

CHAPTER 533

REQUISITIONING AND ACQUISITION OF LORRIES

Law No. 45 of 1973. A LAW TO PROVIDE FOR THE REQUISITIONING AND ACQUISITION OF LORRIES FOR PUBLIC PURPOSES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[3rd December, 1973.]

Short title. 1. This Law may be cited as the Requisitioning and Acquisition of Lorries Law.

Requisitioning of lorries required for temporary use for public purposes. 2. (1) Where the competent authority is satisfied that any lorry is required for temporary use for a public purpose by the Government, he may by notice (hereinafter referred to as a "requisitioning notice"), served on the registered owner or person in whose possession or custody such lorry is, requisition such lorry for temporary use of the Government.

(2) Service of the requisitioning notice under subsection (1) shall be conclusive proof that such lorry is required for a public purpose by the Government and shall not be questioned in any court of law.

(3) Where a requisitioning notice has been served under subsection (1) on any person, it shall be lawful for any officer authorized by the competent authority (hereinafter referred to as an "authorized officer") to take possession of the lorry to which the notice relates on behalf of the competent authority.

(4) The authorized officer may give to the registered owner or person in whose possession or custody such lorry is, such written directions as appear to him to be necessary or expedient in connexion with the taking possession of such lorry, and such registered owner or person shall comply with all such written directions.

(5) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under subsection (4).

3. The period during which any lorry is requisitioned under this Law for temporary use for a public purpose by the Government shall not exceed sixty days in each calendar year.

Period of temporary use of lorries not to exceed sixty days in a year.

4. Where the competent authority is satisfied that any lorry requisitioned under section 2 is permanently required by the Government for any public purpose, he may by Order (hereinafter in this Law referred to as a "vesting Order") published in the Gazette vest such vehicle in the appropriate authority for and on behalf of the Government.

Acquisition of lorries for public purposes.

5. (1) Where the competent authority is satisfied that any lorry other than a lorry requisitioned under this Law is permanently required by the Government for a public purpose, he may by notice (hereinafter in this Law referred to as a "notice of claim") published in the Gazette declare that such lorry is required by the Government for a public purpose. Such lorry is hereinafter in this Law referred to as a "notified lorry".

Acquisition of lorries other than lorries requisitioned under this Law.

(2) The publication of a notice of claim made under subsection (1) shall be conclusive proof that such notified lorry is required for a public purpose by the Government and shall not be questioned in any court of law.

(3) Where a notice of claim is published under subsection (1), any officer authorized by the competent authority (hereinafter referred to as the "authorized officer") may, from time to time, by notice (hereinafter in this Law referred to as a "notice of disclaimer") published in the Gazette, disclaim the need for a public

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purpose by the Government of the lorry referred to in the notice of claim and specified in the notice of disclaimer.

(4) No person shall lease, hypothecate, alienate, transfer or dispose of in any manner whatsoever to any other person, other than the Government—

(a) any lorry specified in a notice of claim and not disclaimed by a notice of disclaimer; or

(b) any rights in respect of such lorry.

(5) The competent authority may—

(a) cause a report to be prepared as to the condition of any notified lorry ;

(b) cause a copy of such report to be sent by registered post to the registered owner of the lorry to which the report relates; and

(c) require such registered owner to notify in writing to the competent authority whether or not he agrees with such report and if he is not in agreement, to specify any objections he may have and the grounds of such objections and to produce all documents relied on by him in support of such objections.

(6) (a) The competent authority may, by a vesting Order published in the Gazette, vest in the appropriate authority for and on behalf of the Government, with effect from such date as shall be specified in the Order, any such notified lorry as has not been disclaimed by a notice of disclaimer.

(b) Before a vesting Order takes effect, the competent authority may, from time to time, alter, by Order published in the Gazette, the date on which such vesting Order takes effect.

(c) A vesting Order shall have the effect of giving the Government absolute title to any lorry specified in the Order free from all encumbrances.

6. (1) Where a lorry has been requisitioned for or vested in the Government under the preceding provisions of this Law and the competent authority is satisfied that any spare part is required in connexion with the maintenance of such lorry he may by notice (hereinafter referred to as a " notice of claim ") published in the same manner as specified by subsection (1) of section 5 declare that such spare part is required by the Government for a public purpose.

Acquisition of spare parts for any lorry requisitioned for or vested in the Government.

(2) The provisions of subsections (2) to (6) (both inclusive) of section 5 shall apply in relation to such notice of claim and the acquisition of the spare part specified in such claim and in the application of those subsections the word, " lorry " referred to therein shall be construed as a reference to the spare part and the words " registered owner " to the owner of such spare part.

(3) The provisions of sections 7 and 8 shall apply to the taking possession of any spare part specified in a notice under subsection (1) of this section and in the application of those sections the words " lorry " and " registered owner " shall be read and construed to mean the spare part and the owner of the spare part respectively.

(4) The provisions of sections 9 to 13 (both inclusive) shall, *mutatis mutandis*, apply in relation to a claim for compensation and in the determination of compensation payable in respect of any spare part vested in the Government under this section.

7. (1) Any authorized officer may take possession of any lorry vested in the appropriate authority for and on behalf of the Government.

Taking possession, &c., of lorries vested in the Government.

(2) Where a vesting Order has been made in respect of any lorry, it shall be lawful for an authorized officer to give to the registered owner of the lorry or the person in whose possession or custody the lorry is, such written directions as appear to him to be necessary or expedient in connexion with the taking possession of such lorry, and the registered owner or person in whose possession or custody the lorry is, shall comply with all such written directions.

(3) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under subsection (2).

8. (1) Every person who—

- (a) prevents, obstructs or resists or directly or indirectly causes any one to prevent, obstruct or resist, any person from or in taking possession of any lorry for and on behalf of the Government under section 2 (3) or section 7 (1); or
- (b) wilfully immobilises or attempts to immobilise any lorry or directly or indirectly causes any lorry to be immobilised with the intention of preventing, obstructing or resisting, any person from or in taking possession of any lorry under section 2 (3) or section 7 (1); or
- (c) fails to comply with any written directions given under section 2 (4) or section 7 (2),

shall be guilty of an offence under this Law.

(2) Any person guilty of an offence under subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding two thousand rupees or to both such imprisonment and fine; and the Magistrate may, where such offence is committed by the registered owner of a lorry or his agent or servant, order the forfeiture of such lorry in respect of which the offence is committed, to the Republic.

(3) Notwithstanding anything to the contrary, every offence under subsection (1) shall be a cognizable offence within the meaning and for the purposes of the Code of Criminal Procedure Act.

(4) Where an authorized officer is unable or apprehends that he will be unable to take possession of any lorry for and on behalf of the Government because of any obstruction or resistance that has been or is likely to be

offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the lorry is kept, be entitled to an order of the Court directing the Fiscal to deliver possession of that lorry to him for and on behalf of the Government.

(5) Where an order under subsection (4) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute the order and shall in writing report to the Court the manner in which that order was executed.

(6) For the purpose of executing an order issued by a Magistrate's Court under subsection (4), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where the lorry to which that order relates is kept and seize such lorry, and to deliver possession thereof to the authorized officer for and on behalf of the Government.

9. Where any lorry is requisitioned under the provisions of this Law, the registered owner of such lorry at the time of such requisitioning, may, within one month after the lapse of thirty days from the date of such requisitioning, make a written claim to the compensation payable in respect of such lorry and specify in his claim—

- (a) his name and address;
- (b) the nature of his interest;
- (c) the period in respect of which the claim is made ; and
- (d) the amount claimed by him.

10. Where a lorry is vested in the Government, the competent authority shall, by notice published in the Gazette, and in such other manner as may be determined by him, direct every registered owner of such lorry to make within a period of one month from the date specified in the notice a written claim to the compensation payable under this Law in respect of such lorry and specify in his claim—

- (a) his name and address;
- (b) the particulars of his claim; and

Claim to the compensation payable in respect of lorries requisitioned under this Law.

Notice to persons entitled to make claims to the compensation payable in respect of lorries vested in the Government under this Law.

Prevention of or obstruction to taking possession of lorries.

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(c) the amount of compensation claimed by him.

11. (1) Upon the receipt of any claim made under section 9 or section 10 as to the compensation payable under this Law, the competent authority shall make a determination as soon as may be convenient as to the amount payable in respect of any such claim and shall give written notice of such determination made by him.

(2) The determination under subsection (1) as to the amount of compensation payable shall be made—

(a) in respect of any lorry requisitioned for temporary use for a public purpose, having regard to the rate of hire payable by the Government in respect of such lorry in the district and the period for which such lorry has been requisitioned; and

(b) in respect of any lorry vested in the Government, having regard to the imported cost of the lorry to the registered owner, the depreciation in value for the period of its use and the condition of the lorry at the time of taking possession thereof.

(3) The determination of the competent authority, subject to any appeal under section 12, shall be final and conclusive and shall not be questioned in any court of law.

12. (1) Any person aggrieved by the decision of the competent authority on a determination made by him on a claim to compensation under this Law may within fourteen days of the receipt of the notice of determination under section 11 appeal therefrom to the Tribunal constituted for the purpose.

(2) The Tribunal shall consist of five members appointed by the Minister, on the recommendation of the Judicial Service Commission, one of whom shall be an attorney-at-law with at least five years' professional experience.

(3) Three members shall constitute the quorum of the Tribunal.

(4) The Chairman of the Tribunal shall be appointed by the members at each meeting of the Tribunal.

(5) The members of the Tribunal shall be remunerated at such rates as may be prescribed.

(6) The Tribunal may either confirm or increase the compensation determined as payable by the competent authority under section 11.

(7) The decision of the Tribunal on any appeal shall be final and conclusive and shall not be questioned in any court of law.

13. (1) The compensation payable under this Law shall be paid to the person who at the time of the requisitioning or acquisition of the lorry was the registered owner of such lorry.

(2) Where, on the date of the requisitioning or acquisition of the lorry, a person, other than the registered owner of such lorry, was by virtue of a subsisting contract entitled to possession and use of such lorry, the registered owner to whom compensation is paid shall be deemed to receive it as a trustee for such other person.

14. Any notice or direction to be given to any person under any provision of this Law shall be deemed to be given to him, if such notice or direction is sent to him by registered letter through the post.

15. Where any offence under this Law is committed by a body of persons, then

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence; and

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence :

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Law if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

Determination of compensation in respect of claims.

Appeal from a determination of compensation under section 11.

Payment of compensation.

Manner in which notice or direction may be served on persons.

Offences by bodies of persons.

Regulations.

16. (1) The Minister may make regulations in respect of all or any of the following matters:—

- (a) the term of office of the members of the Tribunal;
- (b) the mode and the manner in which appeals may be made to the Tribunal;
- (c) the procedure to be followed by the Tribunal in entertaining, hearing and deciding appeals;
- (d) all matters stated or required by this Law to be prescribed ; and
- (e) all other matters connected with or incidental to the matters aforesaid.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

Interpretation.

17. In this Law—

- " appropriate authority " means the Secretary to a Ministry or the Chairman of a public corporation;
- " competent authority " means the Commissioner of Motor Traffic within the meaning of the Motor Traffic Act or such other person as may be appointed by the Minister

by notification published in the Gazette.

" lorry " means a motor vehicle which is constructed or adapted wholly or mainly for the carriage of goods and includes a trailer so constructed or adapted and a tractor, and a contraption used for the purpose of, or in connexion with, any work of excavation or construction;

" public corporation " means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form ;

public purpose " means any service relating to—

- (a) the transport and distribution of essential foodstuffs or other goods or agricultural produce, or
- (b) any work of excavation or construction, which service is maintained or undertaken by a public corporation, Government department, local authority or co-operative society;

" registered owner ", in relation to a lorry, means the person registered for the time being as the owner of that lorry under the provisions of the Motor Traffic Act; and

" requisitioning ", with its grammatical variations and cognate expressions means, in relation to any lorry, taking possession of such lorry or requiring the lorry to be placed at the disposal of the competent authority.