

1932.

Kenya

No. 18056.

SUBJECT

C0533/420

Traffic (Amendment) Ordinance 1931.
- No. LV of 1931.

Traffic (Amendment) Ordinances. 1932.

Previous

17044/31.

Subsequent

23270/34.

Trs. 2 authenticated copies of "the Traffic (Amendment) Ordinance, 1931" together with legal report & a copy of the debate on the bill in the Legis. Council.

A.R. Col. Secty. 3.p.n. 20.1.1932
Trs. 12 printed copies of the ordinance.

Spare copies to library.

When legal.

Will you please attach a copy of the Traffic Act 1930.

M. P. ...
16/1/32

M. Priestman

Contd. acc.

E. Hill
Library
17.2.32

I have the following comments:

(1) section 30 (i)(ii) does not incorporate the portion of section 36 (i)(b)(a) of the Act which permits claims for bodily injury in the case of persons carried on or in a hired vehicle.
A) Inquiries why?

(2) section 30 (i)(iii) does not appear in the Act. It is presumably retained because of the Commission's order of the Council of Roads by Motor (Control) Order.

(3) section 30 (2) - the portion limiting liability in respect of an accident does not appear in the Act.

Refer to the following correspondence

is reasonable in the light of local conditions - except possibly in the case of a public service vehicle.

(4) Section 12 is follows section 4 of the Act -

(a) Licences ~~are~~ ^{may} be issued for the period 1st Dec to 31st Dec only.

(b) 12A(2) Applicants for a licence is not required to make a declaration that he is not disqualified from obtaining a licence as under Sect. 4(2) of the Act.

(c) 12A(4) Production of a licence within 5 days is not permitted - but this would probably be difficult to administer locally.

(5) It seems unnecessary to take notice of the adverse unofficial vote on the point of the fee of 30/- which follows that laid down in section 4(2) of the Act. On the other hand there is a good deal to be said in favour of the reduction of the fee of 30/- charged for a certificate of competency under section 12(4) of the Principal Order and ^{this} might be suggested for consideration when the financial situation improves.

(6) a further minor point is that it seems unnecessary now to require production on demand

of the certificate of competency (Section 12(10) of the Principal Order) seeing that a driver's licence is issued only to those possessing such certificate. It is suggested amendment of 12(10) when further amendment to the order arises.

? subject to any legal objections signifying non disallowance ^{scattered} taking up the points at A, B & C ? Copy of the order of the Ministry of Transport & F in reference 52 17044/1931

J. S. Ponsford
27/2/32

Could the table dealing with the Carriage of Goods by Motor (Control) Ordinance be attached please?

J. S. Ponsford

Shepley an attached - the ordinance is enclosed with 11 17228/31.

J. S. Ponsford
11/3/32

The "Competency to Drive" license of 1930 - seems rather stiff, particularly as the test is apparently compulsory, and not imposed at the option of the licensing authority. If imposed in Nigeria, the fee is 5s/- in this

connection

A. England under
the Motor Vehicle
(Driving Licences)
Regulations, 1930.
Reg. 5(1) & 6
10-2007

connection see 1931 Supplement to the Laws of Nigeria, page 1261, for Motor traffic regulations, regulation 21 (6) and (10). In the circumstances I am not altogether surprised that the Unofficial members objected to the imposition of a further tax of 5s/- in the form of a driving license.

The new Section 30 substituted by Section 3 of No.55 of 1931 follows Section 8 of No.22 of 1931. It will be observed that, whereas in the Kenya legislation the policy of insurance must cover injury to property in addition to death or bodily injury, the English Act requires a policy covering only death or bodily injury. In these circumstances a clause similar to paragraph (11) of Sub-section 1 of the new Section 30 would, as the policy of insurance is not required to cover property, be out of place in the English Act. I am inclined to think that enquiry should be made as suggested by Mr. Priestman as to why the provisions of Section 36 (1) (a) of one English Act have not been followed.

J.C. Hawkey 12/3/32

It may be assumed that competing & heavy licenses are paid for almost entirely by Europeans in India. The question whether the present charges are unreasonably high & render itself, therefore, into a small aspect of the general problem of the racial incidence of taxation, into which had Mr. ... at present enquiry. If, in due course, Lord ... reports the recommendation

that the particular form of taxation should be modified. S.P.S. will no doubt be guided by that recommendation & should be able to do it alone.

Pl. dft. for encl. ...
 embodying the query in the Honored's ...

S.P.S.
 24/3/32

1427 to ...
 1930 ...
 3

To Gov 244 (11/11/32) ... 31 ... 1932

4 To Min of Transport - 13/16 - 11/4/32
 (15) copy Ordinance

5 To Mr. Kenya ...
 Explains that the omission of that section of the Road Traffic Act, referred to in No.3, was an oversight & that the necessary amendment of the Traffic (Amendment) Ordinance, 1931 will be made in the near future.

? P. ...
 H. Priestman
 30/5/32

P.B. ...
 3/3/32

ad

DESTROYED UNDER STATUTE
SPACES &
LIBRARY

Ch. Secty.

3pr.

5/9/32

Pro. 12 printed copies of Order XXI of
1932. Traffic (Amendment) Ordinance, 1932.

7. Gov. Kenya — 423 — 3/7/32.

Pro. 2 authenticated copies of
Traffic (Amendment) Ordinance, 1932
together with legal report.

see Rule 9(2) of the Uganda
Traffic Rules 1930 (Uganda drafted
by having taken powers ~~in~~ to make
regulations in ~~the~~ Kenya
schedules them to the order).

2. subject to any legal opinion
approve 93.

H. P. ...
7/10/32

no legal docs.

[Signature]
21/10

[Signature]
23/10

copy to ...
[Signature]

To Gov 498 (7 answered) 6/3 26 OCT 1932

GOVERNMENT NOTICE No. 701.

The following Bill is published for general information.

G. BERESFORD STOOKE,
Acting Clerk of the Legislative Council

A Bill to Amend the Traffic Ordinance, 1928.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Traffic (Amendment) (No. 2) Ordinance, 1932," and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 26 of 1928.

2. In this Ordinance, unless the context otherwise requires "policy of insurance" shall include a covering note

Interpretation

3. No person shall use, or cause or permit any other person to use, a motor vehicle on any road unless there is in force in relation to the user of the motor vehicle by that person or that other person, as the case may be, a policy of insurance, issued by an insurance company, covering in such terms as may be prescribed, all such claims as may be made against him in respect of any liability which may be incurred by him in respect of the death of or bodily injury to, or injury to the property of any person caused by or arising out of the use of the motor vehicle on a road:

Insurance policies.

Provided that such policy shall not be required to cover—

- (a) liability in respect of the death arising out of and in the course of his employment of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment; or
- (b) except in the case of a motor vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the motor vehicle at the time of the occurrence of the event out of which the claims arise; or

(c) liability in respect of loss of or damage to property being carried in or upon the motor vehicle at the time of the occurrence of the event out of which the claims arise; or

(d) any contractual liability.

Certain conditions in policies to be of no effect.

4. Any condition in a policy issued for the purposes of the preceding section providing that no liability shall arise under the policy, or that any liability arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall be of no effect in connexion with such claims as are mentioned in the preceding section:

Provided that such a policy shall not be required to cover liability in respect of injury to the property of any person caused by or arising out of the use of the motor vehicle on a road in excess of a sum of one thousand pounds in respect of any one claim or number of claims arising out of any one event:

And provided further that nothing in this section shall be taken to render void any provision in any policy requiring the person insured to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

Indemnity by insurance companies in certain cases

5. Notwithstanding anything in any enactment or other law for the time being in force, a company issuing a policy of insurance under this Ordinance shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

Delivery by the insurer of a certificate of insurance.

6. A policy shall be of no effect for the purposes of this Ordinance unless and until there is delivered by the insurer to the person by whom the policy is effected a certificate in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

7. If a policy of insurance required by this Ordinance lapses or otherwise becomes invalid, any licence issued under the Principal Ordinance in respect of the motor vehicle to which the policy relates shall thereupon become void. If insurance policy becomes invalid, licence also becomes invalid.

8. If a policy of insurance required by this Ordinance lapses or otherwise becomes invalid, the holder of the policy shall forthwith notify the licensing officer, and failure to do so shall be an offence under the Principal Ordinance. Report to licensing officer of lapsed policies.

9. (1) Any person driving a motor vehicle on a road shall, on being so required by a police officer, give his name and address and the name and address of the owner of the vehicle and produce his certificate and if he fails to do so he shall be guilty of an offence under the Principal Ordinance: Requirements as to production of certificate of insurance or of security.

Provided that, if the driver of a motor vehicle within five days after the date on which the production of his certificate was so required produces the certificate in person at such police station as may have been specified by him at the time its production was required, he shall not be convicted of an offence under this sub-section by reason only of his failure to produce his certificate to the police officer.

(2) In this section the expression "produce his certificate" means produce for examination the relevant certificate of insurance, or such other evidence that the vehicle is not or was not being driven in contravention of section 3 of this Ordinance as may be prescribed.

10. The Governor in Council may make rules for prescribing anything which may be prescribed under this Ordinance and generally for the purpose of carrying this Ordinance into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make rules— Power to make Rules.

- (a) prescribing the forms to be used for the purposes of this Ordinance;
- (b) as to applications for and the issue of certificates of insurance and any other documents which may be prescribed and as to the keeping of records of documents;

- (c) as to the issue of copies of any such certificates or other documents which are lost or destroyed;
- (d) as to the custody, production, cancellation and surrender of any such certificates or other documents;
- (e) for providing that any provisions of this Ordinance shall, in relation to vehicles brought into this Colony by persons making only a temporary stay therein, have effect subject to such modifications and adaptations as may be prescribed;
- (f) for requiring a person applying for the grant, renewal or sanction of, a transfer of a motor vehicle licence to produce such evidence as may be prescribed that either—
 - (i) on the date when the grant, renewal or transfer of the licence comes into operation there will be in force the required policy of insurance in relation to the user of the vehicle by the applicant or by other persons on his order or with his permission; or
 - (ii) the vehicle is a vehicle to which the provisions of this Ordinance do not apply at any time when it is being driven by the owner thereof, or by a servant of his in the course of his employment, or is otherwise subject to the control of the owner.

Rights of third parties against insurers on bankruptcy, etc., of the insured.

11. (1) Where under any policy of insurance issued in accordance with the provisions of section 3 of this Ordinance any person (hereinafter referred to as "the insured") is insured against liabilities to third parties which he may incur, then—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken,

by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge;

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any Ordinance or other law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order is made under section 117 of the Bankruptcy Ordinance, 1930, for the administration of the estate of a deceased debtor according to the law relating to bankruptcy, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a policy of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the policy in respect of that liability shall, notwithstanding anything in the said Ordinance be transferred to and vest in the person to whom the debt is owing. No. 22 of 1931.

(3) In so far as any policy of insurance issued after the commencement of this Ordinance in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract of insurance or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or (b) of sub-section (1) of this section or upon the making of an order under section 117 of the Bankruptcy Ordinance, 1930 in respect of his estate, the contract shall be of no effect. No. 22 of 1930.

(4) Upon a transfer under sub-section (1) or sub-section (2) of this section the insurer shall, subject to the provisions of section 13 of this Ordinance, be under the same liability to the third party as he would have been under to the insured, but—

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the insured against the insurer in respect of the excess; and

(b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the third party against the insured in respect of the balance.

Liability to third parties.

(5) For the purposes of this Ordinance the expression "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include any liability of that person in the capacity of insurer under some other policy of insurance.

(6) This Ordinance shall not apply where a company is wound up voluntarily merely for the purposes of re-construction or of amalgamation with another company.

Duty to give necessary information to third parties.

No. 32 of 1930.

12. (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors, or in the event of an order being made under section 117 of the Bankruptcy Ordinance, 1930, in respect of the estate of any person, or in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor or company, and, as the case may be, of the trustee in bankruptcy, trustee, liquidator, receiver, or manager, or person in possession of the property to give at the request of any person claiming that the bankrupt, debtor, deceased debtor, or company is under a liability to him such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Ordinance and for the purpose of enforcing such rights, if any, and any contract of insurance, in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events shall be of no effect.

(2) If the information given to any person in pursuance of sub-section (1) of this section discloses reasonable ground for supposing that there have or may have been transferred

to him under this Ordinance rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

13. Where the insured has become bankrupt or where, in the case of the insured being a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after commencement of the bankruptcy or winding-up, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Ordinance, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

Settlement between insurers and insured persons.

14. (1) It shall not be lawful for more than one person in addition to the driver to be carried on a two-wheeled motor cycle, nor shall it be lawful for any such person to be so carried otherwise than sitting astride the cycle and on a proper seat securely fixed to the cycle behind the driver's seat.

Restriction on pillion riding.

(2) If any person is carried on any such cycle in contravention of the provisions of this section, the driver of the cycle shall be liable in the case of the first conviction to a fine not exceeding five pounds, and in the case of a second or subsequent conviction to a fine not exceeding ten pounds.

15. No person shall travel, or be permitted by the owner or driver to travel upon a motor vehicle when such vehicle is loaded to such an extent that the space available for such person to sit in or stand or sit upon is insufficient to enable him to travel upon such vehicle in safety.

Restriction on travelling on loaded motor vehicles.

Section 12A of the Principal Ordinance which it is proposed to amend:—

Licence to drive a motor vehicle.

12A. (1) No person shall drive a motor vehicle on any road unless he is licensed for the purpose under this section to drive such motor vehicle or one of similar type; such licence to be issued by such officer or person as the Governor may appoint for the purpose (hereinafter referred to as "the licensing officer") or issued to him in the Uganda Protectorate or Tanganyika Territory under any law in force in those countries.

(2) The licensing officer shall on receipt of an application in the prescribed form together with a fee of five shillings grant a licence to drive a motor vehicle to any person applying for it who holds a certificate of competency and is not disqualified for obtaining such licence.

(3) Every such licence shall be in such form as may be prescribed and shall expire on the thirty-first day of December in the year in which it is granted but may be renewed from year to year on payment of a fee of five shillings.

(4) Any person who shall drive a motor vehicle upon any road without having upon his person or in the motor vehicle at the time a valid licence as required by this section shall be guilty of an offence against this Ordinance.

(5) This section shall come into operation on the first day of January, 1932.

Section 30 of the Principal Ordinance which it is proposed to repeal:—

Insurance policies.

30. (1) No application for the grant or renewal or the sanction of a transfer of a public service vehicle licence shall be granted by the licensing officer unless the applicant satisfies the licensing officer that he has effected, with an insurance company approved by the licensing officer, a policy of insurance covering, in such terms as may be prescribed, all such claims as may be made against him as owner, or as driver or employer of the driver, of the vehicle in respect of any liability which may be incurred by him in respect of the death of or bodily injury to, or injury to the property of any person caused by or arising out of the use of the vehicle on a road: Provided that such a policy shall not be required to cover—

16. Section 12A of the Principal Ordinance is hereby amended by the insertion of the following sub-section after sub-section (4) thereof:—

Amendment of section 12A of the Principal Ordinance.

(4A) Any person driving a motor vehicle on a road shall, on being so required by a police officer, produce his driving licence for examination, so as to enable the police officer to ascertain the name and address of the holder of the licence and the date of the issue, and if he fails so to do, he shall be liable to a fine not exceeding five pounds:

Provided that, if within five days after the production of his licence was required the licensee produces the licence in person at such police station as may be specified by him at the time its production was required, he shall not be convicted of an offence under this sub-section.

17. Section 30 of the Principal Ordinance is hereby repealed.

Repeal of section 30 of the Principal Ordinance.

- (i) liability in respect of the death arising out of and in the course of his employment of a person in the employment of the person insured by the policy, or of bodily injury sustained by such person arising out of and in the course of his employment; or
- (ii) liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the vehicle at the time of the occurrence of the event out of which the claims arise; or
- (iii) liability in respect of loss of or damage to property being carried in or upon the vehicle at the time of the occurrence of the event out of which the claims arise; or
- (iv) any contractual liability.

Certain conditions in policies to be of no effect.

(2) Any condition in a policy issued for the purposes of the preceding sub-section providing that no liability shall arise under the policy, or that any liability arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall be of no effect in connexion with such claims as are mentioned in the preceding sub-section:

Provided further that such a policy shall not be required to cover liability in respect of injury to the property of any person caused by or arising out of the use of the vehicle on a road in excess of a sum of one thousand pounds in respect of any one claim or number of claims arising out of any one event:

And provided further that nothing in this section shall be taken to render void any provision in a policy requiring the person insured to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

False statement.

(3) If any person for the purpose of obtaining a policy of insurance required by this section makes any false statement in consequence whereof the policy is likely to be avoided, or if the person insured commits any act which disentitles him to claim under the policy, he shall be guilty of an offence under this Ordinance.

If insurance policy becomes invalid, licence also becomes invalid.

(4) If a policy of insurance required by this section lapses or otherwise becomes invalid, any licence issued under this Ordinance in respect of the vehicle to which the policy relates shall thereupon become void.

(5) If a policy of insurance required by this section lapses or otherwise becomes invalid, the holder of such policy shall forthwith notify the licensing officer, and failure to do so shall be an offence under this Ordinance.

Section 31 of the Principal Ordinance which it is proposed to amend:—

Lights on carriages.

31. Every driver or person in charge of a motor vehicle or carriage on a road between the hours of 6.45 p.m. and 6.15 a.m. shall provide and maintain such motor vehicle or carriage with a lamp or lamps in proper working order to be fixed or carried and lighted in such manner as may be prescribed by Rules made under section 49 of this Ordinance.

18. Section 31 of the Principal Ordinance is hereby amended by the substitution of the figures and words "6.15 p.m. and 5.45 a.m." for the figures and words "6.45 p.m. and 6.15 a.m." which occur in the second and third lines thereof.

Amendment of section 31 of the Principal Ordinance.

OBJECTS AND REASONS.

The compulsory insurance of third party risks is at present obligatory on all drivers of public service vehicles, and also under the Carriage of Goods by Motor (Control) Ordinance, 1931.

It is felt that the time has come when this principle should be extended to all drivers of motor vehicles, and the primary object of this Bill is to effect that end.

The provisions of the first ten clauses closely follow the corresponding provisions of the English Act of 1930, so that insurance companies may have the benefit of the experience and practice carried in England during the past two years.

Clauses 11 to 13, taken from the Third Parties (Rights against Insurers) Act, 1930, provide that in the event of the person insured becoming bankrupt or making a composition with his creditors, or if the insured is a company, a winding-up order being made or a receiver or manager being appointed, if the insured person has incurred any liability to a third party under a policy of insurance such rights will be transferred to and vest in the third party to whom the liability was so incurred.

Clause 14 restricts pillion riding to one person, who must sit astride on a proper seat securely fixed behind the driver's seat.

Clause 15 restricts the carrying of persons on a motor vehicle so loaded as to endanger the safety of passengers.

Clause 16 amends the Principal Ordinance to give five days for the production of a driving licence, the same period of grace is given by clause 9 for the production of a policy of insurance.

Clause 17 is consequential on clauses 2 to 10 of this Bill, and clause 18 is necessitated by the Alteration of Time (Repeal) Ordinance, 1929.

It is tentatively estimated that the introduction of this legislation would cost the motoring public of the Colony about £27,000 a year in additional insurance premia on present policy rates.

KENYA.

No. 423



GOVERNMENT HOUSE
NAIROBI
KENYA

30th August, 1932.

Sir,

I have the honour to transmit two authenticated copies of Ordinance No. XXI of 1932 entitled an Ordinance to Amend the Traffic Ordinance, 1928, which passed its third reading in Legislative Council on the 29th July and received assent in His Majesty's name on the 18th August 1932. Twelve printed copies are transmitted under separate cover.

2. I also enclose the Legal Report in duplicate prepared by the Attorney General. The amendment is based on a Rule in force in Uganda, and I trust that His Majesty will be advised not to exercise his power of disallowance in respect of this measure.

3. Further amendment of the Traffic Ordinance, 1928 is anticipated, in which opportunity will occur for the incorporation of the portion of section 36(1)(b)(ii) of the Road Traffic Act, 1930 referred to in paragraph 2 of your despatch No. 249 of the 31st March, 1932.

I have the honour to be,

Sir,

Your most obedient, humble servant,

M. W. Moore

GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP GUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

Answer 798 G/3 26 CCI 1932

No 3

✓ 706

713

THE TRAFFIC (AMENDMENT) BILL, 1932.

As there is no provision in the Traffic Ordinance, 1928, to refund proportionate licence fees in respect of a motor vehicle which has been destroyed, broken up or permanently removed from the Colony or for some other reason will not be used in the Colony again during the currency of the licence, this Bill empowers licensing officers in the above circumstances to cancel licences and to refund a percentage of the licence fee paid.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.


ATTORNEY GENERAL.

Nairobi,

29th July, 1932.



Colony and Protectorate of Kenya.

IN THE TWENTY-THIRD YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 18th day of August, 1932.

J. BYRNE

Governor.

**AN ORDINANCE TO AMEND THE TRAFFIC
ORDINANCE, 1928**

No. XXI of 1932

An Ordinance to Amend the Traffic Ordinance, 1928.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Ordinance may be cited as " the Traffic (Short title. ment) Ordinance, 1932 ", and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as " the Principal Ordinance." No. 26 of 1928.

2. Notwithstanding anything in the Principal Ordinance contained, if the holder of a licence other than a quarterly licence shall satisfy a licensing officer that the vehicle in respect of which it has been issued has been destroyed, broken up or permanently removed from the Colony, or that for some other reason the vehicle will not be used in the Colony again during the currency of the licence, the licensing officer may cancel the licence and refund to such person in the case of a yearly licence a sum equal to 15 per cent or 45 per cent or 70 per cent of the fee paid, according as the licence is cancelled in the third, second or first quarter of the year and in the case of a half yearly licence a sum equal to 45 per cent of the fee paid, provided that, in the latter case, no refund shall be made where the licence is due to expire within a period of three months from the date on which the vehicle was withdrawn from use. Refunds of licence fees.

Passed in the Legislative Council the twenty-ninth day of July, in the year of Our Lord one thousand nine hundred and thirty-two.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

H. E. BADER

Acting Clerk of the Legislative Council.

517



KENYA.

GOVERNMENT HOUSE
NAIROBI
KENYA

No. 209

RECEIVED
30 MAY 1932
COL. OFFICE

6th May, 1932.

Sir,

No. 3

I have the honour to acknowledge receipt of your despatch No. 249 of the 31st March, 1932, intimating that His Majesty will not be advised to exercise his power of disallowance in respect of the Traffic (Amendment) Ordinance, 1931, and with regard to your second paragraph, to inform you that the omission of that portion of Section 36 (1) (b) (ii) of the Road Traffic Act, 1930, which permits claims for bodily injury in the cases of persons carried on or in a hired vehicle was an oversight and that the necessary amendment will be made in the near future.

In amending the Traffic Ordinance the relevant sections in the Carriage of Goods by Motor (Control) Ordinance, 1931 were followed and in this Ordinance reference to passengers was, of course, unnecessary.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL,
GOVERNOR.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON...S.W.1.

G. O.

19

18056/32 Kenya.

Mr. Priestman 30/3
Mr. ~~Darwin~~ 30/3
Mr.

Mr. Parkinson.
Mr. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

C.D.
TO IAF
31

Downing Street,
March, 1932.

Sir,

I have etc. to acknowledge

the receipt of your despatch No.28
of the 15th January forwarding
copies of Ordinance No.LV of 1931
entitled "An Ordinance to Amend the
Traffic Ordinance, 1928". and to
inform you that H.M. will not be
advised to exercise His power of
disallowance in respect of this
Ordinance. I observe that
Section 30 ~~is~~ (1) ⁽ⁱⁱⁱ⁾ of the
Ordinance does not incorporate
that portion of Section 36 (1) ⁽²⁾⁽ⁱⁱ⁾
of the ~~English~~ ^{Road Traffic} Act, 1930, which permits
claims for bodily injury in the
cases of persons carried on or in

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a hired vehicle, and I shall be glad
to be informed of the reasons for the
omission of this provision.

I have, etc.

(Sgd.) P CUNLIFFE-LISTER.

KENYA.

No. 28



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

19



15th January, 1932.

Sir,

I have the honour to transmit two authenticated copies of Ordinance No. LV of 1931 entitled an Ordinance to Amend the Traffic Ordinance, 1928, which passed its third reading in Legislative Council on the 10th December and to which I assented in His Majesty's name on the 23rd December. Twelve printed copies are sent under separate cover.

Enclosed 249 51 1932

2. I also enclose copies of the Legal Report prepared by the Attorney General, which defines the objects of the Ordinance, and a report of the debate on the Bill in Legislative Council from which it will be seen that the passage of the section providing for an annual driver's licence at a fee of Shs. 5/- was opposed by the Elected Members on the general ground of opposition to all new taxation for this year. This point has been dealt with in the Estimates despatch.

3. I trust that His Majesty will be advised not to exercise his power of disallowance in respect of this measure.

I have the honour to be,

Sir,

Your most obedient, humble servant,

J. M. Smith
GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., .M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,

LEGAL REPORT

THE TRAFFIC (AMENDMENT) BILL, 1931.

The Principal Ordinance defines a "motor cycle" as a motor vehicle designed to travel on not more than three wheels, and having a tare weight not exceeding 300 lb. The annual licence fee for a motor cycle is Sh. 30/-, but a motor cycle exceeding a tare weight of 300 lb. is taxable as a motor vehicle not exceeding a tare weight of 1,500 lb., i.e. at the rate of Sh. 80/- per annum. Many of the motor cycles generally used in the Colony weigh more than 300 lb., and it is considered undesirable that any motor cycle should be subject to an annual tax of more than Sh. 30/-.

The amendment to section 30 follows the provisions of the English Road Traffic Act, 1930, and brings the Principal Ordinance into line with the Carriage of Goods by Motor (Control) Ordinance, 1931, in so far as insurance is concerned.

The insertion of section 12A in the Principal Ordinance is done for revenue purposes; the section provides that every person shall take out a driving licence annually, at a cost of five shillings, and this provision comes into operation on the 1st January, 1932.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,

22nd December, 1931.



ACTING ATTORNEY GENERAL.

*See
1931/32
(Amendment)
Licence Act
yet sanctioned*

K.4.

is made, an all-in payment is made, say for a dinner and dance, it is competent to the Treasurer to say of that aggregate sum so much is paid in respect of ^{the} dinner and so much in so much in respect of the dance and the tax will then be payable on that portion which represents admission to the dance.

I am grateful to hon. Members, Sir, for giving me this opportunity and I would suggest, Sir, that in the light of that explanation possibly hon. members might be prepared now formally to accept the second reading on the understanding that the further stages will not be taken until a later stage of this session.

MR. COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I am afraid we shall have to vote against it.

THE HON. THE ACTING COLONIAL SECRETARY: I am not pressing it, Sir.

Progress was reported.

The Traffic (Amendment) Bill.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that a Bill to Amend the Traffic Ordinance, 1928, be read a second time.

The genesis of this Bill, Sir, in its printed form can be explained very shortly indeed. It deals with only two points. The first is what is a motor cycle? The second is the question of the insurance provision.

The first point I can deal with quite briefly, Sir. The existing law defines a motor cycle as "a motor vehicle designed to travel on not more than three wheels and having a tare weight not exceeding three hundred pounds". In practice it has been found that many motor cycles - because we all know exactly what is and what is not a motor cycle -

have a tare weight of considerably more than 300 lbs. There are big heavy machines - in fact, in some parts of the country nothing but a big heavy machine is at all likely to stand up to the wear and tear to which it must inevitably be subjected. Strictly speaking, the large machines were not motor cycles in the eyes of the law. They were motor cars and they should have paid the licence duty applicable to motor cars. That is not the end of the complications, Sir, because there is no weighbridge and the Treasury, who are the Department charged with the collection of this revenue, ultimately, have no means of deciding whether any particular vehicle which may be brought to them has a tare weight of over 300 lbs. or not. I repeat, Sir, we all know what is and what is not a motor cycle and we know that whatever the law may say a motor cycle is not a motor car, and so it is proposed, Sir, to substitute another definition: "motor cycle" means a motor vehicle designed to travel on two wheels and includes a motor vehicle designed to travel on three wheels which has a tare weight not exceeding three hundred pounds. That is to cover such cases as an auxiliary engine put on to an ordinary bicycle or a motor bathchair and things of that sort. An ordinary motor cycle is a motor cycle now irrespective of its weight.

The second point, Sir, I can explain still more briefly. In the Carriage of Goods by Motor (Control) Ordinance which became law a few months ago the provisions regarding insurance were brought up to date and into line with the provisions of the 1930 English Act. The provisions in the Traffic Ordinance had always been very unsatisfactory in practice and very difficult to work indeed. At the time that the Carriage of Goods by Motor (Control) Bill was passed I indicated to Council, Sir, that it would be necessary to effect a corresponding amendment in the Traffic Ordinance, and

that is now being done, Sir.

But, Sir, I would remind hon. Members that earlier this session notice was given on the Order Paper of certain small amendments to the last proviso to sub-clause (2) of the clause. They are purely formal, Sir. The clause was unfortunately copied a little too strictly from the English legislation which gives the alternative either to effect a policy of insurance or security from someone else, some approved person in an approved sum. We have no such thing as security in this country in this connection and therefore the references to security are unnecessary and have been cut out.

The reason for clause 4, which ante-dates the second clause of this Bill to the 1st January, 1929, is purely academic, Sir. The law has not been strictly observed; for the reasons I have given we have not been able to say what is the tare weight of a vehicle and inasmuch as that is so, Sir, it is better that this provision should ante-date to the date of the introduction of the Principal Ordinance so that such things as audit queries may be avoided. So much, Sir, for the printed Bill.

Hon. Members will see on the Order Paper for to-day notice of a further amendment, for the insertion of a new clause to be numbered 12A. That, Sir, gives statutory effect to a recommendation in that Report which was laid on the Table this morning that there should be introduced in the Colony a system of annual driving licences at a fee of \$5 each. That is the reason for that clause, Sir. Personally I have never served in any Colony, I have never driven a car in any part of the world, where that provision was not in force, and I do suggest, Sir, that a small sum like \$5 a year is not going to be a very heavy additional burden on any motorist. That is all that this involves, Sir. The other

provisions, the provisions for carrying the licence about with you, the fee for renewal and so on are exactly analogous to the existing provisions in the law relating to certificates of competency. There is nothing new apart from that. The only point for consideration is, are we or are we not to have an annual drivers' licence for which an annual fee of \$3.5 is payable ?

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency I beg to second.

HIS EXCELLENCY: The question is that the Traffic (Amendment) Bill be read a second time.

L.1 follows.

THE HON. CONWAY HARVEY: Your Excellency, although I find myself completely in agreement with the first portion of the hon. and learned mover's remarks, I intend to vote against the second reading of this Bill owing to the new amendment introducing a brand new principle, which has been thrown out for the first time at the eleventh hour. We have had no proper time in which to consider it, Your Excellency, and even if we had, I should still oppose it personally on the grounds that in my humble opinion now is not the time for increased general taxation in any shape or form. The learned mover, Sir, states that an annual drivers' licence is almost universal. Nevertheless it is distressing and we do not want increased taxation at the present time in any shape or form, and I suggest, Sir, that Kenya is singular in other respects why should it not be singular in being the one Colony in the world which has no annual drivers' licence. There is a difference, Sir. The motorist in Kenya is already far more heavily taxed than motorists in other parts of the world. In the first place he has to pay a very substantial duty on his car, secondly he has to pay a substantial amount for his certificate of competency, he then has to pay what is known as a petrol consumption tax, a heavy duty on petrol and a most exorbitant charge for gas generally. I suggest that is quite sufficient for the motorist to pay.

This is quite definitely a tax on industry. Motoring in these days, as everyone knows, is not a luxury in any shape or form; it is a matter of sheer necessity and I think it is little short of an outrage that the farmers and industrialists of this Colony, many of whom are now living on posho because they cannot afford bread and butter, should be asked to pay more taxes.

I intend, Your Excellency, to oppose this proposal at every stage.

CAPTAIN THE HON. H. F. WARD: I am afraid my views, Your Excellency, are rather different from those of the last speaker in that I feel we should submerge our feelings as far as we possibly can in this matter. My objection to the amendment proposed is exactly the same as my objection to the ~~Entertainments~~ Tax Bill. I should have thought, Sir, that if the hon. Member had admitted that he was placing the cart before the horse in introducing the Entertainments Tax Bill he is equally putting the cart before the horse in introducing this amendment until we have seen the Appropriation Ordinance and the proposals of Government for 1932. If this is introduced at this stage, Sir, I must vote against it for the same reason that I voted against the Entertainments Tax Bill, but if the Appropriation Bill is right in my view, then, Sir, I shall accept any reasonable form of increased taxation that I can.

THE HON. THE ACTING COLONIAL SECRETARY: I would like to say, Sir, that I took this Bill last at fifteen minutes before one o'clock because I did want to give an opportunity for discussion. But it has died rather more rapidly than I expected, Sir, and with the leave of the House I will move that progress be reported. It will at least save a little time.

LT. COL. THE HON. LORD FRANCIS SCOTT: Before we adjourn, could we be told what the business will be to-morrow?

THE HON. THE ACTING COLONIAL SECRETARY: The present intention, Sir, is to open with the motion for the approval of the Railway Estimates.

The Council adjourned till 10 a.m. on Thursday,

going beyond the limits of a supplementary question. the question was a definite question which has been answered.

THE HON. T. J. O'SHEA: Perhaps I am not clearly understood. I will explain myself differently. I wish to ask the hon. member whether he can say or not that the members of the late Agricultural Board have been consulted in the matter.

THE HON. THE ACTING COLONIAL SECRETARY: I am unable to say that, Sir.

THE HON. T. J. O'SHEA: Extraordinary.

BILLS.
Second Reading.
Traffic (Amendment) Bill

HIS EXCELLENCY: Progress has been reported. Does any hon. Member wish to address the House on the second reading of this Bill?

LT. COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I did not speak the other day on this Bill.

With regard to the original portions of it, I wish to support them. But, Sir, when it comes to the question of this tax of an extra Shs. 5/- I should like to reiterate what we said before we had heard Government's proposals for the year as having refused to agree to any of our suggestions for curtailment of expenditure. That being so, I must oppose this increase of taxation.

I should like to point out also, Sir, that though it is said this is a common practice in all other countries, the only other country which I know where it is so is Great Britain. But there is an extra charge of Shs. 30/- which pertains here before anyone can get a licence to drive a car at all, so actually it makes the fees payable here higher than in Great Britain.

THE HON. T. J. O'SHEA: Your Excellency, I am sorry to have appeared backward in getting up to speak against this Bill. It is one, as I understand it, in which it is proposed to levy an ~~additional~~ annual tax for a motor driver's licence.

I should like to register a strong protest against this tax being introduced at the present time. Firstly, Government has not taken into account that a motor car is practically a necessity in this country and that in consequence practically every adult member of a family possessing a car/~~is the holder of a~~ licence. In consequence the imposition of this tax will mean not an extra Shs. 5/- on a family but an extra Shs. 5/- on almost all the other members of a family. In my opinion, that being the case, Government has very much under-estimated the amount of additional revenue that will be collected from this source. I will not go so far as to say that Government has deliberately under-estimated the amount ~~it is possible to~~ so as to make the Bill less unpalatable, but that not being the case, it seems to me that Government has been very careless indeed in its work estimate of the revenue likely to be derived and I oppose the passage of the Bill.

HIS EXCELLENCY: If no other hon. member wishes to speak I will call upon the hon. mover to reply.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I do not think there is anything to reply to on this occasion. We differ, we differ radically and conscientiously and nothing I can say will impress the minds of hon. members on the other side of the House.

HIS EXCELLENCY: The question is that the Traffic (Amendment) Bill be read a second time.

The question was put and carried by 18 votes to

11:

AYES: Mr. Biss, Major Brassey-Edwards, Messrs. Bruce, Deck, Feild-Jones, Fitzgerald, Gilbert, Dr. Gilks, Messrs. Holm, Horne, Canon Leakey, Messrs. Logan, MacGregor, Rushton, Wade, Walsh, Welby, Col. Wilkinson.

NOES: Mr. Bemister, Capt. Cotter, Col. Durham, Mr. Harvey, Col. Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Lord Francis Scott, Sheriff Abdulla bin Salim, Col. Tucker, Capt. Ward.

In Committee.

Traffic (Amendment) Bill.

The Bill was considered clause by clause.

Clause 3. Insurance Policies.

THE HON. THE ACTING COLONIAL SECRETARY:

In accordance with notice which I gave some days ago, I beg to move that the second proviso in sub-clause (2) of this clause be amended by deleting the words "or Security", "or secured", "or the Giver of the security", "or security", where they occur in that order. In the second and third line of the clause the words "or security;" in the third line, "or secured", in the fourth line "or the giver of ^{the} any security"; in the sixth line "or security". The reason for that, Sir, I endeavoured to explain shortly the other day.

The question was put and carried.

Clause 4. New clause.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move that there be inserted as Clause 4 in this Bill the following clause:

"The Principal Ordinance is hereby amended by inserting as 12A thereof the following:
and there follows the amendment relating to annual driving licences of Shs. 5/- which I think hon. members have in their hands.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move that this new clause be amended by the deletion of the word "five" in line 3 of sub-section (2) and the substitution thereof of the word "two". That is to say, Sir, that the annual licence shall be Shs. 2/- instead of Shs. 5/-. Your Excellency, I do not do this for the purpose of being obstructive in any way but because I think it very necessary that Government

should realise that the imposition of a five shillings licence per annum is going to be rather severe on a lot of people and most severe of all on the large number of native drivers of motor vehicles in this country. I think, in suggesting this annual licence, Government has overlooked the fact that a very large number of natives are dependent for a living on driving motor vehicles and this is a heavy imposition upon them. Also, there is the second class of person, the family, and I suggest that in times like this family people have a right to claim some consideration from Government. They have been shown very little consideration in recent taxation legislation and it does impose a hardship upon a family if they have to pay Shs. 5/- for every member of the family who drives a car; so I hope Government will give sympathetic consideration to the proposed amendment that the annual tax be Shs. 2/- instead of Shs. 5/-

(K 1 follows).

O'Shea contd.

So I hope Government will give sympathetic consideration to the amendment that the annual tax be two shillings instead of five shillings.

LT. COL. THE HON. C. G. DURHAM: For the reasons stated by the hon. Member on my right (the hon. Member for Plateau South) I support the amendment.

THE HON. F. A. BEMISTER: May I ask if this tax is in addition to the present \$s.30?

THE HON. THE ACTING COLONIAL SECRETARY: May I ask the hon. Member for Plateau South whether his amendment does not go further and entail the substitution in sub-clause (3), the last line, of the word "two" for the word "five"? That is the fee for renewal.

THE HON. T. J. O'SHEA: Yes, but I thought that would follow as a consequential amendment and I left it for for the moment.

HIS EXCELLENCY: We will take the amendment of the hon. Member for Plateau South first. The question is, that the word "five" where it appears in line 3 of sub-clause (2) and in line 6 of sub-clause (3) be deleted and the word "two" substituted therefor.

Will those in favour . . .

THE HON. T. J. O'SHEA: Before you put it to the vote, as I to understand that Government does not even consider my suggestion worthy of any notice whatever?

THE HON. THE ACTING COLONIAL SECRETARY: I can only say this - I hope hon. Members will acquit the various representatives of Government who are charged with answering

questions of any desire to treat them with disrespect or lack of courtesy but the position is this: in the Estimates we have provided £2,500 for this, which is on the basis of five shillings annually for drivers' licences. The effect of the suggested amendment, Sir, would be to reduce that sum by £1,500 and for that reason, Sir, and without any intended disrespect, we are unable to accept the amendment.

LT. COL. THE HON. C. G. DURHAM: May I put it to the last speaker - what does he base his calculations on in regard to this anticipated revenue? I take it on the number of cars. In many cases you have got three people driving that car in the family and they will all have to pay five shillings. Everybody who drives will be taxed.

THE HON. THE ACTING COLONIAL SECRETARY: The estimates were given to me as having been based on the number of certificates of competency, not on the number of vehicles licenced, which may or may not be in use at the time.

THE HON. T. J. O'SHEA: I would show the Government the courtesy of accepting the explanation advanced by the hon. Member as a serious answer to my request that Government should give this suggestion sympathetic consideration, and I take it that he is genuine in his statement that Government's objection to adopting my amendment is that it would lose a considerable proportion, that is, three-fifths, of the amount of money which it had expected to get from this additional taxation. Now, Sir, may I point out that Government has been ultra-conservative on this occasion in estimating the amount to be derived from this tax. As an actual fact, at five shillings it would undoubtedly have collected a very much larger sum than £2,500 because it applies to all classes of motor vehicles and to everybody who drives them, and as I have endeavoured to point out, a very very much larger number of

people drive vehicles than the number of vehicles licensed. I think you can very safely put it down at not less than 2½ to 1 - I should have said it was nearer 3 to 1 - so that you will in actual fact get more than the five shillings tax that is estimated. In addition to that, as we were reminded a few minutes ago by the hon. Member, fresh channels of revenue opened up under legislation already dealt with so you would not lose the revenue you think you would get. If that is the amount you want, you can get it under the two shilling tax. I suggest to Government it can very well accept the two shilling tax.

HIS EXCELLENCY: The question is that the word "five" where it appears in line 3 of sub-clause (2) and in line 6 of sub-clause (1) be deleted and the word "two" substituted therefor.

The question was put and lost.

HIS EXCELLENCY: The question is that there be inserted as Clause 4 the following:

"4. The following clause to be numbered 12A shall be inserted between Sections 12 and 13 of the Principal Ordinance:-

"12A. (1) No person shall drive a motor vehicle on any road unless he is licensed for the purpose under this section to drive such motor vehicle or one of similar type; such licence to be issued by such officer or person as the Governor may appoint for the purpose (hereinafter referred to as "the licensing officer") or issued to him in the Uganda Protectorate or Tanganyika Territory under any law in force in those countries.

(2) The Licensing officer shall on receipt of an application in the prescribed form together with a fee of five shillings grant a licence to drive a motor vehicle to any person applying for it who holds a certificate of competency and is not disqualified for obtaining such licence.

(3) Every such licence shall be in such form as may be prescribed and shall expire on the thirty-first day of December in the year in which it is granted but may be renewed from year to year on payment of a fee of five shillings.

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(4) Any person who shall drive a motor vehicle upon any road without having upon his person or in the motor vehicle at the time a valid licence as required by this section shall be guilty of an offence against this Ordinance.

(5) This section shall come into operation on the first day of January, 1932."

No. LV.

1931



Colony and Protectorate of Kenya

IN THE TWENTY-SECOND YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE K.C.M.G., K.B.E., C.B.
Governor

Assented to in His Majesty's
name this 23rd day of December
1931.

J. BYRNE.
Governor

AN ORDINANCE TO AMEND THE TRAFFIC
ORDINANCE, 1928

No. 55 of 1931.

An Ordinance to Amend the Traffic Ordinance, 1928.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Ordinance may be cited as "the Traffic (Amendment) Ordinance, 1931," and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as "the Principal Ordinance."

Short title
No 26 of 1928

2. Section 2 of the Principal Ordinance is hereby amended by the deletion of the definition of the term "motor cycle" and substitution thereof of the following :—

Amendment of section 2 of the Principal Ordinance

" ' Motor cycle ' means a motor vehicle designed to travel on two wheels and includes a motor vehicle designed to travel on three wheels which has a tare weight not exceeding three hundred pounds."

3. Section 30 of the Principal Ordinance is hereby repealed and the following is substituted therefor :—

Repeal and replacement of section 30 of the Principal Ordinance.

30. (1) No application for the grant or renewal or the sanction of a transfer of a public service vehicle licence shall be granted by the licensing officer unless the applicant satisfies the licensing officer that he has effected, with an insurance company approved by the licensing officer, a policy of insurance covering, in such terms as may be prescribed, all such claims as may be made against him as owner, or as driver or employer of the driver, of the vehicle in respect of any liability which may be incurred by him in respect of the death of or bodily injury to, or injury to the property of any person caused by or arising out of the use of the vehicle on a road : Provided that such a policy shall not be required to cover—

Insurance policies

- (i) liability in respect of the death arising out of and in the course of his employment of a person

in the employment of the person insured by the policy, or of bodily injury sustained by such person arising out of and in the course of his employment; or

- (ii) liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the vehicle at the time of the occurrence of the event out of which the claims arise; or
- (iii) liability in respect of loss of or damage to property being carried in or upon the vehicle at the time of the occurrence of the event out of which the claims arise; or
- (iv) any contractual liability.

Certain conditions in policies to be of no effect.

(2) Any condition in a policy issued for the purposes of the preceding sub-section providing that no liability shall arise under the policy, or that any liability arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall be of no effect in connexion with such claims as are mentioned in the preceding sub-section:

Provided further that such a policy shall not be required to cover liability in respect of injury to the property of any person caused by or arising out of the use of the vehicle on a road in excess of a sum of one thousand pounds in respect of any one claim or number of claims arising out of any one event:

And provided further that nothing in this section shall be taken to render void any provision in a policy requiring the person insured to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

False statement.

(3) If any person for the purpose of obtaining a policy of insurance required by this section makes any false statement in consequence whereof the policy is likely to be avoided, or if the person insured commits any act which disentitles him to claim under the policy, he shall be guilty of an offence under this Ordinance.

(4) If a policy of insurance required by this section lapses or otherwise becomes invalid, any licence issued under this Ordinance in respect of the vehicle to which the policy relates shall thereupon become void.

If insurance policy becomes invalid, licence also becomes invalid.

(5) If a policy of insurance required by this section lapses or otherwise becomes invalid, the holder of such policy shall forthwith notify the licensing officer, and failure to do so shall be an offence under this Ordinance.

4. The following section to be numbered 12A shall be inserted between sections 12 and 13 of the Principal Ordinance:—

12A. (1) No person shall drive a motor vehicle on any road unless he is licensed for the purpose under this section to drive such motor vehicle or one of similar type. Such licence to be issued by such officer or person as the Governor may appoint for the purpose (hereinafter referred to as "the licensing officer") or issued to him in the Uganda Protectorate or Tanganyika Territory under any law in force in those countries.

Licence to drive a motor vehicle.

(2) The licensing officer shall on receipt of an application in the prescribed form together with a fee of five shillings grant a licence to drive a motor vehicle to any person applying for it who holds a certificate of competency and is not disqualified for obtaining such licence.

(3) Every such licence shall be in such form as may be prescribed and shall expire on the thirty-first day of December in the year in which it is granted but may be renewed from year to year on payment of a fee of five shillings.

(4) Any person who shall drive a motor vehicle upon any road without having upon his person or in the motor vehicle at the time a valid licence as required by this section shall be guilty of an offence against this Ordinance.

(5) This section shall come into operation on the first day of January, 1982.

5. Section 2 of this Ordinance shall be deemed to have commenced and come into operation on the first day of January, 1980.

Commencement.

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No. LV

Traffic

1931

Passed in the Legislative Council the tenth day of December in the year of Our Lord one thousand nine hundred and thirty-one.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

H. E. BADER

Acting Clerk of the Legislative Council.