

THE TRAFFIC (AMENDMENT) ACT, 1986

No. 1 of 1986

Date of Assent: 22nd May, 1986

Date of Commencement: 30th May, 1986

An Act of Parliament to amend the Traffic Act

ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Traffic (Amendment) Act, 1986 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint and different dates may be appointed for different provisions of this Act.

Short title
and
commencement.

2. In this Act, unless the context otherwise requires, a reference to a particular Part, section, subsection or paragraph is a reference to that Part, section, subsection or paragraph in the Traffic Act.

Interpretation.

Cap. 403.

3. (1) Section 2 is amended in the definition of "private hire vehicle" by inserting at the end the words "or matatu".

Amendment of
section 2.

(2) Section 2 is amended by inserting the following definition in appropriate alphabetical sequence—

"inspection certificate" means a certificate affixed to a vehicle under section 17A".

3A. Part III is amended by inserting the following new section 17A after section 17—

Insertion of
New section
17A.

Vehicle
inspection
certificates.

17A. (1) Where—

(a) an inspector issues an inspection report for the purposes of section 17 (2) showing that a motor vehicle or trailer complies with the provisions of this Act and of any rules made thereunder; or

(b) a certifying officer issues a certificate of fitness in respect of a public service vehicle under section 96 (3) (g),

the inspector or the certifying officer, as the case may be, shall affix to the vehicle or trailer in the prescribed manner an inspection certificate in the prescribed form.

(2) The inspection certificate shall relate to and bear the same number as the inspection report or certificate of fitness, as the case may be.

(3) No motor vehicle or trailer of a class prescribed for the purposes of section 17 (2) of this Act shall be used on a road unless an inspection certificate which is—

(a) valid and in force at the time; and

(b) legible and in no way defaced or mutilated, is affixed to the vehicle or trailer.

Amendment of section 30.

4. Section 30 is amended by inserting at the end the following subsection—

(6) Any person who contravenes or fails to comply with this section shall be guilty of an offence and liable—

(a) on first conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months; and

(b) on each subsequent conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Amendment of section 36.

5. Section 36 is amended—

(a) in subsection (1) by repealing the words from “Provided that” to the end of the subsection; and

(b) by inserting at the end the following subsection—

(3) Any person who contravenes or fails to comply with this section shall be guilty of an offence and liable to a fine not exceeding one hundred shillings.

Amendment of section 40 (1).

6. Section 40 (1) is amended by repealing the word “Assistant”.

7. Section 41 is amended by inserting after the word "liable" the words " , where no penalty is specifically provided,".

Amendment of section 41.

8. Section 42 is amended—

Amendment of section 42.

(a) by repealing subsection (2) and substituting the following subsection—

(2) On a vehicle subject to a speed restriction under subsection (1), except a vehicle registered as a motor-car or motor-cycle or a private hire vehicle, there shall be painted or affixed to the rear, as close as possible to the rear number plate and so as to be clearly legible to a person within ten metres of the rear of the vehicle, a mark in the prescribed form indicating its maximum permitted speed in kilometres per hour;

(b) in subsection (3)—

(i) by repealing the words "or municipality" and substituting the words " , municipality or city";

(ii) by repealing *proviso* (i); and

(iii) in *proviso* (ii) by repealing the words "(ii) any such" and substituting the word "the";

(c) in subsection (4)—

(i) by repealing the words "the highway authority" and substituting the words "the Minister";

(ii) by repealing paragraph (b) and substituting the following paragraph—

(b) to impose on any road or area, either permanently or for such time as he considers appropriate, such lower limit of speed as may be necessary to prevent damage to the road or for the safety of the public having regard to any permanent or temporary hazards, the alignment or characteristics of the road, the width of streets, nature of traffic or general development of the area;

(d) by inserting after subsection (4) the following subsections—

(4A). The Minister may by notice in the Gazette delegate the power conferred by sub-

section (4) to a highway authority or other public body.

(4B). A delegation under subsection (4A) may—

(a) be made subject to such conditions, exceptions and limitations as are specified in the notice;

(b) be made either generally or with respect to any particular road or area; and

(c) be revoked or varied by a subsequent notice made in like manner,

and shall not prevent the exercise by the Minister of any power so delegated; and

(e) by inserting at the end the following subsection—

(6) Nothing in subsection (5) authorizes a person to use a motor vehicle for fire brigade, ambulance or police purposes in contravention of any other provision of this Act.

Amendment of section 43 (1).

9. Section 43 (1) is amended by repealing the words “not exceeding one thousand shillings” and substituting the words “of not less than two hundred shillings and not exceeding two thousand shillings”.

Amendment of section 44 (2).

10. Section 44 (2) is amended by repealing the words “unless the court for special reason thinks fit to order otherwise, and”.

Amendment of section 45 (2).

11. Section 45 (2) is amended by repealing the words from “Provided that” to the end of the subsection.

Amendment of section 46.

12. Section 46 is amended—

(a) by repealing the words “and liable to imprisonment for a term not exceeding five years”; and

(b) by inserting at the end the words “and liable to imprisonment for a term not exceeding ten years and the court shall exercise the power conferred by Part VIII of this Act of cancelling any driving licence or provisional driving licence held by the offender and

declaring the offender disqualified for holding or obtaining a driving licence for a period of three years starting from the date of conviction or the end of any prison sentence imposed under this section, whichever is the later”.

13. Section 47 is amended—

Amendment of section 47.

(a) in subsection (1)—

(i) by repealing the words “two thousand shillings” and substituting the words “five thousand shillings”; and

(ii) repealing the words from “and the court” to the end of the subsection and substituting the words “and the court shall exercise the power conferred by Part VIII of this Act of cancelling any driving licence or provisional driving licence held by the offender and declaring the offender disqualified for holding or obtaining a driving licence for such period as it thinks fit”; and

(b) by repealing subsection (2).

14. Section 49 (1) is amended by repealing the words “one thousand shillings” in both places where they occur and substituting the words “five thousand shillings”.

Amendment of section 49 (1).

15. Section 52 is amended—

Amendment of section 52.

(a) by numbering the existing section as subsection (1); and

(b) by inserting at the end the following subsection—

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

New section 52B.

16. Part V is amended by inserting after section 52A the following section—

Parking of
vehicles
carrying
explosives,
petroleum
etc.

52B. (1) No vehicle carrying explosives, ammunition, petroleum or any inflammable substance shall remain stationary for more than fifteen minutes within the boundaries of a trading centre, township, municipality or city except—

(a) when unloading; or

(b) in an area designated by the Minister for parking of such vehicles.

(2) Any person who in contravention of subsection (1) parks or leaves a vehicle or when in charge of a vehicle allows it to remain stationary for more than fifteen minutes shall be guilty of an offence and liable to the penalties prescribed under section 67 of this Act.

(3) Nothing in this section applies to—

(a) petroleum in the fuel tank of a vehicle;

(b) petroleum having a flashing point below 23°C in a quantity not exceeding 50 litres;

(c) petroleum having a flashing point of 23°C or above in a quantity not exceeding 90 litres,

if that petroleum is for use only in the propulsion of the vehicle and, in the case of petroleum referred to in paragraph (b) or (c), is carried in air-tight tins not exceeding 18 litres in capacity.

(4) In this section—

Cap. 114. “ammunition” has the meaning given in section 2 of the Firearms Act;

Cap. 115 “explosives” has the meaning given in section 2 of the Explosives Act;

Cap. 116 “petroleum” has the meaning given in section 2 of the Petroleum Act.

17. Section 53 (2) is amended by inserting after paragraph (a) the following paragraph—

Amendment of section 53 (2).

(aa) If any part of the vehicle remains on or near the road in a position so as to obstruct or to be likely to obstruct or to cause or to be likely to cause inconvenience or danger to other traffic using the road, the driver shall place on the road not less than fifty metres from the vehicle two red reflecting triangles of such construction and dimensions as may be prescribed, one ahead of the vehicle and one behind it so that each is clearly visible to drivers of vehicles approaching from ahead or behind, as the case may be.

18. Section 61 is amended by inserting at the end the following subsections—

Amendment of section 61.

(3) If a person is, in the opinion of a police officer in uniform, contravening subsection (1) or (2), the police officer may order him to a safe place on the vehicle or may order him off the vehicle.

(4) If a person refuses or delays or fails to comply with an order by a police officer in uniform under subsection (3), he shall be guilty of an offence and liable, whether or not he is in addition liable to any penalty for contravening subsection (1) or (2), to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding one month.

19. Part V is further amended by inserting after section 66 the following sections—

New sections 66A and 66B.

Maximum driving hours in PSVs and commercial vehicles.

66A. (1) No person shall drive a public service vehicle or a commercial vehicle for more than a total of eight hours in any period of twenty-four hours.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable—

(a) on first conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months; and

- (b) on each subsequent conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years, and the court shall order the suspension of any driving licence held by that person for a period of not less than thirty days,

and in the case of a second or subsequent conviction in respect of the same public service vehicle the court shall exercise the power conferred by section 99 (2) of this Act by ordering the suspension of the public service vehicle licence for that vehicle for a period of not less than thirty days.

Disqualifi-
cation on
third endor-
sement in
three years.

66B. Where—

- (a) a person is convicted of an offence in respect of which the court may or shall order particulars of the conviction to be endorsed on any driving licence held by him; and
- (b) that person has within the three years immediately preceding the commission of the offence been convicted on not less than two occasions of offences of which particulars of the convictions have been ordered to be endorsed on any driving licence held by him,

the court shall exercise the power conferred by section 76 of this Act of cancelling any driving licence or provisional driving licence held by the offender and declaring the offender disqualified for holding or obtaining a driving licence for such period of not less than six months as the court thinks fit.

Amendment of
section 67.

20. Section 67 is amended—

- (a) by repealing the words “one thousand shillings” and “two thousand shillings” and substituting respectively the words “two thousand shillings” and “five thousand shillings”; and

(b) by numbering the existing section as subsection (1) and inserting at the end the following subsection—

(2) Any court before which a person is convicted of any offence under this Part (except an offence under section 52 (d), 52A or 52B, shall in every case in addition to any other penalty specifically provided, order particulars of the conviction to be endorsed on any driving licence held by the person convicted.

21. Section 76 (1) is amended in paragraph (e) by inserting at the beginning the words “without prejudice to section 67 (2),”.

Amendment of section 76(1).

22. Section 79 is amended—

Amendment of section 79.

(a) by inserting at the beginning the following subsections—

(1) Where a person is charged with an offence under this Act for which the penalty may be or shall include disqualification for holding or obtaining a licence, or suspension, cancellation or endorsement of a licence, he shall, if he holds a driving licence or provisional driving licence, produce that licence at the time of the hearing to the court by which the charge is to be heard.

(2) A person to whom subsection (1) applies shall, before the hearing, be served by a police officer, either personally or by registered post, with notice in such form as may be prescribed informing him of the provisions of this section.

(3) At the time when a person to whom subsection (1) applies is charged with the offence, a police officer in uniform may demand from that person any driving licence or provisional driving licence which he holds and if the licence is delivered the police officer shall deliver it to the court by which the charge is to be heard.

(4) A person who fails to comply with subsection (1), unless he shows good cause to the contrary, shall be guilty of an offence and liable forthwith by

order of the court to a fine of five hundred shillings or to imprisonment for a term not exceeding one month.

- (b) by numbering the existing section as subsection (5) and by repealing the words "Every person" and substituting the words "Without prejudice to subsection (4), a person who fails to comply with subsection (1) and"; and
- (c) in the marginal note by repealing the words "for endorsement."

23. Section 95 (2) is amended—

- (a) in paragraph (a) by repealing the words "two thousand shillings" and "three months" and substituting respectively the words "five thousand shillings" and "six months"; and
- (b) in paragraph (b) by repealing the words "five thousand shillings" and "twelve months" and substituting respectively the words "ten thousand shillings" and "one year".

Amendment of
section 95 (2).

Amendment of
section 100.

24. Section 100 is amended—

- (a) in subsection(2)—
- (i) by repealing the words "two thousand shillings" and substituting the words "twenty thousand shillings";
- (ii) by repealing the words from "Provided that" to the end of the subsection and substituting the following proviso—

Provided that rules under this Act may provide that a person who is guilty of an offence under this subsection shall be liable to pay a fine according to a prescribed scale, but so that no person shall be liable to pay a fine greater than the maximum provided by this subsection.

- (b) by inserting after subsection (2) the following subsections—

(2A) In the case of a second or subsequent offence against subsection (2) in respect of a public

service vehicle within one year of conviction for a previous offence against subsection (2) in respect of the same vehicle, the court shall exercise the power conferred by section 99 (2) of this Act by ordering the suspension of the public service vehicle licence for that vehicle for a period of not less than thirty days.

(2B) If, in the opinion of a police officer in uniform, subsection (2) is being contravened, he may order—

- (a) any person who appears to him to be an excess passenger off the public service vehicle; or
- (b) the driver, conductor or owner of the public service vehicle to remove any excess baggage or goods.

(2C) If a person refuses or delays or fails to comply with an order by a police officer in uniform under subsection (2B), he shall be guilty of an offence and liable, whether or not he is in addition liable to any penalty for contravening subsection (2) or (3), to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding one month;

(c) in subsection (3) by repealing the words “not exceeding two hundred shillings” and substituting the words “of not less than two hundred shillings and not exceeding five hundred shillings”; and

(d) in subsection (4) by repealing paragraph (a) and substituting the following paragraph—

- (a) “owner” includes any person acting as manager or managing agent of the vehicle (under whatever name or title) on behalf of or under any arrangement with the owner; and if subsection (2) is contravened that person and the actual owner are each liable;

25. Section 103 is amended—

- (a) by numbering the existing section as subsection (1); and

Amendment of
section 103.

(b) by inserting at the end the following subsection—

(2) A person who contravenes or fails to comply with this section shall be guilty of an offence and liable to a fine of not less than two hundred shillings and not exceeding five hundred shillings.

Amendment of section 104.

26. Section 104 is amended by repealing the words “two hundred shillings” and substituting the words “five hundred shillings.”

Amendment of section 105 (2).

27. Section 105 (2) is amended by repealing the words “five hundred shillings” and substituting the words “one thousand shillings”.

Amendment of section 106.

28. Section 106 is amended—

(a) by inserting after subsection (4) the following subsection—

(4A) Where a police officer, licensing officer or inspector makes an order under subsection (4) he may remove the vehicle identification plates and the vehicle licence and, if he does so, shall deliver them to the Registrar to be kept while that order remains in force; and

(b) in subsection (8) by repealing the words “five hundred shillings” and substituting the words “one thousand shillings”.

(c) 111 notices
Amendment of

29. Section 111 (3) is amended by repealing the words “five hundred shillings” and substituting the words “one thousand shillings”.

Amendment of section 116 (1).

30. Section 116 (1) is amended by repealing the words “(not being less than ten days from the date of such service)” and substituting the words “(which may be later in the day on which the notice is served or on any subsequent date)”.

Amendment of section 117 (3).

31. Section 117 (3) is amended by repealing the words “(not being sooner than seven days after the date of such service)” and substituting the words “which (i) if the police notification is served personally on the owner or person in charge of the motor vehicle, may be within forty-eight hours of such service; or (ii) if the police notification is affixed prominently to the vehicle concerned, shall not be sooner than seven days after the date of such service)”.

32. Section 119 (1) is amended—

Amendment of
section 119 (1).

(a) by inserting after paragraph (d) the following paragraphs—

(da) devices to be fitted to any class or type of vehicle for restricting their speed to a specified speed (and different devices and different speeds may be prescribed for different classes or types of vehicles);

(db) tachographs or other instruments for recording their speed and other details of their operation to be fitted to any class or type of vehicle;

(dc) the standards for or inspection, approval, calibration or testing of devices, tachographs or other instruments prescribed under paragraphs (da) or (db);

(b) by inserting after paragraph (ea) the following paragraphs—

(eb) subject to such exceptions as may be prescribed, the wearing of seat belts of such description as may be prescribed by persons who are driving or riding in any class or type of vehicle (and different rules may be prescribed for different classes or types of vehicles);

(ec) the standards for, construction of or approval of seat belts prescribed under paragraph (eb);

(c) by inserting after paragraph (f) the following paragraph—

(fa) the carrying on any class of vehicle of reflecting triangles for the purpose of section 53 (2) and the construction of, standards for, approval or supply of and fees to be charged for such triangles; and

(d) by inserting after paragraph (i) the following paragraph—

(ia) the records to be kept by the drivers of any class or type of vehicle (and different rules may be prescribed for different classes or types of vehicles);