

**THE MOTOR VEHICLE COMPONENTS AND
ACCESSORIES ACT, 1965**

No. 2 of 1965

Date of Assent: 30th March 1965

Date of Commencement: 13th April 1965

ARRANGEMENT OF SECTIONS

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An Act of Parliament to make provision for the control and regulation of dealings in motor vehicle components and accessories, and for other purposes incidental thereto and connected therewith

ENACTED by the Parliament of Kenya, as follows:—

Short title.

1. This Act may be cited as the Motor Vehicle Components and Accessories Act, 1965.

Interpretation.

2. (1) In this Act, except where the context otherwise requires—

“deal”, in relation to any motor vehicle components or accessories, includes buy or otherwise acquire, and sell or otherwise dispose of, motor vehicle components or accessories in the way of trade or business, whether by way of barter, pledge or otherwise, and whether as principal or agent, but does not include a transaction relating to motor vehicle components or accessories which, by reason of the circumstances thereof, the parties thereto, or the nature or quantity of the motor vehicle components or accessories involved therein, is an isolated transaction inconsistent with any form of dealing in motor vehicle components or accessories by way of trade or business;

“licence” means a licence to deal in motor vehicle components or accessories in the Nairobi Area or in a Region, as the case may be, issued under section 7 of this Act;

“licensed dealer” means a person licensed to deal in motor vehicle components or accessories under this Act, whether or not he deals in other articles or has any other trade or business;

“licensing officer” means an officer appointed as such by or under section 5 of this Act;

“motor vehicle components and accessories” means such parts of a motor vehicle, and such articles or things, or parts thereof, which are for, or are designed for or intended for use in, or on a motor vehicle, as the Minister may, by notice in the Gazette, declare to be motor vehicle components and accessories for the purposes of this Act or any subsidiary legislation made thereunder;

“stolen property” means property the possession whereof has been transferred by theft, extortion, robbery, false pretences or fraud, and property which has been criminally misappropriated or in respect of which a criminal breach of trust or cheating has been committed, whether the transfer has been made or the misappropriation or breach of trust or cheating has been committed within or outside Kenya; but does not include such property which has subsequently come into the possession of a person legally entitled to the possession thereof.

(2) Every person in whose possession motor vehicle components or accessories are found apparently exposed for sale, or who has in his possession or under his control motor vehicle components or accessories in circumstances or in quantities which raise a reasonable presumption that he has such motor vehicle components or accessories in his possession or under his control for the purpose or with the intention of dealing therewith, shall be deemed, until the contrary is proved, to be dealing in motor vehicle components or accessories.

(3) For the purposes of this Act and any subsidiary legislation made thereunder, motor vehicle components or accessories shall be deemed to be in the possession of or under the control of a person if he knowingly places or keeps the motor vehicle components or accessories in the custody or care of another person or in any house, building, lodging, apartment, field or place, open or enclosed, whether occupied by himself or not, and whether the motor vehicle components or accessories are placed or kept for his own use or benefit or for the use or benefit of another.

3. (1) No person shall deal or attempt to deal in any motor vehicle components or accessories unless he is a licensed dealer acting under and in accordance with this Act and any subsidiary legislation made thereunder and in accordance with the terms and conditions of a licence authorizing such dealing.

No person
to deal in
motor vehicle
components
or accessories
unless
licensed.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable, for a first offence, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, and

for a second or subsequent offence to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment.

Licences for the Nairobi Area or for a Region.

4. Licences issued under this Act shall be valid in respect of dealings in motor vehicle components or accessories in the Nairobi Area or the Region, as the case may be, in which they are issued.

Licensing officer.

5. For the purposes of this Act the licensing officer—

(a) in respect of the Nairobi Area shall be the Inspector-General of Police or such officer as the Inspector-General of Police may by notice in the Gazette appoint;

(b) in respect of a Region shall be the Regional Commissioner of Police.

Mode of application for licences.

6. (1) An application for the grant or renewal of a licence under this Act shall be made to the appropriate licensing officer.

(2) Such application shall be made in triplicate on the prescribed form, and shall specify the premises at which the applicant desires to deal in motor vehicle components or accessories and shall be accompanied by the prescribed fee.

Issue of licences.

7. (1) The licensing officer shall consider every application for a licence and every application for the renewal of a licence made under this Act, and may, in his discretion, issue or renew such licence or may refuse any such application.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the licensing officer may refuse any application for the issue or renewal of a licence—

(a) if the applicant has been convicted of any offence under this Act or any subsidiary legislation made thereunder at any time during the three years immediately preceding the date of the application; or

(b) if the applicant has been convicted of any offence involving fraud or dishonesty at any time during the five years immediately preceding the date of the application, and has been sentenced therefor to imprisonment for a term of six months or more, and has not received a pardon; or

(c) if the applicant is an undischarged bankrupt or a company in liquidation; or

(d) if the applicant's premises are, in the opinion of the licensing officer, unsuitable for dealing in motor vehicle components or accessories.

(3) Where a licensing officer refuses to issue or renew a licence the applicant may appeal to the Minister, whose decision thereon shall not be questioned in any court.

8. Every licence issued or renewed under section 7 of this Act shall—

Licences and renewals.

(a) be issued in the prescribed form; and

(b) expire on the 31st day of December next following the date upon which it is issued or renewed, as the case may be; and

(c) specify the person licensed as principal or agent to deal in motor vehicle components or accessories; and

(d) specify the situation of all the premises at which the licensee is authorized to deal in motor vehicle components or accessories; and

(e) be subject to such conditions as the licensing officer deems expedient, and may specify any particular motor vehicle component or accessory in which the licensee may or may not deal.

9. (1) A licence shall not be transferable except with the consent of a licensing officer and shall authorize dealing only at the premises specified therein, but the licensing officer may, on the application of a licensed dealer and upon payment of the prescribed fee, vary a licence by substituting for the premises specified therein other premises owned or occupied by the said licensed dealer, and thereupon all the provisions of this Act shall apply to such other premises in lieu of the premises originally specified in the licence.

Licences not transferable.

(2) Any licensed dealer who transfers or purports to transfer his licence to another person without the consent of a licensing officer shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

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Notice board
to be erected
by licensed
dealer.

10. (1) Every licensed dealer shall display conspicuously upon the premises specified in his licence, in such situation and manner as shall be prescribed, a notice board bearing his full name and the legend "Licensed Motor Vehicle Component and Accessory Dealer" and such other writing as may be prescribed, and the writing on the said notice board shall be of such size as shall be prescribed.

(2) If a licensed dealer fails to comply with the requirements of this section he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

Registers to
be prepared
by licensed
dealers.

11. (1) Every licensed dealer shall, within one month of the issue of his licence, prepare in duplicate a detailed register in the prescribed form, or in such other form as a licensing officer may in any particular case approve, legibly written in English or in a language approved by the licensing officer, of each motor vehicle component or accessory, with the general description of each of the items, which was at the date of the issue of the licence in his possession or under his control; the duplicate copy of such register shall be signed by the dealer and shall be forwarded to the licensing officer within the said period of one month.

(2) Any licensed dealer who fails to comply with the requirements of subsection (1) of this section or who prepares or submits a register or a copy thereof which is incorrect in any material particular, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings and, when such offence continues after conviction therefor, to a fine not exceeding one hundred shillings for each day on which such offence continues.

Record to
be kept by
licensed
dealer.

12. (1) Every licensed dealer shall keep a record in the prescribed form, or in such other form as a licensing officer may in any particular case approve, and shall legibly enter therein in English or in a language approved by the licensing officer—

(a) a detailed account of each motor vehicle component or accessory, with the general description of the items which from time to time come into his possession or under his control, stating in respect of each item the name of the person (being the licensed dealer or his servant or agent) who purchased, acquired or received the same, and the date and time of, and the consideration for the transaction, and the name,

postal address and occupation of the person from whom the same was purchased, acquired or received; and

- (b) a detailed account of each motor vehicle component or accessory, with the general description of the items which he from time to time sells or disposes of or which otherwise ceases to be in his possession or under his control, showing in respect of each item the date and time of the transaction and the name, postal address and occupation or other adequate means of identification of the person to whom he sold or disposed of or parted with possession or control of same.

(2) Every entry required to be made under subsection (1) of this section shall be made within twenty-four hours of the time when the transaction took place, and the licensed dealer shall require every party to such transaction to sign or affix his left thumb-print to such entry, and such party shall so sign or affix his left thumb-print.

(3) Any licensed dealer or other party who fails to comply with any of the requirements of subsections (1) and (2) of this section or who keeps a record which is incorrect in any material particular, shall be guilty of an offence and liable, for a first offence to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, and for a second or subsequent offence to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment.

13. Every entry in a register or record required to be prepared or kept under section 11 or section 12 of this Act shall be deemed, unless the contrary be shown, to have been made by or with the authority of the licensed dealer responsible for the preparation or maintenance of such register or record.

Presumption
as to entries
in register
or record.

14. (1) No licensed dealer shall deal in any motor vehicle components or accessories—

- (a) except between the hours of half-past six o'clock in the morning and half-past six o'clock in the evening:

Provided that nothing in this paragraph shall be deemed to prevent a licensed dealer from selling

Restriction on
dealing in
motor vehicle
components or
accessories.

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to a bona fide purchaser such motor vehicle components and accessories as such purchaser may necessarily require between the aforesaid hours; nor

- (b) with any person under the age of sixteen years, whether that person is acting or purporting to act on his own behalf or on behalf of any other person; nor
- (c) with any person who does not satisfy such licensed dealer as to his identity.

(2) No licensed dealer shall store or deal in any motor vehicle components or accessories elsewhere than at the premises specified in his licence:

Provided that a licensed dealer may, with the written permission of a licensing officer, store motor vehicle components or accessories on particular premises, being premises other than those specified in the licence.

(3) Any licensed dealer who contravenes any of the provisions of this section shall be guilty of an offence.

Restriction on disposing or changing shape or form of motor vehicle components or accessories.

15. (1) No licensed dealer shall part with the possession or control of, disfigure or in any way change the form or shape of, any motor vehicle components or accessories within seven days of acquiring the possession or control of the said motor vehicle components or accessories except with the written permission of a police officer not below the rank of Assistant Superintendent of Police.

(2) Any licensed dealer who contravenes the provisions of this section shall be guilty of an offence.

Information regarding property stolen or lost.

16. (1) Where a description of any stolen or lost motor vehicle components or accessories has been given by a police officer to a licensed dealer, and any property answering to such description is in the possession or under the control of the licensed dealer or thereafter comes into his possession or under his control or is thereafter offered or shown to the licensed dealer, he shall forthwith give information to that effect at the nearest police station or to a police officer, with the name and postal address of the person from whom he acquired such property, and such other relevant information as is known to him.

(2) Any licensed dealer who fails to comply with the provisions of this section shall be guilty of an offence.

17. (1) Any police officer not below the rank of Sub-Inspector may at any time enter upon any premises in respect of which a licence has been issued under this Act, or in respect of which he has reasonable cause to believe an offence under this Act or any subsidiary legislation made thereunder has been or is about to be committed, and may inspect such premises and any motor vehicle components or accessories, books, account registers, records, documents, or things found therein, and may require any person appearing to be in control thereof or employed therein or who has been employed therein within the last preceding three months to give such information as will enable such police officer to determine whether or not the provisions of this Act are being or have been complied with.

Power of entry.

(2) Any such police officer acting under this section may demand that any person residing or being in the premises shall allow him full ingress thereto and afford him all reasonable facilities for inspection, and if after notification of his authority and purpose ingress cannot without reasonable delay be so obtained the officer may, if he has reasonable cause to believe that the delay would be likely to imperil the efficacy of the inspection, without warrant, enter such premises and inspect the same and anything found therein, and, if necessary in order to effect such entry, break open any outer or inner door or window or other part of such premises.

(3) Before acting under this section, a police officer (unless he is in uniform) shall, if required to do so, produce documentary evidence of his appointment.

(4) Any person who obstructs or hinders a police officer in the exercise of his powers under this section, or who fails to furnish any information required of him under this section, shall be guilty of an offence.

18. (1) Subject to the provisions of subsection (3) and (4) of this section, a magistrate may order that any motor vehicle components or accessories in respect of which an offence under this Act or any subsidiary legislation made thereunder has been committed shall be forfeited.

Forfeiture of motor vehicle components or accessories.

(2) Any motor vehicle components or accessories found without an apparent owner may be seized by a police officer and shall as soon as possible be taken before a magistrate, who, if satisfied that the owner cannot be found, shall declare them or it to be forfeited.

(3) An order for the forfeiture of motor vehicle components or accessories under subsection (1) or subsection (2) of this section may be a conditional order, and upon a conditional order being made the magistrate shall direct a police officer to advertise the order in one issue of the Gazette.

(4) If, within three months from the date of the Gazette in which the advertisement issued under subsection (3) of this section appears, any person proves to the satisfaction of a magistrate that he has a lawful title to the motor vehicle components or accessories in respect of which the conditional order of forfeiture has been made, or any part thereof, and that he was not concerned in the offence (if any) in respect of which such order was made, the magistrate may order the said motor vehicle components or accessories, or such part as the magistrate considers just, to be delivered to that person subject to the prior payment of any such sum as the magistrate may direct to be paid in reimbursement of the expenses incurred in recovering, transporting and storing such motor vehicle components or accessories and in publishing such advertisement as aforesaid; in default of such an order for delivery as aforesaid, the conditional order for forfeiture shall become absolute upon the expiration of the said period of three months.

Cap. 84.

(5) The provisions of this section shall have effect notwithstanding the provisions of section 17 of the Police Act.

Cancellation
of licence.

19. (1) When any licensed dealer is convicted of any offence under this Act or any subsidiary legislation made thereunder or of any offence involving fraud or dishonesty or stolen property, his licence shall, unless the court for special reasons think fit to order otherwise, be cancelled forthwith, and the court may order that no licence shall be granted to him for such period as it thinks fit.

Cap. 75.

(2) Any person whose licence has been cancelled by a magistrate may, notwithstanding the provisions of section 348 of the Criminal Procedure Code, appeal to the Supreme Court.

(3) The appropriate licensing officer may cancel the licence of a licensed dealer—

(a) if the licensed dealer becomes bankrupt, or, being a company, goes into liquidation; or

(b) if the premises of the licensed dealer become, in the opinion of the licensing officer, unsuitable for dealing in motor vehicle components or accessories; or

(c) if the licence or renewal was obtained by fraud or misrepresentation or non-disclosure of any material fact.

(4) Any person whose licence has been cancelled by a licensing officer may appeal to the Minister, whose decision thereon shall not be questioned in any court.

20. In any proceedings under this Act the burden of proof that any transaction is an isolated transaction inconsistent with any form of dealing in motor vehicle components or accessories by way of trade or business shall lie on the accused person.

Burden of proof on accused.

21. A police officer may arrest without a warrant any person whom he suspects on reasonable grounds of having committed an offence punishable with imprisonment under this Act or any subsidiary legislation made thereunder.

Police may arrest without warrant for offences under this Act.

22. (1) No person shall export any motor vehicle components or accessories unless he has given to the police officer in charge of the police station nearest to the premises in which the motor vehicle components or accessories are stored immediately before being dispatched for export not less than seventy-two hours' notice in writing of his intention to export the motor vehicle components or accessories, specifying in such notice the premises and time at which the motor vehicle components or accessories may be inspected.

Exports and imports.

(2) Any person who contravenes the provision of this section shall be guilty of an offence.

23. (1) Where any act or thing is done or omitted to be done by any agent or servant employed by a licensed dealer which, if done or omitted to be done by such licensed dealer himself would constitute an offence under any of the provisions of this Act or any subsidiary legislation made thereunder, such licensed dealer shall be liable for such offence as if the act or thing had been done or omitted to be done by him.

Liability of dealer and servants for acts of servant.

(2) Every agent or servant employed by a licensed dealer in the course of his business as such who does or omits to do anything which would under the provisions of this Act or any subsidiary legislation made thereunder, be an offence if done or omitted to be done by the licensed dealer, shall be deemed to be guilty of such offence and shall be liable to the punishment prescribed therefor.

Penalty.

24. Any person who is guilty of an offence under this Act or any subsidiary legislation made thereunder for which no special penalty (other than forfeiture of motor vehicle components or accessories or cancellation of licence) is provided shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Power to
make rules.

25. The Minister may make rules—

- (a) prescribing the forms to be used under this Act, or any subsidiary legislation made thereunder;
- (b) prescribing the fees to be charged for licences, and for renewals, variations and duplicates thereof;
- (c) prescribing the forms of any register or record required to be kept by a licensed dealer and any particulars which are required to be entered therein;
- (d) prescribing the situation and manner in which a notice board shall be displayed by a licensed dealer upon the premises specified in his licence, the writing which it shall bear and the size of the writing thereon;
- (e) prescribing the manner in which motor vehicle components or accessories forfeited under this Act shall be disposed of;
- (f) generally for the better carrying out of the purposes or provisions of this Act.

Exemptions.

26. (1) The Minister may, by notice in the Gazette, exempt any firm or business or any description or class of firm or business from the operation of this Act.

(2) Any firm or business or dealer wishing to be considered for exemption under this section shall submit an application in writing to the Minister and shall supply such additional information as the Minister may require.