

ORISSA ACT XXXVI OF 1947
**THE ORISSA MOTOR VEHICLES (REGULATION
 OF STAGE CARRIAGE AND PUBLIC
 CARRIER'S SERVICES) ACT, 1947**

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AN ACT TO MODIFY THE PROVISIONS OF THE MOTOR VEHICLES ACT,
 1939, FOR THE BETTER REGULATION OF STAGE CARRIAGE AND
 PUBLIC CARRIER'S SERVICES IN THE PROVINCE OF ORISSA

WHEREAS it is expedient to modify the provisions of the Motor Vehicles Act, 1939, for the purpose of better regulation ^{IV of 1939} of stage carriage and public carrier's services in the Province of Orissa ;

AND WHEREAS for such purpose it is intended to form a Joint Stock Company in which the Central and the Provincial Governments shall together have controlling interests for providing in stages or in one stage a more efficient administration of the entire stage carriage and public carrier's services in the Province of Orissa ;

AND WHEREAS it is expedient to authorise the said Company to run stage carriage and public carrier's services in the Province of Orissa, to the exclusion of all other persons in the routes and areas over which it extends its activities and thereby provide for such modification of the said Act;

It is hereby enacted as follows :—

Short title,
 extent and
 commence-
 ment.

1. (1) This Act may be called the Orissa Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Act, 1947.

(2) It extends to the whole of the Province of Orissa.

(3) It shall come into force on such date as the Provincial Government may, by notification, appoint.*

Modifica-
 tion of the
 principal
 Act by this
 Act.

2 The provisions of this Act shall be read and construed as forming part of the Motor Vehicles Act, 1939 (hereinafter ^{IV of 1939} referred to as the principal Act) ;

Provided that where any of the provisions of this Act is inconsistent with or repugnant to the provisions of the principal Act, it shall prevail and the said provision of the principal Act shall be deemed to be modified to that extent.

Definition

3. In this Act the expression "Joint Stock Company" (hereinafter referred to as the Company) shall have the same meaning assigned to it in section 254 of the Indian Companies ^{VII of 1913} Act, 1913, in which the Central and the Provincial Governments shall together have controlling interests.

Power of the Provincial Government to grant permits to stage carriage and public carrier's services.

4. (1) Notwithstanding anything contained in Chapter IV of the principal Act, the Provincial Government may, if they think fit, by notification, direct that the powers conferred by the principal Act on a Provincial Transport Authority or a Regional Transport Authority shall be held in abeyance as respect the issue, renewal, suspension or transfer of permits for stage carriage services and public carrier's services and also as respects the validation of permits for such services issued by Transport Authorities of other Provinces or of India States. In issuing a notification under this sub-section, the Provincial Government may direct that it shall be effective either in the whole of the Province, or in any specified area or in respect of any specified route or routes.

(2) On the issue of a notification under sub-section (1)—

(a) the powers conferred by the principal Act on a Provincial Transport Authority or a Regional Transport Authority shall, in respect of matters specified in sub-section (1), be held in abeyance and all permits issued, renewed, transferred or countersigned in respect of stage carriage services and public carrier's services by either of those authorities shall, notwithstanding anything to the contrary in sections 58, 61 or section 62 of the principal Act, become inoperative; and

(b) the Provincial Government alone shall, to the exclusion of the Provincial Transport Authority or the Regional Transport Authority, as the case may be, have the power to issue or renew permits or to grant temporary permits or to suspend or to transfer permits under the said Chapter of the principal Act for stage carriage services and public carrier's services and to countersign the permits issued by Transport Authorities of other provinces or of Indian States.

(3) In granting or refusing to grant a permit under the said Chapter of the principal Act, the Provincial Government—

(a) shall not be bound—

(i) to take into consideration the matters specified in section 47 or 55 of the principal Act or representations made by any persons other than the applicant for the permit, or

(ii) to follow the procedure laid down in section 57 of the principal Act; and

(b) may take into consideration an application for a stage carriage permit or a public carrier's permit which has not complied with the provisions of sub-section (2) of section 57 of the principal Act.

(4) In suspending a permit the Provincial Government shall not be bound to follow the provisions of section 60 of the principal Act.

*NOTE—(1) Came into force on the 15th February 1948, by notification No. 5328-S. T., dated the 11th February 1948.

(2) Extended to all the partially-excluded areas by notification No. 5318-S. T., dated the 11th February 1948 (Vide *Orissa Gazette*, dated the 1948, Part II, ———).

(5) The Provincial Government may, if they think fit, cancel in whole or in part, the notification issued under sub-section (1) and on such cancellation—

- (a) the powers of the Provincial Transport Authority or the Regional Transport Authority held in abeyance under sub-section (2) shall, subject to the provisions of this Act and to the extent of such cancellation, revive; and
- (b) the permits issued, renewed, transferred or countersigned by the Provincial Government under clause (b) of sub-section (2) shall, subject to the provisions of section 58 or section 62 of the principal Act, continue in force for such period as may be fixed in the notification of cancellation.

Power of the Provincial Government to cancel permit or direct reduction of the number of vehicles or routes.

5. The Provincial Government may, by notification, cancel any permit granted under the provision of the principal Act or direct any reduction of the number of vehicles or routes covered by such permit or limit the number of such permits on a specified route or routes, with effect from such date as may be specified in the notification:

Provided that in cancelling a permit the Provincial Government shall not be bound to follow the provisions of section 60 of the principal Act.

Payment of compensation in respect of stage carriages and public carriers.

6. (1) When a permit (other than a temporary permit) in respect of either a stage carriage or a public carrier's service was issued, transferred or renewed by the Provincial Transport Authority or any of the Regional Transport Authorities prior to the 1st day of October 1946 and such permit becomes inoperative under sub-section (2) of section 4 or is cancelled by the Provincial Government as provided in section 5, compensation shall, on application, be payable to such permit holder in the following manner:—

- (a) for such permit for stage carriages a minimum of four hundred rupees shall be paid for each vehicle:

Provided that where such permit was continuously held for a number of years prior to the 1st day of October 1946, an additional compensation shall be paid at the rate of forty rupees for every such completed year for each vehicle, subject to a maximum total payment of two hundred rupees;

- (b) for such permit for public carrier's services a minimum of rupees three hundred shall be paid for each vehicle:

Provided that where such permit was continuously held for a number of years prior to the 1st day of October 1946, an additional compensation shall be paid at the rate of rupees thirty for each vehicle for every such completed year, subject to a maximum total payment of one hundred and fifty rupees.

The compensation provided under clauses (a) and (b) shall be payable by the Company constituted under section 3 and shall be recoverable from it on certification by the Provincial Government as a decree of a Civil Court.

(2) The Provincial Government may, subject to the provision of sub-section (1), by rule provide for payment of compensation to such permit-holders from other Provincial Governments or authorities of Indian States when their permits have been countersigned by the Provincial Transport Authority or the Regional Transport Authority of any area in the Province of Orissa.

(3) An appeal against an order relating to compensation passed under sub-section (1) or (2) shall lie to such authority as may be prescribed under section 10.

Voluntary transfer of permits to the Company.

7. Notwithstanding anything contained in section 59 of the principal Act a voluntary transfer of an existing permit for stage carriages and public carrier's services to the Company when so constituted, shall be deemed to be a valid transfer for the purposes of the Act :

Provided that reasonable notice of such transfer shall be given to the Provincial Government.

Sale by permit-holders whose permits have been cancelled.

8. When permits in respect of stage carriages and public carrier's services have been cancelled by the provincial Government under the provisions of this Act, they may, by notification, require such permit-holders or owners to sell any specified vehicle or vehicles and any other moveable or immoveable property used in connection with the operation and maintenance of such vehicle or vehicles, to the Company when so constituted, at rates assessed in the prescribed manner.

Power of the Provincial Government to give directions affecting the Company.

9. (1) The Provincial Government may, by order in writing, give any directions to the Provincial Transport Authority and any Regional Transport Authority affecting the working of the Company when constituted and thereupon notwithstanding anything contained in the principal Act such Authorities shall comply with such directions.

(2) The Provincial Government may further direct that the Provincial Transport Authority shall exercise all or any of the powers or perform any of the functions under the principal Act as modified by this Act, in respect of any of the matters affecting the Company, of a Regional Transport Authority and thereupon the Regional Transport Authority shall not exercise such powers or perform such functions.

Power to make rules.

10. (1) The Provincial Government may, after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely :—

(a) the authority for examining the applications for compensation and fixing the compensation due under section 6 ;

- (b) the procedure for examining applications for compensation, the certification of compensation and the realisation of such compensation ;
- (c) the authority to whom an appeal shall lie against any order fixing the amount of compensation and the procedure for hearing and disposing of such appeals ;
- (d) the rates to be assessed in accordance with any specified formula for sales under section 8 ; and
- (e) the enforcement of the rules including the provision of penalties for the infringement of such rules.