

GOVERNMENT OF ZAMBIA

**ACT**

No. 10 of 2006

Date of Assent: 12th May, 2006

**An Act to amend the Public Roads Act**

[19th May, 2006

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Public Roads (Amendment) Act, 2006, and shall be read as one with the Public Roads Act, 2002 in this Act referred to as the principal Act.

Short title

Act No. 12 of 2002

2. Section *sixty-three* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following subsection:

Amendment of section 63

(2) Regulations made under this section may provide that persons offending against the regulations shall be liable, upon conviction to a fine not exceeding four hundred thousand penalty units or, in default of payment, to imprisonment for a period not exceeding five years, or to both.

3. Section *sixty-four* of the principal Act is amended by the deletion of subsection (1) and the substitution of the following subsection:

Amendment of section 64

(1) Any person who drives any vehicle on a public road whose maximum laden weight or maximum axle weight is in excess of the maximum laden weight or maximum axle weight prescribed in regulations made under section *sixty-three* commits an offence and is liable, upon conviction to a fine not exceeding four hundred thousand penalty units or, in default of payment, to imprisonment for a period not exceeding five years, or to both.

- Amendment of section 65      4. Section *sixty-five* of the principal Act is amended by the insertion of the words “or laden weight” after the words “permitted axle load weight.”
- Amendment of section 66      5. Section *sixty-six* of the principal Act is amended by the deletion of the words “two hundred thousand penalty units or to imprisonment for a term not exceeding four years” after the words “a fine not exceeding” and the substitution therefor of the words “four hundred thousand penalty units, or in default of payment, to imprisonment for a period not exceeding five years”.
- Amendment of section 67      6. Section *sixty-seven* of the principal Act is amended—
- (a) by the insertion immediately after subsection (1) of the following new subsections:
- (2) A road traffic officer, police officer or an officer authorised by the Director may require the person in charge of a motor vehicle—
- (a) to allow the vehicle or any trailer drawn by it to be weighed, either laden or unladen, and the weight transmitted to the road by any parts of the vehicle or trailer in contact with the road to be tested; and
- (b) for the purpose of allowing the vehicle to be weighed, proceed to a weighbridge or other machine for weighing vehicles.
- (3) For purposes of enabling a vehicle or a trailer drawn by it to be weighed a road traffic officer, police officer or an officer authorised by the Director may require the person in charge of the vehicle to drive the vehicle or to do any other thing in relation to the vehicle or its load or the trailer or its load which is reasonably required to be done for that purpose.
- (4) If, for the purpose of or in connection with the determination of any weight in relation to a motor vehicle which is brought to a weigh bridge in accordance with subsection (1) or (2), a road traffic officer in uniform, a police officer or an officer authorised by the Director—
- (a) drives a vehicle or does any other thing in relation to a vehicle or to its load or a trailer or its load; or
- (b) requires the driver of a vehicle to drive it in a particular manner or to a particular place or to do any other thing to a vehicle or its load or trailer or its load;

neither the road traffic officer, police officer or officer authorised by the Director nor any person complying with such a requirement shall be liable for any damage to, or loss in respect of, the vehicle or its load or trailer or its load unless it is shown that the officer or person acted without reasonable care:

Provided that a road traffic officer, police officer or an officer authorised by the Director may not require the person in charge of the motor vehicle to unload the vehicle or trailer or to cause or allow it to be unloaded for the purpose of its being weighed unladen.

(5) If a person in charge of a motor vehicle—

- (a) refuses or neglects to comply with any requirement under subsection (2) or (3); or
- (b) obstructs a road traffic officer, police officer or an officer authorised by the Director in the exercise of the officer's functions under this section;

the person commits an offence and shall be liable to a fine not exceeding fifty thousand penalty units or, in default of payment, to imprisonment for a period of not less than three months but not exceeding one year.

(6) A road traffic officer, police officer or officer authorised by the Director who permits to be driven on a public road a vehicle whose maximum laden weight or maximum axle weight is in excess of the maximum laden weight or maximum axle weight prescribed in regulations made under section *sixty-three* commits an offence and is liable upon conviction to a fine not exceeding four hundred thousand penalty units or, in default of payment, to imprisonment for a period of not less than eighteen months but not exceeding five years, or to both such fine and imprisonment.

(b) by the renumbering of subsection (2) as subsection (7).

7. The principal Act is amended by the insertion immediately after section *sixty-seven* of the following new section:

**67A.** (1) Where a vehicle has been weighed in terms of section *sixty-seven* and it appears to a road traffic officer in uniform, a police officer or an officer authorised by the Director that the prescribed maximum laden weight or maximum axle weight has been exceeded or would be

Insertion of  
new section  
67A, 67 B,  
67C and 67E

Power to  
prohibit  
driving of  
overloaded  
vehicle

exceeded if it were driven on a public road, the road traffic officer, police officer or the officer authorised by the Director may give notice in writing to the person in charge of the motor vehicle prohibiting the driving of the vehicle on a public road until—

- (a) that weight is reduced to the prescribed weight, or so that it is no longer excessive; and
- (b) an official notification has been given to whosoever is for the time being in charge of the vehicle that it is permitted to proceed.

(2) The road traffic officer, police officer or officer authorised by the Director referred to in subsection (1) may by direction in writing require the person in charge of the vehicle to remove it, and, if it is a motor vehicle drawing a trailer, also to remove the trailer to such place, and subject to such conditions as may be specified in the direction:

Provided that the prohibition referred to under subsection (1) shall not apply to the removal of the vehicle or trailer in accordance with the direction given under this subsection.

(3) For purposes of paragraph (b) of subsection (1), an official notification—

- (a) shall be in writing and given by a road traffic officer in uniform, a police officer or any officer authorised by the Director; and
- (b) may be withheld until the vehicle has been weighed or re-weighed in order to satisfy the person giving the notification that the weight has been sufficiently reduced.

(4) Any person who—

- (a) drives a vehicle in contravention of a prohibition under subsection (1);
- (b) causes or permits a vehicle to be driven in contravention or such prohibition; or
- (c) fails to comply within a reasonable time with a direction under subsection (2);

commits an offence and shall be liable—

- (i) for a contravention of paragraph (a) or (b), to a fine not exceeding four hundred penalty units or, in default of payment, to imprisonment for a period of not less than eighteen months but not exceeding five years, or to both such fine and imprisonment; or

- (ii) for a contravention of paragraph (c), to a fine not exceeding fifty thousand penalty units or, in default of payment to imprisonment for a period of not less than three months but not exceeding one year.

**67B.** (1) Any person who diverts a vehicle from a weighbridge is guilty of absconding and is liable to a kwacha equivalent absconding fee of two thousand United States Dollars:

Absconding  
from weigh  
bridge

Provided that if upon being weighed the vehicle is found to be overloaded the absconder shall in addition to paying the absconding fee be liable to the penalty specified in subsection (1) of section *sixty-four*;

(2) Any person who—

(a) drives away a vehicle which has been impounded under section *sixty-five* without lawful authority; or

(b) drives, causes or permits to be driven, a vehicle in contravention of a prohibition issued under subsection (1) of section *sixty-seven A*;

is guilty of absconding and, in addition to the penalty specified in subsection (1) of section *sixty-five* and subsection (4) of section *sixty-seven A*, is liable to a kwacha equivalent absconding fee of two thousand United States Dollars.

**67 C.** (1) Any person who intends to transport an abnormal load on a motor vehicle or trailer which is to be driven on a public road shall, prior to transporting the load, apply to the Director for a permit in the prescribed form.

Permit to  
move  
abnormal  
load

(2) The application referred to in subsection (1) shall be in writing and shall specify how the load shall be distributed.

(3) The Director shall, upon receipt of an application made under subsection (1) and upon payment of—

(a) the prescribed fee; and

(b) where appropriate, such surcharge for the transportation of the abnormal load as the Minister may, on the recommendation of the Agency, by statutory instrument, prescribe and if the application meets the requirements of this Act, issue a permit to transport the abnormal load:

Provided that the surcharge referred to in paragraph (b) shall not exceed the kwacha equivalent of thirty five thousand United States Dollars.

(4) The permit referred to in subsection (3) shall be in the prescribed form and may contain such terms and conditions as the Director may determine.

(5) If upon being weighed at a weighbridge the abnormal load is found to be distributed differently and the weight of the motor vehicle or trailer exceeds that which was specified in the application, the applicant referred to in subsection (1) shall pay to the Agency an additional surcharge for the difference.

(6) Where a motor vehicle or trailer carries an abnormal load that may cause damage to any road or road furniture the person responsible for the transportation of the abnormal load shall comply with the conditions specified in the permit and take precautions to prevent damage being caused to the road or road furniture.

(7) If any visible damage is caused to any road or road furniture in the course of transporting the load, the person responsible for the transportation of the abnormal load shall pay to the Agency the cost of repairing the damage caused.

(8) In this section—

“abnormal load” means a load which by its nature is indivisible and whose dimensions exceed the authorised dimensions of the motor vehicle or trailer on which it is to be loaded and whose weight when loaded onto the motor vehicle or trailer may or may not cause such motor vehicle or trailer to exceed the prescribed maximum laden weight or maximum axle weight; and “surcharge” means the amount of money payable as costs for the anticipated damage to the road.

Awkward  
load

67D. (1) Where a motor vehicle or trailer which is weighed in accordance with section *sixty-seven* is found to have exceeded the prescribed maximum laden weight or the maximum axle weight and it appears to a road traffic officer in uniform, police officer or an officer authorised by the Director that the vehicle is carrying an awkward load which cannot be safely off loaded, the officer shall impound the motor vehicle or trailer and direct the person in charge of the motor vehicle or trailer to move it to a safe place pending further instructions.

(2) An officer referred to in subsection (1) may, where it appears to the officer that—

(a) the point of departure of the motor vehicle or trailer referred to in subsection (1) is nearer to the weighbridge than its destination; or

(b) the destination of the motor vehicle or trailer referred to in subsection (1) is nearer to the weighbridge than its point of departure;

the officer may issue an official notification to the person in charge of the motor vehicle or trailer authorising the person to return to the point of departure or proceed to the destination, as the case maybe:

Provided that the officer shall not authorise a motor vehicle or trailer which is impounded under section (1) to be driven away unless—

(a) the person in charge of the motor vehicle or trailer has paid the penalty referred to in subsection (5); and

(b) the registered owner of the motor vehicle or trailer has paid the prescribed penalty for the awkward load and the compensation for the damage caused to the road in accordance with subsections (3) and (4).

(3) Where a motor vehicle or trailer carrying an awkward load is found to be overloaded, the registered owner of the motor vehicle shall pay a penalty for the awkward load at such rate as the Minister may, on the recommendation of the Agency, by statutory instrument prescribe:

Provided that the penalty prescribed for an awkward load shall not exceed the kwacha equivalent of five thousand United States Dollars.

(4) In addition to the penalty referred to in subsection (3), the registered owner of the motor vehicle or trailer shall pay compensation for the damage caused to the road at such rate as the Minister may, on the recommendation of the Agency, by statutory instrument prescribe.

(5) A person in charge of the motor vehicle or trailer found to be overloaded under subsection (1) commits an offence and shall be liable to the penalty specified in section *sixty-four*.

(6) For the purposes of this section “awkward load” means a load that is hazardous in nature and which although it is divisible requires special equipment and safety precautions to offload at a weighbridge.

**67E.** (1) The registered owner of the motor vehicle or trailer which is impounded for an overloading offence under this part shall compensate the Agency for the damage caused to the road by such vehicle or trailer at such rate and within such period as the Minister may, on the recommendation of the Agency, by statutory instrument prescribe.

Owner of motor vehicle to compensate Agency for damage to road

Provided that the rate prescribed as compensation for damaging a public road shall not exceed the kwacha equivalent of thirty-five thousand United States Dollars.

(2) Any motor vehicle or trailer which is impounded for an overloading offence shall not be released by the Agency until the compensation referred to in subsection (1) is paid.

(3) A registered owner of the motor vehicle or trailer referred to in this section who disputes the rate of compensation payable under subsection (1) may within seven days of receiving notification of such rate of compensation, appeal to the Minister subject to further appeal to the High Court.

(4) The Minister shall, on the recommendation of the Agency, by statutory instrument prescribe the procedures by which a motor vehicle or trailer impounded under this Part, and for which the registered owner has failed or neglected to pay the compensation referred to in this section, may be disposed off.

(5) Subject to the provisions of this section, any liability with respect to any compensation payable under this Part may be recovered at the suit of the Agency in that behalf.

8. The principal Act is amended by the insertion immediately after section *sixty-eight* of the following new sections:

Insertion of  
new sections  
68A, 68B,  
68C and  
68D

Payment of  
fine without  
appearing in  
court

68A. (1) The fines imposed for offences under this Part shall be paid on the spot and for that purpose the person driving an overloaded vehicle may sign and submit to a road traffic officer in uniform, a police officer or a person authorised by the Director a document admitting the person's guilt for the offence and pay to the road traffic officer, police officer or the officer authorised by the Director the prescribed fine for the offence.

(2) The document referred to in subsection (1) when signed and submitted under that subsection, shall forthwith be transferred to the clerk of the Court before which such person would otherwise have been charged and tried and shall be entered into the records of the Court.

(3) Any road traffic officer, police officer or officer authorised by the Director who fails to remit the admission of guilt fines to the Agency or the admission of guilt form to the

Fines to be  
remitted into  
Road Fund

Court, commits an offence and shall be liable, on conviction, to imprisonment for a term of not less than six months but not exceeding three years without the option of a fine.

Forfeiture  
of certain  
vehicles

**68B.** The moneys collected as compensation, penalties, surcharges and fines for offences under this Part shall be paid into the Road Fund and shall be applied by the Agency to the repair and maintenance of roads and for purposes of the axle load programme.

**68C.** Upon the conviction of an offender under this Part, if the court is satisfied that the owner of the vehicle was a party to the offence, or that the offence was committed with the owner's knowledge, the court may, in addition to any other sentence, order the forfeiture of such vehicle to the Agency:

Provided that no forfeiture shall be ordered without first giving the owner an opportunity to be heard on the issue.

Appointment  
of agent to  
operate  
weighbridge

**68D.** (1) The Agency may, on such terms and conditions as the Agency may determine, appoint a company or an institution to operate a weighbridge on behalf of the Agency.

(2) A company or an institution shall not be appointed to operate a weighbridge on behalf of the Agency if the company or institution is an operator in the road or rail transport sector.

(3) For the purposes of subsection (2) a company or institution is an operator in the road or rail transport sector if it conducts—

- (a) freight forwarding and clearing business;
  - (b) courier service business; or
  - (c) haulage business; or
  - (d) such other related business as the agency may determine.
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