

ROAD TRAFFIC ACT, 1974-1979.

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ROAD TRAFFIC.

No. 59 of 1974.¹

[As amended by Acts:

No. 77 of 1975,² assented to 14th November, 1975;
No. 93 of 1975,³ assented to 20th November, 1975;
No. 17 of 1976,⁴ assented to 3rd June, 1976;
No. 48 of 1976,⁵ assented to 10th September, 1976;
No. 135 of 1976, assented to 9th December, 1976;
No. 4 of 1977, assented to 29th August, 1977;
No. 89 of 1978,⁶ assented to 8th November, 1978;
No. 9 of 1979,⁷ assented to 18th May, 1979;
No. 10 of 1979, assented to 18th May, 1979;
No. 71 of 1979,⁸ assented to 27th November, 1979,

and by G.G. 6/6/80, pp. 1671-2,
and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating
to road traffic; to repeal the Traffic Act, 1919-
1947 and for incidental and other purposes.

[Assented to 3rd December, 1974.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Road Traffic Act, 1974-1979*.

Short title.
Amended by
No. 71 of
1979, s. 1.

2. (1) Subject to subsection (2) of this section the provisions of this Act shall come into operation on such date or such dates as is or are, respectively, fixed by proclamation.¹

Commence-
ment.

(2) Section 4 shall come into operation on the day on which this Act receives the Royal Assent.

¹ Section 4 operates from assent sections 6, 7, 8, 9, 10 and 12 came into operation on 21st February, 1975; see *Gazette* 21/2/75, p. 633; The balance came into operation on 1st June, 1975; see *Gazette* 29/5/75, p. 1442.
² Came into operation on 1st July, 1976; see *Gazette* 12/12/75, p. 4481.
³ Came into operation on 20th February, 1976; see *Gazette* 20/2/76, p. 445.
⁴ Came into operation on 21st August, 1976; see *Gazette* 6/8/76, p. 2658.
⁵ Sections 1, 2, 4(g) and 5 operate from assent. Balance proclaimed 1st June, 1977; see *Gazette* 20/5/77, p. 1490.
⁶ Came into operation on 25th May, 1979, other than paragraphs (a), (b) and (c) of sec. 16 and sections 18 and 23; see *Gazette* 25/5/79, p. 1377. Sec. 18 operative from 1st January, 1980; see *Gazette* 7/12/79, p. 3770. Sections 16(a), (b), (c) and 23 not proclaimed at date of this reprint.
⁷ Came into operation on 1st July, 1979; see section 2 of Act 9 of 1979.
⁸ Sections 1, 2, 3, 6, 7, 12, 15, 16 and 17 operative from assent. Section 4 came into operation on 15th February, 1980; see *Gazette* 15/2/80, p. 456. Section 5 came into operation on 2nd May, 1980; see *Gazette* 2/5/80, p. 1405. Sections 8, 9, 10, 11, 13, 14 and 18 came into operation on 1st February, 1980; see *Gazette* 1/2/80, p. 284.

Arrange-
ment.

3. This Act is divided into Parts, as follows—

PART I.—PRELIMINARY—ss. 1-5.

PART II.—ADMINISTRATION—ss. 6-14.

PART III.—LICENSING OF VEHICLES—ss. 15-29.

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PART VI.—MISCELLANEOUS—ss. 82-103.

PART VII.—OFFENCES AND PENALTIES—ss. 104-107.

PART VIII.—TRANSITIONAL PROVISIONS—
ss. 108-110.

PART IX.—REGULATIONS—ss. 111-112.

Repeal.

4. The provisions of the Traffic Act, 1919-1974 shall be repealed on such date or such dates as is or are, respectively, fixed by proclamation.¹

Interpreta-
tion.

Amended by
No. 77 of
1975, s. 3;
No. 89 of
1978, s. 3;
No. 71 of
1979, s. 3.

5. (1) In this Act, unless the contrary intention appears—

“agricultural implement” means an implement or machine designed and used for ploughing, cultivation, spreading fertilizer, sowing seed, spraying, harvesting, chaff cutting, or any other agricultural operation, whether the implement or machine is hauled or towed by animal or mechanical power;

“Authority” means the Road Traffic Authority established under section 6;

“district” means the district of a municipality, and, for the purposes of Part VIII of this Act, the term includes a county district or a regional district constituted under the Local Government Act, 1960, for the local government purpose of controlling traffic;

“driver” means any person driving, or in control of, a vehicle or animal;

“driver’s licence” means a licence issued under this Act authorizing a person to drive a motor vehicle of the class or classes therein specified, on a road;

¹ Repealed 1st June, 1975; See G.G. 29th May, 1975, p. 1442 and G.G. 20th June, 1975, p. 1955.

“Government road” means a road declared by Order in Council under the Public Works Act, 1902, to be a Government road or a highway or main road to which subsection (4) of section 13 of the Main Roads Act, 1930, applies;

“licence” means a licence granted under this Act;

“local authority”, in relation to a district, means the council of the district and, for the purposes of Part VIII of this Act, includes the county council of a county district and the regional council of a regional district constituted under the Local Government Act, 1960, for the local government purpose of controlling traffic;

“member” means member of the Authority;

“mechanical power” includes any motive power not being animal power;

“moped” means a motor cycle with a propelling engine having a piston displacement not exceeding 50 millilitres which is also capable of being propelled as a pedal cycle and which is designed so as to be capable of a speed not exceeding 60 kilometres per hour;

“motor vehicle” means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle;

“municipality” has the same meaning as that expression has in, and for the purposes of, the Local Government Act, 1960;

“omnibus” means a passenger vehicle equipped to carry more than eight adult persons and used to carry passengers for separate fares;

“owner” in relation to a vehicle, includes—

- (a) a person who is the owner thereof;
- (b) a person nominated as owner pursuant to subsection (4) of this section;

Road Traffic.

(c) a person who has the use thereof under a hiring or hire-purchase agreement or under a lease or loan or other arrangement; and

(d) a person in whose name the vehicle is registered under this Act or under any corresponding law of any State or Territory of the Commonwealth, (being a law in respect of which a declaration under subsection (5) of this section is in force),

but does not include an unpaid vendor of the vehicle under a hire-purchase agreement or the lessor under a lease;

“passenger vehicle” means a motor vehicle licensed to stand or ply for the carriage of passengers for reward, and includes an omnibus;

“patrolman” means a member of the Police Force transferred for duties in the Traffic Patrol pursuant to section 13;

“permit” means permit granted under this Act;

“recording fee” means the fee payable under subsection (1) of section 19;

“regulation” means a regulation made under this Act, and includes a by-law made by a local authority under this Act;

“repealed Act” means the Act repealed by section 4;

“road” means any highway, road or street open to, or used by, the public and includes every carriageway, footway, reservation, median strip and traffic island thereon;

“Schedule” means Schedule to this Act;

“section” means section of this Act;

“stock” includes horses, mares, fillies, foals, geldings, colts, camels, bulls, bullocks, cows, heifers, steers, calves, asses, mules, sheep, lambs, goats and swine;

“taxi-car” means a motor vehicle licensed to ply for hire or reward and licensed to carry not more than seven passengers at any one time;

“this Act” includes the regulations;

“vehicle” includes—

- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means; and
- (b) where the context permits, an animal being driven or ridden;

“warden” means a warden appointed under section 13.

(2) For the purposes of this Act a vehicle which is, in any manner, drawn or propelled on a road shall be deemed to be used on a road.

(3) Without limiting the generality of subsection (3) of section 13, a reference in sections 53, 54, 55, 56, 57, 58, 66, 67, 69 and 89 to a patrolman shall be read as including a police officer or member of the Police Force.

(4) Where a vehicle is owned by more than one person as owner or otherwise, only one of those persons, to be nominated by all such persons, by notice in writing given to the Authority shall for the purposes of this Act be deemed to be the owner of the vehicle.

(5) The Minister may by notice published in the *Government Gazette* declare a law of a State or Territory to be a corresponding law for the purposes of paragraph (d) of the interpretation “owner” in subsection (1) of this section and may by subsequent notice so published vary or cancel any such declaration.

PART II.—ADMINISTRATION.

6. (1) For the purposes of this Act there shall be established a body by the name of the Road Traffic Authority.

Establish-
ment of
Authority.

(2) The Authority—

- (a) shall be a body corporate with perpetual succession and shall have a common seal;

- (b) may sue and be sued in its corporate name;
- (c) in its corporate name may acquire, hold and dispose of real and personal property; and
- (d) may exercise and discharge the powers, authority, duties and functions conferred or imposed upon it by or under this or any other Act.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority and shall presume that it was duly affixed.

- (4) The Authority shall be, when established—
 - (a) an instrumentality of the Crown and may, for the purposes of this Act, exercise all the powers, privileges, rights and remedies of the Crown; and
 - (b) a department under and for the purposes of the Public Service Act, 1978.

Constitution of the Authority.
Amended by No. 93 of 1975, s. 3.

7. (1) Subject to this section, the Authority shall consist of seven members, namely—

- (a) the person appointed under and subject to the Public Service Act, 1978, to be the permanent head of the Department established by paragraph (b) of subsection (4) of section 6, or, where that office is vacant, the person for the time being discharging the duties of that office;
- (b) the Commissioner of Main Roads or such officer of the Main Roads Department as the Commissioner, with the approval of the Minister and the Minister administering the Main Roads Act, 1930, from time to time by writing addressed to the Chairman, nominates to be a member of the Authority in place of the Commissioner of Main Roads;
- (c) the Commissioner of Police or such officer of the Police Force as the Commissioner, with the approval of the Minister and the Minister administering the Police Act, 1892,

from time to time by writing addressed to the Chairman, nominates to be a member of the Authority in place of the Commissioner of Police;

- (d) the Director General of Transport or such other person as the Director General of Transport, with the approval of the Minister and the Minister administering the State Transport Co-ordination Act, 1966, from time to time by writing addressed to the Chairman, nominates to be a member of the Authority in place of the Director General of Transport;
- (e) a person appointed by the Governor on the nomination of the Minister from a panel of names submitted by the body known as the Local Government Association of Western Australia in accordance with subsection (3) of this section;
- (f) a person appointed by the Governor on the nomination of the Minister from a panel of names submitted by the body known as the Country Shire Councils' Association of W.A. in accordance with subsection (3) of this section;
- (g) a person appointed by the Governor on the nomination of the Minister from a panel of names submitted by the body known as the Country Town Councils' Association in accordance with subsection (3) of this section.

(2) Prior to the first occasion on which an appointment is to be made to an office of member referred to in paragraph (e), (f) or (g) of subsection (1) of this section, and on each occasion thereafter when such an office becomes vacant by the effluxion of time, the Minister shall, in writing, request the body referred to in the appropriate paragraph to submit to him, in writing, a panel containing the names of not fewer than three persons willing to act as members of the Board.

(3) Where a body has been requested, pursuant to subsection (2) of this section, to submit a panel

of not fewer than three names to the Minister, the Minister—

- (a) shall, if such a panel is submitted to him within twenty-one days of the body receiving the request, nominate one of the persons whose names appear on the panel for appointment to the office of member; and
 - (b) may, if default is made within that time in submitting such a panel to him, nominate for appointment to the office of member such person as he thinks fit, and any person so nominated may be appointed as if he had been nominated in accordance with paragraph (a) of this subsection.
- (4) The Governor may appoint any member to be Chairman of the Authority for such term, not exceeding three years, as is specified in the instrument of appointment.
- (5) The appointment of a member as Chairman shall determine—
- (a) at the expiration of the term for which his appointment was made; or
 - (b) when he ceases to be a member,
- whichever first happens, but—
- (c) a person whose appointment as Chairman determines pursuant to paragraph (a) of this subsection is eligible for re-appointment as Chairman; and
 - (d) a member shall not be regarded for the purposes of paragraph (b) of this subsection as having ceased to be a member where his term of office of member expires by effluxion of time but he is re-appointed a member with effect from the expiration of his previous term.
- (6) The Governor may appoint any member to be Deputy Chairman of the Authority for such term, not exceeding three years, as is specified in the instrument of appointment, and the provisions of subsection (5) of this section shall apply, *mutatis mutandis*, to the appointment of a member as Deputy Chairman.

8. (1) Subject to the succeeding provisions of this section a person appointed to be a member pursuant to paragraph (e), (f) or (g) of subsection (1) of section 7 shall hold office for such period, not exceeding three years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

*Terms of
office, etc.*

(2) If a member appointed pursuant to paragraph (e), (f) or (g) of subsection (1) of section 7—

- (a) is an undischarged bankrupt or person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (b) becomes permanently incapable of performing his duties as a member;
- (c) resigns his office by writing under his hand addressed to the Governor;
- (d) absents himself, except on leave duly granted by the Minister, from three consecutive meetings of the Authority,

the office of that member becomes vacant.

(3) Where the office of a member referred to in paragraph (e), (f) or (g) of subsection (1) of section 7 has become vacant otherwise than by effluxion of time, the Governor may appoint a person to the vacant office for the unexpired part of the term of the office which so became vacant.

(4) The Governor may appoint a person to be a deputy of a member and may terminate such an appointment at any time.

(5) A person so appointed is, in the event of the absence from a meeting of the Authority of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, has all the powers, functions and duties of the member for whom he is the deputy.

(6) A member appointed pursuant to paragraph (e), (f) or (g) of subsection (1) of section 7 shall be paid such fees and allowances as are determined from time to time by the Governor.

Meetings of
the Author-
ity.
Amended by
No. 93 of
1975, s. 4.

9. (1) The Authority shall hold meetings at such times and places as are necessary to enable it to discharge its functions and duties under this Act and the Minister may at any time require the Chairman to convene a meeting of the Authority.

(2) The Chairman shall preside at all meetings of the Authority at which he is present, and the Deputy Chairman shall preside at all meetings at which he, but not the Chairman, is present, but where neither the Chairman nor the Deputy Chairman is present at a meeting of the Authority, the members present shall appoint one of their number present to act as chairman at the meeting.

(3) At a meeting of the Authority, four members constitute a quorum.

(4) Any question arising at a meeting of the Authority shall be decided by a majority of the votes of the members present and voting.

(5) At a meeting of the Authority at which the Chairman or the Deputy Chairman presides, the Chairman or the Deputy Chairman has a deliberative vote, and in the event of an equality of votes being cast on any question, that question shall remain unresolved until a subsequent meeting of the Authority.

(6) The Authority shall cause accurate minutes to be kept of its proceedings at its meetings.

Validity of
acts of
Authority.

10. No act, proceeding or determination of the Authority shall be invalid on the ground only of any vacancy in the office of any member of the Authority or of any defect in the appointment of any member of the Authority or in the appointment of any deputy of a member of the Authority.

Functions
of the
Authority.

11. (1) Subject to subsection (2) of this section the Authority is charged with the administration of this Act.

(2) The Authority shall give effect to any direction, not inconsistent with this or any other Act, that may, from time to time, be given to it by the Minister.

(3) Without limiting the generality of subsection (1) of this section, the functions of the Authority include—

- (a) the exercise and performance of all powers, duties and responsibilities vested in or imposed on it by this or any other Act;
- (b) the collection and analysis of road traffic statistics;
- (c) the undertaking of research into the causes, and prevention of road accidents and injuries arising therefrom;
- (d) the publication of information for the instruction of, or use by, road users on road safety and traffic laws, and the supplying of technical information and advice relating to road traffic problems to other authorities concerned with road traffic;
- (e) the attaining of the continuous co-operation and support of the community in achieving higher standards of road safety and more efficient traffic movement;
- (f) the investigation of, and reporting to the Minister upon, proposals for alterations to traffic laws; and
- (g) the investigation of, and reporting upon, any other matter relating to road traffic or road traffic safety.

(4) In discharging its functions under this Act, the Authority—

- (a) shall ensure that it maintains a comprehensive knowledge of—
 - (i) significant changes in traffic administration occurring elsewhere, and the benefits and results derived therefrom; and
 - (ii) significant research projects conducted elsewhere into road accidents and injuries resulting therefrom, and into any other subject related to road traffic, vehicle use, or vehicle design;

- (b) where any other body or authority, whether established within the State or elsewhere, is engaged in the performance of any function identical with or related to any of the functions of the Authority, shall, so far as practicable, act so as to eliminate duplication and to achieve the most efficient use of the resources, both of the Authority and that other body or authority; and
- (c) shall co-operate with local authorities with a view to making the best use of resources and facilities previously provided by local authorities for traffic purposes, and in particular those so provided for the purposes of the licensing of vehicles and the collection of fees therefor.

Staff of the
Authority,
etc.

12. (1) There shall be appointed under and subject to the Public Service Act, 1978, such officers and temporary employees as may be necessary to perform administrative, professional, technical and like services for the Authority, other than the services to be performed by the Traffic Patrol and wardens.

(2) The Governor may, on the request of the Authority, engage under contract for services such professional, technical, or other assistants as may be necessary to enable the Authority to carry out effectively its functions under this Act, and may enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or instrumentality of the Commonwealth or any State;
- (b) a university or other tertiary institution;
or
- (c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

(3) The Authority may, with the approval of the Minister—

- (a) delegate to any officer of the Authority or to any public authority or officer or employee thereof specified in the instrument of delegation, all or any of its powers and functions under this Act; and
- (b) vary or revoke any delegation.

(4) A power or function delegated by the Authority may be exercised or performed by the delegate—

- (a) in accordance with the instrument of delegation; and
- (b) if the exercise of the power or the performance of the function in relation to a matter is dependent upon the opinion, belief, or state of mind of the Authority—upon the opinion, belief, or state of mind of the delegate in relation to that matter.

(5) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Authority.

13. (1) There shall be a body known as the Traffic Patrol to assist the Authority in the administration and enforcement of this Act and the provisions of any other Act which the Authority is required to administer, and the Authority is charged with the general deployment and control of the Traffic Patrol.

Traffic
Patrol and
Wardens.

(2) The Commissioner of Police shall arrange with the Authority for members of the Police Force to be transferred for duties in the Traffic Patrol under the provisions of this section.

(3) It is hereby declared that a reference in any other Act or law of the State to a police officer or member of the Police Force shall be construed as including any patrolman, and it is hereby further declared that—

- (a) any law of the State (including the Police Act, 1892 and the rules, orders and regulations in force thereunder) or industrial

agreement or award relating to the seniority, promotion, transfer, salary, allowances, leave or other condition of service or the discipline of police officers or members of the Police Force applies to and in relation to a patrolman, and that for the purposes of any such law, agreement or award, service as a patrolman is service as a police officer or member of the Police Force; and

- (b) a member of the Police Force who is not a patrolman may exercise any power or function conferred by or under this or any other Act or law on a patrolman.

Wardens.

(4) For the purposes of this Act wardens may be appointed to perform duties—

- (a) relating to the controlling of vehicles and pedestrians at children's crossings and pedestrian crossings;
- (b) relating to the parking and standing of vehicles;
- (c) of such other nature as the Minister may from time to time approve,

and any warden so appointed—

- (d) shall have such of the powers conferred by this Act on a patrolman as may be prescribed; and
- (e) shall be issued with a certificate of appointment in the prescribed form which he shall carry with him whenever he is performing the duties of a warden, and shall, on reasonable demand, produce for inspection by any person.

(5) Subject to subsection (6) of this section, wardens appointed for the purposes of this section shall be so appointed under and subject to the Public Service Act, 1978.

(6) Where a warden is to be employed in a part-time or casual capacity, his appointment may be effected by the Authority with the prior approval of the Minister.

(7) Subject to any relevant award or industrial agreement, the terms and conditions of employment of a warden appointed under subsection (6) of this section shall be such as are determined by the Authority with the approval of the Public Service Board.

14. (1) The Authority shall, as soon as practicable after the first day of July in each year, submit to the Minister a report on the activities of the Authority for the year ending on the thirtieth day of June last preceding. Annual report.

(2) The Minister shall cause the report to be laid on the Table of each House of Parliament within fourteen days of its receipt, or if at that time Parliament is not in session, then within fourteen days of the commencement of the next session of Parliament.

PART III.—LICENSING OF VEHICLES.

15. (1) A vehicle licence is required for every vehicle described in the First Schedule. Vehicle licences.

(2) A vehicle licence is not required for—

- (a) an agricultural implement being towed on a road by another vehicle; or
- (b) an unlicensed vehicle of any type being towed on a road by a tow truck, as described in the First Schedule,

if the towing vehicle or tow truck, as the case requires, is the subject of a vehicle licence or permit.

(3) Where a vehicle for which the owner is not the holder of a vehicle licence under this Act is used on any road, the owner of the vehicle and any person so using the vehicle or causing or permitting such use commits an offence against this Act, but—

- (a) the provisions of this subsection do not apply to the use of a vehicle within the period of fifteen days immediately succeeding the day of expiry of a vehicle licence for the vehicle;

- (b) it is a defence to a complaint for an offence against this subsection against any person other than the owner of the vehicle if the defendant proves that he had no knowledge that the owner was not the holder of the required vehicle licence; and
- (c) a person shall not be convicted of an offence against this subsection if he has already been convicted, or charged and acquitted of an offence against paragraph (a) of subsection (3) of section 4 of the Motor Vehicle (Third Party Insurance) Act, 1943, and both those offences or alleged offences were committed simultaneously.

(4) A person who is convicted of an offence against this section shall be liable to a penalty not exceeding two hundred dollars, and in addition, the court shall order the defendant to pay a further penalty equal to the fees payable under this Act for the issue of a vehicle licence for the vehicle concerned for a period of six months, except where the licence for the vehicle has, prior to the conviction being recorded, been renewed under subsection (5) of section 18.

(5) Any person who has committed an offence against this section for which he has not been prosecuted shall be liable to pay to the Authority the fees which he might have been ordered to pay on conviction of such offence, and such fees shall be recoverable in any court of competent jurisdiction.

(6) For the purposes of the provisions of this section a vehicle licence or equivalent document issued in any other State or Territory of the Commonwealth for a vehicle of which the owner is not ordinarily resident within the State of Western Australia shall, during the currency of the licence, be deemed to be a vehicle licence under this Act in respect of the vehicle when used on any road within the State of Western Australia.

Commercial
vehicles to
be licensed
in the State.

16. (1) Where a commercial vehicle of which the owner is not the holder of a valid vehicle licence granted under this Act, is used on a road (except

in the prescribed circumstances or otherwise with the prior approval of the Authority,) the owner of the vehicle and every person so using the vehicle or causing or permitting its use, commits an offence.

Minimum penalty: An amount equal to the fees that would be payable for the issue of a vehicle licence under this Act for the vehicle, for a period of six months, irreducible in mitigation notwithstanding the provisions of any other Act.

(2) For the purposes of subsection (1) of this section—

- (a) a vehicle licence issued by another State or Territory of the Commonwealth shall not be regarded as a licence granted under this Act notwithstanding the provisions of subsection (6) of section 15; and
- (b) “commercial vehicle” means a motor wagon, tractor (prime mover type) or a trailer, within the descriptions respectively given thereto in the First Schedule of which the aggregate weight exceeds two thousand five hundred and forty kilograms.

(3) The provisions of subsection (1) of this section do not apply to the use of a vehicle on a road if the vehicle is being so used in the course of trade, commerce or intercourse among States.

(4) Without affecting the liability of any person for or in respect of an offence against subsection (1) of this section, it is hereby declared that a person who commits an offence against subsection (1) of this section shall not, by reason thereof, be regarded for the purposes of any contract or policy of insurance, irrespective of where or by whom the contract or policy was executed or issued, as having owned, used, or caused or permitted the use of, a vehicle of which the owner was not the holder of the requisite vehicle licence under this Act.

17. (1) In this section—

“control area” means a part of the State which is for the time being a control area under and for the purposes of the Taxi-cars (Co-ordination and Control) Act, 1963;

Special provisions concerning taxi-cars.

“operate”, as applied to a taxi-car, means—

- (a) to drive; or
- (b) to permit, cause or employ another person to drive,

that taxi-car;

“taxi-car” means a vehicle, not being an omnibus, which—

- (a) is equipped to carry not more than seven passengers; and
- (b) is used for the purpose of standing or plying for hire, or otherwise for the carrying of passengers for reward.

(2) The provisions of this section—

- (a) do not apply to a control area;
- (b) do not apply to the carrying of passengers—
 - (i) from a control area to a place not in a control area; or
 - (ii) from a place not in a control area to a place in a control area on the return journey by a direct route to the place from which passengers were brought into a place not in a control area.

(3) A person shall not operate a taxi-car within a district unless—

- (a) the vehicle licence for the taxi-car is expressed to be a taxi-car vehicle licence; and
- (b) the operation of that taxi-car within the district is authorised under this section.

(4) The Authority shall not issue a taxi-car vehicle licence without having first obtained the approval of the local authority or local authorities in whose district or districts the vehicle is to be operated as a taxi-car.

(5) The Authority shall, when issuing a taxi-car licence, endorse thereon the district or districts within which the taxi-car may be operated.

(6) Notwithstanding the provisions of this section a taxi-car may be operated outside a district for the time being endorsed on the taxi-car vehicle licence—

- (a) for the purpose of carrying a passenger or passengers from a place within any district so endorsed to a place outside that district;
or
- (b) for the purpose of carrying a passenger or passengers upon a journey which begins and ends within any district so endorsed, although part of the journey is made outside such district.

(7) Where a local authority advises the Authority that the reasonable requirements of the public justify the operation in any portion of its district or area of a taxi-car to serve those requirements the Authority may, subject to such conditions as it imposes restricting the operations of the taxi-car to such portion of the district or area as it specifies in those conditions, grant a taxi-car vehicle licence to an applicant on payment of the appropriate fees subject to such other provisions of this Act as are applicable to the granting of licences.

(8) A taxi-car vehicle licence granted under subsection (7) of this section shall, notwithstanding the foregoing provisions of this section, authorize the operation of the taxi-car only within such portion of the district or area as is specified in the conditions, but shall be deemed effective and operative in any place outside that portion when the taxi-car is engaged to carry a passenger or passengers from that portion of the district or area to a place outside that portion, or is engaged to carry a passenger or passengers upon a journey which begins and ends within that portion, although part of that journey is made outside that portion.

(9) The Authority shall not transfer a taxi-car vehicle licence from one person to another unless the transfer has been first approved by the local authority for each district endorsed on the taxi-car vehicle licence.

(10) Where a person to whom a taxi-car vehicle licence has been granted ceases to be the owner of the taxi-car he shall—

- (a) forthwith notify the Authority in writing that he has ceased to be the owner of the taxi-car and of the name and address of the new owner of the taxi-car; and
- (b) unless the Authority has approved the transfer of the taxi-car vehicle licence to the new owner, return the taxi-car vehicle licence and the appropriate number plates to the Authority.

(11) Where a person becomes the owner of a vehicle for which a taxi-car vehicle licence is in force, he shall forthwith, unless a transfer of that licence has already been granted to him, apply to the Authority for the transfer of that licence to him and pay the prescribed fee, and where the transfer is refused he shall thereupon return to the Authority the taxi-car vehicle licence and the prescribed number plates for the taxi-car if they are in his possession.

Issue and
renewal of
vehicle
licences.

18. (1) Any application for a licence for a vehicle or for the renewal of such a licence shall be made to the Authority by or on behalf of the owner of the vehicle and, at the time of making the application, the recording fee and appropriate licence fee shall be paid by the applicant to the Authority.

(2) Subject to the succeeding provisions of this section, where an application is duly made for a licence for—

- (a) a vehicle not previously licensed under this Act; or
- (b) a vehicle for which the licence last granted or renewed under this Act expired more than fifteen days prior to the date of the application,

the Authority shall grant a licence for the vehicle to the applicant for a period of six months or twelve months, at the option of the applicant, which period shall in either case commence on the day on which the licence is granted.

(3) Where—

- (a) an application is made for the grant of a licence under subsection (2) of this section for a vehicle referred to in paragraph (b) of that subsection;
- (b) the owner by whom or on whose behalf the application is made was also the owner of the vehicle when the licence last granted or renewed for that vehicle expired; and
- (c) the licence last granted or renewed for that vehicle expired less than six months prior to the date on which the application is made, and the number plate or number plates issued for the vehicle were not returned to the Authority forthwith after the expiration of the period of fifteen days immediately succeeding the date of expiration of the licence,

the Authority may refuse to grant a licence under that subsection but may in lieu thereof permit the applicant to make an application for the renewal of that licence under subsection (5) of this section.

(4) Subject to the succeeding provisions of this section, where an application for the renewal of a licence for a vehicle is made—

- (a) within the period of thirty days immediately preceding the day on which the licence expires; or
- (b) within the period of fifteen days immediately succeeding the day on which the licence expired,

the Authority shall renew the licence for a period of six months or twelve months, at the option of the applicant, and the renewal shall be deemed to be a continuation of the licence and to have effect on and from the day next succeeding the day on which the licence expires or expired.

(5) Subject to the succeeding provisions of this section, where an application for the renewal of a licence for a vehicle is made after the expiration of the period of fifteen days immediately succeeding

the day on which the licence expired, the Authority—

- (a) shall renew the licence if it has pursuant to subsection (3) of this section, refused to grant a new licence for the vehicle; or
- (b) in any other case, may renew the licence, for a period which terminates either six months or twelve months after the date of expiration of the licence which has already expired, at the option of the applicant, and where the renewal of a licence is effected under this subsection—
 - (c) the renewal shall take effect on and from the day on which it is effected; and
 - (d) the licence fee and recording fee payable shall be the prescribed fee payable for a period of six months or twelve months as the case may be.

(6) Where pursuant to the provisions of this section the Authority may grant or renew a vehicle licence for a period of twelve months or six months, the Authority may, in any case where the owner so applies and the Authority considers the circumstances of the case so warrant—

- (a) where the vehicle is a tractor, other than a tractor (prime mover type), a trailer or a caravan, grant or renew the licence for a period of one month or two months; or
- (b) irrespective of the type of vehicle, grant or renew the licence for a period of three months.

(7) The fee payable for the grant or renewal of a vehicle licence for a period of less than twelve months shall be the total of—

- (a) one-twelfth of the prescribed fee specified in Part III of the Second Schedule to this Act for each complete month for which the licence is granted or renewed; and
 - (b) one-thirtysixth of the prescribed fee specified in Part III of the Second Schedule to this Act for each additional period of ten days or part thereof, for which the licence is granted or renewed,
- together with the recording fee.

(8) Where an application is made by the owner of three or more vehicles licensed under this Act, for a common annual licensing date the Authority may re-issue the licences for all or any of the vehicles to expire on a common date selected by the Authority.

(9) Where a licence is re-issued pursuant to subsection (8) of this section the licence fee shall be adjusted and the owner is—

- (i) liable to pay to the Authority the balance sum, if any, due to make up the proportion of the fee due in respect of the licence, after adjustment, for the period ending on the common expiry date of the licences; and
- (ii) entitled to a refund of the amount, if any, paid in excess thereof prior to the adjustment,

calculated in each case, in the method specified in subsection (7) of this section.

(10) Where the licences for vehicles owned by a person have been so issued as to expire on a common date, the Authority may thereafter grant or renew a licence for any other vehicle owned by that person for a period expiring on that common date.

(11) Where a vehicle licence has expired, and an application for its renewal has not been received by the Authority within fifteen days after the date of its expiry, the person who was the owner of the vehicle at the time of the expiration of the licence shall return to the Authority the number plate or number plates of the vehicle in respect of which the licence has expired, and in default thereof the person is liable to pay to the Authority a fee which shall be equivalent to the fees payable in respect of a licence for the vehicle for a period of six months or such lesser sum as the Authority may demand, unless that vehicle licence is renewed under subsection (5) of this section.

(12) Any fee payable by a person pursuant to subsection (11) of this section may be recovered as a penalty by way of complaint in a court of summary jurisdiction.

(13) Nothing in this section authorizes or permits the Authority to grant or renew a vehicle licence contrary to any provision of the Motor Vehicle (Third Party Insurance) Act, 1943 or any other provision of this Act or the regulations.

Fees for
vehicle
licences.
Amended by
No. 93 of
1975, s. 5;
No. 135 of
1976, s. 2;
No. 89 of
1978, s. 4;
No. 10 of
1979, s. 3;
No. 9 of
1979, s. 6.

19. (1) Notwithstanding any other provision of this Act, the recording fee specified in Part I of the Second Schedule shall be paid to the Authority for the grant or renewal of any licence for a vehicle (other than under Part IV of this Act), irrespective of whether the whole or any part of a licence fee is also payable for the grant or renewal of the licence.

(2) The transfer fee specified in Part II of the Second Schedule shall be paid to the Authority for effecting the transfer of any licence for a vehicle.

(3) Subject to the exemptions and concessions provided in this section, the appropriate fee specified in Part III of the Second Schedule (hereinafter referred to as a "licence fee") shall be paid to the Authority for granting or renewing any licence for a vehicle.

(4) Where, in the opinion of the Authority, exceptional circumstances require it, and the Authority has obtained the approval of the Minister to do so, it may grant a vehicle licence subject to such conditions as it attaches to the vehicle licence, to the owner of the vehicle without requiring payment of the appropriate fee for that vehicle licence.

(5) The Authority shall issue a vehicle licence without requiring the payment of a licence fee where the vehicle—

- (a) belongs to the Crown;
- (b) belongs to a local authority;
- (c) belongs to the Western Australian Fire Brigades Board, or any other fire brigade, if the vehicle is used exclusively for purposes connected with the prevention and extinguishing of fires;
- (d) is used exclusively as an ambulance;
- (e) [*Deleted by No. 89 of 1978, s. 4.*] or

- (f) is not a tractor referred to in subsection (15) of this section and is owned by a person who carries on the business of farming or grazing and is used solely on his farm or pastoral holding and is not used on a road otherwise than in passing from one portion of the farm or holding to another portion of the farm or holding.

(6) Upon receiving a declaration made by, or on behalf of, a person ordinarily resident in the State, declaring that a vehicle therein identified will be used for the purposes of trade, commerce or intercourse among the States, and for no other purpose, the Authority shall issue a vehicle licence for that vehicle, without requiring the payment of a licence fee.

(7) Where a vehicle for which a vehicle licence issued under subsection (6) of this section is in force, is used on a road other than in the course of trade, commerce or intercourse among the States, the owner of the vehicle and every person using the vehicle or causing or permitting its use commits an offence.

Minimum penalty: An amount equal to the fees payable but for subsection (6) of this section for the issue of a vehicle licence for the vehicle, for a period of six months.

(8) Where pursuant to subsection (8), (9) or (10) of this section as in force before the 1st day of July, 1979 the Authority has allowed a reduction or made a repayment in respect of the fee paid for the issue of a licence for a vehicle and the period in respect of which that reduction was allowed or that repayment was made, as the case may be, falls wholly or partly after the 30th day of June, 1979 the Authority may, in writing, demand from the person to whom the licence was issued such amount of that reduction or repayment as bears the same proportion to the whole of that reduction or repayment as the portion of the period in respect of which the reduction or repayment was allowed or made that falls after the 30th day of June, 1979 bears to the whole of that period, and, if that amount is not

paid within thirty days after the demand is made, the Authority may recover it from that person in a court of competent jurisdiction.

(9) [*Repealed by No. 9 of 1979, s. 6.*]

(10) [*Repealed by No. 9 of 1979, s. 6.*]

(11) Where a trailer or semi-trailer, the tare weight of which exceeds two tonnes, is used or intended to be used exclusively on roads outside the South-West Land Division of the State, the Authority shall issue a vehicle licence for the trailer or semi-trailer upon payment by or on behalf of the owner of one-half of the appropriate vehicle licence fee payable according to the scale in Part III of the Second Schedule.

(12) The Authority shall, in respect of one vehicle owned by any person, charge a licence fee of ten dollars in lieu of the fee payable according to the scale in Part III of the Second Schedule where it is proved to the satisfaction of the Authority—

- (a) that the licence is required for a vehicle which is owned by a *bona fide* prospector, or a person other than a company as defined in the Companies Act, 1961, who searches for or produces metals or minerals from land in which he holds an interest and which will be used by that prospector or person during the currency of the licence, solely or mainly in connection with his occupation of prospecting;
- (b) that the licence is required for a vehicle which is owned by a *bona fide* sandalwood puller and which will be used by that person during the currency of the licence solely or mainly in connection with the occupation of sandalwooding;
- (c) that the licence is required for a vehicle which is owned by a *bona fide* kangaroo-hunter, and which is used by that person during the currency of the licence solely or mainly in connection with the occupation of kangaroo-hunting; or

(d) that the licence is required for a vehicle which is owned by a person who—

(i) is a beekeeper within the meaning of the Beekeepers Act, 1963; and

(ii) is *bona fide* engaged in the keeping of bees substantially as a means of livelihood,

and which is used by that person during the currency of the licence solely or mainly in connection with the occupation of beekeeping.

(12a) The Authority shall, in respect of any vehicle to which this subsection applies, charge a licence fee of ten dollars in lieu of the fee payable according to the scale in Part III of the Second Schedule where it is proved to the satisfaction of the Authority that the vehicle is owned by a person carrying on the business of stock transporting and will be used during the currency of the licence solely for the carriage of stock.

(12b) Subsection (12a) of this section applies to any vehicle the tare weight of which exceeds one thousand five hundred and twenty-four kilograms.

(13) Subject to subsection (14) of this section, the Authority shall charge only one-half of the fee payable according to the scale in Part III of the Second Schedule for the issue of a vehicle licence where it is proved to the satisfaction of the Authority that the licence applied for is required for a motor wagon, motor carrier, trailer, semi-trailer, or any vehicle, other than a motor car or a tractor referred to in subsection (15) of this section, used for the purpose of hauling a trailer or semi-trailer that is owned by a person carrying on the business of farming or grazing on any farm or other land and will be used during the currency of the licence solely or mainly for the carriage of the products of, or requisites for, that business.

(14) The Authority shall not extend the provisions of subsection (13) of this section to the licensing of a vehicle—

- (a) the weight of which is less than one thousand five hundred and twenty-four kilograms;
- (b) [*Deleted by No. 9 of 1979, s. 6.*]; or
- (c) that will be used in connection with the carrying on of the business of farming or grazing upon a farm or on land if there is in force a licence to the issue of which the provisions of subsection (13) of this section have been extended in respect of another vehicle used in connection with the carrying on of the business of farming or grazing upon that farm or on that land.

(14a) The Authority shall charge only one-half of the licence fee that but for this subsection would be payable in respect of—

- (a) a diesel engined vehicle not being—
 - (i) a motor wagon the tare weight of which exceeds five thousand eight hundred and sixty-five kilograms; or
 - (ii) a tractor of the prime mover type the tare weight of which exceeds three thousand and sixty kilograms; or
- (b) a semi-trailer, converter dolly trailer or trailer, other than a plant trailer, where—
 - (i) the tare weight of the vehicle does not exceed two thousand and forty kilograms; and
 - (ii) it is proved to the satisfaction of the Authority that during the currency of the licence the vehicle will be hauled solely by a diesel engined tractor of the prime mover type.

(15) The Authority shall issue a licence for a tractor or tractor plant, other than a prime mover, that is owned by a person carrying on the business of farming or grazing and that is used, or will during the currency of the licence be used, solely in connec-

tion with the owner's business of farming or grazing, on payment of a licence fee of four dollars per annum.

(16) The Minister may direct the Authority to issue a licence or licences in respect of an interchangeable semi-trailer or any of them upon payment of a reduced fee, but so that any reduction shall not exceed seventy-five per centum of the fee otherwise payable in accordance with Part III of the Second Schedule.

(17) Where a vehicle licence has been issued by the Authority, without the payment of a licence fee, or upon the payment of a reduced licence fee, subject to conditions stated in the licence or subject to the ownership or use of the vehicle, under the provisions of this section, and the conditions are not observed or the ownership is changed to that of some person who would not be entitled to a licence issued, or the vehicle is put to some use that would not occasion the licence to be issued, without payment of a licence fee or at a reduced licence fee, then, unless, or until the licence fee, or the difference between the licence fee and the reduced licence fee, has been paid in respect of that vehicle licence, every person using that vehicle on a road contravenes the provisions of section 15.

(18) Where a vehicle licence is issued pursuant to the provisions of this Act and the fees paid in respect of the licence are subsequently found to be either in excess of or less than the fees which are properly payable in respect of the licence, the Authority—

- (a) shall forthwith upon demand refund the amount of the excess to the person to whom the licence was issued;
- (b) may recover the deficiency in a court of competent jurisdiction from the person to whom the licence was issued, if that person fails to pay the deficiency to the Authority within seven days after the amount of the deficiency has been demanded in writing from him.

Licence
obtained by
means of
dishonoured
cheque
void.

20. (1) Where the fees for the issue or renewal of a vehicle licence are paid by a cheque which is not honoured by the Bank on which it is drawn, the licence is void as from the time of issue or renewal as the case may be.

(2) The person to whom a licence referred to in subsection (1) of this section is issued shall, on demand made by or on behalf of the Authority, forthwith deliver the licence and the number plates relating to that licence to the Authority.

(3) Where the person to whom the licence is issued—

- (a) fails so to deliver the licence or the number plates; or
- (b) after the demand uses or continues to use or allows any other person to use the licence or the number plates relating to that licence,

he commits an offence.

Penalty: For a first offence, a fine not exceeding forty dollars; for any subsequent offence, a fine not exceeding one hundred dollars or imprisonment not exceeding thirty days.

Refund of
licence
fees.

21. (1) The Authority may refund a fair proportion of the licence fee paid in respect of any vehicle in any circumstances which in the opinion of the Authority render it just and convenient that a refund should be made.

(2) Where a refund of any vehicle licence fee, or a proportion thereof, is made under any provision of this Act, other than subsection (10) of section 19, the Authority shall charge a fee of one dollar for such refund and deduct that fee from the amount to be refunded.

Authority
to pay fees
to Main
Roads Trust
Account.

(3) All fees charged for refunds under this section shall be paid by the Authority to the credit of the Main Roads Trust Account, maintained under the Main Roads Act, 1930.

22. (1) The Authority shall, on or before the fifteenth day of the month next following that in which it receives them, pay to the credit of the Main

Roads Trust Account, maintained under the Main Roads Act, 1930, all fees received for the issue, renewal and transfer of motor vehicle licences, other than recording fees.

(2) All recording fees paid to the Authority may be retained by the Authority.

(3) The Authority shall from time to time, as required by him, notify the Commissioner of Main Roads, appointed under the Main Roads Act, 1930, of the amount of any fees received for the transfer of vehicle licences.

(4) All fees taken pursuant to the regulations on the issue of a permit for the carrying on a vehicle of a load exceeding a prescribed load, shall be paid to the Main Roads Trust Account.

23. Except as otherwise provided, the Authority shall not refuse to grant any licence under this Part of this Act, in respect of any vehicle, to an applicant tendering the proper fee or not bound to pay any fee, unless—

Obligation to grant licences.

- (a) the vehicle does not meet the prescribed standards and requirements; or
- (b) the vehicle is unfit for the purpose for which the licence is desired.

23A. The Authority may cancel the licence in respect of any vehicle where—

Cancellation in certain circumstances.
Added by No. 89 of 1978, s. 5.

- (a) the proper fee has not been paid;
- (b) the vehicle does not meet the prescribed standards and requirements; or
- (c) the owner has failed to present the vehicle for inspection when so directed by the Authority pursuant to the provisions of this Act.

24. (1) Where a person to whom a licence in respect of a vehicle has been granted ceases to be the owner of the vehicle, he shall—

Transfer of vehicle licences.

- (a) forthwith give notice in writing to the Authority of the name and address of the new owner of the vehicle; and

(b) if the licence had, pursuant to the provisions of section 19, been obtained free of charge or on payment of a licence fee which was less than the appropriate fee for that vehicle as prescribed in Part III of the Second Schedule and unless the provisions of subsection (17) of section 19 of this Act have been complied with, forthwith return the licence and the appropriate number plates to the Authority.

(2) A person who becomes the owner of the vehicle in respect of which a licence has been granted shall, immediately on becoming the owner, apply to the Authority for the transfer of the licence to him and pay the prescribed fee.

(3) The court convicting a person of an offence under subsection (2) of this section shall, whether imposing any other penalty or not, order that person to pay the prescribed transfer fee; and that order may be enforced as though the amount of the fee were a penalty imposed under this subsection.

(4) Where a person to whom a licence in respect of a vehicle has been granted dies, the Authority shall on payment of the transfer fee, if any, by the executor or administrator of the estate of that person endorse on the licence the transfer thereof to that executor or administrator.

(5) An application for a transfer may be refused for any reason for which an application for a licence by the same person for the same vehicle might be refused, and may also be refused where the applicant has not complied with the provisions of the Stamp Act, 1921, relating to the transfer of motor vehicle licences.

Appeal.

25. (1) There shall be an appeal to a court of petty sessions, whose order shall be final, in any case where a licence, or a transfer of a licence, under this Part of this Act is refused.

(2) On the hearing of the appeal the court may order that the licence shall be granted, or may dismiss the appeal, and may order either party to the appeal to pay such costs as in its discretion the court may think fit.

26. (1) The Authority may, on payment of the prescribed fee, issue to a person a permit authorizing, subject to such conditions as the Authority may impose, the driving of an unlicensed vehicle or the towing of an unlicensed vehicle—

Permits, etc.
for
unlicensed
vehicles.
Amended by
No. 71 of
1979, s. 4.

- (a) to or from any place at which the Authority grants vehicle licences or examines vehicles in connection with the granting of vehicle licences or to or from any place at which the vehicle is to be or has been repaired; or
- (b) for such other purpose as may be prescribed or approved by the Authority.

(2) The Authority may, on payment of the prescribed fee, assign and issue to a person of a prescribed class number plates which may be used, subject to such conditions as may be prescribed, on any unlicensed motor vehicle.

(2a) Without limiting any power conferred upon him to make regulations under this Act, the Governor may make regulations prescribing—

- (a) a fee to be paid from time to time for the use and possession of number plates issued under subsection (2) of this section; and
- (b) a deposit to be paid on the issue of, and in respect of, such number plates, and the circumstances in which that deposit shall be forfeited or refunded.

(3) Where an unlicensed motor vehicle is used on a road—

- (a) under the authority of a permit issued under subsection (1) of this section and in accordance with such conditions, if any, as may have been imposed at the time of the issue of the permit; or
- (b) with number plates issued pursuant to subsection (2) of this section and in accordance with such conditions as may be prescribed relating to the use of those plates and of vehicles to which they may be attached,

the use of the vehicle shall be lawful notwithstanding any provision of section 15 to the contrary.

Register of
vehicle
licences.

27. (1) The Authority shall keep a register of vehicle licences, and enter therein particulars of every vehicle licence issued by it, and shall upon the issue or renewal of any vehicle licence issue to the applicant a registration label evidencing the issue of the licence.

(2) A registration label is valid only while the vehicle licence in respect of which it is issued is valid.

(3) Every owner of a licensed vehicle shall at all times whilst the licence for the vehicle remains valid affix and keep affixed to the vehicle the registration label issued to him under this section by such means, in such manner, and in or on such place in the vehicle as may be prescribed.

Classifica-
tion of
vehicle
licences.

28. Notwithstanding any other provision of this Part, the Governor may make regulations prescribing classes of vehicle licences and by those regulations—

- (a) designate the kind or kinds of vehicle to which any class of licence is to apply;
- (b) permit licences of any particular class to be issued for a limited period or limited periods; and
- (c) empower the Authority to impose limitations on the use of a vehicle for which a particular class of licence is issued.

Fees
may be
amended by
regulations.
Added by
No. 10 of
1979, s. 4.

28A. (1) The Governor may make regulations amending or substituting Part III of the Second Schedule and, subject to subsection (2) of this section, that Part as so amended or substituted shall have effect as if enacted in this Act.

(2) Where Part III of the Second Schedule is amended or substituted by regulations made under this section, that Part as in force immediately before the commencement day of those regulations shall continue to apply in relation to—

- (a) the grant of a vehicle licence if that licence is granted before the specified day; and
- (b) the renewal of a vehicle licence if, pursuant to subsection (4) of section 18, that renewal

has effect, or is deemed to have effect, on and from a day that precedes the specified day.

(3) In this section—

“commencement day” in relation to regulations, means the day from which, pursuant to section 36 of the Interpretation Act, 1918, those regulations take effect and have the force of law;

“specified day”, in relation to regulations, means the day prescribed therein as the specified day for the purposes of this section, being a day not less than thirty days after the commencement day of those regulations.

29. (1) The Minister may, by notice published in the *Government Gazette*, prohibit the issue, renewal or transfer of any vehicle licence, in respect of a vehicle unless and until the vehicle has been examined and a certificate of inspection has been issued pursuant to this Act that the vehicle meets the prescribed standards and requirements and that the vehicle is fit for the purpose for which the licence is desired.

Minister may require vehicles to be inspected. Repealed and re-enacted by No. 71 of 1979, s. 5.

(2) The Minister may in any notice given pursuant to subsection (1) of this section declare that the provisions of the notice apply—

- (a) in respect of vehicles generally or in respect of vehicles of a class specified in the notice;
- (b) throughout the State or in a part of the State specified in the notice.

PART IV.—OVERSEAS MOTOR VEHICLES WHEN TEMPORARILY IN AUSTRALIA.

30. (1) This Part applies to any motor vehicle which is imported for temporary use in the Commonwealth from any country outside the Commonwealth and is—

Application of this Part.

- (a) landed in this State direct from that country; or
- (b) brought to this State from any other State or a Territory of the Commonwealth.

(2) The provisions of this Part do not affect the other provisions of this Act or the provisions of the regulations made under the Act, except to the extent expressly provided.

When owner
of overseas
vehicle
entitled to
free licence.

31. Where a motor vehicle to which this Part applies and which is owned by a person who is not a permanent resident of any State or Territory of the Commonwealth is landed in this State direct from any country outside the Commonwealth, the owner of the vehicle is entitled, on application to the Authority and subject to the provisions of sections 34 and 35, to be issued with a vehicle licence for that vehicle without payment of the licence fee, for a period not exceeding twelve months calculated from the date when the vehicle was landed in this State, if it appears to the Authority that there are in force—

(a) a vehicle licence or registration effected in relation to that vehicle under the law of the country of which the owner is a permanent resident; and

(b) a contract of insurance with respect to the vehicle as provided in section 4 of the Motor Vehicle (Third Party Insurance) Act, 1943,

but the period for which the Authority issues a licence under this section shall not extend beyond the date of the expiry of the licence or registration effected under the law of that country nor beyond the date of the expiry of the contract of insurance.

Licence
issued in
another
State valid
in this
State.

32. For the purpose of this Part a licence issued or a registration effected by any licensing or registering authority of another State or Territory of the Commonwealth in respect of a vehicle to which this Part applies is, during the currency of the licence or registration and so long as a contract of insurance with respect to that vehicle as provided in subsection (4) of section 3, or in section 4, of the Motor Vehicle (Third Party Insurance) Act, 1943 is in force, to be regarded as a vehicle licence under this Act in respect of the vehicle when it is used on any road within the State.

33. Where a licence issued without payment of the licence fee under section 31, or a licence issued, or a registration effected, free of charge by any licensing or registering authority of another State or a Territory of the Commonwealth, in respect of a motor vehicle to which this Part applies, expires, the owner of the vehicle is, if the vehicle is being used in this State, on application to the Authority and subject to the provisions of sections 34 and 35, entitled to an extension or a renewal of the licence or registration by the Authority without payment of the licence fee for a period not extending beyond the period of twelve months from the date on which the vehicle was landed in the Commonwealth, if it appears to the Authority that there are in force—

When free licence may be extended free of charge.

- (a) a vehicle licence or registration effected in respect of that vehicle under the law of the country of which the owner is a permanent resident; and
- (b) a contract of insurance with respect to the vehicle as provided in subsection (4) of section 3, or in section 4, of the Motor Vehicle (Third Party Insurance) Act, 1943,

but the period for which the Authority extends or renews the licence or registration under this section is not to extend beyond the date of the expiry of the licence or registration, as the case may be, effected under the law of that country nor beyond the date of the expiry of the contract of insurance.

34. The owner of the vehicle is not entitled to be issued with a licence for the vehicle without payment of the licence fee under section 31 or to an extension or renewal of the licence or registration without payment of the licence fee under section 33, unless he produces for inspection by the Authority a document representing a valid *Triptyque* or *Carnet de passages en douane* relating to the vehicle, or such other documentary evidence as the Authority requires establishing that the owner has given to the Customs Department of the Commonwealth Government a guarantee that the vehicle is to be subsequently taken out of Australia.

Owner to furnish evidence of guarantee that vehicle will be taken out of Australia before free licence or extension of licence granted.

No licence to be granted or extended unless Act complied with regarding construction etc. of vehicles.

35. The Authority shall not grant, issue, extend or renew a licence in respect of a motor vehicle to which this Part applies, notwithstanding the provisions of section 31 or 33, unless it appears to a licensing officer of the Authority that the provisions of this Act relating to the construction, appliances, lamps and other equipment of motor vehicles have been complied with in regard to that motor vehicle.

Free licence or renewal ceases to be valid when owner becomes, or transfers vehicle to permanent resident.

36. When the owner of a vehicle to which this Part applies and in respect of which a vehicle licence is issued, extended or renewed without payment of the licence fee under this Part becomes, or transfers the vehicle to, a permanent resident of the Commonwealth of Australia, the licence so issued, extended or renewed becomes invalid.

When provisions of Act apply as though this Part was not enacted.

37. Where the owner of a vehicle to which this Part applies is not entitled to be issued with a licence for the vehicle without payment of the licence fee under section 31, or to an extension or renewal of the licence without payment of the licence fee under section 33, or where a licence issued without payment of the licence fee in respect of a vehicle to which this Part applies becomes invalid as provided by section 36, the vehicle may be licensed in accordance with the provisions of this Act as though this Part was not enacted.

Registration label to be issued with each licence or renewal of licence.

38. (1) Where, under the provisions of this Part, a licence for a vehicle shall or may be granted, extended or renewed without payment of the licence fee the Authority shall, when granting, extending or renewing a licence, issue to the owner of the vehicle a registration label, without further payment, which shall have effect for the duration of the licence in respect of which it is issued.

(2) The owner of the vehicle shall, so long as the licence in respect of which it is issued remains in force, affix and keep affixed to the vehicle the registration label issued to him under this section by such means and in such manner as is prescribed in regard to ordinary registration labels.

39. (1) Where a motor vehicle, to which this Part applies and which is owned by a person who is not a permanent resident of any State or Territory of the Commonwealth, when landed in or brought to this State, is equipped with one or more number plates in accordance with the law of the country, or the States or Territory of the Commonwealth from which it was so landed or brought, those number plates are to be regarded, so long as the vehicle licence under this Act remains or is regarded to be in force and the vehicle is being used temporarily within the Commonwealth, as number plates issued under this Act.

Number
plates on
overseas
vehicles.

(2) Where the vehicle is not so equipped or where the number plate is so mutilated that any material part is obscured, obliterated or indistinct, the Authority shall, on payment of the prescribed charge, issue to the person a temporary plate or plates which he shall affix to the vehicle in the manner prescribed and which are to be regarded, so long as a vehicle licence or registration under this Act remains in force in respect of the vehicle and the vehicle is being used temporarily within the Commonwealth, as a number plate or plates issued under this Act.

40. The Governor may make such regulations as may be necessary or convenient for carrying out or giving effect to the provisions of this Part and, without limiting the generality of the foregoing, by such regulations may—

Regulations.

- (a) prescribe the particulars to be stated in any application made under section 31 or 33;
- (b) prescribe the type of temporary number plates to be issued by the Authority, the charge for temporary number plates and the conditions of their use, and provide for their surrender before the vehicles in respect of which they are issued are taken out of Australia;
- (c) provide for the issue by the Authority at a prescribed charge of plates displaying the words "Left-Hand Drive" in letters at least fifty millimetres high to owners of vehicles

to which this Part applies and which have the steering apparatus on the left-hand side of the vehicle;

- (d) prescribe the charge for those plates;
- (e) prescribe the conditions under which "Left-Hand Drive" vehicles to which this Part applies may be used on any road in this State;
- (f) prescribe the nature and kind of information and particulars owners of vehicles to which this Part applies are to give the Authority at any specified time or from time to time;
- (g) authorize the licensing under this Part and the use in this State of vehicles to which this Part applies notwithstanding that any regulations relating to the construction, appliances, lamps and other equipment have not been complied with; and
- (h) require every vehicle to which this Part applies and in respect of which any regulations referred to in paragraph (g) of this section have not been complied with to be converted so as to comply with those regulations when the owner becomes, or the vehicle is transferred to, a permanent resident of the Commonwealth.

Transport
Act not
affected.

41. The provisions of this Part do not affect any of the provisions of the Transport Act, 1966.

PART V.—REGULATION OF TRAFFIC.

Licensing
of drivers.
Amended by
No. 89 of
1978, s. 7.

42. (1) An application for a driver's licence shall be lodged with the Authority in the prescribed form and shall specify the class of motor vehicle for which the appropriate licence is sought.

(2) Subject to the succeeding provisions of this Part, the Authority shall, on the application of any person, on payment of the fees provided by this Act and on being satisfied that the applicant—

(a) has—

- (i) attained the minimum age of seventeen years, unless in the opinion

of the Authority the denial of a licence to a person of lesser age would occasion undue hardship; or

(ii) if the application is for a driver's licence for a moped, attained the age of sixteen years;

(b) has, if under the age of eighteen years, obtained the consent in writing of a parent or guardian to hold the class of licence applied for, or, where the applicant has no parent or guardian in the State, of his employer, to hold the class of licence applied for if considered essential for the purposes of his employment;

(c) has demonstrated his ability to control the class of motor vehicle for which the appropriate driver's licence is sought; and

(d) has a reasonable knowledge of the traffic laws of the State,

issue to the applicant a driver's licence appropriate to the class of vehicle for which it is sought.

(3) The Authority may accept a certificate of the "Road Safety Instructional Centre" of the body known as the National Safety Council of Western Australia, in satisfaction of the requirements imposed by paragraphs (c) and (d) of subsection (2) of this section.

(4) An applicant for a driver's licence appropriate to the passenger vehicle class provided by section 43 may, in addition to satisfying the requirements of subsection (2) of this section, be required to—

(a) submit himself to a medical practitioner approved by the Authority for examination as to his physical fitness to drive a passenger vehicle; and

(b) supply proof of his good character.

43. The Governor may make regulations—

(a) classifying motor vehicles for the purposes of this Part;

(b) prescribing the minimum ages, subject to section 42, of persons to be issued with a driver's licence appropriate to any class of motor vehicle; and

Regulations
classifying
vehicles,
drivers, etc.
Amended by
No. 89 of
1978, s. 8.

- (c) requiring that an applicant for a driver's licence for specified classes of motor vehicle be the holder for a prescribed period of a driver's licence for such other class or classes of motor vehicle as is or are, respectively, specified in the regulations.

Conditional
drivers'
licences.

44. (1) Where an applicant for a driver's licence—

- (a) is, in the opinion of the Authority, incapable, by reason of any physical disability, of properly driving or controlling a motor vehicle but the incapacity can be overcome by the wearing of suitable aids or the fitting to the motor vehicle of suitable appliances;
- (b) is unable to comply with any of the requirements, not being the requirement of paragraph (c) of subsection (2) of section 42, and the denial of a driver's licence would, in the opinion of the Authority occasion undue hardship or inconvenience; or
- (c) should not, in the opinion of the Authority, drive a motor vehicle, except subject to conditions or limitations,

the Authority may issue a driver's licence subject to such conditions as it thinks fit to impose; and those conditions shall be endorsed on the driver's licence.

(2) Every person who, being the holder of a driver's licence endorsed with conditions pursuant to subsection (1) of this section, fails to comply with those conditions, or any of them, commits an offence.

Penalty: For a first offence, one hundred dollars; and for any subsequent offence, two hundred dollars or imprisonment for three months.

Drivers'
licences to
be issued on
probation.
Amended by
No. 17 of
1976, s. 3;
No. 89 of
1978, s. 9.

45. (1) Every driver's licence that is issued to a person who—

- (a) has not previously held a driver's licence under this Act;

- (b) has not, during a period of one year or more, been authorized to drive a motor vehicle, under the law in force in any other State or in a Territory or other country; or
- (c) being, or having been, the holder of a driver's licence issued on probation, has not been the holder of a valid driver's licence so issued for a period of, or for periods amounting in the aggregate to, one year,

shall be issued on probation only, and the licence shall be endorsed to that effect, in the prescribed manner.

(1a) A driver's licence that is issued on probation only on and after the coming into operation of section 9 of the Road Traffic Act Amendment Act, 1978 is valid only for a period of twelve months commencing from the date of issue and may be renewed, subject to and in accordance with the provisions of this Act.

(2) For the purposes of this section, a person is not the holder of a driver's licence for any period during which the licence is cancelled or during any period of its invalidity.

(3) Where a person satisfies the Authority that he has, under the law in force in any other State or in a Territory or other country, been authorized to drive a motor vehicle for a period of, or for periods amounting in the aggregate to, less than one year, he is deemed, for the purposes of paragraph (c) of subsection (1) and subsection (4) of this section, to have been the holder of a driver's licence issued on probation during that period or those periods and the period or periods shall be taken into account, accordingly.

(4) For the purposes of this Act—

(a) where, as at the coming into operation of section 3 of the Road Traffic Act Amendment Act, 1976, a person—

- (i) is the holder of a driver's licence issued on probation; and
- (ii) has been the holder of a valid driver's licence issued on probation for a

period of, or for periods amounting in the aggregate to, not less than one year,

then, on and after the coming into operation of that section the driver's licence referred to in subparagraph (i) of this paragraph shall be deemed to be an unrestricted licence;

- (b) where, after the coming into operation of section 3 of the Road Traffic Act Amendment Act, 1976, a person who is the holder of a driver's licence issued on probation completes a period of, or periods amounting in the aggregate to, one year as the holder of such a licence then, on and after the completion of that period or the last of those periods, as the case may be, that driver's licence shall be deemed to be an unrestricted licence.

(5) "Unrestricted licence", as used in subsection (4) of this section, means a driver's licence that is not issued on probation.

(6) The provisions of subsection (4) of this section shall have effect in relation to a driver's licence notwithstanding the terms of any endorsement made on that licence for the purposes of this section.

Renewal of
drivers'
licences.
Amended by
No. 71 of
1979, s. 6.

46. (1) Subject to any other provisions of this Act, a driver's licence is valid for a period of twelve months or of three years, according to the period for which it is expressed to be issued or renewed from the date of issue or renewal, and may be renewed from time to time for a further period of twelve months or of three years within one month before, or within twelve months after, its expiry.

(2) Where a driver's licence is not renewed prior to its expiry but within a period of twelve months thereafter, the renewal has the effect of validating the licence for the balance of the period for which the renewal would have had effect had it been effected prior to the expiry only, but where the holder has, within fifteen days after the expiry, given to the Authority notice of his intention not

to renew the licence and thereafter renews it within twelve months after its expiry, the renewal has effect on and from the day on which it is effected.

(3) Where the renewal of a driver's licence is not effected within twelve months after its expiry, the Authority may require an applicant for renewal to satisfy it of all or any of the requirements, provided by subsection (2) of section 42, and, where the applicant is required to demonstrate again, his ability to control the class of vehicle in respect of which the licence was issued, the application for renewal is deemed, for the purposes of Part IV of the Second Schedule, to be a first application for a driver's licence.

47. (1) The fees otherwise payable under Part IV of the Second Schedule for the issue or renewal of a driver's licence for a pensioner, other than a driver's licence appropriate to the passenger vehicle class, shall, on application being made in the form approved by the Authority, be reduced by the sum of four dollars.

Reduction
in fees for
drivers'
licences
issued to
pensioners.
Amended by
No. 4 of
1977, s. 3.

(2) A driver's licence shall not be issued or renewed for a reduced fee pursuant to this section other than for a period of twelve months.

(3) In this section "pensioner" means a person who—

- (a) is in receipt of an age pension, an invalid pension or a widow's pension under the provisions of the Social Services Act 1947, as subsequently amended, of the Commonwealth; or
- (b) is in receipt of a service pension under the provisions of the Repatriation Act 1920, as subsequently amended, of the Commonwealth,

but does not include such a person who is not a pensioner within the meaning of section 4 of the National Health Act 1953, as subsequently amended, of the Commonwealth.

Power of
Authority to
refuse or to
suspend
drivers'
licences.
Amended by
No. 71 of
1979, s. 7.

48. (1) The Authority may refuse to issue a driver's licence, or may cancel, suspend or refuse to renew a driver's licence, where it has reason to believe that the applicant for, or the holder of, a driver's licence—

- (a) is not of good character;
- (b) is addicted to alcohol or drugs to such extent as to render him a danger to the public when in control of a motor vehicle on a road;
- (c) suffers from a mental disorder or physical disability that is likely to impair his ability to control a motor vehicle;
- (d) is debarred from driving a motor vehicle under the law in force in any other State or in a Territory or other country;
- (e) should not, by reason of the number or nature of his convictions for offences (not being offences for which demerit points have been recorded pursuant to section 103) under this Act or the regulations, be the holder of a driver's licence;
- (f) is no longer capable of controlling the class of motor vehicle for which he holds the appropriate driver's licence.

(2) Without limiting the operation of subsection (1) of this section, where the Authority suspects that grounds may exist for the suspension or cancellation of a driver's licence on any one or more of the grounds specified in that subsection, the Authority may, by notice served on the person who is the holder of that driver's licence, require him to satisfy the Authority within such reasonable period as is specified in the notice that the Authority would not be empowered to so suspend or cancel his driver's licence on that ground or those grounds, as the case requires, and where the person fails to so satisfy the Authority within that period or within such further period as it may allow, the Authority may suspend the driver's licence held by that person until it becomes so satisfied.

(3) Without affecting any penalty to which the holder may be liable, the Authority may cancel or suspend the operation of, and refuse to renew, a driver's licence, where—

- (a) the holder of the licence obtained its issue by fraud or misrepresentation or in a manner contrary to the provisions of this Act; or
- (b) the licence being endorsed, pursuant to the provisions of subsection (1) of section 44, the holder of the licence has failed to comply with any condition to which its issue was subject.

(4) Where the Authority decides to exercise the power conferred by subsection (1), (2) or (3) of this section, as the case may be, it shall give to the person thereby affected notice in writing of that decision, setting out its reasons therefor, and a person aggrieved by the decision may, within thirty days after the receipt of the notice, apply, by way of complaint, to a court of petty sessions for a review of the decision.

(5) The court hearing an application made under subsection (4) of this section shall be constituted by a stipendiary magistrate and may, after hearing the parties, grant or dismiss the application, and, if granting the application, shall review the decision of the Authority and make such order, including an order for the issue of a driver's licence, with or without conditions and limitations, as it thinks fit.

(6) (a) The holder of a licence issued subject to conditions and limitations pursuant to the making of an order under subsection (5) of this section may from time to time during the currency of the licence apply by way of complaint to a court of petty sessions constituted by a stipendiary magistrate for an order varying the conditions and limitations to which the licence is for the time being subject or cancelling and substituting other conditions and limitations therefor.

(b) If the court is of opinion that the conditions and limitations to which the licence is then subject,

should be varied or cancelled and other conditions and limitations substituted therefor, the court may order accordingly.

(c) When an order is so made, the Authority shall cause the conditions and limitations as so varied or substituted to be endorsed on the licence.

(d) The court may order the complainant to pay the whole or any part of the costs of an application made under this subsection.

(7) The Authority shall not renew a driver's licence in the case of a licence holder aged seventy-five years or more, unless the licence holder satisfies it, at the prescribed intervals that he is able to comply with the requirements of paragraph (c) of subsection (2) of section 42.

(8) Where, pursuant to an order made under subsection (5) or (6) of this section, a licence is issued subject to limitations or conditions, the provisions of subsection (2) of section 44 apply, as though the licence were issued pursuant to that section.

Offence of
driving
motor
vehicles
without
appropriate
driver's
licence.
Amended by
No. 48 of
1976, s. 3.

49. (1) Subject to subsection (2) of this section and to section 50, every person who—

- (a) drives a motor vehicle of a class for which he is not the holder of the appropriate, valid driver's licence; or
- (b) employs, or permits, some other person to drive a motor vehicle of a class for which that other person is not the holder of the appropriate, valid driver's licence,

on a road, commits an offence.

Penalty: For a first offence, one hundred dollars; and for any subsequent offence, two hundred dollars or imprisonment for three months.

(2) Where a person—

- (a) having applied for a driver's licence and having been refused the issue of the licence under the provisions of section 48;
- (b) having held a driver's licence that is cancelled or of which the operation is suspended; or

- (c) having been disqualified from holding or obtaining a driver's licence,

commits, whilst still legally disentitled to hold a driver's licence, an offence against paragraph (a) of subsection (1) of this section, he may be arrested without warrant by a patrolman and is liable, instead of to the penalties provided by that subsection, to those provided by this subsection.

Penalty:

- (i) if the offence is committed in the circumstances mentioned in paragraph (a) of this subsection: a fine of not less than one hundred dollars or more than five hundred dollars, or imprisonment for a period not exceeding twelve months;
- (ii) if the offence is committed in circumstances mentioned in paragraph (b) or (c) of this subsection: for a first offence, a fine of not less than one hundred and fifty dollars or more than seven hundred and fifty dollars, or imprisonment for a period not exceeding twelve months, or both the fine and the imprisonment; and for any subsequent offence committed in either of those circumstances, imprisonment for a period not less than one month or exceeding eighteen months, with or without a fine of not less than one hundred and fifty dollars or more than seven hundred and fifty dollars.

(3) The court convicting a person of an offence against this section shall, if the offence is committed in any of the circumstances mentioned in subsection (2) of this section, disqualify that person from holding or obtaining a driver's licence, appropriate to any class of vehicle whatever, for a period of not less than nine months and not more than three years, as the court thinks fit, and the period of disqualification so imposed shall be cumulative upon any other period of disqualification to which the person may then be subject or upon any period for which the operation of his driver's licence may currently be suspended.

Learners' permits.
Amended by
No. 93 of
1975, s. 6;
No. 89 of
1978, s. 10.

50. (1) The Authority may, on payment of a fee of one dollar and subject to such conditions as it sees fit to impose, issue a permit authorizing a person—

- (a) who has attained the age of sixteen years, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction under a youth driver education course conducted or supervised by the body known and incorporated as the National Safety Council of Western Australia;
- (b) who has attained the age of sixteen years and nine months, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction by any holder of a licence issued under the Motor Vehicle Drivers Instructors Act, 1963;
- (c) who has attained the age of seventeen years, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction by any holder of a licence referred to in paragraph (b) of this subsection or by a person who has held a driver's licence appropriate to the class of vehicle specified in the permit for at least four years and who is approved by the Authority;
- (d) who has not attained the age of seventeen years and who is an applicant for a licence under section 44, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction by any holder of a licence referred to in paragraph (b) of this subsection or by a person who has held a driver's licence appropriate to the class specified in the permit for at least four years and who is approved by the Authority; or
- (e) who has attained the age of sixteen years and who is an applicant for a licence under subparagraph (ii) of paragraph (a) of subsection (2) of section 42, to drive a moped in the course of driving instruction by any holder of a licence referred to in

paragraph (b) of this subsection or by a person who has held an appropriate driver's licence for at least two years and who is approved by the Authority.

(2) The Authority shall cause a permit issued under this section to be endorsed with any conditions to which its issue is subject and the holder of the permit shall not drive a motor vehicle except in conformity with those conditions and unless accompanied by a driving instructor with whom he is authorized to drive pursuant to subsection (1) of this section seated beside him or, in the case of a permit to drive a motor cycle, riding in a side car attached, or on a pillion seat fitted, to the motor cycle or riding on an accompanying motor cycle.

Penalty: One hundred dollars.

(3) A permit issued under this section is, unless sooner cancelled, valid, in the case of a permit for the taking of driving instruction in the manner mentioned in paragraph (a) of subsection (1) of this section, for a period of twelve months, and, in any other case, for a period of three months, from the date of issue and may, on payment of a further fee of one dollar, be from time to time renewed for a like period.

(4) The Authority may, at any time, by notice in writing given to the holder, cancel a permit issued under this section.

(5) The Authority shall not cause or permit a person applying for a driver's licence to undergo a test for the purposes of satisfying it of his ability to control the class of motor vehicle for which the driver's licence is sought unless that person has paid a fee of one dollar and been issued with a testing permit.

(6) A testing permit issued under subsection (5) of this section—

- (a) is valid for a single test only; and
- (b) authorizes the holder to drive a motor vehicle during the conduct of the test as if he were at that time the holder of the appropriate driver's licence.

Cancellation
of drivers'
licences
issued on
probation.

51. (1) Where the holder of a driver's licence issued on probation—

(a) is convicted of an offence—

- (i) mentioned in section 277 of The Criminal Code and the offence arose out of the driving by him of a motor vehicle;
- (ii) under section 390A of the Criminal Code;
- (iii) under subsection (1) of section 53, section 54, 55, 56, 59, 61, 62, 89, 90 or 97; or
- (iv) under any regulation that may be prescribed for the purposes of this section;

or

(b) is disqualified by a court pursuant to the provisions of this or any other Act, from holding or obtaining a driver's licence,

then, that licence is, by operation of this subsection, cancelled.

(2) A person whose driver's licence is cancelled by operation of subsection (1) of this section is disqualified from holding or obtaining a licence—

- (a) for any period for which he is so disqualified by the court; or
- (b) for a period of three months from the date of his conviction or, where he is convicted on more than one occasion of an offence mentioned in subsection (1) of this section, from the date of his latest conviction,

whichever period terminates later.

(3) Where a person who is the holder of a driver's licence issued on probation is disqualified by operation of section 103 from holding or obtaining a driver's licence—

- (a) the licence held by that person is, by operation of this subsection, cancelled; and
- (b) that person is disqualified from holding or obtaining a driver's licence for a period of three months.

(4) The Authority shall not issue a driver's licence to a person such as is mentioned in subsection (2) or (3) of this section, until that person has again complied with the requirements of subsection (2) of section 42, and shall then issue the licence on probation only.

(5) Where a person is qualified to obtain a driver's licence issued on probation only, and is, while not the holder of such a licence—

- (a) convicted of an offence such as is mentioned in subsection (1) of this section; or
- (b) disqualified by a court from holding or obtaining a driver's licence,

he is deemed for the purpose of subsection (2) of this section to have been the holder of a driver's licence that has been cancelled by operation of this section.

(6) Regulations made for the purposes of subparagraph (iv) of paragraph (a) of subsection (1) of this section may limit the application of that subsection to offences against the regulations that are attended by prescribed circumstances.

52. (1) The fees payable—

- (a) on an application for a driver's licence;
- (b) on the issue, and the renewal, of a driver's licence (other than such as is appropriate to the passenger vehicle class); and
- (c) on the issue and the renewal, of a driver's licence appropriate to the passenger vehicle class,

are such as are set out in Part IV of the Second Schedule.

(2) The Authority shall pay one-half of the fees paid pursuant to paragraph (b) of subsection (1) of this section to the credit of the Main Roads Trust Account maintained under the Main Roads Act, 1930.

(3) Notwithstanding the foregoing provisions of this section, the Minister may authorize the issue and renewal, free of charge, of a driver's licence appropriate to, and limited to the driving of, a motorised wheelchair.

Fees for
drivers'
licences and
renewals of
drivers'
licences.
Amended by
No. 89 of
1978, s. 11.

(4) The provisions of section 20 apply, with such adaptation as may be necessary, where the fee payable for the issue or renewal of a driver's licence is paid by a cheque.

(5) Subject to subsection (6) of this section, the Authority may refund a fair proportion of the fee paid on the issue or renewal of a driver's licence in any circumstances which in the opinion of the Authority render it just and convenient that a refund should be made.

(6) No refund shall be made in respect of any period that is less than one year and when refunding any amount under subsection (5) of this section the Authority shall charge a fee of one dollar for such refund and deduct that fee from the amount to be refunded.

Driver
failing to
give name
and
address to
patrolman,
failing to
stop, etc.

53. (1) Any driver of a vehicle who—

(a) when required by a patrolman to state his name and place of abode refuses to do so, or states a false name or place of abode;
or

(b) refuses or fails to stop his vehicle when called upon to do so by a patrolman,

commits an offence.

Penalty: For a first offence, one hundred dollars; for any subsequent offence, two hundred dollars or imprisonment for one month.

(2) Any driver of a vehicle who, when required by any patrolman, does not produce his driver's licence on demand, commits an offence against this Act and shall be liable to a penalty not exceeding fifty dollars, but it shall not be an offence if the driver subsequently produces the licence, within a reasonable time after demand, to the Authority or to the officer-in-charge of any police station.

(3) Any person who was present at the scene of any accident in which a vehicle was involved, and who, in the opinion of a patrolman, may be able to give information or evidence in relation to the accident, shall, if requested so to do by the patrolman, furnish to him particulars of his name and place of abode, and if the person refuses to

furnish any of those particulars when requested so to do, or furnishes particulars of his name or place of abode which are false or untrue in any respect he shall be guilty of an offence.

Penalty: Fifty dollars.

(4) Where a patrolman has reasonable grounds for believing that a person has committed an offence against this Act, he may require that person to furnish him with particulars of his name and place of abode; and a person who, when so required, refuses to furnish those particulars or furnishes particulars which are false or untrue in any respect commits an offence.

Penalty: For a first offence, one hundred dollars and, for a subsequent offence, two hundred dollars.

54. (1) Where in the course of the use of any vehicle, an accident occurs whereby any person is injured or any property is damaged, the driver or person in charge of the vehicle shall unless himself disabled from doing so stop immediately after the occurrence of the accident, and, if required, shall produce his licence and give his name and address, and also if it is in his power to do so the name and address of the owner of the vehicle, to any person who has been injured or whose property has been damaged, or to a patrolman, or to any person representing a person who has been injured or the owner of any property which has been damaged.

Duty to
stop in case
of accident,
etc.

(2) Any person convicted of an offence against subsection (1) of this section of which the failing to stop immediately after the occurrence of an accident by reason whereof any person is injured, is an element, shall be liable to imprisonment for a term not less than three months nor exceeding twelve months, but if in the opinion of the court there are special reasons why a sentence of imprisonment should not be imposed, the court may in lieu of imprisonment impose a fine of not more than five hundred dollars.

(3) Any person convicted of any other offence against subsection (1) of this section shall be liable to a fine not exceeding two hundred dollars or for imprisonment for a term not exceeding six months.

(4) In any proceedings in respect of any offence against subsection (1) of this section of which the failing to stop immediately after the occurrence of any accident is an element, it is a defence for the person charged to prove that he was not aware of the occurrence of the accident to which the alleged offence relates.

(5) If in the opinion of the court an offence against subsection (1) of this section is of a serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.

(6) In addition to the obligations set out in subsection (1) of this section it shall be the duty of any person, who in the course of using a vehicle on a road has caused injury to another person, to render such person all such assistance as may be necessary or practicable under the circumstances, including the obtaining of medical aid, and any person who refuses or neglects to render such assistance and obtain such aid shall be guilty of an offence against this Act.

Penalty: Five hundred dollars; and, if in the opinion of the court the offender has shown a callous disregard for the injured person, the court shall in addition impose a sentence of imprisonment for a term not exceeding twelve months.

Duty to
report
accident.
Amended by
No. 71 of
1979, s. 8.

55. (1) Where, in the course of the use of any vehicle on a road, an accident occurs whereby damage is caused to any property the driver or person in charge of the vehicle shall (unless disabled by personal injury himself) report the accident forthwith to the officer-in-charge of the nearest police station or office of the Authority unless the driver or person in charge of the vehicle has reasonable cause for believing that the damage so caused does not exceed, in the aggregate, an amount of three hundred dollars and the owner, in each case, of any property damaged is, then or immediately thereafter, present or represented at the place where the accident occurred.

Penalty: For a first offence, one hundred dollars and, for any subsequent offence, two hundred dollars.

(2) It shall be sufficient compliance with subsection (1) of this section if a patrolman attends at the scene of the accident and takes the necessary particulars of the accident.

56. (1) Where, in the course of the use of any vehicle on a road or in any place commonly used by the public or to which the public is permitted to have access, an accident occurs whereby bodily injury is caused to any person the driver or person in charge of the vehicle shall (unless disabled by personal injury himself) report the accident forthwith to the officer in charge of the nearest police station.

Duty to report accident whereby bodily injury is caused.

Penalty: For a first offence, two hundred dollars and, for any subsequent offence four hundred dollars or imprisonment for three months; and, in any event, the court convicting a person of a subsequent offence shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than twelve months.

(2) It shall be sufficient compliance with subsection (1) of this section if a patrolman attends at the scene of the accident and takes the necessary particulars of the accident.

57. (1) Where the use of a motor vehicle has occasioned, or been an immediate or proximate cause of, the death of a person or bodily harm to a person, the owner of the vehicle and any person to whom the possession or control of the vehicle was entrusted shall, if required by a patrolman, give any information which it is in his power to give which may lead to the identification of the person who was driving or who was in charge or control of the vehicle at the time when the use of the vehicle occasioned or was an immediate or proximate cause of the death or bodily harm.

Duty of owner to identify driver of vehicle involved in accident.

Penalty: One thousand dollars or imprisonment for twelve months.

(2) In this section the term "bodily harm" has the same meaning as is given thereto in The Criminal Code.

Duty of
owner to
identify
offending
driver.

58. Any owner of a vehicle and any person to whom for the time being the possession or control of a vehicle may be entrusted shall, if required by a patrolman, give any information which it is in his power to give, which may lead to the identification of any person who was driving or who was in charge or control of the vehicle when an offence under this Act, is alleged to have been committed.

Penalty: For the first offence two hundred dollars; for any subsequent offence, four hundred dollars.

Dangerous
driving
causing
death,
injury, etc.
Amended by
No. 89 of
1978, s. 12.

59. (1) A person who causes the death of or grievous bodily harm to another person by driving a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an indictable offence which may, subject to subsection (1a) of this section, at the election of the person charged, be dealt with summarily.

(1a) Where a person charged with an offence referred to in subsection (1) of this section elects to have the charge dealt with summarily and the court of petty sessions hearing the charge is for any reason of the opinion that the charge is a fit subject for prosecution by indictment the court shall abstain from dealing with the charge summarily and commit the defendant to take his trial for an indictable offence.

(1b) Where a person charged with an offence referred to in subsection (1) of this section elects to have the charge dealt with summarily and is convicted and the court is of the opinion that for any reason the sentence which it is empowered by subsection (3) of this section to pass on the person convicted by it is inadequate, the court may, in lieu of passing sentence, commit the convicted person for sentence.

(2) For the purposes of this section—

- (a) a person causes the death of or grievous bodily harm to another person whether he does so directly or indirectly and, in the case of death, where the death occurs within a year and a day of the driving;

- (b) it is immaterial that the death or grievous bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment;
 - (c) when a person causes grievous bodily harm to another person and that other person receives surgical or medical treatment, and death results either from the harm or the treatment, he is deemed to have caused the death of that other person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith; and
 - (d) the term "grievous bodily harm" has the same meaning as is given thereto in The Criminal Code.
- (3) A person convicted of an offence against this section is liable—
- (a) if convicted upon indictment, to a fine of five thousand dollars or to imprisonment for four years; or
 - (b) if convicted summarily, to a fine of two thousand dollars or to imprisonment for eighteen months.
- (4) On the summary trial of a person charged with an offence against this section the person may, instead of being convicted of that offence, be convicted of an offence against section 59A, 61 or 62.

59A. (1) A person who causes bodily harm to another person by driving a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.

Dangerous
driving
causing
bodily harm.
Added by
No. 89 of
1978, s. 13.

- (2) For the purposes of this section—
- (a) a person causes bodily harm to another person whether he does so directly or indirectly;

- (b) it is immaterial that the bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment;
- (c) the term "bodily harm" has the same meaning as is given thereto by The Criminal Code.

(3) A person convicted of an offence against subsection (1) of this section is liable—

- (a) for a first offence, to a fine of one thousand dollars or to imprisonment for six 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 twelve months;
- (b) for a second or subsequent offence, to a fine of two thousand dollars or to imprisonment for eighteen 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 eighteen months.

(4) On the summary trial of a person charged with an offence against this section the person may, instead of being convicted of that offence, be convicted of an offence against section 61 or 62.

Reckless
driving.

60. (1) Every person who wilfully drives a motor vehicle in a manner (which expression includes speed) that is inherently dangerous or that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.

(2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 61 or 62.

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

- (a) for a first offence, to a fine of three hundred dollars or to imprisonment for three 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 six months;

- (b) for a second offence, to a fine of five hundred dollars or to imprisonment for six 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 twelve months; and
- (c) for a third or subsequent offence, to a fine of one thousand dollars or to imprisonment for twelve 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 31 of the repealed 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.

61. (1) Every person who drives a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.

Dangerous
driving

(2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 62.

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

- (a) for a first offence, to a fine of two hundred dollars; and

- (b) for any subsequent offence, to a fine of four hundred dollars or to imprisonment for three 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 twelve 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 31 or 31A of the repealed Act, or section 59 or 60 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 or subsequent offence.

Careless
driving.

62. Every person who drives a motor vehicle without due care and attention commits an offence.

Penalty: Two hundred dollars.

Driving
under the
influence of
alcohol, etc.

63. (1) A person who drives or attempts to drive a motor vehicle while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle commits an offence, and the offender may be arrested without warrant.

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

- (a) for a first offence, to a fine of not less than two hundred dollars or more than four hundred dollars or to imprisonment for three 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 six months;
- (b) for a second offence, to a fine of not less than four hundred dollars or more than six hundred dollars or to imprisonment for six 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 two years;

- (c) for a third offence, to a fine of not less than six hundred dollars or more than eight hundred dollars or to imprisonment for twelve 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; and
- (d) for a fourth or subsequent offence, to a fine of not less than one thousand dollars or more than two thousand dollars or to imprisonment for eighteen months.

(3) For the purposes of subsection (2) 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 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, second, third, fourth or subsequent offence.

(4) The charging of a person with an offence against this section shall not limit the operation of section 66, but the person charged shall immediately be told by the person laying the charge that—

- (a) he has the right to be examined by a medical practitioner nominated by him, if one is available, and if he desires to exercise this right, every facility in this regard shall be afforded him; and
- (b) he has the right to communicate with a legal practitioner and another person nominated by him,

and if he desires to exercise any of those rights, every reasonable facility to do so shall be afforded him.

(5) In any proceeding for an offence against this section a person who had at the time of the alleged offence a percentage of alcohol in his blood of or exceeding 0.15 per centum shall be deemed to have

been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.

(6) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 64.

(7) In any proceeding for an offence against this section if it is alleged or appears on the evidence that the defendant was under the influence of drugs alone, it is a defence for the defendant to prove—

(a) that those drugs were—

(i) taken by him pursuant to a prescription of a medical practitioner or registered dentist; or

(ii) administered to him by a medical practitioner or registered dentist, for therapeutic purposes; and

(b) that he was not aware, and could not reasonably have been expected to be aware, that those drugs were likely to render him incapable of having proper control of a motor vehicle.

Driving with prescribed percentage of alcohol in the blood or breath.
Amended by No. 71 of 1979, s. 9.

64. (1) A person who drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.08 per centum, commits an offence.

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

(a) for a first offence, to a fine of not less than one hundred dollars or more than three hundred dollars 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 three months;

(b) for any subsequent offence, to a fine of not less than two hundred dollars or more than five hundred dollars 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 six months.

(3) For the purposes of subsection (2) 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 subsection (9) of section 32B of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2), 1968 or section 63 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 firstmentioned offence is a first or subsequent offence.

65. For the purposes of sections 63 to 73, ^{Interpreta-}
inclusive—^{tion.}

“analyst” means a person certified by the Director of the Government Chemical Laboratories as being competent to determine the percentage of alcohol in bodily substances;

“authorized person” means a person certified by the Director of the Government Chemical Laboratories as being competent to operate breath analysing equipment;

“breath analysing equipment” means apparatus of a type approved by the Minister for ascertaining the percentage of alcohol present in a person’s blood, by analysis of a sample of his breath;

“medical practitioner” has the same meaning as it has in, and for the purposes of the Medical Act, 1894;

“percentage of alcohol”, in relation to the blood of a person, means the number of grams of alcohol contained in one hundred millilitres of blood;

“preliminary test” means a test of a sample of a person’s breath by means of apparatus of a type approved by the Minister, for the purpose of providing an indication of the percentage of alcohol in the blood of the person or an indication as to whether or not

the percentage of alcohol in the blood of a person equals or exceeds a predetermined percentage.

Requirement to submit sample of breath or blood for analysis. Amended by No. 71 of 1979, s. 10.

66. (1) Where a patrolman has reasonable grounds to believe that—

- (a) a person was the driver or person in charge of a motor vehicle the presence of which occasioned, or of which the use was an immediate or proximate cause of personal injury or damage to property; or
- (b) a person has, while driving a motor vehicle, committed an offence against this Act of which the driving of a motor vehicle is an element; or
- (c) a person while driving a motor vehicle, had alcohol in his body,

the patrolman may require that person to provide a sample of his breath for a preliminary test in accordance with the directions of the patrolman.

(2) Where—

- (a) it appears to a patrolman that a preliminary test indicates that the percentage of alcohol in the blood of a person equals or exceeds 0.08 per centum of alcohol; or
- (b) a person having been so required, refuses or fails to provide, or appears to a patrolman to be incapable of providing a sample of his breath for a preliminary test or refuses or fails to provide, or appears to a patrolman to be incapable of providing, a sample of his breath in sufficient quantity to enable a preliminary test to be carried out; or
- (c) a patrolman has reasonable grounds to believe that a person has committed an offence against section 63, by reason of his being under the influence of alcohol,

a patrolman may require that person to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis, pursuant to the provisions of subsections (4), (5) and (7) of this section, and for the purposes of this subsection may require that person to accompany a patrolman to an office of the

Authority, police station or some other place, and may require that person to wait at any such office, police station or place.

(3) A person who is required to supply a sample of his breath for a preliminary test or for analysis shall comply with that requirement by providing the sample of his breath into approved apparatus in accordance with the directions of a patrolman or an authorized person, as the case may be.

(4) A person shall not be required under subsection (2) of this section to provide a sample of his breath for analysis if it appears to a patrolman that—

- (a) [*Deleted by No. 71 of 1979, s. 10.*]
- (b) the sample of breath could not be provided within four hours after the time at which the person is believed to have driven, used or managed the motor vehicle in circumstances giving rise to the requirement; or
- (c) because of his physical condition he is incapable of providing the specimen of breath or a specimen of breath in sufficient quantity for analysis.

(5) Where—

- (a) a patrolman might, by virtue of subsection (2) of this section, require a person to provide a sample of his breath for analysis but is precluded from so doing by subsection (4) of this section; or
- (b) a patrolman might, by virtue of subsection (1) of this section, require a person to provide a sample of his breath for a preliminary test but it appears to the patrolman that the physical condition of the person is such as to render him incapable of providing a sample of his breath in accordance with the directions of the patrolman for a preliminary test,

then, but in no other circumstances, the patrolman may require the person to allow a medical practitioner nominated by the person to take a sample of his blood for analysis or where the person is incapable of complying with that requirement, that

patrolman may cause a medical practitioner to take a sample of the blood of the person for analysis, which the medical practitioner is hereby authorized to do, and—

- (c) no action shall lie against the medical practitioner by reason only of his taking the sample; and
- (d) for the purposes of this subsection a person required to allow a medical practitioner to take a sample of his blood for analysis may nominate the medical practitioner whom he desires to take that sample.

(6) A person shall not be required to allow a medical practitioner to take a sample of his blood, and a medical practitioner shall not be caused to take a sample of the blood of a person under subsection (5) of this section if it appears to the patrolman that the sample cannot be taken within four hours after the time at which the person is believed to have driven, used or managed a motor vehicle in circumstances giving rise to the requirement.

(7) A person who might, under the provisions of this section, be required to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis may himself require that he be permitted to do either or both of those things; and a person who has been required to provide a sample of his breath for analysis may himself require that, instead of or in addition to so doing, he be permitted to allow a medical practitioner nominated by him to take a sample of his blood for analysis.

(8) A patrolman shall give effect to the requirement of a person under subsection (7) of this section if that can be done in terms of subsection (4) or (6) of this section, as the case may be.

(9) Where a person has nominated a medical practitioner pursuant to the provisions of subsection (5) or (8) of this section, if the medical practitioner—

- (a) is not available within a distance of forty kilometres;

(b) is not available within the time limited by this section for taking blood samples; or

(c) refuses to take the blood sample,

the patrolman may require the person to provide a sample of his breath for analysis or to allow a medical practitioner nominated by that patrolman to take a sample of the person's blood for analysis under the provisions of subsection (2) of this section.

(10) Where a person is apparently unconscious or seriously injured a patrolman shall facilitate the provision of medical assistance for that person.

67. (1) A person who fails to comply with any requirement of a patrolman made pursuant to the provisions of section 66 commits an offence. Provided that this section does not apply to a medical practitioner merely because he refuses to co-operate in the taking of a sample of any person's blood for analysis.

Failure to
comply with
require-
ments of
patrolman,
etc.

Amended by
No. 71 of
1979, s. 11.

(1a) A person convicted of an offence against this section is liable—

(a) for a first offence, to a fine of not less than one hundred dollars or more than three hundred dollars 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 three months;

(b) for any subsequent offence, to a fine of not less than two hundred dollars or more than five hundred dollars 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 six months.

(1b) For the purposes of subsection (1a) 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 subsection (9) of section 32B of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2), 1968 or section 63 or 64 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 or subsequent offence.

(2) 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 other than a desire to avoid providing information that might be used as evidence.

Analysis of
alcohol in
breath.

68. (1) Where, pursuant to the provisions of section 66, a person provides a sample of his breath for analysis, the analysis shall be made by breath analysing equipment operated by an authorized person in accordance with the regulations.

(2) At the conclusion of the analysis the authorized person shall determine in accordance with the regulations whether the breath analysing equipment is in proper working order.

(3) If the breath analysing equipment is determined not to be in proper working order the authorized person may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis under subsection (2) of section 66.

(4) If the breath analysing equipment is determined to be in proper working order—

- (a) the result indicated by the breath analysing equipment at the conclusion of the analysis shall be the analysis result and shall be deemed to be the percentage of alcohol present in the blood of the person at the time the sample of breath was provided; and
- (b) the authorized person shall complete, sign, and hand to the person a statement in writing of the analysis result (which may be by way of an indication on a scale) and of the date and time of the analysis.

69. (1) Where, pursuant to the provisions of section 66, a medical practitioner takes a sample of a person's blood for analysis the sample shall be taken in accordance with the regulations, or otherwise in a proper manner, and shall be divided into two parts, each of which shall be deemed to be a sample of the person's blood for the purposes of this Act, and one of which shall be given to or retained for the person from whom it was taken, or shall be given to some other person on behalf of the firstmentioned person, and the other of which shall be given to a patrolman.

Blood
analysis.

(2) Where a sample of blood is analysed for alcohol by an analyst in accordance with the regulations the percentage of alcohol found by the analyst to be present in the sample shall be the analysis result and shall be deemed to be the percentage of alcohol present in the blood of the person at the time the sample of blood was taken.

70. (1) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section 64, or 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 alcohol at any material time is relevant, evidence may be given of—

Evidence.
Amended by
No. 71 of
1979, s. 12.

- (a) the provision of a sample of breath by the person for analysis, if provided within four hours after the driving, use or management of a motor vehicle that gave rise to the alleged offence;
- (b) the analysis of the sample of breath by breath analysing equipment operated by an authorized person;
- (c) the determination that breath analysing equipment was in proper working order;
- (d) the taking of a sample of blood from the person by a medical practitioner, if taken within four hours after the driving, use or management of a motor vehicle that gave rise to the alleged offence;
- (e) the analysis of the sample of blood by an analyst; and

- (f) the analysis result obtained pursuant to section 68 or 69.

(2) In any proceeding such as is mentioned in subsection (1) 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 therein named is, or was at the material time, an authorized person;
- (b) purporting to be signed by the Director of the Government Chemical Laboratories, certifying that a person therein named is, or was at the material time, an analyst;
- (ba) purporting to be signed by an authorized person—
 - (i) certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein;
 - (ii) certifying that the sample of breath so provided was analysed by apparatus operated by him and that apparatus was breath analysing equipment within the meaning of section 65;
 - (iii) certifying that the breath analysing equipment was operated by him in the prescribed manner and that all regulations relating to analysis by breath analysing equipment were complied with;
 - (iv) setting out the analysis result obtained from the analysis;
 - (v) certifying that the breath analysing equipment was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation; and
 - (vi) certifying that in accordance with paragraph (b) of subsection (4) of section 68 he completed, signed, and handed to the person by whom the sample of breath was provided, a

statement as required by that paragraph;

- (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 taking a sample of blood 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 an analyst, certifying either both of the following, namely, that an identified sample of blood taken from a named person was analysed for alcohol in accordance with the regulations, and the analysis result obtained from the analysis,

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 an authorized person, or was such a technologist, or was a medical practitioner or analyst.

(3) In any proceeding such as is mentioned in subsection (1) of this section, evidence by an authorized person that—

- (a) the apparatus operated by him pursuant to section 68 was breath analysing equipment within the meaning of section 65;
- (b) breath analysing equipment was operated by him in the prescribed manner and all regulations relating to analysis by breath analysing equipment were complied with; or

- (c) breath analysing equipment was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation,

is *prima facie* evidence of that fact.

(4) Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act.

(5) Except at the instance, or with the consent, of the person who provided a sample of his breath for analysis or from whom a sample of blood was taken, evidence of the provision of a sample of breath or the taking of a sample of blood, and of the result of the analysis thereof pursuant to the provisions of this Act, shall not be adduced, and if adduced shall not be admitted, in any civil proceeding, and the fact of that evidence not being adduced or that the necessary consent to its being adduced was withheld shall not be a matter for comment in any such proceeding.

(6) Except at the instance, or with the consent, of that person, evidence that a person provided a sample of his breath for a preliminary test and of any indication provided by such a test shall not be adduced, and if adduced shall not be admitted, in any proceedings other than proceedings for unlawful arrest or for an offence against section 67.

Determina-
tion of
percentage
of alcohol
at material
time.

71. (1) In any proceeding such as is mentioned in subsection (1) of section 70, the percentage of alcohol present in the blood of a person at any time which is or may be material in the proceeding shall be calculated, having regard to that time, the time of the person's last drink containing alcohol taken at or before the time which is or may be material in the proceeding, and the time at which the sample of the person's breath or blood was provided or taken for analysis, by varying the analysis result referred to in section 68 or section 69 by such amount, if any, necessary to give effect to the presumption that the percentage of alcohol in the

blood of a person increases at the rate of 0.016 per centum per hour for a period of two hours after his latest drink containing alcohol and, after that period, decreases at the rate of 0.016 per centum per hour.

(2) For the purpose of making a calculation under subsection (1) of this section in any case where any one or more of the times referred to in that subsection can only be ascertained as falling within a period of time, the calculation shall be made taking such time within that period as produces the result most favourable to the person charged.

(3) For the purpose of making a calculation under subsection (1) of this section but subject to subsection (2) of this section, in any case where the time of a person's last drink containing alcohol is not ascertained, the time of the person's last drink containing alcohol shall be taken to have been such time as produces the result most favourable to the person charged.

(4) In any proceeding such as is mentioned in subsection (1) of section 70, the percentage of alcohol calculated to have been present in the blood of a person at any time under the preceding provisions of this section shall be conclusively presumed to have been present in the blood of that person at that time.

72. (1) The Governor may make regulations prescribing all matters that are necessary or convenient for the purpose of carrying out, or giving effect to, the provisions of section 63 to 73 inclusive, and, in particular and without limiting the generality of the foregoing, may make regulations—

Regulations,
etc.

- (a) prescribing the manner of providing samples of breath and taking samples of blood, and the manner and methods by which those samples may be dealt with or analysed;
- (b) prescribing the manner of operation of breath analysing equipment and of

determining that equipment to be in proper working order;

- (c) prescribing forms, including any certificate required for the purposes of the sections herein mentioned; and
- (d) prescribing the fees payable to a medical practitioner attending a person for the purpose of taking a sample of his blood and those payable in respect of the analysis of those samples and for the payment and recovery of those fees.

(2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of—

- (a) types of apparatus for ascertaining by analysis of a sample of a person's breath the percentage of alcohol present in his blood; and
- (b) types of apparatus for the purpose of conducting preliminary tests for the purposes of section 66,

and may, by notice so published, revoke any such approval.

Renumbered
by this
reprint.

(3) The Director of the Government Chemical Laboratories may, from time to time—

- (a) certify a person as being competent to determine the percentage of alcohol in bodily substances; and
- (b) certify a person as being competent to operate breath analysing equipment,

and may rescind any certificate given under this subsection.

Certain
offences
extend to
attempting
to drive and
to drive in
public
places.

73. In sections 59 to 72, inclusive a reference, however expressed, to the driving of or attempting to drive a motor vehicle shall be construed as a reference to the driving of or attempting to drive a motor vehicle on a road or in any place to which the

public is permitted, whether on payment of a fee or otherwise, to have access, and a reference to a driver shall be construed accordingly.

74. (1) Where under any law of the State a person is convicted—

General
power of
disqualifica-
tion.

Amended by
No. 89 of
1978, s. 14.

- (a) of an offence of which the driving or using of a motor vehicle is an element; or
- (b) on indictment or otherwise, of an offence which is triable on indictment where—
 - (i) a motor vehicle was used in the commission of the offence;
 - (ii) the commission of the offence was aided or facilitated by the use of a motor vehicle; or
 - (iii) a motor vehicle was used after the commission of the offence for the purposes of providing, or in an attempt to provide, the means by which that person or any other party to the offence could leave the place at which the offence was committed, or was otherwise used by that person to avoid apprehension,

the court convicting the person may order that he be disqualified from holding or obtaining a driver's licence for such period as it thinks fit and that the period of disqualification so ordered shall be cumulative upon any other period of disqualification to which he is or may become subject or upon any period for which the operation of his driver's licence is or may be suspended.

(2) Nothing in this section affects or in any way limits the operation of—

- (a) any other provision of this Act authorizing or requiring a court to disqualify a person from holding or obtaining a driver's licence; or
- (b) section 18 of the Motor Vehicle (Third Party Insurance) Act, 1943.

Notification
and effect of
disqualifica-
tion.

75. (1) Where a person is convicted before a court of an offence against this or any other Act and is disqualified by the court from holding or obtaining a driver's licence the court shall cause particulars of the conviction and of the order made by the court to be sent to the Authority.

(2) 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 shall by force of this section be suspended so long as the disqualification continues in force and during the period of suspension shall be of no effect, but the provisions of this subsection shall not operate so as to extend the period for which the licence may be valid or effective beyond the expiration of the period for which the licence was expressed to be issued or renewed.

(3) A driver's licence (other than an extraordinary licence under section 76) obtained by any person who is disqualified from holding or obtaining a driver's licence shall be of no effect.

(4) Where a person convicted of an offence is sentenced to imprisonment and disqualified from holding or obtaining a driver's licence for a period, the period of the disqualification shall be computed from the date of his release from imprisonment, whether on parole or otherwise.

Extraordin-
ary licences.
Amended by
No. 48 of
1976, s. 4;
No. 71 of
1979, s. 13.

76. (1) Subject to the provisions of this section, where under this or any other Act a person is disqualified from holding or obtaining a driver's licence, that person may apply to a court for an order directing the Authority to issue an extraordinary licence to him.

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

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

- (b) within three months after the applicant has been disqualified pursuant to paragraph (a) of subsection (2) of section 63 where the applicant has previously been convicted of an offence against section 32AA of the repealed Act, or subsection (9) of section 32B 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 67 of this Act;
 - (c) within three months after the applicant has been disqualified pursuant to paragraph (b) of subsection (2) of section 64 on conviction of an offence that is a third or subsequent offence for the purposes of that subsection;
 - (d) within three months after the applicant has been disqualified pursuant to subsection (1a) of section 67 on conviction of an offence that is a third or subsequent offence for the purposes of that subsection;
 - (e) within two months after the applicant has been disqualified pursuant to paragraph (b) of subsection (2) of section 64 on conviction of an offence that is a second offence for the purposes of that subsection;
 - (f) within two months after the applicant has been disqualified pursuant to paragraph (b) of subsection (1a) of section 67 on conviction of an offence that is a second offence for the purposes of that subsection;
- or
- (g) within twenty-one days after the applicant has been disqualified in any case not referred to in paragraph (a), (b), (c), (d), (e) or (f) of this subsection.

(2) (a) In the case of a disqualification imposed by the Supreme Court or The District Court of Western Australia any application under subsection (1) of this section shall be made to the court by which the disqualification was imposed.

(b) In the case of a disqualification imposed by a court of petty sessions or which takes effect by operation of the provisions of this Act, any application under subsection (1) of this section shall be made to the court by which the disqualification was imposed or to any court of petty sessions composed of a stipendiary magistrate except where the application is a special application in which case the application may be made to the court by which the disqualification was imposed, any court of petty sessions composed of a stipendiary magistrate or The District Court of Western Australia.

(3) Subject to subsection (3a) of this section, the court may if it thinks proper having regard to—

- (a) the safety of the public generally;
- (b) the character of the applicant;
- (c) the circumstances of the case;
- (d) the nature of the offence or offences giving rise to the disqualification;
- (e) the conduct of the applicant subsequent to the disqualification; and
- (f) the degree of hardship and inconvenience which would otherwise result to the applicant and his family, if it refrains from making the order,

either make an order directing the Authority, on payment of the prescribed fee, to issue to the applicant an extraordinary licence under this section for such period not exceeding twelve months from the date on which it is issued as the court thinks fit, or refuse the application.

(3a) Where a court of petty sessions hears a special application the court shall not make an order directing the issue of an extraordinary driver's licence unless it is satisfied that the application is attended by circumstances of extreme hardship, but nothing in this subsection authorises or requires the court to make such an order if, having regard to any of the matters referred to in paragraph (a), (b), (c), (d), or (e) of subsection (3) of this section, it considers that the application should be refused.

(3b) For the purposes of subsection (3a) of this section an application is attended by circumstances of extreme hardship if the refusal of the application would—

- (a) deprive the applicant of the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the applicant or a person who is a member of his family;
- (b) place an undue financial burden on the applicant or his family, by depriving him of his principal means of obtaining income; or
- (c) deprive the applicant or a person who is a member of his family of the only practicable means of travelling to and from the place at which he or that person, as the case may be, is employed.

(4) Where an application under subsection (1) of this section, not being a special application, is refused no further application under that subsection shall be heard if it is made within six months after the date of the refusal.

(4a) Where a special application is refused no further special application shall be heard unless the firstmentioned application was refused by a court of petty sessions and the further application is made to The District Court of Western Australia.

(5) (a) An order directing the issue of an extraordinary licence under this section may impose—

- (i) a condition requiring the applicant to comply with the requirements of subsection (2) of section 42 before the extraordinary licence is issued to him;
- (ii) such limitations and conditions as the court thinks proper subject to the observance of which the authority to drive pursuant to the licence may be exercised, including limitations and conditions as to

the locality in which and roads on which the applicant is entitled to drive, the purposes for which the applicant is entitled to drive, the hours during which the applicant is entitled to drive, and the vehicle or class of vehicle that may be driven under the authority of the licence.

(b) The Authority shall give effect to the order according to its tenor and when issuing the licence shall specify therein any limitations and conditions imposed pursuant to subparagraph (ii) of paragraph (a) of this subsection.

(6) The Authority shall from time to time, on payment of the prescribed fee, renew an extraordinary licence for any period not exceeding twelve months if during the currency of the licence the holder of the licence has not contravened any of the limitations and conditions which the court imposed when directing the licence to be issued and has otherwise complied with the provisions of this Act, and the renewal thereof shall be endorsed thereon by the Authority.

(7) (a) The holder of an extraordinary licence (whether issued before or after the coming into operation of this section) may from time to time during the currency of the licence apply to a court for an order varying the limitations and conditions to which the licence is for the time being subject or cancelling those limitations and conditions and substituting other limitations and conditions.

(b) The Authority may from time to time during the currency of an extraordinary licence (whether issued before or after the coming into operation of this section) apply to a court for an order—

(i) varying the limitations and conditions to which the licence is for the time being subject or cancelling those limitations and conditions and substituting other limitations and conditions; or

(ii) cancelling the licence.

(8) (a) Any application under subsection (7) of this section in relation to an extraordinary licence issued at the direction of the Supreme Court or The District Court of Western Australia shall be made to the court by which that direction was made.

(b) Any application under subsection (7) of this section in relation to an extraordinary licence issued at the direction of a court of petty sessions shall be made to the court by which that direction was made or to any court of petty sessions constituted by a stipendiary magistrate.

(9) Where an application is made under subsection (7) of this section—

(a) if the court is of opinion that the limitations and conditions to which the extraordinary licence is then subject should be varied, or that those limitations and conditions should be cancelled and other limitations or conditions substituted, for the reason that the holder of the licence has changed his place of residence, place of employment or hours of employment or for any other reason which the court considers sufficient, the court may order accordingly and when an order is so made, the Authority shall cause the limitations and conditions as so varied or substituted to be endorsed on the licence;

(b) if the court is of the opinion that the holder of the extraordinary licence—

(i) is addicted to alcohol or drugs to such an extent as to render him a danger to the public when in control of a motor vehicle on a road;

(ii) suffers from a mental disorder or from a physical disability that is likely to impair his ability to control a motor vehicle;

(iii) is no longer capable of controlling the class of motor vehicle which the licence authorises him to drive;

- (iv) is not of good character; or
- (v) should not, by reason of the number or nature of his convictions for offences incurred since the granting of the extraordinary licence, being offences under this Act or the regulations or offences under the law in force in any other State or in a Territory or other country of which the driving or using of a motor vehicle was an element, be the holder of a driver's licence,

the Court may cancel the extraordinary licence.

(10) An application under this section—

- (a) made to the Supreme Court or to The District Court of Western Australia shall be made in accordance with the rules of the court to which it is made;
- (b) made to a court of petty sessions shall be made in accordance with regulations made under the Justices Act, 1902.

(10a) For the purposes of this section a Children's Court established under the Child Welfare Act, 1947 is a court of petty sessions.

(11) The court may order the applicant to pay the whole or any part of the costs of an application made under this section.

(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 two months after the applicant has been disqualified pursuant to paragraph (a) of subsection (2) of section 63; or
- (b) within one month after the applicant has been disqualified pursuant to paragraph (a) of subsection (2) of section 64 or paragraph (a) of subsection (1a) of section 67.

(12a) Nothing in subsection (12) of this section shall be construed as enabling an application under subsection (1) of this section to be made or heard at a time when the making or hearing of that application is prohibited by subsection (1a) of this section.

(13) For the purposes of subsections (1a) and (12) of this section—

- (a) any period during which the applicant was imprisoned shall not be taken into account in determining whether a period of time has elapsed; and
- (b) “disqualified” means disqualified from holding or obtaining a driver’s licence.

77. (1) Any person to whom an extraordinary licence has been issued pursuant to the provisions of section 76 shall not drive on a road any motor vehicle—

Penalty for contravening conditions of extraordinary licence.

- (a) at a time, for a purpose, or in a locality or on roads, other than as specified in the licence;
- (b) other than the motor vehicle or the class of motor vehicles in respect of which the licence was issued;
- (c) otherwise than in compliance with such other limitations and conditions, if any, as are specified in the licence.

Penalty: Four hundred dollars.

(2) In addition to the penalty which may be imposed under the provisions of subsection (1) of this section, the court before which the defendant is convicted shall cancel the extraordinary licence unless the court thinks that, having regard to the special circumstances of the case, a fine would be an adequate punishment for the offence.

78. (1) Subject to the succeeding provisions of this section, where under this or any other Act a person is disqualified by a court from holding or

Removal of disqualification.

obtaining a driver's licence for a period exceeding three years, that person may apply to a court for an order removing the disqualification.

(2) (a) In the case of a disqualification imposed by the Supreme Court any application under subsection (1) of this section shall be made to the Supreme Court.

(b) In the case of a disqualification imposed by any court other than the Supreme Court any application under subsection (1) of this section shall be made to The District Court of Western Australia.

(3) No application shall be made under subsection (1) of this section for the removal of a disqualification before the expiration of whichever is relevant of the following periods from the date on which the disqualification took effect, that is to say—

- (a) if the disqualification is for not more than six years: three years;
- (b) if the disqualification is for more than six years but not more than twenty years: one-half of the period of the disqualification;
- (c) if the disqualification is for more than twenty years: ten years.

(4) For the purposes of subsection (3) of this section the permanent disqualification of a person from holding or obtaining a driver's licence shall be regarded as a disqualification for more than twenty years.

(5) The court may if it thinks proper having regard to—

- (a) the safety of the public generally;
- (b) the character of the applicant;
- (c) the circumstances of the case;
- (d) the nature of the offence or offences giving rise to the disqualification; and
- (e) the conduct of the applicant subsequent to the disqualification,

either make an order removing the disqualification as from such date as may be specified in the order or refuse the application.

(6) Where an application under subsection (1) of this section is refused no further application under that subsection shall be heard if it is made within one year after the date of the refusal.

(7) If under this section a court orders a disqualification to be removed, the court shall cause particulars of the order to be sent to the Authority.

(8) An application under this section shall be made in accordance with the rules of the court to which it is made.

(9) The court may order the applicant to pay the whole or any part of the costs of an application under this section.

(10) Nothing in this section shall be construed as limiting or otherwise affecting any right that a person may have to appeal against an order or judgment of a court disqualifying him from holding or obtaining a driver's licence.

78A. (1) Subject to the provisions of this section, where a person is convicted of an offence to which this section applies the court convicting the person may, on the application of the Authority, order that the motor vehicle in which the offence was committed shall be impounded by the Authority for such period not exceeding fourteen days, as is specified in the order.

Impounding
of vehicles.
Added by
No. 48 of
1970, s. 5.

(2) Nothing in subsection (1) of this section affects or in any way limits the power of a court to impose any other penalty or disqualification on a person convicted of an offence to which this section applies.

(3) Where a person is convicted of an offence to which this section applies and—

(a) from information contained in the records kept by the Authority;

(b) from information given by the person so convicted; or

(c) through any other cause,

the Authority has reason to believe that another person has or may have any legal or equitable interest, right or title in or to the ownership or possession of the motor vehicle in which the offence was committed, the Authority shall, before making an application under subsection (1) of this section, give notice to that other person of its intention to do so and shall, on making such an application, inform the court that such notice has been given.

(4) A court shall not make an order under subsection (1) of this section unless it has afforded any person to whom notice has been given under subsection (3) of this section, and who wishes to be heard on the application, a reasonable opportunity to show cause why the order should not be made.

(5) The Authority may do all such things as are necessary for carrying into effect an order made under subsection (1) of this section.

(6) Where a court makes an order under subsection (1) of this section it shall assess the costs that may reasonably be incurred by the Authority in carrying the order into effect and the amount so assessed may be recovered from the person referred to in that subsection as if it were a fine imposed under this Act.

(7) This section applies to—

(a) any offence against section 63 that is a second or subsequent offence for the purposes of that section;

(b) any offence against section 64 that is a second or subsequent offence for the purposes of that section;

(c) any offence against paragraph (a) of subsection (1) of section 49 where that offence is committed in circumstances mentioned in paragraph (b) or (c) of subsection (2) of that section and the person convicted

of the offence has previously been convicted of an offence against that paragraph committed in either of those circumstances.

79. (1) Where a person, who is not a permanent resident of any State or Territory of the Commonwealth and who is not disqualified from holding or obtaining a licence to drive a motor vehicle under this Act, is temporarily in this State and holds—

Drivers' licences issued overseas.

- (a) a licence to drive a motor vehicle;
- (b) the equivalent of a licence to drive a motor vehicle; or
- (c) an international driving permit,

issued in the country of which he is a permanent resident, that licence, equivalent of a licence, or permit is to be regarded as a driver's licence issued under this Act authorizing the person to drive in this State any vehicle of the type or class to which the licence, equivalent of a licence or the permit is applicable until—

- (d) the expiration of one year after the holder's arrival in the State;
- (e) the licence, equivalent of a licence, or permit expires; or
- (f) the authority to drive is withdrawn by notice served pursuant to subsection (2) of this section,

whichever first occurs.

(2) Where, in the opinion of the Authority, a person referred to in subsection (1) of this section—

- (a) suffers from mental or physical disability likely to affect his ability to drive a motor vehicle efficiently, having regard to the safety of the public generally;
- (b) is otherwise unfit to drive a motor vehicle, or, having regard to the safety of the public generally, it is not desirable that he should be permitted to drive a motor vehicle; or

- (c) has been convicted of an offence in connection with the driving of a motor vehicle,

the Authority may at any time by notice in writing served on the person, withdraw the authority conferred by that subsection.

(3) A person referred to in subsection (1) of this section shall—

- (a) while driving a motor vehicle upon any road pursuant to the authority conferred by that subsection, carry the licence, the equivalent of a licence, or permit, as the case may be; and
- (b) produce the licence, the equivalent of a licence, or permit, as the case may be, for inspection upon request by any patrolman.

Validity of
drivers'
licences
issued in
other States.

80. (1) Where a person usually resident outside the State—

- (a) is temporarily within the State;
- (b) holds a licence or permit to drive a vehicle, issued pursuant to the laws of the State or Territory of the Commonwealth of Australia in which he usually resides;
- (c) has not been served with notice pursuant to subsection (2) of this section; and
- (d) is not otherwise disqualified from holding or obtaining or holding a driver's licence in this State,

the licence or permit shall authorize him to drive in this State any vehicle of the type or class to the driving of which the licence or permit is applicable until—

- (e) the expiration of one year after the holder's arrival in the State;
- (f) the licence or permit expires; or
- (g) the authority to drive is withdrawn by notice served pursuant to subsection (2) of this section,

whichever first occurs.

(2) Where, in the opinion of the Authority, a person referred to in the last preceding subsection—

- (a) suffers from mental or physical disability likely to affect his ability to drive a motor vehicle efficiently, having regard to the safety of the public generally;
- (b) is otherwise unfit to drive a motor vehicle, or, having regard to the safety of the public generally, it is not desirable that he should be permitted to drive a motor vehicle; or
- (c) has been convicted of an offence in connection with the driving of a motor vehicle,

the Authority may at any time by notice in writing served upon the person, withdraw the authority conferred by that subsection.

(3) A person referred to in subsection (1) of this section shall, while driving a motor vehicle pursuant to the authority conferred by that subsection—

- (a) carry the licence or permit; and
- (b) produce the licence or permit for inspection at the request of any patrolman.

81. A person who—

- (a) enters the State with the intention of permanently residing therein; and
- (b) but for that intention would be authorized to drive a motor vehicle pursuant to section 79 or 80,

Persons
taking up
residence.

shall be deemed to be similarly authorized as if he were temporarily within the State, but for that purpose the reference to one year in paragraph (d) of subsection (1) of section 79 or in paragraph (e) of subsection (1) of section 80 shall be construed as a reference to three months.

PART VI.—MISCELLANEOUS.

Substitution
of vehicle in
certain
circum-
stances.
Substituted
by No. 93 of
1975, s. 7.

82. (1) Any taxi-car licence granted under section 17 or any omnibus licence, shall during any time that the taxi-car or omnibus is under repair, authorize the holder of the licence, with the previous consent of the Authority, to substitute another vehicle for the taxi-car or omnibus under repair, and to operate the same during such period as the firstmentioned taxi-car or omnibus is under repair and not being operated.

(2) The consent in writing of the Authority referred to in subsection (1) of this section, shall only be given on payment by the licensee to the Authority of a fee of one dollar.

Temporary
suspension
of
regulations.

83. (1) Whenever any number of persons, or any club or clubs, intimate to the Minister that they desire permission of the Minister to hold race meetings or speed tests in any particular place or locality on a day to be fixed, the holding of which will necessitate the temporary suspension of the operation of any regulations under this Act, the Minister may refuse permission, or may grant permission and by notice published in the *Government Gazette* temporarily suspend the operation of any regulations under this Act for such purpose, and may define the conditions under which such race meetings or speed tests shall be conducted, but the Minister shall not so grant permission or temporarily suspend the operation of any regulations unless he has first obtained the consent of the local authority for the district within which the place or locality concerned is situated.

(2) A person who—

- (a) conducts or takes part in a race meeting or speed test mentioned in subsection (1) of this section, permission mentioned in that subsection not having been obtained; or
- (b) that permission having been obtained, fails to observe the conditions if any so defined as those under which the race meeting or speed test shall be conducted,

commits an offence.

Penalty: For a first offence, one hundred dollars; for any subsequent offence, two hundred dollars or imprisonment for thirty days.

84. (1) The owner of a vehicle shall be liable in damages to any local authority for any damage or injury caused or happening to any road under the control of such local authority and to the Commissioner of Main Roads for any damage or injury caused or happening to any road declared to be a highway or main road under the provisions of the Main Roads Act, 1930, by the vehicle in consequence of the use or passage thereof or of anything carried, drawn, or propelled thereby on or along such road. Such damages may be recovered by proceedings in any Court of competent jurisdiction.

Liability for damage to roads, etc. Amended by No. 77 of 1975, s. 4.

(2) If any damage or injury referred to in subsection (1) of this section is caused to any bridge or culvert, the person in charge of the vehicle shall, if the damage or injury has caused the bridge or culvert to be hazardous to other vehicles or pedestrians, immediately place a conspicuous warning mark or sign on or near the bridge or culvert, and shall, in any event, forthwith inform the officer in charge of the nearest police station or office of the Authority of the damage or injury.

85. (1) Where it appears to a local authority which is liable or authorized or has undertaken to repair any road that, having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by such local authority in repairing such road by reason of the damage caused by heavy traffic passing along the same, or extraordinary traffic thereon, such local authority may recover in any court of competent jurisdiction from any person by or in consequence of whose order such traffic has been conducted, the amount of such expenses as may be proved to the satisfaction of the court having cognisance of the case to have been incurred by such local authority by reason of the damage arising from such traffic as aforesaid.

Power of local authority to recover expenses of damage caused by heavy or extraordinary traffic.

(2) Any person against whom expenses are or may be recoverable under this section may enter into an agreement with such local authority as is mentioned in this section for the payment to it of a composition in respect of such traffic, and thereupon the person so paying the same shall not be subject to any proceedings under this section.

(3) For the purposes of this section the Minister shall be deemed the local authority which is liable or authorized or has undertaken to repair any Government road, and he may in his name of office bring an action for recovery of expenses under this section accordingly: provided that any moneys recovered by him shall be paid into the Consolidated Revenue Fund.

(4) Proceedings for the recovery of any expenses hereunder shall be commenced within twelve months of the time when the damage has been done, or where the damage is the consequence of any particular building contract or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.

No person
to park a
vehicle in a
prescribed
area on
land which
is not a road
unless
authorised.

86. (1) In this section, "prescribed area" means—

- (a) any parking region constituted and defined pursuant to subsection (2) of section 3 of the City of Perth Parking Facilities Act, 1956; and
- (b) any area defined for the purposes of this section by the Governor by notice published in the *Gazette*.

(2) No person shall, within a prescribed area, park a vehicle on land which is not a road, unless he has been authorized to do so by the owner, or person in possession of that land.

Penalty: For a first offence, ten dollars; for any subsequent offence, twenty dollars.

(3) (a) Where a person parks a motor vehicle on land contrary to the provisions of subsection (2) of this section, and where the vehicle causes or is

likely to cause an obstruction, or danger to traffic, a patrolman or the owner, or the person in possession of the land, or an employee of the owner, or person in possession of the land, may—

- (i) direct the driver or person in charge of the vehicle to remove the vehicle from the place where it is parked; and
- (ii) where no person appears to be in immediate charge of the vehicle, himself remove the vehicle from the place where it is parked and may move the vehicle either to a place where parking of vehicles is permitted, or the police station nearest to the land.

(b) Where a person in exercise of the power conferred on him by paragraph (a) of this subsection removes and parks a vehicle, he shall forthwith give particulars to a member of the Police Force or officer of the Authority at the police station or office of the Authority nearest to the place where he has parked the vehicle, of his name and address, the registered number of the vehicle, the place where the vehicle was parked, and the time that he removed the vehicle.

(4) A person who disobeys or fails to comply with a direction made pursuant to subsection (3) of this section commits an offence.

Penalty: Twenty dollars.

(5) Where a person in exercise of the power conferred by paragraph (a) of subsection (3) of this section incurs costs in removing a vehicle, that person may recover those costs on complaint made in a court of petty sessions.

(6) In any proceedings for a penalty under this section, the court, in addition to imposing a penalty, may award to a person any costs incurred by that person in the exercise of a power conferred on him by this section.

(7) The provisions of this section do not apply to "parking facilities", or a "parking station" constituted under the provisions of the City of Perth Parking Facilities Act, 1956.

Patrolman or
warden may
drive a
vehicle
used in
an offence.
Added by
No. 89 of
1979, s. 15.

86A. Where a patrolman or warden—

- (a) has reason to believe that a vehicle has been used in connection with an offence; or
- (b) has charged a person with an offence an element of which is the use or driving of a vehicle,

he may drive or convey the vehicle to any police station or other place for safe custody.

Confusing
lights
affecting
traffic on
roads.

87. (1) For the purposes of this section—

“Commissioner” means the Commissioner of Main Roads;

“light” includes any fire, lamp, light, illuminated sign, street light, or other mechanical manufactured or constructed illumination, and also the glow from any such light;

“owner” includes the owner, lessee, tenant, purchaser, hirer, or other person in possession or entitled to the possession of a light, and, in the case of a street light, means the local authority in whose district such street light is erected or installed.

(2) Where any light is used, kept, burnt, or exhibited at any place or in such a manner as in the opinion of the Commissioner to be likely to confuse or create circumstances or conditions likely to interfere with adversely or to cause risk of danger to the traffic of persons or vehicles on any road, the Commissioner may by notice in writing require the owner of or the person in charge of such light or the occupier of the place or premises where such light is used, kept, burnt, or exhibited within a time specified in the notice to take effectual means—

- (a) to extinguish the light; or
- (b) to remove the light entirely or to some other position; or
- (c) to modify the light or to alter its character or colour, or to screen the light to such an extent and in such manner as the Commissioner may direct; or

- (d) to refrain from using, keeping, burning, or exhibiting the light either entirely or for such period or during such hours as the Commissioner may direct; or
- (e) to do or refrain from doing such other act, matter, or thing in relation to using, keeping, burning, or exhibiting the light as the Commissioner may direct and in accordance with his directions.

(3) Any notice under subsection (2) of this section may be served, either personally or by delivery, at the place of abode of the person to be served, or by affixing it in some conspicuous place on or near the place or premises upon or in which the light to which the notice relates is used, kept, burnt, or exhibited.

(4) It shall be the duty of the owner or occupier or other person served with a notice under subsection (2) of this section to comply with such notice.

(5) Every owner, occupier, or other person on whom a notice is served under subsection (2) of this section who fails without reasonable cause (proof whereof shall lie upon him) to comply in all respects with the directions contained in the notice shall be guilty of an offence against this Act.

Penalty: Two hundred dollars, and, in addition, a daily penalty of ten dollars for every day or part of a day during which the directions contained in the notice are not complied with after the time specified in the notice for the compliance therewith.

(6) If any owner, occupier, or other person served with a notice under subsection (2) of this section fails in any respect to comply with the directions of such notice within the time specified in the notice for such compliance, the Commissioner or any person authorized in writing by the Commissioner may enter upon the place or premises whereon the light to which the notice relates is used, kept, burnt or exhibited, and forthwith take effectual means (but doing no unnecessary damage) to carry out

and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.

(7) Any expense incurred by the Commissioner or the person authorized by the Commissioner under subsection (6) of this section shall be a debt owing to the Commissioner by the person upon whom the notice was served as aforesaid and shall be recoverable at the suit of the Commissioner in any court of competent jurisdiction.

(8) If the owner, occupier, or other person upon whom the notice under subsection (2) of this section has been served, or any other person obstructs or hinders, prevents, or interferes with or attempts to obstruct, hinder, prevent, or interfere with the Commissioner or the person authorized by the Commissioner in the exercise of the power conferred by subsection (6) of this section, he shall be guilty of an offence against this Act.

Penalty: One hundred dollars.

(9) Where any owner, occupier, or other person upon whom a notice under subsection (2) of this section has been served has failed within the time specified in such notice to comply with the directions of such notice, and by reason of such non-compliance and by reason of the light to which the said notice relates confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of persons, animals, or vehicles on a road, any person suffers injury to the person or damage to his property, the non-compliance with the said notice shall, for the purpose of enabling the person who has suffered such injury or damage to recover compensation or damages in respect of the injury or damage suffered, be deemed to be a tort in the nature of a nuisance committed by the owner, occupier, or other person upon which an action for damages may be instituted.

(10) The omission on the part of the Commissioner to give any notice under subsection (2) of this section, or the failure on the part of the

Commissioner to exercise the power conferred by subsection (6) of this section shall not make the Commissioner in any respect responsible or liable for any injury to the person or damage to property suffered as the result of any light confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of any person or vehicle on a road.

88. No person shall by advertisement or public notification with the object of obtaining a passenger in a motor vehicle not licensed for the carriage of passengers make it known that he or any other person intends to make any journey in a motor vehicle.

Advertising for passengers in private vehicles prohibited.

89. (1) A person, other than a patrolman or warden when acting in the execution of his duty, or a person removing a motor vehicle from trespass to land, who drives or uses a motor vehicle without previously obtaining the consent of the owner or person in lawful possession or charge of the vehicle commits an offence.

Unauthorized use of vehicles.

Penalty—

- (a) for a first offence, a fine of not less than two hundred dollars or more than one thousand dollars or imprisonment for not less than one month or more than twelve months;
- (b) for a second or subsequent offence, imprisonment for not less than three months or more than two years.

(2) Every person who, not being a patrolman or warden acting in the execution of his duty, drives or uses a vehicle that is not a motor vehicle, without previously obtaining the consent of the owner or person lawfully in charge of the vehicle, commits an offence.

Penalty: For a first offence, fifty dollars and, for any subsequent offence, one hundred dollars.

(3) The court before which the person is convicted may, in addition to any other penalty which may be inflicted under this section, order the defendant to pay to the owner of the vehicle such sum as the court thinks proper by way of compensation for any loss or damage suffered by the owner.

Unlawful interference with mechanism of motor vehicles.

90. Any person who unlawfully interferes with the mechanism or parts of any motor vehicle shall be guilty of an offence under this Act.

Penalty: For a first offence, one hundred dollars or imprisonment for three months and, for any subsequent offence, two hundred dollars or imprisonment for six months.

"Car watching" prohibited.

91. No person shall, upon any public street or public reserve, mind, care for, or take charge of a motor vehicle other than a motor vehicle of which he is the driver, or offer his services for any such purpose, but this section shall not apply to any public reserve set apart for parking under the control of any local authority.

Penalty: Fifty dollars.

Roads may be closed.

92. (1) The Minister may, if he considers any road unsafe for public traffic, cause the same to be closed for such period as he considers necessary.

(2) A local authority for a period of one month may exercise a similar power with regard to any road under its control, but the exercise of such power shall not extend beyond such period, except with the approval in writing of the Minister.

(3) No person shall drive, take, or use any vehicle on to or on any road while such road is closed under this section.

Production of licences at hearings.

93. A person who is the holder of a driver's licence shall, whenever he is charged with an offence under this Act, produce his licence on demand to the court hearing the charge.

94. When any driver's licence issued to a person is cancelled or suspended or a person who is the holder of a driver's licence is disqualified from holding or obtaining a driver's licence, the person shall, on demand made by the Authority or a patrolman, deliver such licence to him.

Forfeited
licence to be
delivered up.

95. Whenever a driver's licence is lost or destroyed, a duplicate or certified copy thereof shall, on payment of the prescribed fee, be issued by the Authority, and shall serve and be available in lieu of the original.

Issue of
duplicate
licence.

96. The Commissioner of Police may, in respect of any person—

Disclosure
of records of
offences, etc.
by Commis-
sioner to
Authority.

- (a) who holds a driver's licence or learner's permit under this Act or to whom a vehicle licence under this Act has been issued;
- (b) to whom a licence or permit under the Motor Vehicle Drivers Instructors Act, 1963 has been issued; or
- (c) who has applied for the issue or grant of a licence or permit referred to in any of the foregoing paragraphs—

furnish to the Authority such particulars as are known to the Commissioner of any offences of which that person has been convicted whether within the State or elsewhere, including particulars of any penalties, suspensions, cancellations or disqualifications arising therefrom, and also particulars of instances in which the person has paid a penalty pursuant to a traffic infringement notice under this Act.

97. A person shall not—

- (a) while disqualified from obtaining any particular licence apply for or obtain such a licence;
- (b) wilfully mislead a person in any particular likely to affect the discharge of that person's duty under this Act;

Offences.
Amended by
No. 71 of
1979, s. 14.

- (c) forge or fraudulently alter any licence, number plate or registration label for any vehicle or animal;
- (d) use any forged or fraudulently altered licence, number plate or registration label, or use any licence, number plate or registration label to which he is not entitled;
- (e) fraudulently permit his licence, number plate or registration label to be used by any other person;
- (f) drive any vehicle or cause or permit any vehicle to be driven on any road while it has on it—
 - (i) any forged or fraudulently altered number plate or registration label;
 - (ii) any replica or imitation of a number plate or registration label; or
 - (iii) any number plate or registration label other than one issued for that vehicle;
- (g) without lawful excuse have in his possession a licence or any article resembling a licence or a registration label or any article resembling a registration label, and calculated to deceive;
- (h) lend or allow to be used by any other person any licence or any number plate or registration label.

Proof of
certain
matters.
Amended by
No. 71 of
1979, s. 15.

98. (1) In any prosecution or proceedings for an offence against this Act an averment in the complaint that any person is or was the owner of a vehicle or became the owner of a vehicle on any date or that any person is or was not the holder of any particular licence (either personal or in respect of any vehicle), or that the vehicle was driven or used on a road or any place to which the public is permitted, whether on payment of a fee or otherwise, to have access shall be deemed to be proved in the absence of proof to the contrary.

(2) For the purposes of any prosecution or proceedings for an offence the chief executive officer of the Authority or any person authorized by him for that purpose may issue a certificate which states—

- (a) that on any date or during any period—
 - (i) a vehicle was registered; or
 - (ii) a vehicle was not registered, under this Act in the name of any person specified in the certificate; or
- (b) that as at any date or during any period a person specified in the certificate was—
 - (i) registered as the holder of a vehicle licence under this Act in respect of; or
 - (ii) nominated pursuant to subsection (4) of section 5 as the owner of, a vehicle specified in the certificate.

(2a) In subsection (2) of this section “the chief executive officer of the Authority” means the person appointed under and subject to the Public Service Act, 1978 to be the permanent head of the Department established by paragraph (b) of subsection (4) of section 6, or, where that office is vacant, the person for the time being discharging the duties of that office.

(2b) In any prosecution or proceedings for an offence—

- (a) a certificate issued or purporting to be issued pursuant to subsection (2) of this section is evidence of the facts stated in the certificate;
- (b) a certificate or other document issued or purporting to be issued pursuant to a law of a State or Territory of the Commonwealth, (being a law in respect of which a declaration under subsection (5) of section 5 is in force) which states that on any date or during any period—
 - (i) a vehicle was registered in the name of any person specified in the certificate or document; or

- (ii) a vehicle was not registered in the State or Territory in respect of which the certificate or other document is issued,

is evidence of the facts stated in the certificate or other document.

(2c) In subsections (2) and (2b) of this section "offence" means an offence against this Act or any other Act or against any regulation, by-law or rule made under an Act.

(3) In any proceedings for an offence against this Act—

- (a) an averment in the complaint that the person by whom the proceedings were instituted is authorized to institute the proceedings shall be deemed to be proved in the absence of proof to the contrary; and
- (b) no proof shall be required that a person who is or has been a police officer or member of the Police Force, is or was at any relevant time a patrolman.

(4) In any prosecution under this Act an averment in the complaint that an offence was committed within the district of a local authority or any part of the State therein specified shall be deemed to be proved in the absence of proof to the contrary.

(5) Where, in a complaint of an offence against this Act, the name of the person against whom the complaint is made is that given by the alleged offender at the time of, or immediately following, the occurrence giving rise to the complaint, there is a presumption, rebuttable by evidence to the contrary, that the person named in the complaint is the alleged offender.

98A. (1) In this section—

"speed measuring equipment" means apparatus of a type approved by the Minister pursuant to subsection (2) of this section.

(2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of types of apparatus for ascertaining the speed at which a vehicle is moving and may, by notice so published, revoke any such approval.

(3) In any proceeding for an offence against this or any other Act or the regulations evidence may be given of the use of speed measuring equipment by a patrolman in relation to a vehicle and of the speed at which that vehicle was moving as ascertained by the use of that equipment, and that evidence is *prima facie* evidence of the speed at which that vehicle was moving at the time of the use of that equipment in relation to that vehicle.

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

(5) Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act or the regulations.

99. Nothing in this Act shall take away or diminish any liability of the driver or owner of a vehicle by virtue of any other Act or at common law.

Savings.

100. (1) This Act applies to persons and vehicles in the public service of the Crown, or of any local authority, but does not apply to any extent to a vehicle for the personal use of the Governor nor to a person in charge of the vehicle while carrying out the Governor's personal directions; and does not apply to any other vehicle or class of vehicle or person or class of person to the extent of such

Application
of Act to
Crown and
local auth-
orities.

exemption as may from time to time be declared by the Governor by Order in Council, which the Governor may from time to time vary or cancel by further Order in Council, and section 72 of the Justices Act, 1902 applies in respect of complaints of offences against this Act as if the complaints negatived exemptions under this section.

(2) Notwithstanding the provisions of subsection (1) of this section, where the licence of a vehicle owned and used by the State Government (except vehicles used by Ministers of the Crown or heads of State Boards and Departments) is renewed, the provisions of this Act requiring the issue of a renewal of the licence or of a registration label shall not apply to such vehicle, but this subsection shall not render lawful the driving of a vehicle upon any road without having the prescribed number plates affixed thereto.

Protection
of Minister,
the Author-
ity and
officers.

101. No matter or thing done or omitted to be done by the Minister, the Authority, any member of the Authority, officer or employee of the Authority, patrolman, police officer, member of the Police Force, Warden or inspector in good faith under or for the purposes of this Act, or purportedly under or for the purposes of this Act shall subject the Crown, the Minister, the Authority or any person herein-before referred to, to any liability in respect thereof.

Traffic in-
fringement
notices.
Amended
by No. 89 of
1978, s. 16(d).

102.* (1) Where a patrolman or warden has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this section, he may serve on that person a notice, in the prescribed form, (in this section called a "traffic infringement notice") informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to an officer specified in the notice, within the time therein specified, the amount of the penalty prescribed for the offence, if dealt with under this section.

(2) A traffic infringement notice may be served on an alleged offender personally or by posting it to

* This section was further amended by Act No. 89 of 1978, s. 16(a), (b) and (c), but those amending provisions not included in this reprint (see footnote * on page 1 and also the note on pages 140 to 145).

his address as ascertained from him, at the time of, or immediately following, the occurrence giving rise to the allegation of an offence, or as ascertained pursuant to an inquiry made under section 58; and, where the allegation is of an offence of which the standing, parking or leaving of a vehicle is an element and the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained, the traffic infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by leaving it in or upon, or attaching it to, the vehicle.

(3) Where, under the provisions of subsection (2) of this section, a traffic infringement notice is addressed to the owner of a vehicle and served by leaving it in or upon, or attaching it to the vehicle, then, if—

- (a) the prescribed penalty is not paid within the period specified in the notice; or
- (b) the owner of the vehicle does not, within the period specified for the payment of the penalty—
 - (i) identify the person who was the driver or person in charge of the vehicle at the relevant time to a prescribed officer; or
 - (ii) satisfy a prescribed officer that, at the relevant time, the vehicle had been stolen or unlawfully taken or used,

the owner is, in the absence of proof to the contrary, deemed to have committed the offence.

(4) A person who receives a traffic infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed penalty within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under those provisions.

(5) A traffic infringement notice may, whether or not the prescribed penalty has been paid, be

withdrawn, at any time within twenty-eight days after the service of the notice, by the sending of a notice, in the prescribed form, signed by a prescribed officer, to the alleged offender at his last known place of residence or business, advising the alleged offender that the traffic infringement notice has been withdrawn; and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.

(6) Where a prescribed penalty has been paid pursuant to a traffic infringement notice and the notice has not been withdrawn as provided by subsection (5) of this section, proceedings shall not be brought against any person with respect to the offence alleged in the notice.

(7) The payment of a penalty pursuant to a traffic infringement notice shall, for the purposes of section 103, constitute a conviction of an offence, but shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence by reason of which the traffic infringement notice was given.

(8) The Governor may make regulations for any purpose for which regulations are contemplated or required by this section and, in particular, may make regulations—

- (a) prescribing offences for the purposes of this section, not being offences punishable by imprisonment or offences in respect of which a court is required to disqualify the offender from holding or obtaining a driver's licence, by setting out the offences or by reference to the provision creating the offence or by reference to all or any offences in any one Part of any regulations made under this Act; and
- (b) prescribing penalties not exceeding two hundred dollars for any prescribed offence or class of prescribed offence and prescribing different penalties for the one offence, according to the circumstances by which the offence is attended.

103. (1) Subject to the succeeding provisions of this section, the Governor may make regulations providing—

Disqualifi-
cation from
driving by
reason of
convictions.
Amended by
No. 93 of
1975, s. 8;
No. 89 of
1978, s. 17.

- (a) for a prescribed number of points to be recorded against every person convicted of any offence against this Act prescribed for the purposes of this section;
- (b) that, upon the points recorded against a person pursuant to the regulations (including points accumulated pursuant to regulations in force under the repealed Act) amounting to a prescribed aggregate, the person shall be disqualified from holding or obtaining a driver's licence, for a period not exceeding three months.

(2) The regulations may prescribe the number of points to be recorded in respect of any prescribed offence or class of prescribed offence and may prescribe that a different number of points be recorded for the one offence, according to the circumstances by which the offence is attended.

(3) An offence shall not be taken into account for the purposes of regulations made under this section, unless the driving or use of a motor vehicle was an element of the offence; and, in assessing an aggregate of points, only those recorded in respect of offences occurring within the period of three years immediately prior to the assessment shall be taken into account.

(4) A person shall not be disqualified from holding or obtaining a driver's licence, pursuant to regulations made under this section, unless a notice has been sent to him, as the occasion may require, by prepaid post, to his last known place of residence or business, informing him—

- (a) of the first recording of points against him;
and
- (b) where the manner of accumulation of points so permits, of two progressive totals, being less than the prescribed aggregate

mentioned in paragraph (b) of subsection (1) of this section, of the points recorded against him,

and, subject to this Act, the disqualification shall take effect when notice thereof has been personally served on the person and no sooner.

(4a) Where under this or any other Act a person—

(a) is or becomes disqualified from holding or obtaining a driver's licence or has the operation of his driver's licence suspended; and

(b) pursuant to this section becomes subject to a further period of disqualification,

the further period of disqualification to which he becomes subject shall be cumulative upon any earlier period of disqualification to which he is or becomes subject or upon any period for which the operation of his driver's licence is or may be suspended.

(5) A person who has been served with notice of his disqualification from holding or obtaining a driver's licence shall deliver up his driver's licence, if then in his possession, to the person serving the notice, otherwise he shall deliver it up to the police station nearest to his place of residence or an office of the Authority together with the notice, as soon as may be practicable thereafter.

Penalty: Forty dollars.

(6) A person who is aggrieved by his disqualification from holding or obtaining a driver's licence, by operation of this section, may, within thirty days after the service on him of the notice of disqualification, apply to a court of petty sessions, by way of complaint against the Authority, for an order setting aside the disqualification.

(7) The court hearing an application made under subsection (6) of this section shall comprise a stipendiary magistrate and, if, after giving the

parties an opportunity of being heard, the court is satisfied that the disqualification has been occasioned by an error in the number of points or in the computation of the number of points, recorded against the applicant, it shall grant the application, otherwise it shall dismiss the application.

(8) The costs of an application made under subsection (6) of this section shall be in the discretion of the court and, where the court grants the application, it shall direct that the number of points, or the computation of the number of points, recorded against the applicant, as the case may require, be revised in such manner as it may determine; and the Authority shall give effect to every such direction.

PART VII.—OFFENCES AND PENALTIES.

104. (1) Subject to subsection (2) of this section, where—

(a) a person is convicted of an offence (in this subsection referred to as “the present offence”) against a provision of this Act; and

(b) the penalty or penalties which may or shall be imposed for the present offence vary according to whether the person has been convicted previously of such an offence,

any offence committed by the person against the repealed Act, the elements of which offence were substantially the same as those of the present offence shall be taken into account and deemed to have been an offence against that provision of this Act for the purposes of determining the penalty or penalties to be imposed for the present offence.

(2) The provisions of subsection (1) of this section—

(a) shall not operate to limit the offences which might otherwise be regarded as previous offences against a provision of this Act; and

(b) do not apply to or in relation to an offence against section 60, 61, 63 and 64.

Offences against corresponding provisions of repealed Act to be taken into account as previous offences.

Limitation
on period
for which
previous
offences
taken into
account.

105. Where—

- (a) a person is convicted of an offence (in this section referred to as "the present offence") against this Act; and
- (b) the penalty or penalties which may or shall be imposed for the present offence vary according to whether the person has been convicted previously of an offence against this Act or the repealed Act,

any such previous offence the conviction for which was recorded more than twenty years before the commission of the present offence shall not be taken into account for the purposes of determining the penalty or penalties to be imposed for the present offence.

Minimum
penalties.
Amended by
No. 89 of
1978, s. 18.

106. Where in this Act a penalty expressed to be a minimum penalty (including a minimum period of disqualification from holding or obtaining a driver's licence) is provided for or in relation to any offence (whether by use of the expression "minimum penalty" or "not less than" or by other like expression), that penalty or period shall be irreducible in mitigation notwithstanding any provision of the Justices Act, 1902, The Criminal Code or the Offenders Probation and Parole Act, 1963, and, except where the penalty is a term of imprisonment, notwithstanding any provision of the Child Welfare Act, 1947.

Offences
generally.
Amended by
No. 71 of
1979, s. 16.

107. (1) Any person who contravenes a provision of this Act commits an offence.

(2) Any person who commits an offence against this Act for which no other penalty is provided is liable to a penalty of two hundred dollars.

(3) Proceedings for an offence against this Act may be instituted by a patrolman, warden, police officer or member of the Police Force, an officer of the Authority authorized in that behalf by the Authority or by any traffic inspector or assistant inspector referred to in Part VIII of this Act.

(4) A complaint for an offence against section 24 or 97 may be made at any time within two years from the time when the matter of complaint arose.

PART VIII.—TRANSITIONAL PROVISIONS.

108. Without affecting the application of the Interpretation Act, 1918, and particularly of sections 15 and 16 thereof, to the repeal and re-enactment by this Act of the provisions of the Traffic Act, 1919-1974, it is hereby declared that any regulation, by-law, order, vehicle licence, driver's licence, extraordinary driver's licence, permit or other document in force under any provision of the Traffic Act, 1919-1974 repealed by this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when it was made or done, and it is hereby further declared that any suspension, disqualification or cancellation of a driver's licence ordered or made by or under the Traffic Act, 1919-1974 or The Criminal Code shall continue and have effect as if it had been ordered or made by or under the provisions of this Act and as if this Act had been in force when it was ordered or made.

Savings.

109. Where any provision of this Act is proclaimed to come into operation prior to the date fixed under section 4 of this Act for the repeal of section 22 of the Traffic Act, 1919-1974, any reference in the firstmentioned provisions of this Act (other than section 13) to a patrolman shall, until section 22 of the Traffic Act, 1919-1974 is repealed, be construed as including a reference to a traffic inspector or assistant inspector appointed under that section.

Powers of
traffic
inspectors.

110. (1) The provision of this section apply to such districts as are from time to time specified by notice under subsection (2) of this section.

Powers of
certain
traffic
inspectors
preserved.

(2) The Minister may from time to time by notice published in the *Gazette*—

- (a) specify the districts to which the provisions of this section apply and
- (b) vary or revoke any such notice.

(3) In any district to which the provisions of this section apply—

- (a) the appointment of any person as a traffic inspector or assistant inspector under section 22 of the Traffic Act, 1919-1974 which appointment was in force immediately prior to the repeal of that section shall, subject to paragraph (b) of this subsection, continue in force and effect; and
- (b) the local authority for the district may appoint and dismiss traffic inspectors and assistant inspectors as if section 22 of the Traffic Act, 1919-1974 had not been repealed,

and any such traffic inspector or assistant inspector may, throughout the district of the local authority by which he was appointed, exercise any power conferred by this Act or section 27 of the Motor Vehicle Dealers Act, 1973 on a patrolman or member of the Police Force, and any reference in this Act or in section 27 of the Motor Vehicle Dealers Act, 1973 to a patrolman or member of the Police Force shall be construed as including a reference to such a traffic inspector or assistant inspector.

PART IX.—REGULATIONS.

Regulations,
etc.

Amended by
No. 17 of
1976, s. 4;
No. 89 of
1978, s. 19;
No. 71 of
1979, s. 17.

111. (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations—

- (a) empowering an authority therein named to—
 - (i) prohibit, and to authorize and regulate, processions;
 - (ii) restrict or prohibit the use of such roads, for such periods, as it may specify;
 - (iii) erect traffic signs and traffic control signals and similar devices;
 - (iv) seize, remove and detain obstructing or abandoned vehicles;
- (aa) regulating or prohibiting stock on roads;
- (b) relating to the duties, obligations, conduct and behaviour of owners, persons in charge, drivers and passengers of vehicles or of any class of vehicle;
- (c) requiring drivers and passengers of motor vehicles to wear or use the prescribed items of equipment;
- (d) prescribing the standards of, and equipment to be fitted to, vehicles and requiring vehicles or equipment to be maintained in the prescribed manner;
- (da) providing for the examination and testing of vehicles and without restricting the generality of the foregoing—
 - (i) empowering the Authority to authorize persons, whether officers of the Authority or not, to examine and test vehicles and to cancel any such authorization;
 - (ii) requiring the payment of fees for the examination and testing of vehicles pursuant to any regulation;
 - (iii) empowering any person who is authorized to examine and test vehicles to issue or to refuse to issue a certificate of inspection in relation to the inspection of a vehicle;

- (iv) empowering persons, whether officers of the Authority or not, to control, prohibit or restrict the use of a vehicle that does not conform to any regulation or does not fit the purpose for which the vehicle is desired to be licensed;
- (e) prescribing fares for taxi-cars and regulating the engagement and conduct of the drivers of those vehicles and other passenger vehicles;
- (f) regulating, and prescribing the manner of determining, the mass of vehicles or any components thereof and their loads;
- (g) enabling vehicles to be driven and tested;
- (h) regulating or prohibiting the parking or standing of vehicles;
- (i) requiring any matter affected by them to be in accordance with a specified standard or requirement and requiring any matter or thing to be done to the satisfaction of, or to the approval of, a specified person or body;
- (j) prescribing such fees as are not prescribed by this Act;
- (k) imposing penalties not exceeding two hundred dollars for a first offence, and not exceeding four hundred dollars for any subsequent offence, against any regulation made under this section, not being an offence referred to in paragraph (l) or (m) of this subsection;
- (l) imposing for offences against regulations made pursuant to paragraph (f) of this subsection not being an offence referred to in paragraph (m) of this subsection—
 - (i) minimum penalties not exceeding from ten dollars to one thousand dollars irreducible in mitigation notwithstanding the provisions of any other Act; and

- (ii) maximum penalties not exceeding three thousand dollars,
in accordance with a scale so prescribed according to the nature of the offences and the circumstances by which they are attended;
- (m) requiring the driver or person in charge of a vehicle to comply with any reasonable direction given by a patrolman—
 - (i) for the purpose of determining the mass of a vehicle and the load carried thereon and on any component thereof including a direction that the vehicle be taken to a police station or other suitable place specified by the patrolman; and
 - (ii) to remove or adjust the load carried by a vehicle, on any component of a vehicle or both by the vehicle and on any component thereof so that the load carried thereon does not exceed the maximum mass that is permitted to be carried under the regulations by a vehicle of that kind and on any component thereof,and imposing with respect to any offence against any such regulations—
 - (iii) penalties not exceeding five hundred dollars for a first offence; and
 - (iv) for any subsequent offence a minimum penalty irreducible in mitigation, notwithstanding the provisions of any other Act, of one thousand dollars and maximum penalties not exceeding three thousand dollars for any subsequent offence;
- (n) defining the previous offences that shall be taken into account in determining whether an offence is a first or subsequent offence for the purposes of the regulations.

(2a) The circumstances referred to in paragraph (1) of subsection (2) of this section may include a reference to the amount, calculated as a percentage or otherwise, by which the mass of a vehicle and the load carried by a component thereof exceeds the maximum mass that is permitted to be carried by a vehicle of that kind or a component thereof or both under regulations made pursuant to that paragraph.

(2b) Regulations made pursuant to paragraph (f) of subsection (2) of this section may provide that where a person drives, stands or uses a vehicle or permits a vehicle to be driven, stood or used, in contravention of a provision of those regulations, the owner of that vehicle shall be deemed to have also contravened that provision.

(3) A local authority may, with the approval of the Governor, make by-laws regulating the fares for and the driving and operation of taxi-cars in its district and imposing penalties not exceeding two hundred dollars for any breach thereof.

(4) Where there is any inconsistency between the regulations and any by-law made or preserved pursuant to this section, the regulations shall prevail and the by-laws shall, to the extent of the inconsistency, be of no effect.

(5) Any by-laws made under section 49 of the repealed Act shall continue in force, but may be amended or revoked, as if made under subsection (3) of this section.

Liability of
Director, etc.
of a body
corporate
that is
owner of
a vehicle.
Added by
No. 89 of
1978, s. 20.

112. (1) In this section "director", in relation to a body corporate, includes any person occupying the position of director of the body corporate by whatever name called and includes a person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act.

(2) Where a corporation is the owner or one of the owners of a vehicle any reference in a regulation made pursuant to paragraph (f) of subsection (2) of section 111 to the owner of such a vehicle shall be construed as including a reference to every person who is a director of that corporation.

(3) Where any person has, by reason only of being director of a corporation been required under this Act to discharge any obligation to pay any sum of money that the corporation was obliged to pay, whether pursuant to a judgment or order of a court or not, that person—

- (a) is entitled to recover from the corporation any amount so paid as a civil debt due to the person by the corporation; and
- (b) when any amount so paid cannot be recovered from the corporation, is entitled to recover contribution from any other director of the corporation who would have been liable in respect of the amount so paid except that the amount which may be recovered by a director from any other director shall not exceed that proportion of the total amount that he has paid as one bears to the total number of directors of that corporation.

(4) Where pursuant to the provisions of subsection (2) of this section more than one person is liable as owner of a vehicle, any obligation imposed upon the owner by or under this section shall be deemed to have been discharged, if the obligation is performed by any one of those persons.

(5) A certificate purporting to be signed by—

- (a) the Commissioner of Corporate Affairs appointed under the Companies Act, 1961; or
- (b) the officer holding the corresponding office under any corresponding Act or Ordinance for the time being in force in any State or Territory of the Commonwealth,

stating that it appears from a return or returns lodged with him pursuant to the revelant law relating to companies that on any date, or during any period, any person specified therein was a director of a corporation specified in the certificate is *prima facie* evidence of the matters specified in the certificate.

(6) For the purposes of subsection (5) of this section, a person who appears from any return lodged as provided in that subsection, to be a director of a corporation, shall be deemed to continue as such until by a subsequent return so lodged it appears that he has ceased to be such a director.

(7) Nothing in this section affects the liability of a corporation that is the owner or one of the owners of a vehicle to pay any amount to the Authority in accordance with any of the provisions of this Act.

Section 15.
First
Schedule.
Amended by
No. 93 of
1975, s. 9;
No. 89 of
1978, s. 21.

FIRST SCHEDULE.

Vehicle.	Description.
Caravan (motor propelled)	A vehicle that is fitted or designed for habitation for a person in the course of a journey and which is capable of being propelled by its own power.
Caravan (trailer type)	A vehicle that is fitted or designed for habitation for a person in the course of a journey, and to be drawn by another vehicle or by any tractive unit.
Converter dolly trailer	A vehicle having an axle or axle group the lower half of a fifth wheel coupling and a draw bar, which is designed and used for attachment towards the front of a semi-trailer.
External power vehicle	A vehicle that derives its motive power from a source external to the vehicle or from an electrical storage battery which is not connected to any source of power when the vehicle is in motion.
Fork lift truck	A vehicle that is constructed or designed and ordinarily used, for the loading, unloading and like movement of goods at a factory, warehouse, wharf, railway station or similar place and is of such nature as to be generally unsuitable for use on roads.

First Schedule—*continued.*

Vehicle.	Description.
Mobile crane	A vehicle that has a crane permanently affixed to it and is not suitable for carrying any load other than the accessories necessary for the operation of the vehicle.
Motor car	Any motor vehicle designed primarily for the carriage of persons, whether the vehicle is, or is not, provided with space for the carriage of personal luggage, including the class of motor vehicles some of which are known by the trade name, "Station Sedan" or "Station Wagon", which class is provided with greater space for the carriage of personal luggage and other things than is provided in sedan cars, and including also the class of three wheeled vehicle which is designed and controlled in a manner similar to a four wheeled motor car, but excluding motor cycles, motor carriers, and motor omnibuses.
Motor carrier	A motor vehicle constructed for the carriage therein or thereon of passengers or goods or both passengers and goods, designed to travel on three wheels and weighing, unladen, not more than 1 016 kilograms; and also includes a motorised wheel chair, being a class of chair-type vehicle fitted with a low powered motor and three or more wheels and designed for the use of or by incapacitated or crippled persons only. The term "motor carrier" does not include the class of three wheeled vehicle which comes within the description of "motor car".
Motor cycle	Subject to the provisions of the description of a "motor carrier", a motor vehicle designed to travel on two wheels, or with a sidecar attached three wheels, or a motor vehicle having three wheels arranged in such a way that the axis of rotation of two wheels lies on the same straight line and each of those two wheels is equidistant from the third, and includes any such vehicle which is not equipped with a permanent cab and cab roof.
Motor Wagon	Any motor vehicle (not being a motor carrier or a motor cycle or a locomotive or traction engine) that is constructed for the conveyance therein or thereon of goods or merchandise or for the conveyance therein or thereon of any kind of materials used in any trade,

*Road Traffic.*First Schedule—*continued.*

Vehicle.	Description.
	business or industry or for use in any work whatsoever other than for the conveyance of passengers and includes a wagon driven by steam if fitted with wheels similar to those of a motor vehicle or to those of a sentinel or a similar vehicle. The term also includes any vehicle that comes within the popular conception of a motor car but which is fitted or adapted for the conveyance of any such goods, merchandise, or materials and is in fact used for that purpose where the appropriate licence fee for the vehicle licensed as a motor car would be less than the appropriate fee for the same vehicle licensed as a motor wagon.
Omnibus	A vehicle used as a passenger vehicle to carry passengers at separate fares.
Plant trailer	A trailer to which there is permanently affixed plant such as an air compressor, concrete mixer or welder and which is not suitable for carrying any load other than the accessories necessary for the operation of the vehicle.
Trailer	A vehicle (not including a semi-trailer) drawn by another vehicle but not including a sidecar attachment to a motor cycle or any vehicle that comes within the description of a caravan.
Semi-trailer	A vehicle that is drawn by another vehicle, and that comes within the description of a trailer but which is so constructed and by partial superimposition attached to the vehicle drawing the same in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle drawing it; the term also includes a type of trailer known as a pole type jinker or pole type trailer.
Tow Motor	A vehicle that is constructed or designed, and ordinarily used for the towing of trailers at a factory, warehouse, wharf, railway station or similar place and is of such a nature as to be generally unsuitable for use on roads.
Tractor (prime mover type)	A motor vehicle that is a tractive unit designed for hauling a semi-trailer.
Tractor (other than prime mover type)	That class of motor vehicle, which, not being designed for use primarily for the carriage on roads of passengers or goods,

First Schedule—continued.

Vehicle.	Description.
	is designed for use primarily in industry, including, without limiting the meaning of the expression, "industry", agricultural pursuits, earth moving, forestry pursuits and industrial pursuits, generally.
Tractor plant	A motor vehicle that is or has permanently affixed to it an excavator, road roller, road grader, bulldozer, mechanical shovel, plough, rotary hoe or plant of similar nature and is not suitable for the carrying of any load other than accessories necessary for the operation of the vehicle.
Tow Truck	A motor vehicle constructed and fitted with permanent hoisting equipment used or intended to be used for the lifting, partial lifting or towing of road vehicle and which is not suitable for the carrying of any load other than accessories necessary for the operation of the vehicle.

SECOND SCHEDULE.

PART I.

RECORDING FEE.

The recording fee payable under subsection (1) of section 19 shall be a fee of four dollars.

PART II.

TRANSFER FEE.

A fee of three dollars is payable upon the transfer of any licence for a vehicle.

PART III—SECTION A.

FEES FOR VEHICLE LICENCES.

Licence fees for a period of twelve months will be calculated as follows:—

LICENCE FEES FOR MOTOR VEHICLES.*

- (1) For a motor car with an engine other than a rotary type—\$0.86 per power unit added to the tare weight amount indicated hereunder—

Tare Weight		Tare Weight	
Exceeding	Not Exceeding	Amount.	
kg	kg	\$	
—	51	0.86	
51	102	1.72	
102	153	2.58	
153	204	3.44	
204	255	4.30	

* Also see s. 28A re amendment of fees by regulations.

Second
Schedule.
Amended by
No. 4 of
1977, s. 4;
No. 89 of
1978, s. 22;
No. 10 of
1979, s. 5;
No. 71 of
1979, s. 18
and by
G.G. 6/6/80,
pp. 1671-2.

*Road Traffic.*Second Schedule—*continued.*

<i>Tare Weight</i>		<i>Tare Weight</i>		
Exceeding	Not Exceeding			<i>Amount.</i>
kg	kg			\$
255	306	....	....	5.16
306	357	....	....	6.02
357	408	....	....	6.88
408	459	....	....	7.74
459	510	....	....	8.60
510	561	....	....	9.46
561	612	....	....	10.32
612	663	....	....	11.18
663	714	....	....	12.04
714	765	....	....	12.90
765	816	....	....	13.76
816	867	....	....	14.62
867	918	....	....	15.48
918	969	....	....	16.34
969	1 020	....	....	17.20
1 020	1 071	....	....	18.06
1 071	1 122	....	....	18.92
1 122	1 173	....	....	19.78
1 173	1 224	....	....	20.64
1 224	1 275	....	....	21.50
1 275	1 326	....	....	22.36
1 326	1 377	....	....	23.22
1 377	1 428	....	....	24.08
1 428	1 479	....	....	24.94
1 479	1 530	....	....	25.80
1 530	1 581	....	....	26.66
1 581	1 632	....	....	27.52
1 632	1 683	....	....	28.38
1 683	1 734	....	....	29.24
1 734	1 785	....	....	30.10
Exceeding 1 785—				
for the first 1 785 kg		....	....	30.10
and for each additional 51 kg or part thereof		....	....	0.86

Second Schedule—continued.

(2) For a motor car with a rotary type engine—

<i>Tare Weight</i>				<i>Licence Fee.</i>
Exceeding	Not Exceeding			\$
kg	kg			
—	51	....	....	1.61
51	102	....	....	3.22
102	153	....	....	4.83
153	204	....	....	6.44
204	255	....	....	8.05
255	306	....	....	9.66
306	357	....	....	11.27
357	408	....	....	12.88
408	459	....	....	14.49
459	510	....	....	16.10
510	561	....	....	17.71
561	612	....	....	19.32
612	663	....	....	20.93
663	714	....	....	22.54
714	765	....	....	24.15
765	816	....	....	25.76
816	867	....	....	27.37
867	918	....	....	28.98
918	969	....	....	30.59
969	1 020	....	....	32.20
1 020	1 071	....	....	33.81
1 071	1 122	....	....	35.42
1 122	1 173	....	....	37.03
1 173	1 224	....	....	38.64
1 224	1 275	....	....	40.25
1 275	1 326	....	....	41.86
1 326	1 377	....	....	43.47
1 377	1 428	....	....	45.08
1 428	1 479	....	....	46.69
1 479	1 530	....	....	48.30
Exceeding 1 530 kg—				
for the first 1 530 kg		....	....	48.30
and for each additional 51 kg or part thereof		....	....	1.61

*Road Traffic.*Second Schedule—*continued.*

2. (1) For a motor wagon or tow truck—

(a) with tare weight not exceeding 1 530 kg—\$1.04 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>				<i>Tare Weight</i>
Exceeding	Not Exceeding			<i>Amount.</i>
kg	kg			\$
—	51	....	....	1.04
51	102	....	....	2.08
102	153	....	....	3.12
153	204	....	....	4.16
204	255	....	....	5.20
255	306	....	....	6.24
306	357	....	....	7.28
357	408	....	....	8.32
408	459	....	....	9.36
459	510	....	....	10.40
510	561	....	....	11.44
561	612	....	....	12.48
612	663	....	....	13.52
663	714	....	....	14.56
714	765	....	....	15.60
765	816	....	....	16.64
816	867	....	....	17.68
867	918	....	....	18.72
918	969	....	....	19.76
969	1 020	....	....	20.80
1 020	1 071	....	....	21.84
1 071	1 122	....	....	22.88
1 122	1 173	....	....	23.92
1 173	1 224	....	....	24.96
1 224	1 275	....	....	26.00
1 275	1 326	....	....	27.04
1 326	1 377	....	....	28.08
1 377	1 428	....	....	29.12
1 428	1 479	....	....	30.16
1 479	1 530	....	....	31.20

Second Schedule—*continued*.

- (b) with tare weight exceeding 1 530 kg but not exceeding 2 550 kg—\$1.35 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>				<i>Tare Weight</i>
Exceeding	Not Exceeding			<i>Amount.</i>
kg	kg			\$
1 530	1 581	....	....	41.85
1 581	1 632	....	....	43.20
1 632	1 683	....	....	44.55
1 683	1 734	....	....	45.90
1 734	1 785	....	....	47.25
1 785	1 836	....	....	48.60
1 836	1 887	....	....	49.95
1 887	1 938	....	....	51.30
1 938	1 989	....	....	52.65
1 989	2 040	....	....	54.00
2 040	2 091	....	....	55.35
2 091	2 142	....	....	56.70
2 142	2 193	....	....	58.05
2 193	2 244	....	....	59.40
2 244	2 295	....	....	60.75
2 295	2 346	....	....	62.10
2 346	2 397	....	....	63.45
2 397	2 448	....	....	64.80
2 448	2 499	....	....	66.15
2 499	2 550	....	....	67.50

- (c) with tare weight exceeding 2 550 kg but not exceeding 3 060 kg—\$1.66 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>				<i>Tare Weight</i>
Exceeding	Not Exceeding			<i>Amount.</i>
kg	kg			\$
2 550	2 601	....	....	84.66
2 601	2 652	....	....	86.32
2 652	2 703	....	....	87.98
2 703	2 754	....	....	89.64
2 754	2 805	....	....	91.30
2 805	2 856	....	....	92.96
2 856	2 907	....	....	94.62
2 907	2 958	....	....	96.28
2 958	3 009	....	....	97.94
3 009	3 060	....	....	99.60

Road Traffic.

Second Schedule—*continued*.

- (d) with tare weight exceeding 3 060 kg but not exceeding 5 100 kg—\$1.98 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	Exceeding	Amount.
kg	kg		\$
3 060	3 315	....	124.74
3 315	3 570	....	134.64
3 570	3 825	....	144.54
3 825	4 080	....	154.44
4 080	4 335	....	164.34
4 335	4 590	....	174.24
4 590	4 845	....	184.14
4 845	5 100	....	194.04

- (e) with tare weight exceeding 5 100 kg but not exceeding 5 865 kg—\$2.18 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	Exceeding	Amount.
kg	kg		\$
5 100	5 355	....	224.54
5 355	5 610	....	235.44
5 610	5 865	....	246.34

- (f) with tare weight exceeding 5 865 kg—\$3.41 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	Exceeding	Amount.
kg	kg		\$
5 865	6 120	....	402.38
6 120	6 375	....	419.43
6 375	6 630	....	436.48
6 630	6 885	....	453.53
6 885	7 140	....	470.58
7 140	7 395	....	487.63
7 395	7 650	....	504.68
7 650	7 905	....	521.73
7 905	8 160	....	538.78
8 160	8 415	....	555.83
8 415	8 670	....	572.88
8 670	8 925	....	589.93
8 925	9 180	....	606.98

Exceeding 9 180 kg—

part thereof	606.98
and for each additional 255 kg or	
for the first 9 180 kg	17.05

Second Schedule—*continued*.

(2) For a caravan (motor propelled)—one-half of the licence fee payable for a motor wagon of the same tare weight.

(3) For a tractor (prime mover type)—

(a) with tare weight not exceeding 1 530 kg—\$1.04 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>		
Exceeding	Not Exceeding			<i>Amount.</i>
kg	kg			\$
—	51	....	....	1.04
51	102	....	....	2.08
102	153	....	....	3.12
153	204	....	....	4.16
204	255	....	....	5.20
255	306	....	....	6.24
306	357	....	....	7.28
357	408	....	....	8.32
408	459	....	....	9.36
459	510	....	....	10.40
510	561	....	....	11.44
561	612	....	....	12.48
612	663	....	....	13.52
663	714	....	....	14.56
714	765	....	....	15.60
765	816	....	....	16.64
816	867	....	....	17.68
867	918	....	....	18.72
918	969	....	....	19.76
969	1 020	....	....	20.80
1 020	1 071	....	....	21.84
1 071	1 122	....	....	22.88
1 122	1 173	....	....	23.92
1 173	1 224	....	....	24.96
1 224	1 275	....	....	26.00
1 275	1 326	....	....	27.04
1 326	1 377	....	....	28.08
1 377	1 428	....	....	29.12
1 428	1 479	....	....	30.16
1 479	1 530	....	....	31.20

*Road Traffic.*Second Schedule—*continued.*

- (b) with tare weight exceeding 1 530 kg but not exceeding 2 550 kg—\$1.35 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	Amount.	
kg	kg	\$	
1 530	1 581	41.85	
1 581	1 632	43.20	
1 632	1 683	44.55	
1 683	1 734	45.90	
1 734	1 785	47.25	
1 785	1 836	48.60	
1 836	1 887	49.95	
1 887	1 938	51.30	
1 938	1 989	52.65	
1 989	2 040	54.00	
2 040	2 091	55.35	
2 091	2 142	56.70	
2 142	2 193	58.05	
2 193	2 244	59.40	
2 244	2 295	60.75	
2 295	2 346	62.10	
2 346	2 397	63.45	
2 397	2 448	64.80	
2 448	2 499	66.15	
2 499	2 550	67.50	

- (c) with tare weight exceeding 2 550 kg but not exceeding 3 060 kg—\$1.66 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	Amount.	
kg	kg	\$	
2 550	2 601	84.66	
2 601	2 652	86.32	
2 652	2 703	87.98	
2 703	2 754	89.64	
2 754	2 805	91.30	
2 805	2 856	92.96	
2 856	2 907	94.62	
2 907	2 958	96.28	
2 958	3 009	97.94	
3 009	3 060	99.60	

Second Schedule—*continued.*

- (d) with tare weight exceeding 3 060 kg but not exceeding 5 100 kg—\$3.08 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	<i>Amount.</i>	
kg	kg	\$	
3 060	3 315	....	194.04
3 315	3 570	....	209.44
3 570	3 825	....	224.84
3 825	4 080	....	240.24
4 080	4 335	....	255.64
4 335	4 590	....	271.04
4 590	4 845	....	286.44
4 845	5 100	....	301.84

- (e) with tare weight exceeding 5 100 kg—\$3.41 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	<i>Amount.</i>	
kg	kg	\$	
5 100	5 355	....	351.23
5 355	5 610	....	368.28
5 610	5 865	....	385.33
5 865	6 120	....	402.38
6 120	6 375	....	419.43
6 375	6 630	....	436.48
6 630	6 885	....	453.53
6 885	7 140	....	470.58
7 140	7 395	....	487.63
7 395	7 650	....	504.68
7 650	7 905	....	521.73
7 905	8 160	....	538.78
8 160	8 415	....	555.83
8 415	8 670	....	572.88
8 670	8 925	....	589.93
8 925	9 180	....	606.98

Exceeding 9 180 kg—

for the first 9 180 kg	....	606.98
and for each additional 255 kg or part thereof	....	17.05

Second Schedule—*continued*.

3. For an omnibus—\$1.19 per power unit added to the tare weight amount indicated hereunder—

<i>Tare Weight</i>		<i>Tare Weight</i>	
Exceeding	Not Exceeding	<i>Amount.</i>	
kg	kg	\$	
—	762	....	9.60
762	1 016	....	21.60
1 016	1 270	....	27.60
1 270	1 524	....	33.60
1 524	1 778	....	39.60
1 778	2 032	....	45.60
2 032	2 286	....	51.40
2 286	2 540	....	57.40
2 540	2 794	....	63.40
2 794	3 048	....	69.40
3 048	3 302	....	75.40
3 302	3 556	....	81.40
3 556	3 810	....	87.40
3 810	4 064	....	93.40
4 064	4 318	....	99.30
4 318	4 572	....	105.30
4 572	4 826	....	111.30
4 826	5 080	....	117.40
5 080	5 334	....	123.30
5 334	5 588	....	129.20
5 588	5 842	....	135.30
5 842	6 096	....	141.20
6 096	6 350	....	147.20
6 350	6 604	....	153.20
6 604	6 858	....	159.20
6 858	7 112	....	165.20
7 112	7 366	....	171.10
7 366	7 620	....	177.70
Exceeding 7 620 kg—			
for the first 7 620 kg		....	177.70
and for each additional 254 kg or			
part thereof		....	6.10

Licence Fee

	\$
capacity not exceeding 250 cubic centimetres	7.20
4. (1) For a motor cycle with engine	
(2) For a motor cycle with engine	
capacity exceeding 250 cubic centimetres	9.40

Second Schedule—*continued*.

5. For a motor carrier—

<i>Tare Weight</i>				<i>Licence Fee</i>
Exceeding	Not Exceeding			\$
kg	kg			
—	508	....	....	12.50
508	762	....	....	18.70
762	—	....	....	25.00

6. For a caravan (trailer type)—

<i>Tare Weight</i>				<i>Licence Fee</i>
Exceeding	Not Exceeding			\$
kg	kg			
—	508	....	....	5.20
508	762	....	....	7.30
762	1 016	....	....	9.40
1 016	1 270	....	....	11.40
1 270	1 524	....	....	13.50
1 524	1 778	....	....	15.60
1 778	2 032	....	....	17.70
2 032	2 286	....	....	19.80
2 286	2 540	....	....	21.80
Exceeding 2 540 kg—				
for the first 2 540 kg				21.80
and for each additional 254 kg				
or part thereof				2.60

7. For a trailer—

(a) Plant trailer—

<i>Tare Weight</i>				<i>Licence Fee.</i>
Exceeding	Not Exceeding			\$
kg	kg			
—	1 016	....	....	5.20
1 016	3 048	....	....	15.60
3 048	5 080	....	....	31.20
Exceeding 5 080 kg—				
for the first 5 080 kg				31.20
and for each additional 1 016 kg				
or part thereof				6.20

*Road Traffic.*Second Schedule—*continued.*

(b) Semi-trailer, converter dolly trailer or trailer,
other than a plant trailer—

<i>Tare Weight</i>				<i>Licence Fee.</i>
Exceeding	Not Exceeding			
kg	kg			\$
—	508	....	....	5.20
508	762	....	....	9.40
762	1 016	....	....	14.60
1 016	1 270	....	....	28.10
1 270	1 524	....	....	57.20
1 524	1 778	....	....	64.50
1 778	2 040	....	....	75.90
2 040	2 286	....	....	136.50
2 286	2 540	....	....	154.30
2 540	2 794	....	....	172.10
2 794	3 048	....	....	189.90
3 048	3 302	....	....	207.70
3 302	3 556	....	....	225.50
3 556	3 810	....	....	243.30
3 810	4 064	....	....	261.10
4 064	4 318	....	....	278.90
4 318	4 572	....	....	296.70
4 572	4 826	....	....	314.50
4 826	5 080	....	....	332.30

Exceeding 5 080 kg—

for the first 5 080 kg 332.30

and for each additional 254 kg
or part thereof 17.80

Second Schedule—*continued*.

8. For a tractor (other than prime mover type) other than a tractor plant—

Exceeding kg	Not Exceeding kg			Licence Fee. \$
—	762	....	....	25.00
762	1 016	....	....	32.20
1 016	1 270	....	....	39.50
1 270	1 524	....	....	46.80
1 524	1 778	....	....	54.10
1 778	2 032	....	....	61.40
2 032	2 286	....	....	68.60
2 286	2 540	....	....	75.90
2 540	2 794	....	....	83.20
2 794	3 048	....	....	91.50
3 048	3 302	....	....	99.80
3 302	3 556	....	....	108.20
3 556	3 810	....	....	116.50
3 810	4 064	....	....	124.80
4 064	4 318	....	....	133.10
4 318	4 572	....	....	141.40
4 572	4 826	....	....	149.80
4 826	5 080	....	....	158.10
5 080	5 334	....	....	166.40
5 334	5 588	....	....	174.70
5 588	5 842	....	....	183.00
5 842	6 096	....	....	191.40
6 096	6 350	....	....	199.70
6 350	6 604	....	....	208.00
6 604	6 858	....	....	216.30
6 858	7 112	....	....	224.60
7 112	7 366	....	....	233.00
7 366	7 620	....	....	241.30
Exceeding 7 620 kg—				
for the first 7 620 kg	....	....	....	241.30
and for each additional 254 kg or part thereof	....	....	....	8.30

Second Schedule—*continued*.

9. For a tractor plant, fork lift truck or tow motor—

<i>Tare Weight</i>				<i>Licence Fee</i>
Exceeding	Not Exceeding			\$
kg	kg			
—	762	....	....	5.90
762	1 016	....	....	7.80
1 016	1 270	....	....	9.80
1 270	1 524	....	....	11.60
1 524	1 778	....	....	13.60
1 778	2 032	....	....	15.50
2 032	2 286	....	....	17.50
2 286	2 540	....	....	19.30
2 540	2 794	....	....	21.30
2 794	3 048	....	....	23.20
3 048	3 302	....	....	25.20
3 302	3 556	....	....	27.00
3 556	3 810	....	....	29.00
3 810	4 064	....	....	30.90
4 064	4 318	....	....	32.90
4 318	4 572	....	....	34.70
4 572	4 826	....	....	36.70
4 826	5 080	....	....	38.60
5 080	5 334	....	....	40.60
5 334	5 588	....	....	42.40
5 588	5 842	....	....	44.40
5 842	6 096	....	....	46.30
6 096	6 350	....	....	48.30
6 350	6 604	....	....	50.10
6 604	6 858	....	....	52.10
6 858	7 112	....	....	54.00
7 112	7 366	....	....	56.00
7 366	7 620	....	....	57.80
Exceeding 7 620 kg—				
for the first 7 620 kg		....	....	57.80
and for each additional 254 kg				
or part thereof		....	....	1.90

Second Schedule—*continued*.

10. For a mobile crane—

(1) Where the owner lodges a statutory declaration that the crane will not be used or let for hire and will not be used on behalf of any person other than the owner—

<i>Tare Weight</i>		<i>Licence Fee</i>	
Exceeding	Not Exceeding		
kg	kg		\$
—	762	....	5.90
762	1 016	....	7.80
1 016	1 270	....	9.80
1 270	1 524	....	11.60
1 524	1 778	....	13.60
1 778	2 032	....	15.50
2 032	2 286	....	17.50
2 286	2 540	....	19.30
2 540	2 794	....	21.30
2 794	3 048	....	23.20
3 048	3 302	....	25.20
3 302	3 556	....	27.00
3 556	3 810	....	29.00
3 810	4 064	....	30.90
4 064	4 318	....	32.90
4 318	4 572	....	34.70
4 572	4 826	....	36.70
4 826	5 080	....	38.60
5 080	5 334	....	40.60
5 334	5 588	....	42.40
5 588	5 842	....	44.40
5 842	6 096	....	46.30
6 096	6 350	....	48.30
6 350	6 604	....	50.10
6 604	6 858	....	52.10
6 858	7 112	....	54.00
7 112	7 366	....	56.00
7 366	7 620	....	57.80
Exceeding 7 620 kg—			
for the first 7 620 kg		....	57.80
and for each additional 254 kg			
or part thereof		....	1.90

*Road Traffic.*Second Schedule—*continued.*

(2) Where the crane is used or let for hire or is used to perform work on behalf of any person other than the owner—

<i>Tare Weight</i>				<i>Licence Fee</i>
Exceeding	Not Exceeding			\$
kg	kg			
—	762	....	....	11.80
762	1 016	....	....	15.60
1 016	1 270	....	....	19.60
1 270	1 524	....	....	23.20
1 524	1 778	....	....	27.20
1 778	2 032	....	....	31.00
2 032	2 286	....	....	35.00
2 286	2 540	....	....	38.60
2 540	2 794	....	....	42.60
2 794	3 048	....	....	46.40
3 048	3 302	....	....	50.40
3 302	3 556	....	....	54.00
3 556	3 810	....	....	58.00
3 810	4 064	....	....	61.80
4 064	4 318	....	....	65.80
4 318	4 572	....	....	69.40
4 572	4 826	....	....	73.40
4 826	5 080	....	....	77.20
5 080	5 334	....	....	81.20
5 334	5 588	....	....	84.80
5 588	5 842	....	....	88.80
5 842	6 096	....	....	92.60
6 096	6 350	....	....	96.60
6 350	6 604	....	....	100.20
6 604	6 858	....	....	104.20
6 858	7 112	....	....	108.00
7 112	7 366	....	....	112.00
7 366	7 620	....	....	115.60
Exceeding 7 620 kg—				
for the first 7 620 kg		....	....	115.60
and for each additional 254 kg				
or part thereof		....	....	3.80

Second Schedule—*continued*.

PART III—SECTION B.

RULES FOR DETERMINING POWER UNITS AND TARE WEIGHT FOR THE PURPOSES OF SECTION A OF PART III OF THIS SCHEDULE.

For the purposes of ascertaining the fees under Section A of this Part—

- (a) the number of power units of a motor vehicle (other than a motor vehicle with a rotary type engine) shall be the number of horsepower calculated from the R.A.C. formula expressed as the whole number so obtained or such other formula as the Minister may from time to time determine;
- (b) the R.A.C. formula is the square of the diameter of the cylinders (expressed in millimetres) multiplied by the number of cylinders and the result divided by 1613; and
- (c) the tare weight of a vehicle shall—
 - (i) in the case of a new or unlicensed vehicle—be based on the manufacturer's specification; and
 - (ii) in the case of a vehicle which has been previously licensed—be as shown on the licence.

PART IV.

FEES RELATING TO DRIVER'S LICENCES.

The following fees are payable—	\$
(a) on the first application for a driver's licence and on every subsequent application made after three months from the refusal, or made after the cancellation, of any such licence	4.00
(b) on the issue or renewal of a driver's licence for each period of twelve months for which the licence is issued or renewed	7.00.

THIRD SCHEDULE.*

* A Third Schedule was added by Act No. 89 of 1978, s. 23, but its provisions not included in this reprint (see footnote on p. 140 and also the note in pages 145 and 146).

NOTE.*

1. Section 16(a), (b) and (c) of Act No. 89 of 1978 reads as follows—

Section 102
amended.

16. Section 102 of the principal Act is amended—

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

(1) Where a patrolman or warden has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this section, he may serve on that person a notice, in the prescribed form, (in this section called a "traffic infringement notice") informing the person that—

(a) if he does not wish to have a complaint of the alleged offence heard and determined by a court he may pay to an officer specified in the notice on or before the date specified in the notice as the last date for the payment of the penalty (being a date not earlier than twenty-eight days after the date of the alleged offence and in this section referred to as "the payment date") the amount of the penalty prescribed for the offence;

(b) if he wishes to have a complaint of the alleged offence heard and determined by a court he shall by notice in the prescribed form served on the Authority by leaving it at the office of the Authority or by sending it to the Authority by pre-paid post not later than the payment date declare that he wishes to have a complaint of the alleged offence heard and determined by a court;

(c) if he fails—

(i) to notify the Authority before the payment date that he wishes to have a complaint of the alleged offence heard and determined by a court; or

(ii) to pay the penalty prescribed for the offence,

he will, by force of this section but subject thereto, be convicted of the offence and be deemed to have elected to pay the prescribed penalty and the Authority will notify him of the conviction;

(d) if having been notified of the conviction he fails to pay the penalty within a period of twenty-eight days of the date of the notice the penalty may be recovered under the provisions of the Justices Act, 1902 as if an order requiring the payment of that amount as a pecuniary penalty had been made by a justice under the provisions of that

* The provisions contained in this note have not been proclaimed to come into operation at the date of approval of this reprint and are published here only for the purpose of public information.

Note—continued.

Act and there had been a default in respect of the payment thereof unless he can, within fourteen days of becoming aware of the issue of the warrant for the enforcement of the payment of the prescribed penalty, satisfy the clerk of petty sessions at the place where the warrant was issued that—

- (i) the prescribed penalty has been paid;
- (ii) the traffic infringement notice or copy thereof was not served as required by this section;
- (iii) the Authority has been notified in accordance with subsection (4) of this section on or before the payment date, or, where the circumstances set out in subsection (4a) of this section apply, on or before the later payment date as defined in that subsection;
- (iv) the notice notifying him of this conviction of the offence has not been served on him pursuant to subsection (4d) of this section;
- (v) he has applied pursuant to subsection (4e) of this section to have the conviction set aside; or
- (vi) the conviction has been set aside pursuant to subsection (4i) of this section; ;

- (b) by repealing subsection (4) and substituting the following subsections—

(4) Subject to this section, a person who receives a traffic infringement notice and wishes to have a complaint of the alleged offence heard and determined by a court shall by notice in the prescribed form served on the Authority by leaving it at the office of the Authority or sent to the Authority by pre-paid post declare that he declines to pay the penalty and that he wishes to have a complaint of the alleged offence heard and determined by a court.

(4a) Where—

- (a) pursuant to subsection (2) of this section a traffic infringement notice has been served by being posted to the address of the alleged offender or by being left in or upon, or attached to a vehicle the standing, parking or leaving of which is an element of the offence specified in the traffic infringement notice; and
- (b) the alleged offender fails to—
 - (i) notify the Authority in accordance with subsection (4) of this section;
 - or
 - (ii) pay the penalty prescribed for the offence and specified in the traffic infringement notice,

on or before the payment date,

*Road Traffic.**Note—continued.*

the Authority shall cause the alleged offender to be served personally with a copy of the traffic infringement notice and shall specify in the copy of the notice so served a later date (being a date not earlier than fourteen days after the service of the notice in this section referred to as the "later payment date") on or before which he shall carry out either of those requirements.

(4b) Where pursuant to subsection (3) of this section a person deemed to be the offender in relation to an offence specified in a traffic infringement notice has been personally served pursuant to subsection (4a) of this section with a copy of the traffic infringement notice and fails to pay the prescribed penalty on or before the later payment date he is by force of this subsection convicted of the offence and is deemed to have elected to pay the prescribed penalty.

(4c) Where—

(a) pursuant to subsection (2) of this section a traffic infringement notice has been served personally on an alleged offender and the alleged offender fails to—

(i) notify the Authority in accordance with subsection (4) of this section;
or

(ii) pay the penalty prescribed for the offence specified in the traffic infringement notice,

on or before the payment date; or

(b) pursuant to subsection (4a) of this section a copy of a traffic infringement notice has been served personally on an alleged offender and the alleged offender fails to—

(i) notify the Authority in accordance with subsection (4) of this section; or

(ii) pay the penalty prescribed for the offence specified in the traffic infringement notice,

on or before the later payment date,

the alleged offender is deemed to have committed the offence specified in the notice so served and is by force of this subsection convicted of that offence and is deemed to have elected to pay the prescribed penalty.

(4d) Where a person is convicted of an offence pursuant to subsection (4b) or (4c) of this section the Authority shall by notice of conviction in the prescribed form addressed to that person at his last known place of residence or business and posted to him by certified mail notify him that he has been convicted of the offence and that he is required to pay the prescribed penalty within twenty-eight days of the date of the notice.

(4e) Where a person who receives a notice of conviction sent pursuant to subsection (4d) of this section notifying him that he has been convicted of an offence satisfies the clerk of petty sessions nearest to his place of residence or business within twenty-eight days of the date of the notice that—

(a) he has paid the amount of the penalty prescribed for the offence;

Note—continued.

- (b) he has not been served personally with the traffic infringement notice and that he wishes to have the conviction set aside; or
- (c) he has notified the Authority that he declines to pay the prescribed penalty and that he wishes to have a complaint of the alleged offence heard and determined by a court,

the clerk of petty sessions shall notify the Authority of that fact.

(4f) Where a person who is convicted of an offence by force of subsection (4b) or (4c) of this section and who is notified of the conviction pursuant to subsection (4d) of this section—

- (a) fails to satisfy a clerk of petty sessions in terms of paragraph (a), (b) or (c) of subsection (4e) of this section;
- (b) fails to pay the prescribed penalty within twenty-eight days of the date of the notice; or
- (c) having satisfied the clerk of petty sessions that he was not served with the traffic infringement notice, fails to apply to have the conviction set aside within the time prescribed by subsection (4g) of this section,

the amount of the penalty may be recovered under the provisions of the Justices Act, 1902 as if an order requiring the payment of that amount as a pecuniary penalty had been made by a justice under the provisions of that Act and there had been a default in respect of the payment thereof except that the warrant to be issued for the enforcement of the penalty shall be in the form of Form 1 or Form 2 of the Third Schedule of this Act at the discretion of the justice to whom application is made for the enforcement of the penalty.

(4g) Where a person who is convicted of an offence pursuant to subsections (4b) or (4c) of this section desires to have the conviction set aside he shall within fourteen days of satisfying the clerk of petty sessions in terms of paragraph (b) of subsection (4e) of this section or such other extension of that period as the Court of Petty Sessions may allow serve upon the clerk of petty sessions nearest to his place of business or residence, a notice in the prescribed form requiring the conviction to be set aside and for a hearing of the complaint relating to the offence specified in the traffic infringement notice served or alleged to be served on him.

(4h) Where a notice requiring a conviction to be set aside and for the hearing of a complaint relating to an offence is served on a clerk of petty sessions pursuant to subsection (4g) of this section the clerk shall as soon as may be practicable fix a day and time for the setting aside of the conviction and the hearing of a complaint relating to the offence and shall by notice served personally on the defendant and served personally or by prepaid post on the Authority notify them of the date and time so fixed.

*Road Traffic.**Note—continued.*

(4i) The Court of Petty Sessions shall, on the day fixed pursuant to subsection (4h) of this section, proceed to consider the setting aside of the conviction and shall if it is satisfied—

- (a) that the defendant has not been notified of the offence as required by this section;
- (b) that the defendant has not been notified of the conviction of the offence as required by this section; or
- (c) that having been notified as required by this section the defendant has in accordance with this section served notice on the Authority that he wishes to have a complaint of the alleged offence heard and determined by a court,

set aside the conviction but if it is not so satisfied it shall confirm the conviction; and where the conviction is set aside, the Court may proceed to hear a complaint relating to the alleged offence or adjourn the hearing to a day fixed by it, as it thinks fit.

(4j) Where a warrant has been issued for the recovery of a penalty prescribed for an offence specified in a traffic infringement notice the clerk of petty sessions at the place where the warrant was issued shall on application by the person named in the traffic infringement notice made within fourteen days of the issue of the warrant coming to the notice of that person order that the execution of the warrant be suspended for such period not exceeding fourteen days as he specifies in the order if he is satisfied that—

- (a) the prescribed penalty has been paid;
- (b) the traffic infringement notice or copy thereof was not served as required by this section;
- (c) the Authority has been notified by the alleged offender in accordance with subsection (4) of this section on or before the payment date or the later payment date as the case requires;
- (d) the notice of conviction has not been served pursuant to subsection (4d) of this section;
- (e) the alleged offender has applied pursuant to subsection (4e) of this section to have the conviction set aside; or
- (f) the conviction has been set aside pursuant to subsection (4i) of this section,

and the execution of the warrant shall be suspended accordingly.

(4k) Where pursuant to subsection (4j) of this section the clerk of petty sessions orders the suspension of the execution of a warrant he shall notify the Authority of that fact.

Note—continued.

(4l) Notwithstanding anything in subsection (4j) and subsection (4k) of this section, the Authority may, at any time before the execution of a warrant issued for the recovery of a penalty prescribed for an offence specified in a traffic infringement notice, apply to the clerk of petty sessions at the place where the warrant was issued for the withdrawal of the warrant and where the Authority does so the clerk shall order that the warrant shall not be executed and the officer charged with the execution of the warrant shall comply with any order so made. ;

(c) as to subsection (7), by adding after the word "notice", in line two, the words "or the enforcement of such a penalty under the provisions of this section".

2. Section 23 of Act No. 89 of 1978 reads as follows—

23. The principal Act is amended by adding after the Second Schedule the following schedule—

Third
Schedule
added.

THIRD SCHEDULE.

Form 1.

S. 102 (4f)

Road Traffic Act, 1974 (as amended).

WARRANT OF COMMITMENT.

To all Police Officers in the State of Western Australia, and to the superintendent (or keeper) of Her Majesty's prison (or the gaol) at in the said State.

WHEREAS on a traffic infringement notice (a copy of traffic infringement notice) No. was served personally on AB of in the State of Western Australia AND WHEREAS the said AB is by force of section 102 of the Road Traffic Act, 1974 (as amended) convicted of the offence specified in the said traffic infringement notice (copy of traffic infringement notice) so served AND WHEREAS a notice of conviction of the offence dated the has been served on the said AB in accordance with the provisions of that section and the prescribed penalty of \$ has not been paid within the period of twenty-eight days of that date.

THESE are, therefore, to command you, the said Police Officers, to apprehend the said AB and convey (him) to Her Majesty's prison (or gaol) at and deliver (him) to the superintendent (or keeper) thereof, together with this warrant, and I hereby command you, the said superintendent (or keeper) of the said prison (or gaol), to receive the said AB into your custody in the said prison (or gaol), there to imprison (him) for the term of unless the said penalty of \$ and the costs and charges of conveying the said AB to the said prison (or gaol) amounting to the further sum of (\$) are sooner paid.

GIVEN under my hand, at in the said State, this day of 19.....

Justice of the Peace.

Road Traffic.

Form 2.

Road Traffic Act, 1974 (as amended).

WARRANT OF EXECUTION.

To all Police Officers in the State of Western Australia:

WHEREAS on
 a traffic infringement notice (a copy of traffic infringement notice)
 No. was served personally on
 AB of
 in the State of Western Australia AND WHEREAS the said AB
 is by force of section 102 of the Road Traffic Act, 1974 (as amended)
 convicted of the offence specified in the said traffic infringement
 notice (copy of traffic infringement notice) so served AND WHEREAS
 a notice of conviction of the offence dated the
 has been served on the said AB in accordance with the provisions of
 that section and the prescribed penalty of \$ has not
 been paid within the period of twenty-eight days of that date.

THESE are, therefore, to command you, in Her Majesty's name
 forthwith to take the goods and chattels of the said AB and if within
 the space of days after taking them the
 said sums, together with the reasonable charges of taking and
 keeping the goods and chattels, are not paid, that then you sell
 the said goods and chattels and pay the money arising by such
 sale to the Clerk of Petty Sessions at
 in the said State, and if no goods and chattels can be found that
 you certify the same to me.

GIVEN under my hand, at in the said
 State, this day of 19.....

.....
 Justice of the Peace.