

N.R.C.D. 71

OMNIBUS SERVICES ACT, 1972

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N.R.C.D. 71**OMNIBUS SERVICES ACT, 1972¹**

AN ACT to establish an omnibus services authority and to provide for related matters.

*Omnibus Licensing Authority***1. Establishment of Omnibus Licensing Authority**

There is hereby established a body to be known as the Omnibus Licensing Authority which is responsible despite anything in any other enactment to the contrary, for the licensing of motor vehicles intended for use as omnibuses within a prescribed area.

2. The governing body

(1) The governing body of the Licensing Authority is a Council consisting of

- (a) one representative each of the
 - (i) Ministry of Interior, and
 - (ii) Ministry of Transport and Communications,
- (b) the managing director of the Licensing Authority, and
- (c) three other persons nominated by Minister, one of whom shall be the chairman.

(2) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The terms and conditions of service of the chairman and the other members of the Council including their remuneration or allowances shall be stated in their letters of appointment.

1. This Act was issued as the Omnibus Services Decree, 1972 (N.R.C.D. 71) made on the 30th day of May, 1972 and notified in the *Gazette* on 2nd June, 1972.

3. Proceedings of the Council

(1) The Council shall meet for the performance of its functions under this Act in the place and at the times designated by the Minister.

(2) The chairman shall preside at meetings of the Council and in the absence of the chairman a member elected by the other members from among their number shall preside.

(3) Three members of the Council form a quorum.

(4) A member of the Council who has an interest in a vehicle or an organisation in respect of which an application is made to the Council shall declare that interest in writing to the Council and is not qualified to sit at a meeting at which the application is considered.

(5) A member of the Council who fails to make the declaration required by subsection (4) commits a misconduct and is liable to be removed from the membership of the Council.

4. Acts by the Licensing Authority

(1) The Licensing Authority shall act through the Council, the chairman or any other member designated by the other members to act in place of the chairman.

(2) The use of the seal of the Licensing Authority shall be authenticated by the chairman or any other member of the Council so designated.

5. Other functions of the Licensing Authority

In addition to its functions under section 1, the Licensing Authority shall,

- (a) with the approval of the Minister, make and publish in the Local Government Bulletin, by-laws prescribing
 - (i) the routes and parking places of omnibuses owned by public or private organisations or individuals;
 - (ii) the fares to be paid by passengers on omnibuses owned by public or private organisations or individuals;
 - (iii) the types of omnibuses to operate on particular routes in a prescribed area;
 - (iv) the code of conduct to be observed by passengers in omnibuses;
 - (v) the offences and penalties with regard to a matter specified in this paragraph; and
- (b) examine and report to the Minister on a matter referred to it by the Minister or taken up by itself with a view to the improvement of omnibus services within the prescribed areas.²

2. Amended by the Omnibus Services (Amendment) Decree, 1973 (N.R.C.D. 181) made on the 20th day of June, 1973 and notified in the *Gazette* on 29th June, 1973.

6. Staff

The President shall, in accordance with article 195 of the Constitution, assign, and where necessary arrange to be seconded, to the Authority an adequate number of suitably qualified staff to assist the Authority in the performance of its functions under this Act.

*Licensing of omnibuses***7. Application for licence**

An application for the issue of an omnibus licence authorising a motor vehicle, duly registered under the Road Traffic Act, to stand and ply for hire as an omnibus within a prescribed area, shall be made to the Licensing Authority in the prescribed form.

8. Issue of licence

(1) An omnibus licence issued under this Act is subject to the conditions prescribed under section 5.

(2) The Licensing Authority shall not issue a licence in respect of

- (a) a vehicle having a body work the whole or part of which is made of wood,
- (b) a vehicle having a body work with open sides, or
- (c) a vehicle whose condition, in the opinion of the Licensing Authority, renders it unsafe or unsuitable for the conveyance of passengers, or which does not conform to the requirements of any other law relating to it.

9. Application of the Road Traffic Regulations, 1970

In addition to the conditions prescribed by section 8, Regulations 53, 54, 56 and 57 of the Road Traffic Regulations, 1970 (L.I. 675) (which state general conditions under which omnibus licences may be issued) shall apply to the issue of an omnibus licence under this Act with the modifications that are necessary.

*The Omnibus Services Authority***10. The Omnibus Services Authority**

(1) There is hereby continued in existence under the same name the body which immediately before the coming into effect of this Act was known as the Omnibus Services Authority.

(2) The Services Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Services Authority may, for the effective performance of its functions acquire, hold movable or immovable property, and dispose of the property and enter into a contract or any other transaction.

(4) Where there is a hindrance to the acquisition of property under subsection (3), the property may be acquired for the Services Authority under the State Property and Contracts Act, 1960 (C.A. 6) or under the State Lands Act, 1962 (Act 125), and that Act shall

apply with respect to the acquisition with the modifications that are necessary to provide for the vesting of the property acquired in the Services Authority and for the cost of the acquisition to be defrayed by the Services Authority.

11. Object of the Services Authority

The object of the Services Authority is to provide omnibus transport service in the areas formerly served by the omnibus transport operations of councils established under the Local Government Act, 1993 (Act 462) and in any other areas prescribed by the Minister.

12. The Board

(1) The governing body of the Services Authority is a board, consisting of

- (a) one representative of the Ministry of Local Government,
- (b) the managing director appointed under section 18, and
- (c) three other members nominated by the Minister.

(2) The chairman and the other members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

13. Tenure of office of members

(1) The members of the Board, other than the representative of the Ministry of Local Government and the managing director, shall hold office for a term of one year.

(2) A member of the Board may by writing addressed to the Minister resign from office or may be removed from office for proven disability, neglect of duty or misconduct.

(3) A member of the Board on ceasing to hold office is eligible for re-appointment.

14. Remuneration of members

There shall be paid out of the funds of the Services Authority to the members of the Board as well as persons co-opted by the Board subsistence, travelling and any other allowances at the rates determined by the Board with the approval of the Minister responsible for Finance.

15. Meetings of the Board

(1) The Board shall meet at least once in every month for the despatch of business at the times and at the places appointed by the chairman.

(2) The chairman shall preside at meetings of the Board and in the absence of the chairman a member of the Board appointed by the members present from among themselves shall preside.

(3) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and in the event of an equality of votes the person presiding shall have a second or casting vote.

(4) Three members of the Board form a quorum at a meeting of the Board.

(5) The Board may co-opt a person to act as an adviser at any of its meetings, but a person so co-opted is not entitled to vote at the meeting on a matter for decision by the Board.

(6) Minutes of the proceedings of the meetings of the Board shall be regularly entered in a book to be kept for that purpose and shall, after approval, be signed at the next ensuing meeting by the chairman or by the member presiding at that meeting.

(7) The chairman may, and shall at the request in writing of three members of the Board, call a special meeting of the Board.

(8) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment of any of them.

(9) A member of the Board who has a financial interest in a company or an undertaking with which the Services Authority proposes to enter into a contract, or who has a financial interest in a contract which the Services Authority proposes to make, shall disclose to the Board in writing the nature of the interest and is disqualified from participating in the deliberations of the Board on the contract or voting in a decision of the Board on that contract.

(10) A member of the Board who contravenes subsection (9) is liable to be removed from the Board.

16. Advisory committees

(1) There shall be established for each area of the Services Authority's operations an advisory committee which shall advise the Board, through the managing director, generally, on the efficient conduct or management of the Services Authority's operations, and on the appointment, promotion, remuneration or allowances, discipline and dismissals of staff in the area for which the advisory committee is appointed.

(2) An advisory committee shall advise on any other matters submitted to it by the Board.

17. Composition of an advisory committee

An advisory committee shall consist of

- (a) a representative of the council in charge of the area of the Services Authority's operations who shall be chairman,
- (b) a senior labour officer,
- (c) the manager of the Services Authority stationed in the area, and
- (d) the senior police officer in charge of the area or the representative of that officer.

18. Management

(1) The Board shall, subject to this Act, have the sole management of the property, operation, income and funds of the Services Authority and the control of the affairs of the Services Authority as regards general policy.

(2) The Services Authority shall have a managing director.

(3) The managing director shall be appointed by the President in accordance with article 195 of the Constitution and shall hold office on the terms and conditions specified in the letter or instrument of appointment.

(4) The managing director is responsible, subject to this Act to the Board for the day to day administration of the affairs of the Services Authority.

19. Staff of the Services Authority

(1) The Services Authority may engage any other employees necessary for the proper and efficient conduct of the business, and the performance of the functions, of the Services Authority.

(2) The Services Authority may engage the services of consultants and advisers as determined by the Board on the recommendations of the managing director.

(3) The employees of the Services Authority shall be appointed by the President in accordance with article 195 of the Constitution.

(4) Subject to the Regulations, the employees, consultants and advisers of the Authority shall be engaged on the terms and conditions determined by the Board, on the recommendations of the managing director.

(5) Public officers may be transferred or seconded to the Services Authority or may otherwise give assistance to the Authority.

20. Secretary of the Services Authority

(1) The Services Authority shall have an officer to be designated as the secretary of the Omnibus Services Authority.

(2) The secretary shall act as secretary to the Board and shall, subject to the directions of the Board, arrange the business for and record and keep minutes of the meetings of the Board.

(3) The secretary is responsible for the legal matters relating to the Services Authority and shall also perform any other functions directed in writing by the Board or as the managing director may by writing delegate, and shall be assisted in those functions by the staff of the Services Authority directed by the Board on the recommendations of the managing director.

21. Internal auditor

(1) The Authority shall have an internal auditor.³

(2) Subject to this Act, the internal auditor is responsible to the managing director for the performance of his functions.

(3) As part of the functions of the internal auditor under this Act, the internal auditor shall, at intervals of three months, prepare a report on the internal audit work carried out during the period of three months immediately preceding the preparation of the report, and submit the report to the managing director.

3. This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658) and where there is a conflict, the provisions of the Act shall prevail.

(4) Without prejudice to the general effect of subsection (3), the internal auditor shall make in each report the observations that are necessary, as to the conduct of the financial affairs of the Services Authority during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to the Minister and to

- (a) the Minister responsible for Finance,
- (b) the Auditor-General, and
- (c) the chairman and each of the other members of the Board.

22. Board members not to sponsor appointment

(1) A member of the Board shall not personally sponsor an application for the employment of a person with the Services Authority.

(2) A member who infringes subsection (1) is liable to be removed from the Board.

Financial provisions

23. Staff welfare fund

(1) The Authority shall have a staff welfare fund.

(2) At the end of each financial year, the Services Authority shall transfer to the staff welfare fund a sum of money not exceeding five percent of the net profits of the Services Authority as determined by the Board.

(3) The Services Authority may, with the approval of the Minister, use the staff welfare fund for the provision of staff welfare facilities such as canteens, low interest bearing staff welfare loans and for any other purposes aimed at enhancing the welfare of the staff of the Services Authority.

(4) The operation of the staff welfare fund shall be subject to the specific rules or regulations made by the Board.

24. Depreciation fund

(1) The Services Authority shall have a depreciation fund and for this purpose the Services Authority shall open a depreciation reserve account with the Bank of Ghana.

(2) At the end of each financial year, the Services Authority shall transfer to the credit of the depreciation reserve account the amounts charged to profit and loss account in respect of depreciation of buildings, plant and equipment, fixtures and any other fixed assets.

(3) Amounts transferred to the depreciation reserve account shall be utilised only to replace fixed assets and equipment which are worn out or have become obsolete.

(4) Expenditure in respect of current repairs and in respect of purchases of spare parts shall not be met out of the depreciation reserve account but shall be charged to the income and expenditure account of the Services Authority for the financial year during which the expenditure is incurred.

25. Borrowing powers

(1) Subject to article 181 of the Constitution, the Services Authority may obtain loans and any other credit facilities on the guarantee of the Government from the National Investment Bank or from any other bank approved by the Minister and the Minister responsible for Finance.

(2) In addition to subsection (1) the Authority may, with the prior approval of the Minister and the Minister responsible for Finance, borrow from any other source.

(3) For the purposes of a technical arrangement in connection with the raising of a loan under subsection (2), the Services Authority shall, if the National Investment Bank agrees, use the services of that Bank.

(4) The Services Authority may borrow temporarily by way of overdrafts or otherwise the sums of money it requires for meeting its current obligations or performing its functions.

(5) The Minister responsible for Finance may, on behalf of the Government, guarantee the performance of an obligation or undertaking by the Services Authority under this section.

(6) The Minister responsible for Finance may prescribe the maximum sums of money which the Services Authority may borrow under subsection (1) or (2).

26. Books of account

The Services Authority shall keep proper books of account and proper records relating to the accounts in the form approved by the Auditor-General.

27. Audit

(1) The books and accounts of the Services Authority shall each year be audited by the Auditor-General, who shall have access to the books, records, stores, and any other matters relating to the accounts, and who shall in the report draw attention to irregularities in the accounts.

(2) The Services Authority shall pay in respect of the audit the fees agreed on between the Auditor-General and the Board or in the case of failure to agree, the fees determined by the Minister.

(3) The Board shall as soon as possible, on receiving the report of the Auditor-General under this section, forward a copy of the report to the Minister.

(4) The Minister shall as soon as practicable on receipt, lay a copy of the Auditor-General's report forwarded under this section, before Parliament.

28. Financial year

(1) The Services Authority's financial year shall end on the 30th day of June, in each year.

(2) *Spent.*⁴

29. Approval of contracts

A contract worth not less than one million cedris shall not be executed unless with the prior approval in writing of the Board.

30. Estimates

(1) The detailed estimates of revenue and expenditure of the Services Authority for the next ensuing financial year shall be approved by the Board at the time and in the manner directed by the Board.

(2) An expenditure shall not be incurred by the Services Authority on anything for which the Board has not given its approval in the estimates.

Miscellaneous

31. Quarterly reports

The managing director shall prepare and submit to the Board, as soon as possible after the end of each quarter, a report on the operations of the Services Authority during that quarter.

32. Annual report

(1) The Services Authority shall, as soon as possible after the expiration of each financial year, but within six months after the termination of that financial year, submit to the Minister an annual report dealing generally with the activities and operations of the Services Authority within that year.

(2) The annual report shall include

- (a) a copy of the audited accounts of the Services Authority together with the Auditor-General's report on the accounts,
- (b) each report submitted by the internal auditor under section 21,
- (c) each report submitted by the managing director under section 31,
- (d) a statement of the directions given by the Minister to the Services Authority under section 33 within that year, and
- (e) any other information requested in writing by the Minister.

(3) A copy of the annual report shall be sent by the Board to the Minister responsible for Finance, and the Government Statistician.

(4) The Minister shall, as soon as possible after receiving the annual report lay a copy of the report before Parliament.

4. The section provided that,

"(2) For the purposes of this section, the period extending from the commencement of this Decree to the 30th day of June, 1972 shall be deemed to be a financial year."

(5) The Services Authority shall submit to the Minister any other reports on its operations that the Minister may in writing reasonably request.

33. Powers of direction

The Minister may, subject to this Act, give directions of a general nature to the Services Authority concerning the general policy of the Authority including financial management, and the Services Authority shall comply with the directions.

34. Insurance and exemption from taxes

(1) The Services Authority shall insure itself, its property or staff against risks.

(2) The Services Authority shall be exempted from the payment of the taxes, rates and duties that the Minister responsible for Finance may in writing direct with the prior approval of Parliament under clause (2) of article 174 of the Constitution.

35. Handing over operations

The Minister, on the recommendations of the Board may, by legislative instrument, hand over to a council the control and management of the omnibus transport operations of the Services Authority within the area of authority of that council where the council is desirous of, and is shown to be capable of, taking over that control and management.

36. Regulations

(1) The Minister may, by legislative instrument, make Regulations for carrying into effect the principles and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may, by legislative instrument, make Regulations governing the terms and conditions of service of the employees of the Services Authority.

37. Interpretation

In this Act, unless the context otherwise requires,

“**Auditor-General**” includes an auditor appointed by the Auditor-General;

“**Board**” means the governing body of the Omnibus Services Authority;

“**Council**” means the governing body of the Licensing Authority;

“**Licensing Authority**” means the Omnibus Licensing Authority established by section 1;

“**Minister**” means the Minister responsible for Local Government;

“**prescribed**” means prescribed by Regulations made under section 36;

“**prescribed area**” means any area prescribed by the Minister;

“**Regulations**” means the Regulations made under this Act;

“**Services Authority**” means the Omnibus Services Authority continued in existence under section 10.

38. Repeal

*Spent.*⁵

5. The section repealed the Omnibus Service Authority Decree, 1969 (N.L.C.D. 337).