



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

NATIONAL TRANSPORT
COMMISSION
ACT, No. 37 OF 1991

[Certified on 17th September, 1991]

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*National Transport Commission
Act, No. 37 of 1991*

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L. D.—O. 79/90

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL TRANSPORT COMMISSION TO ADVISE THE GOVERNMENT ON THE NATIONAL POLICY RELATING TO PASSENGER TRANSPORTATION BY OMNIBUS AND THE IMPLEMENTATION OF SUCH POLICY; TO PROVIDE FOR THE REORGANISATION OF PASSENGER TRANSPORT BY OMNIBUS IN THE PUBLIC SECTOR; TO PROVIDE FOR FINANCIAL SUPPORT FOR CERTAIN PASSENGER TRANSPORT SERVICES; TO REPEAL THE PRIVATE OMNIBUS SERVICES ACT, NO. 44 OF 1983, TO AMEND THE MOTOR TRAFFIC ACT (CHAPTER 203) AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS it is the policy of the Government of Sri Lanka— Preamble.

- (a) that the ownership and operation of services relating to passenger transport by omnibus shall be vested wholly in the private sector, and no State institution, Provincial Council or Local Authority or any body corporate in which the State, a Provincial Council or Local Authority holds shares shall acquire in whole or in part ownership or control of any body providing such services and that where the State now owns or holds any interest in any such body it shall divest itself of such interest as expeditiously as practicable;
- (b) to promote the development of services relating to passenger transport by omnibus of sufficient quantity and quality to meet the needs of the public, and to promote the equitable distribution of such services throughout Sri Lanka;
- (c) to provide for the operation of adequate services relating to passenger transport by omnibus on socially necessary but unremunerative routes;
- (d) to ensure healthy competition between providers of such services.

NOW, therefore, be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

Short
title and
date of
operation.

1. This Act may be cited as the National Transport Commission Act, No. 37 of 1991, and shall come into operation on such date (hereinafter referred to as the "appointed date"), as the Minister may appoint by Order published in the *Gazette*.

PART I

ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NATIONAL TRANSPORT COMMISSION

National
Transport
Commission.

2. (1) There shall be established, a Commission which shall be called the National Transport Commission (hereinafter in this Act referred to as the "Commission") which shall consist of the persons who are for the time being members of the Commission under section 3.

(2) The Commission shall in the name assigned to it by subsection (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Members
of the
Commission.

3. (1) The Commission shall consist of—

(a) three *ex officio* members, namely—

(i) a senior officer of the Ministry of the Minister, not below the rank of a Senior Assistant Secretary appointed by such Minister;

(ii) a senior officer of the Ministry of the Minister in charge of the subject of Policy Planning, not below the rank of a Director appointed by the Minister in consultation with the Minister in charge of the subject of Policy Planning;

(iii) a senior officer of the Ministry of the Minister in charge of the subject of Finance, not below the rank of a Director appointed by the Minister in consultation with the Minister in charge of the subject of Finance; and

(b) five other members appointed by the Minister with the approval of the Cabinet of Ministers from among persons who have had experience or have qualifications or shown capacity, in the fields of transport, economics, medicine, administration or engineering. A member appointed under this paragraph is hereinafter referred to as an "appointed member".

(2) A person shall be disqualified from being appointed or from continuing as a member of the Commission if he is or becomes a Member of Parliament or a Member of a Provincial Council.

(3) Where a member of the Commission is by reason of illness, infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may having regard to the provisions of subsection (1) of this section appoint another person to act in his place.

(4) The Minister may without assigning any reason therefor remove any member of the Commission from office. The removal of any member of the Commission shall not be called in question in any court.

(5) A member of the Commission may resign from the Commission by a letter addressed to the Minister.

(6) Subject to the provisions of subsections (4) and (5) the term of office of the appointed members of the Commission shall be three years :

Provided that an appointed member of the Commission appointed in place of a member who resigns or is removed or otherwise vacates office, shall, unless he earlier resigns or is removed or otherwise vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(7) Any appointed member of the Commission vacating office by effluxion of time shall be eligible for reappointment.

(8) (a) The Minister shall appoint a Chairman of the Commission from among the members of the Commission.

(b) The Chairman may resign from the office of Chairman by a letter addressed to the Minister.

(c) The Minister may without assigning any reason therefor remove the Chairman from office and such removal shall not be questioned in any Court.

(d) Subject to the provisions of paragraphs (b) and (c) of this subsection, the term of office of the Chairman shall be his period of membership in the Commission.

(9) The Commission may delegate to the Chairman any or all of the powers conferred or imposed on or assigned to the Commission by this Act other than the power conferred on the Commission by this subsection.

Chairman
and the
conduct of
business.

4. (1) The Chairman shall preside at all meetings of the Commission at which he is present. In the absence of the Chairman from any meeting of the Commission the members present at the meeting shall choose from among themselves a Chairman for that meeting.

(2) The quorum for any meeting of the Commission shall be five.

(3) The Chairman at any meeting of the Commission shall have in addition to his vote, a casting vote.

(4) Subject to the other provisions of this Act and any regulation made thereunder, the Commission may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

Commission
may act
despite a
vacancy.

5. No Act or proceeding of the Commission shall be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of any of its members.

Remuneration
of the
members
of the
Commission.

6. All or any of the members of the Commission may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Seal
of the
Commission.

7. (1) The seal of the Commission shall be in the custody of the Chairman.

(2) The seal of the Commission may be altered in such manner as may be determined by the Commission.

(3) The Seal of the Commission shall not be affixed to any instrument or document except in the presence of two members of the Commission both of whom shall sign the instrument or document in token of their presence.

Functions
of the
Commission.

8. The functions of the Commission shall be to advise to the Government on the national policy relating to passenger transport services by omnibuses, and having regard to such policy—

(a) to monitor the availability of omnibus services of an acceptable quality to meet the passenger transport needs of the public and to determine the minimum levels at which such services shall be maintained;

National Transport Commission
Act, No. 37 of 1991

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- (b) to specify the conditions subject to which an Authorized Person may issue or renew a passenger service permit or other authority authorizing the use of an omnibus for the carriage of passengers at separate fares;
- (c) to monitor and enforce subject to the provisions of any written law, the compliance by permit holders with the conditions of passenger service permits issued to them under this Act or by Authorized Persons;
- (d) to prescribe the form in which passenger service permits may be issued by an Authorized Person;
- ~~(e) to determine the rates to be charged for the issue or renewal of passenger service permits by an Authorized Person;~~
- (f) to specify the documents relating to vehicle fitness, passenger carrying capacity and driver fitness and other evidence that shall be produced to an Authorized Person by an applicant for a passenger service permit;
- (g) to require holders of passenger service permits issued by an Authorized Person to furnish to the Commission such returns and information as may be necessary for the Commission to exercise and discharge its powers and functions under this Act ;
- (h) to liaise with Government Departments, institutions and Authorized Persons, in respect of omnibus services required by such Departments, and Institutions including—
 - (i) carriage of mail; and
 - (ii) the provision of school services on concessional rates, for school children and for students of Universities, Technical Institutions and other similar Institution ;
- (i) to grant passenger service permits for omnibus services in the specified area;
- (j) to ensure the provision of omnibus services on unremunerative routes, by entering, after the consideration of competing bids, into contracts with persons for the provision of those services and where neces-

sary, providing financial support to persons providing such services and to specify the fares that may be charged by such persons having regard to the nature of the services provided;

- (k) to enter into agreements with any person for the provision of inter-provincial omnibus services and to issue passenger carriage permits in respect thereof;
- (l) to provide managerial expertise and assistance to Authorized Persons, and any other assistance or advice that may be required by Authorized Persons for the proper discharge of their functions relating to the provision of omnibus services;
- (m) to arrange for the carriage of goods on omnibuses.

**Powers of
the
Commission.**

9. The Commission may exercise all or any of the following powers:—

- (a) to acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any movable or immovable property;
- (b) to employ such officers and servants as may be necessary for carrying out the work of the Commission;
- (c) to do anything for the purpose of advancing the skill of officers and servants employed by the Commission;
- (d) to establish a provident fund for the officers and servants of the Commission;
- (e) to provide welfare and recreational facilities for the officers and servants of the Commission;
- (f) to enter into and perform, directly or through any officer or agent authorized in that behalf, all such contracts as may be necessary for the discharge of the functions and the exercise of the powers of the Commission;
- (g) to make rules in relation to the officers and servants of the Commission including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;

support to persons providing the fares that may have regard to the provision of omnibus services;

to any person for the provision of omnibus services and permits in respect of such services;

to provide and assistance to other assistance or advice by Authorized Persons in the exercise of their functions relating to omnibus services;

to transport goods on omnibuses;

to do all or any of the following things:

to lease or hire, mortgage or otherwise dispose of, any property;

to employ such persons as may be necessary for the work of the Commission;

to do anything for the purpose of advancing the skill of any person employed by the Commission;

to employ such officers and servants as may be necessary for the work of the Commission;

to provide facilities for the Commission;

to do anything through any person in that behalf, all such necessary for the discharge of the powers of the Commission;

to employ such officers and servants as may be necessary for the work of the Commission, including their appointment, disciplinary control, control over them;

(h) to provide engineering, technical, legal, medical and financial assistance and advice to holders of passenger service permits, to enable the proper discharge by them, of their functions relating to the provision of omnibus services;

(i) to do all other things which, in the opinion of the Commission, are necessary to facilitate the proper discharge of its functions and the exercise of its powers.

10. (1) The Minister may give such general directions in writing as to the exercise of the powers and the discharge of the functions of the Commission, and the Commission shall give effect to such directions.

(2) The Minister may from time to time direct the Commission in writing to furnish him in such form as he may require returns, accounts and other information with regard to the exercise of the powers and the discharge of the functions by the Commission, and the Commission shall carry out every such direction.

11. (1) The Commission may give to any Authorized Persons such general or special directions as may appear to the Commission to be necessary for the purpose of co-ordinating the activities of Authorized Persons relating to the provision of omnibus services, to ensure compliance by such Authorized Persons of standards and conditions specified by the Commission, for the issue of passenger service permits by such Authorized Persons, and for exercising a general control over the policy of such Authorized Persons and every Authorized Person so directed shall give effect to such directions.

(2) Every Authorized Person shall afford to the Commission facilities for obtaining information with respect to the activities of such Authorized Person, and shall furnish the Commission with such returns, accounts and other information with respect to those activities, as may be required by the Commission, and shall afford to the Commission, facilities for the verification of the information furnished in such manner, and at such time, as the Commission may require.

Powers of the Minister in relation to the Commission.

Powers of the Commission to give directions.

Acquisition
of immovable
property
under the
land
Acquisition
Act
for the
Commission.

12. (1) Where any immovable property is required to be acquired for the purposes of the Commission and the Minister, by Order published in the *Gazette*, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired compulsorily under the Land Acquisition Act and be transferred to the Commission.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Commission shall be paid by the Commission.

State
property
to be
made
available
to the
Commission.

13. (1) Where any immovable property of the State is required for the purposes of the Commission such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Commission.

(2) Where any movable property of the State is required for the purposes of the Commission the Minister may, by Order published in the *Gazette*, transfer to and vest in, the Commission the possession and use of that property,

Appoint-
ment of
public
officers,
to the
staff of
the
Commission.

14. (1) At the request of the Commission any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission, for such period as may be determined by the Commission with like consent, or with like consent be permanently appointed to such staff.

(2) Where any public officer is temporarily appointed to the staff of the Commission—

(a) if, at the time of his temporary appointment to the staff of the Commission, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

(i) he shall while in the employ of the Commission be deemed to have been absent from duty in the public service on leave granted without salary on grounds of public policy and accordingly section 10 (1) of those Minutes shall apply to him; and

- (ii) in respect of him the Commission shall pay out of the funds of the Commission to the Treasury to be credited to the Consolidated Fund for every complete month during which he is in the employ of the Commission, such sum not exceeding twenty-five per centum of the salary payable to him in his substantive post in the public service as may be determined by the Minister in charge of the subject of Finance; and
- (b) if, at the time of his temporary appointment to the staff of the Commission, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Commission shall, for the purpose of that Ordinance, be deemed to be service to the Government, and accordingly he shall, while he is in the employ of the Commission, continue to pay to the Public Service Provident Fund such contributions as he may be liable under that Ordinance to pay, and in respect of him the Commission shall pay at the close of each financial year out of the funds of the Commission to the Deputy Secretary to the Treasury to be credited to the appropriate account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.
- (3) Where any public officer is permanently appointed to the staff of the Commission—
 - (a) he shall be deemed to have left the public service;
 - (b) if, at the time of his permanent appointment to the staff of the Commission, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—
 - (i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been retired from the public service on the date of his permanent appointment to the staff of the Commission;

(ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the staff of the Commission is terminated by retirement on account of age or ill health or by the abolition of the post held by him in such staff or on any other ground approved by the Minister in charge of the subject of Public Administration; and

(iii) in the event of his death while in the employ of the Commission, such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the Commission may be made in respect of him; and

(c) if, at the time of his permanent appointment to the staff of the Commission, he was a contributor to the Public Service Provident Fund established by the Public Service Provident Fund Ordinance, he shall for the purpose of that Ordinance, be deemed to have left the service of the Government upon the determination of his contract with the consent of the Government otherwise than by dismissal.

(4) Where the Commission employs a person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Commission by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

15. All officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers
and
servants
of the
Commission
deemed to
be public
servants.

16. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Commission to be a scheduled institution within the meaning of the Bribery Act.

Returns.

17. The Commission may require any person including an Authorized Person or any holder of a passenger service permit (whether issued by an Authorized Person or the Commission) to furnish to the Commission, such returns and information in respect of such matters at such intervals and in such form as may be determined by the Commission for the purpose of discharging its functions under this Act.

PART II

RESTRICTION ON THE GRANT OF PASSENGER SERVICE PERMITS

18. No passenger service permit shall be granted under this Act or under any written law authorizing the use of an omnibus for the carriage of passengers at separate fares, if the registered owner of such omnibus is the State, a Provincial Council or a Local Authority or any body corporate in which, the State, a Provincial council or a Local Authority holds shares:

Restriction on grant of passenger service permits.

Provided that, nothing in this section shall be deemed to prohibit the grant of a passenger service permit in respect of an omnibus, the registered owner of which is a peopled company.

19. (1) Any person aggrieved by the decision of an Authorized Person refusing to grant or renew a passenger service permit to such person or cancelling or suspending a passenger service permit granted to such person or by any condition subject to which a permit is granted or proposed to be granted by an Authorized Person, may appeal against such decision to the Commission within fourteen days of the date on which such decision was communicated to such person by the Authorized Person.

Appeals.

(2) The Commission may on an appeal made under subsection (1) —

(a) allow the appeal and direct the Authorized Person against whose decision the appeal was made to grant or renew or amend such passenger service permit or annul the order of suspension or cancellation;

(b) disallow the appeal.

(3) Every Authorised Person shall comply with any direction issued to him under subsection (2).

(4) Where an Authorized Person fails to comply with any direction issued to him under subsection (2), the Commission shall forthwith report such failure to the President.

Power of
Commission to
cancel permit
issued by Authorized
Person.

20. (1) Where the Commission is satisfied that the holder of a passenger service permit issued by an Authorized Person has acted in contravention of the conditions subject to which such permit was granted, it may, on its own motion and after affording such holder an opportunity to show cause as to why such permit should not be cancelled or suspended, cancel or suspend such permit for a specified period. The Commission shall communicate its decision to the holder of the permit together with the reasons therefor with a copy of such decision to the Authorized Person granting such permit.

(2) Any person aggrieved by the decision of the Commission cancelling or suspending under subsection (1), of a passenger service permit, may appeal against such decision to the Secretary to the Ministry of the Minister, within fourteen days of the date on which such decision was communicated to him.

(3) The Secretary may on an appeal made to him under subsection (2)—

(a) allow the appeal and direct the Commission to annul the decision of cancellation or suspension; or

(b) disallow the appeal and confirm the decision of the Commission.

Power of
Commission to
issue passenger
service permits
in respect
of the
specified
area.

21. From and after the appointed date no person shall use an omnibus for the carriage of passengers at separate fares within the specified area except under the authority of a passenger service permit granted by the Commission and for the time being in force.

22. A passenger service permit granted under section 24 shall entitle the holder thereof to use an omnibus of which he is the registered owner for the carriage of passengers on such route or routes as are specified in such permit, in accordance with the conditions attached thereto.

Passenger
service
permits
in speci-
fied area.

23. (1) Every application for a passenger service permit under section 24 shall be made by the registered owner of the omnibus in respect of which the application is made to the Commission in such form as may be prescribed.

Applica-
tion for a
passenger
service
permit.

(2) Every applicant for a passenger service permit shall, together with his application made under subsection (1), submit a statement in such form as may be prescribed containing—

(a) particulars of the route or routes on which it is proposed to use such omnibus for the carriage of passengers at separate fares;

(b) such other particulars as the Commission may require for the purpose of exercising its discretion under section 24.

24. Upon receipt of an application for a passenger service permit, the Commission may having regard to the demand for omnibus services by the public, on the route or routes applied for in the application, either grant or if it is satisfied that the grant of such permit would result in the over-allocation of omnibus capacity on the route applied for refuse to grant a passenger service permit.

Disposal
of applica-
tions for
permits.

25. (1) No passenger service permit shall be granted by the Commission to any person under section 24 except upon the payment by such person to the Commission of such fee as may be prescribed.

Duration
and fee of
Passenger
service
permits.

(2) Every passenger service permit granted under section 24 shall—

- (a) be in the prescribed form; and
- (b) unless it is cancelled earlier, be in force for such period not less than one year and not more than three years, as may be specified in such permit.

Conditions
to be
attached
to permits
under sec-
tion 24.

26. Every passenger service permit granted under section 24 shall have attached thereto all such conditions as may be determined by the Commission for securing the safety and convenience of the public. Such conditions may include conditions requiring—

- (a) that the omnibus used under the authority of the permit shall be operated on such route or routes as are specified in the permit, and in accordance with the time table specified therein ;
- (b) that copies of the time table and the fare table shall be carried and kept exhibited in the omnibus used under the authority of the permit ;
- (c) that the omnibus used under the authority of the permit shall be maintained at all times in a fit and serviceable condition ;
- (d) that the requirements of any written law with respect to the time for which drivers or conductors of omnibuses may remain continuously on duty and to their hours of work or rest and to their wages are complied with, in the case of the driver and conductor of the omnibus used under the authority of the permit.

Specifi-
cation of
authori-
zed omni-
bus in per-
mits.

27. The Commission may, at the time of the grant of a passenger service permit under section 24, specify therein, by reference to its distinctive number and such other particulars as it may consider necessary, the omnibus the use of which is authorized by the permit.

permits
not trans-
ferable.

28. No passenger service permit granted under section 24 to any person shall be transferable to any other person, and accordingly any such transfer shall be null and void.

Holders of
permits
to inform
Commission
of any
change of
particulars.

29. (1) The holder of a passenger service permit granted under section 24 shall, within thirty days of any change in the particulars stated in his application for a passenger service permit, inform the Commission in writing of such change.

(2) Where the Commission is satisfied that the holder of a passenger service permit has failed or neglected to provide the omnibus service he is authorised to provide by such permit for a continuous period of thirty days, the Commission may after affording such holder an opportunity of being heard, cancel such permit.

30. (1) The Commission may subject to subsection (2) and having regard to the availability of adequate omnibus services to meet the demand for omnibus services on the route or routes covered by any passenger service permit granted under section 24 renew such permit, on application made to it by the holder of such permit for such period not less than one year and not more than three years calculated from the date of expiry of the permit.

Renewal
of permit.

(2) The Commission may refuse to renew any passenger service permit granted under section 24 if it appears to the Commission that the holder of such permit—

- (a) has not observed the provisions of this Act or any regulations made thereunder;
- (b) has been convicted of any offence under this Act or any regulations made thereunder;
- (c) has not paid the prescribed fee for the renewal of the permit.

31. (1) The Commission may cancel any passenger service permit granted under section 24 or renewed under section 30 if it is satisfied that the holder of the permit—

Cancellation
of permit.

- (a) has contravened any of the provisions of this Act or any regulation made thereunder;
- (b) has not complied with any direction issued to him under this Act;
- (c) has furnished in any application or return or in any written information or written explanation sent by him under this Act, any particulars which to his knowledge are false or incorrect; or
- (d) has failed to comply with any of the conditions attached to his permit.

(2) The cancellation of a permit under subsection (1) shall not take effect until the time for appealing against the decision of the Commission has expired or if an appeal has been made, until the appeal is disposed of.

Commission
to communi-
cate its
decision to
applicant
or holder
of permit
together
with its
reasons
therefor.

32. Where the Commission decides to refuse the grant or renewal of a passenger service permit, or cancel a passenger service permit, it shall communicate in writing to the applicant or the holder of the permit, as the case may be, its decision together with the reasons therefor.

Appeals.

33. (1) The applicant for, or the holder of, a passenger service permit who is aggrieved by a decision of the Commission—

(a) refusing the grant of a passenger service permit under section 24 or the renewal thereof under section 30; or

(b) cancelling a passenger service permit under section 31; or

(c) imposing conditions subject to which a permit is granted or proposed to be granted,

may appeal against the decision to the Secretary to the Ministry of the Minister within fourteen days of the date on which such decision is communicated to him.

(2) The Secretary may on any appeal under subsection (1)—

(a) allow the appeal and direct the Commission to grant or renew the passenger service permit with respect to which the appeal is made;

(b) disallow the appeal; or

(c) direct the Commission to amend the permit or to grant the permit in accordance with his decision on such appeal.

(3) The Commission shall comply with any direction issued to it under subsection (2).

Certifi-
cate to
be displa-
yed on the
wind-
screen.

34. The Commission shall issue a certificate to the holder of every passenger service permit granted under section 24, in respect of each omnibus used under the authority of such permit. The holder of the permit shall cause each such certificate to be displayed on the windscreen of the omnibus to which it relates in such manner that it is clearly visible to any person boarding such omnibus.

PART III

FINANCE

35. (1) The Commission shall have its own Fund.

Fund of
the
Commis-
sion.

(2) There shall be paid into the Fund of the Commission—

(a) all such sums as may be voted from time to time by Parliament for the use of the Commission;

(b) all such sums as may be received by the Commission in the exercise, discharge and performance of its powers, functions and duties under this Act.

(3) There shall be paid out of the Fund of the Commission all such sums as are required to defray any expenses incurred by the Commission in the exercise, discharge and performance of its powers, functions and duties, under this Act and all such sums as are required by this Act, to be paid by the Commission, out of the funds of the Commission.

36. The financial year of the Commission shall be the calendar year.

Financial
year.

37. The provisions of Article 154 of the Constitution shall apply to the audit of the accounts of the Commission.

Audit.

38. (1) The Commission may, with the consent of the Minister, or in accordance with the terms of any general authority given by him, borrow temporarily, by way of overdraft or otherwise, such sums as the Commission may require for meeting its obligations or discharging its functions under this Act:

Borrowing
powers of
the Commis-
sion.

Provided, that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Commission under this subsection shall not at any time exceed such sums as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance:

(2) The Commission may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money otherwise than by way of temporary loan under subsection (1) for all or any of the following purposes:—

(a) the provision of working capital ;

- (b) the provision of money for meeting any expenses incurred in connection with any permanent work or other thing, the cost of which is properly chargeable to capital;
- (c) redemption of any loan raised by the Commission; or
- (d) any other purpose for which capital moneys are properly applicable, including the repayment of any money temporarily borrowed under subsection (1).

(3) The Commission may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money for any of the purposes mentioned in subsection (2) in any manner, as the Commission considers fit in the circumstances.

PART IV

GENERAL

Power of
Commis-
sion
to issue
directions
to permit
holders.

39. (1) The Commission may issue to any person to whom a passenger service permit has been granted or renewed under this Act, or by an Authorised Person any such directions as it may consider necessary for the purpose of making such person comply with the provisions of this Act or any regulations made thereunder or with any condition attached to such permit and it shall be the duty of such person to whom such directions are issued to comply with such directions within such time as shall be specified in such directions.

(2) Any person authorized by the Commission in writing may at any time—

(a) enter any omnibus used for carrying passengers for the purpose of ascertaining whether the use of such omnibus is authorized by a permit granted or renewed under this Act or by an Authorized Person or whether the conditions attached to such permit, or any directions issued under subsection (1) are being complied with, or whether the provisions of this Act are being complied with;

(b) require the production by the driver of such omnibus, of the certificate issued under section 34 or of any other document granted in respect of that omnibus; or

(c) take into custody such certificate, other document or copy thereof.

40. Every person who—

- (a) fails to comply with any direction issued to, or requirement imposed on, such person by the Commission;
- (b) resists or obstructs any person authorized in writing by the Commission in the exercise by such person of any powers conferred on him by this Act;
- (c) omits or refuses to furnish any return, information or written explanation when required to do so by the Commission;
- (d) furnishes any return, information or written explanation to the Commission containing information which to his knowledge is false or incorrect; or
- (e) acts in contravention of any of the provisions of this Act or any regulation made thereunder,

Offences.

shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding ten thousand rupees or to imprisonment for a period not exceeding ten years.

41. Where an offence under this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate; or
- (b) if that body of persons is a firm, every person who at the time of the commission of the offence was a partner of that firm,

Offences
by bodies
of persons.

shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and all the circumstances.

42. (1) No action or prosecution shall be instituted—

- (a) against the Commission, for any act, which in good faith is done or purported to be done by the Commission under this Act; or
- (b) against any member, officer or servant of the Commission for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Commission.

Protec-
tion of
action.

(2) Any expenses incurred by any such person as is referred to in subsection (1), in any action or prosecution instituted against him in respect of any act which is done or purported to be done by him under this Act or on the direction of the Commission, shall be paid out of the Fund of the Commission, if the Court holds that such act was done in good faith.

Failure
to
discharge
functions
by
Authorized
Person.

43. If an Authorized Person fails to discharge any function assigned to him by any written law relating to road passenger transportation by omnibus or any direction issued to him under this Act, the Commission shall forthwith report such failure to the President and may take appropriate action to ensure the uninterrupted provision of omnibus services in any area in respect of which those functions may be discharged.

Regulations.

44. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made and in particular in respect of—

- (a) the custody of permits issued under this Act and their production or return on cancellation or expiration or suspension; and the custody, production, and return of certificates and plates;
- (b) the plates and marks to be carried on omnibuses and the manner in which they are to be displayed;
- (c) the records to be kept by holders of such permits in relation to the persons employed by such holders as drivers or conductors of omnibuses and to the times of the commencement and cessation of work by such persons and the intervals of rest taken by them;
- (d) the documents to be carried by drivers of omnibuses and the particulars to be entered therein;
- (e) the records to be kept in respect of journeys performed by omnibuses;
- (f) the preservation of records so kept, the inspection of such records by a person authorized by the Commission and the production for the purposes of such inspection of such records on demand made by the persons so authorized.

any such person as is
any action or prosecution
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(2) Every regulation made under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made under subsection (1) shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to any thing previously done thereunder.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

45. Notwithstanding anything in the Companies Act, No. 17 of 1982, the District Court within whose jurisdiction the registered office of a Peopled Company is situated may, on application made therefor, by the Commission, order the winding up of such company if such company has failed to provide the omnibus services it is authorized to provide for a continuous period of three months or more. The provisions of Part IX of the Companies Act, No. 17 of 1982 relating to winding up of companies by court shall, *mutatis mutandis*, apply to such winding up.

Winding up
of Peopled
Companies

46. (1) Where an Order is made under section 2 of the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, after the appointed date, declaring that a company has been incorporated to take over the functions of the Sri Lanka Central Transport Board or any Regional Transport Board or any part of any such Board, then notwithstanding anything to the contrary in that Act—

Provision
relating to
Central
Transport
Board and
Regional
Transport
Boards.

(a) all liabilities of the Board or such liabilities of the Board as relate to the part referred to in the Order and subsisting on the day preceding the date of the Order shall be transferred to and to be deemed to be, the liabilities of the State with effect from the date of the Order;

(b) all contracts and agreements entered into by the Board or such contracts or agreements of the Board as relate to the part referred to in the Order and subsisting on the day preceding the date of the Order shall be deemed to be contracts and agreements entered into by the State with effect from the date of the Order.

- (c) all actions or proceedings instituted by or against the Board or such actions or proceedings instituted by or against the Board as relate to the part referred to in the Order and pending on the day preceding the date of the Order shall be deemed to be actions or proceedings instituted by or against the State and may be carried on and completed accordingly;
- (d) any decree or award relating to the payment of money, entered or made by any Court or Tribunal in any action or proceeding instituted by or against the Board or in any such actions or proceedings instituted by or against the Board as relate to the part referred to in the Order and remaining unsatisfied on the day preceding the date of the Order shall be deemed to be a decree or award entered or made for or against the State and may be enforced accordingly;
- (e) all immovable property used for the purposes of the Board or used for the purposes of the part referred to in the Order on the day preceding the date of that Order shall vest in the State with effect from the date of that Order.

(2) Where an Order has been made under section 2 of the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, before the appointed date, declaring that a company has been incorporated to take over the functions of the Sri Lanka Central Transport Board or any Regional Transport Board or any part of any such Board; then notwithstanding anything to the contrary in that Act—

- (a) all liabilities of the Board or such liabilities of the Board as relate to the part referred to in the Order and subsisting on the day preceding the date of the Order shall be deemed to have been and to be transferred to the State with effect from the date of the Order;
- (b) all contracts and agreements entered into by the Board or such contracts or agreements of the Board as relate to the part referred to in the Order and subsisting on the day preceding the date of the Order shall be deemed to be contracts and agree-

ments entered into by the State with effect from the date of the Order.

(c) all actions or proceedings instituted by or against the Board or such actions or proceedings instituted by or against the Board as relate to the part referred to in the Order and pending on the day preceding the date of the Order shall be deemed to have been and to be actions or proceedings instituted by or against the State and may be carried on and completed accordingly;

(d) any decree or award relating to the payment of money, entered or made by any Court or Tribunal in any action or proceeding instituted by or against the Board or in any such actions or proceedings instituted by or against the Board as relate to the part referred to in the Order and remaining unsatisfied on the day preceding the date of the Order shall be deemed to have been and to be a decree or award entered or made for or against the State and may be enforced accordingly;

(a) all immovable property used for the purposes of the Board or used for the purposes of the part referred to in the Order on the day preceding the date of that Order shall be deemed to have been vested in the State with effect from the date of that Order.

(3) The Private Omnibus Services Act, No. 44 of 1983 is hereby repealed.

47. The Motor Traffic Act is amended in the manner set out in the Schedule to this Act.

48. Every stage carriage service permit granted under the Private Omnibus Services Act, No. 44 of 1983 in respect of any area falling within a specified area and in force on the day preceding the appointed date, shall be deemed to be a passenger service permit granted under section 24 in respect of the firstmentioned area.

49. In this Act, unless the context otherwise requires—

“Authorized Person” means any person authorized by written law to issue a passenger service permit or similar authority authorizing the use, within the area to which such permit or authority relates, an omnibus for the carriage of passengers at separate fares;

Amendment
to the Motor
Traffic Act.

Transitional
provision.

Interpreta-
tion.

"dual purpose vehicle" means a vehicle designed to carry, both passengers and goods;

"Minister" means the Minister appointed under Article 44 of the Constitution, to whom the subject of Transport is assigned;

"omnibus" means a motor coach registered as an omnibus under the Motor Traffic Act and shall be deemed to include a dual purpose vehicle;

"Peopled Company" means a company formed under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, to take over the functions or part of the functions of the Sri Lanka Central Transport Board or a Regional Transport Board established under the Transport Board Law, No. 19 of 1978;

"separate fare" means a payment made by a person entitling him to be carried as a passenger on an omnibus;

"specified area" means an area with respect to which there is no person empowered by written law on the appointed date, to issue a passenger service permit or other authority authorizing the use within such area, of an omnibus for the carriage of passengers.

Sinhala text to prevail in case of inconsistency.

50. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

(Section 47)

SCHEDULE

AMENDMENTS TO THE MOTOR TRAFFIC ACT

1. by the repeal of subsection (8) of section 2 of that Act.

2. In section 4 of that Act—

(1) by the repeal of paragraphs (a) and (b) of subsection (1) and the substitution of the following paragraph therefor:—

"(a) a passenger service permit granted under the National Transport Commission Act, No. 37 of 1991 or other written law; or"

(2) by the repeal of paragraphs (a) and (b) of subsection (3) and the substitution of the following paragraph therefor:—

“(a) a passenger service permit granted under the National Transport Commission Act, No. 37 of 1991 or other written law; or”

3. by the repeal of subsection (1) of section 28 of that Act and the substitution therefor of the following subsection:—

“(1) No omnibus licence shall be granted under this Part except for an omnibus the registered owner of which is the holder of a passenger service permit granted under the National Transport Commission Act, No. 37 of 1991 or other written law.”

4. by the repeal of paragraph (d) of subsection (1) of section 30 of that Act and the substitution therefor of the following paragraph:—

“(d) be accompanied by the licence fee prescribed under section 31”;

5. by the repeal of the proviso to paragraph (c) of subsection (1) of section 37 of that Act.

6. by the repeal of sections 46 to 51 (both inclusive) and of sections 54, 57, 60, 61 and 64 of that Act;

7. by the substitution in section 75 of that Act for the words “for fee or reward” wherever those words occur in that section of the words “at separate fares”.

8. by the substitution in subsection (3) of section 182 of that Act for the words “by an examiner or by a police officer” of the words “by an examiner, police officer or an officer authorized by the National Transport Commission”.

9. by the substitution in section 183 of that Act for the words “by a police officer” of the words “by a police officer or by an officer authorized by the National Transport Commission”.

10. by the repeal of section 185 of that Act and the substitution therefor of the following new section:—

“Provision where a conductor is carried on omnibus.

185. Where a conductor is carried on an omnibus used in any highway that conductor shall have the word “කොන්දුක්තෘ” legibly marked on some conspicuous part of his clothing or wear in a conspicuous position a metal badge bearing the word “කොන්දුක්තෘ” in legible words.”

11. by the addition at the end of section 189 of that Act of the following subsection:—

“(3) Nothing in this section shall apply to a lorry used as a dual purpose vehicle for the carriage of goods and passengers under the authority of a permit issued under the National Transport Commission Act, No. 37 of 1991.”

*National Transport Commission
Act, No. 37 of 1991*

12. by the repeal of sections 239, 239A and 239B of that Act.

13. in section 240 of that Act—

(1) by the insertion immediately after the definition of
“motor vehicle” of the following definition:—

“National Transport Commission” means the
National Transport Commission established
by the National Transport Commission Act,
No. 37 of 1991;”;

(2) by the repeal of the definition of “omnibus” and
the substitution of the following definition
therefor:—

“omnibus” means a motor coach registered as
an omnibus and shall be deemed to include
a dual purpost vehicle;”;

(3) by the repeal of the definitions respectively of
“Regional Transport Board” and “Sri Lanka
Central Transport Board”.

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