

Queensland



# TRAFFIC ACT 1949

**Reprinted as in force on 24 December 1993  
(includes amendments up to Act No. 70 of 1993)**

**Reprint No. 1**

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the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This Act is reprinted as at 24 December 1993. As required by section 5 of the Reprints Act 1992, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the Reprints Act 1992, the reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the Reprints Act 1992, to do the following—

- use citations and references permitted by Division 2 of that Act;
- use updated references permitted by Division 3 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use gender neutral office names as permitted by section 25 of that Act;
- use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 39 and 40 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act;
- omit the enacting words as permitted by section 42A of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act;
- correct minor errors as permitted by section 44 of that Act.

**Also see Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

# Queensland



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# TRAFFIC ACT 1949

[as amended by all amendments that commenced before 24 December 19932]

**An Act to consolidate and amend the law relating to vehicular and other traffic, and for other purposes**

## PART 1—PRELIMINARY

### Short title

**1.(1)** This Act may be cited as the *Traffic Act 1949*3–8.

### Commencement of Act

**(2)** Except as herein otherwise provided, this Act shall come into operation on a date to be fixed by the Governor in Council by proclamation published in the Gazette.

**(3)** Different dates may be so fixed upon which the several Parts and the Schedule shall respectively come into operation, and, in that event, any Part or the Schedule shall come into operation upon the date fixed by the Governor in Council by the proclamation published in the Gazette in relation to it.

**(4)** Any reference in a provision of this Act to the commencement or coming into operation of this Act means the date upon which the Part or, as the case may be, the Schedule in which that provision appears comes into operation.

### Effect of Act on functions etc. of local authorities

**5.(1)** Except as provided by this Act and notwithstanding anything contained in the *Local Government Act 1936*, or in the *City of Brisbane Act 1960*, a local authority or Brisbane City Council shall not, on or after the commencement of this Act—

- (a) make any by-law, or in the case of Brisbane City Council any ordinance, in relation to any matter or thing provided for in this Act, including any matter or thing for or in respect of which regulations may be made under this Act; or
- (b) have, exercise, perform, or be liable for any power, function, authority, or duty which under this Act is conferred or imposed upon or required or authorised to be performed or exercised by the Commissioner, a District Superintendent, a Superintendent, or the Director-General.

**(2)** The Governor in Council may by regulation under this Act repeal any ordinance or by-law made by Brisbane City Council or a local authority before and in force at the commencement of this Act and which this Act prohibits Brisbane City Council or, as the case may be, such local authority from making on or after the commencement hereof, but unless so repealed every such ordinance or by-law shall, in so far as it is not inconsistent with the provisions of this Act, remain and be deemed to remain in force until the expiration of the period of 6 months next succeeding the commencement of this Act and upon the expiration of such period shall be and be deemed to be repealed.

**(2A)** Every ordinance or by-law continued in force by this section shall, while it is so continued in force, be deemed to be a regulation made under the authority of this Act with respect to the area of the City of Brisbane or of the local authority in question, as the case may be.

**(2B)** Any reference in any such ordinance or by-law to Brisbane City Council, a local authority, or the mayor, chairperson, a councillor, or a member of Brisbane City Council or of a local authority, as the case may be, shall, for the purpose of the continuation in force of the ordinance or by-law as a regulation under subsection (2A), be read and construed as referring to the Commissioner, and reference therein to inspectors and other officers charged with the control of traffic shall for that purpose be read and construed as referring to police officers.

**(3)** A licence, permit, certificate, or registration made, granted, or issued by a local authority or by Brisbane City Council in respect of a person, vehicle, animal or any other matter or thing, and required by this Act to be applied for and made, granted, or issued under this Act, shall, if made, granted, or issued by the local authority or by Brisbane City Council prior to and in force at the commencement of this Act, continue and be deemed to

continue in force under and subject to the applicable by-laws of that local authority or, as the case may be, the applicable ordinances of Brisbane City Council while such by-laws or ordinances remain in force and if such licence, permit, certificate, or registration then still remains in force, thereafter under and subject to this Act until that licence, permit, certificate or registration expires by effluxion of time or until it is sooner cancelled, suspended, withdrawn, or surrendered under this Act, whichever event shall first happen.

(4) The provisions of this Act shall be read and construed—

- (a) so as not to prejudice, limit or otherwise affect section 31(29) or section 35(23) of the *Local Government Act 1936*; and
- (b) so as not to prejudice, limit, or otherwise affect a local authority or Brisbane City Council in the exercise and performance of any power, function, authority or duty which is not inconsistent with the provisions of this Act; and
- (c) so as not to prejudice, limit or otherwise affect the validity of any by-law, ordinance, prohibition, direction or other act or thing made, given or done by a local authority or by Brisbane City Council under or pursuant to the provisions of the *Local Government Act 1936* hereinbefore in this subsection specified, or under or pursuant to any power, function, authority or duty hereinbefore in this subsection mentioned.

**Power to control certain traffic and obstructions in roads vested in local authority**

(6) Notwithstanding subsections (1) to (5) the power of a local authority to make by-laws or, in the case of Brisbane City Council, ordinances under the *Local Government Act 1936* or under that Act and the *City of Brisbane Act 1924* includes power to make by-laws or ordinances, and accordingly a local authority or Brisbane City Council may make by-laws or ordinances, with respect to all or any of the following matters—

- (a) the prohibition, regulation and control of the driving, riding, leading, wheeling or standing of vehicles or animals in, on or across a footway, water-channel or gutter and the seizure, removal, detention and disposal of any of them which are found under circumstances which constitute an offence against such by-laws or, as the case may be, ordinances;

- (aa) the prohibition, regulation and control of the use of any part of a footway for the purpose of providing food or drink or both to members of the public;
- (ab) the prohibition, regulation and control of the advertising upon any road of any business including by means of the distribution of any handbill or other printed or written matter;
- (b) the prohibition, regulation and control of the washing or cleansing, painting, repairing, alteration or maintenance of vehicles in, on or over a road;
- (c) the prohibition, regulation and control of the stacking, storing or exposure of goods in, on or over a road and the seizure, removal, detention and disposal of any goods so stacked, stored or exposed;
- (d) making provision for and the prohibition, regulation and control of the setting-up and use in or on a road of stalls, booths, stands or standing vehicles for a purpose of or connected with the carrying on of any business, calling or employment other than the setting-up and use of a booth for religious, charitable, educational or political purposes or of a booth to be used at or near a polling place for, or for a meeting in connection with, an election in respect of either House of the Commonwealth Parliament, the Legislative Assembly or a local authority.

**(6A)** Without in any way limiting the matters which are not included within the ordinary scope and meaning of the subject matter of the powers conferred by subsection (6)(a) such subject matter shall not include, in particular, any of the following matters—

- (a) the right of way of any vehicle or animal so driven, ridden, led or wheeled;
- (b) the qualification of a person to drive a motor vehicle;
- (c) the driving of or attempting to put in motion or occupying the driving seat of or being in charge of a motor vehicle whilst under the influence of liquor or a drug;
- (d) the driving or being in charge of a horse or other animal or the driving or being in charge of a vehicle (other than a motor vehicle) or attempting to put in motion any vehicle (other than a motor

vehicle) whilst under the influence of liquor or a drug;

- (e) the manner of driving of a vehicle or animal including the driving of the same dangerously or without due care and attention or without reasonable consideration for other persons or negligently, recklessly or at a speed in excess of the maximum speed at which the vehicle may lawfully be driven.

(7) When a local authority has made a by-law or, as the case may be, an ordinance, with respect to any of the matters specified in subsections (6) and (6A) as being within the powers of the local authority the provisions of this Act concerning that matter shall cease to have force and effect in the area of the local authority which has made such by-law or ordinance or, if such by-law or ordinance has been made to apply to 1 or more parts only of such area then the provisions of this Act concerning that matter shall cease to have force and effect in such part or parts.

(8) The revocation of the by-law or ordinance shall not revive the provision in question of this Act.

### **Advisory committee**

**7A.(1)** The Director-General, who shall be chairperson, and the Commissioner shall constitute an advisory committee to report to the Minister from time to time on the operation of this Act and the regulations made under it.

### **Delegation by Director-General**

(3) The Director-General may from time to time, in relation to any matters or class of matters, or in relation to a particular part of the State, by signed instrument, delegate all or any of his or her powers, functions, authorities and duties under this Act as may be specified in the instrument (other than this power of delegation) so that the delegated powers, functions, authorities and duties may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters or in relation to the particular part of the State specified in the instrument of delegation.

(4) Any delegation under subsection (3) may, if the Director-General deems it so desirable, be made by the delegation of all or any of the Director-General's powers, functions, authorities and duties under this Act

as may be specified in the delegation to the holder of an office specifying the office but without naming the holder, and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while the person holds or occupies or performs the duties of that office every delegated power, authority, function or duty with respect to the matters or class of matters or in relation to the particular part of the State specified in the instrument of delegation.

(5) Where, by or under this Act, the exercise of a power, function or authority or the performance of a duty of the Director-General is dependent upon the opinion, belief, or state of mind of the Director-General in relation to any matter, that power, function or authority may be exercised or the duty performed, upon the opinion, belief, or state of mind of the person to whom it is delegated by an instrument of delegation under subsection (3).

(6) The Director-General may, at will, revoke a delegation made under subsection (3).

(7) No delegation shall prevent the exercise of any power, function or authority, or the performance of any duty by the Director-General.

(8) The Director-General may make such and so many delegations under subsection (3) and to such number of persons, as the Director-General may consider necessary or desirable.

(9) Any delegation under subsection (3) may be published in the Gazette and upon such publication shall be judicially noticed.

### **Delegation by Director-General**

**7B.(1)** The Director-General may from time to time, in relation to any matters or class of matters, or in relation to a particular part of the State, by signed writing, delegate all or any of the Director-General's powers, functions, authorities and duties under this Act as may be specified in the writing (other than this power of delegation) so that any delegated power, function, authority or duty may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(2) Any delegation under this section may, if the Director-General

considers it so desirable, be made by the delegation of all or any of the Director-General's powers, functions, authorities and duties under this Act as may be specified in the delegation to the holder of an office specifying the office but without naming the holder, and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while the person holds or occupies or performs the duties of that office every delegated power, function, authority or duty with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(3) The Director-General may make any such delegation subject to such terms, conditions and limitations as the Director-General shall specify in the writing.

(4) Where under this Act the exercise of a power, function or authority or performance of a duty of the Director-General is dependent upon the opinion, belief or state of mind of the Director-General in relation to any matter, that power, function, authority or duty may be exercised or performed upon the opinion, belief or state of mind of the person to whom it is delegated under this section.

(5) The Director-General may, at will, revoke a delegation made under this section, and a delegation shall not prevent the exercise of any power, function, authority or duty by the Director-General.

(6) The Director-General may make such and so many delegations under this section and to such number of persons and either at any one and the same time or from time to time as the Director-General may consider necessary or desirable.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done or suffered had been done or suffered by the Director-General.

(8) Any delegation may be published in the Gazette and upon such publication shall be judicially noticed and presumed in force until the contrary is proved.

### **Act to apply to privately constructed road traffic facilities and tramways on roads**

8. The provisions of this Act including the regulations hereunder shall apply to and with respect to road traffic facilities authorised and constructed under the *Tolls on Privately Constructed Road Traffic Facilities Act 1931*, and to and with respect to tramways (whether a tramway within the meaning of the definition of “tramway” in section 9 or not) constructed, managed and worked on roads under section 35(24) of the *Local Government Act 1936* or under any other Act, and where at any time and from time to time the Governor in Council is of opinion that by reason of the application of any provision of this Act including any regulation hereunder to any such road traffic facility or tramway, as the case may be, it is desirable or expedient to revoke, amend, alter or otherwise modify any by-law relating to that road traffic facility made under the *Tolls on Privately Constructed Road Traffic Facilities Act 1931* or any by-law, rule, or regulation relating to any such tramway made under the *Local Government Act 1936* or, as the case may be, other Act, the Governor in Council may do so by notice published in the Gazette.

### **Interpretation**

9. In this Act—

“**address**” means place of residence or, in the case of the owner of a vehicle in respect of which a licence has issued under this Act, the owner’s place of residence or the place at which the owner carries on business or, in the case of a corporation incorporated or registered in Queensland under any Act, its registered office or, if the corporation is not so incorporated or registered in Queensland, the principal place where it carries on business in Queensland, and includes all such information and particulars as will enable such place of residence or of business to be readily and exactly located;

“**air cushion vehicle**” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“**analyst**” means an analyst under and within the meaning of the *Health Act 1937*;



**“animal”** means any animal of any sex or age belonging to a species to which any of the following animals belong, namely, horse, cow, mule, donkey, camel, sheep, pig, dog, or goat;

**“area”** means an area under and within the meaning of the *Local Government Act 1936* and, in relation to Brisbane City Council, means the City of Brisbane as constituted and defined by and under the *City of Brisbane Act 1924*;

**“arrest”**, used with reference to persons, means arrest without any warrant other than this Act and the taking of such person to a police station, there to be detained (unless the person is released upon bail or recognisance) until the person can be brought before a Court to be dealt with according to law;

**“articulated motor omnibus”** means any motor omnibus consisting of 2 or more rigid sections with access between the sections for passengers, the rear sections of which is connected to the front section so as to allow rotary movement between the sections;

**“articulated motor vehicle”** means a combination of a prime mover and a semitrailer;

**“articulated vehicle”** means any vehicle having at the rear thereof a portion on wheels which is pivoted on and partly superimposed on the forward part of the vehicle;

**“authorised officer”** means any police officer, and any person appointed as such in writing by the Director-General;

**“B-double”** means a combination of vehicles consisting of a prime mover towing 2 semitrailers, with 1 semitrailer superimposed on, and connected to the semitrailer directly connected to the prime mover;

**“bicycle”** means any vehicle having 2 wheels and designed for propulsion wholly by human power;

**“bus”** means a motor omnibus;

**“by-law”** means a by-law made by a local authority or an ordinance made by Brisbane City Council under the *Local Government Act 1936* or under the *City of Brisbane Act 1924*;

**“caravan trailer”** means any trailer fitted, equipped, or used principally for camping or as a dwelling or for carrying on any trade or business;

**“carriageway”** means a road or that portion of a road formed, prepared, or set aside for the use of vehicles, and is not intended to exclude the use of such a road or such portion of a road by pedestrians when necessary;

**“certificate”** means any certificate, including any renewal thereof, issued under this Act and in force at any material time;

**“city”** means the area of the City of Brisbane and the area of every other local authority which is a city;

**“coin”** means a coin made and used under the *Currency Act 1965* (Cwlth) or that Act as amended and in force for the time being;

**“commercial vehicle”**, in relation to standing in a loading zone, means—

- (a) any horse drawn vehicle constructed fitted or equipped for the carriage of goods;
- (b) any motor vehicle (excluding any motor car, station sedan, station wagon or motor cycle) constructed fitted or equipped for the carriage of goods;
- (c) any motor vehicle constructed fitted or equipped for the carriage of persons to which is affixed a form of identification as an approved commercial vehicle—
  - (i) issued by any local authority pursuant to a scheme instituted pursuant to a by-law made by the local authority under section 44B(14); and
  - (ii) conforming in all respects (whether as to design or otherwise) with the directions in relation thereto contained in the Manual of Uniform Traffic Control Devices;

**“Commissioner”** means the Commissioner of the Police Service within the meaning of the *Police Service Administration Act 1990* or the person who for the time being occupies the office or performs the duties of the said Commissioner of the Police Service;

**“complaint”** includes information, information and complaint before justices, and charge;

**“Court”** means a Magistrates Court constituted under the *Justices Act 1886*;

**“declared road”** means a declared road under and within the meaning of the *Main Roads Act 1920*;

**“designated parking space”** means a space on a road or off-street regulated parking area that is defined by an official traffic sign to be a designated parking space, and includes a metered space or a parkatarea space;

**“Director-General”** means the chief executive by whatever title of office the chief executive is known, of the department and includes any officer temporarily discharging the responsibilities of the chief executive;

**“district superintendent”** means any district superintendent of traffic;

**“driver”** means the person driving or in charge of any vehicle, tram, train, vessel, or animal, and, in relation to a trailer, the person driving or in charge of the vehicle to or by which that trailer is attached or drawn, and includes the rider of a vehicle or animal and in applying it so as to include the rider of a vehicle or animal the word ‘drive’ and derivatives of that word shall, where used in this Act in relation to a vehicle or animal, be read as including ‘ride’ or, as the case requires, the corresponding derivative of ‘ride’;

**“driver’s licence”** means a licence, including a learner’s permit, and any renewal of that licence under Part 3 authorising the licensee to drive on any road any motor vehicle to which that driver’s licence is applicable and in force at any material time, and also includes any driving licence or driving permit issued under the law of any other State or Territory of the Commonwealth of Australia or any other country which, under the regulations made under this Act, is at any time deemed to be equivalent in Queensland to and accepted in lieu of a driver’s licence for the purpose of authorising the holder thereof to drive in Queensland any vehicle of the class or description to the driving of which the said driving licence or driving permit is applicable;

**“drug”** means every substance or article which is a dangerous drug under and within the meaning of the *Health Act 1937* or any other substance, article, preparation or mixture (with the exception of liquor) whether gaseous, liquid, solid, or in any other form which, when consumed or used by any person, deprives the person either temporarily or permanently of any of the person’s normal mental or physical faculties;

**“fixed hours”**, in relation to a designated parking space, means the hours during, and days on, which paid parking only is permitted in the designated parking space;

**“footway”** includes that part of a road set apart for the use of pedestrians and every footway, pavement, lane, thoroughfare, or other part of a road habitually used by pedestrians and not by vehicles other than bicycles where the use of bicycles thereon is authorised under this Act, and is not intended to exclude the use of a footway for the purpose of the crossing thereof at, or substantially at, right angles thereto by any vehicle making entry to or exit from premises;

**“goods”** includes any wares, merchandise, chattels, money, stone, timber, metal, fluid, and any other article, substance, or material whatsoever, and also includes animals;

**“gross weight”** means the weight of a vehicle including the tare of the vehicle and the load therein or thereon at a material time;

**“horse”** includes any horse, mare, gelding, ass, mule or other draught animal or beast of burden;

**“justices”** means justices of the peace;

**“left”** or **“nearside”** means the left or nearside reckoned by reference to the direction in or towards which a person, vehicle, tram, train, or animal is proceeding or facing at the material time, and is not affected by reason only of a vehicle, tram, train, or animal being driven temporarily backwards;

**“licence”** means any licence, permit, or certificate, and any renewal thereof issued under this Act and in force at any material time, and any endorsement made on any licence under this Act shall be regarded as forming part of that licence;

**“licensed”** means licensed under and in accordance with this Act;

**“licensee”**, when used with reference to a licence of any kind, class, or description, means the holder of that licence;

**“liquor”** means wines, spirits, beer, ale, porter, stout, cider, perry, or any other spirituous or fermented fluid containing  $3\frac{1}{2}\%$  or more than  $3\frac{1}{2}\%$  of proof spirit by volume, or any spirituous or fermented fluid whatever of an intoxicating nature;

**“loading zone”** means a section or part of a road defined by an official traffic sign and set aside for the standing, in conformity with the sign, in that section or part of vehicles or horses—

(a) of a class indicated by the sign, be it, in the case of vehicles, commercial vehicles, motor trucks, motor utility trucks, or any other class of vehicle;

(b) where no class is so indicated, generally;

whilst actually engaged in the purpose indicated by the sign or, where no purpose is so indicated in picking up or setting down passengers or loading or unloading goods and, in any case for a period not exceeding—

(c) 2 minutes or such other period as is indicated by the sign in picking up or setting down passengers; or

(d) 20 minutes or such other period as is indicated by the sign in loading or unloading goods;

**“local authority”** means a local authority within the meaning of the *Local Government Act 1936*, and includes Brisbane City Council;

**“Manual of Uniform Traffic Control Devices”** means the Manual of Uniform Traffic Control Devices (Queensland) issued by the Director-General, and includes that manual as amended from time to time by the Director-General;

**“mechanical power”** means any motive power not being human or animal power;

**“metered space”** means a space on a road or off-street regulated parking area defined by an official traffic sign to be a metered space;

**“Metropolitan Traffic District”** means the area of the City of Brisbane and so much of the Brisbane Police District as constituted for the time being as is situated outside of the area of the City of Brisbane;

**“moped”** means any motor vehicle which—

(a) has 2 or 3 wheels; and

(b) has a maximum speed of 50 km per hour or less; and

(c) if it has a piston engine, has an engine cylinder capacity of 50 mL or less; and

- (d) is not a power-based bicycle or tricycle (that is to say, a bicycle or tricycle to which is attached 1 or more auxiliary propulsion motors having a combined maximum power output of 200 W or less);

**“motor car”** means any motor vehicle, other than a motorcycle, which does not exceed 4.5 t gross vehicle mass and which is not equipped to carry more than 12 adult passengers;

**“motor cycle”** means any motor vehicle having less than 4 wheels which does not exceed 1.0 t gross vehicle mass, but does not include a moped;

**“motor omnibus”** means any motor vehicle constructed, fitted, equipped or used principally for the carriage of more than 12 adult passengers;

**“motor truck”** means any rigid motor vehicle which exceeds 4.5 t gross vehicle mass, but does not include a motor omnibus;

**“motor vehicle”** means any vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam, or any other mechanical power, and includes an articulated motor vehicle, B-double, moped, motor car, motor cycle, motor omnibus, motor truck, road train, specially constructed vehicle, trolley vehicle, tractor or traction engine, and a trailer attached to or drawn by a motor vehicle;

**“multi-wheeled vehicle”** means any vehicle having more than 4 wheels, however, in the case of any pair of wheels mounted upon the same axle and the distance between the centres of the treads of which is less than 1 m, such pair of wheels shall be deemed to be 1 wheel;

**“officer in charge of a police station”** means any police officer who is for the time being in charge of a police station, and “officer in charge of the police station” shall have a correlative meaning;

**“official traffic sign”** means any sign, signal, marking, light or device, not inconsistent with this Act, placed or erected for the purpose of regulating, warning or guiding traffic the design of which and methods, standards and procedures in relation to which—

- (a) are contained in the Manual of Uniform Traffic Control Devices; or
- (b) are approved by the Director-General;

**“off-street regulated parking area”** means an area of land, including any structure thereon, defined as an off-street regulated parking area pursuant to section 44B(16);

**“owner”** includes every person who is the owner, joint owner or part owner of any vehicle, tram, animal, or vessel, and any person who is a bailee to whom a vehicle, tram, animal, or vessel is bailed for any period exceeding 14 days, and any person who has the use of the same under a hiring agreement or hire purchase agreement;

**“paid parking”** means parking in a designated parking space during the fixed hours on payment of a prescribed parking fee;

**“parkatarea”** includes the stand on which the parkatarea is installed;

**“parkatarea space”** means a space on a road or off-street regulated parking area defined by an official traffic sign to be a parkatarea space;

**“parking”** means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and whilst actually engaged in picking up or setting down passengers or in loading or unloading goods.

However, in relation to parking in a metered space, during fixed hours, **“parking”** includes the standing of a vehicle, whether or not engaged in picking up or setting down passengers or in loading or unloading goods, and in relation to parking in a loading zone during the hours during which regulated parking is operative, **“parking”** includes—

- (a) the standing continuously of a vehicle—
  - (i) whilst actually engaged in picking up or setting down passengers, for any period exceeding 2 minutes or, if any longer period is indicated by the official traffic sign whereby the loading zone is defined for the picking up or setting down passengers, exceeding that period; or
  - (ii) whilst actually engaged in loading or unloading goods, for any period exceeding 20 minutes or, if any longer period is indicated by the official traffic sign whereby the loading zone is defined for the loading or unloading goods, exceeding that period;
- (b) if the loading zone is set aside as indicated by the official traffic sign whereby the loading zone is defined for the standing therein

of vehicles of a specified class—the standing of any vehicle other than a vehicle of the specified class whether or not engaged in picking up or setting down passengers or loading or unloading goods;

- (c) if the loading zone is set aside as indicated by the official traffic sign whereby the loading zone is defined for the standing therein of vehicles whilst engaged in a specified purpose—the standing of any vehicle for a purpose other than a specified purpose whether or not engaged in picking up or setting down passengers or loading or unloading goods;

**“parking meter”** includes the stand on which the meter is erected;

**“passenger”** includes any person carried on a vehicle, train, animal, vessel or tram, other than the driver or conductor thereof;

**“pedestrian”** includes—

- (a) any person walking, running, standing, sitting or being otherwise in or upon a road;
- (b) any person who by reason of physical or mental incapacity is in a wheelchair in or upon a road;
- (c) any person pushing, otherwise than by riding, a bicycle in or upon a road;

**“permit”** means any permit, including any renewal thereof, issued under this Act and in force at any material time;

**“police district”** means a police district constituted under the *Police Service Administration Act 1990*;

**“Police Service”** means the Queensland Police Service;

**“police station”** includes a police office, watch-house, station house and lockup;

**“prime mover”** means any rigid motor vehicle designed to haul a semitrailer;

**“provisional licence”** means a driver’s licence issued or renewed as a provisional licence pursuant to section 14;

**“railway”** means every kind of way, other than a tramway, upon which conveyances are borne upon a rail or rails whatever may be the means of propulsion, and includes a tramway under the *Regulation of Sugar Cane Prices Act 1962*;



**“regulated parking”** means parking in accordance with Part 6A, and includes metered parking, parkatarea parking, and parking for no longer than the period specified either by official traffic signs in, on or near to the road or off-street regulated parking area on which the parking occurs or specified by official traffic signs at the boundary of the traffic area which includes the road or off-street regulated parking area on which the parking occurs;

**“right” or “off side”** means the right or offside reckoned by reference to the direction in or towards which a person, vehicle, tram, train, or animal is proceeding or facing at the material time, and is not affected by reason only of a vehicle, tram, train, or animal being driven temporarily backwards;

**“road”** includes any road, street, highway, alley, avenue, lane, thoroughfare, track, carriageway, footway, or subway, whether surveyed or unsurveyed (and all bridges, viaducts, culverts, grids, approaches, crossings, and other things appurtenant thereto) open to or used by the public or to which the public have or are permitted to have access whether on payment of a fee or otherwise, and also includes—

- (a) any road, street, footway, track, or highway dedicated to the public or declared or proclaimed to be a road, street, footway, track, or highway under any Act and any ferry or ford; and
- (b) any road traffic facility authorised and constructed under the *Tolls on Privately Constructed Road Traffic Facilities Act 1931* or any tramway constructed on any road under section 35(24) of the *Local Government Act 1936* or any other Act; and
- (c) any place declared by the Governor in Council to be a road for the purposes of this Act;

**“road train”** means a combination of vehicles (other than a B-double) consisting of a motor vehicle towing 2 or more trailers;

**“semitrailer”** means any trailer having 1 axle group which has a means of attachment to a prime mover whereby some of the load is superimposed on the prime mover;

**“sidecar”** means any attachment for the carriage of passengers or goods, or both passengers and goods, affixed to a velocipede at the side thereof and having a wheel separate and distinct from the wheels of such velocipede. It shall be regarded as forming part of the velocipede to which it is affixed;

**“specially constructed vehicle”** means any motor vehicle being a tractor, agricultural equipment, earth moving, road making or road maintenance plant, a mobile crane, fork lift truck, straddle truck or any other vehicle of a like nature but does not include any equipment which is mounted on a conventional truck chassis or any vehicle which has a conventional truck chassis;

**“stop”** when applied to or in respect of any person, vehicle, tram, train, or animal, means to halt and remain halted while thereunto required by lawful authority;

**“superintendent”** means any superintendent of traffic;

**“tare”** means the weight of any vehicle equipped for travelling on a road, but not including any load;

**“town clerk”** means in the case of the City of Brisbane, the town clerk of Brisbane, in the case of any other local authority, the person appointed by the local authority to act as town clerk or clerk of the Shire, and also includes the officer for the time being performing the duties of town clerk;

**“tractor”** or **“traction engine”** means any vehicle propelled or designed for propulsion by mechanical power used or intended to be used as a roller, bulldozer, grader, or for roadmaking or for hauling trailing vehicles (including a trailing vehicle partially superimposed thereon) but not fitted or equipped to carry passengers, or goods (other than fuel or water for its own consumption);

**“traffic”** includes the use by any person of any road or off-street regulated parking area, or the presence therein or thereon of any person, vehicle, tram, train, animal, or other movable article or thing whatsoever;

**“traffic area”** means all roads and parts of roads and off-street regulated parking areas in any area defined or deemed to be defined pursuant to this Act, as a traffic area;

**“trailer”** means any vehicle without motive power attached or designed for attachment to another vehicle, but does not include an articulated vehicle;

**“train”** means any conveyance or group of connected conveyances borne upon a rail or rails of a railway;

**“tram”** means any conveyance or group of connected conveyances used or designed for use upon a tramway;

**“tramcar”** means any tram fitted or equipped for the conveyance of passengers;

**“tramway”** means the tramway of Brisbane City Council and any other tramway under and within the meaning of the *Tramways Act 1882* or any other Act, but does not include a tramway under the *Regulation of Sugar Cane Prices Act 1962*;

**“tricycle”** means any vehicle having 3 wheels and designed for propulsion wholly by human power;

**“trolleybus”** means any omnibus which is a trolley vehicle;

**“trolley vehicle”** means any vehicle adapted for use on a road and propelled by mechanical power transmitted thereto from some external source;

**“vehicle”** includes any articulated vehicle, barrow, cab, car, carriage, cart, dray, hand cart, lorry, motor vehicle, multi-wheeled vehicle, omnibus, tractor or traction engine, trailer, trolley vehicle, truck, van, velocipede, wagon, or other means of transport or conveyance whatsoever designed for movement upon wheels, whether or not such vehicle is or is not for the time being capable of being operated or used in a normal manner, but does not include a tram or a train;

**“vehicle stand”** means a section or part of a road defined by an official traffic sign and set aside for the standing or waiting in that vehicle stand of any vehicles and/or horses of a class or description indicated in or by such official traffic sign;

**“vessel”** means any ship, boat, punt, ferry, air cushion vehicle and every other kind of vessel used or apparently designed for use in navigation whatever may be the means of its propulsion.

## **PART 2—ADMINISTRATION**

### **Administration of Act**

**10.** This Act shall be administered by the Minister and subject to the Minister by the Commissioner and the Director-General.

**District superintendents and superintendents of traffic**

**11.(1)** The Commissioner, the Deputy Commissioner of the Police Service, the Director-General and the following 3 officers within the department, the Executive Director (Transport Services), the Director (Road Transport and Traffic) and the Director (Road Safety), every Assistant Commissioner of the Police Service, and every chief superintendent and superintendent of police shall each by virtue of the respective office as such, be and be deemed to be a district superintendent of traffic and a superintendent of traffic, and shall have and may exercise throughout the State the powers, authorities, functions, and duties of a district superintendent of traffic and a superintendent of traffic under this Act.

**(3)** The Commissioner may from time to time appoint police officers to be respectively district superintendents of traffic for all or any of the following districts, that is to say—

- (a) the Metropolitan Traffic District;
- (b) any police district situated wholly outside of the Metropolitan Traffic District;
- (c) where any police district (other than the Brisbane Police District) is situated partly within and partly without the area of the City of Brisbane, so much of that police district as is situated outside of the area of the City of Brisbane.

**(4)** At any time when a police officer appointed by the Commissioner is not in office as the district superintendent of traffic for a district referred to in subsection (3), then the police officer hereinafter in this subsection specified shall, by virtue of the officer's office, be and be deemed to be the district superintendent for that district, that is to say—

- (a) for the Metropolitan Traffic District—the police officer who is at that time in charge of the Brisbane Police District;
- (b) for any police district situated wholly outside of the Metropolitan Traffic District—the police officer who is at that time in charge of that police district;
- (c) for any such district which is constituted by that part situated outside of the area of the City of Brisbane of a police district (other than the Brisbane Police District) which is partly within and partly without the said area—the police officer who is at that time in charge of that police district.

(5) Each of the following police officers shall, by virtue of the officer's respective office as such officer, be and be deemed to be a superintendent of traffic, that is to say—

- (a) every inspector of the Police Service; and
- (b) every officer in charge of a police station.

(6) In addition to police officers who, by virtue of their respective offices as such officers, are superintendents, the Commissioner may from time to time appoint such and so many police officers to be superintendents of traffic as the Commissioner shall think necessary or desirable for the proper administration of this Act.

(6A) Any such appointment may be made of a particular police officer or may be made by reference to a particular office and, in the case of an appointment as aforesaid by reference to an office, then unless and until the Commissioner revokes that appointment any police officer for the time being holding or performing the duties of that office shall by virtue of so doing be and be deemed to be the appointee.

(7) The Commissioner may make administrative arrangements whereunder particular police officers who are superintendents of traffic shall or shall not exercise all or any of the powers, authorities, functions, and duties of a superintendent of traffic in and with respect to districts, areas, or localities specified by the Commissioner, but the breach by a superintendent of any such administrative arrangements shall be a matter for disciplinary action by the Commissioner and shall not affect or prejudice the validity of anything done or omitted to be done by the superintendent concerned as such.

(8) Where a police officer holding a particular office is, by virtue of that office, a district superintendent or a superintendent, any other police officer who is for the time being performing the duties of that office shall, by virtue of so doing, be and be deemed to be a district superintendent or, as the case may be, superintendent.

(9) The Commissioner may direct and require any police officer to carry out any function or duty deemed necessary or desirable by the Commissioner for the proper administration of this Act, and any police officer having any other police officer under his or her charge or control may direct and require such other officer to carry out all such duties as such officer so having such charge or control shall deem necessary or desirable for the proper administration of this Act.

**(10)** However, the Commissioner may direct that any matter or thing or class of matters or things authorised, required, or enabled by this Act to be done or executed, or the doing or executing of which is in the opinion of the Commissioner necessary or desirable for the proper administration of this Act, shall or shall not be done or executed at any particular police station or other place, or by any particular police officer, or by any police officer holding a particular office or performing particular duties as such officer, or shall be done or executed in accordance with such special directions as may be given by the Commissioner from time to time either generally or in respect of a particular case.

### **Power of Commissioner to delegate**

**12.(1)** The Commissioner may, generally, or in relation to any matters or things or class of matters or things or in relation to any particular district, area or locality, delegate to any police officer or police officers such of the Commissioner's powers, functions and authorities under this Act (other than this power of delegation) as the Commissioner thinks fit, so that the delegated powers, functions and authorities may, subject to this Act, be exercised by the delegate or delegates generally or with respect to the matters and things or class of matters or things or the district, area or locality specified in the instrument of delegation.

**(1A)** The Commissioner may make any such delegation subject to such terms, conditions, and limitations as the Commissioner shall specify in the instrument of delegation.

**(2)** Where under this Act the exercise of any power, function or authority by the Commissioner is dependent upon the opinion, belief, or state of mind of the Commissioner in relation to any matter or thing, that power, function, or authority may be exercised by a delegate upon the opinion, belief, or state of mind of that delegate.

**(3)** Every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any power, function or authority by the Commissioner.

**(4)** Any such delegation may be published in the Gazette and upon such publication shall be judicially noticed.

**(5)** The Commissioner may, at any time and from time to time, make such and so many delegations under this section and to such number of

police officers as the Commissioner shall deem necessary or desirable for the effective administration of this Act.

## **PART 2A—OFFICIAL TRAFFIC SIGNS**

### **Definitions**

**12A.** In this Part and in Part 6A—

**“install”** means construct, make, mark, place or erect, or affix to or paint on any structure, and repair, maintain, manage and control;

**“on”** means on, in, into, over or near;

**“remove”** means remove, alter, discontinue, cancel, demolish or erase;

**“structure”** includes any building, wall, fence, pillar, post or other structure, erection or device wheresoever situated and by whomsoever owned.

### **Director-General may install official traffic signs**

**12B.(1)** The Director-General may install on a road any official traffic sign and may remove from a road any official traffic sign.

### **Local authority may install official traffic signs**

**(2)** A local authority may install on a road in its area which is not a declared road or on an off-street regulated parking area in its area any official traffic sign and may remove from a road in its area which is not a declared road or from an off-street regulated parking area in its area any official traffic sign.

### **Notice to install or remove an official traffic sign**

**12C.(1)** If, in the opinion of the Director-General, an official traffic sign should be installed on, or removed from, any road in an area which is not a declared road, the Director-General may serve notice on the local authority

for such area specifying the nature of the official traffic sign required to be installed or removed and the location at or from which such official traffic sign shall be installed or removed.

(2) The notice shall specify a date not less than 14 days from the date of service of the notice on or before which the installation or removal of the official traffic sign specified shall be completed.

(3) If the local authority does not comply with the terms of the notice within the time specified, the Director-General may install or remove the official traffic sign specified in the notice and recover any cost and expense incurred by the Director-General in so doing from the local authority.

### **Installation of official traffic signs in case of danger**

**12D.(1)** Where the Director-General, a superintendent, a holder of a prescribed office under the Crown, a town clerk, or a person authorised in that behalf by the Director-General, a superintendent, a holder of a prescribed office under the Crown, a local authority or a town clerk, as the case may be, is satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist, or the use of a road or any part thereof or an off-street regulated parking area or any part thereof is prevented, hindered or obstructed, or likely to be prevented, hindered or obstructed, such person may install any official traffic sign which, in the person's opinion, may be necessary, required or desirable for the purpose of regulating, guiding or warning traffic.

(2) Any official traffic sign so installed may, unless otherwise directed by the Director-General pursuant to section 12C be maintained and continued for so long as the said Director-General, superintendent, holder of a prescribed office under the Crown, town clerk, or person authorised as prescribed by subsection (1) is satisfied that the danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist or the use of the road or the part thereof or the off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.



**Installation of official traffic signs by prescribed persons**

**12DA.(1)** Where a person is carrying out any works on any road or off-street regulated parking area with the approval of the Director-General or a local authority, the person and any employee of the person acting with the person's authority, if satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic exists or is likely to exist, or that the use of the road or parking area or any part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed, by reason of the carrying out of the works, may install any official traffic sign which in the person's opinion may be necessary or desirable for the purpose of regulating, guiding or warning traffic with respect to the works.

**(1A)** Any official traffic sign so installed may, subject to section 12B, be maintained and continued for so long as the person or employee is satisfied that the danger, hindrance or obstruction to traffic exists or is likely to exist or that the use of the road or off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.

**(2)** Any person who obstructs another person in the exercise of that other person's powers under subsection (1) shall be guilty of an offence.

**Obstruction of prescribed officer and destruction of official traffic signs to be an offence**

**12E.(1)** Any person who—

- (a) obstructs the Director-General, a superintendent, a holder of a prescribed office under the Crown, or a town clerk in the exercise of powers under this Part or Part 6A; or
- (b) obstructs any person acting under an authority given under section 12D in the exercise of the powers under this Part 2A or Part 6A had by the person by virtue of such authority; or
- (c) without lawful authority demolishes, destroys, pulls down, erases, removes, defaces or otherwise damages or interferes with an official traffic sign;

shall be guilty of an offence.

**(2)** A person guilty of an offence against any provision of subsection (1)

shall also be liable to pay the amount of the expenses of making good any damage occasioned by the offence.

(3) The Court convicting the person of the offence may, whether an application or complaint is made in respect thereof or not, order the person to pay such amount or such amount may be recovered by either the Director-General or a local authority or any person duly authorised by the Director-General or a local authority, either generally or in the particular case, by action in any court of competent jurisdiction.

(4) Without limit to the power of a police officer or any other person thereunto authorised by some other provision of this Act to prosecute an offence against subsection (1)—

- (a) an offence against subsection (1) committed in relation to the Director-General or the holder of a prescribed office under the Crown, or any person acting under the authority of either of them, or in relation to an official traffic sign installed on a road by the said Director-General or holder of a prescribed office under the Crown, or any person acting under the authority of either of them, may be prosecuted by the said Director-General or holder or by any person thereunto authorised by the said Director-General; and
- (b) an offence against subsection (1) committed in relation to the town clerk or a local authority or a person acting under the authority of the town clerk or local authority, or in relation to an official traffic sign installed on a road or an off-street regulated parking area in its area by the local authority may be prosecuted by the town clerk or by any person thereunto authorised by the town clerk.

### **Contravention of or failure to comply with an official traffic sign to be an offence**

**12F.** Any person who contravenes or fails to comply with—

- (a) where a direction or indication given by an official traffic sign is prescribed—that direction or indication; or
- (b) in any other case—the direction or indication given by an official traffic sign;

shall be guilty of an offence.

**Unlawful installation of official traffic signs**

**12G.(1)** Any person who without lawful authority installs on a road or an off-street regulated parking area an official traffic sign or other thing in the nature of or similar to or which is likely to be mistaken for an official traffic sign shall be guilty of an offence, and any such sign or other thing may be removed by the Director-General or the local authority (whether or not any proceeding is taken for an offence with respect thereto).

**(2)** Upon convicting a person for an offence against any of the provisions of subsection (1) the Court, in addition to any penalty which it may impose, may (whether an application or complaint is made in respect thereof or not) order the person to pay the costs of the removal of the official traffic sign or other thing in question to the Director-General or the local authority, as the case may be.

**(3)** Without prejudice to section 45(3) any offence against section 12F or this section may—

- (a) if committed in relation to a declared road—be prosecuted on the complaint of a person thereunto authorised by the Director-General; or
- (b) if committed in relation to a road in any area which is not a declared road or an off-street regulated parking area in any area—be prosecuted on the complaint of a person thereunto authorised by the local authority for such area or by the town clerk of such local authority.

**Injury to official traffic signs**

**12H.(1)** Where any injury is done to an official traffic sign the following persons, namely—

- (a) any person who negligently or wilfully causes such injury;
- (b) if that person is an agent or employee—the principal or employer of that person;

shall each be answerable in damages to the Director-General or the local authority (according to which of them installed such sign) for the whole injury, and such damages may be—

- (c) sued for by; or

- (d) recovered in a summary way under the *Justices Act 1886*, on complaint of;

the Director-General or the local authority or any person authorised by the Director-General or the local authority in that behalf, either generally or in the particular case, but the Director-General or the local authority shall not be entitled by virtue of the provisions of this section to recover twice for the same cause of action.

(2) Where the owner of any vehicle pays any money in respect of any injury caused through the wilful act or negligence of the driver of that vehicle to any official traffic sign, the owner shall be entitled to recover the money so paid, with costs, from that driver.

### **Application of Part 2A**

**12I.** The provisions of this Part shall apply to all official traffic signs whatsoever and whether in relation to regulated parking or otherwise.

## **PART 3—DRIVING OF MOTOR VEHICLES AND OTHER VEHICLES AND ANIMALS**

### **Application of Part 3**

**13.(1)** This Part shall, unless the context herein otherwise indicates or requires, apply to and with respect to the driving of all motor vehicles on roads in Queensland and no provision of any other Part or of any licence issued under or pursuant to any other Part and no provision of or any licence or other authority issued under any other Act shall authorise or be deemed to authorise a person to drive or to permit or allow to be driven a motor vehicle on a road unless at that time that person or the person permitted or allowed by the person to drive that vehicle is authorised under and in accordance with the provisions of this Part to drive that vehicle.

(2) However, subsection (1) shall be read and applied so as not to limit the operation or effect of any other provision of this Part.

**Issue and renewal of drivers' licences**

**14.(1)** A superintendent may, under and in accordance with this Act, including the regulations hereunder, issue and renew drivers' licences (other than learners' permits) either provisionally or otherwise, and for the purpose of enabling persons to learn to drive a motor vehicle with a view to passing the prescribed tests and/or examinations, issue and renew learners' permits.

**(2)** Where a licence is subject to any term, provision, condition, limitation, or restriction the same shall be specified on the licence.

**(2A)** Where the existence of any term, provision, condition, limitation or restriction to which a licence is subject is indicated on the licence by means of a code the same shall be taken to be specified on the licence.

**(2AB)** The regulations may provide for and with respect to the interpretation of any code specified on a licence.

**(2B)** Where it is a condition of a licence that the holder thereof must carry a receipt issued in respect of the licence, the receipt referred to is that last issued for the purposes of this Act in respect of that licence and that receipt forms part of the licence.

**(3)** Subject to this Act, including the regulations hereunder, a driver's licence issued on or after the date appointed under section 1.2(2) of the *Traffic Act and Another Act Amendment Act 1990* shall, according to the age of the applicant therefor as at the date of the issue thereof to the applicant, be in force for not longer than the period specified in column 2 of the table unless sooner suspended, cancelled or surrendered under this Act or under any other Act or law.

**TABLE**

<b>Column 1</b>	<b>Column 2</b>
<b>Age of applicant as at the date of the issue to the applicant of a driver's licence</b>	<b>Maximum period for which driver's licence to be in force</b>
Applicant under 62 years of age	The period of 5 years commencing on, and including, the date of the issue of the driver's licence.
Applicant 62 or over, but not	66, years of age

The period commencing on, and including, the date of the issue of the driver's licence and thereafter until the date when the applicant shall attain the age of 67 years.

Applicant 66 or over years of age

The period of 1 year from, and including, the date of the issue of the driver's licence.

(4) Subject to this Act, including the regulations hereunder, a driver's licence issued on or after the coming into operation of the *Main Roads Act and Another Act Amendment Act 1952*, may be renewed from time to time.

(4A) However, every renewal of such a driver's licence shall, according to the age of the holder thereof as at the date of the renewal thereof, be for not longer than the maximum period for which the licence in question could be in force if it were issued to the holder thereof upon the date of the renewal thereof.

(4B) Upon the renewal thereof such a driver's licence shall, unless sooner cancelled, suspended or surrendered under this Act or under any other Act or law, be in force for the period for which it is renewed.

(5) The period for which a driver's licence or any renewal thereof shall be in force shall be stated in the licence.

(6) The Director-General shall collect in respect of every registration or renewal of the registration of a motor vehicle (except a trailer) under the provisions of the regulations under the *Main Roads Act 1920* (including any other regulations thereunder amending or in substitution for those regulations), an annual traffic improvement fee of such amount as the Governor in Council may prescribe by regulation (the Governor in Council being hereby thereunto authorised).

(6A) The said Director-General shall not issue a certificate of registration or of renewal of the registration as aforesaid unless and until payment has been made to the said Director-General of the annual traffic improvement fee in respect of the vehicle to which that certificate relates.

(6B) Provision shall be made on the form of any and every such certificate for the inclusion of an endorsement respecting the payment of the annual traffic improvement fee.

(7) Any licensing fee paid by an applicant for or in respect of a driver's licence shall be paid by the authorised officer or other person prescribed into Consolidated Fund.

(8) Every learner's permit and every renewal thereof shall, unless such permit is sooner cancelled or surrendered under this Act, or under any other Act or law, be in force for such period as is prescribed.

### **Traffic Engineering Trust Fund**

**14A.(1)** A trust fund called 'The Traffic Engineering Trust Fund' ("**the Trust Fund**") shall be established in the Treasury.

(2) In respect of each annual traffic improvement fee collected under section 14 the Director-General shall pay—

- (a) an amount equal to 20% of the fee into the Trust Fund; and
- (b) the balance into Consolidated Fund;

section 62 applies subject to this subsection.

(3) Expenditure incurred by the Director-General in respect of the installation or removal of official traffic signs, or in respect of the alleviation, reduction or elimination of traffic congestion or danger to traffic, or for the improvement of traffic flow on existing roads including interest on, redemption of or instalments into a sinking fund in respect of any loan money borrowed for the purpose of any of the matters specified in this subsection may be defrayed from the Trust Fund.

(4) With the approval of the Minister for the time being administering the *Main Roads Act 1920* the Director-General may apply moneys in the Trust Fund to the payment of a subsidy to a local authority in respect of expenditure incurred by it in respect of the installation of official traffic signs, or in respect of the alleviation, reduction or elimination of traffic congestion or danger to traffic or for the improvement of traffic flow on existing roads.

### **Driving of motor vehicle without a driver's licence prohibited**

**15.(1)** A person shall not at any time drive a motor vehicle on a road unless at that time the person is the holder of a driver's licence authorising the person to drive that vehicle on that road.

(2) A person shall not at any time permit or allow another person to drive a motor vehicle on a road if at that time the person knows that that other person is not the holder of a driver's licence authorising that other person to drive that vehicle on that road.

(3) A person who drives or who permits or allows to be driven a motor vehicle on a road in contravention of subsection (1) or (2) shall be guilty of an offence.

(4) A person who is guilty of an offence against subsection (1) and who at the time of the commission of such offence is disqualified—

(a) by this Act; or

(b) by an order made under this or any other Act;

from holding or obtaining a driver's licence is liable to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

(5) In determining the punishment to be imposed on a person who is guilty of an offence against subsection (1) in respect of which, at the time of its commission, the person was disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver's licence, the justices shall have regard to—

(a) the whole of the circumstances of the case, including circumstances of aggravation or mitigation; and

(b) the interest of the public; and

(c) the criminal and traffic history of the offender; and

(d) any matters before them in relation to the medical history of the offender or the offender's physical or mental capacity that are considered by them to be relevant in the circumstances; and

(e) whether the driving of the motor vehicle by the offender was associated with the commission or the attempted commission of some other offence and, if so, the nature of that offence; and

(f) such other matters that are considered by them to be relevant in the circumstances.

(6) Notwithstanding that, at the time of the commission of an offence against subsection (1), the person who committed the offence is disqualified



by this Act or by an order made under this or any other Act from holding or obtaining a driver's licence, the justices before whom the person is convicted of the offence, in addition to any punishment they may impose upon the person on conviction, shall order that the person shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a driver's licence, and the person shall thereupon be so disqualified under and in accordance with that order.

**Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood**

**16.(1)** Any person who whilst under the influence of liquor or a drug—

- (a) drives a motor vehicle, tram, train or vessel; or
- (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
- (c) is in charge of a motor vehicle, tram, train or vessel;

is guilty of an offence and liable to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.

**(1A)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted under that subsection, the person is liable in respect of that offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(1B)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender or has been summarily convicted of an offence against any provision of section 328A of the Criminal Code, the offender is liable in respect of the first mentioned offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(1C)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted—

- (a) under subsection (1); or
- (b) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or

- (c) summarily of an offence against any provision of section 328A of the Criminal Code;

or has been previously convicted—

- (d) under subsection (1) and upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender; or
- (e) under subsection (1) and summarily of an offence against any provision of section 328A of the Criminal Code; or
- (f) upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the offender and summarily of an offence against any provision of section 328A of the Criminal Code;

the justices shall in respect of that offence impose, as the whole or part of the punishment, imprisonment.

**(1D)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been previously convicted of an offence under subsections (2) to (2D), the offender is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.

**(1E)** If within the period of 5 years prior to conviction for an offence under subsection (1) the offender has been twice previously convicted of an offence under subsections (2) to (2D), the offender is liable in respect of the first mentioned offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(2)** Any person who whilst the concentration of alcohol in the person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood but is less than 150 mg of alcohol per 100 mL of blood—

- (a) drives a motor vehicle, tram, train or vessel; or
- (b) attempts to put in motion a motor vehicle, tram, train or vessel; or
- (c) is in charge of a motor vehicle, tram, train or vessel;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2A)** Any person who has not attained the age of 25 years, who is the

holder of a provisional licence or a learner's permit or is not the holder of a driver's licence, and who whilst the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood—

- (a) drives a motor vehicle (other than a motor vehicle to which subsection (2B) applies); or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2B)** Any person who whilst the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood—

- (a) drives a motor vehicle to which this subsection applies; or
- (b) attempts to put such motor vehicle in motion; or
- (c) is in charge of such motor vehicle;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2C)** Motor vehicles to which subsection (2B) apply are—

- (a) a motor truck, a motor omnibus, an articulated motor vehicle, a B-double, a road train;
- (b) a vehicle carrying dangerous goods within the meaning of the *Carriage of Dangerous Goods by Road Act 1984* where that carriage is authorised or should be authorised by a licence issued under that Act or is prohibited or limited under that Act;
- (c) a tow truck which is licensed or should be licensed under the *Tow-truck Act 1973* while it operates as a tow truck under that Act;
- (d) a pilot vehicle in respect of which a pilot vehicle licence is issued or should be issued under this Act, where that vehicle is escorting an excess dimension vehicle under this Act;
- (e) a vehicle which is licensed or should be licensed under the

authority of a licence to hire—taxi-meter cab, licence to hire—exempted cab or licence to hire—private hire car issued under the *State Transport Act 1960*;

- (f) a vehicle while it is being used by a driving instructor of a driving instruction school to teach a student driver to drive all classes or any class of motor vehicle under the *Motor Vehicle Driving Instruction School Act 1969*.

**(2D)** Any person who whilst the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood but is less than 50 mg of alcohol per 100 mL of blood—

- (a) drives a tram, a train or a vessel to which this subsection applies; or
- (b) attempts to put in motion a tram, a train or a vessel to which this subsection applies; or
- (c) is in charge of a tram, a train or a vessel to which this subsection applies;

is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months.

**(2E)** Vessels to which subsection (2D) apply are air cushion vehicles and class I passenger vessels (not including 'Hire and Drive' Vessels) as defined in clause 6.1 of Part 3 of section 1 of the Uniform Shipping Laws Code.

**(2F)** If within the period of 5 years prior to conviction for an offence under subsections (2) to (2D) the offender has been previously convicted under subsection (2) to (2D), the person is liable in respect of that offence to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months.

**(2G)** If within the period of 5 years prior to conviction for an offence under subsections (2) to (2D) the offender has been twice previously convicted under subsections (2) to (2D), the person is liable in respect of that offence to a penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months.

**(2H)** If within the period of 5 years prior to conviction for an offence under subsections (2) to (2D) the offender has been previously convicted upon indictment of any offence in connection with or arising out of the

driving of a motor vehicle by the person or has been summarily convicted of an offence against any provision of section 328A of the Criminal Code or has been previously convicted under subsection (1), the person is liable in respect of the first mentioned offence to a penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year.

**(2I)** If within the period of 5 years prior to conviction for an offence under subsections (2) to (2D) the offender has been previously convicted under those subsections and—

- (a) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (b) has been summarily convicted of an offence against any provision of section 328A of the Criminal Code; or
- (c) has been previously convicted under subsection (1);

the person is liable in respect of the first mentioned offence to a penalty not exceeding 34 penalty units or to imprisonment for a term not exceeding 18 months.

**(3)** Where upon the hearing of a complaint of an offence against subsection (1) the Court is satisfied that at the material time the concentration of alcohol in the blood of the defendant equalled or exceeded 150 mg of alcohol per 100 mL of blood, the defendant shall be conclusively presumed to have been at that time under the influence of liquor.

**(4)** Subject to subsection (3), where upon the hearing of a complaint of an offence against subsection (1) the Court is satisfied—

- (a) as to all the elements of the offence charged other than the element of the defendant's being under the influence of liquor or a drug at the material time;
- (b) that at the material time the concentration of alcohol in the defendant's blood equalled or exceeded 50 mg of alcohol per 100 mL of blood or that at the material time the defendant was a person to whom subsection (2A), (2B) or (2D) referred and the concentration of alcohol in the defendant's blood exceeded 0 mg of alcohol per 100 mL of blood;

the Court shall convict the defendant of the offence under subsection (2),

(2A), (2B) or (2D) that is established by the evidence.

(4A) Where in the circumstances provided for in subsection (4), the court is satisfied that an offence under subsection (2) and an offence under subsection (2A), (2B) or (2D) are both established by the evidence, the court shall convict the defendant of the offence under subsection (2).

(5) In this section—

**“previously convicted”** means in relation to a conviction (**“the subsequent conviction”**), convicted prior to the subsequent conviction whether the offence the subject of the subsequent conviction was committed before the prior conviction or after it.

(6) Where upon the hearing of a complaint of an offence against subsection (1)(c), (2)(c), (2A)(c) or (2B)(c) in respect of a motor vehicle the Court is satisfied beyond reasonable doubt by evidence on oath that at the material time—

(a) the defendant—

(i) by occupying a compartment of the motor vehicle in respect of which the offence is charged other than the compartment containing the driving seat of that motor vehicle; or

(ii) not being in that motor vehicle, by some action;

had manifested an intention of refraining from driving that motor vehicle whilst the defendant was under the influence of liquor or a drug or, as the case may be, whilst the concentration of alcohol in the defendant’s blood equalled or exceeded, or exceeded as the case may be the lower concentration referred to in subsection (2), (2A) or (2B), whichever subsection is material to the complaint; and

(b) the defendant—

(i) was not under the influence of liquor or a drug to such an extent; or, as the case may be,

(ii) was not, by virtue of the concentration of alcohol in the defendant’s blood influenced thereby to such an extent;

as to be incapable of understanding what the defendant was doing or as to be incapable of forming the intention referred to in paragraph (a); and

- (c) the motor vehicle in respect of which the offence is charged was parked in such a manner as not to constitute a source of danger to other persons or other traffic; and
- (d) the defendant had not previously been convicted of an offence under subsection (1) or (2) to (2D) within a period of 1 year prior to the date in respect of which the defendant is charged;

the Court shall not convict the defendant of the offence charged.

(7) Any person who whilst under the influence of liquor or a drug drives or is in charge of any horse or other animal on a road, or drives or is in charge of any vehicle (other than a motor vehicle) on a road, or attempts to put in motion any vehicle (other than a motor vehicle) on a road, is guilty of an offence.

(8) A complaint for an offence against any provision of subsection (1) or (7) shall not be bad for uncertainty or duplicity by reason that it charges the alleged offender with being under the influence of ‘liquor or a drug’.

(8A) If upon the hearing of such a complaint the evidence led and admitted (including evidence (if any) for the defence) establishes—

- (a) that the person so charged was under an influence which was that of liquor or a drug, or both liquor and a drug; and
- (b) all other elements of the offence;

the person shall be convicted of the offence notwithstanding that the particular such influence is not established by the evidence.

(9) Where a person charged with an offence against any provision of subsection (1) or (2) to (2D) in relation to a motor vehicle does not appear personally before a Magistrates Court at any time and place when and where the person is required to appear, the Court shall then and there order that any and every driver’s licence held by the person be from that time suspended until the time when the charge is heard and determined or otherwise disposed of.

(9A) Subsection (9) applies subject to subsection (10).

(10) A Magistrates Court has and may exercise a discretion not to make an order pursuant to subsection (9) where it is satisfied on medical or other evidence placed before the Court that the person’s failure to appear before it was occasioned by any medical or other circumstance rendering the person

physically incapable of appearing before the Court.

**(10A)** In subsection (10)—

**“medical or other evidence placed before the Court”** means—

- (a) the oral testimony of at least 1 medical practitioner adduced before the Court; or
- (b) at least 1 certificate placed before the Court purporting to be a medical certificate by a medical practitioner; or
- (c) both such testimony and certificate; or
- (d) such other evidence as is considered by the Court to be sufficient in the circumstances to satisfy the Court that the person was physically incapable of appearing before the Court.

**(11)** Subsections (1) to (2I) apply to and with respect to any person—

- (a) who is in charge of a motor vehicle on a road or elsewhere;
- (b) who drives a motor vehicle on a road or elsewhere;
- (c) who on a road or elsewhere attempts to put a motor vehicle in motion;
- (d) who drives or is in charge of or attempts to put in motion a tram or train on a road or elsewhere;
- (e) who drives or is in charge of or attempts to put in motion a vessel that is being used, or is apparently about to be used, in navigation.

**(12)** Section 24 of the Criminal Code does not apply to an offence under this section.

### **Provisions with respect to breath tests and laboratory tests**

**16A.(1)** In this section—

**“authorised police officer”** means any police officer authorised by the Commissioner pursuant to subsection (8G) to operate a breath analysing instrument;

**“breath analysing instrument”** means any instrument of a type approved for the purposes of this section by the Governor in Council (who is



hereby thereunto empowered) by notice published in the Gazette for ascertaining by analysis of a specimen of a person's breath what concentration of alcohol is present in the person's blood;

**“breath test”** means a test for the purpose of an indication of the concentration of alcohol in a person's blood carried out, by means of a device of a type approved for the purpose of such a test by the Minister (who is hereby thereunto empowered) by notification published in the Gazette, on a specimen of breath provided by that person.

(2) A police officer may request any person found by the officer or who the officer suspects on reasonable grounds was during the last preceding 2 hours—

- (a) driving a motor vehicle, tram or train on a road or elsewhere; or
- (b) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere; or
- (c) in charge of a motor vehicle, tram or train on a road or elsewhere; or
- (d) driving or in charge of or attempting to put in motion a vessel being used or apparently about to be used in navigation;

to provide a specimen of breath for a breath test by the person.

(2A) Where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to property a police officer may request any person who the officer suspects on reasonable grounds—

- (a) was driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere; or
- (b) was in charge of the motor vehicle, tram or train on a road or elsewhere; or
- (c) was driving or in charge of or attempting to drive the vessel;

at the time of the incident to provide a specimen of breath for a breath test by the person.

(3) A police officer who is exercising a power conferred on the officer by subsection (2) or (2A) may request the person in question to provide the specimen of breath—

- (a) at the time when and the place where the officer makes the request including at any police station where the person may then be; or
- (b) at the police station nearest to that place or at some other police station conveniently located as soon as practicable after the police officer makes the request if the police officer believes on reasonable grounds that it is reasonable for such person to be taken to a police station for the purpose, having regard to the circumstances of the case; or
- (c) without limiting paragraph (b), as soon as practicable after the police officer makes the request, at a place at which the police officer believes on reasonable grounds there is located a device approved by the Minister pursuant to this section for carrying out breath tests, if the officer does not have such a device with him or her.

**(4)** A request shall not be made under subsection (2) or (2A) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised by that subsection to make such a request.

**(5)** If a person requested by a police officer under subsection (2) or (2A) to provide at a police station or other place a specimen of breath for a breath test by the person fails to go voluntarily to the police station or other place for that purpose any police officer, using such force as is necessary, may take the person to the police station or, as the case may be, other place for that purpose.

**(5AA)** Subsection (5) shall be construed so as not to prejudice or affect in any way the provision of section 42.

**(5A)** Subject to subsection (5B), if a person requested by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person, either—

- (a) elects not to provide the specimen; or
- (b) fails to provide the specimen in the manner directed by the police officer who makes the request;

the person commits an offence against this Act.

**(5B)** A person referred to in subsection (5A) is not guilty of an offence pursuant to that subsection if—

- (a) forthwith upon being so requested, the person produces to the police officer who made the request a writing under the hand of an authorised officer or a district superintendent or superintendent stating that the medical practitioner named in the writing has certified in writing that by reason of a stated illness or disability such person is incapable of providing a specimen of breath or the provision of such a specimen by the person could adversely affect the person's health; or
- (b) the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.

**(6) If—**

- (a) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the concentration of alcohol in the person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood; or
- (aa) it appears to a police officer in consequence of a breath test carried out by the officer on a specimen of breath of any person that the concentration of alcohol in the person's blood exceeds 0 mg of alcohol per 100 mL of blood and the police officer suspects on reasonable grounds that the person is a person to whom section 16(2A), (2B) or (2D) refers; or
- (b) a person requested by a police officer under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person—
  - (i) elects not to provide the specimen; or
  - (ii) fails to provide the specimen in the manner directed by the police officer who makes the request; or
  - (iii) declines to wait for such time as is reasonable in the circumstances to enable the test to be carried out satisfactorily;

any police officer, using such force as is necessary, may—

- (c) take the person to a police station, hospital or other place authorised under this section; or
- (ca) take the person to a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
- (d) if the person is already at a police station—detain the person there or take the person—
  - (i) to such other police station as is convenient and reasonable in the circumstances; or
  - (ii) to a vehicle or vessel, such as is convenient and reasonable in the circumstances, where facilities are available for the analysis by a breath analysing instrument of a specimen of breath; or
- (e) if the person is already at a vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath—detain the person there or take the person—
  - (i) to another such vehicle or vessel as is convenient and reasonable in the circumstances; or
  - (ii) to a police station such as is convenient and reasonable in the circumstances;

for the purposes of subsections (8) to (8L).

(7) Subsection (6) shall be construed so as not to prejudice or affect in any way the provisions of section 42.

(8) Any person who—

- (a) is arrested for an offence against section 16 or 17;
- (b) is arrested for any indictable offence in connection with or arising out of the driving of a motor vehicle by the person (including any offence against any provision of section 328A of the Criminal Code);
- (c) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, or detained at or taken to a vehicle or vessel

where facilities are available for the analysis by a breath analysing instrument of a specimen of breath, or taken to a hospital or other place authorised under this section;

may, while at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid, be required by any police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.

**(8A)** A person to whom subsection (8) applies may be detained at a police station, vehicle, vessel, hospital or other place as aforesaid for the purposes of subsections (8) to (8L) by a police officer.

**(8B)** Any person referred to in subsection (8) may, for the purposes of subsections (8) to (8L), be taken—

- (a) to a police station;
- (b) to a police station, vehicle or vessel where facilities are available for the analysis by a breath analysing instrument of a specimen of breath;
- (c) to a hospital;
- (d) where there are reasonable grounds for believing that a medical practitioner is available at any other place, to that place;

and such person may be taken to more than 1 of such places if the purposes of those subsections cannot be carried out or effected at a place to which the person has been first taken.

**(8C)** Where any person whom a police officer may request under subsection (2) or (2A) to provide a specimen of breath for a breath test by the person is at a hospital for treatment, that person may, subject to the approval of a medical practitioner who is familiar with the person's injuries and apparent state of health at the time, be required by any police officer to provide at the hospital a specimen of the person's breath for analysis by a breath analysing instrument or, according as such officer requires, a specimen of the person's blood for a laboratory test.

**(8D)** A requisition shall not be made under subsection (8C) unless it is made as soon as practicable and within 2 hours after the occurrence of the event whereby a police officer is authorised under subsection (2) or (2A) to request the person to provide a specimen of breath for a breath test by the

person.

**(8E)** If a person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis forthwith upon being so required produces to the police officer who made the requisition a writing under the hand of an authorised officer or a district superintendent or superintendent stating that the medical practitioner named in the writing has certified in writing that by reason of a stated illness or disability such person is incapable of providing a specimen of the person's breath or the provision of such a specimen by the person could adversely affect the person's health, such police officer shall not require a specimen of breath of such person but shall require a specimen of the person's blood.

**(8F)** A person who is required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis shall do so, when directed by the medical practitioner or authorised police officer operating or who is to operate the breath analysing instrument, by placing the person's mouth over the mouthpiece of the instrument and blowing directly and continuously (and without escape of breath otherwise) through that mouthpiece into the instrument until told to stop by the medical practitioner or authorised police officer operating the instrument.

**(8G)** The Commissioner may, by writing under the Commissioner's hand, authorise any police officer to be an authorised police officer to operate a breath analysing instrument on being satisfied that such officer is competent to operate a breath analysing instrument.

**(8H)** An authorised police officer shall continue as such notwithstanding that the writing whereby the officer was made such has been lost, mislaid or destroyed or otherwise cannot be produced and there may be issued to the officer as prescribed by subsection (8G) a fresh instrument of authority which shall be deemed to have been effective on and from the date when the instrument that it replaces took effect.

**(8I)** A certificate purporting to be signed by the Commissioner that the police officer named therein is authorised by the Commissioner to operate a breath analysing instrument shall, in the absence of proof to the contrary, be proof that the officer named therein is so authorised.

**(8J)** The authorised police officer operating or who is to operate a breath analysing instrument in any particular case shall not be the police officer—

- (a) who has arrested the person concerned for an offence referred to

in subsection (8);

- (b) who has detained the person concerned at or taken the person to a police station or other place pursuant to this section;
- (c) making the requisition for the provision of the specimen in that case.

**(8K)** A person who is required pursuant to subsection (8) or (8C) to provide a specimen of blood for a laboratory test shall do so by permitting such specimen to be taken by a medical practitioner indicated by the police officer who made the requisition when and as directed by and to the satisfaction of the medical practitioner, the medical practitioner being hereby authorised to take such specimen whether or not the person consents to the taking.

**(8L)** A person may, notwithstanding that the person has been required pursuant to subsection (8) or (8C) to provide a specimen of the person's breath for analysis, be again required pursuant to that subsection to provide a specimen of the person's breath for analysis by a breath analysing instrument or be required pursuant to that subsection to provide a specimen of the person's blood for a laboratory test where—

- (a) the breath analysing instrument is or becomes defective precluding its satisfactory operation for the purpose of analysing the breath specimen;
- (b) for any reason it is not possible to use or continue using the breath analysing instrument for the purpose of analysing the breath specimen;
- (c) the breath analysing instrument indicates to the authorised police officer operating the instrument that alcohol or some other substance is present in the mouth of the person supplying the breath specimen; or
- (d) for any reason it is not possible to complete the analysis of the breath specimen;

and where any requirement authorised by this subsection is made it shall have effect as if it were such a requirement made in the first instance under subsection (8) or (8C) as the case may be and shall be deemed to be a requirement so made accordingly.

**(9)** Where a person—

- (a) is arrested for any offence referred to in subsection (8); or
- (b) is, for the purposes of subsections (8) to (8L), detained at or taken to a police station, vehicle or vessel, or taken to a hospital or other place authorised under this section;

and whilst at a police station, vehicle, vessel, hospital or other place authorised under this section as aforesaid is required by a police officer to provide a specimen of the person's breath for analysis by a breath analysing instrument, the police officer making the requisition may—

- (c) if the police officer who arrested, detained or took as aforesaid the person believes on reasonable grounds that at the time of the arrest, detaining or taking the person exhibited external signs indicating that the person was affected by liquor or a drug; and
- (d) if the analysis by the breath analysing instrument of the specimen of breath provided in accordance with the requisition indicates either that there is no alcohol in the person's blood or that the concentration of alcohol in the person's blood is such that it does not reasonably explain the external signs exhibited and observed;

require the person to provide a specimen of the person's blood for a laboratory test and, subject to the direction of a medical practitioner, a specimen of the person's urine for a laboratory test.

**(9A)** The police officer making the requisition may detain the person at a police station, vehicle, vessel, hospital or other place authorised under this section for a period of time that is reasonable in the circumstances to enable a medical practitioner to attend there in connection with the provision by the person of a specimen of blood or urine or, as the case requires, such police officer may take the person to a place where, in the reasonable belief of such officer, a medical practitioner is available for the purposes of the provision by the person of a specimen of the person's blood.

**(9B)** A person who is required pursuant to subsection (9) to provide a specimen of the person's blood for a laboratory test shall do so by permitting such specimen to be taken by a medical practitioner indicated by the police officer who made the requisition when and as directed by and to the satisfaction of the medical practitioner, the medical practitioner being hereby authorised to take such specimen whether or not the person consents to the taking.

**(9C)** A person who is required pursuant to subsection (9) to provide a



specimen of the person's urine for a laboratory test shall do so when and as directed by a medical practitioner.

**(11)** A person who, upon a requisition duly made by a police officer under subsection (8) or (8C), fails to provide as prescribed a specimen of the person's breath for analysis or, as the case may be, a specimen of the person's blood for a laboratory test or a person who, upon a requisition duly made by a police officer under subsection (9), fails to provide as prescribed a specimen of the person's blood for a laboratory test is guilty of an offence which shall be deemed to be an offence against the appropriate provision of section 16(1) and the offender is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's licence) as the person would be in the case of the offence being actually one committed by the person against the provision.

**(11A)** A person referred to in subsection (11) is not guilty of an offence pursuant to that subsection if the person satisfies the justices that the requisition to provide the specimen was not lawfully made or that the person was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for the person's failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.

**(15)** As soon as practicable after a specimen of breath provided pursuant to a requisition has been analysed by means of a breath analysing instrument, the medical practitioner or authorised police officer operating such instrument shall sign in duplicate a certificate in writing stating the concentration of alcohol indicated by the analysis to be present in the blood of the person whose breath has been analysed, the date and time at which the analysis was made, and such other particulars as may be prescribed, and shall deliver—

- (a) 1 copy of such certificate to the police officer who made the requisition; and
- (b) the other copy to the person whose breath has been analysed (or to another person on behalf of that person upon request by that other person).

**(15A)** If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

**(15B)** Where a person who is required pursuant to subsection (8) or (8C)

to provide a specimen of the person's breath for analysis fails to do so as prescribed by that subsection, the medical practitioner or authorised police officer operating or to operate the breath analysing instrument shall, as soon as practicable thereafter, sign in duplicate a certificate in writing stating—

- (a) the full name of the person concerned; and
- (b) the name of the police officer who made the requisition; and
- (c) the name of the operator of the breath analysing instrument; and
- (d) the name and patent number or name and model number appearing on the breath analysing instrument; and
- (e) that the person concerned failed to provide as prescribed by that subsection a specimen of breath when required; and
- (f) such other particulars as may be prescribed;

and shall deliver—

- (g) 1 copy of such certificate to the police officer who made the requisition; and
- (h) the other copy to the person who failed to provide as prescribed the specimen of breath when required (or to another person on behalf of that person upon request by that other person).

**(15C)** If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

**(15D)** Evidence by a medical practitioner or an authorised police officer or by a certificate purporting to be signed by a medical practitioner or an authorised police officer—

- (a) that an instrument operated by the medical practitioner or officer for analysing the breath of any person named by the medical practitioner or officer on any occasion stated by him or her was a breath analysing instrument;
- (b) that such instrument was on the occasion in question in proper working order and properly operated by the medical practitioner or officer;
- (c) that in relation to such instrument all regulations made pursuant to this section with respect to any instrument which is a breath analysing instrument were complied with;

shall be evidence of those matters and until the contrary is proved shall be conclusive such evidence.

**(15E)** The matters referred to in subsection (15D) may be stated in the certificate referred to in subsection (15) or in a separate certificate.

**(15F)** A certificate referred to in subsection (15B) shall, upon its production in any proceeding, be accepted as evidence—

- (a) that a requisition to provide a specimen of the person's breath for analysis was made to the person concerned by the police officer named therein as the police officer making the requisition;
- (b) that the person concerned failed to provide as prescribed by subsections (8) to (8L) a specimen of breath when required;
- (c) that an approved breath analysing instrument was available at the place where and at the time when the requisition was made for the purpose of analysing a specimen of breath provided in accordance with the requisition;

and until the contrary is proved shall be conclusive such evidence.

**(15G)** Evidence by a medical practitioner or an authorised police officer or by a copy of a certificate referred to in subsection (15) purporting to be signed by a medical practitioner or an authorised police officer of the concentration of alcohol indicated to be present in the blood of a person by a breath analysing instrument operated by such medical practitioner or authorised police officer shall, subject to subsection (15H), be conclusive evidence of the concentration of alcohol present in the blood of the person in question at the time (being in the case of such certificate the date and time stated therein) the breath of that person was analysed and at a material time in any proceedings if the analysis was made not more than 2 hours after such material time, and at all material times between those times.

**(15H)** The defendant may negative such evidence as aforesaid if the defendant proves that at the time of the operation of the breath analysing instrument it was defective or was not properly operated.

**(16)** As soon as practicable after a specimen of blood has been provided for a laboratory test pursuant to subsections (8) to (8L) or a specimen of blood or urine has been provided for a laboratory test pursuant to subsections (9) to (9C), the police officer who required such specimen shall deliver the same to the laboratory of an analyst.

**(16A)** Such delivery may be effected either personally or by sending the specimen to the laboratory of the analyst by registered post or certified mail.

**(16B)** A certificate purporting to be signed by an analyst and stating—

- (a) that there was received at the laboratory of the analyst from the police officer named in the certificate a specimen of the blood of the person named in the certificate provided by that person on the date and at the place and time stated in the certificate; and
- (b) that the analyst made a laboratory test of such specimen on the date and at the place stated in the certificate; and
- (c) the concentration of alcohol or drug in the blood of such person indicated by the laboratory test (which concentration shall be stated by reference to the number of milligrams of alcohol or drug in the blood per 100 mL of blood);

shall be evidence of those matters and until the contrary is proved shall be conclusive such evidence.

**(16C)** Where a person who is required pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to do so as prescribed by the subsection under which the requisition is made, the medical practitioner by whom the specimen is to be taken shall, as soon as practicable thereafter, sign in duplicate a certificate in writing stating—

- (a) the full name of the person concerned; and
- (b) the name of the police officer who made the requisition; and
- (c) that the person concerned failed to provide a specimen of blood when required; and
- (d) such other particulars as may be prescribed;

and shall deliver—

- (e) 1 copy of such certificate to the police officer who made the requisition; and
- (f) the other copy to the person who failed to provide the specimen of blood when required (or to another person on behalf of that person upon request by that other person).

**(16D)** If the form thereof is prescribed, such certificate shall be in or to

the effect of the prescribed form.

**(16E)** A certificate referred to in subsection (16C) shall, upon its production in any proceeding, be accepted as evidence—

- (a) that a requisition to provide a specimen of the person's blood for a laboratory test was made to the person concerned by the police officer named therein as the police officer making the requisition;
- (b) that the person concerned failed to provide as prescribed by the subsection under which the requisition was made a specimen of the person's blood when required;

and until the contrary is proved shall be conclusive such evidence.

**(16F)** Evidence by an analyst or by a certificate referred to in subsection (16B) of the concentration of alcohol or drug indicated to be present in the blood of a person by a laboratory test of a specimen of the blood of that person shall, subject to subsection (16G), be conclusive evidence of the concentration of alcohol or drug in the blood of that person at the time (being in the case of such certificate the date and time stated therein) when the person provided the specimen and at a material time in any proceedings if the specimen was provided not more than 2 hours after such material time, and at all material times between those times.

**(16G)** The defendant may negative such evidence as aforesaid if the defendant proves that the result of the laboratory test of that specimen of blood was not a correct result.

**(16H)** The Court shall on the application of the complainant adjourn the hearing as necessary to enable the production in evidence of the certificate of the analyst and if within 3 days after providing the specimen the defendant has given to the police officer in charge of the police station at which or nearest to the hospital or other place where the specimen of blood for the laboratory test was provided a notice in writing that the defendant requires a copy of the certificate to be given to the defendant at the address stated in the notice shall, at the request of the defendant, adjourn the hearing as necessary to ensure that such copy has been given to the defendant at such address not less than 3 days before the production of the certificate in evidence.

**(16I)** Such copy may be given either personally or by sending it by registered post or certified mail.

**(16J)** The person who gives the copy (whether personally or by sending

it by registered post or certified mail) may attend before any justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth where the person gives the copy and depose on oath and in writing endorsed on a copy of the certificate to the giving thereof.

**(16K)** Such deposition shall, upon production to the Court, be evidence of the matters contained therein and, until the contrary is proved, shall be conclusive such evidence.

**(16L)** Nothing contained in subsections (16H) to (16K) precludes the Court in its discretion from dealing with a charge of an offence against section 16(1) on the application of the defendant notwithstanding that at that time the result of the laboratory test of the specimen of the blood of the defendant is not known if—

- (a) the defendant pleads guilty to the offence; and
- (b) the Court is satisfied that the facts available to be put forward by the prosecution, and unchallenged by the defendant, are sufficient to enable it to deal properly with the matter.

**(18)** A certificate purporting to be signed by a medical practitioner that on a date and at a place and time stated therein the medical practitioner took a specimen of blood for a laboratory test of a person named therein shall, upon its production in any proceeding, be accepted as evidence of those matters and until the contrary is proved shall be conclusive such evidence.

**(18A)** Where by any provision of this section a certificate of or purporting to be signed by a medical practitioner, an authorised police officer or an analyst is made evidence of any matter, a certificate purporting to be signed by a medical practitioner, an authorised police officer or an analyst, as the case may be, as to that matter shall, upon its production in any proceeding, be accepted as evidence—

- (a) that the signature thereto is that of the person by whom the certificate purports to be made;
- (b) of all matters contained therein including the status, authority or qualification of the person by whom the certificate purports to be made;

and until the contrary is proved shall be conclusive such evidence.

**(19)** Where a police officer forwards a specimen of blood to the laboratory of an analyst by certified mail evidence by that police officer in

any proceedings that the officer forwarded the specimen of blood to the laboratory of the analyst by certified mail and a certificate purporting to be signed by the analyst (produced in evidence) certifying that the specimen of blood was received at the analyst's laboratory from that police officer shall constitute sufficient evidence of compliance with subsection (16A) or (17)(a)(ii), as the case may be, and it shall be immaterial whether the specimen of blood is received at the laboratory of the analyst as certified mail or as ordinary mail.

**(20)** A person who, being thereunto required pursuant to subsection (8), (8C), (9) or (10), has provided a specimen of blood for a laboratory test may when the person provides the specimen or immediately after providing it and where the person provides it (or another person on behalf of that person may when or immediately after the person provides the specimen and where the person provides it) request the police officer or the medical practitioner, as the case may be, who required the specimen in question to give to such person a specimen of blood.

**(20A)** Upon such request, subject to the person concerned then and there providing a second specimen of blood, the police officer or medical practitioner in question shall give such second specimen to such person or to the person requesting it on the person's behalf.

**(21)** Any approval given pursuant to this section in respect of a breath analysing instrument or a device for carrying out breath tests by the Governor in Council or the Minister may be revoked at any time in the manner in which it was given and upon such revocation shall cease to have any effect.

**(21A)** The power to make regulations under this Act includes power to make regulations for or in respect of the maintenance or use of breath analysing instruments and the methods to be employed for ensuring that such instruments give accurate results.

**(22)** Where—

- (a) the analysis by means of a breath analysing instrument of a specimen of breath of a person required by a police officer to be provided pursuant to subsection (8) or (8C) indicates that the concentration of alcohol in that person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood or in the case of a person to whom section 16(2A), (2B) or (2D) refers, that the

concentration of alcohol in that person's blood exceeds 0 mg of alcohol per 100 mL of blood; or

- (b) a person so required fails to provide as prescribed by subsections (8) to (8L) such specimen; or
- (c) a person who is required by a police officer pursuant to subsection (8) or (8C) to provide a specimen of the person's blood for a laboratory test permits a specimen of the person's blood to be taken for the purpose and thereupon such police officer requires that person to provide a specimen of breath for a breath test by the officer (the officer being hereby authorised to require such a specimen of breath for a breath test to be provided), and—
  - (i) it appears to the police officer in consequence of the breath test carried out by the officer that the device by means of which the test is carried out indicates that the concentration of alcohol in that person's blood equals or exceeds 50 mg of alcohol per 100 mL of blood or in the case of a person to whom section 16(2A), (2B) or (2D) refers, that the concentration of alcohol in that person's blood exceeds 0 mg of alcohol per 100 mL of blood; or
  - (ii) the person fails to provide such specimen of breath; or
- (d) a person who is required by a police officer pursuant to subsection (8), (8C) or (9) to provide a specimen of the person's blood for a laboratory test fails to provide such specimen; or
- (e) the medical practitioner taking a specimen of a person's blood for a laboratory test pursuant to subsections (9) to (9B) certifies in writing to the police officer who made the requisition for the provision of the specimen of blood that, in respect of the person concerned, the case is a proper one for the suspension of that person's driver's licence for a period of 24 hours;

then by virtue of any of the foregoing provisions the driver's licence of such person shall be suspended for a period of 24 hours commencing at the time when the analysis is made or the requisition is made or the indication from the device is ascertained or the certificate in writing is given, as the case may be.

**(22A)** The police officer who required the specimen shall sign and



deliver to the person concerned (or to another person on behalf of that person at the request of that other person) a statement in writing that the driver's licence of the person concerned is suspended as prescribed by subsection (22) for the period of 24 hours commencing at the time stated therein.

**(22B)** It is immaterial, in any of the cases referred to in subsection (22), whether the person concerned is arrested or not.

**(22C)** Notwithstanding any other provision of this Act, an appeal shall not lie in respect of the suspension of a driver's licence pursuant to subsection (22).

**(22D)** Any person who whilst the person's driver's licence is suspended pursuant to subsection (22) drives a motor vehicle on a road or elsewhere is guilty of an offence and liable to a penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 1 year.

**(23)** Where pursuant to this section a police officer may in the performance, exercise or carrying out of the officer's functions, powers or duties under this section take a person to a hospital or police station for the taking of a specimen and the police officer believes on reasonable grounds that a medical practitioner is not available at the hospital or to go to the police station, the officer may, whether the person concerned is under arrest or not, take such person to a place where to the officer's knowledge or in the officer's reasonable belief a medical practitioner is available for the taking of a specimen.

**(24)** Evidence of the concentration of alcohol or drug in the blood of a person at a time material to the time of an offence as hereinafter mentioned obtained in accordance with any of the provisions of this section is admissible upon the trial upon indictment of that person of any offence in connection with or arising out of the driving of a motor vehicle by the person or upon any hearing of a charge summarily against the person of an offence against any provision of section 328A of the Criminal Code, and shall not be excluded by reason only that such evidence was compulsorily obtained or otherwise obtained in accordance with this section.

**(24A)** Evidence admissible pursuant to subsection (24)—

- (a) may be given in the same manner, whether by a witness or by a certificate, as it may be given pursuant to the provisions of this section, other than that subsection, in respect of an offence against

this Act;

- (b) is admissible in the same circumstances and in all respects to the same extent as it would be admissible pursuant to the provisions of this section, other than subsection (24), in respect of an offence against this Act and, subject to paragraph (c), shall have the same evidentiary value in relation to the same matters and times as are provided for by the provisions of this section, other than that subsection, in respect of such evidence;
- (c) where such evidence indicates a concentration of alcohol in that person's blood equal to or exceeding 150 mg of alcohol per 100 mL of blood, shall be conclusive evidence that the person was adversely affected by alcohol at all times in relation to which such evidence has evidentiary value pursuant to this section.

(26) If a defendant proposes to lead evidence to prove in any proceeding—

- (a) pursuant to subsection (15H), that at the time of the operation of a breath analysing instrument it was defective or was not properly operated; or
- (b) pursuant to subsection (16G), that the result of a laboratory test of a specimen of blood referred to in subsection (16F) was not a correct result; or
- (c) pursuant to subsections (18) and (18A), that the signature referred to therein is not the signature of the medical practitioner by whom the certificate referred to therein purports to be signed or that any matter contained in the said certificate is not correct;

the defendant shall give notice thereof to the complainant or arresting police officer (which notice shall not be effective unless it is in writing and signed by the defendant or by the defendant's solicitor) not less than 3 clear days before the return date of the summons or the appointed date for the hearing of the charge.

### **Notices to offenders for certain first offences**

**16B.(1)** If—

- (a) a police officer believes on reasonable grounds that a person

has committed an offence against section 16(2) to (2I); and

- (b) the concentration of alcohol in the person's blood is less than 150 mg of alcohol per 100 mL of blood;

the police officer may serve a notice on the person.

(2) The notice may be served on the person only if the person has not within 5 years before the alleged offence been convicted of an offence against section 16 or 16A(11).

(3) The notice must—

- (a) be in a form approved by the Commissioner; and
- (b) be identified by a serial number; and
- (c) specify the full name and address of the person; and
- (d) specify the time, date and place of the commission of the alleged offence; and
- (e) clearly indicate the nature of the alleged offence; and
- (f) state the alleged concentration of alcohol in the person's blood; and
- (g) specify the day of its issue; and
- (h) state that, if the person does not wish the matter to be dealt with by a court, the person may pay to the department the amount of the prescribed penalty specified in the notice within 21 days after issue of the notice; and
- (i) state that if the person acts in accordance with paragraph (h) the person—
  - (i) will be disqualified from holding or obtaining a driver's licence for the prescribed period; and
  - (ii) must surrender to a superintendent every driver's licence held by the person on the day after the day on which the disqualification takes effect.

(4) Subject to subsections (12) and (14), if the notice under subsection (1) is served and, within 21 days after the issue of the notice, the amount of the prescribed penalty is paid in accordance with the notice and received by the department—

- (a) any liability of the person to a penalty in relation to the alleged offence is discharged and no further proceedings may be taken in relation to the alleged offence; and
- (b) if the alleged offence is in relation to a motor vehicle, the person is disqualified from holding or obtaining a driver's licence for the prescribed period starting from—
  - (i) the end of 21 days after the day of issue of the notice; or
  - (ii) if the person makes an application under subsection (7) and the Court refuses to direct the issue of a provisional licence to the person—the day of the refusal;whichever is the later; and
- (c) the person is taken, for the purposes of another offence against section 16 or 16A(11), to have been convicted of the alleged offence on the day on which the amount is received by the department.

(5) A person who, under this section, is disqualified from holding or obtaining a driver's licence must on the day after the day on which the disqualification takes effect, surrender every driver's licence held by the person to a superintendent.

(6) Section 56 (Delivery of cancelled or suspended licences, or licences for endorsement), other than subsection (1), applies, with all necessary modifications and any prescribed modifications, to a person who is disqualified from holding or obtaining a driver's licence under this section and to any licence held by the person.

(7) If, under this section, a person is disqualified from holding or obtaining a driver's licence from a particular day, the person may, before that day, apply to a Court in accordance with the regulations for an order directing that the person be issued with a provisional licence.

(8) A person who applies under subsection (7) must immediately give a copy of the application to the department.

(9) An applicant—

- (a) must attend the Court; and
- (b) if required by the Court—must give evidence in respect of matters relevant to the application; and

(c) is liable to cross-examination.

**(10)** Witnesses may also be called and cross-examined.

**(11)** Section 20A (Issue of provisional licence to disqualified person), other than subsections (1) and (2), applies, with all necessary modifications and any prescribed modifications, in relation to an application under subsection (7) as if it were an application under section 20A(1).

**(12)** If a district superintendent is of the opinion that—

- (a) an offence in respect of which a notice under subsection (1) was issued to a person is not an offence in respect of which such a notice could be issued; or
- (b) prescribed circumstances exist in relation to the alleged offence;

the district superintendent may withdraw the notice by serving on the person a withdrawal notice in a form approved by the Commissioner.

**(13)** The district superintendent must give written reasons in the notice for the decision to withdraw under subsection (12).

**(14)** A district superintendent may withdraw a notice issued under subsection (1) for the purpose of—

- (a) issuing a fresh notice; or
- (b) taking no further action;

in respect of the offence alleged in the withdrawn notice.

**(15)** If a notice is withdrawn—

- (a) the period (if any) of disqualification specified in the notice up to the withdrawal is valid; and
- (b) under subsection (12)—the person may, with the approval of a district superintendent, be proceeded against in relation to the alleged offence; and
- (c) any penalty paid by the person is to be refunded.

**(16)** A Court that convicts a person of an offence alleged in a notice under subsection (1) after the notice has been withdrawn under subsection (12) or (14) must take into account any period of disqualification of the person that resulted from the operation of the notice that had passed

before the withdrawal of the notice.

(17) If more than 1 notice is served on a person under subsection (1) in relation to the same alleged offence, the total period of disqualification of the person is not to exceed the period prescribed in relation to the offence alleged in the last or latest notice.

(18) If a notice under subsection (1) is served on a person and the prescribed penalty is not paid within 21 days after the day of issue of the notice, nothing in this section prejudices the institution or prosecution of a proceeding for the alleged offence to which the notice relates.

### **Offenders may be ordered to attend training programs or driving courses**

**16C.** Where a person is convicted at a prescribed place—

- (a) of an offence defined in section 16 or 17; or
- (b) upon indictment or summarily of an offence defined in section 328A of the Criminal Code;

the Judge presiding at the person's trial or the justices before whom the person is summarily convicted may in addition to any penalty or imprisonment imposed on the person order that the person, during the period the person is disqualified by such conviction or order of the Judge or justices from holding or obtaining a driver's licence, attend and complete—

- (c) in the case of a conviction of an offence defined in section 16—a training program approved by the Minister; or
- (d) in the case of a conviction of an offence defined in section 17 or in section 328A of the Criminal Code—a defensive driving course;

to be conducted by the department at a prescribed place, on such dates and at such times as are notified to the person by notice in writing given by the Director-General.

### **Careless driving of motor vehicles**

**17.** Any person who drives a motor vehicle on a road or elsewhere without due care and attention or without reasonable consideration for other persons using the road or place shall be guilty of an offence.

**Dangerous driving of vehicles (other than motor vehicles) etc.**

**18.(1)** Any person who drives a vehicle (other than a motor vehicle), a tram, a train or an animal on a road dangerously shall be guilty of an offence and shall be liable to a penalty not exceeding 4 penalty units or to imprisonment for a term not exceeding 6 months.

**(1A)** If the offender has been previously convicted under subsection (1) the offender shall be liable to a penalty not exceeding 8 penalty units or to imprisonment for a term not exceeding 1 year.

**(1B)** If the offender has been twice previously convicted under subsection (1), the Court shall, upon conviction, impose imprisonment as the whole or part of the punishment.

**(1C)** For the purpose of determining whether or not the provisions of subsections (1) to (1C) require imprisonment to be imposed as the whole or part of the punishment for an offence (the **“latest offence”**) against subsection (1), not more than 1 previous conviction for an offence against the subsection incurred by the offender earlier than the period of 10 years immediately preceding the date of the offender’s conviction for the latest offence shall be taken into account.

**(1D)** In this section—

**“drives a vehicle (other than a motor vehicle), a tram, a train or an animal dangerously”** includes the driving of a vehicle (other than a motor vehicle), a tram, a train or an animal at a speed or in a manner dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is on the road at the time or which might reasonably be expected to be on the road.

**(2)** Any person who drives a vehicle (other than a motor vehicle), a tram, a train, or an animal on a road without due care and attention or without reasonable consideration for other persons using the road shall be guilty of an offence.

**Racing and speed trials on roads**

**19.(1)** Any person who organises or promotes or takes part in—

- (a) any race between vehicles or animals on a road; or

- (b) any attempt to establish or break any vehicle or animal speed record on a road; or
- (c) any trial of the speed of a vehicle or animal on a road; or
- (d) any competitive trial designed to test the skill of any vehicle driver or the reliability or mechanical condition of any vehicle on any road where a prize or trophy or other benefit or advantage in excess of the value of \$100 may be won by a competitor;

shall be guilty of an offence, unless the prior permission in writing of the Commissioner to the holding or making of the race, attempt, or trial has been obtained.

(2) The Commissioner shall have power to grant or refuse permits under this section.

(3) The Commissioner may in any such permit impose any conditions the Commissioner deems necessary in the interests of public safety and/or convenience.

(4) Any such permit or conditions may be of general or limited application.

(5) Where any person organising, promoting, or taking part in any such race, attempt, or trial contravenes or fails to comply with any condition imposed as aforesaid, that person shall be guilty of an offence.

### **Disqualification of drivers of motor vehicles for certain offences**

**20.(1)** A person who is convicted of an offence in relation to a motor vehicle against section 16(1) shall, if during the period of 5 years prior to conviction the person has not been previously convicted—

- (a) under section 16(1); or
- (b) under section 16(2) to (2D); or
- (c) upon indictment, of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (d) summarily of an offence against any provision of section 328A of the Criminal Code;

be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or



obtaining a driver's licence.

**(1A)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 16(1), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a driver's licence.

**(1B)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 16(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a driver's licence.

**(1C)** If within the period of 5 years prior to such conviction the person has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of section 328A of the Criminal Code, the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a driver's licence.

**(1D)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or more than once summarily of an offence against any provision of section 328A of the Criminal Code or has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person and summarily of an offence against any provision of section 328A of the Criminal Code, the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a driver's licence.

**(1E)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 16(1) and has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of section 328A of the Criminal Code, the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a driver's licence.

**(1F)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 16(2) to (2D), the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a driver's licence.

**(1G)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 16(2) to (2D), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a driver's licence.

**(2)** A person who is convicted of an offence in relation to a motor vehicle against section 16(2) to (2D) shall, if during the period of 5 years prior to conviction the person has not been previously convicted—

- (a) under section 16(2) to (2D); or
- (b) under section 16(1); or
- (c) upon indictment, of any offence in connection with or arising out of the driving of a motor vehicle by the person; or
- (d) summarily of an offence against any provision of section 328A of the Criminal Code;

be disqualified by such conviction—

- (e) in a case where at the time of the commission of the offence the person convicted was, in respect of the motor vehicle, not the holder of a driver's licence or was the holder of a provisional licence or a learner's permit—for a period of not less than 3 months and not more than 9 months from the date of such conviction from holding or obtaining a driver's licence;
- (f) in any other case—for a period of not less than 1 month and not more than 9 months from the date of such conviction from holding or obtaining a driver's licence.

**(2A)** The period of disqualification shall be determined by the Court which, in making its determination, shall have regard to the concentration of alcohol in the blood of the defendant and the danger, real or potential, to the public in the circumstances of the case.

**(2B)** If within the period of 5 years prior to such conviction the person

has been previously convicted of an offence under section 16(2) to (2D), the person shall be disqualified by such conviction for a period of not less than 3 months and not more than 18 months from the date of such conviction from holding or obtaining a driver's licence.

**(2C)** The period of disqualification shall be determined by the Court which, in making its determination, shall have regard to the concentration of alcohol in the blood of the defendant and the danger, real or potential, to the public in the circumstances of the case.

**(2D)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 16(2) to (2D), the person shall be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a driver's licence.

**(2E)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 16(1) or upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of section 328A of the Criminal Code, the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or obtaining a driver's licence.

**(2F)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence under section 16(2) to (2D) and—

- (a) has been previously convicted of an offence under section 16(1);  
or
- (b) has been previously convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of section 328A of the Criminal Code;

the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a driver's licence.

**(3)** A person who is convicted upon indictment of any offence in connection with or arising out of the driving of a motor vehicle by the person or summarily of an offence against any provision of section 328A of

the Criminal Code shall, subject to the provisions of subsections (3A) to (3F), be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a driver's licence.

**(3A)** If within the period of 5 years prior to such conviction the person has been previously convicted—

- (a) of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3);
- (b) under section 16(1);

the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a driver's licence.

**(3B)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3) or has been previously convicted of an offence (whether of the same or of a different kind) of each of the classes referred to in subsection (3), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a driver's licence.

**(3C)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 16(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a driver's licence.

**(3D)** If within the period of 5 years prior to such conviction the person has been previously convicted of an offence (whether of the same or of a different kind) of either of the classes referred to in subsection (3) and has been previously convicted of an offence under section 16(1), the person shall be disqualified by such conviction and without any specific order for a period of 2 years from the date of such conviction from holding or obtaining a driver's licence.

**(3E)** If within the period of 5 years prior to such conviction the person has been previously convicted under section 16(2) to (2D), the person shall be disqualified by such conviction and without any specific order for a period of 9 months from the date of such conviction from holding or

obtaining a driver's licence.

**(3F)** If within the period of 5 years prior to such conviction the person has been previously convicted more than once of an offence under section 16(2) to (2D), the person shall be disqualified by such conviction and without any specific order for a period of 1 year from the date of such conviction from holding or obtaining a driver's licence.

**(4)** A person who is convicted of an offence under section 16A(22D) shall be disqualified by such conviction and without any specific order for a period of 6 months from the date of such conviction from holding or obtaining a driver's licence.

**(5)** In the case of any conviction referred to in this section in respect of which a person is disqualified by such conviction and without any specific order for a period of time specified from holding or obtaining a driver's licence, the Judge before whom such person is so convicted upon indictment or the justices by whom such person is so convicted may order that from the date of conviction such person shall be disqualified absolutely or for a longer period than the period specified in the person's case from holding or obtaining a driver's licence, and the person shall thereupon be so disqualified under and in accordance with that order.

**(5A)** Where a person ordered to attend a training program or defensive driving course referred to in section 16C fails to comply with the order, the Director-General may by notice given to the person call upon the person to appear and show cause before a Magistrates Court constituted under the *Justices Act 1886* at a time and place specified in the notice why the person should not be disqualified from holding or obtaining a driver's licence for a period of 1 month in addition to the period for which the person is or was so disqualified by his or her conviction or the order of the Judge or justices.

**(5B)** Where a person called upon to appear and show cause pursuant to subsection (5A)—

- (a) fails to appear at the time and place specified or at any time or place to which the show-cause proceeding may be adjourned; or
- (b) having appeared, fails to show cause to the satisfaction of the Court;

the person shall thereby, without any specific order being made, be disqualified from holding or obtaining a driver's licence for a period of 1 month in addition to the period for which the person is or was so

disqualified by the person's conviction or the order of the Judge or justices.

(5C) The additional period of 1 months disqualification shall commence—

- (a) if it is incurred during the period for which the person is disqualified from holding or obtaining a driver's licence by the person's conviction or the order of the Judge or justices—upon the expiration of that period; or
- (b) if it is incurred after the expiration of the period for which the person is disqualified from holding or obtaining a driver's licence by the person's conviction or the order of the Judge or justices—upon the date of the person's failure whereby the person has incurred the additional period of disqualification.

(6) Any disqualification pursuant to this section shall be in addition to any punishment to which the person convicted may be liable upon the person's conviction.

(7) In this section—

**“previously convicted”** has the same meaning that it has in section 16.

(7A) The provisions of this section have effect notwithstanding that a probation order under the *Offenders Probation and Parole Act 1980* is made in respect of the offender and section 33 of that Act shall have application subject hereto accordingly.

(8) The provisions of this section apply notwithstanding anything contained in any other Act.

### **Issue of provisional licence to disqualified person**

**20A.(1)** Where a person is convicted by a Court of an offence under section 16 or 16A(5A) and—

- (a) by order of the Court, is disqualified from holding or obtaining a driver's licence; or
- (b) by operation of law and without specific order, is disqualified from holding or obtaining a driver's licence;

the Court may, where it has received an application from the person, make an order directing that the person be issued with a provisional licence.

(2) An application for an order under this section may be made—

- (a) at the proceedings in which the conviction is recorded against the applicant by reason of which the applicant is disqualified from holding or obtaining a driver's licence; and
- (b) in a case where the Court makes an order disqualifying the applicant from holding or obtaining a driver's licence—before the Court makes that order;

and not otherwise.

(2A) An application shall be made in the prescribed form and in respect of every application—

- (a) the applicant shall, if required by the Court so to do, submit himself or herself as a witness; and
- (b) other persons may be called as witnesses;

to give evidence in respect of all matters relevant to the application and shall be liable to cross-examination with respect thereto.

(3) An order under this section may be made—

- (a) at the proceedings in which the conviction is recorded against the applicant by reason of which the applicant is disqualified from holding or obtaining a driver's licence; and
- (b) in a case where the Court makes an order disqualifying the applicant from holding or obtaining a driver's licence—in conjunction with that order;

and not otherwise.

(4) A Court that grants an application shall make an order directing that a provisional licence be issued to the applicant during the period of the applicant's disqualification subject to restrictions specified in the order—

- (a) which shall restrict the use of the provisional licence by the applicant to specified circumstances directly connected with the applicant's means of earning the applicant's livelihood; and
- (b) which may include, but are not limited to—
  - (i) the class of vehicle which may be driven;
  - (ii) the purpose for which a vehicle may be driven;

- (iii) the times at which or period of time during which a vehicle may be driven.

(4A) An order under this section may relate only to a driver's licence that is of the same class as one which is held by the applicant for the order immediately prior to the disqualification in respect of which his or her application is made.

(5) An application for an order under this section shall not be granted—

- (a) unless the applicant satisfies the Court that hears the application that—

- (i) the applicant is a fit and proper person to hold a provisional licence, having regard to the safety of other road users and the public generally; and
- (ii) a refusal would cause extreme hardship to the applicant or the applicant's family by depriving the applicant of the applicant's means of earning the applicant's livelihood;

- (b) unless the applicant is the holder of a driver's licence under Part 3 (other than a learner's permit) immediately prior to the disqualification in respect of which the application is made;

- (c) in a case where the applicant has been previously convicted—

- (i) under section 16 or 16A(5A) or section 328A of the Criminal Code; or
- (ii) elsewhere than in Queensland of any offence which if committed in Queensland would be an offence under section 16 or 16A(5A);

within a period of 5 years prior to the conviction that results in the disqualification in respect of which the application is made;

- (d) in a case where the disqualification in respect of which the application is made resulted from a conviction of the applicant—

- (i) for an offence committed whilst the applicant was engaged in an activity directly connected with the applicant's means of earning the applicant's livelihood;
- (ii) for an offence committed at a time when the applicant was



not the holder of a driver's licence under Part 3;

- (iii) for an offence committed at a time when the applicant was the holder of a provisional licence issued pursuant to an order made under this section.

(5A) In subsection (5)(c)—

**“previously convicted”** has the same meaning as it has in section 16.

(6) Where—

- (a) an order is made under this section by a Court directing the issue of a provisional licence to an applicant in conjunction with an order disqualifying the applicant from holding or obtaining a driver's licence; and
- (b) the provision of this Act that empowers a Court to impose the disqualification specifies a maximum period of time for which a disqualification may be imposed;

for the purpose of making the order disqualifying the applicant, the maximum period for which the Court may impose the disqualification shall be deemed to be twice that specified in the provision.

(6A) A Court, in considering whether an order disqualifying the applicant from holding or obtaining a driver's licence should be made under section 20(5), and in considering the terms of any other disqualification order it proposes to make, shall have regard to any order it proposes to make under this section as a circumstance indicating that the disqualification imposed should be for a longer period of time than if it made no order under this section.

(7) Where an order is made under this section and the person in respect of whom the order is made makes an application to a superintendent for a driver's licence under and in accordance with this Act, the superintendent shall issue to the person a driver's licence in the form of a provisional licence under section 14 subject to the restrictions imposed by the Court by the order made under this section, and such other terms, provisions, conditions, limitations or restrictions, consistent with the order, as are specified on the licence in accordance with this Act.

(8) A provisional licence issued pursuant to an order under this section—

- (a) shall be issued in the first instance for such period as is prescribed

by regulation and thereafter shall be renewed from time to time for such period as is prescribed by regulation until the period of disqualification in respect of which the order under this section was made expires; and

- (b) in a case where it is renewed during that period of disqualification—shall, subject to section 20B(7), be renewed subject to the restrictions specified in the order last made whether under this section or section 20B.

**(8A)** A provisional licence issued or renewed pursuant to an order made under this section shall remain in force until it expires or is cancelled, surrendered or suspended in accordance with this Act.

**(9)** The power of the Governor in Council to make regulations in respect of a provisional licence includes the power to make regulations in respect of the provisional licence provided for under this section including regulations in respect of its cancellation or suspension notwithstanding that it is issued or renewed pursuant to an order of the Court.

**(10)** Any person who, being the holder of a provisional licence issued pursuant to an order made under this section, drives a motor vehicle otherwise than in accordance with the restrictions to which the licence is subject as a consequence of that order or an order under section 20B commits an offence and shall be liable to a penalty not exceeding 20 penalty units.

**(10A)** In addition to any other penalty imposed—

- (a) if the provisional licence issued to the person is still current at the time of the conviction—it is by virtue of the conviction thereby cancelled without specific order; and
- (b) the person shall by virtue of the conviction be disqualified from holding or obtaining a driver's licence for a period of 3 months from the expiration of the disqualification in respect of which the order was made under this section or, where the conviction is later than the expiration of that disqualification, for 3 months from the date of conviction.

**(11)** For the purposes of this section, the proceedings in which a conviction is recorded shall be taken to continue until the Court has completed the exercise of its jurisdiction to sentence the defendant in respect of the conviction, notwithstanding that the proceedings have been adjourned.

**Variation of conditions**

**20B.(1)** Where subsequent to a Court making an order under section 20A or this section in respect of a person and the issuing to the person of a provisional licence the circumstances connected with the person's means of earning the person's livelihood have altered, the person may apply to a Magistrates Court exercising jurisdiction at the place where the person resides for an order varying the restrictions to which the provisional licence is subject as a consequence of the order made under section 20A or this section.

**(2)** An application shall be made in the prescribed form and in respect of every application—

- (a) the applicant shall, if required by the Court so to do, submit himself or herself as a witness; and
- (b) other persons may be called as witnesses;

to give evidence in respect to all matters relevant to the application and shall be liable to cross-examination with respect thereto.

**(3)** Written notice of the application setting forth the time and place at which the application is to be heard shall be given by the applicant, at least 14 days prior to the date of hearing, to the Commissioner or to a police officer authorised by the Commissioner to receive such notices.

**(4)** The Commissioner is entitled to be represented at the hearing of the application.

**(4A)** A police officer may appear and act at the hearing of the application on behalf of the Commissioner.

**(5)** A Court to which an application is made under subsection (1) may, if it considers that the justice of the case requires that it do so and having regard to the restrictions referred to in section 20A(4), make an order varying the restrictions to which the provisional licence is subject as a consequence of an order made under section 20A or this section.

**(6)** A superintendent to whom—

- (a) a copy of an order made under this section (“**the order**”) certified by the clerk of the court which made the order to be a true copy; and
- (b) the provisional licence to which the order relates;

are produced shall vary the restrictions to which the provisional licence is subject by reason of an order made under section 20A or a prior order made under this section so that they accord with those imposed by the Court by the order.

(7) Until a superintendent, pursuant to subsection (6), varies the restrictions to which the provisional licence is subject, those restrictions shall continue to apply to the holder of the licence notwithstanding the making of an order or, as the case may be, a further order under this section.

### **Power to disqualify person from holding or obtaining driver's licence though acquitted of certain indictable offences**

**21.(1)** Where upon the trial of any person charged upon indictment with an offence in connection with or arising out of the driving of a motor vehicle by the person the Judge presiding at the trial is satisfied that upon the evidence such person should, in the interest of the public, be prohibited from driving a motor vehicle either absolutely or for a period, the Judge may, notwithstanding that such person is found not guilty by the jury, order that the person shall from the date of the order be disqualified absolutely from holding or obtaining a driver's licence, or be so disqualified for such period as the Judge shall specify in the order.

(2) An order under this section may be made by the Judge before the Judge discharges the defendant upon the conclusion of the trial, or the Judge may discharge the defendant and adjourn the matter of whether or not the Judge will make such order to a later date when the Judge may receive such evidence in addition to the evidence given at the trial as the Judge considers necessary under the circumstances.

### **Power to disqualify person from holding or obtaining driver's licence though complaint dismissed**

**22.(1)** Where upon the hearing of a complaint against any person of an offence against any provision of section 328A of the Criminal Code, or of an offence in relation to a motor vehicle against section 16, 17 or 19, the justices determining the complaint are satisfied that upon the evidence such person should, in the interest of the public, be prohibited from driving a motor vehicle either absolutely or for a period, the justices may, notwithstanding that they dismiss the complaint, order that the person shall

from the date of the order be disqualified absolutely from holding or obtaining a driver's licence, or be so disqualified for such period as the justices shall specify in the order.

(2) An order under this section may be made by the justices when they dismiss the complaint or the justices may dismiss the complaint and adjourn the matter of whether or not they will make such order to a later date when the justices may receive such evidence in addition to the evidence given upon the hearing of the complaint as they consider necessary under the circumstances.

**Director-General to be advised of persons disqualified from holding drivers' licences etc.**

23. When, by or under this Act, a person is disqualified or has been ordered by a Judge of the Supreme Court or District Court or justices to be disqualified from holding or obtaining a driver's licence either absolutely or for a period, then—

- (a) in the case where no order with respect to such disqualification was made by the Judge of the Supreme Court or District Court before whom the person was convicted—particulars of the conviction; or
- (b) in the case where an order with respect to such disqualification was made by a Judge of the Supreme Court or District Court upon the trial or conviction of that person—a copy of such order; or
- (c) in the case where no order with respect to such disqualification was made by the justices who convicted the person—a copy of the minute or memorandum of the conviction made and signed by such justices; or
- (d) in the case where the order with respect to such disqualification has been made by justices—a copy of such order;

shall be transmitted by the Registrar of the Supreme, Circuit, or District Court or the clerk of the court concerned to the Director-General.

## **PART 4—OFFENCES IN RELATION TO PUBLIC TRANSPORT**

### **Offences by persons using licensed vehicles, tramcars etc.**

**30.(1)** Any person hiring or using or attempting to hire or use a vehicle licensed under Part 6A of the *State Transport Facilities Act 1946* or a vehicle permitted to be used for carrying passengers or passengers and goods or approved for use in carrying on a service for the carriage of passengers or passengers and goods under the *State Transport Facilities Act 1946* or any other Act, or a tramcar, who—

- (a) evades or attempts to evade payment of the lawful fare for such hiring or use, or refuses to pay such fare; or
- (b) having failed or refused to pay such fare, fails when required to give to an authorised officer or to the driver or conductor of such vehicle or tramcar the person's name and address, or gives a false name and address or a false name or a false address; or
- (c) enters upon or into such vehicle or tramcar (or into any compartment thereof) when such vehicle or tramcar (or compartment thereof) already is carrying the full complement of passengers or is hired by another person; or
- (d) having entered upon or into such vehicle or tramcar (or into any compartment thereof) when such vehicle or tramcar (or compartment thereof) already is carrying the full complement of passengers or is hired by another person, fails to remove himself or herself therefrom when required to do so by the driver or conductor of that vehicle or tramcar or by an authorised officer; or
- (e) having entered upon or into such vehicle or tramcar (or into any compartment thereof) and the person's continued presence thereon or therein becoming unauthorised, fails to remove himself or herself therefrom when required to do so by the driver or conductor of that vehicle or tramcar or by an authorised officer; or
- (f) misconducts himself or herself or causes inconvenience, annoyance, or discomfort to any person whilst using such vehicle or tramcar; or

- (g) wilfully damages or otherwise improperly interferes with any part of such vehicle or tramcar or with any equipment therein or thereon;

shall be guilty of an offence, and may be removed from the vehicle or tramcar by the driver, conductor, or any other person employed thereon or by any authorised officer.

(2) Any person who procures or attempts to procure the use or hire of any vehicle or tramcar by fraud or misrepresentation shall be guilty of an offence.

(3) Nothing in this section shall be deemed to repeal or affect the provisions in force of any other Act or of any regulation, ordinance, or by-law made under any other Act relating to offences by persons hiring or using or attempting to hire or use a vehicle or tramcar within the meaning of this Act and where any act or omission is an offence both under a provision of this section and under a provision of any such other Act, regulation, ordinance, or by-law, the offender may be prosecuted under this Act or under such other Act, regulation, ordinance, or by-law, but so that the offender shall not be twice punished for that offence.

## **PART 5—ROAD INCIDENTS**

### **Duties and liabilities of drivers involved in road incidents**

**31.(1)** The driver of any vehicle, tram or animal involved on any road, or of any motor vehicle involved elsewhere than on a road, in an incident resulting in injury to or death of any person or damage to any property (including any animal in the charge of any person) shall—

- (a) immediately stop the vehicle, tram or animal;
- (b) at the scene of the incident as soon as possible give the driver's name and address and also the name and address of the owner of the vehicle, tram or animal driven by the driver and the identification marks of that vehicle, tram or animal—
  - (i) any person injured; and

- (ii) the driver of any vehicle, tram or animal (other than the one driven by the driver) involved in the incident; and
  - (iii) the owner of any property damaged; and
  - (iv) any other person having reasonable grounds for requiring such information;
- (c) if any person is injured—
  - (i) remain at or near the scene of the incident and immediately render such assistance as the driver can to the injured person;
  - (ii) make reasonable endeavours to obtain such medical and other aid as may reasonably be required for the injured person;
- (d) at the scene of the incident as soon as possible give those particulars mentioned in paragraph (b) to any police officer who is present;
- (e) if by reason an injury sustained by the driver in the incident the driver is incapable of complying with paragraph (d), as soon as possible report in person full particulars of the incident at the police station that is nearest to the scene of the incident;
- (f) if any person is injured or dead and no police officer is present at the scene of the incident, as soon as possible report in person full particulars of the incident at the police station that is nearest to the scene of the incident;
- (g) except where paragraph (h) is applicable and the driver has complied with that paragraph, if any property is damaged and neither the owner of the property nor any police officer is present at the scene of the incident—as soon as possible report in person full particulars of the incident at the police station that is nearest to the scene of the incident;
- (h) if damage has been caused by the incident to any vehicle that has been left unattended—affix on that vehicle in a conspicuous position a notice in writing setting forth the particulars mentioned in paragraph (b);



- (i) if any property is damaged to an extent apparently in excess of an amount fixed by order in council for the purpose of this paragraph and no police officer is present at the scene of the incident—as soon as possible report in person full particulars of the incident at the police station that is nearest to the scene of the incident;
- (j) if any person is dead or apparently dead—exhibit proper respect for the person's body and take whatever steps are reasonably practicable to have the body removed to an appropriate place.

(2) Notwithstanding subsection (1)(c)(i), a person may leave the scene of the incident where the person's leaving is solely for the purpose of obtaining medical or other aid for the injured person.

(3) A person who commits an offence against subsection (1) is liable—

- (a) in case of an incident whereby death or injury shall have been caused to any person—to a penalty of 20 units or to imprisonment for 1 year;
- (b) in any other case—to a penalty of 10 penalty units or to imprisonment for 6 months.

(4) If in determining a complaint for an offence against subsection (1) in respect of an incident whereby any person is injured the Court is satisfied that the defendant showed a callous disregard for the needs of the injured person the Court shall impose, as the whole or part of the sentence, a period of imprisonment.

(5) A person who—

- (a) in purported compliance with subsection (1) furnishes any false or misleading information; or
- (b) reports the happening of an incident such as is referred to in subsection (1) to a police officer knowing the report to be false;

commits an offence.

(6) In any proceedings for an offence against this section the averment in the complaint—

- (a) that any incident specified therein had not been reported at

the police station that was nearest to the scene of the incident within or prior to any time or date specified in the averment;

- (b) that a police officer was or was not present at the scene of any incident specified therein at any time or during any period specified in the averment;

shall be evident of the matter so averred.

(7) The incident may be specified by reference to the approximate time and place thereof or to the person or persons involved or otherwise so as to sufficiently identify it.

(8) Nothing in this section shall prejudice or affect the provisions of the Criminal Code or any Act relating to traffic or transport and, notwithstanding an order of disqualification for any specified period made under section 54, upon a conviction of any person for an offence against this section resulting from any road incident hereinbefore mentioned in this section, if that person is subsequently convicted upon indictment of any offence in connection with or arising out of the same road incident, the Judge of the Supreme Court or District Court before whom that person is so convicted, in addition to any sentence the Judge may impose, may order that the offender shall, from the date of the conviction upon indictment, be disqualified absolutely from holding or obtaining a driver's licence or be so disqualified for such period longer than the period specified in the order of disqualification made under section 54 as the Judge shall specify in the Judge's order.

### **Police officers may make inquiries etc. into certain road incidents**

**33.(1)** Any police officer may make all such inquiries and investigations as the officer deems necessary or desirable for the purpose of ascertaining full particulars relating to any person, vehicle, tram, train, or animal, or other property, real or personal, involved in any incident on any road whereby death or injury was caused to any person, or damage was caused to any vehicle, tram, or train, or to any other property, real or personal, or death or injury was caused to any animal, and the cause or causes of such incident and the circumstance or circumstances attendant thereon and may make or cause to be made such inspection, examination, or test of any vehicle, tram, train, or animal as the officer considers necessary or desirable for that purpose.

(2) A person shall not, when required by a police officer under this section—

- (a) without lawful excuse, fail or refuse to furnish any information within the knowledge of that person; or
- (b) furnish any information which the person knows to be false.

### **Scheme to facilitate supply of information as to road incidents**

**34.(1)** The Commissioner or the Director-General, may authorise a scheme to facilitate the supply of information in the possession of a police officer or contained in a writing prepared by a police officer, as to the facts relating to any incident whereby, owing to the presence on a road of a vehicle, tram, train or animal, death or injury has been caused to any person, or damage has been caused to any property (including any animal in the charge of any person) to any person who or whose property has been involved in that incident, or to the agent, servant or other representative of that person, and to any insurer or other person having a bona fide interest in that incident.

(2) Any such scheme may provide for the payment of fees for the supply of that information on any basis or bases set out in the scheme.

(3) The supply in pursuance of any scheme under this section of any information in relation to any incident of a kind referred to in this section shall not render the Crown, the Minister, the Commissioner or any police officer, the Director-General or any person acting under the authority of the Director-General, liable in any way in law in respect thereof.

## **PART 6—POWERS, FUNCTIONS, AND DUTIES OF POLICE OFFICERS**

### **General powers, functions, and duties of police**

**35.(1)** Every police officer may, in the case of off-street regulated parking areas, and shall, in all other cases, at all times cause the provisions of this Act to be duly observed, and any such officer may make or cause to

be made any inquiry, investigation, inspection, examination, or test which in the opinion of such officer is necessary to establish whether or not a breach of this Act has been committed by any person or by any person in respect of any vehicle, tram, train, vessel, or animal.

(2) In all cases not expressly provided for by this Act, any police officer may give to all drivers of and passengers upon vehicles, animals, trains, and trams on or about to enter on any road, and to all pedestrians on and to all persons about to enter on any road, such directions, signals, orders as may, in the officer's opinion, be necessary for the safe and effective regulation of traffic therein or thereon.

### **Obstruction etc. of police officers**

**36.** A person shall not—

- (a) obstruct or hinder any police officer in the exercise of the officer's powers or duties under this Act; or
- (b) disobey any direction, signal, or order given by a police officer in the exercise of the officer's powers or duties under this Act.

### **Diversion of traffic**

**37.(1)** The Commissioner or a district superintendent or the Director-General may order the closure of any road, permanently or temporarily (notice whereof shall, if practicable, be given in some newspaper circulating in the locality concerned) against any class or description of traffic, provided that another road or route is available for that traffic.

(1A) Where the purpose of a closure is a private commercial purpose or other prescribed purpose, an order for the closure of a road under subsection (1) may be made upon application under that subsection to the Commissioner or a district superintendent and not otherwise.

(1B) An application shall be in the prescribed form and be accompanied by the prescribed fee (if any).

(1C) Upon receiving an application the Commissioner or district superintendent, as the case may be, shall refuse the application or grant it and make an order for the closure of a road subject to such conditions, as

the Commissioner or district superintendent thinks fit, which may include but are not necessarily limited to the payment of fees and expenses in connection with the closure.

(2) Whenever a superintendent, the Director-General, or, in the event of an emergency, any police officer, is of opinion that it is expedient for the proper execution of this Act, or otherwise is in the public interest, the person may temporarily prohibit, divert or direct all or any part of the traffic in or from any road, and may take any measure and give or cause to be given any direction, signal or order which the person considers necessary or desirable for the safe and effective regulation of traffic in the locality where that road is situated.

(3) Any person who contravenes or fails to comply with any prohibition, direction, signal or order made or given under this section shall be guilty of an offence.

(4) The Director-General may carry out such construction works as are necessary to give effect to the closure of any road ordered under subsection (1).

(5) The cost of such works may be defrayed from the Traffic Engineering Trust Fund.

### **Driver to stop and supply name etc. when required**

**39.(1)** Any police officer who—

- (a) finds any person committing, or reasonably suspects that any person has committed an offence against this Act; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act, including an offence against this section, has been committed by any person; or
- (c) is of the opinion that any person was present at the scene of any incident on a road in which any vehicle, tram or animal was involved, resulting in death of or injury to any person, or damage to any property (including an animal in the charge of any person, a vehicle, or a tram), and may be able to give information or evidence in relation to that incident; or
- (d) is of the opinion that the name and address of any person is

necessary for the purpose of giving effect to any of the provisions of this Act, or for the purpose of enabling the officer to carry out any of the officer's functions or duties under this Act;

may require that person—

- (e) to stop, or where that person is the driver of any vehicle, tram or animal, to stop that vehicle, tram or animal; and
- (f) to produce any licence issued to the person under this Act; and
- (g) to state the person's name and address and, if that police officer has reasonable ground to suspect that the name and address or the name or the address given is false, to supply evidence of the correctness thereof.

**(1A)** For the purpose of giving effect to the provisions of section 16A(2), any police officer may require the driver of any motor vehicle or vessel to stop that motor vehicle or vessel.

**(2)** Any person who, when required under this section so to do—

- (a) fails to stop or, being the driver of a vehicle, vessel, tram or animal, fails to stop that vehicle, vessel, tram or animal; or
- (b) fails to produce forthwith any driver's licence issued to the person under this Act; or
- (c) fails to produce forthwith any licence, other than a driver's licence, issued to the person under this Act; or
- (d) fails to state the person's name and address, or the person's name or address; or
- (e) states a false name or address; or
- (f) fails to supply evidence, or supplies false evidence of the person's name and address, or of the person's name or address;

shall be guilty of an offence unless, in the case of a failure referred to in paragraph (c) or (f), the person has reasonable cause for such failure.

**(3)** Notwithstanding the provisions of subsection (2) a licensee required by a police officer to produce any driver's licence (other than a provisional licence or a learner's permit) issued to the person under this Act shall be deemed not guilty of an offence if not later than 48 hours after being required so to do the person produces such licence to the officer in charge of

the police station specified by that police officer.

**Power to require information respecting identity of drivers of vehicles etc.**

**41.(1)** The owner of a vehicle, tram, or animal, or person in whose name a vehicle is registered, or a person having the possession or control of a vehicle, tram, or animal, shall give such information as the owner or person may be required by any police officer to give as to the identity of any person who was driving, or who was in charge or control of, that vehicle, tram, or animal on any occasion when an offence under this Act in relation to that vehicle, tram, or animal is alleged to have been or is suspected of having been committed.

**(2)** Every person shall, if required by any police officer, give any information, which it is in the person's power to give, which may lead to the identification of any person who was driving or who was in charge or in control of a vehicle, tram, or animal on any occasion when an offence under this Act in relation to that vehicle, tram, or animal is alleged to have been or is suspected of having been committed.

**(3)** Any driver of a vehicle, tram, or animal shall give such information as the driver may be required by any police officer to give as to the identity of the owner of such vehicle, tram, or animal.

**(4)** A person who fails to give any information required by this section to be given by the person shall be guilty of an offence.

**(4A)** However, the person shall not be punished for that offence if the person satisfies the Court that the person did not know, and could not by using all due diligence have known, the information required.

**(5)** Nothing in this section contained shall render any person compellable to answer any question tending to incriminate himself or herself.

**General power of arrest without warrant**

**42.(1)** Any police officer may arrest any person found committing an offence against the provisions of any of the following sections, that is to say, of section 12E, 12F, 12G, 15, 16, 16A, 17, 18, 19, 20A, 30, 31, 36, 37, 39, 44I, 53, 60, or 61.

(2) Any police officer may arrest any person who, in the opinion of that police officer, has committed an offence against the provisions of any of the following sections, that is to say, of section 16, 16A, 17, 18, 19, 20A, 31, or 60.

(3) Any police officer may arrest any person if that officer has reasonable ground to believe—

- (a) that the person has committed an offence against this Act; and
- (b) that proceedings against the person by summons would not be effective.

### **Powers of entry**

43. Any police officer may at any time enter any land, premises, vehicle, or place for the purpose of making any seizure, inquiry, investigation, inspection, examination, or test which the officer is authorised or required to make under this Act whether in relation to any person, or to such land, premises, vehicle, or place or to anything which may be therein or thereon, whether it be an animal, or a vehicle, tram, train, or part thereof, or any goods, equipment, or other property or thing, or which in the officer's opinion is necessary or desirable to give proper effect to the provisions of this Act, and if such officer is of or above the rank of inspector, or is acting under the instruction of an officer who is of or above the rank of inspector, the officer may use reasonable force, if necessary, for making such entry.

### **Police may take charge of vehicles etc. in certain cases**

44.(1) Any police officer may seize and remove and detain or cause to be removed to and detained at a place for safe keeping or for any purpose deemed necessary for giving effect to any provision of this Act or for the safe and effective regulation of traffic any vehicle, tram, or animal—

- (a) where the driver of any such vehicle, tram, or animal has been arrested by a police officer under this Act or any other Act; or
- (b) in respect of which there are reasonable grounds for suspecting that such vehicle, tram, or animal has been abandoned by the person who last drove or used the same or has been involved in an incident whereby death or injury was caused to any person, or damage was caused to a vehicle, tram, or train, or to any other



property, real or personal, or death or injury was caused to any animal, and in the opinion of such officer is required to be detained for the purpose of completing any inquiries and investigations with respect to such incident; or

- (c) in respect of which there are reasonable grounds for suspecting that such vehicle, tram, or animal has been left on a road unattended whether temporarily or otherwise for such time or in such place, condition, manner or circumstances, that its presence on the road causes or is likely to cause danger, hindrance, or obstruction to traffic or prevents, hinders or obstructs or is likely to prevent, hinder or obstruct, the use of the road or any part thereof for some lawful purpose; or
- (d) which is found on a road in such place, condition, manner, or circumstances that its presence constitutes an offence under this Act or causes or is likely to cause danger, hindrance or obstruction to traffic or prevents, hinders or obstructs, or is likely to prevent, hinder or obstruct, the use of the road or any part thereof for some lawful purpose, and—
  - (i) the driver of which cannot be readily located; or
  - (ii) which the driver thereof fails to remove forthwith when required by a police officer so to do.

**(1A)** However, in any of the cases specified in subsection (1)(c) or (d) a police officer may, without seizing and detaining at a place for safe keeping the vehicle, tram, or animal concerned, remove it or cause it to be removed to some other place but in that event the police officer shall only remove or cause the vehicle, tram, or animal to be removed to a place at which it can be located by the driver thereof.

**(1B)** The owner or a person possessing authority to act for or on behalf of the owner of a vehicle, tram, or animal seized under subsection (1) may take delivery of or obtain possession of that vehicle, tram, or animal before its removal or while it is being removed to a place for safe keeping or for any other purpose for which it was seized on obtaining the prior consent of the police officer who made the seizure.

**(2)** As soon as practicable after a seizure, removal and detention under subsection (1) the police officer seizing and removing or causing to be removed the vehicle, tram, or animal, or some person on the officer's

behalf, shall give to the owner notice of the seizure and of the place to and at which the vehicle, tram, or animal was removed and detained.

**(2A)** The notice shall wherever practicable be in writing and be served upon the owner personally, but if it is not so served within 14 days after the seizure it may be given by public advertisement in a newspaper circulating in the locality in which the vehicle, tram, or animal was found.

**(3)** If the owner of the seized vehicle, tram, or animal does not within 1 month after the service or advertisement of the notice under subsections (2) and (2A), and before the vehicle, tram, or animal is released from police custody, pay all expenses in connection with the removal and detention of the vehicle, tram, or animal, and of serving or advertising the notice, and take possession of the vehicle, tram, or animal, such vehicle, tram, or animal may be sold by public auction (after notice of such sale has been given by advertisement in a newspaper circulating in the locality where the vehicle, tram or animal was found) or, in a proper case, may be otherwise disposed of by direction of the Commissioner and the proceeds of such sale or disposal shall be applied as follows—

- (a) firstly, in payment of the expenses of the sale;
- (b) secondly, in payment of the cost of removal and detention of the vehicle, tram, or animal, and of the notice served or advertised under this section;
- (c) thirdly, in payment of the balance to the owner, or if after reasonable inquiry the owner cannot be found, into the Consolidated Fund of the State.

**(3A)** However, when a vehicle, tram, or animal is seized and detained by a police officer under this section and it is, in the opinion of a superintendent, necessary for the police to retain custody of the same for the purpose of producing it as an exhibit or for some other purpose, notification thereof shall be given to the owner and thereupon, unless any order for its delivery is sooner made by a Magistrates Court in the district in which the seizure was made or in the district to which the vehicle, tram, or animal has been removed and detained upon an application made under the provisions of section 39 of the *Justices Act 1886*, such vehicle, tram, or animal may be retained in the custody of the police for that purpose.

**(3B)** When it is, in the opinion of the superintendent under whose direction a vehicle, tram, or animal is retained in the possession of the

police, no longer necessary to retain possession of the vehicle, tram, or animal for the purpose of producing it as an exhibit (and it has not been so produced) or for any other purpose for which it was retained, the owner shall be notified accordingly.

(3C) When the owner of any such vehicle, tram, or animal has been so notified that it is no longer required to be detained in police custody and the owner fails to take possession of the same within 1 month after being so notified, such vehicle, tram, or animal may be sold or otherwise disposed of and the proceeds of such sale or disposal shall be applied as previously specified in subsection (3).

(4) The authority to deal with any vehicle, tram, or animal in any manner specified in this section shall also apply to any goods, equipment, or other property or thing whatsoever contained therein or thereon, or attached thereto at the material time, and the provisions of this section shall extend and apply to such goods, equipment, or other property or thing accordingly.

(5) Subject to any order made by a Magistrates Court under the provisions of section 39 of the *Justices Act 1886*, the following rules shall be observed in relation to the release from police custody of a vehicle, tram, or animal seized and detained by a police officer under this Act, that is to say—

- (a) application for its release from the custody of the police shall be made by the owner of the vehicle, tram, or animal or by a person acting for or on behalf of such owner to the officer in charge of the police station in the area where such vehicle, tram, or animal is located;
- (b) the applicant shall furnish proof of the ownership of the vehicle, tram, or animal to the satisfaction of the said officer in charge;
- (c) the vehicle, tram, or animal shall not be released from police custody unless—
  - (i) where such vehicle, tram, or animal has been retained for the purpose of producing it as an exhibit it has not been so produced, or where it has been retained for some other purpose it is no longer required for such purpose; and
  - (ii) the said officer in charge is satisfied that the applicant is the owner thereof or that the applicant possesses authority to act for or on behalf of such owner; and

- (iii) the cost of the removal and detention of such vehicle, tram, or animal, and of the service or advertisement of notice of the seizure thereof, incurred by the police have been paid to the said officer in charge or evidence is produced to the satisfaction of such officer that such costs have been paid to the person to whom the same were due and payable; and
- (iv) the applicant has signed a receipt for the delivery of the vehicle, tram, or animal, on the prescribed form supplied to the applicant by the said officer in charge.

(6) Any person who takes delivery or obtains possession of or removes or attempts to remove any vehicle, tram, or animal seized under this Act except—

- (a) under and pursuant to an order made by a Magistrates Court under the provisions of section 39 of the *Justices Act 1886*; or
- (b) after complying with the rules set out in subsection (5); or
- (c) after obtaining the prior consent of the police officer who made the seizure;

shall be guilty of an offence.

### **Power to remove and dispose of abandoned vehicles vested in local authorities**

(7) When there is on a road within any area any vehicle in respect of which there are reasonable grounds for suspecting that the same has been abandoned by the person who last drove or used the same the local authority of that area may remove and detain, or cause to be removed and detained, at a place of safe keeping that vehicle and may deal with such vehicle or cause the same to be dealt with, in the manner provided by subsections (8) to (15).

(8) As soon as practicable after removal of such vehicle, the local authority concerned shall cause notice in writing to be given to the owner thereof, if the owner can be ascertained, of such removal and of the place at which such vehicle is then detained.

(9) Such notice shall, if practicable, be served upon the owner personally, but if it is not so served within 14 days from the date of such removal it may be given by public advertisement in a newspaper circulating in the locality in which such vehicle was found.

**(10)** If within 1 month from the date of service or advertisement of such notice the owner of such vehicle or a person acting on the owner's behalf or a person claiming a right to the possession of such vehicle, has not obtained possession of such vehicle in accordance with the provisions of subsection (14), the local authority may—

- (a) by notice published in a newspaper circulating in the locality in which such vehicle was found, advertise that it will offer such vehicle for sale by public auction at the place and time stated in the advertisement;
- (b) at the time on the day stated in the advertisement (which day shall be not earlier than 14 days after the date when the advertisement was published) and at the place stated in the advertisement, offer such vehicle for sale by public auction unless the owner thereof or a person acting on the owner's behalf or a person claiming a right to possession thereof has sooner obtained possession of such vehicle in accordance with the provisions of subsection (14);
- (c) if no offer for such vehicle is received at such auction—dispose of the same in such manner and on such terms as the local authority may determine.

**(11)** The proceeds of the sale or disposal of such vehicle shall be applied as follows—

- (a) firstly, in payment of the expenses of the sale or disposal;
- (b) secondly, in payment of the cost of removal and detention of the vehicle and the service and advertisement of any notice served or advertised under subsection (9);
- (c) thirdly, in payment of the balance of such proceeds to the owner of such vehicle or, if after reasonable inquiry, the owner cannot be ascertained, into the general fund of the local authority.

**(12)** The local authority which has caused a vehicle to be removed and detained under subsection (7) may deal with any goods, equipment or thing contained in, on or about such vehicle at the time of its removal in the same manner as it may deal with the vehicle pursuant to this section.

**(13)** However, any perishable goods contained in such vehicle at the time of its removal may be disposed of in such manner as the clerk of the local authority concerned shall direct and the proceeds (if any) of such disposal

shall be applied in accordance with the provisions of subsection (11).

(14) The clerk of a local authority which has removed and detained, or caused so to be, a vehicle pursuant to the provisions of subsection (7) shall not deliver possession of such vehicle to the owner thereof, or to another person acting on the owner's behalf, or to any other person claiming a right to the possession thereof unless the following provisions of this subsection have been complied with—

- (a) the owner, or person acting on the owner's behalf, or other person claiming a right to possession of such vehicle shall have applied in writing signed by the applicant to the clerk of the local authority concerned for the release from such detention of such vehicle;
- (b) the applicant shall have furnished proof to the satisfaction of the clerk of the applicant's ownership or of the applicant's right to possession of such vehicle and, in the case of the applicant's being a person acting on behalf of the owner, shall have furnished proof to the satisfaction of the clerk, of the applicant's authority to act on behalf of such owner;
- (c) the applicant shall have paid all expenses incurred by the local authority concerned in connection with the removal and detention of such vehicle and the service, or advertisement, of any notice served or advertised by such local authority in relation to such removal and detention or intended sale of such vehicle;
- (d) the applicant has signed a receipt for the delivery of such vehicle to the applicant.

(15) Any person who takes delivery, or obtains possession of or removes or attempts to remove from the detention of a local authority a vehicle removed and detained pursuant to the provisions of subsection (7) except in accordance with the provisions of subsection (14) shall be guilty of an offence.

(16) In subsections (7) to (15)—

“**vehicle**” includes any part of a vehicle.

## **PART 6A—REGULATED PARKING**

**Owner**

**44A.** For the purposes of this Part—

“**owner**” means, as well as any person who is an owner within the meaning assigned to that term by this Act, any person in whose name a vehicle is registered under the regulations under the *Main Roads Act 1920*, or under any corresponding legislation, ordinance or law of any State or Territory of the Commonwealth.

**Parking**

**44B.(1)** Except to the extent to which it is thereunto authorised by the Director-General a local authority shall not have or exercise in respect of a declared road or part of a declared road any power or authority conferred upon it by this section or by any other provision of this Part.

**(1A)** The Director-General may by an instrument in writing authorise a local authority to exercise the powers conferred upon a local authority by this section in respect of the declared road or part of a declared road or the declared roads or parts of declared roads in the area specified in the instrument and, during the continuance in force of such authority, the local authority may prohibit, regulate and control the parking of traffic in accordance with the provisions of this Act on any and every road or part of a road specified in the instrument of authority, and shall have and may exercise accordingly in respect of any and every such road or part of a road the powers and authorities conferred upon a local authority by this section in respect of a road other than a declared road.

**(1B)** An instrument of authority under subsection (1A) or a notice of the revocation by the said Director-General of the authority may be published in the Gazette and thereupon shall be judicially noticed.

**(2)** The Director-General may prohibit, regulate and control parking on any declared road.

**(2A)** A local authority may prohibit, regulate and control parking in accordance with the provisions of this Act on any road within its area which is not a declared road and on any off-street regulated parking area within its area.

**(2B)** The Director-General or a local authority may install official traffic signs for the purpose of prohibiting, regulating and controlling parking and

the provisions of Part 2A shall apply to any official traffic sign so installed.

### **Traffic areas**

**(3)** A local authority from time to time may by by-law—

- (a) define any part of its area to be a traffic area;
- (b) abolish any traffic area;
- (c) amalgamate 2 or more traffic areas into 1 traffic area;
- (d) amend the boundaries of any traffic area so as to exclude therefrom any part thereof or to include therein any part of the area which is not included in a traffic area;
- (e) exclude from any traffic area any part thereof and define that part to be a traffic area or include it in another traffic area;
- (f) assign a name to any traffic area.

**(3A)** The local authority shall install on a road at any place where the boundary of a traffic area crosses the road, an official traffic sign indicating such boundary, the hours during and the days upon which regulated parking shall be operative within such traffic area, and the maximum period of time for which a vehicle may be parked in such traffic area during those hours and on those days.

**(3B)** With the exception of parking in accordance with official traffic signs installed thereon, parking on a road or part of a road or an off-street regulated parking area or part of such an area within a traffic area shall be permitted for no longer than the period of time specified on the official traffic signs installed in respect of that traffic area as prescribed by subsection (3A).

### **Regulated parking**

**(4)** With respect to all roads and parts of roads and off-street regulated parking areas in a traffic area parking shall be by regulated parking and not otherwise and in relation to and for the purposes of regulated parking the local authority may exercise the powers, authorities and functions prescribed by subsections (5) to (17).

**(5)** In respect of any traffic area a local authority may by by-law—

- (a) prescribe the fixed hours for paid parking; and
- (b) prescribe the hours during, and days on, which regulated parking,



other than paid parking, operates in a traffic area; and

- (c) prescribe, in relation to specified designated parking spaces, the maximum period for which a vehicle may be paid parked; and
- (d) prescribe parking fees for paid parking; and
- (e) prescribe a system (the “**authorised system**”) for the payment of a parking fee for paid parking by a specified way, whether by the use of a coin, token, card or credit card or in another way; and
- (f) prescribe the denomination or number of coins to be inserted in a parking meter or parkatarea in payment of a parking fee; and
- (g) prescribe, in relation to specified loading zones, periods when a vehicle may stand while engaged in picking up or setting down passengers or loading or unloading goods or for other specified purposes; and
- (h) prescribe when parking fees are not payable in relation to vehicles carrying disabled persons for parking in a traffic area.

(6) By-laws made under subsection (5) may differ in respect of different traffic areas.

(7) A by-law made under subsection (5) may authorise the local authority to determine by resolution any matter which the local authority is empowered by that subsection to prescribe or fix by by-law.

(8) Such an authority includes power to the local authority by resolution to make from time to time such determination in respect of the subject matter of the authority as it deems necessary or desirable and by any such determination to revoke, amend or substitute a fresh determination for a prior determination.

(9) Any indication in an official traffic sign of any of the matters set out in subsection (5) shall, unless and until the contrary is proved, be presumed to be a determination of that matter duly made by the local authority by resolution and in force when so indicated.

(10) Any reference in this Act or in the *Local Government Act 1936* to the declaring or prescribing of any matter to which subsection (5) applies shall include the determination of that matter as provided by that subsection.

(11) A local authority may install and maintain in, or immediately adjacent to, each designated parking space a parking meter or parkatarea—

- (a) as specified by the Manual of Uniform Traffic Control Devices;  
or
- (b) as approved by the Director-General.

**(12)** A local authority may install, on any road or any part of a road or any off-street regulated parking area or any part of such an area in a traffic area, official traffic signs—

- (a) indicating where paid parking is authorised;
- (b) defining spaces on roads or off-street regulated parking areas to be designated parking spaces of a particular class;
- (c) defining loading zones;
- (d) defining vehicle stands;
- (e) defining roads or parts of roads or off-street regulated parking areas or parts of such areas in which parking is permitted for no longer than the period of time either specified on an official traffic sign installed on the road or part of a road or off-street regulated parking area or part of such an area in question or specified on official traffic signs installed in respect of the traffic area in question as prescribed by subsection (3A).

**(13)** A local authority may remove any such official traffic sign.

**(14)** A local authority may, from time to time by by-law, institute a scheme for the approval, in relation to the standing of a vehicle in a loading zone, of motor vehicles (including motor cars, station sedans, station wagons and motor cycles) constructed, fitted or equipped for the carriage of persons as commercial vehicles and the issue of a form of identification of such approval which conforms in all respects (whether as to design or otherwise) with the directions in relation thereto contained in the Manual of Uniform Traffic Control Devices.

**(15)** A by-law made under subsection (5) may authorise the local authority to fix, from time to time by resolution, and to demand and recover fees in respect of services performed, or the form of identification issued, in relation to the implementation of such a scheme.

**(16)** A local authority may, from time to time, by by-law define as an off-street regulated parking area any area of land, including any structure thereon, owned or held in trust or controlled by it that is provided, set aside

or maintained by it for the purpose of off-street parking of vehicles in connection with a scheme for regulated parking in its area.

(17) A local authority may from time to time make by-laws in relation to off-street regulated parking areas providing for and regulating the following matters—

- (a) the use by vehicles, or any class or description of vehicles, of such areas;
- (b) rates of speed in such areas of vehicles or any class or description thereof;
- (c) the parking, stopping, standing or waiting of or by persons or vehicles, or of or by any particular class or description of persons or vehicles, on such areas either generally or at or during any specified time or period and the confining of traffic or any particular class or description of traffic to a specified part of any such area;
- (d) the prevention of loitering or obstruction of traffic on such areas.

### **Paid parking**

**44C.(1)** In relation to parking in a designated parking space, the fixed hours start—

- (a) if on the commencement of this section the space becomes a designated parking space—on the commencement; or
- (b) if the space becomes a designated parking space after the commencement of this section—
  - (i) after a local authority has specified the start of paid parking in a traffic area in its area; and
  - (ii) after official traffic signs are installed in relation to the space.

(2) A person may park a vehicle in a designated parking space in the traffic area during the fixed hours only if—

- (a) the person does not park the vehicle in the space for longer than the maximum period indicated on the official traffic sign installed in relation to the space; and
- (b) the person pays the parking fee for the space as prescribed

immediately on parking the vehicle.

(3) The person may pay the parking fee—

- (a) if a parking meter or parkatarea is installed for the space—by inserting coins of the number and denomination appropriate to the parking fee in the parking meter or parkatarea; or
- (b) if an authorised system applies in relation to the space—by doing what is required by the system.

(4) Nothing in this section prevents a person from making more than 1 payment while a vehicle is parked in a designated parking space, if the total period of continuous paid parking does not exceed the maximum period indicated on the official traffic sign installed in relation to the space.

### **Paid parking offences**

**44D.(1)** During the fixed hours, a person must not park a vehicle in a designated parking space during any period—

- (a) unless in relation to the period—
  - (i) a parking meter or parkatarea installed for the space indicates that the parking fee has been paid; or
  - (ii) the person has done what is required by an authorised system that applies in relation to the space; or
- (b) that is longer than the maximum period indicated on the official traffic sign installed in relation to the space; or
- (c) if another vehicle is parked in the space; or
- (d) so that the vehicle is not wholly within the space, unless the vehicle is a commercial vehicle that—
  - (i) is longer than the length of the space; and
  - (ii) is parked within a space in relation to which a parkatarea is installed; and
  - (iii) is engaged in loading or unloading goods; and
  - (iv) is as nearly as practicable wholly within the space.

(2) A person who parks a vehicle in a designated parking space when a

parking meter or parkatarea installed in relation to the space indicates that the parking fee has not been paid does not commit an offence against subsection (1)(a) if the person immediately pays the parking fee in accordance with section 44C(3).

**(3)** If—

- (a) a person commits an offence against subsection (1)(b) in a designated parking space; and
- (b) a notice is affixed to the vehicle under section 44F; and
- (c) the vehicle in relation to which the offence is committed remains parked in the space after the notice is affixed;

the person commits a separate and further offence under subsection (1)(b) for each further period (equal to the maximum period indicated on the official traffic sign installed in relation to the space) that the vehicle remains parked in the space during the fixed hours.

### **Owner responsible for offence**

**44E.(1)** Subject as hereinafter provided, where any offence is committed in relation to the regulated parking of any vehicle, the person who at the time of the commission of the breach was the owner of the vehicle shall be deemed to have committed that offence and may be proceeded against and shall be punishable accordingly.

### **Evidence of ownership**

**(2)** Proof that the name and address of a person were shown upon the outside of a vehicle or upon a registration label issued pursuant to the regulations under the *Main Roads Act 1920*, and affixed to a vehicle, or that in or upon a vehicle there was otherwise shown the name and address of a person purporting to be the name and address of the owner of that vehicle, shall be evidence that at the time when such name and address were so shown, the person whose name and address were so shown was the owner of that vehicle, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership.

**(3)** Unless and until the contrary is proved the Court hearing and determining a complaint for an offence in relation to regulated parking shall presume that any parking meter or parkatarea in question was, at all times

and in all respects relevant to the proceedings, in good and correct working order and condition.

### **Notice of alleged offence**

**44F.(1)** Whenever a vehicle is found parked in contravention of this Part, or is found in any other circumstances which constitute or are deemed to constitute an offence in relation to regulated parking the police officer or authorised person finding such vehicle shall affix on such vehicle in a conspicuous position or give to the owner or driver thereof a notice, in writing.

**(1A)** Such notice shall—

- (a) be identified by a serial number; and
- (b) be addressed to the owner of such vehicle by name, or, if the name of the owner is not displayed on the vehicle, be addressed to the owner of such vehicle by the registration number of such vehicle; and
- (c) describe the vehicle the subject of the alleged offence; and
- (d) notify that it is alleged that an offence in respect of regulated parking has been committed in respect of the parking of that vehicle; and
- (e) state in general terms the offence which it is alleged has been committed; and
- (ea) state the time at which the notice is affixed to the vehicle; and
- (f) inform that owner in general terms that the owner has the right to decline to be dealt with in the manner described in paragraph (g) and to insist on the owner's right to a court hearing—
  - (i) if the owner desires to contest the question whether the offence alleged was in fact committed; or
  - (ii) if the owner wishes to submit to the court matters in extenuation of penalty; or
  - (iii) for any other reason the owner may regard as sufficient;

in which event there is no necessity for the owner to reply to or take any further action in respect of the notice and that court

process will issue against the owner in due course; and

- (g) inform the owner in general terms that if the owner does not desire the matter to be dealt with by a court, the owner may complete the form annexed to or endorsed or written upon such notice and forward or deliver it to the town clerk (or officer nominated in that behalf and named therein) on or before the date or within the period specified in the notice (which shall not be less than 10 days from the date of giving thereof), together with a prescribed sum of money by way of penalty, in which event the owner will not be liable to any further penalty or costs in the matter; and
- (h) inform the owner in general terms of the provisions of section 44G(2).

(2) Upon receipt by the town clerk of a report wherein it is alleged that a vehicle has been parked in contravention of this Part or that a vehicle has been found in any other circumstances which constitute or are deemed to constitute an offence in relation to regulated parking in any case where a notice has not been affixed to the vehicle or given to the owner or driver thereof pursuant to subsection (1), the town clerk, or a person authorised in that behalf by the town clerk, may give to the owner or driver of that vehicle a notice, in writing, to the like effect as the notice referred to in subsection (1A).

(3) When at any time when regulated parking is operative in a traffic area an authorised person, when acting in the execution of the person's authority, or a police officer finds a vehicle parked, stopped or standing in that traffic area under circumstances constituting an offence against a provision of this Act other than a provision of this Part and such offence is prescribed pursuant to section 45A to be a minor traffic offence, then such offence shall be deemed to be an offence in relation to regulated parking and a contravention of this Part.

(3A) If and when section 9 of the *Traffic Acts Amendment Act 1960*, is proclaimed in force the expression 'minor traffic offence' shall be read as referring to offences under this Act in relation to the parking, standing or stopping of vehicles which are prescribed pursuant to section 45A as inserted by section 9 of that Act to be traffic offences in respect of which the notice specified in section 45A(1)(a) may be given or affixed as prescribed by section 45(1)(a).

(4) For the purposes of this section—

**“authorised person”** means a person who is authorised in writing by the town clerk to—

- (a) affix on a vehicle in a conspicuous position; or
- (b) give to the owner or driver of a vehicle;

the notice in writing prescribed by subsections (1) and (1A) in any and every case where the vehicle is found by the authorised person parked in contravention of this Part or the vehicle is found by the authorised person in any other circumstances which constitute or are deemed to constitute an offence in relation to regulated parking.

(5) A local authority may make a by-law prescribing a sum of money to be that payable by way of penalty to the town clerk or officer nominated in that behalf for the purposes of the procedure provided for in subsections (1), (1A) and (2).

(5A) A by-law may prescribe different sums of money in respect of different offences.

(6) When, pursuant to subsection (5), a local authority makes a by-law prescribing a sum of money in respect of an offence and the by-law commences to have force and effect, a provision of the regulations that prescribes a sum of money to be that payable by way of penalty in respect of that offence for the purposes of the procedure provided for in subsections (1), (1A) and (2) shall cease to have force and effect in the area of that local authority.

(7) Subject to subsection (6), the power had by the Governor in Council to make regulations prescribing a sum of money payable by way of penalty for the purposes of the procedure provided for in subsections (1), (1A) and (2) is not limited by the enactment of subsection (5).

### **Prosecution for breach**

**44G.(1)** Subject to subsection (2), where a notice in writing shall have been affixed on a vehicle or given to the owner or driver thereof pursuant to the provisions of section 44F and the sum of money by way of penalty shall not have been paid to the town clerk or officer nominated in that behalf and named in such notice on or before the date or within the period specified



therein for such payment, the alleged offence may, notwithstanding any other provision of this Act, be prosecuted upon the complaint of the town clerk or of any other person authorised by the town clerk, and either against the owner or any other person whomsoever alleged to be guilty thereof.

(1A) For the purposes of any such prosecution the appointment and signature of the town clerk shall be judicially noticed.

### **Answer to complaint**

(2) Notwithstanding the provisions of section 44E, an owner of a vehicle shall not, by virtue of that section, be deemed guilty of an offence not actually committed by the owner if not later than 10 days after the day of the service of a summons for that offence—

- (a) the owner supplies to the town clerk or an officer nominated in that behalf by the town clerk a statement in writing, verified upon oath or by statutory declaration, stating facts which prove to the satisfaction of the town clerk or the officer nominated in that behalf by the town clerk, as the case may be, that some other person actually committed the offence and stating the name of that other person and the address at which the other person may be readily located; or
- (b) the owner supplies to the town clerk or an officer nominated in that behalf by the town clerk a statement in writing, verified upon oath or by statutory declaration, stating facts which prove to the satisfaction of the town clerk or the officer nominated in that behalf by the town clerk, as the case may be, that the owner had sold such vehicle on a date before the time when the offence was committed and stating the name of the person to whom the vehicle was so sold and the address at which such person may be readily located, the date of the sale, and the name and address of the agent (if any) who made the sale on the owner's behalf; or
- (c) the owner proves to the satisfaction of the town clerk or an officer nominated in that behalf by the town clerk that, at the time of the offence, the vehicle was stolen or being used unlawfully without the owner's consent; or
- (d) in the case of a vehicle subject to a hire or rental agreement—the owner supplies to the town clerk or an officer nominated in that behalf by the town clerk a statement

in writing, verified upon oath or by statutory declaration, stating facts which prove to the satisfaction of the town clerk or the officer nominated in that behalf by the town clerk, as the case may be, that, at the time when the offence was committed, the vehicle was hired or rented by another person and stating the name of that other person and the address at which the other person may be readily located.

(3) In any proceedings in respect of an offence related to the regulated parking of any vehicle against a person named in a statement referred to in subsection (2)(a), (b) or (d), a copy of such statement shall be served with the summons.

(3A) The endorsement of a copy of such statement with an oath of service shall be evidence of such service and, in the absence of evidence in rebuttal, shall be conclusive evidence of such service.

(4) Subject to subsection (3), the production by the prosecutor of a statement referred to in subsection (2)(a), (b) or (d) shall be evidence of the facts stated therein and, in the absence of evidence in rebuttal, shall be conclusive evidence of those facts.

### **Liability for offences in respect of regulated parking**

**44H.** The provisions of this Part whereby an owner may be proceeded against and punished for an offence in relation to the regulated parking of a vehicle not actually committed by the owner or may, pursuant to section 44F, pay a prescribed sum of money by way of penalty in respect of such an offence shall not prejudice or affect howsoever the liability of the person by whom the offence was actually committed to be proceeded against and punished therefor, save that where either of them has been punished for the offence by being convicted therefor or by paying pursuant to section 44F a prescribed sum of money by way of penalty, then the other of them shall cease to be subject to any liability under this Part in respect of the offence.

### **Offences**

**44I.(1)** A person shall not—

- (a) insert or cause to be inserted in any parking meter or parkatarea

anything whatsoever which is not a coin of a denomination specified on the parking meter or parkatarea or, where an authorised system is applicable to the designated parking space for which the parking meter or parkatarea is provided, a token the insertion of which is authorised by the system; or

- (b) deface any parking meter or parkatarea or without the authority of the local authority, affix any placard, advertisement, notice, list, document or thing to or paint or write upon any parking meter or parkatarea; or
- (c) tether any animal to a parking meter or parkatarea; or
- (d) destroy or damage, or attempt to destroy or damage, or do, or attempt to do, or cause to be done any act which interferes with or is likely to interfere with the due and proper working of a parking meter or parkatarea; or
- (e) fraudulently operate or attempt to operate any parking meter or parkatarea.

(2) A person, other than the owner or the person in charge of the vehicle, shall not remove, deface, or interfere with a notice affixed to such vehicle in pursuance of the provisions of section 44F.

(3) All offences against the provisions of this section may, notwithstanding any other provisions of this Act, be prosecuted upon the complaint of the town clerk or of any other person authorised by the town clerk.

(4) For the purposes of any such prosecution the appointment and signature of the town clerk shall be judicially noticed.

### **Agreement with local authority on costs of administration**

**44J.(1)** The Commissioner may, with the approval of the Minister, enter into an agreement with the local authority whereby the local authority shall pay to the Commissioner an annual or other periodic sum in respect of the costs incurred in the carrying out of duties under this Part by police officers.

(2) If the Commissioner and the local authority cannot agree upon such payment, the Governor in Council may, by order in council, determine that the local authority shall pay to the Commissioner, in respect of the costs

incurred in the carrying out of duties under this Part by police officers, such annual or other periodic sum as the Auditor-General certifies to be fair and reasonable.

(3) The Governor in Council may, by order in council, revoke or from time to time vary any such determination, but no such variation shall be made unless the Auditor-General certifies that it is fair and reasonable.

(4) The local authority shall make to the Commissioner payments in accordance with such determination (or, if such determination shall have been varied, such determination as varied for the time being).

### **Saving of by-laws**

**44L.(1)** A by-law validly made under section 44B(5) before the commencement of the *Traffic Amendment Act 1992* continues in force, after the commencement, as if it had been made under section 44B(5) after the commencement.

(2) A reference in the by-law to a metered parking space in a traffic area includes, and is taken to have always included, a reference to a parking space in the traffic area in relation to which a sign displayed by the local authority indicates that parking coupons are in use.

### **Emergent control of parking in traffic area**

**44M.(1)** Any police officer during any temporary obstruction of or danger to traffic or in any case of emergency, or the district superintendent in the district superintendent's discretion in special circumstances of which public notice shall be given if practicable in some newspaper generally circulating in the locality concerned, may—

- (a) direct any person not to park or cause or permit to be parked any vehicle in any traffic area or in any designated parking space; and
- (b) direct the owner or driver of any vehicle parked in any traffic area or in any designated parking space to remove such vehicle from such traffic area or designated parking space; and
- (c) where the owner or driver of a vehicle parked in a traffic area or in a designated parking space cannot be readily located, or, if located, fails to remove such vehicle from such traffic area or designated

parking space when directed to do so in pursuance of this section—remove or cause to be removed such vehicle from such traffic area or designated parking space.

(2) The provisions of section 44 shall extend and apply in respect of any vehicle mentioned in subsection (1)(c).

### **Disabled persons parking**

**44N.(1)** The Director-General may issue a form of identification in respect of—

- (a) a person who has a permanent mobility impairment which relates to the loss of the ability to walk; or
- (b) a motor vehicle where the Director-General is satisfied that it is used by an organisation for the transport of disabled persons.

(2) Where a form of identification has been issued under subsection (1) the provisions of this Part shall not apply to the parking of a vehicle by a person in a metered space or parkatarea space in any traffic area where that vehicle displays the form of identification and is being used for the carriage of a disabled person.

## **PART 6B—PHOTOGRAPHIC DETECTION DEVICES**

### **Approval of apparatus**

**44O.** The Governor in Council may, by order in council, approve apparatus of a specified kind as photographic detection devices.

### **Interpretation**

**44P.** In this Part—

**“camera-detected prescribed offence”** means a prescribed offence in respect of which—

(a) the notice under section 44R; or

(b) the summons;

indicates that the offence was detected by a photographic detection device;

**“owner”** in relation to a vehicle includes any person in whose name a vehicle is registered under the *Main Roads Act 1920* or under any corresponding law of another State or a Territory of the Commonwealth;

**“photographic detection device”** means an apparatus of a kind approved by order in council as a photographic detection devices;

**“prescribed offence”** means an offence against this Act prescribed by the regulations for the purposes of this Part.

### **Offences detected by photographic detection device**

#### **44Q.(1) If—**

(a) a prescribed offence occurs; and

(b) the offence is detected by a photographic detection device;

the person who at the time of the occurrence of the offence is the owner of the vehicle involved in the offence shall be taken to have committed the offence and may be charged with the offence and punished accordingly.

#### **(2) A person who—**

(a) is served with a notice under section 44R or a summons in respect of a camera-detected prescribed offence; and

(b) was not the driver of the vehicle to which the offence relates at the time the prescribed offence occurred; and

(c) does not, within 21 days after service of the notice or summons (whichever is the first served), supply by statutory declaration made under the *Oaths Act 1867* to the Director-General the name and address of the person who was in charge of the vehicle at the time the prescribed offence occurred;

commits an offence.

(3) It is a defence for a person charged with an offence against subsection (2) to prove that the person did not know and could not with reasonable diligence have ascertained that name and address.

(4) A person who, in a statutory declaration supplied under subsection (2), falsely nominates another person as the person who was in charge of the vehicle at the time the prescribed offence occurred commits an offence.

(5) A person charged with an offence against subsection (2) or (4) is liable upon conviction therefor—

- (a) where the person is a body corporate—to a penalty of 20 penalty units;
- (b) where the person is a natural person—to a penalty of 10 penalty units.

(6) It is a defence for a person charged with a camera-detected prescribed offence to prove—

- (a) that the person has complied with subsection (2) in relation to the offence; or
- (b) that the person did not know and could not with reasonable diligence have ascertained the name and address of the person who was in charge of the vehicle at the time the offence occurred.

(7) For the purposes of subsections (2) and (4), a statutory declaration which purports to have been made on behalf of a body corporate by a director, manager or secretary thereof shall be taken to have been made by the body corporate.

### **Procedure in relation to camera-detected prescribed offences**

**44R.(1)** Where it appears to the Director-General that a prescribed offence that has been detected by a photographic detection device has occurred, the Director-General may serve on any person who appears to the Director-General to be—

- (a) the owner of the vehicle involved in the offence at the time of its occurrence; or
- (b) the person in charge of that vehicle at that time;

a notice in the prescribed form—

- (c) alleging that the person on whom the notice is served committed the offence; and
- (d) containing the other prescribed particulars; and
- (e) advising that a prescribed penalty may be paid for the offence to the Director-General within the period specified in the notice without involving proceedings in a court.

(2) The penalty prescribed for the purposes of this section is—

- (a) if the prescribed offence is also a traffic offence pursuant to section 45A—the amount prescribed in respect of that traffic offence;
- (b) in any other case—the amount prescribed by the regulations in respect of a prescribed offence of the kind in question.

(3) A notice under this section may be withdrawn at any time within 14 days after the serving of the notice.

(4) If the penalty specified in the notice is paid before the notice is withdrawn, the amount so paid shall be refunded.

### **Material to accompany notice and summons**

**44S.(1)** Where a person is alleged to have committed a camera-detected prescribed offence—

- (a) a notice under section 44R in respect of that offence shall contain or be accompanied by a notice in the prescribed form containing—
  - (i) a statement that a copy of the photographic evidence on which the allegation is based may be viewed on application to the Director-General; and
  - (ii) a statement setting forth details of section 44Q(2);
- (b) there shall be served with a summons in respect of that offence a notice in the prescribed form containing the statements referred to in paragraph (a).

(2) The endorsement of a copy of the notice under subsection (1)(b) with



an oath of service shall be evidence of such service and, in the absence of evidence to the contrary, conclusive evidence thereof.

### **Payment of penalty**

**44T.(1)** Subject to subsection (2), if before the expiration of the period specified in the notice under section 44R the prescribed penalty is paid to the Director-General—

- (a) the person on whom the notice is served shall be taken to have expiated the offence by payment of the penalty; and
- (b) no further proceedings may be taken in respect of the offence; and
- (c) no conviction for the offence shall be regarded as having been recorded.

**(2)** If a notice under section 44R is served and the prescribed penalty is not paid before the expiration of the period specified in the notice as the time for payment or the notice has been withdrawn, nothing in this section in any way prejudices the institution or prosecution of proceedings for the offence to which the notice relates.

### **Evidentiary provisions**

**44U.(1)** In proceedings for a prescribed offence—

- (a) a photograph or series of photographs produced by the prosecution shall be admitted in evidence if—
  - (i) the photograph or each of the photographs was produced from an exposure taken by a photographic detection device; and
  - (ii) the regulations as to the operation and testing of photographic detection devices were complied with in connection with the use of the device;

and a denotation as to date, time and location that appears as part of such a photograph shall be accepted as evidence and, in the absence of evidence to the contrary, conclusive evidence of the date, time and location at which the exposure

was taken;

- (b) a document produced by the prosecution and purporting to be signed by the Director-General certifying—
  - (i) that a specified device used at a specified location during a specified period was a photographic detection device; and
  - (ii) that the requirements of the regulations as to the operation and testing of photographic detection devices were complied with in connection with the use of the device during the period;

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the facts so certified;

- (c) evidence of the condition of the photographic detection device shall not be required unless evidence that the device was not in proper condition has been adduced.

(2) A statutory declaration referred to in section 44Q(2) if produced in any proceedings against the person named in the declaration and in respect of the prescribed offence concerned is evidence and, in the absence of evidence to the contrary, conclusive evidence, that the person was driving the vehicle at all relevant times relating to the offence.

### **Effect of action under Part 4A of Justices Act**

**44V.** A reminder notice must not be served on an alleged offender under section 98D of the *Justices Act 1886* in relation to an alleged offence if, within 21 days after service of a notice under section 44R, the alleged offender supplies a statutory declaration mentioned in section 44Q(2)(c) in relation to the alleged offence.

## **PART 7—PROCEEDINGS AND EVIDENCE**

**Offences**

**45.(1)** Any person who contravenes any provision of this Act shall be guilty of an offence.

**General penalty**

**(2)** Any person guilty of an offence against any provision of this Act shall be liable, if no specific penalty is provided for that offence, to a penalty not exceeding 40 penalty units, or to imprisonment for a term not exceeding 6 months.

**(2A)** However, any person who contravenes any provision of the regulations made under this Act shall be liable, if no specific penalty is provided for the offence and a regulation does not provide that the contravention is not punishable as an offence, to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 3 months.

**Summary proceedings**

**(3)** All offences against this Act may be prosecuted and all fees and sums payable under this Act may be recovered in a summary way under the *Justices Act 1886* on complaint by any police officer or by any other person authorised by the Minister.

**(4)** Proceedings for the recovery of any fee may be brought in the Magistrates Court district in which such fee is payable.

**(5)** In any proceedings for the recovery of a fee a document purporting to be under the hand of a superintendent and stating that any sum specified therein is the amount of a prescribed fee which became due and payable on the date set out therein and that such sum has not been paid shall be prima facie evidence of the matters set out in that document.

**Traffic offences in respect of which offender may elect to pay penalty**

**45A.(1)** The power of the Governor in Council to make under this Act regulations shall include power to make regulations—

- (a) prescribing any offences under this Act to be traffic offences in respect of which a notice may be given to an offender or affixed to a vehicle advising that a prescribed penalty may be paid for any such offence without involving court proceedings, which offences may be prescribed separately or by reference to any particular part

of this Act or of the regulations made thereunder or by a general statement incorporating reference to offences against any or every provision of this Act or any or every offence except specified offences against the provisions of this Act;

- (b) prescribing sums of moneys which shall be payable by way of penalties in respect of offences so prescribed which sums of moneys may be so prescribed differently in relation to different offences or differently in relation to any such offence according to previous like offences or the time, place or circumstances related to the commission of the offence;
- (c) prescribing such other matters as shall be shown on any notice given to an offender or affixed to a vehicle.

(2) Subject to this section any person who at the time of the commission of a traffic offence in relation to the parking, stopping or standing of a vehicle, or in relation to the construction or equipment of a vehicle, is the owner within the meaning of section 44A of the vehicle in relation to which the offence is committed shall be deemed to have committed that offence and may be proceeded against and shall be punishable accordingly.

(3) Whenever a vehicle is found parked, stopped, standing, constructed or equipped under circumstances constituting a traffic offence as prescribed pursuant to this section against any provision of this Act, the provisions of sections 44E(2), 44F, 44G and 44H shall, where applicable, apply with respect to any such offence subject to the following modifications and adaptations—

- (a) by reading as references to offences in relation to the parking, stopping or standing of vehicles, or offences in relation to construction and equipment of vehicles as prescribed by this section, all references with respect to offences in relation to regulated parking;
- (b) in any case where the traffic offence in respect of which the notice specified in subsection (1)(a) may be given or affixed as prescribed by subsection (1)(a) is not deemed to be an offence in relation to regulated parking and a contravention of Part 6A—by reading as references to the Commissioner of the Police Service or other persons prescribed by the regulations made pursuant to this section, reference to the town clerk or officer nominated in

that behalf;

- (c) by reading as referring to the notice which may be given to an offender or affixed to a vehicle pursuant to this section, references to the notice to be affixed to vehicles pursuant to section 44F;
- (d) all such other adaptations as may be necessary for so applying those provisions.

(4) Whenever a traffic offence as prescribed pursuant to this section against any provision of this Act in relation to the driving of a vehicle is detected by a police officer, the provisions of sections 44F and 44G(1) and (1A) shall apply, where applicable, to such offence subject to the following modifications and adaptations—

- (a) by reading as reference to the offender, all references with respect to the owner or driver;
- (b) by reading as reference to offences in relation to the driving of a vehicle as prescribed by this section, all references with respect of offences in relation to regulated parking;
- (c) by reading as references to the Commissioner of the Police Service or other persons prescribed by the regulations made pursuant to this section, references to the town clerk or officer nominated in that behalf;
- (d) by reading as referring to the form of notice which may be given to an offender pursuant to this section, references to the notice to be affixed to vehicles pursuant to section 44F;
- (e) all such other adaptations as may be necessary for so applying those provisions.

### **Police may prosecute in all proceedings**

47. In any proceedings under this Act any police officer, although not the informant or complainant, may appear and act in court on behalf of the prosecution.

### **Records**

48.(1) The particulars of licences, applications, appointments,

determinations, notifications, demands, directions, cancellations, suspensions, surrenders, authorisations, approvals, or orders issued, made or given under or pursuant to this Act shall be recorded in books or other records kept for the purpose at the office of the Commissioner or at the office of a district superintendent or superintendent and such records or an extract from or copy of any entry of any particulars so recorded, purporting to be certified under the hand of the officer ordinarily having the custody thereof as being the record, or an extract from or copy of such record, shall in all courts and upon all occasions whatsoever, be received as evidence and deemed sufficient proof of all particulars contained in such record, extract, or copy without requiring the production of such books or other records or document or documents upon which entry of such particulars may be founded, and the signature of the person certifying to such record, extract, or copy shall, until the contrary is proved, be taken to be the signature of the person having authority to so certify.

(2) However, the Commissioner may, with the approval of the Minister and of the Minister of the Crown administering any other department or sub-department of the Government, arrange for the particulars with respect to drivers' licences prescribed by or under this Act to be recorded in the office of the Commissioner to be kept by and recorded in that other department or sub-department.

(3) Unless and until other arrangements are made as aforesaid, such particulars with respect to drivers' licences shall be kept by and recorded in the Department of Transport.

(4) Any arrangement as aforesaid shall be notified in the Gazette and thereupon the officer for the time being in charge of that department or sub-department shall, for the purposes of this section, be deemed to be the officer ordinarily having the custody of the particulars the subject of that arrangement.

(5) Moreover in section 49(1)(b) and (g) such officer is referred to as the officer ordinarily having the custody of the particulars of drivers' licences.

(6) Without limiting subsections (1) to (5), the officer for the time being in charge of the department or sub-department hereinbefore referred to may, by notification published in the Gazette, nominate any other officer or officers of the department or sub-department to be the officer ordinarily having the custody of the particulars the subject of the arrangement hereinbefore referred to, and any such notification published in the Gazette

shall be judicially noticed.

(7) Any reference in section 49 to an officer ordinarily having the custody of the particulars of drivers' licences shall be deemed to include a reference to an officer or officers nominated by the officer for the time being in charge of the department or sub-department pursuant to subsection (6).

### **Facilitation of proof**

**49.(1)** In any proceeding under or for the purpose of this Act—

- (a) it shall not be necessary to prove the appointment of the Director-General, the Commissioner or of a district superintendent or of a superintendent or of a police officer or that the person signing any certificate under this Act as the officer ordinarily having the custody of the particulars of drivers' licences is for the time being in charge of the department or sub-department referred to in section 48(2);
- (b) a signature purporting to be that of the Director-General, the Commissioner, or of a district superintendent, or of a superintendent, or of the officer ordinarily having the custody of the particulars of drivers' licences shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any district or part of a district, or that any road or place is within a district or part thereof, or the authority of the Director-General, the Commissioner, a district superintendent or superintendent, or a police officer to do any act or take any proceedings, but this shall not prejudice the right of any defendant to prove the limits of the district or part of the district or the extent of such authority;
- (e) proof that a person applied for or obtained a licence for a vehicle shall be evidence that such person was the owner of such vehicle and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership;
- (f) a document purporting to be a copy of a licence under this Act and to be certified as a true copy by the officer ordinarily having the custody of the records relating thereto, (including, in the case of a driver's licence, the officer ordinarily having the custody of

the particulars of drivers' licences), shall upon its production in evidence be prima facie evidence of that licence, and particulars of a conviction, disqualification, suspension or cancellation set out in any endorsement on a licence under this Act or on any document purporting to be a copy of a licence under this Act certified as prescribed by this paragraph shall be prima facie evidence that the holder of that licence, or the holder of the licence in respect of which that document purports to be a copy, was so convicted or disqualified or that the licence of that holder was so suspended or cancelled, or as the case may be;

- (g) a document purporting to be signed by the Commissioner, or by a district superintendent, or by a superintendent and stating that at any specified time there was or was not in force a licence under this Act as described therein issued to a specified person, or in respect of a specified vehicle, or for a specified purpose (or a document purporting to be signed by the officer ordinarily having the custody of the particulars of drivers' licences and stating that at any specified time there was or was not in force a driver's licence under this Act issued to a specified person), or, in the case of either document as aforesaid, stating that any such licence was or was not issued subject to terms, conditions, or restrictions, or was or was not issued subject to the terms, conditions, and restrictions set out in that document shall, upon its production in evidence, be evidence of the matter or matters in that document, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;
- (j) against the owner of a vehicle, tram, or animal for permitting or allowing such vehicle, tram, or animal to be used or driven by a person not authorised under this Act by an appropriate driver's licence or otherwise to use or drive that vehicle, tram, or animal, proof that such person used or drove that vehicle, tram, or animal shall be evidence that the owner of such vehicle, tram, or animal permitted or allowed such use or driving, and in the absence of evidence in rebuttal thereof shall be conclusive evidence that the owner of such vehicle, tram, or animal permitted or allowed such use or driving;
- (k) any certificate purporting to be under the hand of the Commissioner, or of a district superintendent, or of a



superintendent, or of the Director-General, or of a town clerk, or of a clerk of the court or other officer ordinarily having custody of records relating to payments of moneys payable under this Act of the receipt or non-receipt of any notice, application, or payment or of any other thing required by this Act to be given or made shall, upon its production in evidence, be evidence of the matter or matters certified to therein, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters;

- (l) any certificate purporting to be under the hand of the Director-General, or of any person thereunto authorised by the Director-General, as to any inspection made by any inspector appointed under the *Motor Vehicles Safety Act 1980* of any vehicle, whether such inspection was carried out at the direction of any police officer or not, shall, upon its production (and provided that a copy thereof has been made available a reasonable time before the hearing of the proceedings to any party, if requested), be evidence of the matter or matters stated therein and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters, appointment, or authority, and the appointment of the Director-General or the authority of the person giving such certificate to give same and the appointment of the inspector who made such inspection shall be presumed until the contrary is proved;
- (m) a certificate purporting to be under the hand of the Chief Inspector of Trade Measurement or the Deputy Chief Inspector of Trade Measurement appointed under the *Trade Measurement Administration Act 1990* or of any person thereunto authorised by the said Chief Inspector or Deputy Chief Inspector that any instrument used in checking weights—
  - (i) has been tested on a day named in the certificate and has been found to indicate weight correctly; or
  - (ii) has been tested on a day named in the certificate and that the greatest amount of error (expressed as a percentage of the correct weight) found in any weight indicated by such instrument is not greater than the percentage specified in such certificate;

shall be received in evidence, and when such instrument is used for checking any weight within the 3 months next succeeding the said day named in the certificate shall be prima facie evidence that any weight indicated by such instrument was—

- (iii) in the case of a certificate under subparagraph (i)—the correct weight; and
  - (iv) in the case of a certificate under subparagraph (ii)—not greater than the correct weight by a greater percentage of the correct weight than the percentage specified in such certificate to be the greatest amount of error (expressed as a percentage of the correct weight) found upon such test;
- (n) any certificate or document—
- (i) purporting to be issued pursuant to the regulations under the *Main Roads Act 1920*, or to any corresponding legislation, ordinance or law of any State or Territory of the Commonwealth; or
  - (ii) purporting to be under the hand of a person charged with the functions of registering motor vehicles pursuant to the *Main Roads Act 1920*, or any person thereunto authorised by the Director-General, or to be under the hand of the person or authority charged with the registration of motor vehicles under any legislation, ordinance or law of any State or Territory of the Commonwealth corresponding to the regulations under the *Main Roads Act 1920*, or any person thereunto authorised by such person or authority;

which states that on any date or during any period the motor vehicle specified in the certificate or document was registered in the name of the person specified therein shall be received in evidence, and shall be evidence that the person specified in the certificate or document was the owner of the motor vehicle specified therein at the time or during the period specified therein, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership;

- (na) any certificate or document referred to in paragraph (n) shall be presumed to have been duly issued or given until the contrary is proved;

- (o) a certificate purporting to be under the hand of the Commissioner, or of a district superintendent, or of a superintendent, that the records at the office of the Commissioner, a district superintendent or superintendent, as the case may be, show that any person was the licensee of any vehicle licensed under this Act at any time shall be received in evidence and shall be evidence that such person was such licensee at such time, and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence that such person was such licensee at that time;
- (p) a certificate purporting to be under the hand of the Commissioner, or of a district superintendent, or of a superintendent certifying that any stop watch, other watch, or speedometer specified therein had been tested and found correct at a time and on a date specified therein shall be prima facie evidence that that stop watch, other watch, or speedometer was correct at that time and thereafter for the balance of the day of that date and on each of the 60 days following that date;
- (pa) a certificate purporting to be under the hand of the Commissioner, or of a district superintendent, or of a superintendent, stating that a microwave vehicle speed indicator (commonly known as radar), or a vehicle speedometer accuracy indicator (commonly known as a chassis dynamometer), specified therein is a scientific instrument of a kind likely to produce accurate results, and that the indicator has been tested and found to be producing accurate results at a time and on a date specified therein shall be prima facie evidence of the facts therein stated, unless the defendant requires that the person who tested the indicator shall be called as a witness, in which case the person shall give notice thereof to the complainant not less than 3 clear days before the return day of the summons or the date of hearing;
- (pb) proof of the matters hereinbefore required to be specified in the said certificate, whether by certificate or oral evidence, shall be prima facie evidence that the indicator was producing accurate results at the time specified and thereafter for the balance of the day of the date specified as respectively the time at which and the date on which the indicator was tested and on each of the 60 days immediately following the date on which such indicator was tested;

- (pc) a notice given under paragraph (pa) shall not be effective unless it be in writing and signed by the defendant or by the defendant's solicitor;
- (q) the burden of proof that any person, vehicle, tram, train, vessel, or animal was at any time exempt from any provision of this Act or that any such provision was not at any time applicable to any person, vehicle, tram, train, vessel, or animal shall be on the defendant;
- (r) the allegation or averment in any complaint that—
  - (i) any person is or is not or was or was not at any time or date mentioned in the complaint—
    - (A) the owner of any vehicle, tram, train, vessel, or animal; or
    - (B) the holder of a licence or any particular class or description of licence; or
    - (C) of, or under, or over a specified age; or
    - (D) the holder of a driver's licence authorising the holder to drive a motor vehicle on the road therein specified; or
  - (ii) any thing is or was a vehicle, tram, train, vessel, or animal or of a particular class or description thereof; or
  - (iii) any place or thing is or was a road or a part of a road or an off-street regulated parking area or a part of such an area; or
  - (iv) any way is or was a tramway or railway; or
  - (v) any distance referred to therein is or was a specified distance or is or was greater or less than a specified distance; or
  - (vi) any direction or indication or prescribed direction or indication is or was given by an official traffic sign;shall be evidence of the matter or matters so averred or alleged, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;
- (s) the allegation or averment in any complaint that any sign, signal, light, marking, or other device—
  - (i) is or is not, or was or was not, an official traffic sign; or

- (ii) is or is not, or was or was not, lawfully constructed, made, marked, placed, erected, affixed, or painted in, into, or on or near any specified road or off-street regulated parking area, or that such sign, signal, light, marking, or other device is or is not, or was or was not, for any purpose specified in the complaint; or
- (iii) does or does not contain, or has or has not contained, any specified work, figure, warning, direction, indication, or symbol;

shall be evidence of the matter or matters so alleged or averred and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (t) any person who appears, acts, or behaves as the driver, rider, or person having the possession, custody, care, or management of any vehicle, tram, train, vessel, or animal, or who uses or drives, or attempts to use or drive the same shall be presumed to be the person in charge thereof whether the person is or is not the real person in charge, and it is immaterial that by reason of circumstances not known to such person it is impossible to drive or otherwise use the same;
- (u) evidence of the condition of a breath analysing instrument, as defined in section 16A, or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

(2) Subsection (1)(r) and (s) shall apply to any matter alleged or averred thereunder although—

- (a) evidence in support of such matter or of any other matter is given; or
- (b) any matter so alleged or averred is a mixed question of law and fact, but in that case the allegation or averment shall be evidence of the fact only.

(3) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

**When offence not to be twice punished**

**51.(1)** Where the same act or omission is an offence both under this Act and under some other Act or law, the offender may be prosecuted under either this Act or the other Act or law in question, but so that the person shall not be twice punished for that act or omission.

**(2)** Where a person is charged with an act or omission which is both an offence under this Act and an indictable offence, the justices shall abstain from dealing with the case summarily if they are of opinion that the charge is a fit subject for prosecution by indictment and thereupon shall commit the alleged offender for trial.

**PART 8—GENERAL****Avoidance of licence where cheque not honoured**

**52.(1)** If any applicant for any licence pays the fee for such licence by cheque and the cheque is not honoured on presentation, the licence for which the cheque was tendered shall be absolutely void as from the time of issue, and the applicant shall, on demand made by the Commissioner, a district superintendent or superintendent, immediately deliver such purported licence to the person making such demand.

**(2)** If, after such demand, any applicant fails so to deliver or uses or continues to use or permits or allows any other person to use such purported licence or if any person other than the applicant so uses such purported licence, the applicant and/or such person shall be guilty of an offence.

**Fraud and unlawful possession of licences**

**53.(1)** A person shall not—

- (a) in any written application, notice, or other document made or given to the Director-General, the Commissioner, a district superintendent, or superintendent, wilfully make any statement which is false; or

- (b) by any false statement or misrepresentation obtain or attempt to obtain a licence; or
- (c) wilfully furnish false or misleading information with regard to particulars required by this Act to be furnished in relation to an application for a licence or otherwise; or
- (d) without lawful excuse (the proof of which shall be upon the person) have in the person's possession—
  - (i) any licence; or
  - (ii) any article resembling a licence and calculated to deceive; or
  - (iii) any document which was formerly a licence, but which is void, cancelled, suspended, or surrendered; or
- (e) forge, or without lawful excuse (the proof of which shall be upon the person) use, lend, or permit or allow to be used by any other person any licence; or
- (f) unless the person is authorised by or under this Act or is a person acting under the direction of the Director-General or the Commissioner or a Judge of the Supreme Court or District Court or justices, make or cause or permit or allow to be made any endorsement or any addition or alteration or erasure whatsoever on or from a licence.

(2) Any licence obtained by any false statement or misrepresentation shall be null and void.

### **Power of courts to disqualify convicted persons from holding or obtaining licences**

**54.(1)** Where any person is convicted of an offence under this Act or is convicted upon indictment or summarily of an offence against any other Act or law, then, if a Judge of the Supreme Court or District Court presiding at the person's trial upon indictment is, or the justices before whom the person is summarily convicted are, satisfied upon the evidence (or, upon a plea of guilty, upon the facts relevant to the offence and the circumstances thereof stated by the prosecutor and not rebutted by the defendant)—

- (a) that any licence or licences under this Act held by the offender, or the powers and authorities conferred upon the offender by any

such licence or licences, enabled, aided, or facilitated the commission of the offence by the person; or

- (b) that, having regard to the nature of the offence, or to the circumstances in which it was committed, or to both, the offender should, in the interest of the public, be prohibited from holding or obtaining any particular licence or licences under this Act either absolutely or for a period;

the Judge or justices may order that the offender shall, from the date of the order, be disqualified absolutely from holding or obtaining such licence or all or any of such licences, or be so disqualified for such period as the Judge or justices shall specify in the order.

(1A) Such disqualification may be absolute as respects any 1 or more of the licences concerned and for a period as respects another or other such licences, and different periods of disqualification may be ordered as respects different licences.

(2) This section shall be read so as not to limit the operation and effect of sections 15 and 19 to 22.

(3) Any disqualification under this section shall be in addition to any punishment to which the person convicted may be liable upon the person's conviction.

(4) A copy of any order made under this section shall, in relation to a driver's licence, be transmitted to the Director-General and, in any other case to the Commissioner, by the registrar of the Supreme, Circuit, or District Court, or the clerk of the court which recorded the conviction.

(5) The provisions of this section have effect notwithstanding that a probation order under the *Offenders Probation and Parole Act 1980* is made in respect of the offender and section 33 of that Act shall have application subject hereto accordingly.

### **Effect of disqualification**

**55.(1)** Where under this or any other Act a Judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified absolutely from holding or obtaining a licence of any kind, class or description (other than a driver's licence), each subsisting such licence held by that person shall, by virtue of such order, be and be deemed to be



cancelled on and from the date upon which that person became so disqualified.

(2) Where under this or any other Act a Judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified for a specified period from holding or obtaining a licence of any kind, class or description (other than a driver's licence), each subsisting such licence held by that person shall by virtue of the order, where such licence—

- (a) would expire during the period of disqualification so ordered, be and be deemed to be cancelled on and from the date upon which that person became so disqualified; or
- (b) would not expire during the period of disqualification so ordered, be and be deemed to be suspended on and from the date upon which that person became so disqualified and thereafter until the expiration of the period of disqualification specified in the order.

(2A) Where under this or any other Act a Judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified absolutely or for a specified period from holding or obtaining a driver's licence, each subsisting driver's licence held by that person shall, by virtue of such order, be and be deemed to be cancelled on and from the date upon which that person became so disqualified.

(3) Where under any provision of this Act a conviction for an offence disqualifies any person from holding or obtaining a driver's licence for any period therein specified and no order of disqualification has been made upon such conviction, each and every subsisting driver's licence held by that person shall, by virtue of such conviction, be and be deemed to be cancelled on and from the date of such conviction.

### **Effect of suspension**

(4) Suspension under this Act of any licence—

- (a) shall, whilst such licence is so suspended, have the same effect as the cancellation of the licence; and
- (b) shall, whilst such licence is so suspended, disqualify the person who held that licence from holding or obtaining a licence of the same kind, class, or description; and
- (c) (if the period of such suspension is less than the period during

which that licence ordinarily would have remained in force) shall not, upon the termination of that suspension, extend the period during which that licence thereafter remains in force beyond the period during which that licence would have remained in force if it had not been so suspended.

(5) Any cancellation or suspension of a driver's licence shall apply and extend to such licence and to every other driver's licence authorising the person in question to drive any vehicle.

**Offences by disqualified persons**

(6) A person shall not apply for or obtain a driver's licence or licence of any other kind, class, or description at a time when the person is disqualified—

- (a) by this Act; or
- (b) by an order made under this or any other Act (including any Act of a State or Territory of the Commonwealth of Australia or any other country);

from holding or obtaining a driver's licence or, as the case may be, licence of that other kind, class, or description.

(7) The provisions of subsection (6) do not apply to a person who in accordance with this Act applies for or obtains a provisional licence pursuant to an order made under section 20A.

(8) A person who applies for or obtains a licence in contravention of subsection (6) shall be guilty of an offence.

(9) Where the licence applied for or obtained in contravention of subsection (6) is a driver's licence, the offender shall be liable to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 18 months.

(10) In determining the punishment to be imposed on a person who is guilty of an offence under subsection (9) where the licence applied for or obtained in contravention hereof is a driver's licence, the justices shall have regard to—

- (a) the whole of the circumstances of the case, including circumstances of aggravation or mitigation; and
- (b) the interest of the public; and

- (c) the criminal and traffic history of the offender; and
- (d) all matters before them in relation to the medical history of the offender or the offender's physical or mental capacity that are considered by them to be relevant in the circumstances; and
- (e) such other matters that are considered by them to be relevant in the circumstances.

**(11)** Notwithstanding that, at the time of the commission of an offence under subsection (9) where the licence applied for or obtained in contravention hereof is a driver's licence, the person who committed the offence is disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver's licence, the justices before whom the person is convicted of the offence, in addition to any punishment they may impose upon the person on conviction, shall order that the person shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a driver's licence, and the person shall thereupon be so disqualified under and in accordance with that order.

**(12)** Any driver's licence or licence of any other kind, class, or description, obtained by any person or issued to the person at any time when the person is disqualified—

- (a) by this Act; or
- (b) by an order made under this or any other Act (including any Act of a State or Territory of the Commonwealth of Australia or any other country);

from holding or obtaining a driver's licence or, as the case may be, licence of that other kind, class, or description shall be absolutely void and of no legal effect whatsoever.

**(13)** The provisions of subsection (12) do not apply to a provisional licence obtained by any person or issued to the person pursuant to an order made under section 20A.

**(14)** Subsection (12) shall be read so as not to affect the liability (if any) of that person to punishment under any other provision of this Act or under any other Act in respect of anything done or omitted to be done by the person in relation to the obtaining of the licence in question.

**Effect of disqualification on subsequent issue of driver's licence**

**55A.** Where the driver's licence of a person is cancelled or deemed to be cancelled in accordance with the provisions of section 55 and that person subsequently makes application for a driver's licence (other than a learner's permit referred to in section 14(1) or a driver's licence applied for pursuant to an order made under section 20A), the superintendent may cause the person to be tested as prescribed and any driver's licence issued to the person shall be issued as a provisional licence.

**Effect of cancellation pursuant to regulations**

**55B.(1)** Where pursuant to the regulations a driver's licence is cancelled and the regulations require that the person who held the driver's licence shall not be issued with another driver's licence unless the person has obtained permission from a district superintendent to apply for a driver's licence, then, until that permission is given and the time arrived at which the application may be made, the cancellation of that driver's licence shall disqualify the person from holding or obtaining a driver's licence of the same class or description as that which was cancelled.

(2) Subsection (1) shall not apply to disqualify a person from holding or obtaining a driver's licence where the licence is cancelled at the request of the person who held the licence.

(3) In any proceedings the onus of proving that a driver's licence was cancelled at the request of the person who held the licence shall be upon the person relying on that fact.

**Delivery of cancelled or suspended licences, or licences for endorsement**

**56.(1)** Where any licence is or is deemed to be cancelled or suspended or is surrendered or is required for the purpose of making an endorsement thereon under this Act the licensee shall forthwith deliver that licence—

- (a) if any person is appointed by the regulations to whom a licence of that kind, class, or description is to be delivered upon its cancellation, suspension, or surrender, or for its endorsement to that person; or
- (b) where any person has not been so appointed by the regulations

and—

- (i) where such licence is cancelled or suspended consequent on a conviction on indictment, or by or consequent on an order made by a Judge of the Supreme Court or District Court, to the Registrar of the Supreme Court, Circuit Court, or District Court which recorded the conviction or made the order; or
- (ii) where such licence is cancelled or suspended consequent on a conviction, or by or consequent on an order, by justices, to the clerk of the court which recorded the conviction or made the order; or
- (iii) in any other case, to the superintendent who is the officer in charge of the police station in the police division in which the address of the licensee, as indicated on the licence in question, is situated.

(2) Any person who fails to deliver any licence as required by subsection (1) shall be guilty of an offence.

(2A) If such default in delivering any licence is continued by any person who has been convicted of the offence of failing to deliver that licence as required by subsection (1), then that person shall be deemed to commit a continuing offence and shall be liable to a penalty of 1 penalty unit for each and every day during which such offence is so continued.

(2B) However, the continuing offence in respect of the non-delivery of such licence shall not be deemed to commence until the expiration of 14 days from the date of conviction as aforementioned.

### **Endorsements**

(3) The person to whom any licence is delivered pursuant to the provisions of this section shall make an endorsement containing such particulars relating to its cancellation, suspension, or surrender, or the other purpose for which the endorsement is required to be made thereon, as may be prescribed and shall transmit such licence to the Commissioner unless, in the case of a licence continuing in force, the Commissioner is authorised by the regulations to return such licence to the licensee.

(4) Subject to this Act, where any licence is deemed to be cancelled under this Act by reason of the disqualification of any person from holding or obtaining a licence or the suspension of a licence, the Commissioner shall

keep the licence so deemed to be cancelled until such disqualification has expired or been removed or, as the case may be, such suspension has terminated, and the person entitled to the licence has made a demand in writing for its return to the person.

(5) Where any person (whether the person is at the time the holder of a licence or not) has been disqualified—

(a) by this Act; or

(b) by an order made under this or any other Act;

from holding or obtaining any licence (other than a driver's licence), every licence of that kind, class, or description which the person may then hold or may subsequently obtain shall be endorsed with such particulars relating to the person's disqualification as may be prescribed.

(6) On the issue of a new licence (other than a driver's licence) to any person, the prescribed particulars endorsed or required to be endorsed on any previous licence of that kind, class, or description held by the person shall be copied or made on to the new licence unless the person has previously become entitled under the provisions of this Act to have that new licence issued to the person free from such endorsements.

(7) Any person who, having failed to deliver in accordance with this Act for endorsement the person's licence required hereby to be delivered for the purpose of making an endorsement thereon hereunder and not previously becoming entitled under the provisions of this Act to have a licence issued to the person free from such endorsement, applies for or obtains a new licence of the same kind, class, or description as that which was required to be endorsed without giving sufficient particulars to enable any and every required endorsement to be made on the new licence shall be guilty of an offence.

### **Appeals with respect to issue of licences etc.**

**57.(1)** Any person aggrieved by the refusal of a district superintendent or of a superintendent to issue or renew a licence, or by the suspension or cancellation of a licence by a district superintendent, or by the imposition of a condition in respect of a licence by or by direction of a district superintendent or a superintendent may appeal against such refusal, suspension, cancellation or imposition to the Court.

(1A) Notwithstanding the provisions of the *Justices Act 1886*, the decision upon the appeal of the Court shall be final and binding and without appeal.

(1B) Except where the reason, or 1 of the reasons, for a district superintendent suspending or cancelling the appellant's licence is the mental or physical disability of the appellant, upon and by virtue of the commencement of the appeal the cancellation or suspension in question shall be suspended pending the determination of the appeal but, subject to the decision of the Court upon the appeal, that cancellation or suspension shall take effect from the date of the determination of the appeal for that portion of the period for which it was made which had not expired when the appeal was commenced.

(1C) Subsections (1) to (1B) shall be read and construed so that an appeal hereunder shall not lie under subsection (1)—

- (a) in respect of the cancellation or suspension of a driver's licence by reason of the disqualification from holding or obtaining that licence of the licensee upon conviction or by order of a Judge of the Supreme Court or District Court or of the Court; or
- (b) in respect of the cancellation or suspension of a licence by or at or pursuant to the order or direction of a Judge of the Supreme Court or District Court or of the Court under any provision of this Act or under any other Act or law; or
- (c) in respect of the refusal to issue or renew a licence or a suspension or cancellation of a licence or the imposition of a condition in respect of a licence if provision is made elsewhere in this Act for or in respect of such an appeal.

### **Application for removal of disqualification**

(2) A person in respect of whom an order has been made under this or any other Act that the person shall be disqualified absolutely or for a period in excess of 2 years from holding or obtaining a driver's licence or licence of any other kind, class, or description may, at any time after the expiration of 2 years from the date of the order, and subject as hereinafter provided, from time to time apply to—

- (a) where the order was made by a Judge of the Supreme Court or District Court—a Judge of the Supreme Court or District Court; or

- (b) where the order was made by justices—the Court exercising jurisdiction at the place where the person resides;

to remove the disqualification.

**(2A)** Notice of any such application shall be given to the Commissioner or to any police officer authorised by the Commissioner to receive such notices, who shall be entitled to appear and be heard and to give and produce evidence at the hearing of such application for or against the granting of the application.

**(2B)** The notice required by subsection (2A) to be given shall be given at least 28 clear days prior to the date of hearing of such application.

**(2C)** Upon hearing any such application the Judge of the Supreme Court or District Court or justices constituting the Court may, as is thought proper, having regard to the character of the person disqualified and the person's conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application.

**(2D)** Where an application under subsection (2) is refused, a further application hereunder shall not be entertained if made within 1 year after the date of the refusal.

**(2E)** If an order is made under subsection (2) for the removal of a disqualification, the Judge or justices shall further order that particulars of the order for removal be endorsed on each and every licence (if any) previously held by the applicant and cancelled as a result of the disqualification, and on every licence of that kind, class, or description which the applicant may subsequently obtain (unless in the case of any licence the applicant may subsequently obtain the applicant becomes entitled under the provisions of this Act to have that licence issued to the applicant free from such endorsement), and the Judge or justices shall in any case have power to order the applicant to pay the whole or any part of the costs of the application.

**(2F)** Particulars of the result of any application made under subsection (2) shall be transmitted by the Registrar of the Supreme Court or District Court or the clerk of the court concerned to the Commissioner.

### **Appeal from order of disqualification made by Judge or Court**

- (3)** A person who by virtue of an order of a Judge of the Supreme Court



or District Court or justices made under this or any other Act is disqualified from holding or obtaining a licence may appeal against the order in the same manner as against a conviction recorded against the person by that Judge or the justices and the Supreme Court or District Court in determining the appeal may, as is thought proper, having regard to the circumstances of the case, either by order remove the disqualification as from such date as may be specified in that order or dismiss the appeal.

(3AA) A memorandum of the determination of the appeal shall be transmitted by the Registrar of the Supreme Court or, as the case may be, District Court to the Commissioner.

(3A) Where a person has, following upon a conviction, been disqualified from holding or obtaining a driver's licence and has commenced an appeal against that conviction, that disqualification shall, upon the commencement of that appeal, and without further order in that behalf, be suspended pending the determination of that appeal.

(3B) However, subject to any decision of a court upon that appeal, that portion of the period of disqualification which had not expired when such suspension began to operate shall take effect from the date of determination of that appeal.

### **Removal of disqualification upon quashing of conviction**

(4) Where on an appeal a conviction against any person for an offence against this or any other Act is quashed, any disqualification of that person from the holding or obtaining of a licence by that conviction without any specific order of disqualification having been made by a Judge of the Supreme Court or District Court or justices shall thereupon be removed without any specific order being required for that purpose and without further or other authority than this Act.

### **Validity of orders of disqualification**

(5) Where under the authority of this or any other Act an order is made by a Judge of the Supreme Court or District Court or justices disqualifying a person from holding or obtaining any licence such order shall be valid and effective notwithstanding that no application was made for that purpose or that the person so disqualified was not present or was not called upon to show cause against the making thereof.

**Appeals against licence cancellation under regulations**

**57B.** The regulations may provide for any appeal (including to the Court or otherwise, which appeal may be stated to be final) against the cancellation of a driver's licence pursuant to the regulations solely on the grounds that such cancellation would cause extreme hardship to the person or the person's family by depriving the person of the person's means of earning the person's livelihood.

**Occupiers of garages etc. to keep register of repairs**

**58.(1)** The occupier of every garage or other premises where motor vehicles are repaired or painted for reward shall keep a register in the prescribed form, and shall enter therein in respect of every motor vehicle to which repairs are or painting is effected at such garage or premises—

- (a) the make, model, engine number, chassis number, registered number and colour of such motor vehicle; and
- (b) the name and address of the person leaving such motor vehicle and of the owner thereof; and
- (c) the date and time of receiving such motor vehicle at such garage or premises; and
- (d) the nature of the repairs or painting, including colour of painting carried out; and
- (e) such further particulars as may be prescribed.

**(2)** Such register shall be kept at the premises where such repairs are or painting is carried out for the period of 3 years next following the date upon which such work is carried out, and shall be produced for inspection whenever demanded by any police officer.

**(3)** Every such occupier who—

- (a) fails to keep such a register; or
- (b) fails to produce such register to a police officer on demand; or
- (c) makes or causes or permits to be made any false, incorrect, or misleading entry in such register; or
- (d) fails to make any entry required by this Act to be made in such register;

shall be guilty of an offence.

(4) The occupier of a garage or other premises shall not be convicted of an offence against this section in relation to repairs effected to a motor vehicle at such garage or other premises if the Court is satisfied—

- (a) that, at the time when such repairs were effected, particulars as required by subsection (1)(a) of that motor vehicle and the name and address of the owner thereof were recorded in the aforementioned register; and
- (b) that such motor vehicle was delivered at such garage or other premises for the purpose of being so repaired by, or with the authority of, the person recorded in such register as the owner thereof; and
- (c) that such register containing particulars as specified in paragraph (a) was available for inspection at the time when the repairs in question were effected and at all times thereafter to and including the date of the hearing of the complaint for the offence.

### **Alteration and defacing of numbers etc.**

**59.** Any person who—

- (a) alters, defaces, or removes any number on the engine or chassis of any motor vehicle being or purporting to be the number of such engine or chassis without the permission in writing of the Commissioner; or
- (b) places on the engine or chassis of any motor vehicle any number purporting to be, or which is likely to be taken to be, the number of such engine or chassis, without previously—
  - (i) delivering to the Commissioner a notice in writing signed by such person and stating that the number is to be placed on such engine or chassis and containing particulars of such number and the registration number of such motor vehicle under the *Main Roads Act 1920*; and
  - (ii) receiving permission in writing from the Commissioner to place such number on such engine or chassis, as the case may be; or

- (c) without lawful excuse, the proof of which shall lie upon the person, has in the person's possession or under the person's control any motor vehicle upon which the engine number or chassis number has been altered, or defaced, or from which any engine number or chassis number has been removed, or upon which any number has been placed in contravention of this section;

shall be guilty of an offence.

### **Unlawful interference with vehicles and mechanism thereof etc.**

**60.(1)** Any person who drives or in any manner uses on any road any vehicle or tram without the consent of the owner or of the person in lawful possession thereof or who without such consent wilfully destroys, damages, removes, or otherwise interferes with any mechanism or other part of or equipment attached to a vehicle or tram which is on any road or elsewhere or who without such consent wilfully destroys, damages, removes, or otherwise interferes with the harness or other equipment attached to an animal that is on any road shall be guilty of an offence and liable to a penalty not exceeding \$200 or to imprisonment for a term not exceeding 6 months.

**(1A)** However, subsection (1) shall be read so as not to apply to any police officer acting in the execution of the officer's powers and duties, or to any person acting under and in accordance with a lawful direction of any such officer.

**(2)** The justices may, in addition to any penalty imposable by them under this section, order the defendant to pay to the owner of the vehicle, tram, harness or other equipment in relation to which an offence under this section has been committed, such a sum as the justices think proper by way of compensation for any loss, damage, or expense suffered by the owner as a result of the commission of such offence.

**(2A)** The compensation so awarded may be ordered to be paid either in 1 sum or by such instalments and at such times as the justices think fit.

**(2B)** Moreover in such order the justices may in their discretion order that if the offender does not pay the sum assessed in accordance with such order the offender shall be imprisoned for any further term not exceeding 6 months, but if the justices do not so order then such order shall operate as

a judgment for the payment of money under the *Magistrates Courts Act 1921* and be enforceable as a judgment under that Act and for such purpose a minute or memorandum of the conviction or order signed by the justices by whom the order was made may be entered in the records of the Magistrates Court exercising jurisdiction at the place for holding Magistrates Courts where the order was made.

(3) Nothing in this section shall affect the provisions of any other Act or any other liability, civil or criminal, of any person guilty of an offence against this section, excepting that where an act or omission is an offence both under this section and under some other Act or law the offender shall not be twice punished for that offence.

### **Injurious matter on roads**

**61.(1)** Any person who deposits or drops or causes or suffers to be deposited or dropped on any road any matter, substance, or thing likely to cause injury, damage, or danger to any person, vehicle, tram, train, or animal, and being any wood, stone, sand, gravel, nail, tack, scrap iron, glass, wire, tin, bottle, thorn, clipping, oily or sticky substance, or other matter, substance or thing whatsoever, shall be guilty of an offence.

(1A) However, it shall be a defence to a charge under this section if the defendant proves that the defendant had taken reasonable precautions to prevent the matter, substance or thing from being so deposited or dropped.

(2) Any person who deposits or drops or causes or suffers to be deposited or dropped upon any road any matter, substance or thing referred to in subsection (1) shall immediately upon becoming aware thereof remove or cause to be removed from such road all of such matter, substance or thing, and if the defendant fails to do so the defendant shall be guilty of an offence.

### **Duties of drivers of vehicles etc. causing damage to road**

(3) If any damage or injury (other than normal wear and tear) is caused to any road in consequence of the use or passage thereon of a vehicle, tram, or animal, or of anything carried, drawn, or propelled by a vehicle, tram, or animal, and such damage or injury is of such a nature that it may endanger any person, vehicle, tram, or animal using or being used upon such road, the driver of the vehicle, tram, or animal by the use or passage of which such damage or injury was caused or which carried, drew, or propelled the

thing by the use or passage of which such damage or injury was caused shall immediately place a mark or sign on or near the place where the damage or injury has been caused of such a nature and in such a manner that it will act as a conspicuous warning of danger to any person approaching that place.

(3A) The driver as aforesaid shall also report the damage or injury to the superintendent who is the officer in charge of the nearest police station as soon as reasonably practicable after the causing thereof.

(3B) A person who fails to comply with subsection (3) or (3A) in any respect shall be guilty of an offence.

### **Saving of local authorities' powers with respect to interference with roads**

(4) Except as provided by clauses 8A, 9 and 11A of the Schedule, the provisions of this Act—

(a) shall not be deemed to repeal or prejudice or otherwise affect—

(i) the provisions of any law or of any other Act or of any regulation, ordinance, or by-law made under any other Act; or

(ii) any power under any other Act to make ordinances or by-laws;

with respect to the digging up or undermining of, or any other interference with, any road or part thereof, or the placing or use thereon or therein of anything which may, or would be likely to cause danger, obstruction, inconvenience, annoyance, injury, or accident;

(b) shall not be deemed to prejudice or otherwise affect the having, exercising, or performing by a local authority of any power, function, authority, or duty with respect to any of the matters in this subsection specified, and any liability of the local authority therefor.

### **Appropriation of fines, fees etc.**

62.(1) Any fine or penalty recovered for any offence against this Act shall be paid into and form part of the Consolidated Fund unless the Court

has directed that such fine or penalty or a part thereof shall be paid—

- (a) to any complainant who is not a police officer; or
- (b) in the case of an offence under section 30(1)(a)—to a person aggrieved by the commission of the offence;

and where the Court directs that part of a fine or penalty paid to a person referred to in paragraph (a) or (b) the remainder thereof shall be paid into and form part of that fund.

(2) All sums payable under this Act, including all licence fees and other prescribed fees, shall upon recovery be paid into and form part of the Consolidated Fund.

### **Scheme to facilitate children crossing streets**

**63.(1)** The Commissioner or the Director-General, may—

- (a) from time to time authorise any scheme to facilitate the safe crossing by children of public streets, such a scheme to be conducted by persons desirous of taking part therein, and who are referred to therein; and
- (b) from time to time authorise any person or class of persons by whom any such scheme may be conducted to exercise and discharge, for the purposes of that scheme, those powers, authorities, duties and functions specified in that scheme; and
- (c) at any time and from time to time revoke or amend an authority granted by the Commissioner or Director-General or substitute a fresh authority for any prior authority granted by the Commissioner or Director-General.

(2) Any scheme so authorised shall come into force on the date specified in such scheme.

(3) At any time and from time to time, the Commissioner, in respect of a scheme authorised by the Commissioner, and the Director-General, in respect of a scheme authorised by the Director-General, may revoke or amend a scheme or substitute a fresh scheme for any prior scheme.

(4) Without limiting the generality of the power to make regulations contained in section 70, the Governor in Council may from time to time make regulations providing for all or any matters necessary or convenient

for the purpose of carrying out any scheme under this section, which regulations may be general or in relation to any particular scheme. In particular, and without prejudice to the generality of subsections (1) to (3), the regulations may—

- (a) provide for ‘Stop’ signs and the exhibition thereof; and
- (b) provide for the placing of barriers across or partly across any public street near a marked footcrossing whilst a ‘Stop’ sign is being exhibited; and
- (c) prescribe conditions relating to the wearing or display of any insignia, badge, belt or other article of uniform by any person taking part in any scheme under this section; and
- (d) provide that, whilst a ‘Stop’ sign is exhibited, as prescribed, at or near a marked footcrossing which children are about to use or are upon any portion of, the driver of a motor vehicle facing that sign shall stop the vehicle and cause it to remain stationary until all the children have completed the passage of the footcrossing.

(5) In any proceedings for an offence against any regulation made under this section, evidence that a ‘Stop’ sign was exhibited, as prescribed, by a person, at or near a marked footcrossing which children were about to use, or were upon any portion of, shall be *prima facie* evidence that the exhibition of that ‘Stop’ sign by that person was authorised under this Act and the regulations under this Act.

### **Service of determinations, notices, orders, and directions of the Commissioner**

**64.(1)** Every determination, notice, order, or direction made or given by the Commissioner under this Act, or notice of rescission by the Commissioner of any such determination, notice, order, or direction, may be published in the Gazette, and upon such publication shall be judicially noticed and shall be and be deemed to be sufficiently served upon or notified to all persons affected by such determination, notice, order, or direction, or rescission thereof.

(2) Every determination, notice, order, or direction made or given under this Act not published in the Gazette, affecting a person or persons individually, or notice of the rescission of such determination, notice, order,



or direction, shall be sufficiently served if a copy of such determination, notice, order, or direction or notice of such rescission is delivered to such person or, if more persons than one are affected, to each such person.

(3) Subsections (1) and (2) shall not apply with respect to determinations by the Commissioner of any provision, term, or condition of a licence, where such provision, term, or condition is set out in that licence.

(4) The Commissioner may rescind any determination, notice, order, or direction made or given by the Commissioner under this Act, or may by a further determination, notice, order, or direction modify any such determination, notice, order, or direction.

### **Service of documents**

**65.(1)** Any determination, notice, order, direction, or other document whatsoever under the provisions of this Act required or authorised to be given or delivered to or served upon any person may be given, delivered, or served—

- (a) by delivering the same to such person personally; or
- (b) by leaving the same at the usual place of business or address of such person or at the person's place of business or address last known to the Commissioner or to a district superintendent or the Director-General giving, delivering or serving the same; or
- (c) by forwarding the same by registered post or certified mail in a prepaid letter addressed to such person at the person's usual place of business or address or at the person's place of business or address last known to the Commissioner or to a district superintendent or the Director-General giving, delivering or serving the same.

(2) Where any such determination, notice, order, direction, or document as aforesaid is required or authorised to be given or delivered to or served upon any person whose place of business or address is unknown to the Commissioner or, as the case may be, to a district superintendent, or the Director-General seeking to give, deliver or serve any such determination, notice, order, direction, or document, the same may be and shall be deemed to be given, delivered, or served by publishing it in some newspaper twice with an interval of not less than 1 week between the dates of such

publications.

(3) A declaration by any person that the person has delivered, left, or posted any determination, notice, order, direction, or document in the manner hereinbefore provided shall be conclusive evidence that such determination, notice, order, direction, or document has been so delivered, left, or posted, as the case may be.

(3A) A document purporting to be a declaration by the Commissioner or by a district superintendent or by the Director-General as to the usual place of business or address of any person or as to the place of business or address of any person last known to the Commissioner or to that district superintendent or to the Director-General making the declaration, or that the place of business or address of any person is unknown to the Commissioner or to that district superintendent or to the Director-General making the declaration, shall, upon production in evidence, be conclusive evidence of those facts.

(3B) The publication of any determination, notice, order, direction, or document may be proved by the production of a copy of the Gazette or of a newspaper containing the same.

(4) This section shall be read so as not to limit the operation and effect of section 64.

### **When determinations etc. not affected by error**

66. No misnomer or inaccurate description or omission contained in any determination, notice, order, or direction made or given by the Commissioner, the Director-General, a district superintendent, or superintendent, as the case may be, shall in anywise prevent or abridge the operation of this Act with respect to the subject matter of such determination, notice, order, or direction provided the same is designated so as to be understood.

### **Protection of Minister and police officers**

67.(1) No matter or thing done by the Minister, the Commissioner, the Director-General, or a local authority, or a town clerk, or by any person acting with the authority of the Minister, the Commissioner, the Director-General, or a local authority, or a town clerk, or done by any police

officer or any other person in good faith and without negligence for the purpose of executing this Act or in the execution of the person's powers and duties under this Act shall subject the Crown, the Minister, the Commissioner, the Director-General, the local authority, the town clerk, the authorised person or the police officer or other person concerned to any liability in respect thereof.

(2) The provisions of this Act relating to offences other than offences under sections 16 and 16A shall not apply to any police officer while acting in the execution of any power or duty conferred or imposed upon the officer by this Act or by any other Act or law.

### **Weights of vehicles and loading**

**68.(1)** The weight of any vehicle and/or the loading on or in any vehicle carrying goods may be ascertained by or in the presence of an authorised officer on a weighbridge under the control of the Director-General, Queensland Railways or any local authority or on any weighbridge approved by the Commissioner, or on instruments approved by the Commissioner for checking weights.

(2) The loading carried on or in any vehicle carrying goods shall be deemed to be the difference between the gross weight of the loaded vehicle and the tare of the vehicle as shown on a certificate of registration issued in respect of such vehicle under the provisions of the *Main Roads Act 1920* or in the case of a vehicle not registered, the tare of such vehicle as shown thereon or ascertained by any other means.

### **Rules of court**

**69.** All such rules of court as may be deemed necessary or convenient for regulating the procedure and practice of the Supreme Court for the purpose of giving full effect to this Act may be made and the provisions of the *Supreme Court Act 1921* and the *Supreme Courts Acts Amendment (Rules Ratification) Act 1928* shall apply and extend in respect of such rules of court.

**Regulations**

**70.(1)** The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be necessary or convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

**Schedule**

**(2)** Without limiting the generality of the provisions of subsection (1) regulations may be made for or in respect of all or any of the purposes, matters, and things specified in the Schedule.

**(3)** Regulations may be made on the passing of this Act.

**(4)** The power to make any regulation under this Act shall include power to make that regulation so that it shall be limited in its application—

- (a) to, or to any part of, the Metropolitan Traffic District, any police district, or any area of a local authority; or
- (b) to, or to any part of, any prescribed locality, place, or road; or
- (c) to persons included in any prescribed class of persons; or
- (d) to all persons excepting persons included in any prescribed class of persons; or
- (e) to vehicles, or animals, or vehicles and animals included in any prescribed class or description thereof; or
- (f) to all vehicles, or all animals, or all vehicles and animals excepting vehicles, or animals, or vehicles and animals included in any prescribed class or description thereof; or
- (g) otherwise as to time, place, or circumstance as is prescribed.

**(5)** The power to make any regulation under this Act in respect of trams, trains, or vessels shall include power to make that regulation so that it shall be limited in its application in any manner prescribed in subsection (4) and that subsection shall, with all necessary modifications, apply and extend accordingly.

**(6)** The power to make regulations under this Act shall include power to make different regulations for or with respect to different districts, areas, localities, places, or roads, or different parts thereof.

(7) The power to make a regulation regulating or controlling any act, matter, or thing shall include power to make a regulation prohibiting that act, matter, or thing either absolutely or except under the authority of a licence under this Act.

(8) The power to make regulations under this Act shall include power to repeal, amend, or otherwise modify any regulation in force at the commencement of this Act and continue in force by virtue of any provision of this Act.

(9) The regulations may adopt wholly or in part by way of reference or by way of express specification therein any of the standard rules, codes or specifications prepared, issued or endorsed by the Commonwealth Department of Transport or the bodies known as the Australian Transport Advisory Council, the Standards Association of Australia, the British Standards Institution or a like body identified in the regulations.

(10) The regulations may provide for the manner in which any such rules, codes or specifications may be proved in evidence.

### **Proclamations, orders in council**

71. Section 28A of the *Acts Interpretation Act 1954* shall apply with respect to proclamations and orders in council made for the purposes of this Act as if the proclamations or orders were regulations.

## **SCHEDULE**

### **SUBJECT MATTERS FOR REGULATIONS**

section 70(2)

#### **Prescribed matters**

1. Prescribing all matters or things which by this Act are required or permitted to be prescribed.

#### **General**

2. Determining, ordering, directing, authorising, prohibiting, requiring, or regulating all or any matters or things necessary or expedient to carry out the objects and purposes of this Act, and any matters or things incidental thereto or consequent thereon, or incidental to or consequent on the direction, control, or regulation of traffic or of persons, vehicles, trams, trains, animals, or other things who or which are or have been or are likely to be on a road, or which, in the case of vehicles, trams, trains, animals, or other things, are or have been used, or are likely to be used, on a road.

#### **Prescribing licences**

3.(1) Prescribing licences, including the kind, class, or description of licences, under this Act, the purposes for or the circumstances under which persons shall be required to obtain and maintain in force any such licence and, in particular, but without limit to the generality of the power to make regulations under this clause, requiring the following persons to obtain and maintain in force a licence under this Act, that is to say—

- (a) every driver or conductor of a tram used on any road;
- (b) every person carrying on the business of a carrier, carter, fuel carter, water drawer, or other prescribed business by means of any vehicle or animal, whether plying for hire or not;

## SCHEDULE (continued)

- (c) every person setting up or using any coffee stall, stand, stall, or standing vehicle, tram or animal for the purpose of offering for sale any goods or for the pursuit of any business, calling, or employment;
- (d) every itinerant vendor.

(2) However, this clause and the regulations made under this clause shall not apply to or with respect to a vehicle approved by the Director-General for use in carrying on a service for the carriage of passengers or goods, or both passengers and goods, licensed under the *State Transport Facilities Act 1946* while that vehicle is being used for the purpose of carrying on that service nor to or with respect to a vehicle permitted by the Director-General to be used for any purpose specified in section 56(1) of the *State Transport Facilities Act 1946* while that vehicle is being used for that purpose.

**Limiting the maximum number of licences**

4. Providing for, regulating, and controlling the maximum number of licences of any particular kind, class, or description which may be issued under this Act, and providing for, regulating, and controlling the issue of licences, or of a specified number or a percentage of licences of any kind, class, or description, to persons of a particular class or description who are otherwise qualified to apply for and obtain those licences.

**Licences**

5. With respect to licences under this Act, providing for, regulating, and controlling—

- (a) applications for licences of any particular kind, class, or description and the types of motor vehicles to which a particular kind, class or description of licence shall apply;
- (b) the information and particulars to be contained in or to accompany every such application and the verification of all such information and particulars;
- (c) the granting, issue, refusal to grant or issue, transfer, surrender, cancellation, or suspension of a licence of any particular kind,

## SCHEDULE (continued)

class, or description;

- (d) the period for which a licence of any particular kind, class, or description or any renewal thereof shall remain in force;
- (e) applications for the renewal of licences of any particular kind, class, or description, the information to be contained in or to accompany such applications, the verification of all such information and particulars, and the grant or refusal to grant such renewals;
- (f) duplicates for lost or destroyed licences of any particular kind, class, or description, applications for such duplicates, the information to be contained in or to accompany such applications, the verification of such information and particulars, and the grant, or issue, or refusal to grant or issue such duplicates and the force and effect of such duplicates;
- (g) the conditions, terms, grounds, restrictions, or circumstances under, upon, or subject to which, and the persons by whom licences of any particular kind, class, or description may be granted, issued, refused, renewed, transferred, cancelled, suspended, or surrendered;
- (h) the delivery to prescribed persons of licences of any kind, class, or description upon the disqualification of the holder from holding that particular kind, class, or description of licence, or upon the conviction of the holder thereof, or upon the cancellation, suspension, or surrender of licences or upon the expiration by effluxion of time of licences or for the purposes of making endorsements thereon under this Act;
- (i) endorsements of licences of any particular kind, class, or description (including endorsements of convictions of licensees committing offences or any prescribed offence against this Act), defining what shall constitute and be the effect of an endorsement of a licence, providing that any endorsement of a licence by a person duly authorised to make that endorsement shall be deemed to be a part of that licence and determining when a licensee shall be entitled to have a licence issued to the person free of endorsements;



**SCHEDULE (continued)**

- (j) production of licences by licensees for inspection when required or called upon by authorised officers.

**Qualifications and tests for licences**

**6.(1)** Providing for, regulating, and controlling the qualifications of, and the tests or examinations, or tests and examinations, to be passed by applicants for licences (which qualifications, tests, and examinations, or any of them, may differ in respect of licences of different kinds, classes, or descriptions) and providing for the submission by any applicant for a licence of any particular kind, class, or description of character references or of a medical certificate or other evidence of health, or requiring the applicant to supply any personal particulars.

**(2)** Providing for, regulating, and controlling additional tests and/or examinations to be passed by the holder of a driver's licence issued to such holder outside the area of a city, if such holder desires to drive a motor vehicle inside the area of a city, and for the endorsement of such driver's licence after such tests and/or examinations have been passed by the holder.

**(3)** Providing for, regulating, and controlling the issue, without any prescribed test or examination, of a driver's licence to any person who is the holder of a licence issued to the person and then in force in any other State or country, authorising the person to drive in Queensland any motor vehicle of the type or class to the driving of which the said licence issued to the person in another State or country applies.

**Learners**

**(4)** Prescribing the conditions to be observed by a person learning to drive a motor vehicle, and providing for, regulating, and controlling the issuing of a learner's permit authorising any such person to drive a motor vehicle in the course or for the purpose of learning to drive that class or description of motor vehicle with a view to passing the prescribed tests and/or examinations.

**Identification of motor vehicles driven by learners etc.**

**(5)** Prescribing notices, letters, and/or symbols (including the form and dimensions thereof) to be displayed on any motor vehicle being driven by

**SCHEDULE (continued)**

the holder of a learner's permit or provisional licence and the manner of affixing such notices, letters, and/or symbols to such a vehicle, and prescribing any other matter or thing with relation to the driving of motor vehicles on any road by persons learning to drive such vehicles.

**Age of licensee**

(6) Defining the age at which any person shall or shall not be entitled to be issued with any kind, class, and/or description of licence.

**Reciprocity regarding interstate licences**

7.(1) Providing for reciprocity in regard to licences as drivers of motor vehicles and the disqualification of persons from holding or obtaining such licences between the State of Queensland and any other State or Territory of the Commonwealth of Australia or any other country.

(2) Providing that, subject to any conditions and limitations which may be prescribed, a driving licence issued under the law of the State or Territory of the Commonwealth of Australia or other country in which the holder thereof usually resides, or an international driving permit issued in such State, Territory, or other country, may, so long as such driving licence or driving permit is in force, be deemed to be equivalent in Queensland and accepted in lieu of a driver's licence for the purpose of authorising the holder thereof to drive in Queensland any vehicle of the class or description to the driving of which the said driving licence or driving permit is applicable (if, but only if, such holder is not disqualified from obtaining or holding a driver's licence in Queensland).

(3) Providing for the withdrawal as may be prescribed of the privilege conferred on the holder of any such driving licence or driving permit by any regulation to be made hereunder and for the prohibiting of a person in respect of whom such privilege is withdrawn, and any other persons prescribed, from holding or obtaining drivers' licences.

(4) Providing that, subject to any exceptions which may be prescribed, persons disqualified from holding or obtaining licences as drivers of motor vehicles in any other State or Territory of the Commonwealth of Australia or any other country shall be disqualified from holding or obtaining drivers' licences in Queensland.

## SCHEDULE (continued)

**Traffic**

**8.(1)** Traffic in and on roads (which regulations may differ in respect of different classes or descriptions of such traffic) and in particular, but without limit to the generality of the power to make regulations under this clause, providing for, regulating, and controlling the following acts, matters, and things, that is to say—

**Vehicles**

- (a) the use of vehicles of any class or description of vehicles in or on roads;

**Lighting**

- (b) providing for the size, number, position, power, or means, method, or system of connection or operation of the lights to be carried and exhibited by or on vehicles or trams or by or on any class or description of vehicles or trams, the time at which such lights are to be carried and exhibited, and providing that the owner of a vehicle or tram shall provide such lights, and that the driver of such vehicle or tram shall keep such lights functioning efficiently;
- (ba) providing for the proper illumination at night time of identification marks or numbers or equipment of vehicles or trams or of any particular class or description of vehicles or trams other than such illumination with respect to vehicles approved for use in carrying on any licensed service under the *State Transport Facilities Act 1946*;

**Dangerous goods**

- (c) the carriage of dangerous goods by trams and vehicles other than vehicles approved for use in carrying on any licensed service under the *State Transport Facilities Act 1946*;

**Transshipping**

- (d) the transshipment in transit of passengers, or goods, or both passengers and goods carried by trams or vehicles other than vehicles approved for use in carrying on any licensed service under the *State Transport Facilities Act 1946* or vehicles licensed

**SCHEDULE (continued)**

for hire under Part 6A of the *State Transport Facilities Act 1946*;

**Advertisements**

- (e) the passage on roads of persons, vehicles, or animals carrying any advertisement, placard, board, notice, or sign, and the throwing or distributing of handbills or other printed or written matter in or on roads or from any place where such handbills or other printed or written matter may fall in or on a road;

**Rule of the Road**

- (f) 'the Rule of the Road' including the application of the regulations in respect thereof to the whole of the traffic in, on, or along roads or to persons using the roads or to vehicles, trams, trains, or animals thereon;

**Age limits of drivers**

- (g) the maximum and minimum age limits for persons driving vehicles, trams, or animals or any particular class or description thereof;

**Speed**

- (h) rates of speed and pace including speed and pace limits on roads of vehicles, trams, and animals or of any particular class or description thereof and empowering justices to order the disqualification from holding or obtaining drivers' licences for a specified period or for a longer or shorter period than that specified of drivers of motor vehicles who are convicted of offences against such regulations or any such regulation;

**Parking**

- (i) the parking, stopping, standing, or waiting of or by persons, vehicles, trams, or animals or other traffic, or of or by any particular class or description of persons, vehicles, trams, animals, or other traffic, on roads either generally or at or during any specified time or period, and the confining of traffic or of any particular class or description of traffic to a specified part of any road;

**SCHEDULE (continued)****Meetings and processions**

- (j) meetings and processions on roads, the routes of funeral processions, and of processions generally, or of processions of any particular class or description and appeals against the refusal of permits for meetings or processions on roads;

**Exceptional traffic**

- (k) defining what shall be deemed to be exceptional traffic upon roads, the restriction on roads of exceptional traffic or of any particular class or description thereof, and the restriction where deemed necessary of the carriage upon vehicles or animals of long, large, heavy, or projecting goods;

**Road incidents, loitering and obstruction etc.**

- (l) the prevention of road incidents which may cause, or are likely to cause, death or injury to persons, or damage to vehicles, trams, or trains, or to any other property, real or personal, or death or injury to animals or danger, inconvenience, or obstruction to persons or things on roads;
- (la) the prevention of such road incidents arising from the improper use upon roads of vehicles, trams, trains, or animals, or of any class or description thereof;
- (lb) the information and particulars to be furnished in reports of road incidents as aforementioned by drivers of vehicles, trams, trains, or animals;
- (lc) the prevention of loitering or obstruction of traffic on roads;
- (ld) the prohibition of the driving or wheeling of any handcart, truck, barrow, or other similar class or description of vehicle or of any velocipede on or along a footway;
- (le) the prohibition of the carrying of large or bulky parcels on or along a footway;
- (lf) the prohibition or regulation of the playing of games on roads;
- (lg) the prohibition or regulation of the use on roads of any scooter or other type of vehicle normally intended for use by children, or of

## SCHEDULE (continued)

any vehicle, or of any vehicle belonging to a class or description of vehicles, determined by the Commissioner, or of any vehicle the use of which upon roads would constitute a danger or undue hazard to road users;

- (lh) the regulation of traffic on tramways on roads; the regulation and, when thought proper, the temporary prohibition of traffic at times of public interest, amusement, or excitement or in the case of an emergency;
- (li) the prohibition or restriction of the breaking in or training, or exercising of horses either by leading or driving on roads;
- (lj) the compliance by any person walking, standing, loitering, or being on any footway with the orders, signals, or directions of any police officer;
- (lk) the prohibition, formation, and regulation of queues;
- (m) the use of handcarts, barrows, or vehicles belonging to any other similar class or description of vehicles and velocipedes upon roads.

(2) Prohibiting or regulating and controlling the use of air cushion vehicles on or over (including across) roads and, in the case of regulating and controlling such use, prescribing circumstances, terms and conditions under and upon which air cushion vehicles may be so used, and providing that any provisions of this Act applicable to a motor vehicle shall be applicable to an air cushion vehicle.

**Advertisements etc.**

**8A.(1)** Prohibiting or regulating and controlling the constructing, making, marking, placing, erecting, or painting, as the case may be, of advertisements, placards, boards, notices, lights, and signs on the surfaces of roads or, when danger to traffic may result therefrom, in, on, or near roads.

(2) The provisions of section 5(1), (2), (2A) and (2B) shall not apply, in relation to the matters and things in this clause contained, with respect to any local authority, including Brisbane City Council, or with respect to any

**SCHEDULE (continued)**

by-law or, as the case may be, ordinance (not inconsistent with any regulation made or deemed to be made under this clause) of the local authority (whether made before, on, or after the commencement of this Act).

**Stalls, stands etc.**

**9.(1)** Prohibiting or regulating, controlling, and licensing the setting up and use of coffee stalls, vehicles, stalls, or stands or other structures or contrivances for the sale of goods or for the pursuit of any business, calling, employment, or purpose, and the itinerant vending of goods, in or on roads; prohibiting any goods of any description from being placed, stacked, or stored in or on roads or from remaining in or on any road for a longer period than may be necessary for housing, removing, loading, or unloading the same, and requiring the removal of any such goods at the order or direction of any police officer.

**(2)** However, nothing herein contained shall refer to the setting up and use of any petrol, air, or other pumps in or on roads except when danger to traffic may result therefrom and in such other circumstances (if any) as may be prescribed.

**(3)** The provisions of section 5(1), (2), (2A) and (2B) shall not apply, in relation to the matters of setting up and use of petrol, air, and other pumps in or on roads, with respect to any local authority, including Brisbane City Council, or with respect to any by-law or, as the case may be, ordinance (not inconsistent with any regulation made or deemed to be made under this clause) of the local authority (whether made before, on, or after the commencement of this Act).

**Seizure, removal, and detention of stalls, stands, goods etc.**

**10.(1)** Providing for, regulating, and controlling the seizure, removal and detention of any stall, stand, or other structure or contrivance or of any goods found in such place, condition, manner, or circumstances that its presence constitutes a breach of this Act, or is causing or likely to cause danger, hindrance, inconvenience, or obstruction to traffic in or upon any road.

**SCHEDULE (continued)**

(2) Providing for, regulating, and controlling the seizure, removal, and detention of advertisements, placards, boards, notices, signs, handbills, or other things carried, thrown, distributed, or being in, on, or near roads in contravention of this Act.

(3) Providing for the disposal of same, and for recovery of all expenses of the seizure, removal, detention, or disposal thereof.

**Meetings, playing musical instruments etc.**

**11.(1)** Prohibiting or regulating the holding of meetings, or the use of musical instruments or the amplification or reproduction of any words, music, or other sounds whatsoever, by means of any electrical or other mechanical appliance, apparatus, or device whatsoever, on any road or foreshore, or in or on any other place under, as regards that other place, such circumstances that the same would cause or be likely to cause persons to gather on a road to the danger, inconvenience, hindrance, annoyance, or obstruction of persons or other traffic on such road.

(2) Providing for the seizure and disposal of any appliance, apparatus, or device used for amplifying or reproducing words, music, or other sounds in contravention of any regulation made under this clause.

**Vehicles etc. on foreshores**

**11A.(1)** Prohibiting or regulating and controlling the driving of vehicles and animals on all or any foreshores and the use of all or any foreshores for any purpose which may cause danger, obstruction, inconvenience, annoyance, injury, or accident to any persons thereon.

(2) The provisions of section 5(1), (2), (2A) and (2B) shall not apply, in relation to the matters and things concerning foreshores in this clause and in clause 11 contained, with respect to any local authority, including Brisbane City Council, or with respect to any by-law or, as the case may be, ordinance (not inconsistent with any regulation made under this clause or clause 11) of the local authority (whether made before, on, or after the commencement of this Act).



**SCHEDULE (continued)**

**Interference or damage to roads**

**12.** Prohibiting (except by lawful authority the proof of which shall be on the accused person) the digging up or undermining of any road or part thereof or other interference with any road or part thereof, or the placing or use thereon or therein of anything which may, or would be likely to, cause danger, obstruction, inconvenience, annoyance, or injury or an accident.

**Construction, equipment and condition of vehicle**

**13.(1)** Prescribing conditions or specifications to which vehicles generally or any particular class or description of vehicles must conform, including amongst any other matters or things deemed desirable or convenient the construction of the vehicle, its form, equipment, weight, maximum load or carrying capacity, height, length, width, and overhang, the description of its wheels, its motor or animal power, and its steering.

**(2)** Providing for, regulating, and controlling the construction and maintenance of vehicles in accordance with the conditions or specifications prescribed therefor.

**(3)** Prohibiting the use of any vehicle which is not constructed or maintained in accordance with the conditions or specifications prescribed therefor.

**(4)** Providing for, regulating, and controlling the equipment of vehicles with bells, alarms, or other instruments of warning, windscreen wipers, reflectors, rear vision mirrors, automatic or mechanical signalling devices, and other equipment designed to ensure safety, and standards for, and the installation and maintenance of all or any such equipment; prohibiting the use on any other vehicle of any bell, alarm, or other instrument of warning prescribed for use on a particular class of vehicle.

**Maintenance of motor vehicles in good mechanical order and safe condition**

**(5)** Providing for, regulating, and controlling the maintenance of all motor vehicles or of any class or description of motor vehicles driven on roads in good mechanical order and safe condition and to ensure that the brakes thereof are in a safe condition at all times and to secure the safety of

## SCHEDULE (continued)

other road users and in this regard—

- (a) providing for, regulating, and controlling the issuing of certificates of road worthiness with respect to such motor vehicles, or class or description of such motor vehicles, and providing for, regulating, and controlling the persons who may issue such certificates;
- (b) specifying the qualifications of persons who may issue certificates of road worthiness;
- (c) providing for the registration of garages and service stations;
- (d) requiring production of certificates of road worthiness—
  - (i) prior to the registration of those motor vehicles required to be registered under the *Main Roads Act 1920*;
  - (ii) upon the renewal and transfer of such registration; and/or
  - (iii) when required by a superintendent;
- (e) prohibiting the using of all motor vehicles or of any class or description of motor vehicles on roads unless certificates of road worthiness in respect thereof have been issued and are in force; and/or
- (f) providing for, regulating, and controlling all or any matters or things necessary to carry out these objects.

(6) Prohibiting the sale and the offering for sale of equipment for vehicles used or for use on a road which does not comply with the standards prescribed for such equipment at the time of sale or offering for sale, as the case may be.

**Brakes**

**14.(1)** Regulating or restricting and if necessary prohibiting the use on any vehicle or on any class or description of vehicle of any particular class or description of brake, or prescribing the kind and number of brakes which shall be provided on any vehicle, or vehicle of any class or description.

(2) Prohibiting the use of any such vehicle not equipped with the

## SCHEDULE (continued)

prescribed brakes.

(3) Providing for the examination and testing of vehicles or of brakes and other equipment or mechanism of vehicles.

(4) Requiring production of a certificate by a competent person or authority of the state of efficiency or otherwise of the vehicle or of the brakes or other mechanism or equipment of a vehicle.

(5) Defining what persons or authorities shall be competent persons or authorities as aforesaid.

(6) Notwithstanding anything contained in the *Tramways Act 1882* or any other Act, or any regulation, ordinance, or by-law under any such Act, prescribing on the written recommendation of the Director-General the kind of brakes that shall be used on tramcars and other vehicles used on tramways, and the brake power of such vehicles.

**Misconduct etc.**

**15.(1)** Defining what shall be deemed to be misconduct or obnoxious or disorderly conduct by drivers and conductors of or passengers upon vehicles and tramcars; the prevention of or punishment for any such misconduct or obnoxious or disorderly conduct.

(2) Providing for, regulating, and controlling the conduct of such drivers, conductors, and passengers to ensure the safety of those persons and other road users.

**Permits for vehicles**

**16.** Providing for, regulating, and controlling the permitting by the Commissioner, the Director-General, a district superintendent, or a superintendent of the use of—

- (a) any vehicle for a purpose for which that vehicle is not constructed, fitted, or equipped in accordance with the requirements of this Act; or

and with respect to such permits providing for, regulating, and controlling—

**SCHEDULE (continued)**

- (c) the period or maximum period and the terms and conditions of any such permit, and subject as prescribed, the power and authority of the Commissioner, the Director-General, district superintendent, or superintendent to fix such period, terms, and conditions; and
- (d) the power and authority of the Commissioner, the Director-General, a district superintendent, or a superintendent to fix the fee for any such permit, the fee for which is not prescribed; and
- (e) the power and authority of the Commissioner to direct a district superintendent to issue or to refuse to issue permits as aforesaid, or any class or description of such permits, or any particular permit as aforesaid, and obedience by a district superintendent or superintendent to any such direction.

**Regulation of vehicles exceeding prescribed dimensions****16A.(1)** Providing for the regulation of movement of—

- (a) vehicles that have dimensions that exceed prescribed dimensions; or
- (b) vehicles that with their loads exceed prescribed dimensions.

**(2)** Vehicles mentioned in this clause may be regulated by, for example, imposing conditions and limitations on the movement of the vehicles.

**Transportation of buildings**

**17.(1)** Regulating and controlling the transportation of buildings or any part thereof along any road including requiring (in every case or in a particular case or class of case) that an approval of a specified type or description be obtained from a local authority before any licence authorising the transportation may be issued under this Act.

**(2)** Regulations made for the purpose of this clause may apply differently, according to different factors of a specified kind.

SCHEDULE (continued)

**Photographic detection devices**

**18.** Prescribing matters with respect to the manner and method of operating and testing photographic detection devices within the meaning of Part 6B.

**Lost property**

**19.** Providing for, regulating, and controlling—

- (a) the safe custody of property left in or upon any vehicle, with respect to which a licence has been issued under Part 6A of the *State Transport Facilities Act 1946* or at any stand or stopping place for any such vehicle; and
- (b) the rewarding of the finder of any such lost property; and
- (c) the sale or, where a sale cannot be effected, the disposal after reasonable notice and upon reasonable conditions of any such property which is unclaimed; and
- (d) the payment of one-half of the net amount realised from any such sale to the driver or conductor or other person who found the property in question, but such payment shall not exceed \$100; and
- (e) the payment or appropriation of any moneys remaining on hand after the sale or disposal of such unclaimed property.

**Routes and timetables**

**20.** (Except as respects vehicles for which routes or timetables or both are or may be fixed under some other Act or law) providing for, prescribing, regulating, and controlling all or any of the following, that is to say—

- (a) the routes to be followed by;
- (b) the time to be taken (being either a fixed time or a maximum or minimum time) by;
- (c) timetables for;

vehicles, or by any particular class or description of vehicles, for the whole

SCHEDULE (continued)

or a particular part of their journey.

**Stands and stopping places**

**21.(1)** Providing for, regulating and controlling public stands and stopping places for vehicles licensed under Part 6A of the *State Transport Facilities Act 1946* or licensed or approved under that Act or any other Act (but without prejudice to any provision made with respect to any of these matters under or pursuant to the *State Transport Facilities Act 1946* or the other Act in question) and trams being used on any road, either generally or as respects vehicles, or a particular class or description of vehicle, or trams.

**(2)** The mode or method of appointment and the persons authorised to appoint such public stands and stopping places.

**Qualifications concerning breath analysing instruments**

**22.** Prescribing qualifications in respect of the operation of, and authorised police officers operating, breath analysing instruments.

**Checking of vehicles loading and weights**

**23.** Without prejudice to the provisions of any regulation under the *State Transport Facilities Act 1946*—

- (a) authorising checking of the weights of vehicles and of the load or number of passengers carried in or upon any vehicle;
- (b) providing for, prescribing, regulating, and controlling the use of instruments for the purpose of such check weighing;
- (c) requiring owners and persons in charge of any vehicle to permit and aid in the inspection, weighing, and measuring of such vehicle, the inspection, weighing, and measuring of any goods therein or thereon, the checking of the number of passengers therein or thereon, the inspection and checking of books, documents, and records therein or thereon or relating thereto or to any passengers or goods therein or thereon;
- (d) requiring owners and persons in charge of any vehicle to answer

**SCHEDULE (continued)**

questions put by authorised officers acting in the execution of any regulations made under paragraphs (a) to (c), and to furnish to such authorised officers such information and particulars with respect to any vehicle or any goods or passengers therein or thereon as may be required by such officers in the course of and for the purposes of the execution of any duty or function conferred or imposed upon authorised officers by the regulations made under the provisions of this clause;

- (e) requiring owners and persons in charge as aforesaid to state, when thereunto required by an authorised officer, their respective names and addresses, and on demand by an authorised officer to produce to the authorised officer any licence under this Act held either in person or in respect of the vehicle concerned;
- (f) providing for, prescribing, regulating, and controlling the inspection of vehicles, horses, and other animals, and the equipment or harness thereof.

**Authorised officers**

**24.(1)** Providing for, regulating, and controlling the appointment by the Commissioner or the Director-General of persons other than police officers as authorised officers.

**(2)** Defining the functions, powers, authorities, duties, obligations, and responsibilities of authorised officers but so that such regulations shall, as respects police officers, be read so as not to prejudice or limit any provision of any section of this Act.

**Exempting**

**25.(1)** Exempting persons, vehicles, or animals, or any class or description of persons, vehicles, or animals, from any provision of any regulation.

**(2)** Providing for, regulating, and controlling exemptions as aforesaid, the issue by the Commissioner, the Director-General, a district superintendent, or a superintendent of a certificate of any such exemption, and defining the

SCHEDULE (continued)

effect of any such exemption.

**Commissioner, Director-General and other persons**

**26.(1)** Providing for, regulating, and controlling the determination, application, prohibition, or regulation of or dispensing with any matter or thing by the Commissioner or the Director-General either generally or in any prescribed kind, class, or description of cases or in any prescribed particular case.

**(2)** Providing for, regulating, and controlling the execution or signing by a district superintendent or superintendent for or on behalf of the Commissioner or the Director-General of any document or other writing whatsoever required or authorised under this Act to be executed or signed by the district superintendent or superintendent.

**Official traffic signs, signs, signals, and directions**

**28.(1)** Providing for, prescribing, regulating, and controlling official traffic signs, and signs, signals, indications, and directions for the control or regulation of traffic.

**(2)** Defining official traffic signs and other signs, signals, indications, and directions as aforesaid, by diagrams, illustrations, or otherwise.

**(3)** Prescribing directions and indications for official traffic signs.

**Parties to offences**

**29.** Prescribing the persons deemed to have taken part in the commission of any offence against this Act and to be guilty of that offence and who may be charged with actually committing it.

**Noises etc.**

**30.** Providing for the minimising of noise and the issue of smoke or fumes from the using of motor vehicles.



## SCHEDULE (continued)

**Declarations**

**31.** Requiring the making of declarations under the *Oaths Act 1867* for the purposes of this Act, prescribing the matters or things under this Act with respect to which such declarations are required to be made, and specifying any information required to be contained in such declarations.

**Police reports concerning drivers**

**32.** Authorising or requiring the making and furnishing of reports or copies of reports by the Director-General and by police officers to police departments and other departments of the Commonwealth and of any State or Territory of the Commonwealth, concerning or in relation to the qualifications or fitness of any person who is or has been or is likely to be in Queensland to hold any licence, permit, certificate, or other document or authority of a like nature, issued in any State or Territory of the Commonwealth, in relation to vehicles or traffic, and concerning or in relation to the antecedents, character, and conduct of any such person, and indemnifying the Director-General and police officers against liability at law in respect of reports made or furnished as aforesaid.

**Forms**

**33.** Forms under this Act and the respective purposes for which such forms shall be used.

**Fees**

**34.(1)** Prescribing fees payable for any licence or for the renewal, or a duplicate copy thereof, or for or upon the doing of any act or thing prescribed or carried out or required to be carried out under or pursuant to this Act.

**(2)** Prescribing the manner, time, place, and the person by and to whom fees or payments due and payable under this Act shall be paid.

**(3)** Exempting persons belonging to any specified class of persons from liability to pay wholly or in part any prescribed fee.

SCHEDULE (continued)

**Facilitation of proof**

**35.(1)** The mode and onus of proof of matters required to be proved under and for the purposes of this Act and for facilitating such proof.

**(2)** For the purpose of any proceedings under this Act dispensing with proof of any formal matters as to handwriting or documents or of authority.

**Penalty**

**36.** The amount of any pecuniary or other penalty for any offence against any regulation, provided that any such pecuniary penalty shall not exceed 20 penalty units or in the case of a daily penalty 4 penalty units per day.

## ENDNOTES

### 1 Index to Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 24 December 1993. Future amendments of the Traffic Act 1949 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

### 3 List of legislation

#### **Traffic Act 1949 13 Geo 6 No. 26**

date of assent 22 April 1949

commenced 1 February 1960 (proc pubd Gaz 7 January 1950 p 37)

as amended by—

#### **Main Roads Act and Another Act Amendment Act 1952 1 Eliz 2 No. 14**

date of assent 22 April 1952

commenced 1 October 1952 (proc pubd Gaz 23 August 1952 p 2786)

#### **Traffic Acts Amendment Act 1953 2 Eliz 2 No. 11**

date of assent 19 November 1953

commenced on date of assent

#### **Traffic Acts and Another Act Amendment Act 1956 5 Eliz 2 No. 26 Pts 1–2**

date of assent 28 November 1956

commenced on date of assent

**Traffic Acts and Another Act Amendment Act 1957 6 Eliz 2 No. 13 Pts 1–2**

date of assent 18 April 1957

s 5(1) commenced 1 July 1957 (see s 5(2))

remaining provisions commenced on date of assent

**Traffic Acts and Another Act Amendment (No. 2) 1957 6 Eliz 2 No. 34 Pts 1–2**

date of assent 17 December 1957

commenced on date of assent

**Traffic Acts Amendment Act 1958 7 Eliz 2 No. 41**

date of assent 21 November 1958

commenced 1 January 1959 (see s 1(4))

**State Transport Facilities Acts and Another Act Amendment Act 1959 8 Eliz 2 No. 21 s 27 Sch**

date of assent 10 April 1959

commenced 6 July 1959 (proc pubd Gaz 4 July 1959 p 1724)

**Traffic Acts and Another Act Amendment Act 1959 8 Eliz 2 No. 55 Pts 1–2**

date of assent 21 December 1959

commenced on date of assent

**Traffic Acts Amendment Act 1960 9 Eliz 2 No. 44**

date of assent 16 December 1960

s 9 commenced 16 August 1965 (proc pubd Gaz 7 August 1965 p 1809)

remaining provisions commenced on date of assent

**Traffic Acts Amendment Act 1961 10 Eliz 2 No. 27**

date of assent 3 November 1961

commenced on date of assent

**Traffic Acts Amendment Act 1962 No. 23**

date of assent 10 December 1962

commenced on date of assent

**Traffic Acts and Other Acts Amendment Act 1965 No. 26 Pts 1–2**

date of assent 29 April 1965

s 34(1) expired 16 August 1965 (see s 34(1)(b))

commenced 19 July 1965 (proc pubd Gaz 12 June 1965 p 971)

**Traffic Acts Amendment Act 1967 No. 44**

date of assent 19 December 1967

commenced on date of assent

**Traffic Acts Amendment Act 1968 No. 22**

date of assent 22 April 1968

ss 6–7 commenced 1 August 1968 (proc pubd Gaz 6 July 1968 p 1108)

remaining provisions commenced on date of assent

**Traffic Act Amendment Act 1968 (No. 2) No. 36**

date of assent 27 November 1968

commenced on date of assent

**Traffic Act Amendment Act 1969 No. 22**

date of assent 17 December 1969

commenced 19 January 1970 (proc pubd Gaz 20 December 1969 p 1736)

**Traffic Act and Another Act Amendment Act 1971 No. 33 Pts 1–2**

date of assent 27 April 1971

commenced on date of assent

**Metric Conversion Act 1972 No. 31 Pt 2 Sch 1**

date of assent 21 December 1972

commenced 1 July 1974 (proc pubd Gaz 15 June 1974 p 997)

**Traffic Act Amendment Act 1974 No. 18 (as amd by Act No. 26 of 1977; Act No. 52 of 1982 and Act No. 102 of 1984)**

date of assent 24 April 1974

The following provisions of Act No. 18 of 1974 commenced 1 September 1974 (proc pubd Gaz 3 August 1974 p 1933)—

ss 1–2, 7–8

s 9 but only so far as it enacts s 16A(1)–(9), (11), (15)–(16), (18)–(25)

s 10(a)–(c), (e)–(g) only

ss 11–12 and 14

s 16(d) only

ss 19–20

s 22(c) only

s 24

s 28(b) only

s 30(b)–(c) and (h) only

s 31(2)–(4)

s 3 commenced 23 June 1975 (proc pubd Gaz 21 June 1975 p 1006)

s 6(b) commenced 13 October 1975 (proc pubd Gaz 11 October 1975 p 499)

s 6(c) commenced 1 March 1976 (proc pubd Gaz 14 February 1976 p 551)

ss 4–6(a), 10(d), 13, 15, 16(a)–(c), 18, 21, 26–27, 28(a), 29 and 30(a), (d)–(e) and (g) never proclaimed into force and repealed by Act No. 102 of 1984  
s 37

remaining provisions not yet proclaimed into force

**Traffic Act Amendment Act 1975 No. 13**

date of assent 15 May 1975

commenced on date of assent

**Traffic Act Amendment Act 1975 (No. 2) No. 69**

date of assent 12 December 1975

commenced on date of assent

**Traffic Acts Amendment Act 1977 No. 26**

date of assent 21 April 1977

commenced on date of assent

**Traffic Act Amendment Act 1977 No. 35**

date of assent 19 September 1977

commenced on date of assent

**Bail Act 1980 No. 35 s 4(1) Sch 1**

date of assent 14 May 1980

commenced 1 July 1980 (proc pubd Gaz 28 June 1980 p 1634)

**Traffic Act Amendment Act 1982 No. 15**

date of assent 20 April 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1982 (proc pubd Gaz 24 July 1982 p 2422)

**Traffic Acts Amendment Act 1982 No. 52**

date of assent 8 November 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 20 December 1982 (proc pubd Gaz 11 December 1982 p 1719)

**Traffic Acts Amendment Act 1984 No. 102 Pt 2**

date of assent 6 December 1984

ss 1–2, 37 commenced on date of assent (see s 2(1))

commenced 4 March 1985 (proc pubd Gaz 23 February 1985 p 943)

**Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 Pt 8**

date of assent 17 April 1985

commenced 1 March 1986 (proc pubd Gaz 18 January 1986 p 126)

**Traffic Act Amendment Act 1988 No. 94**

date of assent 1 December 1988

commenced on date of assent

**Bail Act and Other Acts Amendment Act 1988 No. 105 Pt 4**

date of assent 14 December 1988

commenced 4 December 1989 (proc pubd Gaz 11 November 1989 p 1961)

**Traffic Act Amendment Act 1989 No. 76**

date of assent 24 August 1989

commenced on date of assent

**Traffic Act Amendment Act 1990 No. 19**

date of assent 25 May 1990

commenced on date of assent

**Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 Sch 5**

date of assent 10 October 1990

commenced 24 November 1990 (proc pubd Gaz 24 November 1990 p 1450)

**Traffic Act and Another Act Amendment Act 1990 No. 103 Pts 1–2 (as amd by Act No. 61 of 1993 s 4)**

date of assent 12 December 1990

ss 1.1–1.2 commenced on date of assent

ss 2.6, 2.11, 2.23 and 2.25(a), (b) commenced 1 July 1991 (proc pubd Gaz 29 June 1991 p 1201)

s 2.25(c) not proclaimed into force and to be om on 1 March 1994 by Act No. 61 of 1993 s 4

remaining provisions commenced 1 January 1991 (proc pubd Gaz 22 December 1990 p 2274)

**Traffic Amendment Act 1991 No. 80**

date of assent 9 December 1991

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 Sch 1**

date of assent 17 December 1991

commenced on date of assent

**Traffic Amendment Act 1992 No. 19**

date of assent 22 May 1992

commenced on date of assent

**Offence Notices Legislation Amendment Act 1992 No. 23 Pt 3**

date of assent 1 June 1992

commenced 1 July 1992 (1992 SL No. 195)

**Peaceful Assembly Act 1992 No. 38 s 19**

date of assent 23 July 1992

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 Sch 1**

date of assent 7 December 1992

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1993 No. 32 s 3 Sch 1**

date of assent 3 June 1993

commenced on date of assent

**Local Government Act 1993 No. 70 s 804 Sch**

date of assent 7 December 1993

commences 26 March 1994 (see s 2(5))

## 4 List of annotations

### Key to abbreviations in list of annotations

amd	=	amended
Chap	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by  
amendments not included in reprint, are underlined

**Note**—section 32 of Act No. 102 of 1984 substitutes ‘licence’ and ‘licences’ for ‘license’ and ‘licenses’ respectively wherever these words appear as nouns.

### Construction of Act

s 2 om 1991 No. 97 s 3 Sch 1

### Parts of Act

s 3 amd 1956 Eliz 2 No. 26 s 4; 1959 8 Eliz 2 No. 21 s 27 Sch; 1959 8 Eliz 2 No. 55 s 4; 1961 No. Eliz 2 No. 27 s 2; 1965 No. 26 s 5; 1990 No. 19 s 2 om 1991 No. 97 s 3 Sch 1

### Repeals and Savings

s 4 amd 1984 No. 102 s 5; 1990 No. 103 s 2.2; 1991 No. 97 s 3 Sch 1; (see s 40 RA)

### Effect of Act on functions etc. of local authorities

s 5 amd 1953 2 Eliz 2 No. 11 s 2; 1961 10 Eliz 2 No. 27 s 3; 1965 No. 26 s 6; 1990 No. 103 s 2.3; 1991 No. 97 s 3 Sch 1; 1993 No. 70 s 804 Sch

### Amendment of 5 Geo 5 No. 28

s 6 om 1991 No. 97 s 3 Sch 1

### Saving of 10 Geo 5 No. 26 and amending Acts

s 7 amd 1965 No. 26 s 7; 1968 No. 22 s 2 om 1991 No. 97 s 3 Sch 1

### Advisory committee

s 7A ins 1965 No. 26 s 8  
amd 1968 No. 22 s 3; 1990 No. 73 s 3 Sch 5



**Delegation by Director-General****prov hdg** amd 1990 No. 73 s 3 Sch 5**s 7B** ins 1974 No. 18 s 3  
amd 1990 No. 73 s 3 Sch 5**Authorised officers****s 7C** ins 1974 No. 18 s 4 (never proclaimed into force and om 1984 No. 102 s 37)**Act to apply to privately constructed road traffic facilities and tramways on roads****s 8** om 1993 No. 70 s 804 Sch**Interpretation**

**s 9** amd 1957 6 Eliz 2 No. 34 s 4(ii); 1991 No. 97 s 3 Sch 1  
 def **“address”** amd 1961 10 Eliz 2 No. 27 s 4(a)–(b)  
 def **“air cushion vehicle”** ins 1971 No. 33 s 4(a)  
 def **“analyst”** ins 1968 No. 22 s 4(a)  
 def **“animal”** sub 1961 10 Eliz 2 No. 27 s 4(c)  
 def **“area”** ins 1965 No. 26 s 9(a)  
om 1993 No. 70 s 804 Sch  
 def **“articulated motor omnibus”** ins 1990 No. 103 s 2.4(a)  
 def **“articulated motor vehicle”** ins 1990 No. 103 s 2.4(a)  
 def **“articulated vehicle”** sub 1961 10 Eliz 2 No. 27 s 4(d)  
 def **“Assistant Commissioner for Transport”** ins 1984 No. 102 s 6(a)  
 om 1990 No. 73 s 3 Sch 5  
 def **“authorised officer”** sub 1974 No. 18 s 5(a) (never proclaimed into force and om 1984 No. 102 s 37)  
 amd 1984 No. 102 s 6(b); 1990 No. 73 s 3 Sch 5  
 def **“B-double”** ins 1990 No. 103 s 2.4(b)  
 sub 1993 No. 32 s 3 Sch 1  
 def **“bus”** ins 1990 No. 103 s 2.4(c)  
 def **“by-law”** ins 1956 5 Eliz 2 No. 26 s 5(i)  
 sub 1965 No. 26 s 9(b)  
om 1993 No. 70 s 804 Sch  
 def **“Carriage way”** amd 1990 No. 103 s 2.4(d)  
 def **“coin”** ins 1956 5 Eliz 2 No. 26 s 5(ii)  
 sub 1990 No. 103 s 2.4(e)  
 def **“commercial vehicle”** ins 1968 No. 36 s 2(a)  
 def **“Commission”** ins 1959 8 Eliz 2 No. 55 s 5(i)  
 om 1965 No. 26 s 9(c)  
 def **“Commissioner”** sub 1959 8 Eliz 2 No. 55 s 5(i)  
 def **“Commissioner of Main Roads”** ins 1959 8 Eliz 2 No. 55 s 5(i)  
 def **“Commissioner for Transport”** ins 1968 No. 22 s 4(b)  
 om 1990 No. 73 s 3 Sch 5  
 def **“Co-ordinator-General of Public Works”** ins 1959 8 Eliz 2 No. 55 s 5(ii)  
 om 1990 No. 103 s 2.4(f)  
 def **“Court”** sub 1968 No. 22 s 4(c)  
 def **“declared road”** ins 1965 No. 26 s 9(d)  
 def **“Department”** 1990 No. 73 s 3 Sch 5

- om 1991 No. 97 s 3 Sch 1
- def **“Director-General”** ins 1990 No. 73 s 3 Sch 5
- def **“Deputy Commissioner for Transport”** ins 1971 No. 33 s 4(b)  
om 1990 No. 73 s 3 Sch 5
- def **“designated parking space”** ins 1992 No. 19 s 2
- def **“driver’s licence”** amd 1974 No. 18 s 5(b) (as amd 1984 No. 102  
s 36) (never proclaimed into force and om 1984 No. 102 s 37)
- def **“drug”** amd 1961 10 Eliz 2 No. 27 s 4(e)
- def **“fixed hours”** ins 1956 5 Eliz 2 No. 26 s 5(iii)  
sub 1965 No. 26 s 9(e)  
amd 1961 10 Eliz 2 No. 27 s 4(f)  
sub 1992 No. 19 s 2
- def **“footway”** amd 1990 No. 103 s 2.4(g)
- def **“horse”** ins 1956 5 Eliz 2 No. 26 s 5(iv)
- def **“loading zone”** ins 1957 6 Eliz 2 No. 13 s 4(i)  
sub 1968 No. 36 s 2(b)  
amd 1975 No. 13 s 2
- def **“local authority”** sub 1990 No. 103 s 2.4(h)  
om 1993 No. 70 s 804 Sch
- def **“Manual of Uniform Traffic Control Devices”** ins 1965 No. 26  
s 9(f)  
amd 1990 No. 103 s 2.4(i)
- def **“metered parking”** ins 1956 5 Eliz 2 No. 26 s 5(v)  
amd 1965 No. 26 s 9(g)  
om 1992 No. 19 s 2
- def **“metered space”** ins 1956 5 Eliz 2 No. 26 s 5(v)  
sub 1965 No. 26 s 9(h)  
amd 1971 No. 33 s 4(c)
- def **“Metered zone”** ins 1956 5 Eliz 2 No. 26 s 5(v)  
sub 1957 6 Eliz 2 No. 34 s 4(i)  
amd 1961 10 Eliz 2 No. 27 s 4(g)  
om 1965 No. 26 s 9(i)
- def **“Minister”** amd 1961 10 Eliz 2 No. 27 s 4(h); 1965 No. 26 s 9(j)  
sub 1968 No. 22 s 4(d); 1990 No. 73 s 3 Sch 5  
om 1991 No. 97 s 3 Sch 1
- def **“moped”** ins 1990 No. 103 s 2.4(j)
- def **“motor car”** sub 1990 No. 103 s 2.4(k)
- def **“motor cycle”** amd 1972 No. 31 s 6 Sch 1  
sub 1990 No. 103 s 2.4(k)
- def **“motor omnibus”** amd 1972 No. 31 s 6 Sch 1  
sub 1990 No. 103 s 2.4(k)
- def **“motor truck”** sub 1990 No. 103 s 2.4(k)
- def **“motor utility truck”** amd 1972 No. 31 s 6 Sch 1  
om 1990 No. 103 s 2.4(l)
- def **“motor vehicle”** amd 1990 No. 103 s 2.4(m)
- def **“multi-wheeled vehicle”** amd 1972 No. 31 s 6 Sch 1
- def **“official traffic sign”** sub 1961 10 Eliz 2 No. 27 s 4(i)  
amd 1965 No. 26 s 9(k)
- def **“off-street regulated parking area”** ins 1971 No. 33 s 4(d)
- def **“Omnibus”** om 1990 No. 103 s 2.4(n)

- def **“paid parking”** ins 1992 No. 19 s 2
- def **“parkatarea”** ins 1961 10 Eliz 2 No. 27 s 4(j)
- def **“parkatarea parking”** ins 1961 10 Eliz 2 No. 27 s 4(j)
  - amd 1965 No. 26 s 9(l)
  - om 1992 No. 19 s 2
- def **“parkatarea space”** ins 1961 10 Eliz 2 No. 27 s 4(j)
  - sub 1965 No. 26 s 9(m)
  - amd 1971 No. 33 s 4(e)
- def **“parking”** amd 1957 6 Eliz 2 No. 13 s 4(ii)
  - sub 1961 10 Eliz 2 No. 27 s 4(k)
  - sub 1968 No. 36 s 2(c)
- def **“parking meter”** ins 1956 5 Eliz 2 No. 26 s 5(vi)
- def **“pedestrian”** sub 1990 No. 103 s 2.4(o)
- def **“Person”** om 1961 10 Eliz 2 No. 27 s 4(l)
- def **“police station”** ins 1968 No. 22 s 4(e)
- def **“prime mover”** ins 1990 No. 103 s 2.4(p)
- def **“provisional licence”** ins 1969 No. 22 s 3
  - amd 1974 No. 18 s 5(c) (as amd 1984 No. 102 s 36) (never proclaimed into force and om 1984 No. 102 s 37)
- def **“Prescribed”** om 1961 10 Eliz 2 No. 27 s 4(m)
- def **“railway”** amd 1990 No. 103 s 2.4(q)
- def **“regulated parking”** ins 1965 No. 26 s 9(n)
  - amd 1971 No. 33 s 4(f)
- def **“Regulations”** om 1961 10 Eliz 2 No. 27 s 4(n)
- def **“road** amd 1993 No. 70 s 804 Sch
- def **“road train”** ins 1990 No. 103 s 2.4(r)
  - sub 1993 No. 32 s 3 Sch 1
- def **“Secretary to the Commissioner for Transport”** ins 1974 No. 18
  - s 5(d) (never proclaimed into force and om 1984 No. 102 s 37)
- def **“semitrailer”** ins 1990 No. 103 s 2.4(r)
- def **“Service omnibus”** amd 1972 No. 31 s 6 Sch 1
  - om 1990 No. 103 s 2.4(s)
- def **“specially constructed vehicle”** ins 1990 No. 103 s 2.4(t)
- def **“This Act”** om 1961 10 Eliz 2 No. 27 s 4(o)
- def **“town clerk”** ins 1956 5 Eliz 2 No. 26 s (vii)
  - om 1993 No. 70 s 804 Sch
- def **“traffic”** amd 1971 No. 33 s 4(g)
- def **“traffic area”** ins 1961 10 Eliz 2 No. 27 s 4(p)
  - amd 1965 No. 26 s 9(o); 1971 No. 33 s 4(h)
- def **“Traffic Engineer”** ins 1959 8 Eliz 2 No. 55 s 5(iii)
  - om 1965 No. 26 s 9(p)
- def **“tramway”** amd 1990 No. 103 s 2.4(u)
- def **“vehicle stand”** ins 1959 8 Eliz 2 No. 55 s 5(iv)
- def **“Velocipede”** om 1961 10 Eliz 2 No. 27 s 4(q)
- def **“vessel”** amd 1977 No. 26 s 2

#### **Administration of Act**

- s 10** amd 1959 8 Eliz 2 No. 55 s 6; 1965 No. 26 s 10; 1968 No. 22 s 5; 1990 No. 73 s 3 Sch 5

**District superintendents and superintendents of traffic**

**s 11**            amd 1953 2 Eliz 2 No. 11 s 3; 1961 10 Eliz 2 No. 27 s 5; 1971 No. 33 s 5;  
                    1984 No. 102 s 7; 1990 No. 73 s 3 Sch 5

**PART 2A—OFFICIAL TRAFFIC SIGNS**

**Pt hdg**        ins 1959 8 Eliz 2 No. 55 s 7  
                    sub 1965 No. 26 s 11

**Definitions**

**s 12A**        ins 1959 8 Eliz 2 No. 55 s 7  
                    sub 1965 No. 26 s 11

**Director-General may install official traffic signs**

**12B**           ins 1959 8 Eliz 2 No. 55 s 7  
                    sub 1965 No. 26 s 11  
                    amd 1971 No. 33 s 6

**Notice to install or remove an official traffic sign**

**s 12C**        ins 1959 8 Eliz 2 No. 55 s 8  
                    sub 1965 No. 26 s 11

**Installation of official traffic signs in case of danger**

**s 12D**        ins 1959 8 Eliz 2 No. 55 s 8  
                    sub 1965 No. 26 s 11  
                    amd 1971 No. 33 s 7

**Installation of official traffic signs by prescribed persons**

**s 12DA**      ins 1990 No. 103 s 2.5

**Obstruction of prescribed officer and destruction of official traffic signs to be an offence**

**s 12E**        ins 1959 8 Eliz 2 No. 55 s 9  
                    sub 1965 No. 26 s 11  
                    amd 1971 No. 33 s 8

**Contravention of or failure to comply with an official traffic sign to be an offence**

**s 12F**        ins 1959 8 Eliz 2 No. 55 s 9  
                    sub 1965 No. 26 s 11

**Unlawful installation of official traffic signs**

**s 12G**        ins 1959 8 Eliz 2 No. 55 s 10  
                    sub 1965 No. 26 s 11  
                    amd 1971 No. 33 s 9

**Injury to official traffic signs**

**s 12H**        ins 1959 8 Eliz 2 No. 55 s 10  
                    amd 1960 9 Eliz 2 No. 44 s 2; 1961 10 Eliz 2 No. 27 s 6; 1962 No. 23 s 2  
                    sub 1965 No. 26 s 11

**Application of Part 2A**

**s 12I**        ins 1959 8 Eliz 2 No. 55 s 11  
                    sub 1965 No. 26 s 11

**Responsibility for injury to official traffic signs**

- s 12J** ins 1959 8 Eliz 2 No. 55 s 11  
 amd 1961 10 Eliz 2 No. 27 s 7  
 om 1965 No. 26 s 11

**Issue and renewal of drivers' licences**

- s 14** amd 1952 1 Eliz 2 No. 14 s 15; 1958 7 Eliz 2 No. 41 s 2; 1961 10 Eliz 2 No. 27 s 8; 1965 No. 26 s 12; 1969 No. 22 s 4; 1974 No. 18 s 6 (as amd 1984 No. 102 ss 36–37); 1982 No. 15 s 4; 1990 No. 103 s 2.6

**Traffic Engineering Trust Fund**

- s 14A** ins 1965 No. 26 s 13  
 amd 1982 No. 15 s 5

**Driving of motor vehicle without a driver's licence prohibited**

- s 15** amd 1959 8 Eliz 2 No. 55 s 12; 1961 10 Eliz 2 No. 27 s 9; 1965 No. 26 s 14; 1974 No. 18 s 7 (as amd 1984 No. 102 s 36); 1975 No. 13 s 3; 1984 No. 102 s 33; 1990 No. 103 s 2.26

**Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood**

- s 16** amd 1959 8 Eliz 2 No. 55 s 13; 1961 10 Eliz 2 No. 27 s 10; 1965 No. 26 s 15; 1968 No. 22 s 6  
 sub 1974 No. 18 s 8  
 amd 1977 No. 26 ss 3, 4; 1980 No. 35 s 4(1) Sch 1; 1982 No. 15 s 6; 1982 No. 52 s 4; 1984 No. 102 ss 8, 33; 1988 No. 94 s 2; 1988 No. 105 s 32; 1990 No. 103 ss 2.7, 2.26

**Provisions with respect to breath tests and laboratory tests**

- s 16A** ins 1968 No. 22 s 7  
 amd 1969 No. 22 s 5  
 sub 1974 No. 18 s 9 (as amd 1977 No. 26 s 9(1)(a); 1982 No. 52 s 9(1)(a); 1984 No. 102 s 35)  
 amd 1975 No. 13 s 4; 1975 No. 69 ss 2–11; 1977 No. 26 ss 5, 6; 1982 No. 15 s 7; 1982 No. 52 s 5; 1984 No. 102 ss 9, 33; 1988 No. 94 s 3; 1990 No. 103 ss 2.8, 2.26  
 sub 1992 No. 68 s 3 Sch 1

**Notices to offenders for certain first offences**

- prov hdg** amd 1974 No. 18 s 10(a)  
**s 16B** ins 1969 No. 22 s 6  
 amd 1974 No. 18 s 10(b)–(g) (as amd 1977 No. 26 s 9(1)(b); 1982 No. 52 s 9(1)(b); 1984 No. 102 s 37); 1977 No. 26 s 7; 1982 No. 52 s 6  
 prev om 1984 No. 102 s 10  
 pres ins 1991 No. 80 s 3

**Offenders may be ordered to attend training programs or driving courses**

- s 16C** ins 1982 No. 52 s 7  
 amd 1990 No. 73 s 3 Sch 5

**Careless driving of motor vehicles**

- s 17** amd 1974 No. 18 s 11

**Dangerous driving of vehicles (other than motor vehicles) etc.**

**s 18** amd 1965 No. 26 s 16; 1990 No. 103 s 2.26

**Racing and speed trials on roads**

**s 19** amd 1956 5 Eliz 2 No. 26 s 6; 1961 10 Eliz 2 No. 27 s 11

**Disqualification of drivers of motor vehicles for certain offences**

**s 20** amd 1959 8 Eliz 2 No. 55 s 14; 1961 10 Eliz 2 No. 27 s 12; 1965 No. 26 s 17; 1968 No. 22 s 8  
sub 1974 No. 18 s 12  
amd 1982 No. 15 s 8; 1982 No. 52 s 8; 1984 No. 102 s 11; 1990 No. 103 s 2.9; 1992 No. 68 s 3 Sch 1

**Issue of provisional licence to disqualified person**

**s 20A** ins 1984 No. 102 s 12  
amd 1990 No. 19 s 3; 1990 No. 103 s 2.10

**Variation of conditions**

**s 20B** ins 1990 No. 19 s 4

**Director-General to be advised of persons disqualified from holding drivers' licences etc.**

**prov hdg** amd 1990 No. 73 s 3 Sch 5  
**s 23** amd 1961 10 Eliz 2 No. 27 s 13; 1990 No. 73 s 3 Sch 5

**Reference to certificate of competency in s 40(2) of 11 Geo 6 No. 17 and s 328C of The Criminal Code**

**s 24** om 1984 No. 102 s 13

**PART 4—OFFENCES IN RELATION TO PUBLIC TRANSPORT**

**Pt hdg** sub 1959 8 Eliz 2 No. 21 s 27 Sch

**Exempting**

**s 25** om 1959 8 Eliz 2 No. 21 s 27 Sch

**Commissioner**

**s 26** om 1959 8 Eliz 2 No. 21 s 27 Sch

**Warehousemen and wholesalers**

**s 27** amd 1957 6 Eliz 2 No. 34 s 5  
om 1959 8 Eliz 2 No. 21 s 27 Sch

**Official traffic signs, signs, signals, and directions**

**s 28** om 1959 8 Eliz 2 No. 21 s 27 Sch

**Parties to offences**

**s 29** amd 1956 5 Eliz 2 No. 26 s 7  
om 1959 8 Eliz 2 No. 21 s 27 Sch

**Offences by persons using licensed vehicles, tramcars etc.**

**s 30** amd 1959 8 Eliz 2 No. 21 s 27 Sch; 1974 No. 18 s 13 (never proclaimed into force and om 1984 No. 102 s 37)

**Duties and liabilities of drivers involved in road incidents**

**s 31** amd 1957 6 Eliz 2 No. 13 s 5(1)  
sub 1957 6 Eliz 2 No. 34 s 6

amd 1960 9 Eliz 2 No. 44 s 3; 1961 10 Eliz 2 No. 27 s 14; 1984 No. 102 s 33; 1990 No. 103 s 2.11

**Police reports concerning drivers**

**s 32** om 1961 10 Eliz 2 No. 27 s 15

**Scheme to facilitate supply of information as to road incidents**

**s 34** sub 1961 10 Eliz 2 No. 27 s 16  
amd 1965 No. 26 s 18; 1968 No. 22 s 9; 1977 No. 26 s 8; 1990 No. 73 s 3  
Sch 5

**General powers, functions, and duties of police**

**s 35** amd 1953 2 Eliz 2 No. 11 s 4; 1971 No. 33 s 10

**Diversion of traffic**

**s 37** sub 1961 10 Eliz 2 No. 27 s 17  
amd 1965 No. 26 s 19; 1984 No. 102 s 14

**Official traffic signs**

**s 38** om 1959 8 Eliz 2 No. 55 s 15(1)

**Driver to stop and supply name etc. when required**

**s 39** sub 1961 10 Eliz 2 No. 27 s 18  
amd 1967 No. 44 s 2; 1969 No. 22 s 7; 1974 No. 18 s 14; 1988 No. 94 s 4

**Driver to stop and supply name etc. when required**

**s 40** om 1961 10 Eliz 2 No. 27 s 19

**General power of arrest without warrant**

**s 42** amd 1953 2 Eliz 2 No. 11 s 5  
sub 1961 10 Eliz 2 No. 27 s 20  
amd 1965 No. 26 s 20; 1984 No. 102 s 15

**Powers of entry**

**s 43** amd 1990 No. 103 s 2.12

**Police may take charge of vehicles etc. in certain cases**

**s 44** amd 1961 10 Eliz 2 No. 27 s 21; 1965 No. 26 s 21

**PART 6A—REGULATED PARKING**

**Pt hdg** ins 1956 5 Eliz 2 No. 26 s 8  
sub 1965 No. 26 s 22

**Owner**

**s 44A** ins 1956 5 Eliz 2 No. 26 s 8  
sub 1960 9 Eliz 2 No. 44 s 4  
amd 1965 No. 26 s 23

**Parking**

**s 44B** ins 1956 5 Eliz 2 No. 26 s 8  
amd 1957 6 Eliz 2 No. 13 s 6; 1957 6 Eliz 2 No. 34 s 7; 1960 9 Eliz 2 No. 44 s 5  
sub 1965 No. 26 s 24  
amd 1968 No. 36 s 3; 1971 No. 33 s 11; 1982 No. 15 s 9; 1984 No. 102 s 16; 1989 No. 76 s 2; 1990 No. 103 s 2.13; 1992 No. 19 s 3

**Paid parking**

- s 44C** ins 1956 5 Eliz 2 No. 26 s 9  
 amd 1957 6 Eliz 2 No. 34 s 8; 1959 8 Eliz 2 No. 55 s 17; 1960 9 Eliz 2 No. 44 s 6; 1965 No. 26 s 25; 1989 No. 76 s 3  
 sub 1992 No. 19 s 4

**Paid parking offences**

- s 44D** ins 1956 5 Eliz 2 No. 26 s 9  
 amd 1957 6 Eliz 2 No. 13 s 7; 1957 No. 34 s 9; 1959 8 Eliz 2 No. 55 s 18; 1965 No. 26 s 26; 1984 No. 102 s 17; 1989 No. 76 s 4  
 sub 1992 No. 19 s 5

**Owner responsible for offence**

- s 44E** ins 1956 5 Eliz 2 No. 26 s 9  
 amd 1957 6 Eliz 2 No. 34 s 10; 1965 No. 26 s 27

**Notice of alleged offence**

- s 44F** ins 1956 5 Eliz 2 No. 26 s 10  
 amd 1957 6 Eliz 2 No. 34 s 11; 1960 9 Eliz 2 No. 44 s 7; 1962 No. 23 s 3; 1965 No. 26 s 28; 1982 No. 15 s 10; 1984 No. 102 s 18; 1989 No. 76 s 5

**Prosecution for breach**

- s 44G** ins 1956 5 Eliz 2 No. 26 s 10  
 amd 1961 10 Eliz 2 No. 27 s 22; 1965 No. 26 s 29; 1984 No. 102 s 19; 1990 No. 103 s 2.14

**Liability for offences in respect of regulated parking**

- s 44H** ins 1956 5 Eliz 2 No. 26 s 11  
 amd 1965 No. 26 s 30

**Offences**

- s 44I** ins 1956 5 Eliz 2 No. 26 s 11  
 amd 1957 6 Eliz 2 No. 34 s 12; 1965 No. 26 s 31; 1989 No. 76 s 6; 1992 No. 19 s 6

**Agreement with local authority on costs of administration**

- s 44J** ins 1956 5 Eliz 2 No. 26 s 11  
 amd 1960 9 Eliz 2 No. 44 s 8

**Metered parking without co-operation of the Local Authority**

- s 44K** ins 1956 5 Eliz 2 No. 26 s 12  
 amd 1959 8 Eliz 2 No. 55 s 19  
 om 1965 No. 26 s 32

**PART 6B—PARKATAREA PARKING**

- Pt hdg** ins 1961 10 Eliz 2 No. 27 s 23  
 om 1965 No. 26 s 33(a)

**Saving of by-laws**

- s 44L** ins 1961 10 Eliz 2 No. 27 s 23  
 amd 1962 No. 23 s 4  
 sub 1965 No. 26 s 33(b)  
 amd 1989 No. 76 s 7  
 sub 1992 No. 19 s 7



**Emergent control of parking in traffic area**

**s 44M** ins 1965 No. 26 s 33(b)  
sub 1992 No. 19 s 8

**Disabled persons parking**

**s 44N** ins 1982 No. 15 s 11  
amd 1984 No. 102 s 20  
sub 1990 No. 103 s 2.15

**PART 6B—PHOTOGRAPHIC DETECTION DEVICES**

**Pt hdg** ins 1990 No. 19 s 5

**Approval of apparatus**

**s 44O** ins 1990 No. 19 s 5

**Interpretation**

**s 44P** ins 1990 No. 19 s 5

**Offences detected by photographic detection device**

**s 44Q** ins 1990 No. 19 s 5  
amd 1990 No. 73 s 3 Sch 5

**Procedure in relation to camera-detected prescribed offences**

**s 44R** ins 1990 No. 19 s 6  
amd 1990 No. 73 s 3 Sch 5

**Material to accompany notice and summons**

**s 44S** ins 1990 No. 19 s 6  
amd 1990 No. 73 s 3 Sch 5

**Payment of penalty**

**s 44T** ins 1990 No. 19 s 6  
amd 1990 No. 73 s 3 Sch 5

**Evidentiary provisions**

**s 44U** ins 1990 No. 19 s 7  
amd 1990 No. 73 s 3 Sch 5

**Effect of action under Part 4A of Justices Act**

**s 44V** ins 1992 No. 23 s 6

**Offences**

**s 45** amd 1953 2 Eliz 2 No. 11 s 6; 1961 10 Eliz 2 No. 27 s 24; 1974 No. 18 s 15 (never proclaimed into force and om 1984 No. 102 s 37); 1982 No. 15 s 12; 1990 No. 103 s 2.26; 1991 No. 97 s 3 Sch 1

**Traffic offences in respect of which offender may elect to pay penalty**

**s 45A** ins 1956 5 Eliz 2 No. 26 s 13  
sub 1960 9 Eliz 2 No. 44 s 9(2)  
amd 1965 No. 26 s 34(2)

**Agreement by Local Authority to join in execution of provisions *re* minor traffic offences**

**s 45B** ins 1957 6 Eliz 2 No. 34 s 13  
om 1965 No. 26 s 35

**Recovery of fees**

**s 46** om 1961 10 Eliz 2 No. 27 s 25

**Records**

**s 48** amd 1952 1 Eliz 2 No. 14 s 16; 1953 2 Eliz 2 No. 11 s 7; 1961 10 Eliz 2 No. 27 s 26; 1971 No. 33 s 12

**Facilitation of proof**

**s 49** amd 1953 2 Eliz 2 No. 11 s 8; 1959 8 Eliz 2 No. 21 s 27 Sch; 1960 9 Eliz 2 No. 44 s 10; 1961 10 Eliz 2 No. 27 s 27; 1965 No. 26 s 36; 1971 No. 33 s 13; 1974 No. 18 s 16 (as amd 1984 No. 102 s 37); 1975 No. 13 s 5; 1982 No. 15 s 13; 1984 No. 102 s 21; 1985 No. 30 s 74; 1990 No. 73 s 3 Sch 5

**Limitation of actions**

**s 50** om 1961 10 Eliz 2 No. 27 s 28

**Avoidance of licence where cheque not honoured**

**s 52** amd 1974 No. 18 s 17

**Fraud and unlawful possession of licences**

**s 53** amd 1961 10 Eliz 2 No. 27 s 29; 1974 No. 18 s 18 (never proclaimed into force and om 1984 No. 102 s 37); 1984 No. 102 s 22; 1990 No. 73 s 3 Sch 5; 1990 No. 103 s 2.16

**Power of courts to disqualify convicted persons from holding or obtaining licences**

**s 54** amd 1953 2 Eliz 2 No. 11 s 9; 1959 8 Eliz 2 No. 55 s 20; 1961 10 Eliz 2 No. 27 s 30; 1974 No. 18 s 19; 1984 No. 102 s 23; 1990 No. 73 s 3 Sch 5; 1990 No. 103 s 2.17

**Effect of disqualification**

**s 55** amd 1953 2 Eliz 2 No. 11 s 10; 1961 10 Eliz 2 No. 27 s 31; 1971 No. 33 s 14; 1974 No. 18 s 20 (as amd 1984 No. 102 s 36); 1975 No. 13 s 6(1); 1984 No. 102 s 24; 1990 No. 103 ss 2.18, 2.26

**Effect of disqualification on subsequent issue of driver's licence**

**s 55A** ins 1971 No. 33 s 15  
amd 1974 No. 18 s 21 (never proclaimed into force and om 1984 No. 102 s 37); 1984 No. 102 s 25; 1988 No. 94 s 5; 1990 No. 103 s 2.19

**Effect of cancellation pursuant to regulations**

**s 55B** ins 1990 No. 103 s 2.20

**Delivery of cancelled or suspended licences, or licences for endorsement**

**s 56** amd 1961 10 Eliz 2 No. 27 s 32; 1974 No. 18 s 22(c) (as amd 1984 No. 102 s 36); 1974 No. 18 s 22(a)–(b) (amd 1984 No. 102 s 36); 1990 No. 103 ss 2.21, 2.26

**Appeals with respect to issue of licences etc.**

**s 57** amd 1961 10 Eliz 2 No. 27 s 33; 1968 No. 22 s 10; 1974 No. 18 s 23 (as amd 1984 No. 102 s 36); 1977 No. 35 s 2; 1982 No. 15 s 14; 1990 No. 103 s 2.22

**Appeals with respect to issue of licences for meetings and processions**

s 57A ins 1977 No. 35 s 3  
om 1992 No. 38 s 19

**Appeals against licence cancellation under regulations**

s 57B ins 1990 No. 103 s 2.23

**Unlawful interference with vehicles and mechanism thereof etc.**

s 60 amd 1974 No. 18 s 24

**Injurious matter on roads**

s 61 amd 1953 2 Eliz 2 No. 11 s 11

**Appropriation of fines, fees etc.**

s 62 amd 1961 10 Eliz 2 No. 27 s 34  
sub 1990 No. 103 s 2.24

**Scheme to facilitate children crossing streets**

s 63 prev om 1959 8 Eliz 2 No. 21 s 27 Sch  
pres ins 1961 10 Eliz 2 No. 27 s 35  
amd 1968 No. 22 s 11; 1984 No. 102 s 26; 1990 No. 73 s 3 Sch 5

**Service of determinations, notices, orders, and directions of the Commissioner**

s 64 amd 1974 No. 18 s 25 (as amd 1984 No. 102 s 36)

**Service of documents**

s 65 amd 1961 10 Eliz 2 No. 27 s 36; 1974 No. 18 s 26 (never proclaimed into force and om 1984 No. 102 s 37); 1982 No. 15 s 15; 1984 No. 102 s 27; 1990 No. 73 s 3 Sch 5

**When determinations etc. not affected by error**

s 66 amd 1961 10 Eliz 2 No. 27 s 37; 1974 No. 18 s 27 (never proclaimed into force and om 1984 No. 102 s 37); 1984 No. 102 s 28; 1990 No. 73 s 3 Sch 5

**Protection of Minister and police officers**

s 67 amd 1961 10 Eliz 2 No. 27 s 38; 1965 No. 26 s 37; 1968 No. 22 s 12; 1974 No. 18 s 28 (as amd 1984 No. 102 s 37); 1990 No. 73 s 3 Sch 5

**Weights of vehicles and loading**

s 68 amd 1961 10 Eliz 2 No. 27 s 39; 1965 No. 26 s 38; 1968 No. 22 s 13; 1974 No. 18 s 29 (never proclaimed into force and om 1984 No. 102 s 37); 1990 No. 73 s 3 Sch 5

**Regulations**

s 70 amd 1984 No. 102 s 29

**Proclamations, orders in council**

s 71 amd 1962 No. 23 s 5  
sub 1984 No. 102 s 30

**SCHEDULE—SUBJECT MATTERS FOR REGULATIONS**

amd 1952 1 Eliz 2 No. 14 s 17; 1953 2 Eliz 2 No. 11 s 12; 1959 8 Eliz 2 No. 21 s 27; 1961 10 Eliz 2 No. 27 ss 40–41; 1969 No. 32 s 8; 1971 No. 33 s 16; 1974 No. 18 s 30 (as amd 1984 No. 102 s 36); 1982 No. 15

s 16; 1984 No. 102 s 31; 1990 No. 19 s 8; 1990 No. 73 s 3 Sch 5; 1990 No. 103 ss 2.25(a)–(b), 2.26; 1990 No. 103 s 2.25(c) (never proclaimed into force and om 1993 No. 61 s 4); 1991 No. 97 s 3 Sch 1

## 5 Table of changed titles

TABLE OF CHANGED TITLES  
under section 23A of the Reprints Act 1992

Old	New	Reference provision
Chief Inspector of Weights and Measures	Chief Inspector of Trade Measurement	see ss 26 and 31 Trade Measurement Administration Act 1990
clerk of Petty Sessions	clerk of the court	s 268 Justices Act 1886
Commissioner of Main Roads	Director-General	cl 4(f), Sch 3 Transport Infrastructure (Roads) Act 1991
Commissioner of Police	Commissioner of the Police Service	s 11.1(1)(b) Police Service Administration Act 1990
Consolidated Revenue Fund	Consolidated Fund	s 112 Financial Administration and Audit Act 1977
Court of Petty Sessions	Magistrates Court	s 268 Justices Act 1886
Deputy Chief Inspector of Weights and Measures	Deputy Chief Inspector of Trade Measurement	see ss 26 and 31 Trade Measurement Administration Act 1990
member of the Police Force	police officer	s 11.1(1)(c) Police Service Administration Act 1990

## 6 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS  
under section 44 of the Reprints Act 1992

Provision	Description
9(1) def “ <b>motor vehicle</b> ”	om ‘a articulated’ ins ‘an articulated’

## 7 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS

## under section 43 of the Reprints Act 1992

Previous	Renumbered as
1(2) (2nd sentence)	1(3)
1(2) (3rd sentence)	1(4)
5(2) (2nd sentence)	5(2A)
5(2) (3rd sentence)	5(2B)
5(6) (2nd sentence)	5(6A)
5(6) (2nd sentence) (i)	5(6A)(a)
5(6) (2nd sentence) (ii)	5(6A)(b)
5(6) (2nd sentence) (iii)	5(6A)(c)
5(6) (2nd sentence) (iv)	5(6A)(d)
5(6) (2nd sentence) (v)	5(6A)(e)
5(7) (2nd sentence)	5(8)
7A(3)(a)	7A(3)
7A(3)(b)	7A(4)
7A(3)(c)	7A(5)
7A(3)(d)	7A(6)
7A(3)(d) (2nd sentence)	7A(7)
7A(3)(e)	7A(8)
7A(3)(f)	7A(9)
9(1)	9
11(6) (2nd sentence)	11(6A)
11(9) (2nd sentence)	11(10)
12(1) (2nd sentence)	12(1A)
12A(a)	12A def <b>“install”</b>
12A(b)	12A def <b>“on”</b>
12A(c)	12A def <b>“remove”</b>
12A(d)	12A def <b>“structure”</b>
12C(a)	12C(1)
12C(a) (2nd sentence)	12C(2)
12C(b)	12C(3)
12D (1st sentence)	12D(1)
12D (2nd sentence)	12D(2)
12DA(1) (2nd sentence)	12DA(1A)
12E (1st sentence)	12E(1)
12E (2nd sentence)	12E(2)
12E (3rd sentence)	12E(3)
12E (4th sentence)	12E(4)
12G (1st sentence)	12G(1)
12G (2nd sentence)	12G(2)
12G (3rd sentence)	12G(3)
12H(a)	12H(1)
12H(a)(i)	12H(1)(a)
12H(a)(ii)	12H(1)(b)

12H(a)(iii)	12H(1)(c)
12H(a)(iv)	12H(1)(d)
12H(b)	12H(2)
13 (1st sentence)	13(1)
13 (2nd sentence)	13(2)
14(2A) (2nd sentence)	14(2AB)
14(4) (2nd sentence)	14(4A)
14(4) (3rd sentence)	14(4B)
14(6) (2nd sentence)	14(6A)
14(6) (3rd sentence)	14(6B)
16(1)(a)	16(1)
16(1)(a)(i)	16(1)(a)
16(1)(a)(ii)	16(1)(b)
16(1)(a)(iii)	16(1)(c)
16(1)(b)	16(1A)
16(1)(c)	16(1B)
16(1)(d)	16(1C)
16(1)(d)(i)	16(1C)(a)
16(1)(d)(iii)	16(1C)(b)
16(1)(d)(iv)	16(1C)(c)
16(1)(d)(vi)	16(1C)(d)
16(1)(d)(vii)	16(1C)(e)
16(1)(d)(x)	16(1C)(f)
16(1)(e)	16(1D)
16(1)(f)	16(1E)
16(2)(a)	16(2)
16(2)(a)(i)	16(2)(a)
16(2)(a)(ii)	16(2)(b)
16(2)(a)(iii)	16(2)(c)
16(2)(aa)	16(2A)
16(2)(aa)(i)	16(2A)(a)
16(2)(aa)(ii)	16(2A)(b)
16(2)(aa)(iii)	16(2A)(c)
16(2)(ab)	16(2B)
16(2)(ab)(i)	16(2B)(a)
16(2)(ab)(ii)	16(2B)(b)
16(2)(ab)(iii)	16(2B)(c)
16(2)(ab) (2nd sentence)	16(2C)
16(2)(ab) (2nd sentence) (i)	16(2C)(a)
16(2)(ab) (2nd sentence) (ii)	16(2C)(b)
16(2)(ab) (2nd sentence) (iii)	16(2C)(c)
16(2)(ab) (2nd sentence) (iv)	16(2C)(d)
16(2)(ab) (2nd sentence) (v)	16(2C)(e)
16(2)(ab) (2nd sentence) (vi)	16(2C)(f)
16(2)(ac)	16(2D)
16(2)(ac)(i)	16(2D)(a)

16(2)(ac)(ii)	16(2D)(b)
16(2)(ac)(iii)	16(2D)(c)
16(2)(ac) (2nd sentence)	16(2E)
16(2)(b)	16(2F)
16(2)(c)	16(2G)
16(2)(d)	16(2H)
16(2)(e)	16(2I)
16(2)(e)(i)	16(2I)(a)
16(2)(e)(ii)	16(2I)(b)
16(2)(e)(iii)	16(2I)(c)
16(4) (2nd sentence)	16(4A)
16(8) (2nd sentence)	16(8A)
16(9)(a)	16(9)
16(9)(b)	16(9A)
16(10) (2nd sentence)	16(10A)
16A(1)(a)	16(1) def <b>“authorised member of the Police Force”</b>
16A(1)(b)	16(1) def <b>“breath analysing instrument”</b>
16(1)(c)	16(1) def <b>“breath test”</b>
16A(2)(a)	16A(2)
16A(2)(a)(i)	16A(2)(a)
16A(2)(a)(ii)	16A(2)(b)
16A(2)(a)(iii)	16A(2)(c)
16A(2)(a)(iv)	16A(2)(d)
16A(2)(b)	16A(2A)
16A(2)(b)(i)	16A(2A)(a)
16A(2)(b)(ii)	16A(2A)(b)
16A(2)(b)(iii)	16A(2A)(c)
16A(5) (2nd sentence)	16A(5AA)
16A(5A)(a)	16A(5A)
16A(5A)(a)(i)	16A(5A)(a)
16A(5A)(a)(ii)	16A(5A)(b)
16A(5A)(b)	16A(5B)
16A(5A)(b)(i)	16A(5B)(a)
16A(5A)(b)(ii)	16A(5B)(b)
16A(6) (2nd sentence)	16A(7)
16A(8)(a)	16A(8)
16A(8)(a)(i)	16A(8)(a)
16A(8)(a)(ii)	16A(8)(b)
16A(8)(a)(iii)	16A(8)(c)
16A(8)(a) (2nd sentence)	16A(8A)
16A(8)(b)	16A(8B)
16A(8)(b)(i)	16A(8B)(a)
16A(8)(b)(ii)	16A(8B)(b)

16A(8)(b)(iii)	16A(8B)(c)
16A(8)(b)(iv)	16A(8B)(d)
16A(8)(c)	16A(8C)
16A(8)(c) (2nd sentence)	16A(8D)
16A(8)(d)	16A(8E)
16A(8)(e)(i)	16A(8F)
16A(8)(e)(ii)	16A(8G)
16A(8)(e)(ii) (2nd sentence)	16A(8H)
16A(8)(e)(iii)	16A(8I)
16A(8)(e)(iv)	16A(8J)
16A(8)(e)(iv)(A)	16A(8J)(a)
16A(8)(e)(iv)(B)	16A(8J)(b)
16A(8)(e)(iv)(C)	16A(8J)(c)
16A(8)(f)	16A(8K)
16A(8)(g)	16A(8L)
16A(8)(g)(i)	16A(8L)(a)
16A(8)(g)(ii)	16A(8L)(b)
16A(8)(g)(iii)	16A(8L)(c)
16A(8)(g)(iii)	16A(8L)(d)
16A(9)(a)	16A(9)
16A(9)(a)(i)	16A(9)(a)
16A(9)(a)(ii)	16A(9)(b)
16A(9)(a)(iii)	16A(9)(c)
16A(9)(a)(iv)	16A(9)(d)
16A(9)(b)	16A(9A)
16A(9)(c)	16A(9B)
16A(9)(c) (2nd sentence)	16A(9C)
16A(11)(a)	16A(11)
16A(11)(b)	16A(11A)
16A(15)(a)	16A(15)
16A(15)(a)(i)	16A(15)(a)
16A(15)(a)(ii)	16A(15)(b)
16A(15)(a) (2nd sentence)	16A(15A)
16A(15)(b)	16A(15B)
16A(15)(b)(i)	16A(15B)(a)
16A(15)(b)(ii)	16A(15B)(b)
16A(15)(b)(iii)	16A(15B)(c)
16A(15)(b)(iv)	16A(15B)(d)
16A(15)(b)(v)	16A(15B)(e)
16A(15)(b)(vi)	16A(15B)(f)
16A(15)(b)(A)	16A(15B)(g)
16A(15)(b)(B)	16A(15B)(h)
16A(15)(b) (2nd sentence)	16A(15C)
16A(15)(c)	16A(15D)
16A(15)(c)(i)	16A(15D)(a)
16A(15)(c)(ii)	16A(15D)(b)



16A(15)(c)(iii)	16A(15D)(c)
16A(15)(c) (2nd sentence)	16A(15E)
16A(15)(d)	16A(15F)
16A(15)(d)(i)	16A(15F)(a)
16A(15)(d)(ii)	16A(15F)(b)
16A(15)(d)(iii)	16A(15F)(c)
16A(15)(e)(i)	16A(15G)
16A(15)(e)(ii)	16A(15H)
16A(16)(a)(i)	16A(16)
16A(16)(a)(ii)	16A(16A)
16A(16)(b)	16A(16B)
16A(16)(b)(i)	16A(16B)(a)
16A(16)(b)(ii)	16A(16B)(b)
16A(16)(b)(iii)	16A(16B)(c)
16A(16)(c)	16A(16C)
16A(16)(c)(i)	16A(16C)(a)
16A(16)(c)(ii)	16A(16C)(b)
16A(16)(c)(iii)	16A(16C)(c)
16A(16)(c)(iv)	16A(16C)(d)
16A(16)(c)(A)	16A(16C)(e)
16A(16)(c)(B)	16A(16C)(f)
16A(16)(c) (2nd sentence)	16A(16D)
16A(16)(d)	16A(16E)
16A(16)(d)(i)	16A(16E)(a)
16A(16)(d)(ii)	16A(16E)(b)
16A(16)(e)(i)	16A(16F)
16A(16)(e)(ii)	16A(16G)
16A(16)(f)(i)	16A(16H)
16A(16)(f)(ii)	16A(16I)
16A(16)(f)(iii)	16A(16J)
16A(16)(f)(iv)	16A(16K)
16A(16)(f)(v)	16A(16L)
16A(16)(f)(v)(A)	16A(16L)(a)
16A(16)(f)(v)(B)	16A(16L)(b)
16A(18) (2nd sentence)	16A(18A)
16A(20) (2nd sentence)	16A(20A)
16A(21)(a)	16A(21)
16A(21)(b)	16A(21A)
16A(22)(a)	16A(22)
16A(22)(a)(i)	16A(22)(a)
16A(22)(a)(ii)	16A(22)(b)
16A(22)(a)(iii)	16A(22)(c)
16A(22)(a)(iii)(A)	16A(22)(c)(i)
16A(22)(a)(iii)(B)	16A(22)(c)(ii)
16A(22)(a)(iv)	16A(22)(d)
16A(22)(a)(v)	16A(22)(e)

16A(22)(b)	16A(22A)
16A(22)(c)	16A(22B)
16A(22)(d)	16A(22C)
16A(22)(e)	16A(22D)
16A(24)(a)	16A(24)
16A(24)(b)	16A(24A)
16A(24)(b)(i)	16A(24A)(a)
16A(24)(b)(ii)	16A(24A)(b)
16A(24)(b)(iii)	16A(24A)(c)
16C(i)	16C(c)
16C(ii)	16C(d)
18(1) (2nd sentence)	18(1A)
18(1) (3rd sentence)	18(1B)
18(1) (4th sentence)	18(1C)
18(1) (5th sentence)	18(1D)
19(2)(a)	19(2)
19(2)(a) (2nd sentence)	19(3)
19(2)(a) (3rd sentence)	19(4)
19(2)(b)	19(5)
20(1)(a)	20(1)
20(1)(a)(i)	20(1)(a)
20(1)(a)(iii)	20(1)(b)
20(1)(a)(v)	20(1)(c)
20(1)(a)(vi)	20(1)(d)
20(1)(b)	20(1A)
20(1)(c)	20(1B)
20(1)(d)	20(1C)
20(1)(e)	20(1D)
20(1)(f)	20(1E)
20(1)(g)	20(1F)
20(1)(h)	20(1G)
20(2)(a)	20(2)
20(2)(a)(i)	20(2)(a)
20(2)(a)(iii)	20(2)(b)
20(2)(a)(v)	20(2)(c)
20(2)(a)(vi)	20(2)(d)
20(2)(a)(vii)	20(2)(e)
20(2)(a)(viii)	20(2)(f)
20(2)(a) (2nd sentence)	20(2A)
20(2)(b)	20(2B)
20(2)(b) (2nd sentence)	20(2C)
20(2)(c)	20(2D)
20(2)(d)	20(2E)
20(2)(e)	20(2F)
20(2)(e)(i)	20(2F)(a)
20(2)(e)(ii)	20(2F)(b)

20(3)(a)	20(3)
20(3)(b)	20(3A)
20(3)(b)(i)	20(3A)(a)
20(3)(b)(ii)	20(3A)(b)
20(3)(c)	20(3B)
20(3)(d)	20(3C)
20(3)(e)	20(3D)
20(3)(f)	20(3E)
20(3)(g)	30(3F)
20(5A) (2nd sentence)	20(5B)
20(5A) (3rd sentence)	20(5C)
20A(2) (2nd sentence)	20A(2A)
20A(5) (2nd sentence)	20A(5A)
20A(6) (2nd sentence)	20A(6A)
20A(8) (2nd sentence)	20A(8A)
20A(8) (3rd sentence)	20A(9)
20A(10) (2nd sentence)	20A(10A)
20B(4) (2nd sentence)	20B(4A)
21 (1st sentence)	21(1)
21 (2nd sentence)	21(2)
22 (1st sentence)	22(1)
22 (2nd sentence)	22(2)
31(6) (2nd sentence)	31(7)
35 (1st sentence)	35(1)
35 (2nd sentence)	35(2)
37(1) (2nd sentence)	37(1A)
37(1) (3rd sentence)	37(1B)
37(1) (4th sentence)	37(1C)
37(4) (2nd sentence)	37(5)
39(1)(i)	39(1)(e)
39(1)(ii)	39(1)(f)
39(1)(iii)	39(1)(g)
41(4) (2nd sentence)	41(4A)
44(1) (2nd sentence)	44(1A)
44(1) (3rd sentence)	44(1B)
44(2) (2nd sentence)	44(2A)
44(3) (2nd sentence)	44(3A)
44(3) (3rd sentence)	44(3B)
44(3) (4th sentence)	44(3C)
44(7)(a)	44(7)
44(7)(b)(i)	44(8)
44(7)(b)(ii)	44(9)
44(7)(c)	44(10)
44(7)(c)(i)	44(10)(a)
44(7)(c)(ii)	44(10)(b)
44(7)(c)(iii)	44(10)(c)

44(7)(d)	44(11)
44(7)(d)(i)	44(11)(a)
44(7)(d)(ii)	44(11)(b)
44(7)(d)(iii)	44(11)(c)
44(7)(e)	44(12)
44(7)(e) (2nd sentence)	44(13)
44(7)(f)	44(14)
44(7)(f)(i)	44(14)(a)
44(7)(f)(ii)	44(14)(b)
44(7)(f)(iii)	44(14)(c)
44(7)(f)(iv)	44(14)(d)
44(7)(f) (2nd sentence)	44(15)
44(7)(g)	44(16)
44B(1) (2nd sentence)	44B(1A)
44B(1) (3rd sentence)	44B(1B)
44B(2)(a)	44B(2)
44B(2)(b)	44B(2A)
44B(2)(c)	44B(2B)
44B(3)(a)	44B(3)
44B(3)(a)(i)	44B(3)(a)
44B(3)(a)(ii)	44B(3)(b)
44B(3)(a)(iii)	44B(3)(c)
44B(3)(a)(iv)	44B(3)(d)
44B(3)(a)(v)	44B(3)(e)
44B(3)(a)(vi)	44B(3)(f)
44B(3)(b)	44B(3A)
44B(3)(c)	44B(3B)
44B(4)(a)	44B(4)
44B(4)(b)	44B(5)
44B(4)(b)(i)	44B(5)(a)
44B(4)(b)(ii)	44B(5)(b)
44B(4)(b)(iii)	44B(5)(c)
44B(4)(b)(iv)	44B(5)(d)
44B(4)(b)(v)	44B(5)(e)
44B(4)(b)(vi)	44B(5)(f)
44B(4)(b)(vii)	44B(5)(g)
44B(4)(b)(viii)	44B(5)(h)
44B(4)(b) (2nd sentence)	44B(6)
44B(4)(b) (3rd sentence)	44B(7)
44B(4)(b) (4th sentence)	44B(8)
44B(4)(b) (5th sentence)	44B(9)
44B(4)(b) (6th sentence)	44B(10)
44B(4)(c)	44B(11)
44B(4)(c)(i)	44B(11)(a)
44B(4)(c)(ii)	44B(11)(b)
44B(4)(e)	44B(12)

44B(4)(e)(i)	44B(12)(a)
44B(4)(e)(ii)	44B(12)(b)
44B(4)(e)(iii)	44B(12)(c)
44B(4)(e)(iv)	44B(12)(d)
44B(4)(e)(v)	44B(12)(e)
44B(4)(f)	44B(13)
44B(4)(g)	44B(14)
44B(4)(g) (2nd sentence)	44B(15)
44B(4)(h)	44B(16)
44B(4)(i)	44B(17)
44B(4)(i)(i)	44B(17)(a)
44B(4)(i)(ii)	44B(17)(b)
44B(4)(i)(iii)	44B(17)(c)
44B(4)(i)(iv)	44B(17)(d)
44F(1) (2nd sentence)	44F(1A)
44F(3) (2nd sentence)	44F(3A)
44F(5) (2nd sentence)	44F(5A)
44G(1) (2nd sentence)	44G(1A)
44G(3) (2nd sentence)	44G(3A)
44I(3) (2nd sentence)	44I(4)
44J (1st sentence)	44J(1)
44J (2nd sentence)	44J(2)
44J (3rd sentence)	44J(3)
44J (4th sentence)	44J(4)
44M (1st sentence)	44M(1)
44M (2nd sentence)	44M(2)
45(2) (2nd sentence)	45(2A)
45(3) (2nd sentence)	45(4)
45(3) (3rd sentence)	45(5)
48 (1st sentence)	48(1)
48 (2nd sentence)	48(2)
48 (3rd sentence)	48(3)
48 (4th sentence)	48(4)
48 (5th sentence)	48(5)
48 (6th sentence)	48(6)
48 (7th sentence)	48(7)
49(1)(n) (1st unnum para)	49(1)(na)
49(1)(p1)	49(1)(pa)
49(1)(p1) (1st unnum para)	49(1)(pb)
49(1)(p1) (2nd unnum para)	49(1)(pc)
51 (1st sentence)	51(1)
51 (2nd sentence)	51(2)
52 (1st sentence)	52(1)
52 (2nd sentence)	52(2)
54(1) (2nd sentence)	54(1A)
55(6)(a)	55(6)

55(6)(a)(i)	55(6)(a)
55(6)(a)(ii)	55(6)(b)
55(6)(a) (2nd sentence)	55(7)
55(6)(a) (3rd sentence)	55(8)
55(6)(a) (4th sentence)	55(9)
55(6)(a) (5th sentence)	55(10)
55(6)(a) (5th sentence) (i)	55(10)(a)
55(6)(a) (5th sentence) (ii)	55(10)(b)
55(6)(a) (5th sentence) (iii)	55(10)(c)
55(6)(a) (5th sentence) (iv)	55(10)(d)
55(6)(a) (5th sentence) (v)	55(10)(e)
55(6)(a) (6th sentence)	55(11)
55(6)(b)	55(12)
55(6)(b)(i)	55(12)(a)
55(6)(b) (ii)	55(12)(b)
55(6)(b) (2nd sentence)	55(13)
55(6)(c)	55(14)
55B(2) (2nd sentence)	55B(3)
56(2) (2nd sentence)	56(2A)
56(2) (3rd sentence)	56(2B)
57(1) (2nd sentence)	57(1A)
57(1) (3rd sentence)	57(1B)
57(1) (4th sentence)	57(1C)
57(2) (2nd sentence)	57(2A)
57(2) (3rd sentence)	57(2B)
57(2) (4th sentence)	57(2C)
57(2) (5th sentence)	57(2D)
57(2) (6th sentence)	57(2E)
57(2) (7th sentence)	57(2F)
57(3) (2nd sentence)	57(3AA)
57(3A) (2nd sentence)	57(3B)
60(1) (2nd sentence)	60(1A)
60(2) (2nd sentence)	60(2A)
60(2) (3rd sentence)	60(2B)
61(1) (2nd sentence)	61(1A)
61(3) (2nd sentence)	61(3A)
61(3) (3rd sentence)	61(3B)
62 (1st sentence)	62(1)
62 (2nd sentence)	62(2)
65(3)(a)	65(3)
65(3)(b)	65(3A)
65(3)(c)	65(3B)
68 (1st sentence)	68(1)
68 (2nd sentence)	68(2)
70(9) (2nd sentence)	70(10)
Schedule	

3 (1st sentence)	3(1)
3 (2nd sentence)	3(2)
6 (1st sentence)	6(1)
6 (2nd sentence)	6(2)
6 (3rd sentence)	6(3)
6 (4th sentence)	6(4)
6 (5th sentence)	6(5)
6 (6th sentence)	6(6)
7 (1st sentence)	7(1)
7 (2nd sentence)	7(2)
7 (3rd sentence)	7(3)
7 (4th sentence)	7(4)
8 (1st sentence)	8(1)
8 (1st sentence) (b) (2nd unnum para)	8(1)(ba)
8 (1st sentence) (1) (2nd unnum para)	8(1)(la)
8 (1st sentence) (1) (3rd unnum para)	8(1)(lb)
8 (1st sentence) (1) (4th unnum para)	8(1)(lc)
8 (1st sentence) (1) (5th unnum para)	8(1)(ld)
8 (1st sentence) (1) (6th unnum para)	8(1)(le)
8 (1st sentence) (1) (7th unnum para)	8(1)(lf)
8 (1st sentence) (1) (8th unnum para)	8(1)(lg)
8 (1st sentence) (1) (9th unnum para)	8(1)(lh)
8 (1st sentence) (1) (10th unnum para)	8(1)(li)
8 (1st sentence) (1) (11th unnum para)	8(1)(lj)
8 (1st sentence) (1) (12th unnum para)	8(1)(lk)
8 (2nd sentence)	8(2)
8A (1st sentence)	8A(1)
8A (2nd sentence)	8A(2)
9 (1st sentence)	9(1)
9 (2nd sentence)	9(2)
9 (3rd sentence)	9(3)
10 (1st sentence)	10(1)
10 (2nd sentence)	10(2)
10 (3rd sentence)	10(3)

11 (1st sentence)	11(1)
11 (2nd sentence)	11(2)
11A (1st sentence)	11A(1)
11A (2nd sentence)	11A(2)
13 (1st sentence)	13(1)
13 (2nd sentence)	13(2)
13 (3rd sentence)	13(3)
13 (4th sentence)	13(4)
13 (5th sentence)	13(5)
13 (5th sentence) (i)	13(5)(a)
13 (5th sentence) (ii)	13(5)(b)
13 (5th sentence) (iii)	13(5)(c)
13 (5th sentence) (iv)	13(5)(d)
13 (5th sentence) (iv)(a)	13(5)(d)(i)
13 (5th sentence) (iv)(b)	13(5)(d)(ii)
13 (5th sentence) (iv)(c)	13(5)(d)(iii)
13 (5th sentence) (v)	13(5)(e)
13 (5th sentence) (vi)	13(5)(f)
13 (6th sentence)	13(6)
14 (1st sentence)	14(1)
14 (2nd sentence)	14(2)
14 (3rd sentence)	14(3)
14 (4th sentence)	14(4)
14 (5th sentence)	14(5)
14 (6th sentence)	14(6)
15 (1st sentence)	15(1)
15 (2nd sentence)	15(2)
17 (1st sentence)	17(1)
17 (2nd sentence)	17(2)
21 (1st sentence)	21(1)
21 (2nd sentence)	21(2)
23 (1st unnum para)	23(a)
23 (2nd unnum para)	23(b)
23 (3rd unnum para)	23(c)
23 (4th unnum para)	23(d)
23 (5th unnum para)	23(e)
23 (6th unnum para)	23(f)
24 (1st sentence)	24(1)
24 (2nd sentence)	24(2)
25 (1st sentence)	25(1)
25 (2nd sentence)	25(2)
26 (1st sentence)	26(1)
26 (2nd sentence)	26(2)
28 (1st sentence)	28(1)
28 (2nd sentence)	28(2)
28 (3rd sentence)	28(3)



34 (1st sentence)	34(1)
34 (2nd sentence)	34(2)
34 (3rd sentence)	34(3)
35 (1st sentence)	35(1)
35 (2nd sentence)	35(2)

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see s 5(c) Reprints Act 1992).

**Sections 9 (so far as it enacts section 16A(10), (12), (13), (14), and (17)), 17, 22(a)–(b), 23, 25 and 30(f) of the Traffic Act Amendment Act 1974 reads as follows—**

### **Repeal of and new s.16A**

**9.** Section 16A of the Principal Act is repealed and the following section is substituted:—

**“16A. Provisions with respect to breath tests and laboratory tests.**  
**(10)(a)** Where a motor vehicle is involved in any accident and within eight hours after the accident a person apparently of or above the age of fourteen years who suffered injury in the accident attends at a hospital or such other place as may be prescribed or is admitted to a hospital for the purpose of receiving treatment for such injury, it shall, subject to this subsection, be the duty of any medical practitioner by whom the patient is attended to take as soon as practicable a specimen of the patient’s blood (whether the patient is conscious or unconscious) for a laboratory test.

(b) A medical practitioner shall not take a specimen of blood under this subsection where, in his opinion, it would be injurious to the medical condition of the patient to do so.

(c) A medical practitioner shall not be obliged to take a specimen of blood under this subsection where the patient objects to the taking of a specimen of his blood and persists in that objection after the medical practitioner has informed him (it being his duty so to do) that unless his objection is made upon genuine medical grounds it may constitute an

offence against this Act.

A person who under this paragraph objects to the taking of a specimen of his blood and persists in that objection after the medical practitioner has informed him as aforesaid shall be deemed to refuse to permit the taking of a specimen of his blood.

(d) Where a motor vehicle is involved in any accident and a person apparently of or above the age of fourteen years who suffered injury in the accident is dead on arrival at the hospital or dies before a specimen of blood has been taken in accordance with this subsection and within eight hours after admission to the hospital, it shall be the duty of a medical practitioner by whom the death is certified to take a specimen of blood from the body of the deceased for a laboratory test.

(e) A medical practitioner shall not be obliged to take a specimen of blood under this subsection—

- (i) where a specimen of blood has been taken in accordance with this subsection by any other medical practitioner; or
- (ii) where the patient has, since the time of the accident, provided a specimen of his breath for analysis by a breath analysing instrument or, otherwise than pursuant to this subsection, a specimen of his blood for a laboratory test.

**(12)(a)** Where—

- (i) pursuant to paragraph (a) of subsection (10) a medical practitioner takes a specimen of a person's blood;
- (ii) the specimen is taken within two hours after the time of the accident;
- (iii) the driver of a motor vehicle involved in the accident; and
- (iv) a laboratory test in respect of the specimen indicates that the concentration of alcohol in the person's blood equalled or exceeded 150 milligrams of alcohol per 100 millilitres of blood,

such person is guilty of an offence which shall be deemed to be an offence against subsection (1) of section 16 committed at the time of the accident and he is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's licence) as he would be in the case of the offence being actually one committed by him against the

said subsection (1).

(b) Where in respect of paragraph (a) the laboratory test indicates that the concentration of alcohol in the person's blood equalled or exceeded 50 milligrams of alcohol per 100 millilitres of blood but was less than 150 milligrams of alcohol per 100 millilitres of blood and the provisions of paragraph (a) are applicable in all other respects, such person is guilty of an offence which shall be deemed to be an offence against subsection (2)(a) of section 16 committed at the time of the accident and he is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's licence) as he would be in the case of the offence being actually one committed by him against the said subsection (2)(a).

(ba) Where in the case of a person who has not attained the age of 18 years, in respect of paragraph (a) the laboratory test indicates that the concentration of alcohol in the person's blood equalled or exceeded 20 milligrams of alcohol per 100 millilitres of blood but was less than 50 milligrams of alcohol per 100 millilitres of blood and the provisions of paragraph (a) are applicable in all other respects, such person is guilty of an offence which shall be deemed to be an offence against subsection (2)(aa) of section 16 committed at the time of the accident and is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's licence) as he would be in the case of the offence being actually one committed by him against the said subsection (2)(aa).

(c) Nothing contained in paragraph (b) shall be construed as preventing a person from being charged with and found guilty of an offence against subsection (1) of section 16 in the circumstances referred to in that paragraph where the person is charged with such an offence and there is evidence available supporting such a charge.

**(13)(a)** A person who, pursuant to paragraph (c) of subsection (10), refuses to permit the taking of a specimen of his blood and who—

- (i) does not assign any reason based upon genuine medical grounds for that refusal; or
- (ii) assigns a reason for that refusal that is false or misleading is guilty of an offence and liable to a penalty not exceeding \$200.

(b) If the person was the driver of a motor vehicle involved in the accident and such refusal is within two hours after the time of the accident, he is guilty of an offence which shall be deemed to be an offence against

subsection (1) of section 16 and is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's licence) as he would be in the case of the offence being actually one committed by him against the said subsection (1).

(14)(a) Any medical practitioner who fails, without reasonable excuse, to comply with any provision of subsection (10) with which he has a duty to comply or to perform any duty arising under the said subsection that he has a duty to perform is guilty of an offence and liable to a penalty not exceeding \$100.

(b) No proceedings shall be commenced against a medical practitioner for an offence against this subsection unless those proceedings have been authorised by the Minister.

(c) Proceedings shall not lie against a medical practitioner in respect of anything done by him in good faith and in compliance, or purported compliance, with the provisions of subsection (10).

(17)(a)(i) As soon as practicable after a medical practitioner has, pursuant to paragraph (a) or paragraph (d) of subsection (10), taken a specimen of the blood of a person referred to therein, as the case may be, for a laboratory test, a member of the Police Force shall deliver the specimen to the laboratory of the analyst.

(ii) Such delivery may be effected either personally or by sending the specimen to the laboratory of the analyst by registered post or certified mail.

(b) A certificate purporting to be signed by an analyst and stating—

- (i) that he received from the member of the Police Force named in the certificate a specimen of blood of the person or from the body of the person named in the certificate obtained from that person or body on the date and at the place and time stated in the certificate;
- (ii) that he made a laboratory test of such specimen on the date and at the place stated in the certificate; and
- (iii) the concentration of alcohol or drug in the blood of such person or body indicated by the laboratory test (which concentration shall be stated by reference to the number of milligrams of alcohol or drug in the blood per 100 millilitres of blood),

shall be evidence of the matters contained therein and until the contrary is proved shall be conclusive such evidence.

(c) Where it is the duty of a medical practitioner to take a specimen of the blood of a person for a laboratory test pursuant to paragraph (a) or subsection (10) and such person refuses to permit the taking of a specimen of his blood, the medical practitioner shall, as soon as practicable thereafter, sign in duplicate a certificate in writing stating—

- (i) the full name of the person concerned;
- (ii) that the person concerned objected to the taking of a specimen of his blood and persisted in that objection after being informed by the medical practitioner that unless his objection was made upon genuine medical grounds it might constitute an offence against this Act;
- (iii) that in the opinion of the medical practitioner there was no genuine medical ground why the person concerned shall not allow to be taken a specimen of his blood; and
- (iv) such other particulars as may be prescribed,

and shall deliver—

- (A) one copy of such certificate to a member of the Police Force; and
- (B) the other copy to the person concerned as aforesaid (or to another person on behalf of that person upon request by that other person).

If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

(d) The production in any proceeding of a certificate referred to in paragraph (c) shall be evidence—

- (i) that the signature is that of the medical practitioner by whom it purports to be signed;
- (ii) that the person concerned objected to the taking of a specimen of his blood and persisted in that objection after being informed by the medical practitioner that unless his objection was made upon genuine medical grounds it might constitute an offence against this Act;
- (iii) that there was no genuine medical ground why the person concerned should not allow to be taken a specimen of his blood,

and, until the contrary is proved, shall be conclusive such evidence.

(e) Evidence by an analyst or by a certificate referred to in paragraph (b) of the concentration of alcohol or drug indicated to be present in the blood of a person by a laboratory test of a specimen of the blood of that person shall, where—

- (i) the person is a person referred to in paragraph (a) of subsection (10);
- (ii) he was a driver of a motor vehicle involved in the accident; and
- (iii) the specimen was taken within two hours after the time of the accident,

be conclusive evidence of the concentration of alcohol or drug in the blood of that person at the time (being in the case of such certificate the date and time stated therein) of the taking of the specimen and at the time of the accident, and at all material times between those times.

**17. Amendment of s.52.** Section 52 of the Principal Act is amended by inserting, after the words “on demand made by”, the words, “the Commissioner for Transport,”.

**22. Amendment of s.56.** Section 56 of the Principal Act is amended by—

(a) in subsection (3), inserting after the words “transmit such licence” the words “, in the case of a driver’s licence, to the Commissioner for Transport and, in the case of a licence of any other kind, class or description,”;

(b) in subsection (4), inserting after the word “Commissioner” the words “for Transport, in the case of a driver’s licence, and the Commissioner, in the case of a licence of any other kind, class or description,”;

**23. Amendment of s.57.** Section 57 of the Principal Act is amended by—

(a) in subsection (1)—

- (i) omitting the first paragraph and substituting the following

paragraph:—

“Any person aggrieved by the refusal of the Commissioner for Transport or other authorised officer to issue or renew a driver’s licence or by the refusal of a District Superintendent or of a Superintendent to issue or renew a licence of any other kind, class or description, or by the suspension or cancellation of a driver’s licence by the Commissioner for Transport or the suspension or cancellation of a licence of any other kind, class or description by a District Superintendent, or by the imposition of a condition in respect of a driver’s licence by or by direction of the Commissioner for Transport or other authorised officer or the imposition of a condition in respect of a licence of any other kind, class or description by or by direction of a District Superintendent or a Superintendent may appeal against such refusal, suspension, cancellation or imposition to the Court.”;

(ii) inserting after the second paragraph the following paragraph:—

“Without limiting the power to make regulations conferred by section 70, regulations may be made under that section providing for the manner of initiating an appeal to the Court, the service of notice of such appeal and on whom such notice is to be served and the time for such service, the procedure of or in respect of an appeal, the parties, the persons allowed to appear, the nature of evidence that may be adduced, matters relating to the carriage of the appeal, the amount and application of any fees prescribed in relation to the appeal, and providing in all other respects for the conduct of the appeal and all matters incidental thereto.”;

(b) in subsection (2)—

(i) inserting in the second paragraph, after the words “Notice of any such application”, the words “, in the case of a driver’s licence, shall be given to the Commissioner for Transport or to any authorised officer authorised by the Commissioner for Transport to receive such notices and, in the case of a licence of any other kind, class or description,”;

(ii) inserting after the third paragraph (being the paragraph commencing with the words “Upon hearing”) the following paragraph:—

“The Judge or justices shall not order the removal of the disqualification unless, in addition to having regard to the foregoing, the applicant satisfies him or them that such removal will not be detrimental to the public interest, and he or they shall require the placing of evidence before him or them in such form as is considered by him or them to be satisfactory, before an

order for the removal of the disqualification is made, of a review of the driving, medical and other history of the applicant by a Medical Board of Review where, pursuant to the regulations, such a Board has been constituted for the purpose, and where a Board has not been so constituted, by such person or person of a class or persons as may be prescribed by the regulations, and where a person or class has not been so prescribed by a person determined by Judge or justices to be qualified to conduct the review having regard to the circumstances of the case. The review shall be of such a nature as may be prescribed and, where not prescribed, shall be of such a nature as the Judge or justices think fit.”;

(iii) inserting at the end of the last paragraph, after the word “Commissioner” the words “for Transport or the Commissioner, as the case may be”;

(c) in subsection (3), inserting after the word “Commissioner” the words “for Transport in the case of a driver’s licence and to the Commissioner in the case of a licence of any other kind, class or description”.

**25. Amendment of s.64.** Section 64 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) In this section the term “Commissioner” includes the Commissioner for Transport where appropriate having regard to the functions, powers and duties of the Commissioner for Transport with respect to drivers’ licences.”.

**30. Amendment of Schedule.** The Schedule to the Principal Act is amended by—

(f) inserting after clause 26 the following clause:—

**27. Medical Board of Review.** Providing for the constitution of a Medical Board of Review for the purposes of this Act, the composition of the Board and the qualifications of its members, and for all matters and things in relation to the procedures, functions, powers and duties of such Board.”;

**Amendments 1–5 of section 804 Schedule of the Local Government Act 1993 (in relation to the Traffic Act 1949) reads as follows—**



**1. Section 5(1) to (4)—**

*omit, insert—*

**‘5.(1)** Subject to this Act, a local government may not—

- (a) make a local law about anything provided in this Act, including anything about which a regulation may be made under this Act; or
- (b) exercise a power conferred by this Act on someone else.

**‘(2)** However, a local government may exercise a power that is not inconsistent with this Act.’.

**2. Section 5(6) (words before ‘the following matters’)—**

*omit, insert—*

**‘(6)** Despite subsection (1), a local government may make local laws with respect to’.

**3. Section 8—**

*omit.*

**4. Section 9(1) (definitions “Area”, “By-law”, “Local Authority” and “Town Clerk”)—**

*omit.*

**5. Section 9(1) (definition “Road”, paragraph (b))—**

*omit, insert—*

- ‘(b)** a railway or tramway constructed on a road;’.