

THE TRAFFIC (AMENDMENT) ACT 1968

No. 13 of 1968

Date of Assent: 10th April 1968

Date of Commencement: By Notice

An Act of Parliament to amend the Traffic Act to provide for the designation of parking places on roads and the regulation of the use of parking places so designated, and to make a consequential amendment to the Local Government Regulations 1963

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Traffic (Amendment) Act 1968, and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Short title

2. The Traffic Act is amended by inserting therein, immediately after section 72 thereof, two new Parts as follows—

Insertion of new Part in Cap. 403.

PART VIA—DESIGNATED PARKING PLACES

Power to make by-laws for designated parking places.

72A. (1) A local authority may, by by-laws—

- (a) designate parking places on roads within its area of jurisdiction for vehicles or vehicles of any particular class or description, having regard to both the interests of traffic and the interests of owners and occupiers of adjoining property;
- (b) prescribe the manner in which vehicles shall stand in or be driven into or out of the designated parking place;
- (c) provide that a vehicle may not be left continuously in the designated parking place for longer than a specified period;
- (d) provide that a vehicle which has been taken away from the space in which it was left in the designated parking place shall not again be left in that designated parking place until after the expiration of such interval as may be prescribed;

- (e) empower an inspector, or police officer or any specified person to effect the moving, in case of emergency, of vehicles left in a designated parking place, or the moving of vehicles left in a designated parking place in contravention of this Part or any by-laws made thereunder, to suspend the use of a parking place or any part thereof when expedient and to provide for the temporary removal of a parking meter;
- (f) provide for the reservation of spaces in a parking place for the exclusive use of Ministers, Assistants Ministers, Permanent Secretaries of Ministries and heads of diplomatic missions;
- (g) provide for the removal from a parking place, and the safe custody, of any vehicle in respect of which any requirement of this Part has been contravened in relation to a parking place, and for the recovery of the cost of removal and safe custody;
- (h) prohibiting or restricting the carrying on of trades or other activities or the doing of any other thing within a designated parking place;
- (i) prescribe anything which under this Part may be prescribed;
- (j) make such incidental or consequential provision as appears to the local authority requisite for the purpose of the satisfactory operation of a parking place or for giving effect to the provisions and purposes of this Part.

(2) The procedure for the making, approval and publication of by-laws made under subsection (1) of this section shall be that prescribed in the Local Government Regulations 1963, and, for the purposes of their enforcement and the disposal of fines imposed for their contravention, such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.

Charges for
use of
designated
parking
place.

72B. (1) There shall be paid to the local authority in respect of a vehicle left in a designated parking place charges calculated in accordance with this section.

(2) There shall be a prescribed standard period for each designated parking place and, subject to this section, the amount of the charge for a vehicle left in the parking place for a time not exceeding the standard period, called the initial charge, shall be such amount, called the standard amount, as may be prescribed, and the initial charge shall be payable on the leaving of the vehicle in the parking place:

Provided that—

- (i) if it is so prescribed, the initial charge for a vehicle for a time not exceeding one-half of the standard period shall be one-half of the standard amount; and
- (ii) where paragraph (i) of this proviso has effect, and it is further so prescribed, then, if before the end of the prescribed time a further payment of one-half of the standard amount is made, the two payments shall be treated as a single payment of an initial charge of the standard amount made on the leaving of the vehicle.

(3) If a vehicle is left in the parking place after the period for which payment was made by the initial charge has expired, the amount of the charge shall be the amount of the initial charge together with such additional amount, called an excess charge, as may be prescribed, and the excess charge shall be payable in such manner and at such time as may be prescribed.

(4) A parking meter of a type approved by the Minister shall be provided for each space in a designated parking place, and shall be erected as close to that space as is practicable; and

- (a) payment of the initial charge shall be made by the insertion of coins in the parking meter and turning the handle of the

parking meter to its full extent so as to indicate the length of time paid for;

(b) subject to paragraph (c) of this subsection, if, at any time while a vehicle is left in the parking place, the specified indication appears in the parking meter for the space in which the vehicle is left, it shall be presumed unless the contrary is proved that the initial charge has been duly paid and that the period for which payment was made by the initial charge has already expired;

(c) if it is proved that the time for which the vehicle has been left in the parking place is less than the standard period, or (where proviso (i) to subsection (2) of this section has effect) less than half the standard period, paragraph (b) of this subsection shall not have effect but it shall be presumed unless the contrary is proved that the initial charge has not been duly paid for the vehicle.

Supple-
mental
provisions
regarding
excess
charge.

72c. (1) Where an excess charge has been incurred in respect of a vehicle, an inspector shall attach to the vehicle in a conspicuous position a notice, which shall contain the prescribed particulars.

(2) Where a notice has been attached to a vehicle under subsection (1) of this section, any person (other than the owner or driver of the vehicle or an inspector) who removes the notice, except with the authority of the driver, shall be guilty of an offence and liable to a fine not exceeding five hundred shillings.

(3) Where an inspector has attached a notice to a vehicle under subsection (1) of this section, the vehicle may remain left in the same space in the parking place for a period of two hours from the time specified in the notice, without becoming liable to pay a further excess charge, but at the end of that period a further excess charge shall become payable.

Exceptions.

72D. Notwithstanding this Part—

- (a) a vehicle may be left in a space in a parking place without payment of the initial charge if the parking meter for the space does not show the specified indication:

Provided that, if the vehicle remains in the space after the specified indication appears, it shall be treated for the purpose of this Part as having been left in the space at the time the specified indication appeared;

- (b) the following vehicles may be parked in a designated parking place without payment of an initial charge or an excess charge—
- (i) police vehicles while on duty;
 - (ii) ambulances while on duty;
 - (iii) fire service vehicles while on duty;
 - (iv) a vehicle waiting only for so long as is necessary to enable a person to board or alight from the vehicle;
 - (v) a vehicle parked by reason of its breakdown for a period not exceeding two hours;
- (c) a vehicle may be parked in a designated parking place without payment of an initial charge or an excess charge during such hours or days as may be prescribed as hours or days during which no charges are payable under this Part:

Provided that a vehicle which remains in the parking place after the end of those hours or days shall be treated for the purposes of this Part as having been left in the parking place immediately after the end of those hours.

Meters may
be taken
out of use.

72E. (1) An inspector may place a cover bearing the words "Meter Out of Use" over any parking meter or parking meter case in or adjacent to a designated parking place—

- (a) if the parking meter is out of order or has been removed;

- (b) for the purpose of facilitating the movement of traffic or promoting its safety;
- (c) for the purpose of any building operation, demolition or excavation adjacent to the parking place or the maintenance, improvement or reconstruction of the parking place, or the laying, erection, alteration or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of water or electricity or of any telegraphic line or other public utility service;
- (d) for the convenience of occupiers of premises adjacent to the parking place on the occasion of the removal of furniture, otherwise than by way of trade; or
- (e) on any occasion on which it is likely by reason of some special attraction that any road will be thronged or obstructed.

(2) Where a parking meter for a space in a parking place bears a cover bearing the words "Meter Out of Use", no vehicle shall be left in that space.

Duty of local authority concerning parking meters.

72F. Where parking meters are installed in a designated parking place, it shall be the duty of the local authority to take the prescribed steps to ensure that they are maintained in good working order, and in particular—

- (a) for causing them to be periodically inspected; and
- (b) for causing any faults then or at any other time found to be remedied or (the parking meters replaced; and
- (c) for testing the meters (both before they are brought into use and not less frequently than the prescribed intervals and on other prescribed occasions); and
- (d) recording the date of testing and the persons carrying out the testing.

Offences concerning designated parking places.

72G. (1) Where—

- (a) a vehicle is left in a designated parking place, and any initial charge or excess charge which is thereby incurred is not duly paid; or
- (b) a vehicle is left in a designated parking place and any of the provisions of this Part or of any by-laws made thereunder relating to the manner in which vehicles shall stand in or be driven into or out of parking place are thereby contravened; or
- (c) a vehicle is left in a designated parking place otherwise than as authorized by this Part or by any by-laws made thereunder,

the owner of the vehicle and the driver of the vehicle shall each be guilty of an offence and liable to a fine not exceeding two hundred shillings, or in the case of a second or subsequent offence to a fine not exceeding five hundred shillings:

Provided that—

- (i) the owner of the vehicle shall not be guilty of an offence if he proves that the vehicle was being driven without his permission; and
- (ii) where the owner of a vehicle has been convicted of an offence under this subsection, the driver of the vehicle shall not be convicted of such an offence in respect of the same act or omission, and, where the driver of a vehicle has been convicted of an offence under this subsection, the owner of the vehicle shall not be convicted of such an offence in respect of the same act or omission.

(2) In subsection (1) of this section, “driver” in relation to a vehicle, means the person who was driving the vehicle at the time it was left in the designated parking place.

(3) Where, in a prosecution for an offence under this Part, it is proved that the charge which has become due, or any part of that charge, has not

been duly paid, the court, in addition to or instead of imposing a penalty in respect of the offence, shall order the payment of the money not paid, and any sum ordered to be so paid shall be recoverable as a penalty.

(4) Any person who, whether he is the driver of a vehicle or not, contravenes any by-laws made under this Part, otherwise than in the manner specified in subsection (1) of this section, shall be guilty of an offence and liable to a fine not exceeding two hundred shillings, or in the case of a second or subsequent offence to a fine not exceeding five hundred shillings.

(5) Any person who—

(a) wilfully damages a parking meter or its case or stand; or

(b) with intent to defraud, interferes with a parking meter, or operates or attempts to operate a parking meter by the insertion of anything other than a coin of the appropriate denomination; or

(c) without the authority of the local authority, paints, marks or otherwise disfigures a parking meter or its case or stand; or

(d) without the authority of the local authority, uses a parking meter or its case or stand for the purpose of advertisement,

shall be guilty of an offence and liable to imprisonment for a term not exceeding three months or to a fine not exceeding two thousand five hundred shillings, or to both such imprisonment and such fine.

(6) In a prosecution for an offence under this section, it shall be assumed unless the contrary is shown that any apparatus in or adjacent to a designated parking place, being an apparatus operated by the insertion of coins, is a parking meter of a type approved under section 72B (4) of this Act.

(7) Where in a prosecution for an offence under this section of failing to pay an excess charge it is not proved that the excess charge had become due,

but it is proved that the initial charge had not been paid, the accused person may be convicted of an offence under this section of failing to pay the initial charge.

(8) Where a parking meter relating to the space in which a vehicle is left in a parking place indicates that the period for which payment made for the vehicle by the initial charge has expired, and the local authority by whom the parking place is controlled is satisfied that that initial charge was not paid, acceptance by the local authority of payment of the excess charge shall be a bar to prosecution for an offence under this section of failing duly to pay the initial charge.

Protection
of local
authority.

72H. The exercise of a local authority of its powers under this Part shall not render the local authority liable in respect of any loss or damage to any vehicle or to the contents or fittings thereof.

Inter-
pretation
of Part.

72I. In this Part—

“excess charge” means the charge called an excess charge in section 72B (3) of this Act (including an excess charge payable in the circumstances described in the section 72C (3) of this Act);

“initial charge” means the charge called an initial charge in section 72B (2) of this Act;

“inspector” means a person appointed by the local authority as an inspector for the purposes of this Part;

“parking meter” means a parking meter within the meaning of section 72B (4) of this Act;

“parking place” means a parking place designated by by-laws under section 72A (1) of this Act;

“prescribed” means prescribed by by-laws made under section 72A (1) of this Act;

“specified indication” means the device contained in a parking meter the appearance of which shows that the time for which a vehicle may be parked in a space in a parking place has expired.

PART VIB—PARKING ELSEWHERE THAN IN
DESIGNATED PARKING PLACES

Power
to make
by-laws for
parking
elsewhere
than in
designated
parking
places.

72J. Without prejudice to its powers to make by-laws under section 72A of this Act, a local authority may—

(a) provide parking places on roads, or on other places under its control, within its area of jurisdiction, for vehicles or vehicles of any particular class or description (including the provision of omnibus stations), having regard to both the interests of traffic and the interests of owners and occupiers of adjoining property;

(b) by by-laws provide in relation to such parking places for any matter which under section 72A (1) of this Act may be provided for in relation to designated parking places (other than the matter mentioned in paragraph (e) of that subsection), and impose charges for the use of parking places so provided and provide penalties for the contravention of the by-laws.

and subsection (2) of that section shall apply in respect of any such by-laws.

3. Regulation 190 of the Local Government Regulations 1963 is repealed.