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PUBLISHED BY AUTHORITY

PART B

S1

THE ROAD TRANSPORTATION ACT 2007

(Act No. 5 of 2007)



I ASSENT

Mswati III
King of Swaziland

20th June, 2007

AN ACT Entitled

An Act to repeal the Road Transportation Act, 1963 and to provide for matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland

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PART I
PRELIMINARY

Citation and Commencement

1. This Act may be cited as the Road Transportation Act, 2007 and shall come into operation on a date to be appointed by the Minister by Notice in the Gazette, different dates may be appointed for coming into operation of different sections of the Act or for different persons and motor vehicles falling under the Act.

Interpretation

2. In this Act, unless the context otherwise indicates -

“abnormal load” means a load that cannot reasonably be divided into smaller loads, and that due to the nature of such load cannot be conveyed upon a motor vehicle in a manner which complies with the prescribed limits of weight or dimensions of motor vehicles and the loads thereon, as contained in the Road Traffic Act;

“area permit” means authority that is given in respect of a particular region or district or locale in accordance with section 12(1).

“authorised representative” means a person who -

- (a) is entitled to practice and appear as an advocate or an attorney in the High Court of Swaziland; or
- (b) has been authorised in writing by another person to represent that other person before the Board or the Board of Appeal as the case may be;

“Board” means the Road Transportation Board established by section 4;

“Board of Appeal” means the Road Transportation Board of Appeal established by section 9;

“Bus” means a motor vehicle designed or adopted solely for the conveyance of more than 30 persons, including the driver but does not exceed 22 metres in length”.

“Bus-train” means a motor vehicle designed or adopted for the conveyance of more than 30 persons, including the driver and is more than 22 metres long.

“certificate of fitness” means an official document issued under Part VI of the Road Traffic Act;

“Chairperson” means the chairperson of the Board or the Board of Appeal, as the case may be;

“examiner” means a person who assesses vehicles appointed as such under the Road Traffic Act;

“fare” means the amount of money paid by a passenger for a specific journey by bus, minibus or taxi;

“fee” means a charge or cost prescribed by the Minister;

“goods vehicle” means a motor vehicle other than a motor cycle, motor tricycle, motor quadrucycle, motor car, minibus or bus, designed or adapted for the conveyance of goods on a public road and includes a truck-tractor, an adaptor dolly, a converter dolly and a breakdown vehicle;

“gross vehicle mass” means the maximum mass of a vehicle and its load as specified by the manufacturer or in the absence of such specification as determined by an examiner;

“hazardous material” means any risky, dangerous material;

“inspector” means an officer of Government who is designated as an inspector by the Principal Secretary;

“international road transport permit” means a permit referred to in section 12(3) or (4);

“local authority” has the same meaning as contained in the Urban Government Act 1969.

“member” means a member of the Board or member of the Board of Appeal as the case may be;

“minibus” means a motor vehicle designed or adapted solely or principally for the conveyance of more than nine (9), but not more than sixteen (16) persons, including the driver;

“midibus” means a motor vehicle designed or adapted solely or principally for the conveyance of more than (17), but not more than (30) persons, including the driver;

“Minister” means the Minister responsible for transport;

“motor car” means a motor vehicle other than a motor cycle, motor tricycle, motor quadrucycle or tractor, designed or adapted solely or principally for the conveyance of not more than (9) persons, including the driver;

“national road transportation permit” means a permit referred to in section 12(1) of this Act;

“national transport body” means a Body representing all Transport Associations in Swaziland and comprising members of the national freight and regional passenger transport organizations established in accordance with section 36(g);

“operator” means, in relation to a motor vehicle used or to be used for road transportation, the person who holds or is required under this Act to hold a permit, and who is-

(i) the owner of the vehicle concerned; or

(ii) a person who in terms of a written contract with the owner has full rights to use the vehicle for a period exceeding three (3) months;

“person” includes a legal person;

“permit” means a national road transport permit, international road transport permit, route permit, area permit or special permit, as the case may be;

“prescribed” means approved by regulations made by the Minister and published in the Gazette;

“Principal Secretary” means the Principal Secretary responsible for transport;

“public road” means a public road as defined in the Road Traffic Act, except that for purposes of a prosecution under this Act the road on which an offence is alleged to have been committed shall, unless the contrary is proved, be deemed to be a public road;

“road transportation” means the use on a public road of -

- (i) a motor car, minibus or midibus to carry passengers for reward;
- (ii) a bus or bus train;
- (iii) a goods vehicle, the gross vehicle mass of which exceeds 3500 kilogrammes; or
- (iv) a goods vehicle, the gross vehicle mass of which does not exceed 3500 kilogrammes, to carry goods for reward.

“route permit” means a permit referred to in section 12(1);

“scheduled service” means a road transportation service for the conveyance of passengers for a journey or journeys from one or more points specified in advance to one or more destinations so specified and which may have stopping points to pick up or get down passengers along the line of route, according to a predetermined time table;

“station commander” means a police officer in charge of a police station at a designated area;

“unscheduled service” means a road transportation service for the conveyance of passengers for a journey from a place to any other place as required;

“Secretary” means the Secretary of the Board or Board of Appeal as the case may be;

“tariff” means a charge per kilometre or per passenger kilometre as the case may be, for passenger transportation;

“taxi” means a (3) three seater motor car which is used for the conveyance of persons for reward or for hire.

Requirements for road transportation

3. (1) A person shall not -

- (a) drive or permit to be driven; or
- (b) operate or permit to be operated,

on a public road a motor vehicle engaged in road transportation

- (i) otherwise than in accordance with the terms and conditions of a permit as required under section 12; and

- (ii) unless the permit is carried in the vehicle during the driving or operation of such vehicle.

(2) A person shall not, for financial reward, convey a passenger in a passenger in a goods vehicles on a public road.

PART 11
ROAD TRANSPORTATION BOARD

Establishment and constitution of Road Transportation Board

4. (1) There is hereby established a Board to be known as the Road Transportation Board. (hereinafter referred in this Act as the "Board") appointed by the Minister for a period not exceeding three years.

(2) The Board shall consist of the following persons -

- (a) five (5) members who shall be appointed by the Minister from the four regions and the Swaziland Consumers Association;
- (b) four (4) members, who shall be nominated by the National Transport Body, and;
- (c) amongst the nine (9) members, the Minister shall appoint a chairperson.

(3) The Chairperson or a member shall cease to be Chairperson or member if -

- (a) he is absent from three (3) consecutive meetings of the Board without leave of the Chairperson or Minister in the case of the Chairperson;
- (b) he, resigns in writing as a member of the Board and such resignation shall not come into operation before a period of one month has elapsed since the member delivered the resignation to the Minister;
- (c) he is convicted of an offence in respect of which he is sentenced to imprisonment without the option of a fine;
- (d) the Minister terminates his appointment as member of the Board;
- (e) he becomes insolvent; or
- (f) he is declared insane by a medical practitioner registered in terms of the Medical and Dental Practitioners' Act, No 3 of 1970.

(4) A vacancy on the Board shall be filled by the appointment of another member in accordance with subsection (2) and a member so appointed shall hold office for the unexpired portion of the period of office of the vacating member.

(5) A member other than the Secretary shall be paid from the Consolidated Fund such remuneration or allowance as the Minister may determine.

(6) The Minister shall appoint an officer of Government as Secretary of the Board.

Meetings, quorum and procedure of the Board

5. (1) The first meeting of the Board shall be held at such time, date and venue as the Minister may determine.

(2) All subsequent meetings shall be held at such times and venues as the Chairperson may determine.

(3) The Board shall meet at least once every month to consider matters arising from its functions.

(4) Four members of the Board shall form a quorum.

(5) A decision of the majority of the members of the Board present at a meeting of the Board shall constitute a decision of the Board.

(6) Each member of the Board shall have one vote and in the event of an equality of votes at any meeting, the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.

(7) A member who has material interest in a matter brought before the Board shall recuse himself during consideration of that matter by the Board.

(8) The Board shall make its own rules of procedure.

(9) The Secretary shall publish monthly a notice in a newspaper circulating in Swaziland setting out the decisions of the Board relating to applications made to the Board, including the granting or refusal of permits and in addition the decision shall be communicated to the person or persons concerned by post.

(10) The Secretary shall cause -

(a) a record of the proceedings of the meetings of the Board to be kept; and

(b) a verbatim record of all public hearings of the Board to be kept for a period of twelve months, and the Secretary shall on request, and upon payment of the prescribed fee, furnish copies of such records to any other party who, in his opinion, may reasonably have an interest in the matter.

Functions of the Board

6. The functions of the Board are to -

(a) consider applications for or relating to the granting, renewal, amendment, suspension or cancellation of certificates and permits;

(b) determine the demand for public passenger and freight transport;

(c) keep, or cause to be kept, registers of all permits issued, and any other register or data base as is required to properly administer road transportation; and

(d) advise the Minister on any matter relating to the transportation of goods and passengers, (giving special consideration to the elderly and passengers with physical disabilities), by road in Swaziland or any matter incidental which the Minister may refer to the Board.

General powers of the Board

7. (1) In the performance of its functions under this Act, the Board may suspend or cancel a permit if -

- (a) a material condition imposed in the granting, renewal or amendment of such permit is not complied with by the holder thereof;
- (b) the holder of the permit has been convicted of an offence relating to the carrying out of his transport operations, industry, trade or business;
- (c) in the case of a permit authorising passenger transport, the holder of the permit, or an employee of such holder, has been convicted of an offence which, in the opinion of the Board, discloses a disregard for the safety of the passengers carried on a motor vehicle used by such holder or the public using public roads; or
- (d) in the case of a route permit or an area permit, the Board is of the opinion that the operator -
 - (i) has insufficient motor vehicles capable of carrying out the service authorised; or
 - (ii) does not service the route or area concerned within three (3) months of the date of issue of the permit or of the date upon which such operator undertook to provide such service in his application;
 - (iii) fails, for any reason, for a continuous period of three (3) months, to provide the service authorised by the permit; or
- (e) in the opinion of the Board, the holder of the permit has submitted false or forged documents or has made a false declaration relating to the permit concerned, or relating to any other permit issued to him.

(2) The Board may instruct an inspector or examiner to inspect or examine -

- (a) a motor vehicle that is or will be engaged in road transportation; and
- (b) the technical facilities for the maintenance of motor vehicles used in road transportation, and may require written reports on the motor vehicles or facilities concerned.

(3) The Board may take evidence under oath or affirmation, and make such other investigations as it may deem fit in reaching a decision referred to in subsection (1) or section 17 (3) and for such purpose the Chairperson may -

- (a) subpoena witnesses;
- (b) administer oaths and affirmations; and
- (c) require such documents as the Board deems necessary, to be produced.

(4) The Board may examine or cause to be examined by a person authorised thereto by the Board, any records of the holder of a permit that may contain information to enable the Board to decide whether the holder of such permit is complying with the provisions of the Act, and with the conditions or limitations of the permit concerned.

(5) Before subsection (1) is invoked, the Board shall notify the holder of a permit, which it intends to suspend or cancel, of such intention, and shall require such holder to make written representation within fourteen (14) days, as to why such suspension or cancellation should not be effected.

(6) The Board may, in consultation with the National Transport Body and, subject to the provisions of this Act, impose ceilings on the number of permits issued under Part IV.

Right of Appeal

8. A person aggrieved by a decision of the Board may appeal to the Appeal Board and section 11 of this Act shall apply with regard to such appeal.

PART 111
ROAD TRANSPORTATION APPEAL BOARD

Establishment and constitution of Road Transportation Appeal Board

9. (1) There is hereby established an Appeal Board to be known as the Road Transportation Appeal Board (hereinafter referred to in this Act as the Appeal Board) who shall serve for a period not exceeding three (3) years.

(2) The Appeal Board shall consist of:

- (a) a Chairperson and Secretary who shall both be appointed by the Minister, and
- (b) three (3) members who shall be nominated by the National Transport Body.

(3) A person shall not qualify for appointment as Chairperson or member of the Appeal Board if he is an operator registered in terms of Part IV of this Act.

(4) The Minister may appoint an alternative to a member of the Appeal Board.

(5) A member of the Appeal Board shall hold office for such period and on such conditions as the Minister may determine at the time of the appointment.

(6) A member of the Appeal Board shall cease to be a member if -

- (a) he is absent from three (3) consecutive meetings of the Appeal Board without leave of the Chairperson;
- (b) he, resigns in writing as a member of the Appeal Board and; (i) the resignation shall not come into operation before a period of one month has elapsed since such member has delivered such resignation to the Minister;
- (c) he is convicted of an offence in respect of which he is sentenced to imprisonment without the option of a fine;
- (d) the Minister terminates his appointment as member of the Appeal Board; or
- (e) he becomes insolvent.

(7) A vacancy on the Appeal Board shall be filled by the appointment of another member in accordance with subsection (4), and that member shall hold office for the unexpired portion of the period of office of the vacating member.

(8) A member of the Appeal Board shall be paid from the Consolidated Fund such remuneration of allowance as the Minister may determine.

Meetings, quorum and procedure of the Appeal Board

10. (1) The first meeting of the Appeal Board shall be held at such time, date and venue as the Minister may determine.

(2) All subsequent meetings of the Appeal Board shall be held at such time and venues as the Chairperson of the

(3) Board may determine.

(4) If for any reason the Chairperson of the Appeal Board is absent or unable to act as Chairperson, the members present shall appoint one of the members to act as Chairperson of the Board of Appeal and the person so appointed shall perform all the functions and duties and exercise all the powers of the Chairperson.

(5) Three members of the Appeal Board shall form a quorum.

(6) A decision of the majority of the members of the Appeal Board present at any meeting of the Board shall constitute a decision of the Board.

(7) A member of the Appeal Board shall have one vote and in the event of an equality of votes at any meeting, the Chairperson shall have a casting vote in addition to his deliberative vote.

(8) If a member of the Appeal Board has material interest in a matter brought before the Board, he shall recuse himself when that matter is being considered by the Board.

(9) If at any meeting of the Appeal Board the appellant is of the opinion that a member of such Board is or may be prejudiced against the appellant, the appellant may bring an application to the Chairperson that, for the purpose of considering the appeal concerned, the member should recuse himself.

(10) When the application referred to in section (8) involves -

(a) the Chairperson the other members of the Appeal Board shall decide on the application, and if they decide that the application should be granted, the Chairperson shall recuse himself; and

(b) a member of the Appeal Board, the members except the member concerned, shall decide on the application, and if they decide that the application should be granted, the member concerned shall recuse himself.

(11) If, due to the recusal of a member of the Appeal Board, the remaining members of the Board do not constitute a quorum, consideration of the appeal concerned shall be adjourned until such time as a quorum of the Board is present.

(12) The Appeal Board shall make its own rules of procedure.

(13) The Secretary shall cause -

- (a) a record of the proceedings of the meetings of the Appeal Board to be kept; and
- (b) a verbatim record of all public hearings of the Board of Appeal to be kept for a period of twelve (12) months,

and the Secretary shall on request, and upon payment of the prescribed fee, furnish copies of such records to any other party who, in his opinion, may reasonably have an interest in the matter.

Appeal against decision of the Board

11. (1) A person -

- (a) whose application for a permit has been refused;
- (b) who has opposed the granting of a permit where such permit has been granted; or
- (c) who holds a permit whose permit has been suspended or cancelled,

may appeal against the decision of the Board, to the Appeal Board.

(2) The decision of the Appeal Board shall be final.

(3) Prior to giving notice of appeal, the appellant and any other party having an interest in the matter shall, on request, and on the payment of the prescribed fee, be furnished by the Secretary of the Board with the reasons for the Board's decision.

(4) Any appeal shall be accompanied by such deposit as may be prescribed and such deposit shall be refunded only if the appeal concerned is upheld by the Appeal Board.

(5) The notice of appeal shall be lodged in writing with the Secretary of the Board within 14 days from the date of decision of the Board and the following particulars shall be furnished -

- (a) the full names and address of the appellant;
- (b) the full grounds upon which the appeal is founded; and
- (c) proof of payment of the deposit referred to in subsection (4).

(6) No grounds of appeal shall, without the leave of the Appeal Board be allowed other than those stated in the written notice of appeal under subsection (5).

(7) The Secretary of the Board shall, within 21 days from the date of receipt of the notice of appeal, forward -

- (a) the notice of appeal, the reasons for the decision of the Board and a transcript of the evidence heard by the Board, duly certified as correct by the Secretary of the Board, to the Appeal Board and

(b) a copy of the notice of appeal to any other party having an interest in the matter.

(8) The Appeal Board shall meet to consider the appeal and may make such order as it deems fit, and the Board shall comply with that order.

(9) The Appeal Board shall, within 30 days of the receipt of the notice of appeal, consider and decide upon the appeal before it.

**PART IV
PERMITS**

Permit to be obtained for road transportation services

12. (1) A person who wishes to provide transport service shall make written application for a road transportation service permit or renewal or amendment of the permit and shall specify the area or route and type of service he intends to provide to the Station Commander of the district in which he intends to keep the vehicle and shall seek recommendation of the local authority or Regional Administrator where a local authority does not exist.

(2) The local authority or Regional Administrator, as the case may be shall, before recommending the application in terms of subsection (1), consult with the Regional Transport Association concerned.

(3) An operator who wishes to carry out road transportation to or through a country with which the Government of Swaziland has entered into an agreement shall in addition to the permit referred to in subsection (1), obtain an international road transport permit in accordance with the provisions of such agreement.

(4) A person who wishes to carry out road transportation to, from or through Swaziland by means of a motor vehicle registered in a country with which the Government of Swaziland has entered into an agreement shall possess an international road transport permit issued in accordance with the provisions of that agreement.

(5) A person who wishes to carry out road transportation to, from or through Swaziland by means of a motor vehicle registered in a country other than a country referred to in subsection (4), shall obtain a special permit.

(6) An operator who wishes to-

(a) convey passengers for reward on a specific ad hoc journey;

(b) deviate from a specified timetable on a route permit for a limited period;

(c) convey an abnormal load; or

(d) use a specially designed trailer that is registered in a foreign country, for special operations within Swaziland, which will be required for a period of less than three months, and which is approved by the Secretary, shall obtain a special permit.

(7) Where the service authorized by an operator's route permit has been interrupted due to the mechanical breakdown of a motor vehicle, the permit holder may use another vehicle belonging to him to render the service concerned (if the use of that vehicle is not going to interrupt his other services). However another operator may, with the consent of the permit holder, obtain a special permit to render the service concerned.

(8) In case of a passenger service operation subsection (1) does not apply to a person who is not a citizen or permanent resident of Swaziland.

- (9) (a) After the application has been granted and upon payment of a prescribed fee by the applicant, the Secretary shall, on behalf of the Board issue a permit on the prescribed form.
- (b) If the Secretary of the Board is satisfied that a permit has been lost, destroyed or defaced, he shall, upon payment of the prescribed fee issue a duplicate licence.
- (c) annual renewals within the life of the permit (Section 17(1)) will be issued by the Secretary upon payment of the prescribed fee without the applicant having to appear before the Board.

Particulars which are to be furnished

13. (1) Every application under section 12 for a permit or a renewal of a permit shall be submitted in duplicate, and shall contain the following information-

- (a) the full name and postal address of the applicant;
- (b) particulars of any agreement or arrangement, whether verbal or in writing, entered into by the applicant with any other person in regard to the operation of the service for which he is applying for a permit;
- (c) particulars of any financial interest (whether as a partner, shareholder, as a result of any loan, guarantee or other financial transaction) which any other person has in the applicant's business of operating public service vehicles, and, if the applicant is a company, any right which any such person has to nominate any director or manager of the company;
- (d) particulars of interest or right which the applicant has in the business of any other person engaged in the operation of public service vehicles;
- (e) particulars of the routes to be used or destination it is proposed to serve;
- (f) particulars of the type of each vehicle to be used;
- (g) in the case of a scheduled service, the time-table and sketch map of the service which it is proposed to provide and in any other case full particulars of the service which the applicant proposes to render;
- (h) the rate or fare tables of the proposed service.

(2) A person who applies for an amendment of a road transportation service permit shall submit, in duplicate, full details of the alterations required to his permit.

(3) An applicant shall furnish the board with such further information as the board may require.

(4) The application shall be accompanied by such fee as may be prescribed for advertising and hearing the application.

Notification of applications.

14. (1) Before considering an application the Board shall cause notice thereof to be published in the Gazette and in a newspaper circulating in Swaziland setting out briefly the particulars of the

application.

(2) The notice shall state where the application may be examined by interested persons and shall call upon any person objecting, to lodge with the secretary to the Board and to send the applicant his objections in writing together with all the grounds of objection by registered post within 14 days after the Publication of the notice.

(3) Every objection shall be accompanied by such fee as may be prescribed.

(4) The Secretary to the Board shall give written notice to every person who has made application and has indicated that he wishes to appear in support of the application, and every person who has objected to the application, of the time and place at which the application will be considered.

(5) The notice shall be given not less than fourteen days before the application is considered.

(6) The notice shall be deemed to have been received by the person to whom it is addressed four days after the date it is posted if posted to the address notified by him to the secretary for that purpose.

(7) If a person fails to notify the Secretary of such an address no notice shall be required to be given to him.

Consideration of applications for permits.

15. (1) Subject to section 13 and the payment of the prescribed fee, the Board shall consider an application made in terms of section 12, and may adjourn or postpone further consideration of the application for such period as it may deem fit.

(2) The Board may, refuse such application or grant it in full or in part.

(3) An applicant, either by himself or by his duly authorized representative, may appear before the Board in support of his application and the Board shall afford all other persons an opportunity of appearing before it in support of or in opposition to an application and in a case of a fresh application the applicant shall appear before the Board in person:

Provided that the Board shall not be required to hear a person appearing in opposition to an application if he has not lodged with it and the applicant his objections and all grounds of the objection in writing within the period mentioned in section 14(2).

Matters to be considered by the Board.

16. (1) In considering an application for a permit to operate a road transportation service or a renewal or amendment of a permit, the Board shall have regard to the following matters-

- (a) the type of vehicle, its carrying or haulage capacity and the nature of the transport to be undertaken;
- (b) the proposed routes in which the vehicle will be operated, and the nature routes;
- (c) the applicant's character, record of offences and misdemeanors, financial position, place of residence and the technical facilities available to him;
- (d) in the case of a scheduled service, the proposed timetable, fares, sketch map and tariffs and in the case of any other service the proposed fares and tariffs;

(e) whether the applicant is likely to carry on satisfactorily the transportation to which the application relates to.

(2) The board may in its discretion refuse to issue, renew or amend a road transportation permit if in its opinion-

- (a) the grant of the application is not justified having regard to any of the matters set out in subsection (1);
- (b) the grant of the application will adversely affect rail transport; or
- (c) the transportation service is not justified, having regard to existing transport facilities whether by road, rail, air or otherwise; or
- (d) it is not necessary or desirable in the public interest to grant the application.

Validity of permits.

17. (1) A road transportation service permit or renewal thereof shall, unless duly suspended or cancelled, be valid for a period, which shall not exceeding three years:

(2) In any case where the Board is satisfied that a road transportation service permit has been lost, destroyed or defaced, a duplicate permit upon payment of the prescribed fee may be issued with the word "duplicate" endorsed on the permit.

(3) A road transportation service permit shall not be renewed unless, before its expiry an application for its renewal has been submitted to the Station Commander in terms of section 12:

Provided that nothing in this subsection shall preclude the holder of an expired permit from making application for the grant of a new permit.

Particulars of road transportation service permit.

18. A road transportation service permit shall be issued by the Secretary to the Board on behalf of the Board and shall specify-

- (a) the full names of the person to whom it is issued;
- (b) the number and particulars of the vehicles which may be operated under the service permit;
- (c) the period for which it is valid;
- (d) in the case of a passenger carrying service, the time-table and sketch map of such service;
- (e) in the case of a passenger carrying service, any conditions relating to fares; and
- (f) any other condition imposed by the Board.

Powers of the Chairperson of the Board regarding renewal or amendment of permit

19.(1) If an application is made to the Board for the renewal or amendment of a permit and the application is not opposed, the Chairperson may -

- (a) grant the application if he is satisfied that the application has complied, and the application complies, with all the requirements of the Act; or
- (b) if he is not so satisfied, order that the application be referred to the Board for decision on the matter.

(2) Notwithstanding anything to the contrary contained in this Act, the Chairperson may grant a temporary renewal of a permit -

- (a) on receipt of an application for the renewal of the permit concerned prior to the expiry of such permit, but within sufficient time for the Board to consider such application;
- (b) for a maximum period of three (3) months; and
- (c) once only in respect of each application for renewal of the permit concerned.

(3) The Chairperson may, if an application is received for the amendment of a permit where the holder of the permit is deceased, and on production of the documents prescribed, is satisfied that the applicant is the legal benefactor of the estate of the deceased holder, grant that the applicant shall become the holder of the permit concerned.

PART V

Issuance of licences and renewals thereof.

20. (1) The Accountant General, or his duly authorized agent, shall issue a licence in respect of a public service vehicle or renew such licence if the person applying submits -

- (a) a permit issued by the secretary to the board in terms of section 18;
- (b) a certificate of fitness issued under Part V of the Road Traffic Act No. 9 of 2006, in respect of each motor vehicle to be licensed unless the vehicle has been exempted under section 18 of the Road Traffic Act, No. 9 of 2006;
- (c) a valid declaration of passenger liability cover, in respect of each motor vehicle to be licensed.

(2) The licence shall be in the prescribed form and shall be required in addition to any other licence required by law for motor vehicles.

(3) There shall be issued free with every licence a disc, in the prescribed form, in respect of that licence and the disc shall be attached and carried on the windscreen of the vehicle at all times when the vehicle is on a public road..

Fees

21. (1) The prescribed licence fee shall be paid in respect of each public service motor vehicle.

Expiry date of licence

22. (1) Except as provided in subsection (2), every licence shall expire on the quarter-day first occurring after a period of twelve months has elapsed from the date of its issue.

(2) If either -

- (a) the road transportation service permit of the applicant issued under section 18, or
- (b) the certificate of fitness issued under Section 50 of the Road Traffic Act, No. 9 of 2006 in respect of the public service vehicle to be licensed, expires prior to the date mentioned in subsection (1), then the licence shall expire on the same expiry date as the permit, whichever date is the earlier.

When licence to be surrendered.

23. (1) If the board cancels a road transportation permit in accordance with section 7 (1) (a) the holder of the licence issued under this Part as a result of such permit shall, within fourteen days of being notified, surrender the licence and any disc issued to him under section 20 to the office where the licence was issued.

(2) the licence shall be cancelled in the office where it was issued and no refund shall be made in respect of any unexpired portion of the licence.

**PART VI
MISCELLANEOUS**

Taxis

24. (1) The operator of a taxi shall -

- (a) on a date to be prescribed by the Minister by notice published in the Gazette, have a meter of the prescribed type installed, and such meter shall be calibrated in accordance with the tariff limits prescribed and;
- (b) have an illuminated sign displaying the word "TAXI" affixed on top of the motor vehicle concerned.

(2) The driver of a taxi shall put the meter referred to in subsection (1) (a) into operation when a passenger embarks on the taxi and shall maintain such meter in operation until the passenger disembarks.

(3) The passenger in a taxi shall pay the fare shown on the meter referred to subsection (1) (a) to the driver of the taxi before disembarking from the taxi.

Declaration of a public service vehicle.

25. If in his opinion it is in the public interest to do so, the Minister may, by notice in the Gazette, declare-

- (a) any motor vehicle used for or in connection with any trade or profession, the conveyance of any specified type of goods or class of persons; or
- (b) any specified class of vehicle used for or in connection with any trade or profession; to be a public service vehicle for the purposes of this Act.

Receipt for fares.

26. (1) If the owner or agent or servant of the owner of a public service vehicle agrees to convey

a passenger and receives the amount of the fare or any portion of the fare, before he has completed the journey agreed

upon, he shall issue the passenger with a printed ticket or receipt.

(2) The a ticket or receipt shall, in addition to the fare paid, show the places of departure and destination of the passenger.

(3) The owner of a public service vehicle shall retain a duplicate copy of every ticket or receipt issued in terms of subsection (1) which copy shall be available for inspection by a police officer at the office of the owner at all reasonable times.

Responsibility and authority of driver

27. (1) The driver of a bus, midibus, minibus or taxi, shall ensure that the lawful capacity of passengers on such bus, midibus, minibus or taxi is not exceeded.

(2) The driver of a motor vehicle engaged in road transportation shall be in possession of a public driver's permit as required in terms of the Road Traffic Act, and the permit shall be kept with the driver in the motor vehicle concerned when the vehicle is operated on a public road.

Responsibility of operator

28. An operator shall ensure that, in respect of any motor vehicle operated by him under this Act

- (a) all information contained in the permit held by the operator in respect of the motor vehicle is correct and where any change occurs, the operator shall notify the Secretary within seven (7) days of the change;
- (b) the terms and conditions of the permit held by the operator are complied with by all employees of the operator;
- (c) the motor vehicle is maintained in good roadworthy condition and the certificate of fitness issued in respect of such vehicle is kept in the vehicle as required in terms of the Road Traffic Act;
- (d) the driver and his crew are properly trained, clean and comply with this Act and the Road Traffic Act;
- (e) the lawful capacity of such vehicle as determined in the Road Traffic Act, in terms of the wheel, axle or total vehicle loads or the number of passengers carried, or both, is not exceeded;
- (f) the operation of such vehicle is conducted with due regard to the safety of the public and public's belongings;
- (g) records, as prescribed, of the road transportation carried out by such operator are maintained, and such records shall, at all reasonable times, be available for inspection by a police officer or examiner or inspector, at the office of the operator; and
- (h) the use and control exercised over such vehicle complies with all others requirement prescribed.

Powers of police officer, examiner or inspector

29. (1) A police officer, an examiner or inspector may stop a motor vehicle to establish if such vehicle is engaged in road transportation and -

- (a) require the driver to produce for inspection a permit or document required under this Act or under the Road Traffic Act, in respect of the vehicle; and
- (b) generally satisfy himself that the vehicle is being operated in a proper manner and in terms of the permit issued in respect of the vehicle.

(2) (a) If any document produced in terms of subsection (1) appears to the officer to be unlawfully used, altered or falsified, the officer shall impound such document and issue to the driver, a receipt for the document.

- (b) The receipt referred to in paragraph (a) shall not provide any of the authority conveyed by the document impounded in terms of such paragraph.

(3) Subject to section 3, if the driver of a motor vehicle is asked to produce a permit or document referred to in subsection (1) (a), and the permit or document is not available at the time when the production of the permit is required, the driver shall within a period of 7 days after the date on which he is required to produce the permit or document, produce the permit or document for inspection at a police station to be specified at the time by the Police or the examiner or the inspector.

(4) An inspector may in respect of a motor vehicle engaged in road transportation -

- (a) require the driver to stop such vehicle;
- (b) inspect or test such vehicle or the equipment on such vehicle to determine whether such vehicle or equipment complies with the law and if in his opinion such vehicle or equipment does not comply with the law -
 - (i) prevent such vehicle from proceeding unless towed;
 - (ii) issue a note in the prescribed form to allow such vehicle to proceed at a speed not exceeding that determine by him, to a place of repair or to a place designated by him for further testing by an examiner of vehicles;
- (c) weigh or cause to be weighed any goods vehicle to determine if the loads on such vehicle comply with the Road Traffic Act, 9 of 2006;
- (d) require the driver or conductor of the vehicle to give his name and address;
- (e) temporarily forbid the driver of the vehicle from driving such vehicle;
- (f) require the driver to be examined by a medical practitioner; and
- (g) require a person or goods unlawfully conveyed in the vehicle to be removed from the vehicle.

(5) If an offence is alleged to have been committed under this Act and a police officer or inspector is of the opinion that a public prosecutor will prosecute the person who committed the offence, such police officer or inspector-

- (a) may issue a summons in the prescribed form and manner, and hand such summons to the person concerned, the summons shall require the person to appear in court and on a date and time, specified to answer the charge in the summons; or
- (b) may issue a notice of intent to prosecute, in the prescribed form and manner, to the person concerned,

and in the case where the police officer or inspector believes that on conviction a court would not impose a fine in excess of the fine prescribed by the Minister in terms of section 35 (b) for the offence concerned, the summons or the notice referred to in paragraphs (a) or (b) respectively, shall indicate that a fine of the prescribed amount may be paid, without appearance in court, in terms of section 312 of the Criminal Procedures and Evidence Act, 1938.

(6) Section 117 (3), (4) and (5) of the Criminal Procedures and Evidence Act, 1938 shall apply mutatis mutandis with regards to a summons referred to subsection (5) (a).

(7) Section 312 (2) to (10) inclusive of the Criminal Procedures and Evidence Act, 1938 shall apply mutatis mutandis with regard to a fine referred to subsection (5).

Seizure of motor vehicle

30. (1) A police officer or an inspector may, subject to the provision of subsection (2), seize a motor vehicle or a motor vehicle with its load, which is used in or is, on reasonable grounds, believed to be used in the commission or suspected commission of an offence in terms of this Act.

(2) The manner and conditions in respect of the seizure, safekeeping and disposal of or a motor vehicle with its load referred to in subsection (1) shall be as prescribed.

Consultation

31. The Board may from time to time, consult with the representative associations of the operators or the public regarding road transportation matters.

Offences and penalties

32. (1) A person who -

- (a) contravenes sections 3 and 12 commits an offence and, on conviction, is liable to a fine not exceeding five thousand Emalangeni (E 5,000.00) or to imprisonment for a period not exceeding two (2) years, or both;
- (b) contravenes section 27 (1) or fails to comply with an instruction issued in terms of section 30, commits an offence and, on conviction, is liable to a fine not exceeding two thousand Emalangeni (E2,000.00) or to imprisonment for a period not exceeding six (6) months, or both;
- (c) contravenes section 13 (b), 27(2), 29(1) commits an offence and, on conviction, is liable to a fine not exceeding one thousand Emalangeni (E1,000.00) or to imprisonment for a period not exceeding three (3) months, or both.

(2) A person who -

- (a) gives false evidence under oath or affirmation before the Board, knowing such evidence to be false, commits an offence and, on conviction, is liable to the penalties prescribed by law for the crime of perjury;
- (b) having been subpoenaed to give evidence or to produce any book, plan or document before the Board -
 - (i) fails, without sufficient cause, to attend at the time and place mentioned in the subpoena served on him;
 - (ii) attends, but leaves the premises where the Board is sitting without the permission of the Chairperson of the Board;
 - (iii) refuses to sworn in or affirmed, or having been duly sworn in or affirmed, refuses, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief all lawful questions put to him by or with the concurrence of the Chairperson of the Board; or
 - (iv) fails, without sufficient cause, to produce a book, plan or document as requested by the Board,

commits an offence and, on conviction, is liable to a fine not exceeding one thousand Emalangeni (E1,000.00) or to imprisonment for a period not exceeding three (3) months, or both.

Provided that the person will be afforded a fair hearing.

Forfeiture of motor vehicle

33. (1) The Court, in convicting a person of an offence in terms of section 3 may forfeit to the State a motor vehicle or its load or both, which was used in the commission of an offence and which was seized under the provisions of this Act,

(2) The forfeiture shall not affect any right which any person other than the convicted person may have to the vehicle or load or both, if it is proved that such other person did not know that the vehicle or its load or both was used or would be used in the commission of an offence, or that he could not prevent such use.

(3) If the person convicted of an offence referred to in subsection (1) is not the owner of the vehicle concerned, the court shall notify the owner of such vehicle that the vehicle forfeited to the State.

Trucking in Swaziland.

34. (1) Foreign trucking companies or their Swaziland subsidiaries shall be obliged to award a quota of not less than 20% of their transport requirements to the local small truckers so as to empower or contribute to the development of the small truckers..

(2) A person who wishes to be a truck operator shall make an application in accordance with Part IV of this Act.

The Minister may enter into agreements with other countries.

35. (1) The Minister may, after consultation with the representative associations of the operators,

enter into an agreement with the government of any country whereby arrangements are made regarding the regulation of road transportation to and from such country.

(2) As soon as possible after the conclusion of an agreement made under subsection (1), the arrangements made shall be published by the Minister in the Gazette.

(3) Any agreement made in terms of subsection (1) shall, as soon as possible after the conclusion of such agreement, be tabled in Parliament for information.

Regulations

36. The Minister, may, by notice in the Gazette make regulations consistent with this Act -

- (a) prescribing fees, tariffs and fares under this Act;
- (b) notwithstanding the provisions of section 312 (1) of the Criminal Procedure and Evidence Act, 1938, prescribing the maximum fines to be paid without appearing in court for an offence committed under this Act.
- (c) in relation to the form of registers, certificates, permits and application forms;
- (d) in relation to the proper administration of any agreement referred to in Section 35; and
- (e) in relation to any other matter which is required or permitted to be prescribed by this Act or which is necessary or expedient to be prescribed in order to achieve the purposes of this Act;
- (f) suspending the granting of fresh applications in respect of a particular route;
- (g) establishing a National Transport Body representing all transport associations in Swaziland and comprising members of the national freight and regional passenger transport organisations.

Repeal and savings

37. (1) The Road Transportation Act, 1963 is hereby repealed.

(2) Any notice, regulation, authorization, order or approval issued, made, or granted, or any appointment or any other thing done in terms of a provision of the Road Transportation Act 1963 shall, except in so far as may be otherwise required by this Act, be deemed to have been issued, made, granted or done under this Act.

