

ROAD TRAFFIC (No. 2).

No. 82 of 1982.

AN ACT to amend the Road Traffic Act 1974-1982 and the Road Traffic Act Amendment Act 1978 and for related purposes.

[Assented to 11 November 1982.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Road Traffic Amendment Act (No. 2) 1982*. Short title.

2. (1) Subject to subsections (2) and (3) of this section this Act shall come into operation on the day on which it is assented to by the Governor. Commence-
ment.

(2) The provisions of sections 5, 7, 9, 11, 12, 13, 14 (b), 15 (d), 16, 20 (a), 20 (b), 20 (c), 20 (e), 21 (1), 25 and 26 of this Act shall come into operation on the twenty-eighth day after the day on which this Act is assented to by the Governor.

(3) The provisions of sections 14 (a), 15 (e), 15 (g), 15 (j), 15 (l), 15 (n), 17, 18 (a) (ii), 18 (b), 18 (d), 18 (e) and 19 of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

PART II—AMENDMENTS TO ROAD TRAFFIC
ACT 1974-1982.

Citation.
Reprinted as
approved 22
July 1980
and
amended by
Acts Nos. 42,
48 and 81 of
1980, 39, 71
and 105 of
1981 and 10
and 25 of
1982 and by
G.G. 28/5/82
pp. 1728-34.

3. (1) In this Part the Road Traffic Act 1974-1982 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Road Traffic Act 1974-1982.

Section 3
repealed.

4. Section 3 of the principal Act is repealed.

Section 16
amended.

5. Section 16 of the principal Act is amended in paragraph (b) of subsection (2) by inserting after "kilograms" the following—

“ or a semi-trailer or a converter dolly trailer within the descriptions respectively given thereto in the First Schedule ” .

Section 48
amended.

6. Section 48 of the principal Act is amended in paragraph (e) of subsection (1) by deleting "(not being offences for which demerit points have been recorded pursuant to section 103)".

7. Section 51 of the principal Act is amended— Section 51 amended.

(a) in subsection (1) by inserting after “62” in subparagraph (iii) of paragraph (a) the following—

“ , 64A ” ; and

(b) in subsection (5) by inserting after “section” in paragraph (a) the following—

“ or an offence against section 49 (1) (a) ” .

8. Section 54 of the principal Act is amended in subsection (6) by inserting after “road” the following— Section 54 amended.

“ or in any place commonly used by the public or to which the public is permitted to have access ” .

9. Section 59 of the principal Act is amended in subsection (3) by inserting after “months” the following— Section 59 amended.

“ ,

and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver’s licence for a period of not less than 2 years ” .

10. Section 59A of the principal Act is amended in subsection (4)— Section 59A amended.

(a) by deleting “On the summary trial of a” and substituting the following—

“ A ” ; and

(b) by deleting “the person”.

Section 63
amended.

11. Section 63 of the principal Act is amended—

(a) by repealing subsection (2) and substituting the following subsection—

“ (2) A person convicted of an offence against this section is liable—

(a) for a first offence, to a fine of not less than \$400 or more than \$1 000; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;

(b) for a second offence, to a fine of not less than \$800 or more than \$1 500 or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years; and

(c) for a third or subsequent offence, to a fine of not less than \$1 000 or more than \$2 000 or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence. ” ;

(b) in subsection (3)—

(i) by inserting after “Act” the following—

“ or section 67 of this Act as in force after the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 ” ; and

(ii) by deleting “, fourth”; and

(c) in subsection (6) by inserting after “64” the following—

“ or, where at the time of the alleged offence he was the holder of a driver’s licence issued on probation, an offence against section 64A ” .

12. Section 64 of the principal Act is amended— Section 64 amended.

(a) by repealing subsection (2) and substituting the following subsection—

“ (2) A person convicted of an offence against this section is liable—

(a) for a first offence, to a fine of not less than \$200 or more than \$600; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver’s licence for a period of not less than 3 months; and

(b) for any subsequent offence, to a fine of not less than \$400 or more than \$1 000; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver’s licence for a period of not less than 6 months. ” ; and

(b) by inserting after subsection (3) the following subsection—

“ (4) Where a person charged with an offence against this section was at the time of the alleged offence the holder of a driver’s licence issued on probation he may, instead of being convicted of that offence, be convicted of an offence against section 64A. ” .

Section 64A
inserted.

13. After section 64 of the principal Act the following section is inserted—

Probationary
driver
driving with
prescribed
percentage
of alcohol
in the blood.

“ 64A. A person who, being the holder of a driver’s licence issued on probation, drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.02 per centum commits an offence.

Penalty: \$100. ” .

Section 65
amended.

14. Section 65 of the principal Act is amended—

(a) by inserting before the definition “medical practitioner” the following definition—

‘ “drugs analyst” means a person certified by the Director of the Government Chemical Laboratories as being competent to ascertain whether and to what extent drugs are present in bodily substances; ’ ;

and

(b) in the definition “preliminary test” by inserting after “percentage” at the end of the definition the following—

“ or an indication of whether or not alcohol is present in the blood of a person ” .

15. Section 66 of the principal Act is amended—

Section 66
amended.

(a) in subsection (1) by deleting paragraph (c) and substituting the following paragraph—

“ (c) a person, while driving or attempting to drive a motor vehicle had alcohol, or alcohol or drugs, in his body, ” ;

(b) in subsection (1) by inserting after “Force”, at the end of the subsection, the following—

“ , and for the purposes of this subsection may require that person to wait at the place at which the firstmentioned requirement was made ” ;

(c) by inserting after subsection (1) the following subsection—

“ (1a) Where a member of the Police Force—

(a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the member of the Police Force may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to provide a sample of his breath for a preliminary test in accordance with the directions of the member of the Police Force, and for the purposes of this subsection may require that

person to wait at the place at which the firstmentioned requirement was made. ” ;

- (d) by inserting before paragraph (b) of subsection (2) the following—

“ (aa) it appears to a member of the Police Force that a person who has provided a sample of his breath for a preliminary test is the holder of a driver’s licence issued on probation and that the preliminary test indicates that there is alcohol present in the blood of that person; or ” ;

- (e) in paragraph (c) of subsection (2) by deleting “, by reason of his being under the influence of alcohol”;

- (f) in subsection (2) by deleting the comma after paragraph (c) and substituting the following—

“ ; or

- (d) where a member of the Police Force—

(i) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(ii) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe that a person may have been the driver or person in

charge of the motor vehicle at that time and that, if he was, he has committed an offence against section 63, by reason of his being under the influence of alcohol, ” ;

- (g) in paragraph (d) of subsection (2), as inserted by paragraph (f) of this section, by deleting ”, by reason of his being under the influence of alcohol”;
- (h) in subsection (4) by deleting paragraph (b) and substituting the following—
 - “ (b) the sample of breath could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; ” ;
- (i) in paragraph (b) of subsection (5) by inserting after “(1)” the following—
 - “ or (1a) ” ;
- (j) in subsection (5)—
 - (i) by deleting “, but in no other circumstances,”; and
 - (ii) by deleting the portion of the subsection following “analysis”, in the third place where it occurs, and continuing to the end of the subsection;
- (k) in subsection (6) by deleting “the person is believed to have driven, used or managed a motor vehicle in circumstances giving rise to the requirement” and substituting the following—
 - “ driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place ” ;

(l) in subsection (7) by inserting before “provisions” the following—
“ preceding ” ;

(m) in subsection (9) by inserting after “analysis”, where it occurs at the end of the subsection, the following—

“ , and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place”; and

(n) by inserting after subsection (10) the following subsections—

“ (11) Where a person provides a sample of his breath for analysis pursuant to a requirement made under paragraph (c) or (d) of subsection (2) of this section and the analysis result obtained pursuant to section 68 indicates—

(a) that there is no alcohol present in the blood of the person; or

(b) that the percentage of alcohol present in the blood of the person is such that it does not reasonably explain the conduct, condition or appearance of the person by reason of which the requirement was made,

a member of the Police Force may require the person—

(c) to allow a medical practitioner nominated by the person to take a sample of his blood for analysis; or

(d) to provide a medical practitioner nominated by the person with a sample of his urine for analysis,

or to do both of those things, and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

(12) A person shall not be required—

- (a) to allow a medical practitioner to take a sample of his blood;
- or
- (b) to provide a medical practitioner with a sample of his urine,

under subsection (11) of this section, and a medical practitioner shall not be caused to take a sample of the blood of a person under that subsection, if it appears to the member of the Police Force that the sample cannot be taken or given, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

(13) Where pursuant to subsection (11) of this section—

- (a) a member of the Police Force requires a person—
 - (i) to allow a medical practitioner nominated by the person to take a sample of his blood for analysis; or
 - (ii) to provide a medical practitioner nominated by the person with a sample of his urine for analysis,

or to do both of those things,
and the person fails to
nominate a medical practi-
tioner; or

(b) a person nominates a medical practitioner to take a sample of his blood or to collect a sample of his urine, or for both of those purposes, but a member of the Police Force has reasonable grounds to believe that the medical practitioner so nominated—

(i) is not available within a distance of 40 kilo- metres;

(ii) is not available within the time prescribed by subsection (12) of this section;

(iii) refuses to take the blood sample or collect the urine sample or to do either of those things;

or

(iv) cannot readily be located,

the member of the Police Force may require the person—

(c) to allow a medical practitioner nominated by the member of the Police Force to take a sample of his blood for analysis; or

- (d) to provide a medical practitioner nominated by the member of the Police Force with a sample of his urine for analysis,

or to do both of those things, as the case may require, and for the purposes of this subsection the member of the Police Force may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

(14) A person who is required or is permitted under this section to allow a medical practitioner to take a sample of his blood for analysis may, subject to subsections (9) and (13) of this section, nominate a medical practitioner of his own choice to take that sample.

(15) A person who is required under this section to provide a sample of his urine to a medical practitioner for analysis may, subject to subsection (13) of this section, provide that sample to a medical practitioner of his own choice.

(16) Where under this section a member of the Police Force causes a medical practitioner to take a sample of a person's blood for analysis or requires a person to provide a medical practitioner nominated by the member of the Police Force with a sample of his blood for analysis, the medical practitioner is hereby authorized to take that sample.

(17) No action shall lie against a medical practitioner by reason only of his taking a sample of a person's blood for analysis pursuant to this section. " .

Section 67
repealed
and
sections 67
and 67A
substituted.
Failure to
comply with
requirement
as to
provision
of breath,
blood or
urine
sample for
analysis.

16. Section 67 of the principal Act is repealed and the following sections are substituted—

“ 67. (1) In this section “requirement” means a requirement of a member of the Police Force made pursuant to section 66.

(2) A person who fails to comply with a requirement—

- (a) to provide a sample of his breath for analysis;
- (b) to allow a medical practitioner to take a sample of his blood for analysis; or
- (c) to provide a medical practitioner with a sample of his urine for analysis,

commits an offence.

(3) A person convicted of an offence against this section is liable—

- (a) for a first offence, to a fine of not less than \$400 or more than \$1 000; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver’s licence for a period of not less than 6 months;
- (b) for a second offence, to a fine of not less than \$800 or more than \$1 500 or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver’s licence for a period of not less than 2 years;
- (c) for any subsequent offence, to a fine of not less than \$1 000 or more than \$2 000 or to imprisonment for 18 months; and, in any event, the court convicting that person shall order

that he be permanently disqualified from holding or obtaining a driver's licence.

(4) For the purposes of subsection (3) of this section, where a person is convicted of an offence against this section any offence previously committed by him against section 32 of the repealed Act or section 63 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that firstmentioned offence is a first, second, third or subsequent offence but any offence committed by him against this section as in force before the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 shall not be taken into account for that purpose.

(5) It shall be a defence to a prosecution for an offence against this section if the defendant satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.

(6) Without limiting the generality of subsection (5) of this section it shall be a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2) (c) of this section if the defendant satisfies the court that he attempted to comply with the requirement.

67A. (1) Subject to subsection (2) of this section, a person who fails to comply with any requirement of a member of the Police Force made pursuant to section 66, other than a requirement mentioned in section 67 (2), commits an offence.

Failure to
comply with
other
requirements
made by
a member
of the Police
Force.

(2) This section does not apply to a medical practitioner by reason of his failing to co-operate in the taking of a sample of a person's blood for analysis or in the collection of a sample of a person's urine for analysis.

(3) A person convicted of an offence against this section is liable—

(a) for a first offence, to a fine of not less than \$100 or more than \$300; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;

(b) for any subsequent offence, to a fine of not less than \$200 or more than \$500; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.

(4) For the purposes of subsection (3) of this section, where a person is convicted of an offence against this section any offence previously committed by him against section 32 or 32AA of the repealed Act, or section 32B (9) of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2) 1968 or section 63, 64 or 67 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.

(5) It shall be a defence to a prosecution for an offence against this section if the defendant satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.

(6) Where a person is prosecuted for an offence against this section of failing to comply with a requirement to provide a sample of his breath for a preliminary test it shall be a defence to the prosecution if the defendant satisfies the court that he complied, in accordance with section 66, with a requirement mentioned in section 67 (2) (a) or 67 (2) (b) that arose out of—

(a) his failure to comply with the first-mentioned requirement; or

(b) the circumstances that gave rise to the firstmentioned requirement. ” .

17. After section 69 of the principal Act the following section is inserted—

Section 69A
inserted.

“ 69A. Where pursuant to section 66 a person provides a medical practitioner with a sample of his urine for analysis the sample shall be collected in prescribed equipment and shall be divided into two parts, each of which shall be deemed to be a sample of the person's urine for the purposes of this Act, and one of which shall be given to or retained for the person by whom it was provided, or shall be given to some other person on behalf of the firstmentioned person, and the other of which shall be given to a member of the Police Force. ” .

Urine
samples.

Section 70
amended.

18. Section 70 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraphs (a) and (d) by inserting after “driving” the following—

“ , attempted driving ” ; and

(ii) in paragraph (e) by inserting after “blood” the following—

“ for alcohol ” ;

(b) in paragraph (ba) of subsection (2)—

(i) by deleting “and” at the end of subparagraph (v); and

(ii) by inserting after subparagraph (vi) the following—

“ and

(vii) certifying that he was at the material time an authorized person; ” ;

(c) in paragraph (e) of subsection (2) by inserting after “either” the following—

“ or ” ;

(d) by inserting after subsection (3) the following subsections—

“ (3a) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of drugs at any material time is relevant, evidence may be given of—

(a) the taking of a sample of blood from the person by a medical practitioner, if taken within 4 hours after the driving, attempted driving, use

or management of a motor vehicle that gave rise to the alleged offence;

- (b) the provision of a sample of urine by the person for analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
- (c) the analysis of a sample of blood or urine for drugs by a drugs analyst and the result obtained from the analysis.

(3b) In any proceedings such as is mentioned in subsection (3a) of this section, a certificate in the prescribed form—

- (a) purporting to be signed by the Director of the Government Chemical Laboratories certifying that a person named therein is, or was at the material time, a drugs analyst;
- (b) purporting to be signed by a technologist of the Public Health Department, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date;
- (c) purporting to be signed by a technologist of the Public Health Department, certifying that identified sampling equipment comprises the prescribed items, that those

items have been prepared by him and are sterile and fit for the purpose of the collection of a sample of a person's urine for analysis if used not later than a specified date;

- (d) purporting to be signed by a medical practitioner, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
- (e) purporting to be signed by a medical practitioner, certifying that an identified sample of urine was provided by a named person on a date and at a time therein specified and was collected using identified sampling equipment which was received in a described condition from an identified person,

is *prima facie* evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such Director, or was such a technologist, or was a medical practitioner. ” ; and

- (e) in subsection (5) by inserting after “breath” in both places where it occurs the following—

“ or urine ” .

19. Section 72 of the principal Act is amended— Section 72 amended.

(a) in subsection (1)—

(i) by deleting paragraph (a) and substituting the following paragraphs—

“ (a) prescribing the manner of providing samples of breath and taking samples of blood, and regulating the manner of dealing with samples of breath, blood and urine;

(aa) prescribing equipment for use in the taking of samples of blood and the collection of samples of urine;

(ab) prescribing the manner and methods by which samples of blood may be analysed for alcohol; ” ; and

(ii) in paragraph (d) by inserting after “blood” the following—

“ or collecting a sample of his urine ” ; and

(b) in subsection (3) by inserting after paragraph (a) the following paragraph—

“ (aa) certify a person as being competent to ascertain whether and to what extent drugs are present in bodily substances; ” .

20. Section 75 of the principal Act is amended— Section 75 amended.

(a) by inserting after subsection (1) the following subsection—

“ (1a) Where an offence to which subsection (1) of this section applies (in this subsection referred to as “the present offence”) is a prescribed offence the court shall, in addition to causing

the particulars required by that subsection to be sent, cause the Board to be informed as to whether or not the offender has previously been convicted of a prescribed offence and, if he has and the present offence is against section 64, as to the date of his most recent previous conviction for a prescribed offence. ” ;

- (b) in subsection (2), by deleting “Where a person who is the holder of a driver’s licence (not being such a licence issued on probation) is disqualified from holding or obtaining such a licence by order of a court or by operation of the provisions of this Act, the licence” and substituting the following—

“ Where a person is disqualified from holding or obtaining a driver’s licence—

- (a) by order of a court other than upon being convicted of a prescribed offence;
- (b) by order of a court upon being convicted of a prescribed offence, other than an offence against section 64, and the person has not previously been convicted of a prescribed offence;
- (c) by order of a court upon being convicted of an offence against section 64 (in this paragraph referred to as “the present offence”) and that person has not been convicted of a prescribed offence within the period of 5 years preceding his conviction for the present offence; or

- (d) by operation of this Act,

any driver’s licence held by that person ” ;

- (c) by inserting after subsection (2) the following subsections—

“ (2a) Where a person is disqualified from holding or obtaining a driver’s licence upon being convicted of a prescribed offence, other than an offence against section 64, and that person has previously been convicted of a prescribed offence any driver’s licence held by that person shall by force of this section be cancelled.

(2b) Where a person is disqualified from holding or obtaining a driver’s licence upon being convicted of an offence against section 64 (in this subsection referred to as “the present offence”) and that person has been convicted of a prescribed offence within the period of 5 years preceding his conviction for the present offence any driver’s licence held by that person shall by force of this section be cancelled.

(2c) A reference in subsection (2), (2a) or (2b) of this section to a driver’s licence held by a person—

(a) does not include reference to a driver’s licence issued on probation;

(b) includes reference to a driver’s licence previously held by the person of which the operation is suspended. ” ;

- (d) in subsection (3) by inserting before “obtained” the following—

“ or a permit under section 50 ” ; and

- (e) by inserting after subsection (4) the following subsections—

“ (5) The Board shall not issue a driver’s licence to a person mentioned

in subsection (2a) or (2b) of this section until that person has again complied with the requirements of section 42 (2).

(6) In this section “prescribed offence” means an offence against—

- (a) section 32 or 32AA of the repealed Act or section 63 or 64 of this Act;
- (b) section 67 of this Act as enacted after the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982; or
- (c) section 32B (9) of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2) 1968 or section 67 of this Act as in force before the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 being, in either case, an offence of failing to comply with a requirement to provide a sample of breath for analysis or to allow a sample of blood to be taken for analysis. ” .

Section 76
amended.

21. (1) Section 76 of the principal Act is amended—

- (a) by repealing subsection (1a) and substituting the following subsection—

“ (1a) No application under subsection (1) of this section shall be made to, or heard by, any court—

- (a) within 4 months after the applicant has been disqualified under paragraph (b) or (c) of section 63 (2) or paragraph (b) or (c) of section 67 (3);

- (b) within 3 months after the applicant has been disqualified pursuant to section 63 (2) (a) or section 67 (3) (a) where the applicant has previously been convicted of an offence against section 32AA of the repealed Act, or section 32B (9) of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2) 1968 or section 64 or 67A of this Act or section 67 of this Act as in force before the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982;
- (c) within 3 months after the applicant has been disqualified pursuant to section 64 (2) (b) on conviction of an offence that is a third or subsequent offence for the purposes of section 64 (2);
- (d) within 3 months after the applicant has been disqualified pursuant to section 67A (3) (b) on conviction of an offence that is a third or subsequent offence for the purposes of section 67A (3);
- (e) within 2 months after the applicant has been disqualified pursuant to section 64 (2) (b) on conviction of an offence that is a second offence for the purposes of section 64 (2);
- (f) within 2 months after the applicant has been disqualified pursuant to section 64 (2) (a) where the applicant has

previously been convicted of an offence against section 67A;

- (g) within 2 months after the applicant has been disqualified pursuant to section 67A (3) (b) on conviction of an offence that is a second offence for the purposes of section 67A (3); or
- (h) within 21 days after the applicant has been disqualified in any case not referred to in paragraph (a), (b), (c), (d), (e), (f) or (g) of this subsection; ” ;

and

- (b) by repealing subsection (12) and substituting the following subsection—

“ (12) A reference in this section to a special application is a reference to an application made under subsection (1) of this section—

- (a) within 2 months after the applicant has been disqualified pursuant to section 63 (2) (a) or 67 (3) (a); or
- (b) within one month after the applicant has been disqualified pursuant to section 64 (2) (a) or 67A (3) (a). ” .

(2) Subsections (1a) and (12) of section 76 of the principal Act as in force before the date of the coming into operation of subsection (1) of this section shall apply to and in relation to an application made by a person under section 76 of the principal Act during a period of disqualification imposed on him, before, on or after that date, by a court convicting him of an offence against section 67 of the principal Act as in force before that date.

22. Section 79 of the principal Act is amended— Section 79 amended.

(a) in subsection (1) by deleting “Where” and substituting the following—

“ Subject to subsection (4) of this section, where ” ;

and

(b) by inserting after subsection (3) the following subsection—

“ (4) A person referred to in subsection (1) of this section who, being the holder of a licence, equivalent of a licence, or permit that is endorsed with or otherwise subject to conditions that can lawfully be complied with in this State, fails to comply with those conditions, or any of them, commits an offence and is liable, for a first offence, to a fine of \$100 and, for any subsequent offence, to a fine of \$200 or imprisonment for 3 months. ” .

23. Section 80 of the principal Act is amended— Section 80 amended.

(a) in subsection (1) by deleting “Where” and substituting the following—

“ Subject to subsection (4) of this section, where ” ; and

(b) by inserting after subsection (3) the following subsection—

“ (4) A person referred to in subsection (1) of this section who, being the holder of a licence or permit that is endorsed with or otherwise subject to conditions that can lawfully be complied with in this State, fails to comply with those conditions, or any of them, commits an offence and is liable, for a first offence, to a fine of \$100 and,

for any subsequent offence, to a fine of \$200 or imprisonment for 3 months. ” .

Section 98A
amended.

24. Section 98A of the principal Act is amended—

- (a) in subsection (1) by inserting before the definition of “speed measuring equipment” the following definition—

‘ “distance measuring equipment” means apparatus of a type approved by the Minister pursuant to subsection (2a) of this section; ’ ;

- (b) by inserting after subsection (2) the following subsection—

“ (2a) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of types of apparatus for ascertaining distances on roads and may, by notice so published, revoke any such approval. ” ;

- (c) by inserting after subsection (3) the following subsection—

“ (3a) In any proceeding for an offence against this or any other Act or the regulations evidence may be given of the use of distance measuring equipment by a member of the Police Force on a road, of the distance between two identified points on the road as ascertained by the use of that equipment and of the ascertainment of the speed at which a vehicle was moving by the measurement of the time taken by that vehicle to travel that distance, and that evidence is *prima facie* evidence of the speed at which that vehicle was moving when it travelled that distance. ” and

(d) by inserting after subsection (4) the following subsection—

“ (4a) In any proceeding such as is mentioned in subsection (3a) of this section, evidence by a member of the Police Force that apparatus used by him was distance measuring equipment within the meaning of this section is *prima facie* evidence of that fact. ” .

25. Section 104 of the principal Act is amended in paragraph (b) of subsection (2) by deleting “and 64” and substituting the following—

Section 104 amended.

“ , 64, 67 or 67A ” .

26. Section 106 of the principal Act is amended—

Section 106 amended.

(a) by deleting “Where” and substituting the following—

“ (1) Subject to subsections (2) and (3) of this section, where ”; and

(b) by inserting the following subsections—

“ (2) Notwithstanding subsection (1) of this section, where a person is before a court for sentencing after being convicted of a second offence against section 63 or 67 the court, instead of imposing a fine on him or sentencing him to a term of imprisonment, may, subject to and in accordance with Part IIA of the Offenders Probation and Parole Act 1963, make an order under section 20B of that Act in respect of the offence.

(3) Notwithstanding subsection (1) of this section or section 4 or 20B of the Offenders Probation and Parole Act 1963, where a person is before a court for sentencing after being convicted of a first offence against section 63 or 67

or an offence against section 64 or 67A the court, instead of imposing a fine on him, may, subject to and in accordance with Part IIA of that Act, make an order under section 20B of that Act in respect of the offence.

(4) Without limiting the generality of subsection (9) of section 20B of the Offenders Probation and Parole Act 1963, where a court makes an order under that section in respect of an offence mentioned in subsection (2) or (3) of this section the court shall also disqualify the offender from holding or obtaining a driver's licence for a period not less than the minimum period provided in relation to the offence. ” .

Section 107
amended.

27. Section 107 of the principal Act is amended—

(a) in subsection (2) by deleting “two hundred dollars” and substituting the following—

“ \$400 ” ; and

(b) in subsection (4) by inserting after “24” the following—

“ , 49 (1) (a), 53 ” .

Section 111
amended.

28. Section 111 of the principal Act is amended in paragraph (k) of subsection (2)—

(a) by deleting “two hundred dollars” and substituting the following—

“ \$400 ” ; and

(b) by deleting “four hundred dollars” and substituting the following—

“ \$800 ” .

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Road Traffic (No. 2).

[No. 82.

PART III—AMENDMENTS TO ROAD TRAFFIC ACT
AMENDMENT ACT 1978.

29. In this Part the Road Traffic Act Amendment Act 1978 is referred to as the principal Act. Citation.

30. Section 16 of the principal Act is amended by deleting paragraphs (a), (b) and (c). Section 16 amended.

31. Section 23 of the principal Act is repealed. Section 23 repealed.
