

CHAPTER 187

THE NATIONAL INSTITUTE OF TRANSPORT ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 187

THE NATIONAL INSTITUTE OF TRANSPORT ACT

An Act to establish the National Institute of Transport and to provide for related matters.

[1st July, 1983]

[GN No. 94 of 1983]

[Part II: 1st January, 1976]

Acts Nos.
24 of 1982
2 of 1988

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the National Institute of Transport Act.

Interpretation
GN. No.
248 of 1969

2. In this Act, unless the context otherwise requires-

“Corporation” means the National Transport Corporation established by the National Transport Corporation (Establishment) Order;

“Council” means the Council of the Institute established under section 5;

“Examination Board” means the Examination Board of the Institute established under section 10;

“Institute” means the National Institute of Transport established under section 3;

“Minister” means the Minister responsible for Transport; and

“Principal” means the Principal of the Institute appointed under section 8.

PART II

THE NATIONAL INSTITUTE OF TRANSPORT

Establishment
of Institute

3.-(1) There is hereby established an Institute known as the National Institute of Transport.

- (2) The Institute shall be a body corporate and-
 - (a) have a perpetual succession and an official seal;
 - (b) in its corporate name, be capable of suing or being sued; and
 - (c) be capable of holding, purchasing or otherwise acquiring in any other way, any movable property, and of disposing of any of its property.

Objects and
functions
of Institute

4. The functions of the Institute shall be to-

- (a) provide facilities for the study of and training in, the principles, procedures and techniques of transport management, automobile mechanics, transport operations, physical distribution and other related subjects as the Council may decide;
- (b) conduct training programmes in the subject specified in paragraph (a) and other related subject as the Council may decide;
- (c) engage in research into theoretical, operational and organisational problems and training needs in the subjects specified in paragraph (a) and in the transport sector in general, and evaluate the results achieved by the Institute's training programmes;
- (d) provide consultancy services to the Government, parastatal bodies and other bodies or persons as may be necessary;
- (e) sponsor, arrange or provide facilities for conferences and seminars;
- (f) establish departments within the Institute for the organisation and administration of its work and activities;

- (g) conduct professional examinations and grant professional diplomas, certificates of different types and other awards of the Institute;
- (h) do acts and things and enter into contracts and transactions, as are, in the opinion of the Council, expedient or necessary for the proper and efficient discharge of the functions of the Institute;
- (i) arrange for the publication and general dissemination of materials produced in connection with the work and activities of the Institute; and
- (j) establish and foster closer association with other institutions of higher learning.

PART III ADMINISTRATION

Council

5.-(1) There is hereby established Council of the National Institute of Transport.

(2) The provisions of the First Schedule shall have effect as to the composition of the Council, tenure of office of its members, the proceedings of the Council and other matters in relation to the Council and its members as provided therein.

Powers and duties
of Council

6.-(1) Subject to the provisions of this Act, the Government and control of the Institute shall be vested in the Council.

(2) In particular and without prejudice to the generality of subsection (1), the Council shall have power to-

- (a) administer the property of the Institute, both movable and immovable;
- (b) administer the funds and other assets of the Institute;
- (c) signify the acts of the Institute by use of the official seal;
- (d) receive gifts, donations, grants or other moneys on behalf of the Institute and make disbursements to other persons or bodies;
- (e) appoint officers of the Institute as it may deem necessary subject to the provisions of this Act; and

- (f) do acts or things provided for in this Act or which may, in the opinion of the Council, be necessary for the proper carrying out of the functions of the Institute.

Rules by Council

7.-(1) The Council may promulgate rules-

- (a) prescribing enrolment fees and other charges; and
- (b) subject to regulations made under this Act, prescribing the terms and conditions of service, including the appointment, dismissal, salary and retirement benefits of the members of the staff of the Institute.

(2) The Council may, after consultation with the Examination Board and institutions concerned with transport industry, promulgate rules relating generally to the academic management of the Institute and in particular to-

- (a) the qualifications necessary for entry to the Institute, the course of instruction to be provided by the Institute, the duration and number of academic terms; and
- (b) the grant of scholarships, studentships, and the revocation of any grant.

(3) The Council may promulgate rules regulating to discipline among the members of the staff of the Institute and students.

(4) It shall not be necessary for the Council to publish in the *Gazette* any rule promulgated by it under this section; and where any rule is not published, the Council shall, in a manner as it may determine, bring or cause the rule to be brought, to the notice of a person who is or likely to be affected thereby.

Principal
of Institute
Act. No.
2 of 1988 Sch.

8.-(1) There shall be a Principal of the Institute who shall be appointed by the President.

(2) The Principal shall hold office upon terms and conditions as may be specified in relation to his office.

(3) The Principal shall be the chief executive officer of the Institute and exercise function of the Institute as the Council may delegate to him to enable him to transact the day-to-day business of the Institute, and in particular, but without

prejudice to the generality of the foregoing and subject to any directions, conditions or restrictions given or imposed by the Council, the Principal shall have the power to exercise supervision and control over acts and proceedings of the employees of the Institute, and decide upon and dispose of questions relating to the terms and conditions of service of the employees of the Institute.

(4) In the exercise of the powers vested in him by this section or delegated to him by the Council, the Principal shall comply with any direction or policy of a general or specific nature given to him by the Council and shall not, without the prior approval of the Council, whether given generally or specifically, depart or permit departure from the approved estimates of expenditure or the approval establishment of the Institute or the normal procedures for dealing with any particular matter.

Appointment of
other employees

9. The Council may appoint on terms and conditions as it may consider fit, academic and administrative staff of the Institute as it may consider necessary for the proper carrying out of functions of the Institute.

PART IV

EXAMINATION BOARD

Examination
Board

10.—(1) There shall be an Examination Board of the Institute.

(2) Subject to the provisions of this Act, the Council shall determine composition of the Board and the tenure of office of its members.

(3) In making appointments of members of the Board, the Council shall ensure that, a person appointed has the necessary academic qualifications and experience to enable him to make a useful contribution to, and perform functions, of the Board.

Functions
of Board

11.—(1) The Examination Board shall be responsible to the Council for general control and regulation of the instruction,

education and research relating to studies and research on courses offered by the Institute.

- (2) In addition, the Board shall-
 - (a) satisfy itself with regard to the content and academic standard of the relevant course of study offered by the Institute in respect of any diploma, certificate and other award and to report its findings thereon to the Council;
 - (b) with the consent of the Council, make by-laws with regard to the standards of proficiency to be obtained in each examination for a relevant diploma, certificate or other award;
 - (c) to decide whether any candidate for the relevant diploma, certificate or other award, has attained the standards of proficiency prescribed in the by-laws made under paragraph (b) and is otherwise fit for the grant of diploma, certificate or other award;
 - (d) to make proposals to the Council on matters relating to the academic activities of the Institute; and
 - (e) to perform other functions as may be conferred upon it by the Council or regulations made under this Act.

PART V

FINANCIAL PROVISIONS

Funds of Institute **12.** The funds and resources of the Institute shall consist of-

- (a) moneys as may be provided for the purposes of the Institute by Parliament;
- (b) moneys as may be provided for the purposes of the Institute from other sources by way of fees, gifts, grants or otherwise;
- (c) sums as the Council may, subject to section 13, borrow for the purposes of the Institute; and
- (d) sums as may in any manner become payable to, or vested in, the Institute either under the provisions of this Act or incidental to the carrying out of its functions.

Power to borrow **13.**—(1) With the prior approval of the Minister, the Council may borrow moneys for and on behalf of the Institute by way of loan or overdraft, and upon security, terms and conditions relating to the repayment of the Principal and the payment of the interest as, the Council may deem fit.

(2) A person lending money to the Institute shall not be bound to enquire whether the borrowing of that money by the Council has been approved by the Minister.

Annual and supplementary budget **14.**—(1) In this Act “financial year” means any period not exceeding twelve consecutive months designated in that behalf by the Council:

Provided that, the first financial year after the commencement of this Act shall commence on the date of the commencement of this Act and may be of a longer or shorter period than twelve months.

(2) Not less than two months before the beginning of any financial year, other than five financial years, the Council shall at its meeting specially convened for that purpose, pass a detailed budget, in this Act called “the annual budget”, of the amounts respectively—

- (a) expected to be received; and
- (b) expected to be disbursed by the Institute during that financial year.

(3) Where in any financial year, the Council requires to make any disbursement not provided for or of an amount in excess of the amount provided for in the annual budget for that year, the Council shall, at a meeting, pass a supplementary budget detailing that disbursement.

(4) The annual budget and a supplementary budget shall be in a form and include details as the Minister may direct.

(5) Forthwith upon passing any annual budget or any supplementary budget, the Council shall submit it to the Minister for his approval.

(6) The Minister upon receipt of the annual budget or any supplementary budget, shall approve or disapprove the same or subject to amendments as he may deem fit.

(7) Where the Minister has approved any annual budget or any supplementary budget, the budget or, the supplementary budget, as amended by him, shall be binding on the Council which subject to the provisions of subsection (8), shall confine the disbursements within the items and amounts contained in the budget or supplementary budget as approved by the Minister.

(8) The Council may-

- (a) with the sanction in writing of the Minister make a disbursement notwithstanding that, the disbursement is not provided for in any budget;
- (b) from the amount of expenditure provided for in any budget in respect of any item, transfer a sum not exceeding two hundred thousand shillings, to any other item contained in the budget; and
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure limits becoming necessary.

Investment

Cap. 53

Accounts and
audit

15. With the prior approval of the Minister, the Council may invest any part of the moneys available in any fund in investments authorised by the Trustees Investments Act, for the investment of any trust fund.

16.-(1) The Council shall cause to be provided and kept proper books of account and records with respect to-

- (a) the receipt and expenditure of moneys by, and other financial transactions of the Institute; and
- (b) the assets and liabilities of the Institute; and cause to be made out for every financial year, a statement showing details of the income and expenditure of the Institute and a balance sheet in respect of its assets and liabilities.

Cap. 418

(2) Within six months of the close of a financial year, the accounts including the balance sheet of the Institute in respect of that financial year shall be audited by the Controller and Auditor-General in accordance to the Public Audit Act.

(3) As soon as the accounts of the Institute have been audited, and in any case not later than six months after the close of the financial year, the Council shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report thereon made by the auditors.

(4) An audited balance sheet shall be placed before a meeting of the Council and, where adopted by the Council shall be endorsed with a certificate that it has been adopted.

Principal's report
Act No.
2 of 1988 Sch.

17. The Principal shall, at the end of each financial year, prepare a report on the activities of the Institute during the financial year and, after the Council has approved the report, submit the report to the Minister.

Annual statement
of accounts and
report to be laid
before National
Assembly

18. The Minister shall, as soon as may be practicable and not later than twelve months after the close of a financial year, lay before the National Assembly the following documents in relation to that financial year-

- (a) a copy of the auditor's report, if any; and
- (b) a copy of the Principal's report.

PART VI

MISCELLANEOUS PROVISIONS

Remuneration
of members
of Council

19.-(1) Subject to subsection (2), members of the Council shall be entitled to remuneration, fees or allowances for expenses as the Minister may prescribe, upon the recommendation of the Council.

(2) Remuneration, fees or allowances, except allowances for expenses as may be expressly authorised by the Minister, shall not be paid to any member of the Council who is a public officer.

Delegation
of powers by
Council

20.—(1) Subject to the provisions of subsection (6), the Council may, by writing under the official seal of the Institute subject to terms, conditions and restrictions as it may specify, delegate to any Committee of the Council or to any employee of the Institute, any of the functions, powers or duties conferred or imposed by or under this Act on the Council and where any delegation is made, the delegated functions, power or duty may be performed or exercised by the delegate subject to the terms, conditions and restrictions specified by the Council.

(2) The delegation under subsection (1) may be made to the holder of an office under the Institute specifying the office but without naming the holder, and in a case where delegation is made, each successive holder of the office in question and any person who occupies or performs the duty of that office may, without any further authority, perform or exercise the delegated function, power or duty in accordance with the delegation made by the Council.

(3) The Council may revoke a delegation made by it.

(4) A delegation made under this section shall not prevent the Council from performing or exercising the function, power or duty delegated.

(5) A delegation made under this section may be published in the *Gazette*, and publication shall be judicially noticed and presumed to be in force unless the contrary is proved.

(6) The Council shall not have power under this section to delegate—

- (a) its power of delegation; or
- (b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts.

Liabilities
of member
of Council
Cap. 16
Cap. 76

21. Without prejudice to the provisions of section 284A of the Penal Code or of the Public Officers (Recovery of Debts) Act, an act or things done or omitted to be done, by any person who is a member of the Council, employee or agent of the Institute shall not subject that person to any action, liability or demand

of any kind if done or omitted *bona fide* in the execution or purported execution of his duties as the member of the Council, or employee or agent of the Institute.

Regulations

22.—(1) With the consent of the Minister, the Council may make regulations for the better carrying out of the purposes of this Act, and without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing professional diplomas, certificates of different types and other awards which may be conferred or granted by the Institute;
- (b) prescribing the conditions which may be satisfied before any diploma, certificate, or award, can be granted;
- (c) prescribing the manner in which diplomas, certificates of different types or other awards may be granted;
- (d) regulating the conduct of examinations;
- (e) prescribing fees for admission to the Institute;
- (f) prescribing fees payable by the candidates for any examination held or conducted by the Institute;
- (g) providing for and regulating disciplinary proceedings against the officers and the students of the Institute;
- (h) prescribing anything which may be prescribed under this Act; and
- (i) providing for any matter or thing which, in the opinion of the Council is necessary to provide for the more efficient performance of the functions of the Institute.

(2) Regulations made under this section shall be published in the *Gazette*.

Transition and
saving of rules
and regulations

23.—(1) Provisions of the Second Schedule shall have effect at the time of transition after the coming into operation of this Act.

(2) Subject to the provisions of the Second Schedule, rules and regulations of the Institute in force immediately prior to the date upon which this Act comes into operation, shall remain in force as if they have been made by the Council under this Act until the time as they are amended or revoked by rules or regulations made by the Council under this Act.

Consequential provisions	24. —(1) Immediately after the coming into operation of this Act, the Treasury Registrar shall assume the responsibility and management of the Transport and Vehicle Operation and Maintenance Training Fund established under the Production Development Funds Act.
Cap. 125	
Repeal	(2) Repeals the Production Development Fund (Amendment of the First Schedule) by GN. No. 27 of 1976.

FIRST SCHEDULE

(Made under section 5(2))

COUNCIL

Composition	1. The Council shall consists of- (a) the Chairman who shall be appointed by the President; and (b) other members being not less than nine who shall be appointed by the Minister.
Qualifications	2. The appointments made under paragraph 1(b) from persons with necessary experience or qualifications to enable the person to make useful a contribution to the deliberations of the Council and assist the Council in the performance of its functions.
Tenure of office	3. Subject to the provisions of this Schedule, a member shall hold office for a period of three years from the date of his appointment but he shall be eligible for re-appointment for a further one term after the end of that period.
Absence from three consecutive meetings	4. Where a member absent himself from three consecutive meetings of the Council without reasonable excuse, the Council shall advise the appointing authority of the fact and appointing authority may terminate the appointment of the member and appoint another member in his place
Appointment of temporary member	5. Where a member is by reason of illness, infirmity or absence from the United Republic, unable to attend any meeting of the Council, the appointing authority may appoint a temporary member in his place and a temporary member shall cease to hold office on the resumption of office of the substantive member.
Vice Chairman	6. The Council shall elect one of its members to be the Vice Chairman and a member elected as Vice Chairman shall, subject to his continuing to be a member, hold office of Vice Chairman for a term of one year from the date of his election and be eligible for re-election for more one term.

Power of Chairman and Vice Chairman	7.—(1) The Chairman shall preside at the meetings of the Council. (2) Where at the meeting of the Council the Chairman is absent, the Vice Chairman shall preside. (3) In the absence of both the Chairman and the Vice Chairman at the meeting of the Council, the members present may, from their number, elect a temporary Chairman who shall preside at that meeting. (4) The Chairman, Vice Chairman or a temporary Chairman presiding at the meeting of the Council, shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.
Meetings and procedure of Council	8.—(1) Subject to a general or specific direction of the Minister, the Council shall meet not less than four times during every financial year and at additional times as may be fixed by the Chairman or, where he is absent from the United Republic or unable for any reason to act, the Vice Chairman. (2) The Chairman or, in his absence from the United Republic, the Vice Chairman, may and upon application in writing by at least five members, convene a special meeting of the Council at any time.
Quorum	9. At the meeting of the Council not less than one-third of the members in office for the time being shall constitute a quorum.
Decision of Council	10. Subject to the provisions relating to a casting vote, questions at a meeting of the Council shall be determined by a majority of the votes of the members present, and where member refuses or fails to vote on any question, he shall be deemed to have cast a negative vote.
Decision by circulation of papers	11. Notwithstanding the foregoing provisions of this Schedule, decisions may be made by the Council without a meeting, by circulation of the relevant papers among members and the expression of the views of the majority thereof in writing: Provided that, a member shall be entitled to require that, any decision be deferred and the subject matter be considered at a meeting of the Council.
Seal of Institute	12.—(1) The seal of the Institute shall be of a shape, size and form as the Council may determine. (2) The seal shall be authenticated by the signature of the Principal, or any officer of the Institute as the Principal may nominate in that behalf.
Signification of other documents	13. The documents to which the Institute is a party, other than documents required by law to be under seal, and decisions of the Council, may be signified under the hand of the Principal, or the Secretary or other officer of the Institute authorised in that behalf by the Principal.
Record of proceedings of Council	14. —(1) The Council shall cause minutes of proceedings of meetings of the Council to be entered in a book kept for that purpose.

(2) The minutes if purporting to be approved by the Chairman of the next succeeding meeting of the Council shall be evidence of the proceedings and, until the contrary is proved, the meeting to which the minutes relate shall be deemed to have been duly convened and proceedings thereat to have been duly transacted.

Acts or proceedings of Council not invalid

15. An act or proceedings of the Council shall not be invalid by reason only of the number of members not being complete at the time of the act or proceedings, or of any defect in the appointment of any member or of the fact that any member was at the time disqualified or disentitled to act as such.

Council may regulate its proceedings

16. Subject to the provisions of this Schedule, the Council may regulate its proceedings.

SECOND SCHEDULE

(Made under section 23)

TRANSFER OF PROPERTY AND TRANSITIONAL PROVISIONS

GN. No.
248 of 1969

1. The provisions of this Schedule shall have effect notwithstanding the new status of the Institute after the coming into operation of this Act.

2. Any land vested in the National Transport Corporation, established by the National Transport Corporation (Establishment) Order for the purposes of the Institute, shall be transferred to, and without further assurance, vest the same interest in the Institute.

3. Upon coming into operation of this Act, the National Transport Corporation shall deliver to the Institute, or as the Council may order, movable property it holds for the purposes of the Institute prior thereto, and books, papers, documents, minutes, receipts and ledgers pertaining to the Institute and its operations.

4. Subject to the provisions of paragraph 2, assets and liabilities related to the Institute immediately prior to the coming into operation of this Act shall pass by succession to the Institute, and the Institute shall have powers necessary to take possession of, recover and deal with such assets and discharge the liabilities.

5. Subject to the provisions of paragraph 6, an agreement in relation to the Institute, whether in writing or not, to which the Corporation was a party immediately prior to the coming into operation of this Act, and whether or not the agreement was of the nature that, the rights and liabilities thereunder could be assigned, shall have the effect as from the coming into operation of this Act as if-

- (a) the Institute had been a party to the agreement; and
- (b) for any reference, however worded and whether express or implied, to the Corporation there were substituted, in respect of anything to be done or effected after the coming into operation of this Act, a reference to the Institute.

6. The appointment of any staff or employee of the Institute other than appointment of the Principal, subsisting before the coming into operation of this Act, the staff or employee so agrees, be deemed to be made by the Council under the provisions of this Act, and for the purpose of determining the rights of pension or gratuity on retirement, the service of the staff or employee shall be regarded as continuous from the time he was first appointed by the Institute.

7. A certificate, diploma or other award accordingly issued by the Institute prior to the coming into operation of this Act shall be deemed to have been issued by the Council under the provisions of this Act.

8. A proceedings in relation to the Institute pending on the coming into operation of this Act to which the Corporation was a party by virtue of being the holding Corporation, shall be continued as if the Institute was a party thereto in lieu of the Corporation.

9. Where anything has been commenced by or under the authority of the Corporation, and the things solely concerns the Institute or was done in relation to any matter transferred by this Schedule to the Institute, a thing may be carried on and completed, by or under the authority of the Council.
