

# THE LIGHT RAIL BILL

Bill No. 21 of 2019

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## THE LIGHT RAIL BILL

(No. XXI of 2019)

### Explanatory Memorandum

The main object of this Bill is to provide for a legal framework for the operation of the Light Rail Transit system in Mauritius, and to provide for matters related thereto.

26 July 2019

**N. BODHA, G.C.S.K.**

*Minister of Public Infrastructure and Land Transport,  
Minister of Foreign Affairs, Regional Integration  
and International Trade*

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## THE LIGHT RAIL BILL

(No. XXI of 2019)

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**A BILL**

**To provide for a legal framework for the operation  
of the Light Rail Transit system in Mauritius**

ENACTED by the Parliament of Mauritius, as follows –

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the **Light Rail Act 2019**.

**2. Interpretation**

In this Act –

“Appeal Committee” means the Appeal Committee set up under the National Land Transport Authority Act 2019;

“authorised officer” means –

- (a) an officer of NLTA designated by the Chief Commissioner;
- (b) any member of the Police Force;
- (c) an employee of a light rail operator designated by the operator; or
- (d) a security officer engaged by a light rail operator.

“Chief Commissioner” means the Chief National Transport Commissioner of NLTA;

“Code of Practice” means the Code of Practice issued under section 9;

“essential light rail operating asset” means any land, plant, equipment, machinery or other property which –

- (a) is used or intended to be used, and whether or not it is also used for other purposes, by a light rail operator; and
- (b) is designated by or under the light rail operator’s licence to be an essential light rail operating asset;

“level crossing” –

- (a) means any place where a railway line crosses a road on the same level; but
- (b) does not include a railway line on a road which is intended solely for the use of light rail vehicles;

“light rail” –

- (a) means a network or system of fixed horizontal rails, tracks, grooves or other guide ways on or above the ground along which a light rail vehicle moves or runs;
- (b) includes all rails, rail track components, light rail vehicles, traction power cable, traction power supply system, supports for tracks and catenaries, sheltered linkway signaling systems, signaling facilities and signaling equipment, traffic signals or warning signs at level crossings and other infrastructure constructed or intended to be constructed for the operation of any light rail and any extension thereto;

“light rail commuter facility” means –

- (a) a pedestrian facility such as ramps, footpaths, covered pathways, escalators and stairs for facilitating access to light rail or connected to light rail;
- (b) a bicycle or vehicle parking facility for intending passengers of light rail; or
- (c) any other similar structure or facility that integrates light rail with developments surrounding that light rail by facilitating better access for passengers of light rail;

“light rail fare” means the amount paid or payable for a passenger’s conveyance in a light rail vehicle;

“light rail operator” means a company which is licensed by NLTA to operate light rail;

“light rail operator’s licence” means a licence to operate a light rail;

“light rail premises” –

- (a) means any area, space or building owned or occupied by the light rail operator which is designed and equipped for the carriage of passengers by light rail vehicles or for affording facilities incidental to the carriage of passengers by light rail vehicles; and
- (b) includes any stabling facility, light rail station, light rail operations control centre, light rail depot and light rail vehicle; but
- (c) does not include any light rail commuter facility;

“light rail station” means a designated platform, either elevated from a road where –

- (a) a light rail vehicle may stop for the purpose of allowing a passenger to get on or off the light rail vehicle; or
- (b) there is a sign indicating that the place is a light rail station;

“light rail ticket” means a ticket, including an electronic ticket, issued by a light rail operator;

“light rail vehicle” –

- (a) means a vehicle which is designed to run or move on or along a railway line for the carriage of passengers; and
- (b) includes a locomotive, rail carriage, rail wagon, rail maintenance vehicle, whether or not self-propelled, or such other vehicle as may be prescribed;

“maintenance” includes the detection and rectification of any faults in respect of any light rail, light rail commuter facility and light rail premises;

“Metro Express Ltd” means a public company incorporated as such under the Companies Act, bearing registration number 142606;

“Minister” means the Minister to whom responsibility for the subject of light rail is assigned;

“Ministry” means the Ministry responsible for the subject of light rail;

“NLTA” means the National Land Transport Authority established under the National Land Transport Authority Act 2019;

“railway line” means a track of fixed horizontal rails laid on or above the ground along which a light rail vehicle moves or runs;

“road” has the same meaning as in the Road Traffic Act;

“ticket inspector” means a person employed as such by a light rail operator;

“vehicle” –

- (a) has the same meaning as in the Road Traffic Act; but
- (b) does not include a light rail vehicle.

## **PART II – OPERATION OF LIGHT RAIL**

### **Sub-Part A – Licence to Operate Light Rail**

#### **3. Light rail operator**

(1) No person, except a company licensed by NLTA as a light rail operator, shall operate any light rail.

(2) An application to act as a light rail operator shall be made to NLTA in such form and manner as may be prescribed.

(3) NLTA shall, in determining an application made under subsection (2), have regard to the experience and any other applicable accreditations of the applicant, the financial standing of the applicant and its ability to maintain an adequate, a satisfactory, a safe and an efficient service in the public transport network.

(4) (a) Notwithstanding this section, Metro Express Ltd shall, on the commencement of this Act, be deemed to be a light rail operator.

(b) NLTA shall issue, on such conditions as it may determine, a light rail operator's licence to Metro Express Ltd and Metro Express Ltd shall abide by this Act.

### **Sub-Part B – Conditions and Restrictions to Operate Light Rail**

#### **4. Conditions of light rail operator's licence**

(1) NLTA may, in issuing a light rail operator's licence, impose such conditions as it may determine and may, in particular, impose conditions relating to the –

- (a) extent, hours and general level of services to be provided;
- (b) security and safety of persons using, or working on, the light rail;
- (c) operation and maintenance of the light rail, light rail commuter facility and light rail premises;
- (d) deposit of a security or bank guarantee to the satisfaction of NLTA for the due performance by the light rail operator of any obligation imposed on it by the licence or under this Act;
- (e) restriction on the carrying out by the light rail operator of any trade or business not related to the activity which the light rail operator is authorised by the licence to carry out;



- (f) conduct or qualifications required by the employees of the light rail operator or a person exercising a function on behalf of the light rail operator and the provision of ongoing training to such employees or person;
- (g) standards of performance to be complied with by the light rail operator in the maintenance or operation of the light rail or the provision of light rail services, including, without limitation, the standards of performance specified in any concession agreements or service level agreements, if any, entered into between NLTA and the light rail operator;
- (h) accreditation of the light rail operator; and
- (i) light rail fare collection arrangements and, where applicable, revenue sharing arrangements between NLTA and the light rail operator, and the amount of operation and maintenance fees payable to the light rail operator, if any.

(2) Without prejudice to the generality of subsection (1), conditions included in a light rail operator's licence may –

- (a) include provision for determining the terms on which any agreement is to be entered into, which may be such conditions as may be agreed to by the light rail operator and such other persons or, in default of agreement, on such terms as NLTA may determine;
- (b) include conditions which shall be complied with before the licence can be transferred or assigned;
- (c) require the light rail operator –
  - (i) to comply with any requirements imposed by NLTA with respect to such matters concerning the operation and maintenance of light rail;

- (ii) to furnish to NLTA such documents or other information as NLTA may require for the purpose of discharging its functions under this Act;
- (d) contain provisions for any condition to cease to have effect or be modified at such times as NLTA may determine;
- (e) require the light rail operator –
  - (i) to operate or maintain any extension of the light rail or part thereof;
  - (ii) to maintain any light rail commuter facility and any other premises, facilities and structures used in, or for the purposes of, or otherwise reasonably necessary for or incidental to, the operation of the light rail; or
  - (iii) to carry out any light rail vehicle driver training or any specific light rail vehicle driver accreditation as may be required by NLTA;
- (f) require the light rail operator to take necessary measures to deal with any fire, flood, earthquake or disaster, natural or otherwise, or any public emergency; and
- (g) require the light rail operator to provide travel information so as to enhance light rail passenger services, including, without limitation, any bus services.

(3) A security deposit shall be payable by every person who is issued with a light rail operator's licence, which shall be such amount as NLTA may determine and specified in the licence, after taking into account –

- (a) the relative viability of operating the light rail in the public transport network;
- (b) the long-term operational and maintenance needs of the light rail;
- (c) the recovery of capital investment costs over the long-term operating period of the light rail; and
- (d) any other relevant considerations.

## **5. Modification of conditions of light rail operator's licence**

(1) Subject to this section, NLTA may add to, delete or modify, the conditions of a light rail operator's licence.

(2) NLTA shall, before making any addition, deletion or modification to the conditions of a light rail operator's licence, give prior notice to the light rail operator –

- (a) stating that it proposes to make the addition, deletion or modification in the manner as specified in the notice; and
- (b) specifying the time, not being less than 14 days after the date of service of notice on the light rail operator, within which the light rail operator may make written representations to NLTA with respect to the proposed addition, deletion or modification.

(3) On receipt of any written representation made pursuant to subsection (2)(b), NLTA shall consider such representation and may –

- (a) reject the representation;
- (b) amend, having regard to the representation, the proposed addition, deletion or modification in such manner as it may determine; or

(c) withdraw the proposed addition, deletion or modification.

(4) Where NLTA rejects any written representation under subsection (3)(a) or amends any proposed addition, deletion or modification to the conditions of the light rail operator's licence under subsection (3)(b), NLTA shall issue a direction in writing to the light rail operator requiring the light rail operator, within the time specified by NLTA, to give effect to the addition, deletion or modification as specified in the notice or as amended by NLTA, as the case may be.

(5) If no written representation is received by NLTA within the time specified in the notice pursuant to subsection (2)(b) or if any written representation made under that subsection is subsequently withdrawn, NLTA may immediately carry out the addition, deletion or modification to the conditions of the light rail operator's licence.

(6) NLTA shall not enforce its direction pending an appeal of the light rail operator before the Appeal Committee.

## **6. Restrictions on transfer and surrender of light rails operator's licence**

- (1) No light rail operator's licence shall be transferred unless –
- (a) the licence contains a condition authorising such transfer; and
  - (b) NLTA consents in writing to such transfer.

(2) Any consent under subsection (1) may be given subject to compliance with such conditions as NLTA may impose.

(3) No light rail operator's licence shall be surrendered without the consent of NLTA, and any surrender of a licence shall be void if it is surrendered without such consent.

## **7. Restrictions on shareholdings**

(1) No light rail operator shall allow, approve or otherwise permit the creation, holding, transfer or disposal of shares in the light rail operator or interests in the undertaking

of the light rail operator or any part thereof without first giving NLTA 21 days' prior notice of the proposed creation, holding, transfer or disposal of shares in the light rail operator or interests in the undertaking of the light rail operator.

(2) Where NLTA is satisfied that it is necessary or desirable, it may impose conditions with respect to the control and restriction, directly or indirectly, on the creation, holding, transfer or disposal of shares in the light rail operator or its shareholders, or of interests in the undertaking of the light rail operator or any part thereof.

(3) Before imposing any conditions on the light rail operator under subsection (2), NLTA shall give notice to the light rail operator informing the light rail operator of the proposed conditions, and specifying the time within which representations or objections to the proposed conditions may be made by the light rail operator in connection with the proposed conditions, unless NLTA, in respect of any particular condition, considers that it is not practicable or desirable that such notice be given.

(4) NLTA shall consider any representation or objection which is duly made by the light rail operator in relation to a proposed direction following a notice under subsection (3).

(5) This section shall have effect notwithstanding any other enactment and the provisions of the memorandum or articles of association, or other constitution, of the light rail operator.

## **8. Restrictions on acquisition of essential light rail operating assets**

(1) No person shall acquire an essential light rail operating asset, or an interest in an essential light rail operating asset, unless –

- (a) the person is a light rail operator; and
- (b) NLTA consents in writing to such acquisition.

(2) Any acquisition, or a purported acquisition, of any essential light rail operating asset or part thereof, or an interest in an essential light rail operating asset or part thereof, in contravention of subsection (1), shall be void.

**Sub-Part C – Code of Practice, Directions to be Observed  
and Order to Remedy Defects**

**9. Code of Practice**

- (1) NLTA may issue a Code of Practice in connection with –
- (a) the operation and maintenance of light rail and any equipment relating thereto;
  - (b) the provision of services for the carriage of passengers in light rail vehicles;
  - (c) the conduct of a light rail operator;
  - (d) the security and safety of persons who use or who are engaged in any work in relation to the light rail; and
  - (e) the measures necessary for any light rail operator to deal with any fire, flood, earthquake or disaster, natural or otherwise, or other public emergency.

(2) Every light rail operator shall comply with the Code of Practice issued by NLTA under subsection (1), except where a provision in that Code of Practice is inconsistent with this Act, that provision shall not have effect to the extent of the inconsistency.

(3) NLTA may, where the circumstances so warrant, exempt any light rail operator from any provision in the Code of Practice, whether unconditionally or subject to such conditions as NLTA may impose, and whether permanently or for such time as NLTA may determine.

**10. Directions affecting light rail operator**

(1) NLTA may give directions to be complied with by a light rail operator for or in respect of the following matters –

- (a) the extent, hours and general level of the services to be provided by the light rail operator;
- (b) the extension of the operating hours of the services provided by the light rail operator;
- (c) the maintenance and operation of the light rail;
- (d) the provision of travel information systems so as to enhance light rail passenger services;
- (e) the security and safety of persons who use or who are engaged in any work on the light rail; and
- (f) any other matters affecting the interests of the public in connection with the services provided by the light rail operator.

(2) Any direction given under subsection (1) –

- (a) may require the light rail operator to do or to refrain from doing such things as are specified in the direction;
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under that direction; and
- (c) may be revoked at any time by NLTA.

(3) Before giving any direction to any light rail operator under subsection (1),  
NLTA–

- (a) shall give notice to the light rail operator –
  - (i) informing the light rail operator of the proposed direction and setting out its effect; and

- (ii) specifying the time within which representations or objections to the proposed direction may be made by the light rail operator in connection with the proposed direction,

unless NLTA, in respect of any particular direction, considers that it is not practicable or desirable that such notice be given; and

- (b) shall consider any representations or objections which are duly made by the light rail operator under paragraph (a)(ii).

(4) Every light rail operator shall comply with every direction given to it by NLTA under this section.

#### **11. NLTA may order defects to be remedied**

- (1) Where NLTA has reason to believe that –
  - (a) the condition of any part of any light rail which has been brought into operation, or any machinery, plant or equipment of such part; or
  - (b) the manner in which any light rail or any part thereof is being operated,

is such as to cause, or to be likely to cause, a risk of injury to any person, NLTA may, order, in writing, a light rail operator to carry out such work, or to take such steps, as NLTA may determine.

(2) An order made under subsection (1) may specify the period during which the specified work or steps shall be completed.

(3) A light rail operator which fails, without reasonable excuse, to comply with an order under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000,000 rupees.



(4) Any copy of a document which purports to be an order signed by NLTA for the purposes of subsection (1) shall, notwithstanding any other enactment –

- (a) be admitted in evidence in proceedings for an offence under subsection (3) on its production without further proof; and
- (b) be evidence of the opinion of NLTA and of the other matters contained therein.

**Sub-Part D – Provisional Order to Secure Compliance and Suspension and  
Cancellation of Light Rail Operator’s Licence**

**12. Provisional order for securing compliance**

- (1) Subject to subsections (5) and (6), where it appears to NLTA that –
- (a) a light rail operator is contravening, or is likely to contravene, any condition of its light rail operator’s licence;
  - (b) a light rail operator is not complying with the Code of Practice, the directions given under section 10 or an order under section 11; or
  - (c) the employee of a light rail operator or any agent or contractor of a light rail operator is contravening, or is likely to contravene, any condition of the light rail operator’s licence,

and that it is appropriate or requisite that a provisional order be made under this section, NLTA shall, instead of taking any decision under section 13, issue a provisional order to the operator.

- (2) A provisional order –
- (a) shall require the light rail operator to whom it relates to do, or not to do, such things as are specified in the order;

(b) shall take effect at such time, being the earliest practicable time, as specified in the provisional order; and

(c) may be revoked at any time by NLTA.

(3) In determining whether it is appropriate or requisite that a provisional order be made, NLTA shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the condition of a light rail operator's licence, is likely to be done, or omitted to be done, before a decision under section 13 may be made.

(4) Subject to subsections (5), (6) and (7), NLTA shall, by notice in writing, confirm a provisional order, with or without modifications, where –

(a) NLTA is satisfied that the light rail operator to whom the order relates –

(i) is contravening, or is likely to contravene any condition of his light rail operator's licence;

(ii) is not complying with the Code of Practice, directions given under section 10 or order under section 11; or

(iii) has failed to secure the compliance by its employees, agents or contractors with any condition of its light rail operator's licence; and

(b) the provision made by the order, with any modifications, is requisite for the purpose of securing compliance with that condition.

(5) NLTA shall not make or confirm a provisional order in relation to a light rail operator where it is satisfied –

(a) that the duties imposed on NLTA under this Act preclude the making of such an order;

- (b) that the light rail operator has agreed to take, and is taking, all necessary steps to secure compliance; or
- (c) that the contraventions were of a trivial nature.

(6) Before NLTA makes or confirms a provisional order, it shall give notice to the light rail operator –

- (a) stating that NLTA proposes to make or confirm the order and setting out its effect;
- (b) setting out –
  - (i) the relevant condition of the light rail operator's licence for the purpose of securing compliance with which the order is to be made or confirmed;
  - (ii) the acts or omissions which, in NLTA's opinion, constitute or would constitute contraventions of that condition; and
  - (iii) such other facts which, in NLTA's opinion, justify the making or confirmation of the provisional order; and
- (c) specifying the period, not being less than 28 days after the date of service of the notice, within which representations or objections with respect to the proposed provisional order or proposed confirmation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(7) NLTA shall not confirm a provisional order with modifications except –

- (a) with the consent of the light rail operator to whom the order relates; or
- (b) after –
  - (i) serving on that light rail operator such notice of the proposal to confirm the order with modifications and in that notice, specifying the period, not less than 28 days after the date of service of the notice, within which representations or objections with respect to the proposed modifications may be made; and
  - (ii) considering any representations or objections which are duly made and not withdrawn.

(8) In this section –

“provisional order” means an order under this section which, if not previously confirmed in accordance with subsection (5), shall cease to have effect at the end of such period, not exceeding 3 months, as is determined by or under the order.

### **13. Suspension or cancellation of light rail operator’s licence or forfeiture of deposit**

Where any light rail operator –

- (a) is convicted of any offence under this Act;
- (b) contravenes or fails to comply with his light rail operator’s licence;
- (c) fails or is likely to fail to provide and maintain an adequate, safe and satisfactory service;
- (d) fails to comply with a provisional order under section 12,

NLTA may, by notice in writing, suspend or cancel the licence of the light rail operator, or forfeit the whole or any part of any security deposited with NLTA.

### **PART III – LIGHT RAIL VEHICLES**

#### **Sub-Part A – Registration of Light Rail Vehicles**

#### **14. Registration with NLTA**

(1) Every light rail vehicle shall be registered with NLTA on such terms and conditions as NLTA may determine.

(2) An application for the registration of a light rail vehicle shall be made in such form and manner as may be prescribed.

(3) Notwithstanding this section, any light rail vehicle owned by Metro Express Ltd shall, on the commencement of this Act, be deemed, subject to the light rail vehicle being insured in accordance with this Act, to be registered with NLTA.

#### **Sub-Part B – Compulsory Third Party Insurance**

#### **15. Using uninsured light rail vehicle**

(1) Subject to this Part, no person shall –

- (a) drive; or
- (b) cause or permit any other person to drive,

a light rail vehicle, unless there is in force in relation to that vehicle such policy of insurance in respect of third party risks.

(2) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000,000 rupees and to imprisonment for a term not exceeding 10 years.

(3) A person charged with using a light rail vehicle in contravention of subsection (1) shall not commit an offence where he proves that –

- (a) he was using the light rail vehicle in the course of his employment;  
and
- (b) he neither knew, nor had reason to believe, that there was not in force in relation to the light rail vehicle such policy of insurance.

## **16. Policy of insurance**

(1) In order to comply with this Part, a policy of insurance shall –

- (a) be issued by an insurer licensed under the Insurance Act;
- (b) notwithstanding any other enactment, insure such person, persons or classes of persons as may be specified in the policy in respect of any liability in such amount as may be prescribed, for each occurrence or event, which may be incurred by him or them in respect of the death of, or bodily injury to, any person caused by, or arising out of, the use of the light rail vehicle; and
- (c) not be required to cover –
  - (i) any liability in respect of the death of, or bodily injury to, a person in the employ of any person insured by the policy, where the death or bodily injury arises out of and in the course of his employment;
  - (ii) except in the case of a light rail vehicle in which passengers are carried for hire or by reason of, or in pursuance of, a contract of employment, liability in respect of the death of, or bodily injury to, a person being carried in or upon, or entering

or getting on, or alighting from, the light rail vehicle at the time of the occurrence of the event out of which the claim arise; or

(iii) any contractual liability.

(2) Notwithstanding any other enactment, a person issuing a policy of insurance under this section shall be liable to indemnify up to the maximum amount specified under subsection (1)(b) the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

### **17. Void conditions of policy of insurance**

(1) A condition in a policy of insurance issued under this Part, providing that –

- (a) no liability shall arise under the policy;
- (b) any liability arising under the policy shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy,

shall be of no effect in connection with such claims as specified in section 16(1)(b).

(2) Nothing in this section shall render void a provision in a policy of insurance requiring the insured person to repay to the insurer any sum which –

- (a) the insurer may have become liable to pay under the policy; or
- (b) has been applied to the satisfaction of the claim of a third party.

### **18. Avoidance of restrictions**

(1) Where a policy of insurance purports to restrict the insurance of the persons insured by reference to –

- (a) the age, physical or mental condition of a person driving a light rail vehicle;
- (b) the fact that a person driving the light rail vehicle is not licensed to drive a light rail vehicle;
- (c) the fact that a person driving a light rail vehicle does so without the owner's consent;
- (d) the condition of a light rail vehicle;
- (e) the number of persons that a light rail vehicle carries;
- (f) the time at which, or the areas within which, a light rail vehicle is used;  
or
- (g) the value of a light rail vehicle;

shall, as respects such liabilities as are required to be covered by a policy under section 16(1)(b), be of no effect.

(2) Nothing in this section shall require an insurer to pay any sum in respect of the liability of a person otherwise than in or towards the discharge of that liability.

(3) Any sum paid by an insurer in or towards the discharge of any liability of a person which is covered by the policy by virtue only of this section shall be recoverable by the insurer from that person.

## **19. Liability of insurers**

(1) Where judgment is obtained against any person insured by a policy of insurance, the insurer shall, notwithstanding that he may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, but subject to this section, pay to the persons entitled to the benefit of the judgment any sum payable in respect of –



- (a) the liability;
  - (b) costs; and
  - (c) interest by virtue of any enactment relating to interest on judgment.
- (2) No sum shall be payable by an insurer under subsection (1) –
- (a) in respect of a judgment, unless before or within 14 days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the proceedings;
  - (b) in respect of a judgment, as long as its execution is stayed pending an appeal; or
  - (c) in connection with any liability, where, before the occurrence of the event which was the cause of the death or bodily injury giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained in it, and NLTA was informed of the cancellation and –
    - (i) before the occurrence of the event, the policy of insurance was surrendered to the insurer, or the person to whom the policy of insurance was issued, made a declaration stating that the policy of insurance had been lost or destroyed;
    - (ii) after the occurrence of the event, but before the expiry of a period of 14 days from the taking effect of the cancellation of the policy, the policy of insurance was surrendered to the insurer or the person to whom the policy of insurance was issued made the declaration under subparagraph (i); or
    - (iii) either before or after the occurrence of the event, but within the period of 14 days specified in subparagraph (ii), the insurer has commenced proceedings under this Part in respect of the failure to surrender the policy of insurance.

(3) (a) No sum shall be payable by an insurer under subsection (1) where, in an action commenced before or within 3 months after the commencement of the proceedings in which the judgment was given, he has obtained a declaration that –

(i) apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact or by the representation of fact which was false in some material particular; or

(ii) where he has avoided the policy on the ground specified in subparagraph (i), he was entitled so to do apart from any provision contained in it.

(b) An insurer who has obtained a declaration under paragraph (a) in an action shall not become entitled to the benefit of any judgment obtained in proceedings commenced before the commencement of that action unless, before, or within 7 days after, the commencement of that action, he had given notice to the person who is the plaintiff in those proceedings, specifying the non-disclosure or false representation on which he proposes to rely, and any person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party to it.

(4) Where the amount which an insurer becomes liable, under this section, to pay, in respect of a liability of a person insured by a policy, exceeds the amount for which he would, apart from this section, be liable under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(5) In this section –

“liability covered by the policy” means a liability which would be covered by the policy but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy;

“material” means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk, and, if so, at what premium and on what conditions.

### **Sub-Part C – Destruction of Light Rail Vehicles**

#### **20. Notification in case of destruction of light rail vehicles**

- (1) Where a light rail vehicle is –
  - (a) destroyed; or
  - (b) removed permanently from Mauritius,

the person who, at the material time, is the owner of that light rail vehicle shall, within 14 days of the destruction or removal, notify NLTA thereof.

- (2) Where a light rail vehicle is intended to be –
  - (a) dismantled;
  - (b) broken up; or
  - (c) scrapped,

the person who, at the material time, is the owner of the light rail vehicle shall, not later than 7 days before the dismantling, breaking up or scrapping of the vehicle, give notice in writing to the Chief Commissioner, together with such particulars as the latter may require.

### **Sub-Part D – Light Rail Driver**

#### **21. Light rail driver’s licence**

- (1) (a) No person shall drive a light rail vehicle unless he is the holder of a light rail driver’s licence from NLTA.

(b) No person shall employ, cause or permit any other person, who is not licensed under paragraph (a), to drive a light rail vehicle.

(2) A licence to drive a light rail vehicle shall not be issued unless the applicant satisfies NLTA that he –

- (a) is over the age of 21;
- (b) has been the holder of a licence to drive motor cars for at least 18 months;
- (c) is of good character; and
- (d) fulfils such other conditions as NLTA may determine.

(3) A light rail driver's licence may be suspended or revoked by NLTA on the ground that the holder is not a fit person to hold the licence by reason of –

- (a) his conduct;
- (b) physical disability; or
- (c) record of convictions.

(4) Any person who contravenes subsection (1) shall commit an offence.

(5) (a) Notwithstanding this section and subject to paragraph (b), any person employed by Metro Express Ltd to drive a light rail vehicle shall, on the commencement of this Act, be issued with a light rail driver's licence.

(b) A light rail driver's licence shall be issued subject to the person employed by Metro Express Ltd having the necessary training to drive a light rail vehicle and having the necessary qualifications.

(6) The Minister may make regulations as to the conduct of persons licensed to act as drivers of light rail vehicles.

#### **PART IV – INTERACTION OF RAILWAY LINE AND ROAD**

**22. Prohibition to drive, park, stop or walk on or across railway line**

(1) (a) Subject to paragraph (b), no person shall drive, park or stop a vehicle, or walk on or across, a railway line unless directed to do so by a police officer or permitted to do so by the light rail operator.

(b) Paragraph (a) shall not apply where a person drives a vehicle or walks, subject to this Act, on or across a level crossing.

(2) Any person who contravenes subsection (1)(a) shall commit an offence and shall, on conviction, be liable to a fine of not less than 25,000 rupees but not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

**23. Right of way**

(1) Subject to subsection (2), every light rail vehicle shall, unless directed otherwise by a police officer, have priority over any other vehicle when crossing a level crossing.

(2) Any direction given by a police officer pursuant to subsection (1) shall be made after consultation with the light rail operator.

**24. Traffic signals and warning signs at level crossings**

There shall be erected, at each level crossing, such traffic signals or warning signs as the Ministry considers necessary for the protection of persons using the level crossing.

**PART V – LIGHT RAIL FARES AND LIGHT RAIL TICKETS**

**Sub-Part A – Light Rail Fare**

**25. Power of Minister to fix light rail fares**

A light rail fare shall be payable by every person who is a passenger on a light rail vehicle, which shall be such amount as the Minister may prescribe.

### **Sub-Part B – Light Rail Ticket**

#### **26. Illegal travelling**

(1) No person shall board or travel in a light rail vehicle –

- (a) without the appropriate light rail ticket;
- (b) with a damaged, forged, altered or defaced light rail ticket;
- (c) with a light rail ticket that has expired; or
- (d) with a light rail ticket which he is not entitled to use.

(2) Subsection (1)(a) shall not apply to such person as the light rail operator may authorise.

#### **27. Conditions of light rail ticket**

(1) The holder of a light rail ticket shall not enter, travel or leave a light rail vehicle otherwise than in accordance with the conditions of its use.

(2) The holder of a light rail ticket shall leave the vehicle within such period as may be specified in the conditions of its use, failing which he shall, where he has no reasonable excuse for remaining in the after the expiry of such period, pay such administrative charge as may be prescribed.

(3) Every light rail ticket shall be produced at any time within the light rail premises on demand by any ticket inspector or any other person appointed by the light rail operator.

#### **28. Interference with light rail ticket**

(1) No person shall forge or alter with a light rail ticket.

(2) No person shall use or attempt to use a light rail ticket which has been forged or altered for the purpose of entering or leaving a light rail vehicle or travelling in a light rail vehicle.

(3) (a) A person who commits an offence under subsection (1) or (2) shall, on conviction, be liable to a fine of not less than 5,000 rupees nor more than 25,000 rupees.

(b) The offender under paragraph (a) shall, in the case of a second or subsequent conviction, be liable to a fine of not less than 25,000 rupees nor more than 50,000 rupees and to imprisonment for a term not exceeding 12 months.

## **29. Loss of light rail ticket**

(1) Where a person in a light rail vehicle has, on his own initiative, reported that he has lost his light rail ticket, he shall pay to the ticket inspector such administrative charge as may be prescribed and he shall, on such payment, be allowed to leave the light rail premises.

(2) Where the person referred to in subsection (1) refuses to pay the administrative charge, the ticket inspector shall refer the matter to the Police.

(3) Any person who commits an offence under subsection (1) shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

## **30. Light rail fare evasion**

(1) Where a ticket inspector has reasonable grounds to believe that a person who is travelling, is attempting to travel or has travelled in a light rail vehicle is evading or has evaded payment for a light rail fare, or is traveling with an expired ticket, the ticket inspector shall request that person to pay such penalty fee as may be prescribed.

(2) Where the person referred to in subsection (1) refuses to pay the penalty fee, the ticket inspector shall refer the matter to the Police.

(3) (a) A person who evades or has evaded payment under subsection (1) shall, on conviction, be liable to a fine of not less than 5,000 rupees nor more than 10,000 rupees.

(b) The offender under paragraph (a) shall, in the case of a second or subsequent conviction, be liable to a fine of not less than 10,000 rupees nor more than 50,000 rupees and to imprisonment for a term not exceeding 12 months.

(4) For the purposes of this section, a person shall be deemed to be evading payment in the following circumstances –

(a) when attempting to travel, for an intended journey on any light rail vehicle, without reasonable excuse –

(i) does not pay the required light rail fare;

(ii) attempts to travel on a concession light rail fare without being entitled to the concession;

(iii) attempts to travel on an invalid light rail ticket; or

(iv) attempts to travel on a light rail ticket in contravention of the conditions of use;

(b) in relation to all or part of a journey travelled on a light rail vehicle, without reasonable excuse –

(i) does not pay the required light rail fare;

(ii) attempts to travel on a concession light rail fare without being entitled to the concession;

(iii) attempts to travel on an invalid light rail ticket; or



- (iv) attempts to travel on a ticket in contravention of the conditions of use;
- (c) without reasonable excuse, does or omits to do any other act that is prescribed in relation to any journey or intended travel on a light rail vehicle; or
- (d) where that person, when requested by a ticket inspector –
  - (i) fails to produce to the ticket inspector any light rail ticket for his journey;
  - (ii) produces to the ticket inspector a concession light rail ticket for his journey and thereafter fails to produce evidence of his entitlement to the concession; or
  - (iii) produces to the ticket inspector a light rail ticket that, upon inspection by the ticket inspector, is an invalid light rail ticket, and then fails to produce a valid light rail ticket for his journey.

### **31. No warranty or acceptance of liability regarding light rail services**

(1) A light rail operator shall not be liable to any person for any loss or damage arising from any delay or detention caused by the alteration, suspension or withdrawal of the light rail services of the operator, or a part thereof, for any reason.

(2) A light rail operator may, in its discretion, and without being liable to any person for any loss or damage caused thereby –

- (a) suspend or discontinue the issue of light rail tickets, whether issued at an automatic vending machine located at the light rail premises or at designated retail outlets; or
- (b) suspend, discontinue or otherwise withdraw any light rail services from any light rail station, or suspend, discontinue or withdraw the running

of any light rail vehicle or alter the times of departure or arrival of any light rail vehicle.

## **PART VI – POWERS OF AUTHORISED OFFICERS**

### **Sub-Part A – Light Rail Inspector**

#### **32. Appointment of light rail inspector**

(1) NLTA may appoint any person to be a light rail inspector for the purposes of this Part.

(2) The powers conferred under section 33 or by any regulations made under this Act shall be exercised by a light rail inspector only –

- (a) for the purpose of ensuring the safety of any light rail or any part thereof; or
- (b) when a light rail inspector is empowered to do so pursuant to such regulations, for the purpose of investigating an accident on any part of any light rail.

(3) NLTA may appoint such other persons as it considers necessary to assist a light rail inspector in the performance of his duties and may, in writing, authorise any such person to exercise any powers conferred on the light rail inspector under section 33 or by any regulations made under this Act for any purpose referred to in subsection (2).

#### **33. General powers of light rail inspector**

(1) A light rail inspector may –

- (a) at all reasonable times, enter any premises to which this subsection applies;

- (b) carry out on any premises to which this subsection applies, or on any machinery, plant or equipment thereon, such tests and inspections as he considers expedient;
  - (c) require any person to whom this subsection applies –
    - (i) to do anything which the light rail inspector reasonably considers to be necessary for facilitating any test or inspection; and
    - (ii) to provide the light rail inspector with such information relating to any light rail or any machinery, plant or equipment connected with light rail as the light rail inspector may specify, and to answer any question or produce for inspection any document which is necessary for that purpose; and
  - (d) take copies of any document produced to him under paragraph (c)(ii).
- (2) Subsection (1) shall apply to –
- (a) any light rail premises and the premises of any contractor or sub-contractor who is carrying out or has carried out any work on light rail; and
  - (b) any light rail operator, any employee of any light rail operator, any contractor or sub-contractor referred to in paragraph (a) and any employee of such a contractor or sub-contractor.
- (3) Any person who –
- (a) without reasonable excuse, fails to comply with a requirement under subsection (1)(c);

- (b) knowingly furnishes to a light rail inspector or any person authorised under section 32(3), information which is false or misleading in a material particular; or
- (c) obstructs a light rail inspector or any person authorised under section 32(3) in the exercise of his powers under subsection (1),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

### **Sub-Part B – Powers to Search, Inquire, Arrest, Detain and Refuse Entry**

#### **34. Passenger searches**

(1) Where an authorised officer has reasonable grounds to believe that the security or safety of persons on any light rail premises, whether these persons are passengers of a light rail vehicle or otherwise, is endangered or threatened or otherwise, an authorised officer may inspect and search any baggage or other thing carried by a person and that person shall allow the baggage or thing to be inspected and searched.

(2) Without prejudice to subsection (3), an authorised officer may require any person who refuses to allow any baggage or thing carried by the person or apparently in the immediate control of the person to be inspected and searched to leave the light rail premises with the baggage or thing, and that person shall do so within a reasonable time.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

#### **35. Power to require evidence of identity in specific cases**

(1) An authorised officer who reasonably believes that any person has committed an offence under this Act may require that person to furnish evidence of his identity and that person shall thereupon furnish evidence of his identity as may be required by the authorised officer.

(2) Any person who refuses to furnish any information under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

### **36. Powers of arrest and detention**

(1) A police officer may, without warrant, arrest a person and detain that person found committing or whom he has reason to believe has committed an offence punishable under this Act.

(2) A person driving a light rail vehicle shall, on being required by a police officer in uniform or any officer of NLTA authorised in writing by the Chief Commissioner –

- (a) stop the light rail vehicle; and
- (b) keep the light rail vehicle stationary until authorised by the police officer or such officer of NLTA to drive it away.

### **37. Powers to refuse entry**

(1) NLTA and a light rail operator shall reserve the right to refuse entry to any person, other than a police officer, onto the light rail premises at any time.

(2) NLTA or a light rail operator may open or close any entrance to or exit from any light rail station or any other part of the light rail premises at such time as it considers expedient without incurring any liability to any person for any loss or damage arising as a result thereof.

## **PART VII – REGULATING CONDUCT OF PASSENGERS, LIGHT RAIL DRIVERS AND TICKET INSPECTORS**

### **38. Regulating conduct of passengers, light rail drivers and ticket inspectors**

(1) The Minister may make regulations generally as to the conduct of –

- (a) persons in light rail premises;
- (b) light rail drivers; and
- (c) ticket inspectors.

(2) Without prejudice to the generality of subsection (1), the Minister may, in particular, make regulations to –

- (a) authorise the removal of any passenger from a light rail vehicle by the light rail driver or ticket inspector of the vehicle or, at the request of the driver or ticket inspector, by any police officer;
- (b) require a passenger in a light rail vehicle who is reasonably suspected by the light rail driver or ticket inspector of the vehicle of contravening this Act to give his name and address to a police officer or to the driver or ticket inspector on demand;
- (c) require a passenger in a light rail vehicle to declare, if so requested by the light rail driver or ticket inspector of the vehicle, the journey he intends to take or has taken in the vehicle, and to pay the light rail fare on demand for the whole of the journey and to accept any ticket provided for it;
- (d) require, on demand being made by the light rail driver or ticket inspector of a light rail vehicle, to produce during the journey and surrender at the end of the journey by the holder of any light rail ticket issued to him;
- (e) require a passenger in a light rail vehicle, if so requested by the light rail driver or ticket inspector of the vehicle, to leave the vehicle on the completion of the journey for which he has paid the fare;
- (f) require the surrender by the holder of a light rail ticket issued to him on the expiry of the period for which it is issued;

- (g) regulate the conduct of persons waiting to enter light rail vehicles, and the priority of entry into those vehicles, and provide for queues or lines to be formed and kept by those persons; and
- (h) authorise the erection and maintenance of such barriers and posts as appear necessary for regulating the conduct of persons waiting to enter light rail vehicles.

(3) Any person who contravenes any regulation made under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

## **PART VIII – MISCELLANEOUS**

### **39. Appeal**

- (1) Any light rail operator aggrieved by –
  - (a) any licence condition imposed by NLTA under section 4(1)(f) or (g) or (2);
  - (b) any addition, deletion or modification to the conditions of its licence under section 5;
  - (c) any code of practice issued under this Act;
  - (d) any direction given by NLTA under this Act;
  - (e) any confirmed provisional order under this Act;
  - (f) the refusal of NLTA to renew its licence; or
  - (g) the suspension or revocation of its licence,

may appeal to the Appeal Committee by giving written notice to NLTA and lodging his appeal with the Secretary of the Appeal Committee not later than 21 days after the decision of NLTA is communicated to him.

(2) The Appeal Committee may determine an appeal under this section by confirming, varying or reversing any decision of NLTA or by amending any licence condition, code of practice or direction affecting the light rail operator.

#### **40. Exemption**

The Minister may, by Order published in the Gazette, exempt any person from the provisions of this Act.

#### **41. Offence of wilfully endangering safety**

Any person who wilfully does or omits to do anything in relation to any light rail as a result of which the safety of any person travelling in a light rail vehicle is endangered, or is likely to be endangered, shall commit an offence and shall, on conviction, be liable to a fine of not less than 100,000 rupees and not exceeding 500,000 and to imprisonment for a term not exceeding 5 years.

#### **42. Damage to light rail, light rail vehicle or light rail premises**

Any person who wilfully removes, destroys or damages any light rail, light rail vehicle or light rail premises or any part thereof shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

#### **43. Compensation for damaging light rail, light rail vehicle or light rail premises**

Any person who removes, destroys or damages, whether wilfully or otherwise, any light rail, light rail vehicle or light rail premises or any part thereof shall, in addition to any penalty for which he is liable for an offence under this Act or any other enactment, be liable to pay compensation for the damage he has done and the compensation shall be recoverable by civil action or suit before any Court of competent jurisdiction.

#### **44. Offences**



Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable, where no penalty is provided, to a fine not exceeding 1,000,000 rupees and imprisonment for a term not exceeding 5 years.

#### **45. Regulations**

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for –

- (a) controlling and regulating –
  - (i) the maintenance and operation of any light rail;
  - (ii) the work and conduct of the light rail operator;
  - (iii) a system for evidencing, whether by the issue of light rail tickets or otherwise, the payment of light rail fares on light rail and any contract of carriage of passengers thereon;
  - (iv) the custody and disposal of property found on light rail premises; and
  - (v) any activity which may damage light rail, a light rail vehicle or light rail premises or which may endanger the safety of any person travelling in a light rail vehicle or in or around any light rail premises;
- (b) providing the safety of persons using or engaged in work on any light rail;
- (c) prescribing the conditions relating to the use of light rail premises;
- (d) protecting the property of the light rail operator on light rail premises;

- (e) investigation and notification of accidents;
- (f) the badges to be worn by light rail drivers and ticket inspectors;
- (g) the means by which light rail vehicles are to be identified, whether by plates, marks or otherwise, as being authorised vehicles, and the provision of distinguishing words, letters, numbers, colours or marks being or not being placed on or affixed to the vehicles;
- (h) the custody of licences, production, return and cancellation of licences on expiry, suspension or revocation, and the custody, production, return and obliteration of documents, badges, plates and marks;
- (i) the determination of the number of passengers which a light rail vehicle is adapted to carry and the number which it may carry;
- (j) the control of advertisements on light rail premises and light rail vehicles;
- (k) the light rail fares and rates chargeable under this Act in respect of light rail vehicles;
- (l) keeping the light rail free from traffic and preventing any person from passing thereon;
- (m) goods that are prohibited in light rail vehicles;
- (n) anything connected, consequential or incidental to third party insurance.

(3) Any regulations made under this Act may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

#### **46. Consequential amendment**

The Local Government Act is amended, in section 63, by repealing subsection (2).

**47. 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.

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