

See

OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.

—
BUITENGEWONE

OFFISIËLE KOERANT



UITGAWE OP GESAG.

VAN SUIDWES-AFRIKA.

PUBLISHED BY AUTHORITY.

1/- Friday, 24th June, 1955

WINDHOEK

Vrydag, 24 Junie 1955.

No. 1917.

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No. 44, 1955.]

ACT

To amend the Motor Carrier Transportation Act, 1930, the Financial Adjustments Act, 1944, and the Native Services Levy Act, 1952.

(Afrikaans text signed by the Governor-General.)
(Assented to 13th June, 1955.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 1 of Act 39 of 1930, as amended by section 1 of Act 31 of 1932, section 1 of Act 15 of 1937 and section 1 of Act 15 of 1941.

1. Section *one* of the Motor Carrier Transportation Act, 1930 (hereinafter referred to as the principal Act), is hereby amended:—

- (a) by the insertion in the definition of "authorized officer" before the words "local authority" of the words "provincial administration or of the Administration of the territory of South-West Africa or of any";
- (b) by the insertion after the definition of "authorized officer" of the following definitions:
 - "Board" means the National Transport Commission appointed under section *three* of the Transport (Co-ordination) Act, 1948 (Act No. 44 of 1948);
 - "class", in relation to persons, also means race;
 - "Gazette", in relation to the territory of South-West Africa, means the *Official Gazette* of that territory;
- (c) by the addition at the end of the definition of "local authority" of the words "or the Natives Resettlement Board established under the Natives Resettlement Act, 1954 (Act No. 19 of 1954), or any Bantu territorial authority or Bantu regional authority or Bantu tribal authority established under the Bantu Authorities Act, 1951 (Act No. 68 of 1951), or any such institution or body as is contemplated by subparagraph (b) of paragraph (vi) of section *eighty-five* of the South Africa Act, 1909";
- (d) by the insertion after the definition of "local authority" of the following definition:
 - "local board" means a local road transportation board established under section *three*;
- (e) by the substitution for the definition of "Minister" of the following definition:
 - "Minister" means the Minister of Transport;
- (f) by the substitution for the definition of "motor carrier transportation" of the following definition:
 - "motor carrier transportation" means the conveyance—
 - (i) of persons or goods by means of a motor vehicle for reward or in the course of any industry, trade or business; or
 - (ii) of goods by means of a hired motor vehicle, on a public road, but does not include—
 - (a) the conveyance of farm products (otherwise than from a place where the business of selling such products is conducted by a person who holds or is by any law required to hold a licence authorizing such sale) by their producer by means of a motor vehicle belonging to him;
 - (b) the conveyance by an individual farmer (including any partnership or company carrying on farming operations) by means of a motor vehicle belonging solely to him, of such farmer's own farming requisites to a place where he intends using them, or of his own farm labourers—
 - (i) from any place where they have been recruited to any place where he may require them in his farming operations; or

- (ii) from any place where they are or have been employed in his farming operations to any other place where he may require them in his farming operations, or where another farmer may require them in his farming operations, or to the place where they have been recruited; or
 - (iii) between any place where they have been or are to be so employed and the railway station most convenient for their conveyance to any other place to which they are to be conveyed by rail or to the place where they are to be so employed; or
 - (iv) between any place where they have been recruited and the railway station most convenient for their conveyance to any other place to which they are to be conveyed by rail;
- and for the purposes of this paragraph labourers employed by a co-operative society, registered as such under the law relating to co-operative societies, of which such farmer is a member, or convicts as defined in section two of the Prisons and Reformatory Act, 1911 (Act No. 13 of 1911), who are or have been or are to be employed by a farmer in his farming operations, shall be deemed to be such farmer's own farm labourers;
- (c) any conveyance (other than the conveyance of persons or goods for reward) by a local authority by means of a motor vehicle belonging to such local authority within the area of its jurisdiction and between such area and any other area controlled by such local authority or in which it provides any public service or carries on any undertaking;
 - (d) the conveyance by means of a motor vehicle of a patient to any place where he is to receive treatment or from any place where he has received treatment;
 - (e) the conveyance by means of a motor vehicle of another motor vehicle which has become defective to a place for its repair or storage, or of persons or goods which were being conveyed by such other motor vehicle at the time when it became defective, to that place or any other place;
 - (f) the conveyance by a person by means of his own motor vehicle of persons for the benefit of another person, or of goods belonging to another person, as a consideration for a similar reciprocal conveyance, performed or to be performed by such other person, where the conveyance, if done by either party by means of his own motor vehicle, for his own benefit and in respect of his own goods, would not constitute motor carrier transportation;
 - (g) the conveyance in the course of any industry, trade or business of not more than seven persons (including the driver) and their personal effects, by means of a motor vehicle designed primarily for the conveyance of not more than seven persons (including the driver) and their personal effects, if no reward is received for such conveyance;
 - (h) the conveyance by a person in the course of his profession, trade or occupation of documents, books, plans, instruments, tools, materials or other goods appertaining to that profession, trade or occupation, by means of a motor vehicle, if the goods so conveyed are not for sale or for delivery in pursuance of sale or for exhibition with a view to sale, but are needed for use by the conveyor in the carrying out of the functions or work in respect of which the

journey is undertaken and if the motor vehicle used is designed primarily for the conveyance of not more than seven persons (including the driver) and their personal effects;

- (i) the conveyance, in connection with the performance of his duties, by an employee of the Government or a State-aided body or a local authority, by means of a motor vehicle belonging to such employee and used by him in the performance of those duties, of any person in respect of whose conveyance that employee is entitled to receive any reward from the Government or such State-aided body or local authority;
- (j) the conveyance of school children between their residence and the school which they attend;
- (k) the conveyance for reward, on an organized motor tour, of *bona fide* tourists from any State or Territory in Africa, by means of a motor vehicle designed for the conveyance of passengers and their personal effects and registered and used in accordance with the relevant law in force in the State or Territory concerned for the conveyance of passengers for reward in such State or Territory, if such conveyance is undertaken in accordance with an agreement which has been entered into between the Government of the Union and the Government of such State or Territory;
- (l) the conveyance of any coffin or corpse; or
- (m) the conveyance of any person who must necessarily be conveyed in connection with any conveyance, whether of persons or of goods, which in terms of the preceding paragraphs does not constitute motor carrier transportation;".

Substitution of section 3 of Act 39 of 1930, as amended by section 3 of Act 31 of 1932 and section 2 of Act 15 of 1941.

2. (1) The following section is hereby substituted for section three of the principal Act:

"Establishment of local boards. 3. (1) For each local transportation area there shall be established a local road transportation board.

(2) A local board shall consist of a chairman and two other members who shall be appointed by the Minister and who shall be persons who possess wide experience of and have shewn ability in transport, industrial, commercial or financial matters or in the conduct of public affairs.

(3) Of the members of a local board other than the chairman—

(a) one shall be a person appointed by the Minister after consultation with the Administrator of the province in which the local transportation area in question, or the greater part of such area, is situated; and

(b) one shall be a person appointed by the Minister after consultation with the councils of such municipalities within that area as have populations of not less than twenty thousand persons, or, if there is no such municipality within such area, a person selected by the Minister from amongst persons who in his opinion possess a thorough knowledge of the transportation requirements of such area.

(4) The chairman of any local board may also be the chairman of any other local board, and whenever the chairman of any local board or any person appointed under sub-section (7) to act in the stead of such chairman, is unable to attend any meeting of that local board, such chairman or person may designate any other member of that local board, not being an advisory member, but including any member appointed under the said sub-section, to act as chairman at that meeting.

(5) The Minister may appoint any person possessing special knowledge of road transporta-

tion, road construction or road traffic regulation as an advisory member of a local board, and any person so appointed shall have the right to attend and take part in the proceedings at any meeting of the local board concerned, but shall not have the right to vote thereat.

(6) A member of a local board, including any advisory member, who is in the full-time employment of the State, shall hold office during the Minister's pleasure, and any other member of such a board shall be appointed for such a period not exceeding five years, and shall, subject to the provisions of this Act, hold office upon such conditions as to remuneration and otherwise, as the Minister may, in consultation with the Minister of Finance, determine when such member is appointed: Provided that different periods or conditions may be determined in respect of the members of different local boards or in respect of different members of any local board.

(7) Whenever a member of a local board vacates his office or is removed therefrom or is temporarily unable to perform his functions as such, the Minister may appoint any person whom he considers suitable to act in the stead of such member for such a period, not exceeding twelve months, as the Minister may deem necessary, and any such appointment shall, in the case of a person who is not in the full-time employment of the State, be subject to such conditions as to remuneration and otherwise, as the Minister may, in consultation with the Minister of Finance, determine.

(8) A person appointed under sub-section (7) to act in the stead of the holder of the office of chairman of one or more local boards, shall be deemed to have been appointed to act as chairman of such of those local boards as may be specified by the Minister when the appointment is made.

(9) A person whose period of office as a member of a local board has expired, shall be eligible for reappointment.

(10) The Minister shall, save in the case of an appointment under sub-section (7), consult the Board before making any appointment under this section."

(2) Any member of a local board holding office at the commencement of this Act, shall be deemed to have been appointed as a member of that local board in terms of section *three* of the principal Act as substituted by sub-section (1) of this section.

Repeal of section 3A of Act 39 of 1930, as inserted by section 4 of Act 31 of 1932.

3. Section *three A* of the principal Act is hereby repealed.

Substitution of section 4 of Act 39 of 1930, as substituted by section 3 of Act 15 of 1941.

4. The following sections are hereby substituted for section *four* of the principal Act:

"Disqualifications for appointment and termination of office of members of local boards.

4. (1) No person shall be appointed as a member or an advisory member of a local board—

- (a) if he is an unrehabilitated insolvent; or
- (b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine; or
- (c) if he is a servant of the Administration; or
- (d) if he or any of his near relations is financially interested in any business of motor carrier transportation or is engaged in any activity connected with motor carrier transportation which, in the opinion of the Minister, is calculated to interfere with the impartial discharge by the member of the duties of his office.

(2) A member of a local board (including any advisory member) shall vacate his office—

- (a) if he becomes subject to any of the disqualifications for appointment mentioned in sub-section (1);

(b) if he dies or is removed from office under sub-section (3) or resigns by notice in writing addressed to the Minister.

(3) The Minister may remove from his office any member of a local board (including any advisory member)—

(a) who has failed to comply with a condition of his appointment; or

(b) who has, in the opinion of the Minister, been guilty of improper conduct or habitually neglected his duties as a member of the local board; or

(c) who is, in the opinion of the Minister, unable to perform efficiently his duties as a member of the local board.

(4) No act, direction or decision of a local board shall be held to be invalid by reason only of the fact that a person disqualified under sub-section (1) from being a member of such board was a member thereof when such act was performed or such direction or decision was given, whether or not such person's concurrence was necessary to the performance of that act or the giving of that direction or decision.

Quorum for and voting at meetings of local boards.

4*bis*. (1) Two members of a local board (excluding advisory members) shall form a quorum for any meeting of such board.

(2) The decision of any two members (other than advisory members) of a local board present at any meeting thereof, shall constitute a decision of such board."

Amendment of section 5 of Act 39 of 1930, as amended by section 6 of Act 31 of 1932, section 4 of Act 15 of 1941, section 6 of Act 26 of 1945 and section 1 of Act 44 of 1948.

5. Section five of the principal Act is hereby amended—

(a) by the insertion in paragraph (c) of sub-section (1) after the word "amendment" of the words "or transfer";

(b) by the insertion in paragraph (d) of sub-section (1) after the word "conditions" of the words "or requirements";

(c) by the insertion after paragraph (d) of sub-section (1) of the following paragraphs:

"(d)*bis*. in its discretion to suspend or cancel any motor carrier certificate, other than a certificate authorizing the conveyance of more than seven persons (including the driver), if the circumstances under which such certificate was granted have materially changed;

'd)*ter*. in its discretion, on the application of the holder of a motor carrier certificate or exemption, or of its own motion, to vary any condition or requirement of such certificate or exemption or to impose or include any further condition or requirement in connection with or in any such certificate or exemption: Provided that, in the case of a certificate authorizing the conveyance of more than seven persons, the Board shall not, of its own motion, vary any condition or requirement or impose or include any further condition or requirement as aforesaid, until any local authority concerned has been consulted in regard to such condition or requirement:"

(d) by the substitution for the provisos to sub-section (1) of the following proviso:

"Provided that—

(i) a certificate or exemption granted by the Board as aforesaid shall not authorize the holder thereof to carry on motor carrier transportation over any public road or part of a public road within the area of jurisdiction of a city council, borough council or town council, if it is unlawful under any ordinance, regulation or by-law in force in the area in question, or as a result of any action taken by the council concerned under any such ordinance, regulation or by-law, to use that road or part of a road in operating any vehicle or effecting any transportation of the class to which belongs the vehicle or transportation in respect whereof the said certificate or exemption was granted:

(ii) the Board shall, before granting a certificate authorizing the regular conveyance of persons for reward within the area of jurisdiction of

a city council, borough council or town council, or amending any such certificate by altering the points between which or the route or routes upon which the vehicle to which the certificate relates may be used in motor carrier transportation, consult the council concerned in regard to the points between which and the route or routes upon which the vehicle in question may be so used;

- (iii) the Board shall not suspend or cancel any motor carrier certificate or exemption, as aforesaid, or of its own motion vary any condition or requirement of such certificate or exemption, or impose or include any further condition or requirement in connection with or in any certificate or exemption, unless at least twenty-one days' notice of its intention so to do, together with the reasons therefor, has been given to the holder of such certificate or exemption and he has been given an opportunity, either personally or through an attorney, counsel or other duly authorized representative to adduce evidence and submit representations to the Board in opposition thereto."; and
- (e) by the substitution in sub-section (2) for the words "outside a local" of the words "outside that local".

Amendment of section 6 of Act 39 of 1930, as amended by section 7 of Act 31 of 1932 and section 5 of Act 15 of 1941.

- 6. Section *six* of the principal Act is hereby amended—
 - (a) by the deletion in paragraph (a) of sub-section (1) of the words "outside a local transportation area";
 - (b) by the insertion in paragraph (c) of sub-section (1) after the word "amendment" of the words "or transfer";
 - (c) by the insertion in paragraph (d) of sub-section (1) after the expression "paragraph (d)" of the expression "or (d)*bis*";
 - (d) by the insertion after paragraph (d) of sub-section (1) of the following paragraph:

"(d)*bis*. in its discretion on the application of the holder of a motor carrier certificate or exemption, or of its own motion, to vary any condition or requirement of such certificate or exemption, or to impose or include any further condition or requirement in connection with or in any such certificate or exemption: Provided that, in the case of a certificate authorizing the conveyance of more than seven persons, a local board shall not, of its own motion, vary any condition or requirement or impose or include any further condition or requirement as aforesaid, until any local authority concerned has been consulted in regard to such condition or requirement;";
 - (e) by the deletion in paragraph (e) of sub-section (1) of the words "outside a local transportation area"; and
 - (f) by the substitution in the proviso to sub-section (1) for the words "both provisos" of the words "the proviso".

Amendment of section 7 of Act 39 of 1930, as amended by section 8 of Act 31 of 1932 and section 6 of Act 15 of 1941.

- 7. Section *seven* of the principal Act is hereby amended—
 - (a) by the insertion in sub-sections (1), (2) and (5) after the word "certificate" wherever it occurs of the words "or exemption";
 - (b) by the addition at the end of paragraph (b) of sub-section (1) of the words "(if issued for a fixed period)";
 - (c) by the insertion in paragraph (c) of sub-section (1) after the word "exemption" where it occurs for the first time of the words "or the class or classes of persons whose goods may be so conveyed";
 - (d) by the addition at the end of paragraph (d) of sub-section (1) of the words "and provided further that under circumstances other than those aforesaid the Board or a local board may, and a local board shall, if the Board so directs, in writing authorize the substitution of one motor vehicle for another, either by way of an endorsement on any such certificate or exemption or in some other manner;";
 - (e) by the addition at the end of sub-section (1) of the following paragraph:

"(h) the requirement that the motor vehicle to which the certificate or exemption relates shall bear in a conspicuous place in such manner as may be

prescribed by regulation, the name, address and nature of the business of the holder of such certificate or exemption, except in the case of a certificate or exemption issued in respect of such classes of motor carrier transportation as the Board or local board concerned may in its discretion determine, or in respect of a motor vehicle which in the opinion of the Board or the local board concerned already bears in some other manner sufficient written information thereon to indicate clearly the name, address and nature of the business of the holder of such certificate or exemption.”;

- (f) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis*. Notwithstanding the provisions of paragraph (i) of the proviso to sub-section (1) of section *five* or sub-section (4) of section *thirteen* or section *twenty*, the Board or a local board may, in any motor carrier certificate issued by it for the conveyance of more than one class of persons, and a local board shall, if the Board so directs, in any such certificate issued by that local board, specify the portion or portions of the motor vehicle to which that certificate relates which shall be set aside for the conveyance of any such class or classes of persons and the form and manner in which the holder of that certificate shall display on such motor vehicle a notice specifying the portion or portions so set aside, and the conditions on which the holder thereof or his servant acting on his authority may, if authorized thereto in terms of such certificate, vary any portion so set aside: Provided that no such portion shall be specified and no such condition shall be prescribed in a certificate issued in respect of a motor vehicle which will in terms of that certificate operate regularly within the area of a local authority except after consultation with that local authority.”;

- (g) by the substitution in paragraph (b) of sub-section (2) for the word “scale” of the word “scales” and the insertion in that paragraph before the words “as accepted” of the words “which may in the discretion of the Board or the local board concerned differ in respect of different classes of persons”;

- (h) by the substitution for sub-section (3) of the following sub-section:

“(3) The Board or a local board may issue a motor carrier certificate or exemption for an indefinite period or for such fixed period as it may determine, and may in its discretion from time to time renew any motor carrier certificate or exemption which has been issued for a fixed period.”; and

- (i) by the substitution in the proviso to sub-section (4) for the word “permit” of the words “certificate or exemption”.

Insertion of section
7*bis* in Act 39 of
1930.

8. The following section is hereby inserted in the principal Act after section *seven*:

“Conveyance of more than one class of persons by a trolley bus service or a tramway service.

7*bis*. (1) The Board may serve on any person who operates a trolley bus service or a tramway service for the conveyance of more than one class of persons, and a local board may, and, if the Board so directs, shall, serve on any person who operates any such service within the area for which that local board has been appointed, an order specifying in respect of any vehicle used in operating that service—

- (a) the name of the person on whom the order is served and particulars of the vehicle to which it relates, and of the class or classes of persons who may be conveyed by means of that vehicle;
- (b) the points between which and the route or routes upon which or the area or areas within which that vehicle may be used for such conveyance;
- (c) the portion or portions of that vehicle which shall be set aside for the conveyance of any class or classes of persons, and the form and manner in which such person shall display

prescribed by regulation, the name, address and nature of the business of the holder of such certificate or exemption, except in the case of a certificate or exemption issued in respect of such classes of motor carrier transportation as the Board or local board concerned may in its discretion determine, or in respect of a motor vehicle which in the opinion of the Board or the local board concerned already bears in some other manner sufficient written information thereon to indicate clearly the name, address and nature of the business of the holder of such certificate or exemption.”;

- (f) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis*. Notwithstanding the provisions of paragraph (i) of the proviso to sub-section (1) of section five or sub-section (4) of section *thirteen* or section *twenty*, the Board or a local board may, in any motor carrier certificate issued by it for the conveyance of more than one class of persons, and a local board shall, if the Board so directs, in any such certificate issued by that local board, specify the portion or portions of the motor vehicle to which that certificate relates which shall be set aside for the conveyance of any such class or classes of persons and the form and manner in which the holder of that certificate shall display on such motor vehicle a notice specifying the portion or portions so set aside, and the conditions on which the holder thereof or his servant acting on his authority may, if authorized thereto in terms of such certificate, vary any portion so set aside: Provided that no such portion shall be specified and no such condition shall be prescribed in a certificate issued in respect of a motor vehicle which will in terms of that certificate operate regularly within the area of a local authority except after consultation with that local authority.”;

- (g) by the substitution in paragraph (b) of sub-section (2) for the word “scale” of the word “scales” and the insertion in that paragraph before the words “as accepted” of the words “which may in the discretion of the Board or the local board concerned differ in respect of different classes of persons”;

- (h) by the substitution for sub-section (3) of the following sub-section:

“(3) The Board or a local board may issue a motor carrier certificate or exemption for an indefinite period or for such fixed period as it may determine, and may in its discretion from time to time renew any motor carrier certificate or exemption which has been issued for a fixed period.”; and

- (i) by the substitution in the proviso to sub-section (4) for the word “permit” of the words “certificate or exemption”.

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7*bis*. (1) The Board may serve on any person who operates a trolley bus service or a tramway service for the conveyance of more than one class of persons, and a local board may, and, if the Board so directs, shall, serve on any person who operates any such service within the area for which that local board has been appointed, an order specifying in respect of any vehicle used in operating that service—

- (a) the name of the person on whom the order is served and particulars of the vehicle to which it relates, and of the class or classes of persons who may be conveyed by means of that vehicle;
- (b) the points between which and the route or routes upon which or the area or areas within which that vehicle may be used for such conveyance;
- (c) the portion or portions of that vehicle which shall be set aside for the conveyance of any class or classes of persons, and the form and manner in which such person shall display

prescribed by regulation, the name, address and nature of the business of the holder of such certificate or exemption, except in the case of a certificate or exemption issued in respect of such classes of motor carrier transportation as the Board or local board concerned may in its discretion determine, or in respect of a motor vehicle which in the opinion of the Board or the local board concerned already bears in some other manner sufficient written information thereon to indicate clearly the name, address and nature of the business of the holder of such certificate or exemption.”;

- (f) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis*. Notwithstanding the provisions of paragraph (i) of the proviso to sub-section (1) of section five or sub-section (4) of section thirteen or section twenty, the Board or a local board may, in any motor carrier certificate issued by it for the conveyance of more than one class of persons, and a local board shall, if the Board so directs, in any such certificate issued by that local board, specify the portion or portions of the motor vehicle to which that certificate relates which shall be set aside for the conveyance of any such class or classes of persons and the form and manner in which the holder of that certificate shall display on such motor vehicle a notice specifying the portion or portions so set aside, and the conditions on which the holder thereof or his servant acting on his authority may, if authorized thereto in terms of such certificate, vary any portion so set aside: Provided that no such portion shall be specified and no such condition shall be prescribed in a certificate issued in respect of a motor vehicle which will in terms of that certificate operate regularly within the area of a local authority except after consultation with that local authority.”;

- (g) by the substitution in paragraph (b) of sub-section (2) for the word “scale” of the word “scales” and the insertion in that paragraph before the words “as accepted” of the words “which may in the discretion of the Board or the local board concerned differ in respect of different classes of persons”;

- (h) by the substitution for sub-section (3) of the following sub-section:

“(3) The Board or a local board may issue a motor carrier certificate or exemption for an indefinite period or for such fixed period as it may determine, and may in its discretion from time to time renew any motor carrier certificate or exemption which has been issued for a fixed period.”; and

- (i) by the substitution in the proviso to sub-section (4) for the word “permit” of the words “certificate or exemption”.

Insertion of section 7*bis* in Act 39 of 1930.

8. The following section is hereby inserted in the principal Act after section seven:

“Conveyance of more than one class of persons by a trolley bus service or a tramway service.

7*bis*. (1) The Board may serve on any person who operates a trolley bus service or a tramway service for the conveyance of more than one class of persons, and a local board may, and, if the Board so directs, shall, serve on any person who operates any such service within the area for which that local board has been appointed, an order specifying in respect of any vehicle used in operating that service—

- (a) the name of the person on whom the order is served and particulars of the vehicle to which it relates, and of the class or classes of persons who may be conveyed by means of that vehicle;
- (b) the points between which and the route or routes upon which or the area or areas within which that vehicle may be used for such conveyance;
- (c) the portion or portions of that vehicle which shall be set aside for the conveyance of any class or classes of persons, and the form and manner in which such person shall display

on that vehicle a notice specifying the portion or portions so set aside and the conditions on which such person or his servant acting on his authority may, if authorized thereto in terms of such order, vary any portion so set aside;

- (d) the requirement that such order shall be carried on that vehicle or on any vehicle substituted therefor in terms of the proviso to paragraph (d) of sub-section (1) of section seven, as applied by sub-section (2) of this section, and shall be produced on demand by an authorized officer;
- (e) the requirement that such order shall be kept in such a condition that all letters and figures thereon remain clearly legible and that, if the order is damaged or ceases to be clearly legible, the person to whom it is issued shall forthwith obtain a duplicate from the body which issued it,

and the Board or a local board may at any time, and a local board shall, whenever the Board so directs, by notice in writing to the person concerned, withdraw any such order served by it on that person or amend that order in such manner as it may deem fit or (in the case of an amendment which the Board directs a local board to make) as the Board may direct: Provided that no such order relating to a vehicle operated within the area of jurisdiction of a local authority shall be so served or withdrawn or amended in any material respect except after consultation with that local authority.

(2) The provisions of this Act, other than the provisions of paragraph (i) of the proviso to sub-section (1) of section five, sub-section (4) of section thirteen and section twenty, shall apply *mutatis mutandis* with reference to any matter specified in an order served on any person under sub-section (1) as if that order were a motor carrier certificate issued in favour of that person under this Act in respect of the vehicle in question and as if that vehicle were a motor vehicle, but no fee shall be payable in respect of any such order by the person on whom it is served."

Amendment of section 9 of Act 39 of 1930, as amended by section 10 of Act 31 of 1932, section 8 of Act 15 of 1941 and section 1 of Act 50 of 1949.

9. (1) Section *nine* of the principal Act is hereby amended—

- (a) by the substitution for sub-section (1)*bis* of the following sub-sections:

"(1)*bis*. Whenever the holder of a certificate referred to in sub-section (1) is charged with having in contravention of the provisions of that sub-section, conveyed by means of the motor vehicle to which that certificate relates, any person whom he is not in terms of that certificate authorized to convey or by virtue of any law obliged to convey, or with having in contravention of the said sub-section conveyed in any portion of the motor vehicle to which that certificate relates, any person who is not a member of a class of persons for the conveyance of whom that portion has in terms of that certificate been required to be set aside, it shall be a defence to the charge to prove that—

- (a) the person so conveyed entered that vehicle or that portion of the said vehicle, as the case may be, without the knowledge of or in spite of objection by the conductor or other person in charge of such vehicle, and refused or failed on being requested thereto by such conductor or other person to leave that vehicle or that portion of the said vehicle, as the case may be, and that such conductor or other person reported the circumstances together with the name and address of the person so conveyed or,

if that person refused on demand to furnish his name or address, a statement to that effect, to a police officer at the first reasonable opportunity; or

- (b) such conductor or other person could not reasonably have known that the person so conveyed was not a member of a class of persons whose conveyance in that vehicle or in that portion of the said vehicle, as the case may be, was authorized in terms of that certificate.

(1)ter. No action shall lie against the holder of a certificate referred to in sub-section (1) or the conductor or other person in charge of the motor vehicle to which such certificate relates in respect of anything done by him in good faith in order to give effect to any condition or requirement contained in that certificate relating to the conveyance in such vehicle or any portion thereof of a particular class of persons.”;

- (b) by the substitution in paragraph (f) of sub-section (2) for the word “rail” of the words “railway, tramway or trolley bus service”;

- (c) by the deletion of paragraph (g) of sub-section (2);

- (d) by the substitution for paragraph (a) of sub-section (3) of the following paragraph:

“(a) for the conveyance of goods within any area defined by regulation—

- (i) by their seller for delivery to their purchaser or by their owner to a place where he intends to sell them or to store them for sale, by means of a motor vehicle belonging to the owner of such goods, if the Board or the local board concerned is satisfied that the major portion of the price charged or to be charged for such goods is not attributable to the conveyance of those goods; or

- (ii) by their purchaser on their removal from the place where he purchased them, by means of a motor vehicle belonging to such purchaser, except where in the case of goods which have been resold or are intended for resale, the Board or the local board concerned is satisfied that the major portion of the price charged or to be charged for such goods is not attributable to the conveyance of those goods; or

- (iii) by their owner to any place where he intends to use them or to store them otherwise than for the purpose of sale, by means of a motor vehicle belonging to the owner of such goods; or

- (iv) by any person to any place where he or some other person intends to exhibit them, by means of a motor vehicle belonging to the owner of such goods or to the person conveying them if such goods are not intended for sale or for delivery in pursuance of a sale; or”;

- (e) by the substitution for paragraph (c) of sub-section (3) of the following paragraph:

“(c) for the conveyance within an area defined by regulation of goods from any place which may be convenient to the owner of those goods to any place where those goods are to be cleaned, dyed, repaired, altered or otherwise dealt with and from the latter place to any place at which the owner of those goods wishes them to be delivered to him after they have been so dealt with, by means of a motor vehicle belonging to the person who dealt with those goods as aforesaid;”;

- (f) by the insertion in the first proviso to sub-section (3) after the expression “(a)” of the expression “or (c)” and by the deletion of the second proviso to that sub-section;

- (g) by the substitution in sub-section (4) for the word "and" where it occurs for the first time of the words "or any servant of such person" and for the word "he" of the words "such person" and the addition thereto of the following further proviso:

"and provided further that any defence available to such person under sub-section (1)*bis* shall also be available to him or his servant whenever he or his servant is charged with having contravened a condition of such certificate or having failed to comply with any requirement thereof concerning the conveyance by means of the motor vehicle to which such certificate relates or in any portion thereof of a particular class of persons";

- (h) by the substitution for sub-section (5) of the following sub-section:

"(5) No person shall, without the written authority of the appropriate local board, granted subject to such conditions as it may deem fit, make known generally whether by means of a notice published in a newspaper or in any other manner—

- (a) that he or any other person is willing to undertake the conveyance of any person or goods by means of a motor vehicle, unless he is the holder of a motor carrier certificate or an exemption which authorizes such conveyance or is the authorized agent of such holder; or
 - (b) that he or any other person desires to be conveyed by means of a motor vehicle; or
 - (c) except by way of inviting tenders for the conveyance of goods, that he or any other person desires goods to be conveyed by means of a motor vehicle."; and
- (i) by the addition at the end of the section of the following sub-section:

"(7) The Board or a local board shall refuse to grant, renew, amend or transfer any motor carrier certificate or exemption, including an exemption under sub-section (3), if it is not satisfied that the motor vehicle in respect of which the certificate or exemption is sought is roadworthy and suitable for the class of motor carrier transportation on which it is proposed to employ such vehicle: Provided that a valid certificate of fitness issued in respect of a motor vehicle under any law relating to the licensing and registration of motor vehicles in force in the province concerned shall be *prima facie* evidence of the roadworthiness of that motor vehicle."

(2) Notwithstanding the repeal of paragraph (g) of sub-section (2) of section *nine* of the principal Act, any exemption granted under that paragraph prior to the commencement of this Act shall, subject to the provisions of the proviso to sub-section (2) and sub-section (4) of that section, remain in force for the period specified in such exemption as if this Act had not been passed.

Amendment of section 10 of Act 39 of 1930, as amended by section 11 of Act 31 of 1932 and section 9 of Act 15 of 1941.

10. Section *ten* of the principal Act is hereby amended by the deletion in sub-section (1) of the words "and which shall be valid until the 31st day of December in the year of issue only".

Amendment of section 13 of Act 39 of 1930, as amended by section 14 of Act 31 of 1932, section 11 of Act 15 of 1941 and section 2 of Act 50 of 1949.

11. Section *thirteen* of the principal Act is hereby amended—

- (a) by the insertion in sub-section (1) and in sub-section (2) after the word "renewal" of the word "transfer";
- (b) by the insertion in sub-section (1) after the word "Provided" of the words "that no such publication shall be necessary in respect of an application for the renewal, transfer or amendment of a motor carrier certificate if the Board or the local board concerned, as the case may be, is satisfied that no other transportation facilities are likely to be adversely affected: and provided further";
- (c) by the substitution for paragraph (b) of sub-section (2) of the following paragraph:

- (g) by the substitution in sub-section (4) for the word "and" where it occurs for the first time of the words "or any servant of such person" and for the word "he" of the words "such person" and the addition thereto of the following further proviso:

"and provided further that any defence available to such person under sub-section (1)*bis* shall also be available to him or his servant whenever he or his servant is charged with having contravened a condition of such certificate or having failed to comply with any requirement thereof concerning the conveyance by means of the motor vehicle to which such certificate relates or in any portion thereof of a particular class of persons";

- (h) by the substitution for sub-section (5) of the following sub-section:

"(5) No person shall, without the written authority of the appropriate local board, granted subject to such conditions as it may deem fit, make known generally whether by means of a notice published in a newspaper or in any other manner—

(a) that he or any other person is willing to undertake the conveyance of any person or goods by means of a motor vehicle, unless he is the holder of a motor carrier certificate or an exemption which authorizes such conveyance or is the authorized agent of such holder; or

(b) that he or any other person desires to be conveyed by means of a motor vehicle; or

(c) except by way of inviting tenders for the conveyance of goods, that he or any other person desires goods to be conveyed by means of a motor vehicle."; and

- (i) by the addition at the end of the section of the following sub-section:

"(7) The Board or a local board shall refuse to grant, renew, amend or transfer any motor carrier certificate or exemption, including an exemption under sub-section (3), if it is not satisfied that the motor vehicle in respect of which the certificate or exemption is sought is roadworthy and suitable for the class of motor carrier transportation on which it is proposed to employ such vehicle: Provided that a valid certificate of fitness issued in respect of a motor vehicle under any law relating to the licensing and registration of motor vehicles in force in the province concerned shall be *prima facie* evidence of the roadworthiness of that motor vehicle."

(2) Notwithstanding the repeal of paragraph (g) of sub-section (2) of section *nine* of the principal Act, any exemption granted under that paragraph prior to the commencement of this Act shall, subject to the provisions of the proviso to sub-section (2) and sub-section (4) of that section, remain in force for the period specified in such exemption as if this Act had not been passed.

Amendment of section 10 of Act 39 of 1930, as amended by section 11 of Act 31 of 1932 and section 9 of Act 15 of 1941.

10. Section *ten* of the principal Act is hereby amended by the deletion in sub-section (1) of the words "and which shall be valid until the 31st day of December in the year of issue only".

Amendment of section 13 of Act 39 of 1930, as amended by section 14 of Act 31 of 1932, section 11 of Act 15 of 1941 and section 2 of Act 50 of 1949.

11. Section *thirteen* of the principal Act is hereby amended—

(a) by the insertion in sub-section (1) and in sub-section (2) after the word "renewal" of the word "transfer";

(b) by the insertion in sub-section (1) after the word "Provided" of the words "that no such publication shall be necessary in respect of an application for the renewal, transfer or amendment of a motor carrier certificate if the Board or the local board concerned, as the case may be, is satisfied that no other transportation facilities are likely to be adversely affected; and provided further";

(c) by the substitution for paragraph (b) of sub-section (2) of the following paragraph:

- "(b) the requirements of the public for transportation within the area or along the route in or over which the applicant proposes to operate;"
- (d) by the insertion after paragraph (i) of sub-section (2) of the following paragraph:
- "(i)*bis*. the class of persons to which the applicant belongs and the class or classes of persons to be served by the transportation service for which a certificate is sought;"
- (e) by the insertion after sub-section (2) of the following sub-sections:
- "(2)*bis*. In granting any application for a motor carrier certificate or for the renewal of any such certificate, the Board or a local board may give preference to an applicant who belongs to the same class as the majority of the persons to be served by the transportation service for which a certificate is sought.
- (2)*ter*. For the purposes of sub-section (2)*bis* any association of persons or any body corporate or unincorporate, including any company registered under the law relating to companies, shall be deemed to be a person of the class determined by the Board or the local board concerned, as the case may be, which may in making any determination have regard to the classes of persons who are members of, or have interests in, such association or body."
- (f) by the substitution for the proviso to sub-section (3) of the words "unless, in the opinion of the Board or the local board concerned, as the case may be, the grant of such a certificate will, having regard to the circumstances, be expedient in the public interest: Provided that if the transportation in respect of which the certificate is required, can be co-ordinated with an existing transportation service, whether railway, tramway, trolley-bus or motor vehicle service, operated by the Administration or a local authority or a person to whom the Minister has by notice in the *Gazette* declared the provisions of this proviso to be applicable, the Administration or such local authority or person may at any stage of the proceedings, in addition to or as an alternative and without prejudice to any objection which may be or may have been lodged against the said application by it or him, apply for a certificate to provide that transportation or for the Board's written consent in terms of the proviso to the definition of 'motor vehicle' contained in section *one* to operate a vehicle of the nature described in that proviso on the route on which the transportation in respect of which the certificate is required is to be operated, and the Board or the local board concerned shall not grant any application for such certificate until a reasonable opportunity so to apply has been given to the Administration or such local authority or person."; and
- (g) by the insertion after sub-section (3) of the following sub-section:
- "(3)*bis*. The Minister may at any time by notice in the *Gazette*, repeal any notice published in terms of the proviso to sub-section (3) or amend it in such manner as he may deem fit."

Amendment of section 13*bis* of Act 39 of 1930, as inserted by section 3 of Act 50 of 1949.

12. Section *thirteen bis* of the principal Act is hereby amended—

- (a) by the substitution in sub-section (1) for the words "National Transport Commission appointed under section *three* of the Transport (Co-ordination) Act, 1948 (Act No. 44 of 1948), hereinafter referred to as the commission" of the word "Board";
- (b) by the insertion after sub-section (2) of the following sub-section:
- "(2)*bis*. The provisions of sub-sections (1)*bis* and (1)*ter* of section *five* shall *mutatis mutandis* apply in respect of a person who intends to testify, or who is testifying, or who has testified before a member of the Board."; and
- (c) by the substitution in sub-sections (3) and (4) for the word "commission" wherever it occurs of the word "Board".

Amendment of
section 15 of Act
39 of 1930.

13. Section *fifteen* of the principal Act is hereby amended—

- (a) by the insertion after the words "motor carrier certificate" of the words "or an exemption authorizing the conveyance of persons or goods for reward"; and
- (b) by the insertion after the words "such certificate" wherever they occur of the words "or exemption".

Amendment of
section 15bis of
Act 39 of 1930, as
inserted by section
4 of Act 50 of
1949.

14. Section *fifteen bis* of the principal Act is hereby amended—

- (a) by the substitution for the word "policeman" of the words "police officer"; and
- (b) by the addition at the end thereof of the following sub-section, the existing section becoming sub-section (1):

"(2) Any person (not being a member of a class of persons for the conveyance of whom any portion of a motor vehicle has been set aside in accordance with the conditions specified in any motor carrier certificate issued in respect of that vehicle) who enters that portion in spite of objection by the conductor or person in charge of that vehicle, except for the purpose of gaining access to a portion of such vehicle which has not been so set aside for the conveyance of persons other than persons of the class to which he belongs, or for the purpose of descending from such vehicle, or who having so entered any such portion, refuses or fails to leave it on being requested to do so by the conductor or the person in charge of that vehicle, may be forcibly removed therefrom by a police officer, and shall in addition be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment for a period not exceeding one month."

Amendment of
section 17 of Act
39 of 1930 and
section 1 of Act 17
of 1944.

15. (1) Section *seventeen* of the principal Act is hereby amended by the insertion at the commencement of sub-section (1) of the words "Save as provided in section *seventeen bis*", by the substitution in that sub-section for the words "Railways and Harbours Fund" of the words "Consolidated Revenue Fund" and by the insertion in that sub-section after the word "from" of the words "moneys appropriated by Parliament out of".

(2) Section *one* of the Financial Adjustments Act, 1944, is hereby amended by the deletion of paragraph (b) and of all the words after the word "Fund" where it occurs for the second time.

Insertion of
sections 17bis and
17ter in Act 39
of 1930.

16. The following sections are hereby inserted in the principal Act after section *seventeen*:

"Establishment of
Native
Transport
Services
Account.

17bis. (1) There is hereby established a Native Transport Services Account (hereinafter referred to as the account) into which shall be paid at such times during each financial year and in such manner as the Secretary to the Treasury may determine, an amount equal to the total amount paid into the Consolidated Revenue Fund during that year in terms of section *five* of the Native Services Levy Act, 1952 (Act No. 64 of 1952), and such other amounts as may from time to time become payable into the account.

(2) The account shall be administered by the Board, which may in its discretion, but subject to the provisions of sub-sections (5) and (7), apply the moneys therein to—

- (a) the payment of subsidies or the granting of loans to any person who is the holder of a motor carrier certificate authorizing the conveyance of native passengers for reward by means of a motor vehicle upon a specified route to, from or within the area of jurisdiction of any urban local authority which has been required under the Native Services Levy Act, 1952, to pay amounts to the Secretary for Transport, in order to enable such person to provide an efficient road transport service at a reasonable charge to the native users thereof;

- (b) assisting natives directly or indirectly to defray the cost of using the road transport service provided by the holder of a motor carrier certificate authorizing the conveyance of native passengers for reward by means of a motor vehicle upon a specified route to, from or within the area of jurisdiction of any such urban local authority, in order to enable such natives to enjoy an efficient road transport service at a reasonable charge to such natives, or to the payment of contributions towards the cost of so assisting natives;
 - (c) the payment of the administration expenses of the account as determined from time to time by agreement between the Minister of Finance and the Minister;
 - (d) the payment of the cost of any investigation or examination which the Board considers necessary in connection with any payment or proposed payment under paragraph (a) or (b) or any loan or proposed loan under paragraph (a), and which is undertaken on the instructions of the Board by any person who is not in the full-time employment of the State.
- (3) Any payment made by the Board under paragraph (a) or (b) of sub-section (2) may, subject to the provisions of sub-section (7), be made—
- (a) subject to such conditions as the Board may consider necessary to impose, and to the right of the Board at any time to vary or cancel any such condition or add further conditions to those already imposed;
 - (b) in respect of any past period, but no payment shall be made from a date earlier than that on which amounts became payable under the Native Services Levy Act, 1952, to the Secretary for Transport in respect of the urban local authority to, from or within whose area of jurisdiction the road transport service in respect of which such payment is to be made is operating or will operate.
- (4) Any loan made by the Board under paragraph (a) of sub-section (2) may, subject to the provisions of sub-section (7), be made on any such conditions as the Board may consider necessary to impose, and the Board may at any time vary or cancel any such condition or add further conditions to those already imposed.
- (5) The moneys paid into the account in terms of sub-section (1) in respect of any particular urban local authority, shall not be applied to any purpose connected with a road transport service within the area of jurisdiction of any other urban local authority, unless the route and service concerned also serve the area under the jurisdiction of the first-mentioned urban local authority.
- (6) The Board may, subject to the provisions of sub-section (7), from time to time refund to an urban local authority an amount equal to the amount or a portion of the amount paid into the account under sub-section (1) in respect of that urban local authority and not required for any purpose stated in this section, and any amount so refunded shall be credited by that urban local authority to the Native services levy fund established by it under sub-section (1) *bis* of section *nineteen* of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), or in the case of an urban local authority to which the provisions of that Act do not apply, to the special account referred to in sub-section (2) of section *eleven* of the Native Services Levy Act, 1952.
- (7) The Board shall obtain the approval of the Minister before making any payment under para-

graph (a) or (b) of sub-section (2), including any payment made under paragraph (b) of sub-section (3) in respect of a past period, or granting any loan under paragraph (a) of sub-section (2), or imposing any conditions under paragraph (a) of sub-section (3) or sub-section (4), or varying or cancelling any such condition or adding further conditions to those already imposed or making any refund under sub-section (6).

(8) The Board shall pay out of the account into the Consolidated Revenue Fund at such times and in such instalments as the Minister of Finance may, after consultation with the Minister, determine, an amount equal to the sum of any non-interest bearing recoverable advance paid out of moneys appropriated by Parliament on or after the first day of April, 1950, to any person referred to in paragraph (a) of sub-section (2) for the purpose mentioned in that paragraph.

(9) In this section the expression 'urban local authority' means an urban local authority as defined in section *one* of the Native Services Levy Act, 1952.

Keeping
and audit
of accounts.

17*ter*. The Board shall deposit with the Paymaster-General all moneys received by it on behalf of the account. keep proper accounting records in respect of all accruals to and payments from the account and in respect of every financial year prepare and submit to the Controller and Auditor-General for examination statements in respect of the account in such form as the Secretary to the Treasury may, in consultation with the Controller and Auditor-General, determine."

Amendment of
section 18 of Act
39 of 1930.

17. Section *eighteen* of the principal Act is hereby amended—

- (a) by the substitution for the words "shall, upon conviction, be liable" of the words "for which no other penalty is expressly prescribed, shall be liable on conviction"; and
- (b) by the addition at the end of the section of the words "and the court convicting any person of an offence involving the carrying on of unauthorized motor carrier transportation may declare the motor vehicle used in such transportation, or the convicted person's rights in such motor vehicle, to be forfeited to the State: Provided that such declaration shall not affect any rights which any person other than the convicted person may have to the motor vehicle in question if it is proved that such other person did not know that it was being or would be used for the carrying on of unauthorized motor carrier transportation or that he could not prevent such use".

Amendment of
section 19 of Act
39 of 1930, as
amended by section
17 of Act 31 of
1932 and section
12 of Act 15 of
1941.

18. (1) Section *nineteen* of the principal Act is hereby amended—

- (a) by the substitution in sub-section (1) for all the words before the word "may" where it occurs for the first time of the words "The Minister";
- (b) by the addition at the end of paragraph (d) of sub-section (1) of the words "and in respect of any fee so paid, the circumstances under which a refund thereof shall be made by the Board or a local board and the amount of such refund and the circumstances under which a refund, in whole or in part, may be made in the discretion of the Board";
- (c) by the insertion after paragraph (d) of sub-section (1) of the following paragraphs:
 - "(d)*bis*. prescribing the circumstances under which an application for a temporary motor carrier certificate or a temporary exemption may be granted by the Board or a local board before the receipt of the fee payable in respect of such application;
 - (d)*ter*. prescribing the annual fees, if any, payable in respect of motor carrier certificates or exemptions issued for any period in excess of twelve months and the times at which and the manner in which such fees shall be paid:";
- (d) by the insertion after paragraph (f) of sub-section (1) of the following paragraph:
 - "(f)*bis*. prescribing the circumstances under which the Board or a local board may issue without

charge a motor carrier certificate or an exemption or a distinguishing mark or disc associated with such certificate or exemption, or both such certificate or exemption and distinguishing mark or disc or a duplicate of such certificate, exemption, distinguishing mark or disc;"

(e) by the insertion after paragraph (i) of sub-section (1) of the following paragraph:

"(i)*bis*. prescribing the circumstances under which the Board or a local board may permit the conveyance of goods by the holder of an exemption issued under paragraph (a) or (c) of sub-section (3) of section *nine*, elsewhere than within an area defined in terms of the appropriate paragraph;"

and

(f) by the insertion after sub-section (1) of the following sub-section:

"(1)*bis*. No fee under paragraph (d) or (d)*ter* of sub-section (1) nor any refund under paragraph (d) of that sub-section nor the circumstances under which any such refund shall or may be made shall be prescribed except after consultation with the Minister of Finance."

(2) The provisions of this Act shall, in so far as they relate to any matter in respect of which regulations may be made under section *nineteen* of the principal Act, be deemed to have come into operation on the date of commencement of that Act.

(3) Regulations made in terms of section *nineteen* of the principal Act and in force on the date of commencement of this Act shall be deemed to have been made by the Minister in terms of that section as amended by paragraph (a) of sub-section (1) of this section.

Application of Act 50 of 1949 and Government Notices 918 of 1950 and 2242 of 1951 to South-West Africa.

19. The Motor Carrier Transportation Amendment Act, 1949, and Government Notices Nos. 918 of 1950 and 2242 of 1951 shall be deemed to have been promulgated in the territory of South-West Africa on the eighth day of July, 1949, the twenty-eighth day of April, 1950, and the seventh day of September, 1951, respectively.

Amendment of section 5 of Act 64 of 1952.

20. Section *five* of the Native Services Levy Act, 1952, is hereby amended by the substitution for sub-section (3) of the following sub-section:

"(3) So much of the moneys paid to the Secretary for Transport in terms of sub-section (1) as remains unexpended at the date of commencement of the Motor Carrier Transportation Amendment Act, 1955, and all money so paid after that date, shall be paid into the Consolidated Revenue Fund, and any moneys so paid shall be dealt with as prescribed in section *seventeen bis* of the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930)."

Short title.

21. This Act shall be called the Motor Carrier Transportation Amendment Act, 1955.