

Queensland



TRAFFIC ACT 1949

**Reprinted as in force on 4 July 1997
(includes amendments up to Act No. 9 of 1997)**

Reprint No. 3A

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This Act is reprinted as at 4 July 1997. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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TRAFFIC ACT 1949

[as amended by all amendments that commenced on or before 4 July 1997]

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

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Traffic Act 1949*.

Local laws etc.

- 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.

(3) Despite subsection (1), a local government may make local laws with respect to the following matters—

- (a) the regulation 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 a local law;
- (aa) the regulation 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 regulation 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 regulation of the washing or cleansing, painting, repairing, alteration or maintenance of vehicles in, on or over a road;
- (c) the regulation 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) the regulation of roadside vending.

(4) 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 (3)(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.

(5) A local law under subsection (3)(d) does not affect a requirement to obtain a licence under the *Hawkers Act 1984*.

(6) The local government may make a local law under subsection (3) for—

- (a) a road in its area that is not a declared road; and

(b) a declared road in its area, with the chief executive's written agreement.

(7) If a local government makes a local law about a matter mentioned in subsection (3), the provisions of this Act about the matter no longer apply to the whole or part of the local government's area to which the local law applies.

(8) The provisions do not revive on the repeal of the local law.

(9) A local government may make a local law for a matter specified in the schedule, sections 8A, 9(1), 11 and 11A if it is not inconsistent with a regulation made under the sections.

Definitions

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.

“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—

- (a) a police officer; or
- (b) a person holding office as an authorised officer under section 10(1); or
- (c) a special constable holding office as an authorised officer under section 10(2).

“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.

“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.

“coin” means a coin made and issued under the *Currency Act 1965* (Cwlth).

“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 or motorcycle) 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 a local government under a local law made under section 44BA(4); 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.

“complaint” includes information, information and complaint before justices, and charge.

“corresponding document” to a document issued under a provision of this Act means a document issued under a corresponding law to the provision.

“corresponding law” to a provision of this Act means a law of the Commonwealth, another State, a Territory or a foreign country that provides for the same matter as the provision of this Act.

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

“declared road” means a State-controlled road under the *Transport Infrastructure Act 1994*.

“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.

“disabled person” means a person whose ability to walk is impaired.

“disabled person parking permit” means a permit issued under section 44N or a corresponding document.

“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 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 *Drugs Misuse Act 1986* 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.

“indication” given by an official traffic sign includes—

- (a) a direction on an official traffic sign; and
- (b) a direction, indication or requirement that, under a regulation, is prescribed as being given or imposed, because of an official traffic sign.

Example—

Under an existing regulation, a red light is a direction or requirement that a driver facing the red light must not proceed beyond the stop line.

“learner’s permit” means a learner’s permit issued under section 14 or a corresponding document.

“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.

“liquor” means wines, spirits, beer, ale, porter, stout, cider, perry, or any other spirituous or fermented fluid containing 3½% or more than 3½% 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 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.

“Manual of Uniform Traffic Control Devices” means the Manual of Uniform Traffic Control Devices issued by the chief executive, as amended from time to time.

“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.

“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-assisted 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 a motor vehicle (other than a motorcycle) that—

(a) is not more than 4.5 t gross vehicle mass; and

(b) is built or fitted to carry no more than 12 adults, including the driver.

“motorcycle” 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 a motor vehicle built or fitted to carry more than 12 adults, including the driver.

“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, motorcycle, 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.

“MUTCD” stands for the Manual of Uniform Traffic Control Devices.

“officer in charge of a police station” means the police officer who is in charge of a police station at the relevant time.

“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 chief executive.

“off-street regulated parking area” means an area of land, including any structure thereon, defined as an off-street regulated parking area under a local law made under section 44BA(5).

“open licence” means an open licence issued under section 14 or a corresponding document.

“owner” of a vehicle, tram, animal or vessel includes a person who is—

- (a) its owner, joint owner or part owner; and
- (b) a bailee to whom it is bailed for more than 14 days; and
- (c) its user under a hiring agreement or hire-purchase agreement; and
- (d) for a vehicle whose owner is mentioned in parts 6A and 6B and section 45A(2)—its owner within the meaning of the *Transport Infrastructure (Roads) Regulation 1991*.

“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 an occupied or unoccupied vehicle, other than temporarily for and while actually engaged in picking up or setting down passengers or loading or unloading goods, and includes—

- (a) for a metered space when only paid parking is allowed—the standing of the vehicle even if engaged in picking up or setting down passengers or loading or unloading goods; and
- (b) for a loading zone when parking generally at the place where the loading zone is located is only allowed for a limited time—
 - (i) the standing of the vehicle for and while actually engaging in the picking up or setting down of passengers for longer than—
 - (A) 2 minutes; or
 - (B) if a longer time is indicated by the loading zone’s official traffic sign—the longer time indicated; or
 - (ii) the standing of the vehicle for and while actually engaging in loading or unloading goods for longer than—
 - (A) 20 minutes; or
 - (B) if a longer time is indicated by the loading zone’s official traffic sign—the longer time indicated; or

- (iii) if the loading zone is restricted to the standing of vehicles of a specified type indicated by the loading zone's official traffic sign—the standing of another type of vehicle even if engaged in picking up or setting down passengers or loading or unloading goods; or
- (iv) if the loading zone is restricted to the standing of vehicles for a specified purpose indicated by the loading zone's official traffic sign—the standing of a vehicle for another purpose even if engaged in picking up or setting down passengers or loading or unloading goods.

Example of paragraph (a)—

The official traffic sign installed for the metered space may indicate that only paid parking is allowed there for specified days and hours of a week or similar conditions may be imposed for a traffic area in which a metered space may be located.

Example of paragraph (b)—

A loading zone may be located in a traffic area where parking is generally limited to a maximum time during specified days and hours of the week.

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

“prime mover” means a motor vehicle that—

- (a) is more than 4.5 t gross vehicle mass; and

(b) is built to haul a semitrailer.

“provisional licence” means a provisional licence issued under section 14 or a corresponding document.

“railway” means—

- (a) a railway within the meaning of the *Transport Infrastructure (Railways) Act 1991*; or
- (b) a tramway within the meaning of the *Sugar Industry Act 1991*, part 11.

“regulated parking” means parking that is regulated by a local government by an official traffic sign under part 6A, and includes parking regulated under sections 44C and 44D.

“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
- (c) any place declared by regulation to be a road for the purposes of this Act.

Example of paragraph (c)—

Under a regulation, a public parking area at a specified type of shopping centre may be declared to be a road for the purpose of part 6A.

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

“roadside vending” means—

- (a) the commercial supply of goods or services from a place on a road; or
- (b) the setting up on, or bringing onto, a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services;

but does not include roadside vending for a religious, charitable, educational or political purpose.

“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 a person holding office as a superintendent of traffic under section 11.

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

“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.

“traffic history” of a person means the history of—

- (a) the contraventions for which the person has been dealt with under this Act, including by the recording of demerit points under a regulation; or
- (b) the contraventions of the Criminal Code, section 328A for which the person has been dealt with.

“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.

“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 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

Authorised officers

10.(1) The chief executive may appoint an officer of the public service to be an authorised officer.

(2) The commissioner may appoint a special constable to be an authorised officer.

(3) In this section—

“special constable” has the meaning given by the *Police Service Administration Act 1990*, section 1.4(1) (Interpretation).

Superintendents

11.(1) The chief executive may appoint an officer of the public service to be a superintendent of traffic.

(2) The commissioner may appoint a police officer or officer of the public service to be a superintendent of traffic.

Conditions of appointment

12.(1) An authorised officer or superintendent may be appointed on conditions for administrative purposes.

(2) A contravention of a condition does not affect the validity of anything

done or omitted to be done by the authorised officer or superintendent in exercising a power under this Act.

(3) However, this does not affect disciplinary action that may be taken against the authorised officer or superintendent for the contravention.

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.

Chief executive may install or remove official traffic signs

12B. The chief executive may, for the purposes of this or another Act—

- (a) install an official traffic sign on a road; and
- (b) remove an official traffic sign from a road.

Local government may install or remove official traffic signs

12BA.(1) A local government may install an official traffic sign in its area—

- (a) on a road that is not a declared road; or
- (b) on a declared road, with the chief executive’s written agreement;
or
- (c) on an off-street regulated parking area.

(2) Under subsection (1)(b), a local government may install an official traffic sign that—

- (a) defines a traffic area; and
- (b) indicates that parking on declared roads within the traffic area is regulated.

(3) A local government may remove an official traffic sign installed by it.

Notice to install or remove an official traffic sign

12C.(1) If, in the opinion of the chief executive, an official traffic sign should be installed on, or removed from, any road in an area which is not a declared road, the chief executive may serve notice on the local government 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 government does not comply with the terms of the notice within the time specified, the chief executive may install or remove the official traffic sign specified in the notice and recover any cost and expense incurred by the chief executive in so doing from the local government.

Installation of official traffic signs in case of danger

12D.(1) Where the chief executive, a superintendent, a holder of a prescribed office under the Crown, a chief executive officer of a local government, or a person authorised in that behalf by the chief executive, a superintendent, a holder of a prescribed office under the Crown, a local government or a chief executive officer of a local government, 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 chief executive pursuant to section 12C be maintained and continued for so long as the chief executive, superintendent, holder of a prescribed office under the Crown, chief executive officer of a local government, 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 chief executive or a local government, 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 sections 12B and 12BA, 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.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

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

12E.(1) Any person who—

- (a) obstructs the chief executive, a superintendent, a holder of a prescribed office under the Crown, or a chief executive officer of a local government 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 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 chief executive or a local government or any person duly authorised by the chief executive or a local government, 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 chief executive 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 chief executive 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 chief executive or holder or by any person thereunto authorised by the chief executive; and

- (b) an offence against subsection (1) committed in relation to the chief executive officer of a local government or a local government or a person acting under the authority of the chief executive officer of a local government or local government, 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 government may be prosecuted by the chief executive officer or by any person thereunto authorised by the chief executive officer.

Contravention of official traffic sign an offence

12F.(1) A person who contravenes an indication given by an official traffic sign commits an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) A local government may take proceedings for the imposition and enforcement of a penalty under subsection (1) for a contravention relating to an official traffic sign installed by it.

(2A) However, a local government may not act under subsection (2) if the traffic sign is about a matter mentioned in section 5(4), or the *Traffic Regulation 1962*, schedule 2.

(3) The penalty recovered by the local government for the offence must be paid to the local government.

(4) Subsection (2) does not limit the right of another entity to take proceedings for the imposition and enforcement of a penalty under subsection (1) for a contravention relating to an official traffic sign.

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 chief executive or the local government (whether or not any proceeding is taken for an offence with respect thereto).

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 chief executive or the local government, as the case may be.

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 chief executive or the local government (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 chief executive or the local government or any person authorised by the chief executive or the local government in that behalf, either generally or in the particular case, but the chief executive or the local government 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 pt 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 pt 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 issue or renew the following types of drivers' licences—

- (a) a learner's permit;
- (b) a provisional licence, including a provisional licence ordered to be issued by a court under section 20A;
- (c) an open licence.

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

(3) 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.

(4) A regulation may give the interpretation of a code appearing on a licence.

(5) 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.

(6) A driver's licence is for the period (not longer than 10 years) specified in the licence.

Release of driver licence and traffic history

14A.(1) On receiving an application in the approved form, the chief executive may release information about a person's driver's licence or traffic history to—

- (a) the person; or
- (b) with the person's written agreement—another person; or
- (c) a person who issues drivers' licences under a corresponding law to section 14.

(2) A regulation may provide for the fee payable for the release of the information to a person mentioned in subsection (1)(a) or (b).

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(3) 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.

(4) 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.

(5) 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 the Criminal Code, section 328A, 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 the Criminal Code, section 328A;

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 the Criminal Code, section 328A; 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 the Criminal Code, section 328A;

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 that has, or is required to have, a taxi service licence or limousine licence under the *Transport Operations (Passenger Transport) Act 1994*;
- (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 section 1, part 3, clause 6.1 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 the Criminal Code, section 328A 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 the Criminal Code, section 328A; 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.

Maximum penalty for subsection (7)—40 penalty units or 9 months imprisonment.

(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) The Criminal Code, section 24 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 an instrument—

- (a) for finding out the concentration of alcohol in a person’s blood by analysing a specimen of the person’s breath; and
- (b) that is of a type prescribed by regulation.

“breath test” means a test to obtain an indication of the concentration of alcohol in a person’s blood that is performed on a specimen of the person’s breath using—

- (a) a breath analysing instrument; or
- (b) a device approved by regulation.¹

(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—

¹ As to devices previously approved by gazette notice, see the *Statutory Instruments Act 1992*, section 20C.

- (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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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, the chief executive, commissioner or a 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; or
- (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 the Criminal Code, section 328A); or
- (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; or
- (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; or
- (c) to a hospital; or
- (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, the chief executive, commissioner or a 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); or
- (b) who has detained the person concerned at or taken the person to a police station or other place pursuant to this section; or
- (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; or
- (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; or
- (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; and
- (b) that such instrument was on the occasion in question in proper working order and properly operated by the medical practitioner or officer; and
- (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; and
- (b) that the person concerned failed to provide as prescribed by subsections (8) to (8L) a specimen of breath when required; and
- (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) The specimen must be delivered to the analyst's laboratory in the way prescribed by regulation.

(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) that—
 - (i) the concentration of alcohol in the person's blood indicated by the laboratory test was a specified number of milligrams of alcohol in the blood per 100 mL of blood; or
 - (ii) a specified drug or metabolite of a specified drug was indicated by the laboratory test to be present in the person's 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; and
- (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 indicated to be present in, or of the drug or metabolite of the 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 presence of the concentration of alcohol in, or the drug or the metabolite of the 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; and
- (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) If a police officer sends a specimen of blood to an analyst's laboratory in a way prescribed by regulation, in any proceeding—

- (a) evidence of that fact given by the officer; and
- (b) a certificate, produced in evidence, purporting to be signed by the analyst certifying that the specimen of blood was received at the analyst's laboratory from the officer;

is sufficient evidence of compliance with subsection (16A).

(20) A person who, being thereunto required pursuant to subsection (8), (8C) or (9), 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.

(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 presence of the concentration of alcohol in, or the drug or the metabolite of the 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 the Criminal Code, section 328A, 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; and

- (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; and
- (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 28 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 28 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 28 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 the commissioner 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 commissioner may withdraw the notice by serving on the person a withdrawal notice in a form approved by the commissioner.

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

(14) The commissioner 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 the commissioner, 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 28 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 the Criminal Code, section 328A;

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 the Criminal Code, section 328A—a defensive driving course;

to be conducted by a prescribed person on the day and at the place and time stated in a written notice given to the person by a prescribed person.

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

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 (1B) 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.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

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 the Criminal Code, section 328A;

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 the Criminal Code, section 328A, 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 the Criminal Code, section 328A 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 the Criminal Code, section 328A, 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 the Criminal Code, section 328A, 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 the Criminal Code, section 328A;

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 the Criminal Code, section 328A, 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 the Criminal Code, section 328A;

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 the Criminal Code, section 328A 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 chief executive 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.

(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 an open or provisional licence (other than a corresponding document) 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 the Criminal Code, section 328A; 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;
 - (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;
- (e) unless the disqualification for which the application is made resulted from the applicant's conviction for an offence committed when the applicant held an open or provisional licence (other than a corresponding document).

(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 the Criminal Code, section 328A, 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.

Chief executive 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 chief executive.

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 the *Transport Operations (Passenger Transport) Act 1994* 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(3) Nothing in this section shall be deemed to repeal or affect the provisions in force of 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, the offender may be prosecuted under this Act or under such other Act, 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 to—
 - (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 regulation 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.

Maximum penalty—

- (a) if death or injury is caused to any person—20 penalty units or imprisonment for 1 year; or
- (b) otherwise—10 penalty units or 6 months imprisonment.

(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.

(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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 the *Penalties and Sentences Act 1992*, section 187, 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 the *Penalties and Sentences Act 1992*, section 187, 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.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

Scheme to facilitate supply of information as to road incidents

34.(1) The commissioner or the chief executive, 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 State, the Minister, the commissioner, a police officer, the chief executive or someone else authorised by the chief executive is not civilly or criminally liable for supplying information under a scheme.

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

Diversion of traffic

37.(1) The commissioner or the chief executive 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.

(2) 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 the chief executive and not otherwise.

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

(4) Upon receiving an application the commissioner or the chief executive, 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 the chief executive thinks fit, which may include but are not necessarily limited to the payment of fees and expenses in connection with the closure.

(5) Whenever a superintendent, the chief executive, 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.

(6) 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(7) The chief executive may carry out such construction works as are necessary to give effect to the closure of any road ordered under subsection (1).

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(3) Despite subsection (2)(b), a person required by a police officer to produce the person's licence does not commit an offence if the person—

- (a) holds an open licence issued under section 14; and
- (b) produces the licence to the officer in charge of a police station reasonably specified by the officer within 48 hours after the requirement is made.

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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.

Removal of things from roads

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.

(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 the *Justices Act 1886*, section 39, 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 the *Justices Act 1886*, section 39, 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 the *Justices Act 1886*, section 39; 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 government 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 government 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 government 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 government 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 government.

(12) The local government 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 or chief executive officer of the local government 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 or chief executive officer of a local government 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 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 or chief executive officer of the local government concerned for the release from such detention of such vehicle;
- (b) the applicant shall have furnished proof to the satisfaction of the clerk or chief executive officer 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 or chief executive officer, of the applicant's authority to act on behalf of such owner;
- (c) the applicant shall have paid all expenses incurred by the local

government 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 government 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 government 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(16) Under a local law, a local government may provide for the removal, safe storage or disposal of vehicles that persons authorised under the local law consider, on reasonable grounds, have been abandoned on roads in the local government's area.

(17) If a local law provides for a matter mentioned in subsection (16), subsections (7) to (15) no longer apply in the local government's area.

(18) Subsections (7) to (15) in their application in the local government's area are not revived by the repeal of the local law.

(19) In subsections (7) to (16)—

“vehicle” includes any part of a vehicle.

PART 6A—REGULATED PARKING

Local governments may regulate parking

44A.(1) A local government may, under a local law, regulate parking in its area—

- (a) on a road, other than a declared road; or
- (b) on a declared road, with the chief executive's written agreement;
or

- (c) on an off-street regulated parking area.
- (2) The local government's regulation of parking may include—
 - (a) specifying the times when a vehicle may or must not be parked; and
 - (b) requiring the payment of a fee for a vehicle to be parked; and
 - (c) specifying the types of vehicles that may or must not be parked; and
 - (d) specifying the purposes for which a vehicle may or must not be parked; and
 - (e) specifying where its regulation of parking applies.

Parking regulation involves installing official traffic signs

44B.(1) A local government may install official traffic signs indicating how parking is regulated.²

(2) An official traffic sign installed by a local government may apply to parking—

- (a) at or near the place where the sign is installed, for example, a particular parking space, road or off-street regulated parking area; or
- (b) throughout an area consisting of the whole or part of the local government's area (a “**traffic area**”).

(3) A local government may install an official traffic sign applying to parking throughout a traffic area only if—

- (a) a local law has declared the traffic area and defined its boundaries; and
- (b) the sign is installed on the road at every road entry to the traffic area.

(4) An official traffic sign applying to parking throughout a traffic area—

- (a) may only indicate the following matters about how parking is

² The regulation of parking is ultimately enforceable under section 12F as a contravention of an indication on an official traffic sign.

regulated throughout the traffic area—

- (i) the times when a person may only park for a maximum specified time;
 - (ii) the times when a person may only park by paid parking at a place where the local government has provided for paid parking; and
- (b) for parking for which another official traffic sign is installed within the traffic area—applies subject to the other official traffic sign.

Example of subsection (4)(b)—

An official traffic sign installed within a traffic area may allow a longer or shorter parking time than that allowed by the official traffic sign for the entire traffic area.

(5) Subsection (4)(a) does not limit the matters that may be indicated on an official traffic sign mentioned in subsection (4)(b).

(6) A person parking anywhere within a traffic area is taken to have notice of the contents of the official traffic sign installed at the road entries to the traffic area.

(7) If an official traffic sign is installed at or near a place so that a person parking at the place is likely to see the sign, the person is taken to have notice of the contents of the sign.

(8) An indication on an official traffic sign regulating parking is evidence that the regulation of the parking as indicated was properly imposed under a local law of the local government for the area where the sign is located.

(9) This section does not limit a local government's power to install an official traffic sign under a provision other than this part or under another law.

Examples of how parking may be regulated

44BA.(1) This section does not limit section 44A or 44B and its object is to help local governments in using this part by specifying common examples of how local governments may regulate parking.

(2) Under a local law, a local government may specify for a place or a traffic area—

- (a) the hours and days when parking is only allowed for a specified maximum time; and
- (b) the fixed hours for paid parking; and
- (c) for specified designated parking spaces—the maximum time for which a vehicle may be paid parked; and
- (d) parking fees for paid parking; and
- (e) a system (the **“authorised system”**) for the payment of a parking fee for paid parking including, for example, by the use of a coin, token, card or credit card; and
- (f) the denomination or number of coins to be inserted in a parking meter or parkatarea in payment of a parking fee.

(3) Under a local law, a local government may—

- (a) allow a vehicle to park contrary to an indication on an official traffic sign regulating parking by time or payment of a fee, if the vehicle displays—
 - (i) a disabled person parking permit; or
 - (ii) a permit issued by the local government; and
- (b) define the persons that may be issued with a permit; and
- (c) specify the fee for a permit.

(4) Under a local law, a local government may—

- (a) allow a vehicle to park in a loading zone if the vehicle displays a commercial vehicle identification label issued by the local government; and
- (b) define the vehicles that may be issued with a commercial vehicle identification label of the type specified by the MUTCD; and
- (c) specify the fee for a commercial vehicle identification label issued by the local government.

(5) Under a local law, a local government may define specified land (including structures on the land) controlled by it as an off-street regulated parking area and regulate the use of the area.

(5A) For subsection (5), land controlled by a local government includes land over which the local government may exercise control for the purpose

of this part under an arrangement with a person who owns or has an interest in the land.

Example—

Under subsection (5), a local government may, under an arrangement with the owner of a shopping centre, specify a public parking area at the shopping centre as an off-street regulated parking area and regulate the use of the area.

(6) Traffic signs installed by a local government may define or indicate—

- (a) where paid parking is authorised; or
- (b) spaces on roads or off-street parking areas that are designated parking spaces; or
- (c) loading zones; or
- (d) for roads or off-street parking areas—where parking is only allowed for a specified maximum time.

Paid parking

44C.(1) Fixed hours start for a designated parking space after a local government has—

- (a) specified under a local law the fixed hours when only paid parking is allowed in designated parking spaces in the traffic area or place where the space is located; and
- (b) installed the appropriate official traffic signs for the space.

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

- (a) the person does not park the vehicle in the space for longer than the maximum time 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 time of continuous paid parking does not exceed the maximum time indicated on the official traffic sign installed in relation to the space.

(5) A local government may install a parking meter or parkatarea for a designated parking space if it is installed in a way—

- (a) specified by the MUTCD; or
- (b) approved by the chief executive.

Paid parking offences

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

- (a) unless—
 - (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) for a time longer than the maximum time indicated on the official traffic sign installed for 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—
 - (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.

Maximum penalty—40 penalty units.

(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 time (equal to the maximum time 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.

(2) Proof that the name and address of a person were shown upon the outside of a vehicle or upon a registration label issued under the *Transport Infrastructure (Roads) Regulation 1991*, 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.

Notice of alleged offence

44F.(1) Whenever a vehicle is found parked in contravention of this part or a regulation, 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) state that—
 - (i) if the owner wants the alleged offence to be dealt with by a court, the owner must—
 - (A) complete the form provided on the notice; and
 - (B) give the completed form to the local government's chief executive officer or another nominated officer; and
 - (ii) if the owner does not want the alleged offence to be dealt with by a court, the owner must—
 - (A) complete the form provided on the notice; and
 - (B) give the completed form to the chief executive officer or other nominated officer; and
 - (C) pay the prescribed penalty to the chief executive officer or other nominated officer; and

- (g) state, in general terms, that the owner must comply with paragraph (f) within—
 - (i) 28 days after service of the notice; or
 - (ii) another period allowed by the local government's chief executive officer or other officer nominated in the notice, whether before or after the end of the 28 days; and
- (h) inform the owner in general terms of the provisions of section 44G(2).

(2) Upon receipt by the chief executive officer 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 chief executive officer, or a person authorised in that behalf by the chief executive officer, 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 the *Traffic Acts Amendment Act 1960*, section 9, 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 45A(1)(a).

(4) For the purposes of this section—

“authorised person” means a person who is authorised in writing by the chief executive officer 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 government may make a local law prescribing a sum of money to be that payable by way of penalty to the chief executive officer or officer nominated in that behalf for the purposes of the procedure provided for in subsections (1) to (2).

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

(6) When, pursuant to subsection (5), a local government makes a local law prescribing a sum of money in respect of an offence and the local 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) to (2) shall cease to have force and effect in the area of that local government.

(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) to (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 chief executive officer 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 chief executive officer or of any other person authorised by

the chief executive officer, 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 chief executive officer shall be judicially noticed.

(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 chief executive officer or an officer nominated in that behalf by the chief executive officer a statement in writing, verified upon oath or by statutory declaration, stating facts which prove to the satisfaction of the chief executive officer or the officer nominated in that behalf by the chief executive officer, 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 chief executive officer or an officer nominated in that behalf by the chief executive officer a statement in writing, verified upon oath or by statutory declaration, stating facts which prove to the satisfaction of the chief executive officer or the officer nominated in that behalf by the chief executive officer, 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 chief executive officer or an officer nominated in that behalf by the chief executive officer 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 chief executive officer or an officer nominated in that behalf by the chief executive officer a statement in writing, verified upon oath or by statutory declaration, stating

facts which prove to the satisfaction of the chief executive officer or the officer nominated in that behalf by the chief executive officer, 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 government, 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.

Maximum penalty—40 penalty units.

(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.

Maximum penalty—40 penalty units.

(3) All offences against the provisions of this section may, notwithstanding any other provisions of this Act, be prosecuted upon the complaint of the chief executive officer or of any other person authorised by the chief executive officer.

(4) For the purposes of any such prosecution the appointment and signature of the chief executive officer shall be judicially noticed.

Agreement with local government on costs of administration

44J.(1) The commissioner may, with the approval of the Minister, enter into an agreement with the local government whereby the local government 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 government cannot agree upon such payment, the Governor in Council may, by regulation, determine that the local government 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 regulation, 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 government 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).

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 chief executive or commissioner in the chief executive's or commissioner'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 person parking permits

44N.(1) The chief executive may issue a permit to—

- (a) a disabled person; or
- (b) an organisation for a specified vehicle, if the chief executive is satisfied that the organisation transports disabled persons in the vehicle.

(2) The chief executive may issue the permit subject to conditions stated on it.

PART 6B—DETECTION DEVICES*Division 1—Radar speed detection devices***Use of radar speed detection devices**

44O. When using a radar speed detection device, a police officer must comply with Australian Standard 2898 (as in force at the time).

*Division 2—Photographic detection devices***Interpretation**

44P. In this division—

“camera-detected offence” means a prescribed offence in respect of which—

- (a) the infringement notice under the *Justices Act 1886*, part 4A; or
- (b) the complaint or summons;

indicates that the offence was detected by a photographic detection device.

“corresponding transport law”, to a transport Act or a provision of a transport Act, means a law of the Commonwealth or another State that provides for the same matter as—

- (a) for a transport Act—the Act or a provision of the Act; or
- (b) for a provision of a transport Act—the provision.

“owner” means—

- (a) if the vehicle is registered—
 - (i) if there is a responsible operator—the responsible operator at the time the alleged offence happened unless subparagraph (iii) or (iv) applies; or
 - (ii) if there was no responsible operator at the time—the person in whose name the vehicle is registered under a transport Act or a corresponding transport law at the time the alleged offence happened unless subparagraph (iii) or (iv) applies; or
 - (iii) if the vehicle is bailed for more than 14 days—the bailee at the time the alleged offence happened; or
 - (iv) if the vehicle is used under a hiring agreement (not being a hire purchase agreement)—the person who contracted to use the vehicle; or
- (b) if the vehicle is unregistered—
 - (i) if there is a responsible operator—the responsible operator immediately before expiry of the registration unless subparagraph (iii) or (iv) applies; or
 - (ii) if there was no responsible operator immediately before expiry—the person in whose name the vehicle was registered under a transport Act or a corresponding transport law immediately before the expiry unless subparagraph (iii) or (iv) applies; or
 - (iii) if the vehicle is bailed for more than 14 days—the bailee at the time the alleged offence happened; or
 - (iv) if the vehicle is used under a hiring agreement (not being a hire purchase agreement)—the person who contracted to use the vehicle.

“photographic detection device” means a device of a type approved by regulation as a photographic detection device.

“prescribed offence” means an offence prescribed by regulation for this part that is an offence against this Act or another transport Act.

“responsible operator” means a person nominated as responsible operator under the *Transport Infrastructure (Roads) Act 1991*, section 9.17A or under the *Transport Operations (Road Use Management) Act 1995* or a person corresponding to a responsible operator under a corresponding transport law.

“transport Act” means an Act administered by the Minister or the *Motor Accident Insurance Act 1994*.

Offences detected by photographic detection device

44Q.(1) If a prescribed offence happens and the offence is detected by a photographic detection device, a person is taken to have committed the offence if the person was the owner of the vehicle that was involved in the offence at the time the offence happened even though the actual offender may have been someone else.

(2) If the actual offender is someone else, subsection (1) does not affect the liability of the actual offender but the owner and the actual offender can not both be punished for the offence.

(3) It is a defence for a person charged with a camera-detected offence under subsection (1) to prove that—

- (a) the person was not the driver of the vehicle at the time the offence happened; and
- (b) the person—
 - (i) subject to subsection (5), has notified the commissioner or chief executive of the name and address of the person who drove the vehicle at the time the offence happened; or
 - (ii) did not know and could not, with reasonable diligence, have ascertained the name and address of the person who drove the vehicle at the time the offence happened.

(4) For subsection (3)(b)(i) and (ii), the person must notify the

commissioner or chief executive about the matters specified and other relevant information in the approved form.

(5) The defence under subsection 3(b)(i) is not available unless notice under subsection (3)(b)(i) is given to the commissioner or chief executive by the person within 4 months of the first given of—

- (a) written notice from the commissioner or chief executive to the owner alleging a camera-detected offence; or
- (b) an infringement notice under the *Justices Act 1886*, part 4A.

(6) For subsection (3)(b)(ii) a person must prove that—

- (a) at the time the offence happened, the person—
 - (i) exercised reasonable control over the vehicle's use; and
 - (ii) had in place a reasonable way of finding out the name and address of the driver of the vehicle at any given time having regard to—
 - (A) the number of drivers; and
 - (B) the amount and frequency of use; and
 - (C) whether the vehicle was driven for business or private use; and
- (b) after the offence happened, the person made proper search and enquiry to ascertain the name and address of the person who drove the vehicle at the time the offence happened.

(7) Subsection (6) does not apply if the person is able to prove that at the time the offence happened the vehicle—

- (a) was stolen or illegally taken; or
- (b) had already been sold or otherwise disposed of.

(8) A person who falsely nominates another person under subsection (3)(b)(i) as the driver of the vehicle at the time the offence happened, commits an offence.

Maximum penalty—40 penalty units.

(9) A notification purporting to have been given for a body corporate by a director, manager or secretary of the body corporate is to be taken to have been given by the body corporate.

Limitation of prosecution period extended in particular circumstances

44R.(1) Subsection (2) applies if a conviction or an enforcement order against a person for a camera-detected offence is set aside because the person can not be proved to be the driver of the vehicle at the time the prescribed offence happened.

(2) If a conviction or an enforcement order is set aside, despite any other Act, proceedings for a camera-detected offence may be started against another person within 3 months of the setting aside of the conviction or enforcement order.

(3) For this section, a conviction without recording the conviction, is taken to be a conviction.

Notice accompanying summons

44S.(1) A notice, complaint or summons served on a person for a camera-detected offence must be accompanied by written information about—

- (a) if the person has been nominated under section 44Q(3)(b)(i) as the person who drove the vehicle at the time the offence happened—the particulars of the nomination; and
- (b) the provisions of section 44Q; and
- (c) the right to examine and challenge an image from a photographic detection device under section 44U.

(2) A statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (1) is evidence of that fact.

(3) The *Justices Act 1886*, section 56(5) applies to the deposition.

Use of penalties collected for camera detected offences

44T.(1) All money collected for penalties imposed for camera detected offences in excess of the administrative costs of collection must be used for the following purposes—

- (a) road safety education and awareness programs;

- (b) road accident injury rehabilitation programs;
- (c) road funding to improve the safety of the sections of State-controlled roads where accidents most frequently happen.

(2) In this section “State-controlled road” means a road or route or part of a road or route declared to be a State-controlled road under the *Transport Infrastructure Act 1994*.

Photographic evidence—inspection and challenges

44U.(1) This section applies to a person who has been charged with a camera-detected offence and wants to examine a copy of the image from a photographic detection device on which the offence is based.

(2) The person must ask the commissioner, at least 21 days before the charge is heard, to make a copy of the image from a photographic detection device available for examination.

(3) The commissioner must make reasonable arrangements to allow the examination at least 14 days before the charge is heard.

(4) If the person intends to challenge the image from a photographic detection device at a hearing, the person must give the commissioner written notice of the intention at least 7 days before the day fixed for the hearing.

Notice of dispute about traffic control device or sign

44V. If a person intends to dispute that a traffic control device or sign was functioning without defect or was visible, the person must give the commissioner written notice of the intention, specifying the device or sign, at least 7 days before the day fixed for the hearing.

Evidentiary provisions

44W.(1) This section applies to a proceeding for a camera-detected offence.

(2) An image produced by the prosecution purporting to be certified by the commissioner stating that the image was properly taken by a photographic detection device at a specified location and time is evidence of

the following matters—

- (a) the image was taken at the specified location and time;
- (b) the accuracy of the image;
- (c) the things depicted in the image;
- (d) any requirements prescribed by a regulation about the operation and testing of a photographic detection device were complied with for the specified device at all material times.

(3) If an image produced under subsection (2) is one in a series of images also produced under subsection (2)—

- (a) the image may be numbered; and
- (b) the time it was taken may be identified by reference to another image in the series.

(4) A marking or writing made by a photographic detection device on an image is taken to have the meaning prescribed under a regulation and is evidence of what it is taken to mean.

(5) In a proceeding for a camera-detected offence a document purporting to be issued or signed by the chief executive of an entity responsible for the registration of motor vehicles under a law of this or another State stating that at a specified time or during a specified period a person was the owner of a vehicle is evidence of those matters.

(6) Evidence of the condition of the photographic detection device is not required unless evidence that the device was not in proper condition has been given.

Application of the Justices Act, pt 4A

44X.(1) The *Justices Act 1886*, part 4A, applies to camera-detected offences subject to this part.

(2) If there is any inconsistency between the *Justices Act 1886*, part 4A and this part, the provisions of this part prevail.

(3) Without limiting subsection (1) or (2), for the *Justices Act 1886*, part 4A—

- (a) “**owner**” means the owner as defined in this part; and

- (b) a reference to **“person in charge”** or **“user”** is, if the context permits, taken to be a reference to the driver of the vehicle; and
- (c) a reference to **“illegal user declaration”**, **“known user declaration”**, **“sold vehicle declaration”** or **“unknown user declaration”** or declaration generally is taken to be a reference to the appropriate approved form for section 44Q; and
- (d) the *Justices Act 1886* sections 98G(2), 98H(5), 98I(5) and 98J(2) are subject to section 44Q and in particular section 44Q(6) applies instead of the *Justices Act 1886*, section 98J(2)(b).

PART 7—PROCEEDINGS AND EVIDENCE

Summary proceedings

45.(1) 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*.

(2) Proceedings for the recovery of any fee may be brought in the Magistrates Court district in which such fee is payable.

(3) 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 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 chief executive officer 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 chief executive officer 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 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 chief executive, the commissioner, 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 chief executive, the commissioner, a superintendent or 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 chief executive, the commissioner, 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 chief executive, the commissioner or 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 signed by the chief executive, the commissioner, a superintendent, chief executive officer of a local government or 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 signed by the chief executive or the chief executive's delegate 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 chief executive or the authority of the delegate giving the certificate to give it and the appointment of the inspector who made such inspection shall be presumed until the contrary is proved;
- (n) any certificate or document—
 - (i) purporting to be issued under regulations about motor vehicle registrations made under the *Transport Infrastructure (Roads) Act 1991* or a law of another State or a Territory corresponding to the regulations (a **“corresponding law”**); or
 - (ii) purporting to be signed by the chief executive, an entity responsible for registering motor vehicles under a corresponding law, or a person authorised by the chief executive or entity;

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 signed by the chief executive, the commissioner or a superintendent stating that the records of the chief executive, commissioner 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;
- (oa) a document purporting to be signed by the commissioner or chief executive stating that the document is a true copy of a plan of installation of a photographic detection device at a place, showing any features of the installation, road infrastructure, road boundaries or road markings is evidence of the things shown in the document;
- (p) a certificate purporting to be signed by the chief executive, the commissioner or 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 signed by the commissioner stating a specified radar speed detection device has been—
 - (i) tested in accordance with Australian Standard 2898 (as in force at a specified time); and
 - (ii) found to produce accurate results at the specified time;is evidence the device was producing accurate results at the time of testing and for 1 year after the time;

(pb) a certificate purporting to be signed by a police officer stating a specified radar speed detection device was used by the officer—

- (i) at a specified time; and
- (ii) in accordance with Australian Standard 2898 (as in force at the time);

is evidence of the matters specified;

(pc) a certificate purporting to be signed by the commissioner stating a specified vehicle speedometer accuracy indicator (commonly known as a chassis dynamometer) has been—

- (i) tested; and
- (ii) found to produce accurate results at the specified time;

is evidence the indicator was producing accurate results at the time of testing and for 60 days after the time;

(pd) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a laser speed detection device has been—

- (i) tested at a specified time—
 - (A) in accordance with the appropriate Australian Standard that is in force at the time; or
 - (B) if there is no appropriate standard—in accordance with the manufacturer's specifications; and

- (ii) found to produce accurate results at the specified time;

is evidence of the matters stated and evidence the device was producing accurate results at the time of testing and for 1 year after the time;

(pe) a certificate purporting to be signed by a police officer stating that a specified laser speed detection device was used by the officer—

- (i) at a specified time; and
- (ii) in accordance with—
 - (A) the appropriate Australian Standard that is in force at the time; or

- (B) if there is no appropriate standard—the manufacturer's specifications;

is evidence of the matter stated;

- (pf) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a photographic detection device has been—

- (i) tested at a specified time in accordance with section 49(1)(pa) or (pd); and
 - (ii) found to produce accurate results at the specified time;

is evidence of the matters stated and evidence the photographic detection device was producing accurate results at the time of testing and for 1 year after the time;

- (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

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(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 indication or prescribed 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;

(ta) evidence that a number plate showing a particular registration number was attached to a motor vehicle at a particular time is evidence that the motor vehicle is the motor vehicle noted in the register of vehicles as then having that registration number;

(tb) a certificate purporting to be signed by the commissioner, chief executive or a superintendent certifying that a breath analysing instrument has been—

(i) tested at a specified time—

(A) in accordance with the appropriate Australian Standard that is in force at the time using devices or substances certified or otherwise authenticated under the *National Measurements Act 1960* (Cwlth); or

(B) if there is no appropriate standard—in accordance with the manufacturer's specifications using devices or substances certified or otherwise authenticated under the *National Measurements Act 1960* (Cwlth); and

(ii) found to produce accurate results at the specified time;

is evidence of the matters stated and evidence the breath analysing instrument was producing accurate results at the time of testing and for 1 year after the time;

(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;

(v) evidence of the condition of a parking meter or parkatarea is not required unless evidence that the parking meter or parkatarea was not in proper condition has been given.

(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.

(4) A defendant who intends to challenge—

- (a) the accuracy of a radar speed detection device or vehicle speedometer accuracy indicator; or
- (b) the time at, or way in, which the radar speed detection device was used;

at the hearing and determination of a charge against the defendant under this Act must give written notice of the challenge to the prosecution.

(5) The notice must be—

- (a) signed by the defendant; and
- (b) given at least 3 days before the day fixed for the hearing.

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 chief executive, the commissioner or a 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 or such person shall be guilty of an offence.

Maximum penalty for subsection (2)—40 penalty units or 6 months imprisonment.

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 chief executive, the commissioner or a 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 chief executive 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) Any licence obtained by any false statement or misrepresentation shall be null and void.

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.

(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.

(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 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.

Maximum penalty—

- (a) for a driver's licence—20 penalty units or 18 months imprisonment; or
- (b) for another licence—40 penalty units.

(10) In determining the punishment to be imposed on a person who is

guilty of an offence under subsection (8) 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 (8) 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 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 the chief executive or commissioner 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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.

(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.

Maximum penalty for subsection (7)—40 penalty units or 6 months imprisonment.

Appeals with respect to issue of licences etc.

57.(1) Any person aggrieved by the refusal of the chief executive or commissioner or of a superintendent to issue or renew a licence, or by the suspension or cancellation of a licence by the chief executive or commissioner, or by the imposition of a condition in respect of a licence by or by direction of the chief executive or commissioner 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 the chief executive or commissioner 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.

(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.

(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.

(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.

(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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 the vehicle under the *Transport Infrastructure (Roads) Act 1991*; 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.

Maximum penalty—40 penalty units or 6 months imprisonment.

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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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.

(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.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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 person fails to do so the person shall be guilty of an offence.

Maximum penalty—40 penalty units or 6 months imprisonment.

(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.

Maximum penalty—40 penalty units or 6 months imprisonment.

Saving of local governments' powers with respect to interference with roads

(4) Except as provided by the schedule, clauses 8A, 9 and 11A, 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 or local law made under any other Act; or

(ii) any power under any other Act to make local 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 government of any power, function, authority, or duty with respect to any of the matters in this subsection specified, and any liability of the local government therefor.

Court may order penalty be paid to aggrieved person

62. The court may direct that a fine or penalty, or part of a fine or penalty, recovered for an offence under section 30(1)(a) be paid to a person aggrieved by the commission of the offence.

Scheme to facilitate children crossing streets

63.(1) The commissioner or the chief executive, 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 chief executive or substitute a fresh authority for any prior authority granted by the commissioner or chief executive.

(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 chief executive, in respect of a scheme authorised by the chief executive, 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.

(4A) 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 1 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 if address unknown etc.

65.(1) If a determination, notice, order, direction, or document (the “notice”) is required or authorised to be given to a person whose place of

business or address is unknown to the commissioner or chief executive, the notice may be, and is taken to be, given by publishing it twice in a newspaper with an interval of at least 1 week between the dates of publication.

(2) A declaration purporting to be made by the commissioner or chief executive that the place of business or address of a person is unknown is evidence of the matter.

(3) The publication of a determination, notice, order, direction, or document may be proved by the production of a copy of the gazette or newspaper containing it.

(4) This section does not limit section 64.

Instruments not affected by error

66. An omission, misnomer or inaccurate description in a determination, notice, order or direction (the **“instrument”**) made or given by the commissioner, the chief executive or a superintendent does not affect the instrument if the instrument’s true intent can be understood.

Protection from liability

67.(1) In this section—

“local government official” means a local government’s chief executive officer or an officer or employee of the local government;

“official” means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) the commissioner; or
- (d) a police officer.

(2) An official or local government official is not civilly liable for an act or omission done honestly and without negligence under this Act.

(3) If subsection (2) prevents civil liability attaching to an official, the liability attaches to the State instead.

(4) If subsection (2) prevents civil liability attaching to a local government official, the liability attaches to the local government instead.

Act does not apply to police officer in course of duty

68. Provisions of this Act about offences (other than sections 16 and 16A) do not apply to a police officer while exercising a power, or performing a function, under this or another Act.

Regulations

70.(1) The Governor in Council may make regulations under this Act.

(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.

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;
- (c) roadside vendors.

SCHEDULE (continued)

(2) However, this clause and the regulations made under this section shall not apply to or with respect to a vehicle approved by the chief executive for use in carrying on a service for the carriage of passengers or goods, or both passengers and goods, licensed under either the *State Transport Act 1960* or the *Transport Operations (Passenger Transport) Act 1994* while that vehicle is being used for the purpose of carrying on that service.

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, 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

SCHEDULE (continued)

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;
- (j) production of licences by licensees for inspection when required or called upon by authorised officers.

SCHEDULE (continued)

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 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 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.

(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 test and/or examinations.

(5) Prescribing notices, letters, or symbols (including the form and dimensions thereof) to be displayed on any motor vehicle being driven by the holder of a learner's permit or provisional licence and the manner of affixing such notices, letters, 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.

(6) Defining the age at which any person shall or shall not be entitled to be issued with any kind, class, or description of licence.

SCHEDULE (continued)

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 and any other State or Territory 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 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 or any other country shall be disqualified from holding or obtaining drivers' licences in Queensland.

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 section, providing for, regulating, and controlling the following acts, matters, and things, that is to say—

- (a) the use of vehicles of any class or description of vehicles in or on roads;

SCHEDULE (continued)

- (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 Act 1960*;
- (d) the transshipment in transit of passengers, or goods, or both passengers and goods carried by trams or vehicles other than vehicles licensed under the *State Transport Act 1960*;
- (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;
- (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;
- (g) the maximum and minimum age limits for persons driving vehicles, trams, or animals or any particular class or description thereof;
- (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

SCHEDULE (continued)

offences against such regulations or any such regulation;

- (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;
- (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;
- (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;
- (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;

SCHEDULE (continued)

- (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 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;
- (li) 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;
- (lj) the prohibition or restriction of the breaking in or training, or exercising of horses either by leading or driving on roads;
- (lk) the compliance by any person walking, standing, loitering, or being on any footway with the orders, signals, or directions of any police officer;
- (ll) 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

SCHEDULE (continued)

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.

Stalls, stands etc.

9.(1) Regulating and licensing roadside vending.

(1A) Regulating the placement, stacking, storing, loading or unloading of goods of any description in, on or from roads.

(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.

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.

(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

SCHEDULE (continued)

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 section.

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.

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.

SCHEDULE (continued)

(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.

(4A) 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.

(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 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; or
- (b) specifying the qualifications of persons who may issue certificates of road worthiness; or
- (c) providing for the registration of garages and service stations; or
- (d) requiring production of certificates of road worthiness—
 - (i) before the registration of motor vehicles that must be registered under the *Transport Infrastructure (Roads) Act 1991*; or
 - (ii) on the renewal and transfer of registration of motor vehicles that must be registered under the *Transport Infrastructure (Roads) Act 1991*; or
 - (iii) when required by a superintendent; or

SCHEDULE (continued)

- (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; 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 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) Regulating the type of brakes to be used by tramcars or vehicles used on tramways.

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.

SCHEDULE (continued)

(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. Regulating the issuing by the commissioner or a superintendent of a permit to allow the use of a vehicle for a purpose for which the vehicle is not constructed, fitted or equipped as prescribed, including the conditions of the permit.

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 section 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 government before any licence authorising the transportation may be issued under this Act.

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.

SCHEDULE (continued)

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 the *Transport Operations (Passenger Transport) Act 1994* 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 $\frac{1}{2}$ 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 or a particular part of their journey.

Stopping places

21.(1) Providing and regulating stopping places for trams being used on a road or vehicles licensed or approved under the *State Transport Act 1960*

SCHEDULE (continued)

or another Act.

(2) The persons authorised to appoint the stopping places and the way the places are appointed.

Qualifications concerning breath analysing instruments

22. Prescribing qualifications in respect of the operation of, and authorised police officers operating, breath analysing instruments.

Authorised officers

24.(1) Providing for and regulating the appointment by the commissioner or the chief executive 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 from a regulation.

(2) Providing for the issue by the commissioner or chief executive of a certificate of exemption, and defining the effect of the certificate.

Powers of commissioner and chief executive

26. Providing for, regulating, and controlling the determination, application, prohibition, or regulation of or dispensing with any matter or thing by the commissioner or the chief executive.

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

SCHEDULE (continued)

regulation of traffic.

(2) Defining official traffic signs and other signs, signals, indications, and directions as aforesaid, by diagrams, illustrations, or otherwise.

(3) Prescribing indications for official traffic signs, including requirements imposed on persons about particular indications.

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.

Declarations

31. Requiring the making of statutory declarations 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 chief executive and by police officers to police departments and other departments of the Commonwealth and of any State or Territory, 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, in relation to vehicles or traffic, and concerning or in relation to the antecedents, character, and conduct of any such person, and indemnifying the chief executive and police officers against liability at law in respect of reports made or furnished as aforesaid.

SCHEDULE (continued)**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.

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.

Penalties

36. Penalties of not more than 20 penalty units.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated	163
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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 4 July 1997. Future amendments of the Traffic Act 1949 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 70 of 1993	24 December 1993
2	to Act No. 10 of 1994	22 August 1994
3	to Act No. 57 of 1995	21 December 1995

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of Table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	2
Changed titles	1, 2
Corrected minor errors	1, 2, 3
Obsolete and redundant provisions	2
Renumbered provisions	1, 2

6 List of legislation

Traffic Act 1949 13 Geo 6 No. 26

date of assent 22 April 1949

commenced 1 February 1950 (proc pubd gaz 7 January 1950 p 37)

as amended by—

Main Roads Acts and Another Act Amendment Act 1952 1 Eliz 2 No. 14 pts 1, 3

date of assent 22 April 1952

ss 1–2 commenced on date of assent

remaining provisions 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 Act (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

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 1977 No. 26; 1982 No. 52; 1984 No. 102)

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, 14

s 16(d) only

ss 19–20

s 22(c) only

s 24

s 28(b) only

s 30(b)–(c), (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 4–5, 6(a), 10(d), 13, 15, 16(a)–(c), 18, 21, 26–27, 28(a), 29, 30(a), (d)–(e), (g) never proclaimed into force and repealed 1984 No. 102 s 37

remaining provisions never proclaimed into force and repealed 1994 No. 7 s 46

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 pts 1–2

date of assent 6 December 1984

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 4 March 1985 (proc pubd gaz 23 February 1985 p 943)

Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 pts 1, 8

date of assent 17 April 1985

ss 1–2 commenced on date of assent

remaining provisions 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 pts 1, 4

date of assent 14 December 1988

ss 1–2 commenced on date of assent

remaining provisions 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 1993 No. 61 s 4 (as from 1 March 1994))

date of assent 12 December 1990

ss 1.1–1.2 commenced on date of assent

ss 2.6, 2.11, 2.23, 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 om 1993 No. 61 s 4 (as from 1 March 1994)

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 pts 1, 3

date of assent 1 June 1992

ss 1–2 commenced on date of assent

remaining provisions 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

commenced 26 March 1994 (see s 2(5))

Traffic Amendment Act 1994 No. 7 pts 1–3, s 3 sch (as amd 1994 No. 15 s 3 sch 1 (as from 10 May 1994); 1994 No. 87 s 3 sch 2 (as from 1 December 1994))

date of assent 7 March 1994

ss 1–2 commenced on date of assent

s 6(6) commenced 15 August 1987 (see s 2(1))

s 6(10) commenced 26 March 1994 (see s 2(2))

s 12 (1)–(16), (8)–(12) commenced on date of assent (see s 2(3))

pt 3 never proclaimed into force and om 1995 No. 9 s 93 sch 2

remaining provisions commenced 1 July 1994 (1994 SL No. 231)

Offence Notices Legislation Amendment Act 1994 No. 10 pts 1, 4

date of assent 7 March 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1994 (1994 SL No. 430)

Transport Operations (Passenger Transport) Act 1994 No. 43 s 143 sch 3

date of assent 14 September 1994

commenced 7 November 1994 (1994 SL No. 378)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 s 3 sch 1

date of assent 1 December 1994

commenced on date of assent

Transport Operations (Road Use Management) Act 1995 No. 9 s 92 sch 1

date of assent 5 April 1995

commenced on date of assent (see s 2(1))

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Transport Legislation Amendment Act 1996 No. 62 pts 1–2

date of assent 9 December 1996

ss 1–2 commenced on date of assent

s 13 commenced 7 February 1997 (1997 SL No. 23)

remaining provisions commenced 1 May 1997 (1997 SL No. 23)

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9
ss 1–2(1), pt 22**

date of assent 15 May 1997

commenced on date of assent

7 List of annotations

Note—section 32 of Act No. 102 of 1984 substitutes ‘licence’ and ‘licences’ for ‘license’ and ‘licenses’ respectively wherever these words appear as nouns.

Short title

s 1 amd R3 (see RA s 37)

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 10 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
om R1 (see RA s 40)

Local laws etc.**prov hdg** sub 1994 No. 7 s 4(1)**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; 1994
No. 7 s 4(2)–(8)**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
om 1994 No. 7 s 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
om 1994 No. 7 s 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**Definitions****prov hdg** sub 1994 No. 7 s 6(1)**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
sub 1994 No. 7 s 6(2)–(3)
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 **“city”** om 1994 No. 7 s 6(2)
- def **“coin”** ins 1956 5 Eliz 2 No. 26 s 5(ii)
 - sub 1990 No. 103 s 2.4(e); 1994 No. 7 s 6(2)–(3)
- def **“commercial vehicle”** ins 1968 No. 36 s 2(a)
 - amd 1994 No. 7 s 6(4)–(5)
- 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); 1994 No. 7 s 6(2)–(3)
- 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 **“corresponding document”** ins 1994 No. 7 s 6(3)
- def **“corresponding law”** ins 1994 No. 7 s 6(3)
- def **“court”** sub 1968 No. 22 s 4(c)
- def **“declared road”** ins 1965 No. 26 s 9(d)
 - sub 1994 No. 7 s 6(2)–(3)
- 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
 - om 1994 No. 7 s 6(2)
- 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 **“disabled person”** ins 1994 No. 7 s 6(3)
- def **“disabled person parking permit”** ins 1994 No. 7 s 6(3)
- def **“district superintendent”** om 1994 No. 7 s 6(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); 1994 No. 7 s 6(6)
- 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 **“indication”** ins 1994 No. 7 s 6(3)
- def **“justices”** om 1994 No. 7 s 6(2)
- def **“learner’s permit”** ins 1994 No. 7 s 6(3)
- def **“licensed”** om 1994 No. 7 s 6(2)
- def **“licensee”** om 1994 No. 7 s 6(2)

- 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; 1994 No. 7 s 6(7)
- 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)
 - sub 1994 No. 7 s 6(2)–(3)
- 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 **“Metropolitan Traffic District”** om 1994 No. 7 s 6(2)
- 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); 1994 No. 7 s 6(2)–(3)
- def **“motorcycle”** 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); 1994 No. 7 s 6(2)–(3)
- 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 **“MUTCD”** ins 1994 No. 7 s 6(3)
- def **“officer in charge of a police station”** sub 1994 No. 7 s 6(2)–(3)
- def **“official traffic sign”** sub 1961 10 Eliz 2 No. 27 s 4(i)
 - amd 1965 No. 26 s 9(k); 1994 No. 7 s 6(8)
- def **“off-street regulated parking area”** ins 1971 No. 33 s 4(d)
 - amd 1994 No. 7 s 6(9)
- def **“Omnibus”** om 1990 No. 103 s 2.4(n)
- def **“open licence”** ins 1994 No. 7 s 6(3)
- def **“owner”** sub 1994 No. 7 s 6(2)–(3)
 - om 1994 No. 7 s 37(1)(never proclaimed into force and om 1995 No. 9 s 93 sch 2)
- 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); 1968 No. 36 s 2(c); 1994 No. 7
 s 6(2)–(3) (as amd 1994 No. 15 s 3 sch 1)
- 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 district”** om 1994 No. 7 s 6(2)
- def **“Police Service”** om 1994 No. 7 s 6(2)
- def **“police station”** ins 1968 No. 22 s 4(e)
- def **“prime mover”** ins 1990 No. 103 s 2.4(p)
 sub 1994 No. 7 s 6(2)–(3)
- 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)
 sub 1994 No. 7 s 6(2)–(3)
- def **“Prescribed”** om 1961 10 Eliz 2 No. 27 s 4(m)
- def **“railway”** amd 1990 No. 103 s 2.4(q)
 sub 1994 No. 7 s 6(2)–(3)
- def **“regulated parking”** ins 1965 No. 26 s 9(n)
 amd 1971 No. 33 s 4(f)
 sub 1994 No. 7 s 6(2)–(3)
 om 1994 No. 7 s 37(2) (never proclaimed into force and om 1995 No. 9
 s 93 sch 2)
- def **“Regulations”** om 1961 10 Eliz 2 No. 27 s 4(n)
- def **“road”** amd 1993 No. 70 s 804 sch; 1994 No. 7 s 6(10)–(11); 1995
 No. 9 s 92 sch 1
- def **“roadside vending”** ins 1994 No. 7 s 6(3)
- 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 **“superintendent”** sub 1994 No. 7 s 6(2)–(3)
- 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 **“traffic history”** ins 1994 No. 7 s 6(3)
- def **“tramway”** amd 1990 No. 103 s 2.4(u)
om 1994 No. 7 s 6(2)
- 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

Authorised officers

- 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
sub 1994 No. 7 s 7

Superintendents

- 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
sub 1994 No. 7 s 7

Conditions of appointment

- s 12** sub 1994 No. 7 s 7

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

Chief executive may install or remove 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
sub 1994 No. 7 s 8

Local government may install or remove official traffic signs

- s 12BA** ins 1994 No. 7 s 8

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
amd 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

Installation of official traffic signs by prescribed persons

- s 12DA** ins 1990 No. 103 s 2.5
amd 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

Contravention of official traffic sign an offence

- s 12F** ins 1959 8 Eliz 2 No. 55 s 9
 sub 1965 No. 26 s 11; 1994 No. 7 s 9
 amd 1994 No. 87 s 3 sch 1

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; 1994 No. 7 s 3 sch

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
 amd 1994 No. 7 s 3 sch

Application of pt 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; 1994 No. 7 s 10

Release of driver licence and traffic history

- s 14A** ins 1965 No. 26 s 13
 amd 1982 No. 15 s 5
 sub 1994 No. 7 s 11

Transfer of Traffic Engineering Trust Fund

- s 14B** ins 1994 No. 7 s 11
 om R2 (see RA s 37)

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; 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch; 1994 No. 43 s 143 sch 3

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); 1974 No. 18 s 9 (so far as it enacts section 16A(10), (12), (13), (14) and (17) never proclaimed into force and om 1994 No. 10 s 10);
 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
 amd 1994 No. 7 s 12; 1994 No. 87 s 3 sch 1

Notices to offenders for certain first offences

- prov hdg** amd 1974 No. 18 s 10(a); 1994 No. 7 s 38(1)(never proclaimed into force and om 1995 No. 9 s 93 sch 2)
- 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 s 16B ins 1991 No. 80 s 3
 amd 1994 No. 7 s 38(2)–(3)(never proclaimed into force and om 1995 No. 9 s 93 sch 2); 1994 No. 87 s 3 sch 1

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; 1994 No. 7 s 3 sch; 1994 No. 87 s 3 sch 1

Careless driving of motor vehicles

- s 17** amd 1974 No. 18 s 11; 1994 No. 7 s 3 sch

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

- s 18** amd 1965 No. 26 s 16; 1990 No. 103 s 2.26; 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

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; 1994 No. 87 s 3 sch 1

Variation of conditions

s 20B ins 1990 No. 19 s 4

Chief executive to be advised of persons disqualified from holding drivers' licences etc.

prov hdg amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 3 sch

s 23 amd 1961 10 Eliz 2 No. 27 s 13; 1990 No. 73 s 3 sch 5; 1994 No. 7 s 3 sch

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); 1994 No. 7 s 3 sch; 1994 No. 43 s 143 sch 3

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; 1994 No. 7 s 3 sch

Police reports concerning drivers

s 32 om 1961 10 Eliz 2 No. 27 s 15

Police officers may make inquiries etc. into certain road incidents

s 33 amd 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

General powers, functions, and duties of police

- s 35** amd 1953 2 Eliz 2 No. 11 s 4; 1971 No. 33 s 10

Obstruction etc. of police officers

- s 36** amd 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

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;
 1994 No. 7 s 3 sch

Driver to stop and supply name etc. when required

- s 40** om 1961 10 Eliz 2 No. 27 s 19

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

- s 41** amd 1994 No. 7 s 3 sch

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

Removal of things from roads

- prov hdg** sub 1994 No. 7 s 13(1)
s 44 amd 1961 10 Eliz 2 No. 27 s 21; 1965 No. 26 s 21; 1994 No. 7 s 13(2)–(5)

PART 6A—REGULATED PARKING

- pt hdg** ins 1956 5 Eliz 2 No. 26 s 8
 sub 1965 No. 26 s 22

Local governments may regulate parking

- 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
 sub 1994 No. 7 s 14

Parking regulation involves installing official traffic signs

- 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
 sub 1994 No. 7 s 14

Examples of how parking may be regulated

- s 44BA** ins 1994 No. 7 s 14
 amd 1995 No. 9 s 92 sch 1

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
 amd 1994 No. 7 s 15

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
 amd 1994 No. 7 s 16; 1994 No. 7 s 39 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)

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; 1994 No. 7 s 17
 om 1994 No. 7 s 40 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)

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; 1994 No. 7 s 18 (as amd 1994 No. 15 s 3 sch 1)
 om 1994 No. 7 s 40 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)

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; 1994 No. 7 s 3 sch
 om 1994 No. 7 s 40 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)

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
 om 1994 No. 7 s 40 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)

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; 1994 No. 7 s 3 sch
 om 1994 No. 7 s 41 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)

Agreement with local government on costs of administration

- s 44J** ins 1956 5 Eliz 2 No. 26 s 11
 amd 1960 9 Eliz 2 No. 44 s 8; amd 1994 No. 7 s 3 sch

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
 om 1994 No. 7 s 3 sch

Emergent control of parking in traffic area

- s 44M** ins 1965 No. 26 s 33(b)
 sub 1992 No. 19 s 8
 amd 1994 No. 87 s 3 sch 1

Disabled person parking permits

- s 44N** ins 1982 No. 15 s 11
 amd 1984 No. 102 s 20
 sub 1990 No. 103 s 2.15; 1994 No. 7 s 19

PART 6B—DETECTION DEVICES

- pt hdg** ins 1990 No. 19 s 5
 sub 1994 No. 7 s 20

Division 1—Radar speed detection devices

- div hdg** ins 1994 No. 7 s 20

Use of radar speed detection devices

- s 44O** ins 1990 No. 19 s 5
 sub 1994 No. 7 s 21
 amd 1994 No. 87 s 3 sch 1

Division 2—Photographic detection devices

- div hdg** ins 1994 No. 7 s 22

Interpretation

- s 44P** ins 1990 No. 19 s 5
 amd 1994 No. 7 s 23; 1994 No. 7 s 42 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)
 def “**camera-detected offence**” sub 1996 No. 62 s 4(1)
 def “**corresponding transport law**” ins 1996 No. 62 s 4(2)
 def “**owner**” ins 1996 No. 62 s 4(2)
 def “**prescribed offence**” sub 1996 No. 62 s 4(1)
 def “**responsible operator**” ins 1996 No. 62 s 4(2)
 def “**transport Act**” ins 1996 No. 62 s 4(2)
 sub 1997 No. 9 s 82

Photographic detection devices—transitional

- s 44PA** ins 1994 No. 7 s 24
 exp 1 July 1994 (see s 44PA(2))

Offences detected by photographic detection device

- s 44Q** ins 1990 No. 19 s 5
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 25
 om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)
 sub 1996 No. 62 s 5

Limitation of prosecution period extended in particular circumstances

- prov hdg** amd 1994 No. 7 s 26(1)
s 44R ins 1990 No. 19 s 6
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 26(2)–(3)
 om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)
 sub 1996 No. 62 s 6

Notice accompanying summons

- s 44S** ins 1990 No. 19 s 6
 amd 1990 No. 73 s 3 sch 5
 sub 1994 No. 7 s 27
 om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)
 amd 1996 No. 62 s 7

Use of penalties collected for camera detected offences

- s 44T** ins 1990 No. 19 s 6
 amd 1990 No. 73 s 3 sch 5; 1994 No. 7 s 28
 om 1994 No. 7 s 43 (never proclaimed into force and om 1995 No. 9 s 93 sch 2)
 sub 1996 No. 62 s 8

Photographic evidence—inspection and challenges

- s 44U** ins 1990 No. 19 s 7
 amd 1990 No. 73 s 3 sch 5
 sub 1994 No. 7 s 29
 amd 1996 No. 62 s 9

Notice of dispute about traffic control device or sign

- s 44V** ins 1992 No. 23 s 6
 amd 1994 No. 10 s 10
 sub 1994 No. 7 s 44 (as sub 1994 No. 87 s 3 sch 2)(never proclaimed into force and om 1995 No. 9 s 93 sch 2); 1996 No. 62 s 10

Evidentiary provisions

- s 44W** ins 1994 No. 7 s 30
 amd 1996 No. 62 s 11

Application of the Justices Act, pt 4A

- s 44X** ins 1996 No. 62 s 12

Summary proceedings

- prov hdg** sub 1994 No. 7 s 3 sch
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; 1994 No. 7 s 3 sch

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); 1994 No. 7 s 31
 om 1994 No. 7 s 45 (never proclaimed into force and om 1995 No. 9 s 93 sch 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; 1994 No. 7 s 3 sch

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; 1994 No. 7 s 32 (as amd 1994 No. 15 s 3 sch 1); 1996 No. 62 s 13

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 (never proclaimed into force and om 1994 No. 7 s 46); 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

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
om 1994 No. 7 s 33

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; 1994 No. 7 s 3 sch

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
amd 1994 No. 87 s 3 sch 1

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) (as amd 1984 No. 102 s 36) (never proclaimed into force and om 1994 No. 7 s 46); 1990 No. 103 ss 2.21, 2.26; 1994 No. 7 s 3 sch

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) (never proclaimed into force and om 1994 No. 7 s 46); 1977 No. 35 s 2; 1982 No. 15 s 14; 1990 No. 103 s 2.22; 1994 No. 7 s 3 sch; 1994 No. 87 s 3 sch 1

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

Occupiers of garages etc. to keep register of repairs

s 58 amd 1994 No. 7 s 3 sch

Alteration and defacing of numbers etc.

s 59 amd 1994 No. 7 s 3 sch

Unlawful interference with vehicles and mechanism thereof etc.

s 60 amd 1974 No. 18 s 24; 1994 No. 7 s 3 sch

Injurious matter on roads

s 61 amd 1953 2 Eliz 2 No. 11 s 11; 1994 No. 7 s 3 sch

Court may order penalty be paid to aggrieved person

s 62 amd 1961 10 Eliz 2 No. 27 s 34
sub 1990 No. 103 s 2.24; 1994 No. 7 s 3 sch

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; 1994 No. 7 s 3 sch

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) (never proclaimed into force and om 1994 No. 7 s 46)

Service if address unknown etc.

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
sub 1994 No. 7 s 3 sch

Instruments 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
sub 1994 No. 7 s 3 sch

Protection from liability

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
sub 1994 No. 7 s 34

Act does not apply to police officer in course of duty

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
sub 1994 No. 7 s 34

Rules of court

s 69 amd 1994 No. 7 s 3 sch
om 1995 No. 57 s 4 sch 1

Regulations

s 70 amd 1984 No. 102 s 29; 1994 No. 7 s 3 sch

Regulation offence penalty

- s 71** amd 1962 No. 23 s 5
 sub 1984 No. 102 s 30
 prev s 71 om 1994 No. 7 s 3 sch
 new s 71 ins 1995 No. 9 s 92 sch 1
 exp 5 April 1994 (see s 71(3))
 AIA s 20A applies (see s 71(4))
 om R3 (see RA s 37)

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; 1992 No. 68 s 3 sch 1; 1994 No. 7 s 35

Prescribing licences

- s 3** amd 1994 No. 43 s 143 sch 3

Lost property

- s 19** amd 1994 No. 43 s 143 sch 3