor vehicles not drawing a trailer or trailers:—	
(a) Motor omnibuses .. .. .	40
(b) Heavy commercial vehicles .. .. .	30
(c) Commercial vehicles, the tare weight of which exceeds 4,000 lb., but does not exceed 6,720 lb.	40
(d) Tractors .. .. .	20
2. Motor vehicles drawing one or more trailers:—	
(i) Any motor vehicle other than a motor car .. .. .	20
(ii) Motor car .. .. .	30
3. Vehicles not fitted with pneumatic tyres .. .. .	20

## MEMORANDUM OF OBJECTS AND REASONS

The Traffic Ordinance (Cap. 232) was drafted in 1928 and, notwithstanding some sixteen amendments, is now out of date in certain important respects and does not adequately provide for the proper control of traffic and motor vehicles in modern conditions. It is proposed, by the present Bill, to amend and consolidate the law relating to traffic on the roads to bring it into line with modern requirements.

The Bill is divided into twelve Parts.

*Part I* is concerned with the short title, interpretation, appointment of officers and classification of vehicles. *Clause 3* provides for the appointment of a Registrar of Motor Vehicles, licensing officers, inspectors of vehicles and driving test examiners.

*Part II* deals with the registration of vehicles and provides that records shall be kept of all vehicles registered in the Colony. *Clause 6* provides for the issue of a registration book in respect of every registered vehicle, and that such registration book shall be proof of the registration of the vehicle, and by *clause 10* it is provided that particulars of every transfer of ownership shall be entered in the registration book before the vehicle is transferred into the name of the new owner. Under *clause 11* no vehicle shall be registered unless the licensing officer is satisfied that it has been lawfully exported from its country of origin or the country in which it was last registered, and that it has been lawfully imported into the Colony.

*Part III* relates to the licensing of vehicles and provides that no motor vehicle or trailer shall be used on a road without a licence. *Clause 17* sets out the conditions precedent to the issue of a licence, and *sub-clause (2)* of the clause provides that before a licence is issued in respect of a vehicle which is more than ten years old the applicant must produce a certificate of road worthiness. *Clause 23* makes provision for the issue of dealers' general licences in place of the existing general identification marks. It is provided that with each such licence shall be issued identification plates which may not be used on more than one vehicle at any one time. *Clause 24* sets out the conditions under which a dealers' general licence may not be used.

*Part IV* contains provisions relating to the licensing of drivers of different classes of motor vehicles and makes the following important changes in the existing law—

- (a) the existing certificate of competency will be replaced by an annual driving licence which will not, however, be issued except on proof of the applicant's competence to drive a vehicle of the class specified in the licence;
- (b) persons suffering from certain diseases and disabilities will be ineligible for driving licences, and power is given to the Registrar to revoke a driving licence during its currency where it is established that the holder is suffering from a disease or disability likely to cause the driving by him of a motor vehicle to be a danger to the public;
- (c) provision is made for the issue of provisional driving licences to persons learning to drive;
- (d) the minimum age at which a person may obtain a driving licence will be sixteen years in the case of a motor cycle, eighteen years in the case of a motor car and twenty-one years in the case of any other class of vehicle. Under the existing law the minimum age is sixteen years for any class of vehicle.

*Part V* deals with motor offences and imposes increased penalties for driving under the influence of drink and for reckless and careless driving. Under this Part it will be an offence for a person driving or in charge of a public service vehicle to drink intoxicating liquor while on duty, and any person who gives intoxicating liquor to the driver or person in charge of a public service vehicle will also be guilty of an offence. This Part also contains provisions relating to condition of vehicles and limitation of loads and makes it an offence to tamper with a motor vehicle or to take a motor vehicle without permission.

*Part VI* provides for the issue by the Member of a Highway Code for the guidance of persons using the roads, and contains other provisions relating to the regulation of traffic.

*Part VII* contains provisions relating to accidents.

*Part VIII* empowers the court to suspend or cancel the driving licence of a person convicted of an offence in connexion with the driving of a motor vehicle, and provision is made for an appeal against any order of suspension or cancellation.

*Parts IX and X* contain miscellaneous provisions relating to roads and road users other than drivers of motor vehicles.

*Part XI* deals with the licensing of public service vehicles and offences committed in connexion with the use of public service vehicles.

*Part XII* provides for the making of rules by the Governor in Council for giving effect to the provisions of the Bill and in particular for prescribing minimum requirements regarding the weight of goods and passengers, construction of and equipment to be carried by motor vehicles and conditions on which motor vehicles licensed outside the Colony may be used within the Colony.

It is not possible to estimate what additional expenditure of public moneys will be incurred if the provisions of this Bill become law, but any increase in expenditure is expected to be more than offset by additional revenue which will accrue by way of fees.

Nairobi,  
19th August, 1952.

JOHN WHYATT,  
*Attorney General.*