

**THE ROAD TRAFFIC (AMENDMENT)
BILL (No. XVIII of 2016)**

Explanatory Memorandum

The object of this Bill is to amend the Road Traffic Act so as to provide for authorised examiners to issue, after examination of motor vehicles and trailers, certificates of fitness in respect of those motor vehicles and trailers.

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Land Transport*

12 August 2016

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ARRANGEMENT OF CLAUSES

Clause

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| 1. Short title | 8. Part VIII of principal Act repealed and replaced |
| 2. Interpretation | 9. Section 142 of principal Act amended |
| 3. Section 2 of principal Act amended | 10. Section 174 of principal Act amended |
| 4. Sections 13, 14, 15 and 16 of principal Act repealed | 11. Fourth Schedule to principal Act amended |
| 5. Section 26 of principal Act repealed | 12. Transitional provisions |
| 6. Section 29 of principal Act amended | 13. Consequential amendment |
| 7. Section 79 of principal Act amended | 14. Commencement |

A BILL

To amend the Road Traffic Act so as to provide for authorised examiners to issue certificates of fitness in respect of motor vehicles and trailers

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Road Traffic (Amendment) Act 2016.

2. Interpretation

In this Act –

“principal Act” means the Road Traffic Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

(a) by deleting the definitions of “authorised examiner” and “hybrid vehicle”;

(b) by inserting, in the appropriate alphabetical order, the following new definitions –

“authorised examiner” means a person licensed by the Commissioner to operate an examination station for the examination of motor vehicles and trailers;

“authorised officer” means any officer who is designated, in writing, by the Commissioner to exercise such powers and discharge such duties as may be assigned by the Commissioner;

“certificate of fitness” means a certificate of fitness issued under section 114;

“examination station” means an examination station approved by the Commissioner for the examination of motor vehicles and trailers;

“hybrid motor vehicle” means a motor vehicle which, for the purpose of its mechanical propulsion, has at least 2 different energy converters and 2 different on-vehicle energy storage systems;

“hybrid electric vehicle” means an electric vehicle which, for the purpose of its mechanical propulsion, draws energy from both of the following on-vehicle sources of stored energy or power –

- (a) a consumable fuel; and
- (b) an electric energy or power storage device;

4. Sections 13, 14, 15 and 16 of principal Act repealed

Sections 13, 14, 15 and 16 of the principal Act are repealed.

5. Section 26 of principal Act repealed

Section 26 of the principal Act is repealed.

6. Section 29 of principal Act amended

Section 29 of the principal Act is amended –

- (a) in subsection (3), by deleting the words “a vehicle examiner” and replacing them by the words “an authorised examiner or a vehicle examiner, as the case may be”;
- (b) in subsection (4)(b), by inserting, after the word “obstructs”, the words “an authorised examiner or”.

7. Section 79 of principal Act amended

Section 79 of the principal Act is amended, in subsection (1)(a), by inserting, after the words “determined by”, the words “an authorised examiner or”.

8. Part VIII of principal Act repealed and replaced

Part VIII of the principal Act is repealed and replaced by the following Part –

PART VIII – EXAMINATION OF MOTOR VEHICLES AND TRAILERS

112. Application of this Part

- (1) This Part shall apply to every motor vehicle and trailer.
- (2) For the issue of a certificate of fitness in respect of a motor vehicle or trailer under this Part, that motor vehicle or trailer shall –
 - (a) for the Island of Mauritius, be examined by an authorised examiner; and

- (b) for Rodrigues and Agaléga, be examined by a vehicle examiner.

113. Authorised examiners

(1) No person shall act as an authorised examiner unless he is licensed as such by the Commissioner.

(2) The Commissioner shall, at all times, ensure that –

(a) an examination station –

- (i) is properly equipped for the testing of noise and smoke emissions, brakes efficiency, lights, suspension and degree of opacity of windows and windscreens;
- (ii) is manned by an adequate number of vehicle testers;
- (iii) is fully operational during opening hours;
- (iv) is environmentally friendly and complies with any environmental law or any other enactment; and
- (v) complies with such other requirements as may be prescribed;

(b) the equipment used to carry out the examination of motor vehicles and trailers are well maintained and calibrated;

(c) the examination of motor vehicles and trailers is carried out in an automated, transparent and objective manner and in accordance with such guidelines and standards as the Commissioner may issue; and

(d) an authorised examiner keeps proper records of all vehicles and trailers examined and the records are readily available for examination.

(3) (a) The licence of an authorised examiner may, by notice in writing, be suspended or revoked by the Commissioner –

- (i) for non-compliance with any of the conditions attached to the licence or this Act; or
- (ii) where the authorised examiner is no more a fit and proper person to hold the licence.

(b) The Commissioner shall not suspend or revoke a licence without giving the authorised examiner an opportunity to make written representations against the suspension or revocation.

(c) An authorised examiner who is aggrieved by the decision of the Commissioner under paragraph (a) may, within 10 days of being notified of the suspension or revocation, appeal, on payment of such non-refundable fee as may be prescribed, to the Minister.

114. Certificate of fitness

(1) Subject to subsection (2), no person shall drive, or cause or permit a person to drive, a motor vehicle or trailer on a road unless there is in force in respect of that motor vehicle or trailer a certificate of fitness issued by an authorised examiner or a vehicle examiner, as the case may be.

(2) The Minister may, by regulations, exempt any motor vehicle or trailer from subsection (1) –

- (a) for such time or purpose as may be prescribed; or
- (b) in such area or on such road as may be prescribed.

(3) Where, on examination of a motor vehicle or trailer, an authorised examiner or a vehicle examiner is satisfied that –

- (a) the particulars contained in the application form are correct;
- (b) the particulars of the registration book conforms to the motor vehicle or trailer;
- (c) the motor vehicle or trailer complies with such requirements as to design, construction, equipment, safety standards and vehicle emission as may be prescribed;

(d) the motor vehicle or trailer is fit to be used on a road,

he shall issue a certificate of fitness to the owner of the motor vehicle or trailer.

(4) A certificate of fitness issued in respect of a motor vehicle or trailer shall –

- (a) be in such form as the Commissioner may approve;
- (b) certify that the motor vehicle or trailer is fit for the purpose for which it is to be used;
- (c) specify the period during which the motor vehicle or trailer is fit for the purpose for which it is to be used;
- (d) in the case of a public service vehicle, list the matters specified in section 79; and
- (e) specify such other matters as may be prescribed.

(5) A certificate of fitness shall, at all times, be displayed in a conspicuous place on the motor vehicle in respect of which it is issued and, in the case of a trailer, on the trailer or on the motor vehicle drawing it at the time.

115. Defects

(1) Where, on examination of a motor vehicle or trailer, an authorised examiner or a vehicle examiner is satisfied that it is in such a state of disrepair as to constitute a danger to any person conveyed in it or to other users of the road, and it does not comply with section 114(3), he shall –

- (a) issue to its owner a notice of refusal listing the defects which are to be remedied;
- (b) notify its owner of the date on which it shall be re-examined;
- (c) suspend, for safety reasons, the certificate of fitness, if any, to prevent its use until all the defects are remedied; and

(d) notify the Commissioner of the suspension of the certificate of fitness under paragraph (c).

(2) Where all the defects under subsection (1)(a) are remedied to the satisfaction of the authorised examiner or vehicle examiner, he shall, on re-examination, issue a certificate of fitness in respect of that motor vehicle or trailer and inform the Commissioner accordingly.

116. New certificate of fitness

(1) The owner of a motor vehicle or trailer shall, prior to the expiry of the current certificate of fitness in respect of his motor vehicle or trailer, have the motor vehicle or trailer examined by an authorised examiner or a vehicle examiner, as the case may be.

(2) An authorised examiner or a vehicle examiner shall issue a new certificate of fitness in respect of a motor vehicle or trailer where, after examination, he is satisfied that it complies with section 114(3).

(3) Where, in respect of a motor vehicle or trailer, a new certificate of fitness is issued within 30 days before the expiry of the current certificate of fitness, the new certificate shall be treated, for the purpose of this section, as if it were issued at the end of the expiry of the current certificate.

117. Examination of motor vehicles and trailers before registration

(1) Where an application for the registration of a motor vehicle or trailer is made pursuant to section 5(2), the Commissioner shall require its owner to have the motor vehicle or trailer examined by an authorised examiner or a vehicle examiner, as the case may be, to ensure that it complies with section 114(3).

(2) Where, on examination of the motor vehicle or trailer, the authorised examiner or vehicle examiner is satisfied that it complies with section 114(3), he shall issue a certificate of examination in respect of that motor vehicle or trailer.

118. Examination on order of Commissioner

(1) Where the Commissioner has reason to believe that a motor vehicle or trailer is in such a state of disrepair as to constitute a danger to any person conveyed in it or to other users of the road and it does not comply with section 114(3), he may order the person in charge of the motor

vehicle or trailer to have the motor vehicle or trailer examined by an authorised examiner or a vehicle examiner, as the case may be.

(2) Where the order under subsection (1) is not complied with, the Commissioner shall –

- (a) prohibit the use of the motor vehicle or trailer; and
- (b) cause seals to be affixed to the motor vehicle or trailer,

until such time as its owner satisfies the Commissioner that he has taken necessary steps to cause it to be examined by an authorised examiner or a vehicle examiner, as the case may be.

(3) Where a motor vehicle or trailer is examined pursuant to this section, an authorised examiner or a vehicle examiner shall, on being satisfied that it complies with section 114(3), validate the current certificate of fitness in respect of that motor vehicle or trailer.

119. Inspection by police officer, vehicle examiner and road transport inspector

(1) A police officer, vehicle examiner or road transport inspector in uniform, or a police officer, vehicle examiner or road transport inspector not in uniform who produces his identification card may –

- (a) stop and inspect a motor vehicle or trailer;
- (b) request the person in charge of a motor vehicle or trailer to produce the certificate of fitness or other documents in respect of the motor vehicle or trailer;
- (c) detain a motor vehicle or trailer for such time as is reasonably required for the inspection of the certificate of fitness or other documents in respect of that motor vehicle or trailer;
- (d) to ascertain whether the requirements imposed by law are complied with, test the brakes, silencers, steering gear, tyres, lighting equipment, reflectors or any other equipment of a motor vehicle or trailer;

- (e) where he holds the appropriate driving licence, drive a motor vehicle or trailer on a road to ascertain whether the motor vehicle or trailer is fit to be used on a road;
- (f) for the inspection of a motor vehicle or trailer, enter, at any reasonable time, any premises, other than private premises, where he has reason to believe the motor vehicle or trailer is kept; and
- (g) for the inspection of a motor vehicle or trailer, enter, pursuant to a warrant issued by a Magistrate, any private premises where he has reason to believe the motor vehicle or trailer is kept.

(2) (a) Where, pursuant to subsection (1), a police officer, vehicle examiner or road transport inspector has reason to believe that the motor vehicle or trailer is emitting smoke, visible vapour, fuel, oil or lubricant which is avoidable, or is otherwise not fit to be used on the road, he may prohibit its use until such time as it is examined by an authorised examiner or a vehicle examiner, as the case may be.

(b) The police officer, vehicle examiner or road transport inspector, as the case may be, shall notify the Commissioner of the prohibition made under paragraph (a).

(3) Where a prohibition made under subsection (2)(a) is not complied with, the Commissioner shall cause seals to be affixed to the motor vehicle or trailer until such time as its owner satisfies the Commissioner that he has taken necessary steps to cause it to be examined by an authorised examiner or a vehicle examiner.

120. Motor vehicle and trailer licence

(1) The Commissioner shall not issue a motor vehicle or trailer licence in respect of a motor vehicle or trailer unless a certificate of fitness covering the whole or part of the period for which the licence is to be issued is produced to him.

(2) Where, on examination of a motor vehicle or trailer, an authorised examiner or a vehicle examiner is satisfied that –

- (a) it is in such a state of disrepair as to constitute a danger to any person conveyed in that motor vehicle or trailer or to other users of the road;

- (b) it does not comply with section 114(3); or
- (c) its defects have not been remedied to the satisfaction of the authorised examiner or vehicle examiner,

the Commissioner may suspend or refuse the renewal of the motor vehicle or trailer licence in respect of that motor vehicle or trailer.

(3) (a) Where the owner of a motor vehicle or trailer is aggrieved by a suspension or refusal under subsection (2), he may, within 10 days of the suspension or refusal, appeal to the Minister on payment of such non-refundable fee as may be prescribed.

(b) The Minister may, on appeal, confirm or reverse the decision of the Commissioner.

121. Appeal under section 115 or 119

(1) Where the owner of a motor vehicle or trailer is aggrieved by –

- (a) a notice of refusal issued under section 115(1)(a);
- (b) the suspension of a certificate of fitness under section 115(1)(c);
- (c) a prohibition made by a police officer, vehicle examiner or road transport inspector under section 119(2),

in relation to his motor vehicle or trailer, he may, within 10 days of his receiving notice of the refusal, suspension or prohibition, appeal to the Commissioner on payment of such non-refundable fee as may be prescribed.

(2) (a) The Commissioner shall, on an appeal under subsection (1), cause an examination to be carried out by a designated authorised examiner or vehicle examiner, as the case may be, in the presence of an authorised officer.

(b) The authorised officer shall, after examination of the motor vehicle or trailer, forward his report to the Commissioner.

(c) The Commissioner shall, on consideration of the report –

- (i) cause the registration of the motor vehicle or trailer if he is satisfied that it complies with section 114(3);
- (ii) require the authorised examiner to issue a certificate of fitness in respect of that motor vehicle or trailer; or
- (iii) confirm the refusal, suspension or prohibition.

(3) The decision of the Commissioner under subsection (2) shall be final.

(4) Where, pursuant to subsection (2), a motor vehicle or trailer is examined, no fee shall be paid by the owner of the motor vehicle or trailer.

122. Offences

Any person who –

- (a) drives, or causes or permits a person to drive, a motor vehicle or trailer on a road without a certificate of fitness being in force in respect of that motor vehicle or trailer;
- (b) drives, or causes or permits a person to drive, a motor vehicle or trailer on a road where the certificate of fitness in respect of that motor vehicle or trailer is suspended;
- (c) drives, or causes or permits a person to drive, a motor vehicle or trailer where the use of that motor vehicle or trailer is prohibited;
- (d) fails to display in a conspicuous place on a motor vehicle, the certificate of fitness issued in respect of that motor vehicle;
- (e) fails to display in a conspicuous place on a trailer or on the motor vehicle drawing the trailer, the certificate of fitness issued in respect of that trailer;
- (f) obstructs a police officer, vehicle examiner or road transport inspector in the discharge of his duties;

- (g) when requested by a police officer, vehicle examiner or road transport inspector, fails to produce the certificate of fitness in respect of the motor vehicle or trailer of which he is in charge;
- (h) fails to permit a police officer, vehicle examiner or road transport inspector to inspect his motor vehicle or trailer;
- (i) fails to permit a police officer, vehicle examiner or road transport inspector to inspect the certificate of fitness in respect of the motor vehicle or trailer of which he is in charge;
- (j) otherwise fails to comply with this Part,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

123. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Part and, in particular, for –

- (a) the establishment and maintenance of examination stations where examination of any motor vehicle or trailer under this Part may be carried out;
- (b) the requirements relating to the design, construction, equipment and vehicle emission of that motor vehicle or trailer, for the issue of a certificate of fitness;
- (c) authorising a person to act as an authorised examiner;
- (d) conditions to be complied with by an authorised examiner;
- (e) the levying of fees in respect of the gains of an authorised examiner;
- (f) the conditions under which and the equipment with which the examination of a motor vehicle or trailer is to be carried out, and the maintenance of that equipment in an efficient state;

- (g) the manner in which any visual examination of a motor vehicle or trailer is to be carried out by an authorised examiner so that the outcome from the visual examination and any equipment used for examination, together with the complete examination of a motor vehicle or trailer for the issue of a certificate of fitness;
- (h) the inspection of examination stations at which and the equipment with which the examination of a motor vehicle or trailer is to be carried out;
- (i) the manner in which an application may be made for the examination of a motor vehicle or trailer;
- (j) the fee to be paid for the examination of motor vehicles and trailers;
- (k) the fee to be paid for any further examination of motor vehicles and trailers which have been found not to comply with this Act;
- (l) the manner in which an appeal may be brought under this Part;
- (m) the form of, and the particulars to be contained in, a certificate of fitness, its display and production on demand to any police officer or any officer authorised by the Commissioner;
- (n) the form of a notice of refusal to issue a certificate of fitness;
- (o) the conditions for the issue of a duplicate of a certificate of fitness lost or defaced and the fee payable therefore;
- (p) the custody by an authorised examiner of a register of certificates of fitness in a form to be approved by the Commissioner and the inspection of such register by such persons as the Commissioner may authorise;
- (q) the custody by an authorised examiner of such records as may be prescribed and the furnishing of returns and information, including any other documentation as the Commissioner may require.

- (2) Regulations made under this section may –
 - (a) make different provisions in respect of different motor vehicles or trailers or classes of motor vehicles or trailers; and
 - (b) provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

9. Section 142 of principal Act amended

Section 142 of the principal Act is amended, in subsection (1) –

- (a) in paragraph (b) –
 - (i) by repealing subparagraph (iii);
 - (ii) by adding the word “or” at the end of subparagraph (v);
 - (iii) by repealing subparagraphs (vi) and (vii);
- (b) by inserting, after paragraph (c), the following new paragraph –
 - (d) A vehicle examiner may, at any time, on production of his identification card, exercise, with respect to the weighing of public service vehicles and goods vehicles, all such powers as are exercisable by a police officer with respect to the weighing of motor vehicles and trailers.

10. Section 174 of principal Act amended

Section 174 of the principal Act is amended –

- (a) in subsection (1) –
 - (i) in paragraph (a), by deleting the words “a vehicle examiner” and replacing them by the words “an authorised examiner or a vehicle examiner, as the case may be,”;

- (ii) by deleting the words “vehicle examiner” and replacing them by the words “authorised examiner or vehicle examiner”;
- (b) in subsection (2), by deleting the words “the Chief Examiner” and replacing them by the words “an authorised examiner or a vehicle examiner”.

11. Fourth Schedule to principal Act amended

The Fourth Schedule to the principal Act is amended –

- (a) by deleting the following items and their corresponding entries –

Using vehicle without a valid test certificate – section (15)(1) 500

Using a motor vehicle which has been prohibited for use by a vehicle examiner – sections 13(7) and 163 500

and replacing them by the following items and their corresponding entries –

Using a motor vehicle or trailer without a valid certificate of fitness – sections 114(1) and 122(a) 500

Using a motor vehicle or trailer which has been prohibited for use by an authorised examiner or a vehicle examiner – section 122(c) 500

- (b) by deleting the following item and its corresponding entry –

Using any vehicle to which Part VIII applies without a valid certificate of fitness – sections 113 and 123 500

12. Transitional provisions

(1) Any test certificate or certificate of fitness issued in respect of a motor vehicle or trailer prior to the coming into operation of this Act shall continue to remain valid for the period for which it was issued.

(2) Any order, direction or prohibition made or issued in respect of a motor vehicle or trailer prior to the coming into operation of this Act shall be deemed to have been made or issued under this Act.

(3) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

13. Consequential amendment

The Road Traffic (Amendment) Act 1999 is amended by repealing sections 10, 11, 12(b) and (c), 13, 16, 17, 18 and 19.

14. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
