

CONTROL OF VEHICLES (OFF-ROAD AREAS).

No. 117 of 1978.

AN ACT to prohibit the use of vehicles in certain places, to make provision as to the use of vehicles otherwise than on a road, to provide for areas where the use of off-road vehicles shall be permitted, for the registration of off-road vehicles, and for related purposes.

[Assented to 12th December, 1978.]

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

1. This Act may be cited as the *Control of Vehicles (Off-road areas) Act, 1978.* Short title.

Commence-
ment.

2. The several provisions of this Act shall come into operation on such day or days as is, or are respectively, fixed by proclamation.

Interpreta-
tion.

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

“Authority” means the Road Traffic Authority established under the Road Traffic Act, 1974, and includes, where the circumstances so require, a public authority acting as the agent of the Road Traffic Authority in respect of the registration of a vehicle pursuant to regulations made under this Act;

“authorized officer” means a person to whom subsection (1) of section 38 of this Act applies;

“certificate of registration” or “certificate” means a certificate issued under section 29 of this Act;

“Committee” means the Advisory Committee constituted pursuant to section 21 of this Act;

“council” means the executive body of a municipality and includes a commissioner discharging the duties of a council under the Local Government Act, 1960;

“Department” means a department of the Public Service of the State;

“departmental adviser” means a person so appointed pursuant to section 22 of this Act;

“district” in relation to a council, means an area of the State the inhabitants of which area are a municipality under the Local Government Act, 1960, and may include for the purposes of this Act other areas which although not being within the boundaries of the municipal district under that Act are, pursuant to subsection (3) of section 5 of this Act, to be regarded for such purposes as being part of the municipal district;

“drive” includes riding a vehicle, and “driver” includes a rider having the control of a vehicle;

“infringement notice” means a notice of the kind referred to in subsection (1) of section 37 of this Act;

“Minister” means either—

(a) the Minister for the time being charged with the administration of the Local Government Act, 1960, if no other Minister is specifically charged with the administration of this Act; or

(b) where a Minister is specifically charged with the administration of this Act, the Minister so charged;

“municipality” means a municipality constituted under the Local Government Act, 1960;

“municipal district” means the district the inhabitants of which constitute a municipality;

“off-road vehicle” means a vehicle which is not licensed, deemed to be licensed, or the subject of a permit granted, under the Road Traffic Act, 1974;

“owner” in relation to a vehicle includes—

(a) a person who is the owner thereof;

(b) a person nominated as owner pursuant to—

(i) subsection (4) of section 5 of the Road Traffic Act, 1974; or

(ii) subsection (2) of this section;

(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—

(i) the Road Traffic Act, 1974, 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 section 5 of that Act is in force); or

(ii) this Act,

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

“permitted area” means an area declared as such by the Minister pursuant to section 12 or to section 13 of this Act and specified in a notice published pursuant to section 12 of this Act;

“private land” means land of a kind to which the provisions of paragraph (a) of subsection (2) of section 39 of this Act applies, or land to which paragraph (b) of that subsection relates;

“prohibited area” means an area established as such by the Minister and specified in a notice published pursuant to section 16 of this Act;

“public authority” means a Department or State instrumentality, the council of a municipality within its district, and any other person or body, whether corporate or not, who or which under the authority of any Act is charged with the carrying out of any duty whilst acting in the discharge of that duty;

“road” means any highway, road or street, open to, or used by, the public; and

“vehicle” means a vehicle that is propelled by an engine or other mechanical source of power.

(2) Where any off-road 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 be registered as the owner and that person shall, subject to subsection (3) of section 11 of this Act, for the purposes of this Act be deemed to be the owner of that vehicle.

4. (1) Subject to the provisions of this section, the provisions of this Act apply throughout the State. Application
of this
Act.

(2) The Governor may from time to time by proclamation declare that the provisions of this Act, or such of those provisions as may be therein specified, shall not apply to or in relation to such part or parts of the State as are therein specified and thereupon such provisions of this Act shall not have effect in the area so specified.

(3) The Governor may by a subsequent proclamation vary or cancel any proclamation made under subsection (2) of this section.

5. (1) Subject to the Minister, and in co-operation with the Road Traffic Authority, it shall be the duty of a council to administer and enforce the provisions of this Act within its district. Council's
respon-
sibility.

(2) In accordance with regulations made under subsection (12) of section 29 of this Act, a council may at the request of the Authority act for the Authority as the local agent of the Authority in relation to this Act, and in that capacity may effect the registration of off-road vehicles, cause to be examined vehicles which are so registered or are sought to be so registered, issue and receive notices, and collect and enforce penalties.

(3) Where in the opinion of the Governor the powers conferred by this Act on a council should be exercised by that council in an area outside the municipal district the Governor may by Order published in the *Government Gazette* declare that for the purpose of this Act the area is to be regarded Use of
Vehicles.

as being within the municipal district and the provisions of this Act shall then apply as if in fact the area were within the municipal district.

(4) For the purposes of this Act a district shall **be** taken to include the land lying between mean **high** water mark at spring tides of the main sea and mean low water mark at spring tides of the main sea adjacent to that district.

(5) For the purposes of this Act a council may employ, under and subject to the Local Government Act, 1960, fit and proper persons to be authorized officers.

6. (1) A person shall not drive or use an off-road vehicle in any area to which this section applies otherwise than—

(a) on private land by consent; or

(b) on land comprised within a permitted area, unless permitted to do so pursuant to subsection (4) of section 8 of this Act or deemed to have been permitted to do so pursuant to subsection (5) of that section.

Penalty: Five hundred dollars.

(2) A person shall not drive or use any vehicle to which, or in the circumstances to which, a declaration made and published under section 16 of this Act applies on land comprised within a prohibited area to which the declaration relates unless permitted to do so pursuant to subsection (4) of section 8 of this Act.

Penalty: One thousand dollars.

(3) The provisions of subsection (2) of this section apply notwithstanding that the driving or use of the vehicle on the land in question may have been authorized by the owner or occupier of that land.

(4) A person shall not use or drive an off-road vehicle on any land whether or not private land—

(a) in a manner which creates or causes any undue or excessive noise; or

- (b) unless an efficient silencing device, so constructed that all exhaust from the engine is projected through the device in such a manner as effectively to prevent the creation of undue noise, is securely fitted to the engine; or
- (c) unless it complies with such other requirements as to the control of noise as may be prescribed.

Penalty: Two hundred dollars.

7. (1) Subject to the provisions of any notice published pursuant to subsection (3) of this section all vehicles driven or used in an area of the State to which this subsection applies, other than—

Registration of vehicles.

- (a) vehicles for the time being licensed under the Road Traffic Act, 1974; or
- (b) vehicles used exclusively on private land by consent,

are required to be registered under this Act.

(2) A person shall not—

- (a) fail to register a vehicle required to be registered under this Act; or
- (b) drive or use, or permit to be driven or used, a vehicle required to be registered under this Act and which is not so registered.

Penalty: Two hundred dollars.

(3) The Minister may, by notice published in the *Government Gazette*, provide that the requirements of subsection (1) of this section shall not apply—

- (a) to or in relation to persons or vehicles, or classes of persons or kinds of vehicles, specified in that notice either generally or by description; or
- (b) at any specified time, or in relation to any specified area of the State, place or circumstance,

and may by a subsequent notice vary or cancel any such notice.

Permits.

8. (1) The driving or use of a vehicle in circumstances that would otherwise be contrary to the provisions of subsection (1) or subsection (2) of section 6 of this Act is permitted—

- (a) where the vehicle is used or intended to be used for the conveyance of an incapacitated person and is designed for use solely for that purpose;
- (b) for purposes connected with the prevention, control, or extinguishing of fires, or for or in relation to the saving of life or the alleviation of injury or illness;
- (c) by an authorized officer in the course of his duty;
- (d) by the holder of a permit relevant to the place and circumstances granted under subsection (4) or deemed to have been granted under subsection (5) of this section in accordance with the terms of that permit; or
- (e) where the vehicle is being used for the lawful purposes of a public authority.

(2) The driving or use of a vehicle in circumstances that would otherwise be contrary to the provisions of subsection (1) of section 6 of this Act is permitted when that vehicle is being used for or in connection with primary production, the development of any mining tenement, *bona fide* prospecting, construction works, or for road making or road maintenance, and not for any other purpose.

(3) In any prosecution for an offence against this Act the onus of proving that a vehicle was being used for any of the purposes referred to in subsection (1) or subsection (2) of this section lies on the person alleging that the vehicle was being so used.

(4) The Minister may, in writing, grant to any person or body a permit authorizing the driving or use of a vehicle in circumstances that would

otherwise have been contrary to the provisions of subsection (1) or of subsection (2) of section 6 of this Act, either generally or subject to such restrictions, limitations or conditions as he may determine and as are specified therein, and may by subsequent notice in writing vary or cancel any such permit.

(5) The Minister may, by notice published in the *Government Gazette*, declare that the provisions of subsection (1) of section 6 of this Act do not apply to or in relation to the persons or classes of persons or kinds of vehicle specified therein, and thereupon the driving or use of a vehicle by such a person or the driving and use of such a vehicle in circumstances that would otherwise have been contrary to the provisions of that subsection shall be deemed to have been permitted pursuant to this subsection either generally or subject to such restrictions, limitations or conditions as are specified in that notice, and the Minister may by a subsequent notice vary or cancel any such notice.

(6) Regulations made under this Act may make provision, either generally or in relation to specified classes of case, with respect to the application for and grant of permits under this section, and may make differing provisions therefor, including varying scales of charges.

9. A person shall not drive or use on any land to which this Act applies any vehicle so constructed or in such a condition as to be likely to occasion danger to any person or damage to any property.

Dangerous
vehicles.

Penalty: Five hundred dollars.

10. A person shall not knowingly permit any other person under the age of eight years to have charge of a vehicle on any land to which this Act applies, otherwise than on private land by consent.

Under age
drivers.

Penalty: Two hundred dollars.

Responsi-
bility of
owners.

11. (1) Subject to the provisions of subsection (2) of this section, the owner of any vehicle which is—

- (a) required to be registered under this Act; or
- (b) a vehicle licensed under the Road Traffic Act, 1974, when being used otherwise than on a road,

shall in all proceedings in respect of damage, injury or death arising from the use of any such vehicle by some other person under the age of eighteen years and lawfully in possession of the vehicle, be liable in respect of the probable consequences of the driving and use of that vehicle, otherwise than on private land by consent, as though he had formed a common intention and acted jointly with that other person.

(2) It shall be a defence to any proceedings arising out of the provisions of subsection (1) of this section for the owner to show that he did not know, and could not reasonably be expected to have known, and had used all due diligence to prevent, the use to which the vehicle was put.

(3) For the purposes of this section, notwithstanding that pursuant to—

- (a) subsection (4) of section 5 of the Road Traffic Act, 1974; or
- (b) subsection (2) of section 3 of this Act,

a person has been nominated to the Authority and is deemed, for the purposes of that Act or for the purposes of this Act other than this section, to be the owner of the vehicle to which the nomination relates that nomination shall not take or have effect to limit the liability of any other person who would but for such nomination be or be deemed to be an owner of the vehicle.

Permitted
areas,
generally.

12. (1) Following the publication of proposals by the Committee and consideration of any submissions relating thereto in the manner required by section 18 of this Act, the Minister may, with the consent of the Governor, by notice published in the

Government Gazette declare any land, other than private land, to be a permitted area for the purposes of this Act, and may in like manner but subject to subsection (3) of section 18 of this Act vary or cancel any such declaration, and subject to the provisions of this Act effect shall be given to any such declaration.

(2) A declaration as to a permitted area made under this section shall take effect on the date of the publication in the *Government Gazette* of the notice referred to in subsection (1) of this section or such later date as may be specified in that notice.

13. The Minister may, with the consent of the Governor, within three months of the coming into operation of this section of this Act exercise the power conferred by subsection (1) of section 12 of this Act to declare an area to be a permitted area notwithstanding that the initial proposal was not published or was not referred to the Committee, the council of any municipality, any public authority, or other person or body likely to be affected and that no recommendation in relation thereto was received from the Committee, but subsequent to the initial declaration of the area the provisions of section 12 of this Act shall apply to and in relation to any intended variation or cancellation of that permitted area.

Initial
permitted
areas.

14. The owner of any private land may in writing authorize the Minister to declare that land to be a permitted area for the purpose of this Act, and the Minister may, subject to any limitation imposed by that authorization, thereupon exercise the powers conferred by subsection (1) of section 12 of this Act in relation to that land or any part of that land as though that land had not been private land.

Private
land may
be declared
to be a
permitted
area.

15. (1) The Minister may, by notice published in the *Government Gazette* and in a newspaper circulating particularly in the locality of the land affected, close the whole or a specified part of a permitted area for the period and purposes therein

Temporary
closure of
permitted
areas.

specified and during the period so specified the land to which the notice relates shall be deemed not to be a permitted area.

(2) A period of closure effected pursuant to subsection (1) of this section shall not extend beyond six consecutive months unless renewed by notice so published, but may be varied within such limitation and may be revoked by a notice so published.

Prohibited
areas,
generally.

16. (1) Following the publication of proposals by the Committee and consideration of any submissions relating thereto in the manner required by section 18 of this Act, the Minister, if he is of the opinion that the public interest so requires, may, with the consent of the Governor, by notice published in the *Government Gazette* establish any land specified therein, whether or not private land and notwithstanding that the owner or occupier of that land does not consent to the proposals, as a prohibited area for the purposes of this Act either in relation to vehicles generally or, pursuant to subsection (2) of section 20 of this Act, in relation to specified vehicles or circumstances.

(2) A declaration made and published under subsection (1) of this section may, subject to the provisions of subsection (3) of section 18 of this Act, be varied or cancelled by a subsequent declaration so made and published.

(3) A declaration made under this section shall take effect on the date of the publication of the notice in the *Government Gazette* or on such later date as may be specified in that notice.

(4) Where pursuant to subsection (1) of this section any private land is included within a prohibited area for the purposes of this Act a person who is the owner or an occupier normally resident on that land, or who is engaged in the working of that land on behalf of any such owner or occupier, who drives or uses a vehicle on that land shall not be taken to contravene the provisions of subsection (2) of section 6 of this Act.

(5) The Minister shall not exercise the power conferred by subsection (1) of this section in relation to any private land without the consent of the owner and of any lawful occupier of that land unless it is the opinion of the Minister that the public interest so requires by reason of—

- (a) the need to provide for the protection of livestock or the preservation of any wildlife or flora;
- (b) the environmentally sensitive nature of the land or things growing on the land;
- (c) the proximity of any land used for residential purposes, or for purposes likely to be incompatible with the use of vehicles in the vicinity; or
- (d) the provisions of any town planning scheme.

17. (1) For the purposes of this Act there shall be an Advisory Committee constituted in accordance with section 21 of this Act.

The Advisory
Committee.

(2) It shall be the general duty of the Committee to advise the Minister on matters relating to the use of land by vehicles, as to private and other land to which it is proposed that the provisions of this Act should be applied or to which such provisions do apply, and as to such other matters as are referred to the Committee by the Minister.

(3) The Committee shall—

- (a) consider, and make recommendations to the Minister upon, submissions, proposals, complaints and objections received from members of the public generally in relation to the use or proposed use of any land by vehicles;
- (b) consider and advise the Minister upon submissions made by the council of any municipality, owners or occupiers of land, public authorities, and other interests

likely to be substantially affected by the operation of this Act in relation to any land to which the provisions of this Act apply or may be applied; and

- (c) carry on consultations with such bodies or persons as to the effect from time to time of the use of any land by vehicles.

(4) The Minister may give to the Committee directions of a general character as to the exercise of its functions, and the Committee shall give effect to such a direction, but any such direction may distinguish between different classes of case.

(5) The Committee shall, in so far as those duties are consistent with the provisions of this Act, carry out such duties as may be required of it by the Minister in furtherance of the objectives of this Act, but may, of its own initiative, bring any other matter relevant to this Act to the notice of the Minister.

Functions
of the
Committee
as to
permitted or
prohibited
areas, and
the use of
vehicles.

18. (1) Except in so far as the provisions of section 13 of this Act apply, the Minister shall not declare any land to be a permitted area, or declare any land to be established as a prohibited area, until the recommendations of the Committee have been sought by him, and the Minister is required to have regard to, but not necessarily to give effect to, any recommendations the Committee may make in relation to the locality in question.

(2) The Committee may, and if the Minister so requires shall, prepare and submit to the Minister recommendations as to the declaration of permitted areas and prohibited areas, and in relation to the variation, temporary closure, or cancellation of such areas from time to time.

(3) The Minister shall refer to the Committee any question as to the declaration, variation, or cancellation of a permitted area or a prohibited area

which is not of a nature that falls within existing recommendations of the Committee or which does not relate only to a minor variation.

(4) Where the Minister is of the opinion that an investigation and recommendation of the Committee is necessary or expedient in relation to the use of any kind of vehicle the Minister may require the Committee to make such investigation and recommendation.

(5) The Committee shall not make any recommendation under this Act in relation to the declaration of any land as a permitted area or prohibited area or as to the cancellation of any such declaration without a prior investigation, notice of which the Committee shall cause to be published in a newspaper circulating throughout the State and in any newspaper circulating particularly in, or in the vicinity of, the locality of the land to be investigated.

(6) The notice to be published pursuant to subsection (5) of this section shall—

- (a) describe the land to be investigated sufficiently to enable it to be readily determined;
- (b) state the general nature of the proposals;
- (c) give an address where further details of the land and of the proposals may be obtained, and a plan of the land and its general location may be inspected;
- (d) state that submissions sent to the Committee at the address and in the manner therein specified will be considered if they are received within thirty days of such notice.

(7) For the purposes of preparing a report on an investigation the Committee shall send a copy of the notice published under subsection (5) of this section to, and have regard to the views of,—

- (a) the council of any municipality—
 - (i) in the district of which the land, or any part of the land, to which the

proposals relate is situated or is regarded as being situated for the purposes of this Act; or

- (ii) of which the inhabitants are by reason of proximity likely to be affected by the proposals;
- (b) the Department of Conservation and Environment and any other public authority that in the opinion of the Committee has an interest in the land to which the proposals relate or in the use of that land or land likely to be affected by the proposals; and
- (c) any person or body who or which in the opinion of the Committee has an especial interest in respect of the investigation,

and shall consider any submissions on, or objections to, the proposals received within the period specified in the notice published under subsection (5) of this section or such longer period as may be agreed upon.

(8) On completing an investigation under this section the Committee shall prepare a report setting out the recommendations of the Committee, specifically drawing to the notice of the Minister all objections received and advising the Minister thereon.

Identifica-
tion of
areas.

19. (1) Where any land is declared to be a permitted area or is established as a prohibited area for the purposes of this Act the Minister shall as soon as is practicable thereafter—

- (a) cause a map of the area and a description of the land to be made available for inspection by interested persons—
 - (i) at the office of the Lands and Surveys Department;
 - (ii) at the office of any municipality, the district of which for the purpose of this Act is wholly or partly within the area; and
 - (iii) at such other places likely to be convenient to persons affected by the declaration as he may think fit; and

- (b) cause a notice, briefly describing the area concerned and stating where a map of the area may be inspected, to be published in a newspaper circulating in each of the municipal districts wholly or partly affected.

(2) It shall not be necessary that the boundaries of any permitted area or prohibited area be surveyed or demarcated but where practicable the council of the district in which the boundary is situated shall delineate that boundary by the erection or establishment of suitable notices or marks.

(3) A person shall not destroy, damage, alter, move, or interfere with any notice or mark erected or established pursuant to subsection (2) of this section.

Penalty: One hundred dollars.

20. (1) Subject to the provisions of subsection (4) and subsection (5) of section 8 of this Act, a declaration of an area of land as a permitted area for the purposes of this Act—

Effect of the declaration of a permitted area, or the establishment of a prohibited area.

- (a) may apply in relation to vehicles generally, or may be limited in its application to vehicles of the class or kind specified therein or to vehicles of that class or kind when used in the manner or in the circumstances thereby permitted;
- (b) may apply so that the area in question is a permitted area in respect of some classes or kinds of vehicles notwithstanding that it is not a permitted area in relation to other vehicles;
- (c) shall not have effect in or in relation to any part of the State, and if in force in relation to any such area shall cease to have effect, where under the provisions of any other Act or law of the State or of the Commonwealth access thereto or the use of vehicles therein is or becomes prohibited.

(2) Subject to the provisions of subsection (4) of section 8 of this Act, a declaration made and published under section 16 of this Act establishing an area of land as a prohibited area for the purposes of this Act—

- (a) may apply in relation to vehicles generally;
- (b) may apply in relation to vehicles generally except when used in the manner or circumstances therein specified;
- (c) may be limited in its application to vehicles of the class or kind specified, or to vehicles of that class or kind when used in the manner or in the circumstances thereby prohibited; and
- (d) may apply so that the area in question is a prohibited area in respect of some classes or kinds of vehicles or in specified circumstances notwithstanding that it is not a prohibited area in relation to other vehicles or in other circumstances.

(3) An area of land may be declared to be a permitted area in relation to specified vehicles or circumstances notwithstanding that it is established as a prohibited area in relation to other vehicles or other circumstances.

(4) Regulations and by-laws made under this Act may make provision for the control of vehicles in a permitted area and for the safety and obligations of persons who use vehicles in the area, and a person shall not drive or use a vehicle in a permitted area unless he complies in all respects with such regulations and by-laws and any conditions, restrictions or limitations thereby imposed.

Penalty: Two hundred dollars.

Constitution
of the
Committee.

21. (1) The Advisory Committee shall consist of five permanent members of whom—

- (a) one shall hold office as Chairman of that Committee;

- (b) one shall be a person selected from a panel of names submitted to the Minister by the body known as the Local Government Association of Western Australia;
- (c) one shall be a person selected from a panel of names submitted to the Minister by the body known as the Country Shire Councils' Association of W.A.; and
- (d) two shall be persons selected from amongst persons who have in the opinion of the Minister appropriate experience in the operation of off-road vehicles,

each of whom shall be appointed by the Minister and shall hold office for such period not exceeding three years as is specified in the instrument of appointment, unless his appointment is sooner terminated pursuant to this Act.

(2) The person appointed as Chairman of the Committee shall preside at all meetings at which he is present.

(3) In the absence of the Chairman, the permanent members present shall select one of their number to preside at the meeting and the member so selected shall whilst so presiding have and may exercise all the powers of the Chairman.

(4) The Committee shall hold meetings at such times and places as it determines, but the Minister or the Chairman may at any time convene a meeting of the Committee.

(5) The quorum at any meeting of the Committee shall be constituted by not less than three permanent members.

(6) The permanent members are eligible to attend every meeting of the Committee and to vote on any matter.

(7) The Minister may for the purposes of any meeting co-opt any person possessing special experience, knowledge or qualifications, or having

a particular interest, relevant to the matters under consideration, and a person so co-opted is not eligible to vote but in all other respects shall be deemed to be a member of the Committee for the purposes of that meeting.

(8) Where the Committee, or the Minister, considers that the advice of any departmental adviser should be sought in relation to any matter the presence of such an adviser shall be requested by the Committee and that departmental adviser has a right to be heard on any matter under consideration by the Committee where the matter is likely materially to affect the interest which he represents, but a departmental adviser is not eligible to vote and any question as to whether or not the interest which he represents is likely to be materially affected may be referred to the member presiding at that meeting whose decision is final.

(9) A person who has no right to vote or be heard on any particular matter may, with the consent of the member presiding, nevertheless speak to, and be heard, on the matter.

(10) Each member present and eligible to vote may cast a deliberative vote on any question and the question shall be decided by the majority, but if the votes are equal the question shall be taken to have been decided in the negative.

(11) A person who is a member of the Committee, other than a person to whom the Public Service Act, 1904, applies, may be paid such remuneration or allowances as the Minister from time to time determines, and any member of the Committee may be re-imbursed in respect of expenditure incurred pursuant to this Act in such manner as the Minister may determine.

(12) Subject to the requirement that a quorum be present at any meeting, the performance or exercise of any function, duty or obligation shall not be affected by reason only of there being a vacancy in the office of a member.

(13) Subject to this Act, and to any direction which may be given by the Minister, the proceedings of the Committee may be regulated in such manner as the members think fit.

(14) A record of the proceedings of every meeting shall be kept by the Committee and shall be amended as necessary and thereafter certified as correct by the member presiding at that or the next succeeding meeting.

(15) The office of a member becomes vacant if—

- (a) his term of office expires;
- (b) he is an incapable person within the meaning of section 5 of the Mental Health Act, 1962 or he otherwise becomes permanently incapable of performing his duties as a member;
- (c) he resigns his office by written notice addressed to the Minister;
- (d) he is or becomes an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (e) he is removed from office by the Minister on the grounds—
 - (i) of neglect of duty, incompetence or misbehaviour; or
 - (ii) that he has ceased to represent the interest in relation to which he was appointed.

(16) All acts done at any meeting shall, notwithstanding it is afterwards discovered that there was some defect in the appointment of a person purporting to be a member, be as valid as if that defect had not existed.

22. (1) For the purpose of assisting the Committee in its deliberations generally, and in particular by attending its meetings when requested on reasonable notice, the Minister may request the

Depart-
mental
Advisers.

Minister concerned with the administration of any Department of the Public Service of the State, statutory body, or government instrumentality to appoint an officer from that Department, body, or instrumentality to act as a departmental adviser to the Committee on matters likely to be affected by the provisions of this Act which are the concern of that Department, body, or instrumentality, and an appropriate officer shall thereupon be so appointed and so act.

(2) The persons following shall be deemed to have been appointed pursuant to subsection (1) of this section to act as departmental advisers to the Committee in relation to their respective interests—

- (a) an officer of the Department of Conservation and the Environment nominated by the permanent head of that Department;
- (b) an officer of the Soil Conservation Service of the Department of Agriculture nominated by the Commissioner of Soil Conservation;
- (c) an officer of the Town Planning Department nominated by the Town Planning Commissioner;
- (d) an officer of the Forests Department nominated by the Conservator of Forests;
- (e) an officer of the Local Government Department nominated by the permanent head of that Department;
- (f) an officer of the Public Health Department experienced in noise control measures nominated by the Commissioner of Public Health; and
- (g) an officer of the Public Service of the State nominated by the permanent head of the Department for Youth, Sport and Recreation.

(3) A reference to the holder of an office referred to in subsection (2) of this section shall be construed as including a reference to a person holding or acting in that office or any other office substituted for that office by virtue of any Act or change of name.

23. Where a body has, by virtue of section 21 of this Act, the right to submit to the Minister a panel of the names of persons to be considered for selection and appointment to the membership of the Committee the Minister may, as the occasion requires, by notice in writing to a responsible officer of that body request that body to submit those names within such period of not less than thirty days as is therein specified and if upon the expiration of that period no person, or no suitable person, is so nominated the Minister may appoint to membership of the Committee such person as, having regard to the interests in respect of which the person was to be so nominated, the Minister thinks fit.

Nomina-
tions may be
requested.

24. (1) The Minister may, in respect of each member of the Committee other than the Chairman, appoint a person to be deputy to that member and a person so appointed is, in the event of the absence from any meeting of that member, entitled to attend that meeting of the Committee and, when so attending, is deemed to be a member and has all the powers and duties of a member.

Deputies.

(2) If at any time the office of a member becomes vacant, the person who is at that time the deputy of that member is, until the office of that member is filled by the appointment of another person as member, deemed to be a member and has all the powers and duties of a member.

(3) The provisions of paragraph (b) and paragraph (c) of subsection (1) of section 21, and of section 23, of this Act that apply to and in relation to the appointment of a member apply, with any necessary modification, to and in relation to the appointment of the deputy of that member.

25. (1) Acceptance of or acting in the office of a member of the Committee by any person does not of itself render the provisions of the Public Service Act, 1904, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person, or affect or prejudice the application

Committee
members,
and the
Public
Service Act.

to him of those provisions if they applied to him at the time of the acceptance of or acting in that office.

(2) Where the services of any person are for the time being utilised by the Committee under the provisions of this Act, it does not prejudice that person's existing or accruing rights under the Public Service Act, 1904, or under any other Act, and service rendered on behalf of the Committee pursuant to this Act shall be regarded as not constituting a break in the service in which he would otherwise have been employed.

Assistance
to the
Committee.

26. All Departments and all instrumentalities of the Government of the State and all other authorities, whether corporate or not corporate, established or administered pursuant to any Act (including the council or any commissioner administering a municipality) are hereby authorized to give to the Committee such assistance in the carrying out of its functions as is reasonably practical.

Sub-com-
mittees.

27. The Committee may, from time to time, appoint a sub-committee or sub-committees, consisting in each case of two or more persons who need not be members of the Committee, to advise the Committee on such matters relating to its functions as are referred by the Committee to the sub-committee.

Registration
Scheme.

28. (1) Subject to the provisions of subsection (12) of section 29 of this Act the scheme of registration of vehicles effected by this Act shall be administered by the Authority, which shall maintain in relation thereto a separate financial record.

(2) The Authority shall maintain a register of the particulars of—

- (a) the registrations of vehicles and renewals thereof effected under this Act; and
- (b) transfers of registration effected under this Act.

(3) A vehicle shall not be registered under this Act in the name of a person under the age of eighteen years.

(4) Nothing in this Act shall require the Authority to register, or renew the registration of, a vehicle which is so constructed or is in such a condition that in the opinion of the Authority it would occasion danger to any person or damage to property.

(5) The registration of a vehicle under this Act, or the renewal of any such registration, may be withheld until the vehicle has been examined by a person authorized by the Authority.

(6) Where it appears to the Authority that any vehicle registered under this Act is so constructed or in such condition that it is likely to occasion danger to any person or damage to property, the registration of that vehicle may be suspended by a notice in the prescribed form served personally or by post on the owner.

(7) During the period of any suspension of the registration of a vehicle under this Act the vehicle shall for all purposes of this Act be deemed to be an unregistered vehicle.

(8) The suspension of the registration of a vehicle under this Act may be withdrawn by a notice in the prescribed form served personally or by post on the owner.

29. (1) A person who is the owner of a vehicle may apply to the Authority in a form approved by the Authority for the registration of the vehicle under this Act.

Registration
procedure.

(2) Subject to the provisions of section 28 of this Act, where an application is made in accordance with the provisions of this section the Authority, upon payment by the applicant of the prescribed fee, if any, and receipt from the applicant of a statutory declaration made pursuant to section 106 of the Evidence Act, 1906, in a form approved by the Authority as to the compliance of the vehicle with

the prescribed safety and noise requirements, shall register the vehicle and issue to the owner a certificate of that registration, and on payment of the prescribed fee a number plate displaying the symbols or numbers or the symbols and numbers allotted to the vehicle by the Authority.

(3) The registration of a vehicle granted under subsection (2) of this section shall be valid for such period of not less than six months and not more than eighteen months as is determined by the Authority and specified in the certificate of registration, and where a registration fee is payable that fee shall be such amount as is prescribed.

(4) Regulations made under this Act may make differing provision in respect of the registration fees to be payable in relation to specified classes or kinds of vehicles or by reference to the ownership of the vehicle or to the location of the vehicle or the purposes for which the vehicle is designed or adapted or is to be used, and may provide that no such fee shall be payable in specified circumstances.

(5) Subject to the provisions of section 28 of this Act, where an application for the renewal of the registration of a vehicle is made—

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

and the appropriate prescribed fee, if any, is paid and a statutory declaration furnished as to the compliance of the vehicle with the prescribed safety and noise requirements, the Authority shall renew the registration for a period of twelve months and the renewal shall be deemed to be a continuation of the registration and to have effect on and from the day next succeeding the day on which the registration expires or expired.

(6) Where an application for the renewal of the registration of a vehicle is made after the expiration of the period of fifteen days immediately

succeeding the day on which the registration expired, the Authority may renew the registration for a period which terminates twelve months after the date of expiration of the registration which has already expired but that renewal shall take effect on and from the day on which it is effected and the fee payable shall be the fee applicable to a full twelve month period.

(7) Where a person to whom a certificate of registration of a vehicle has been granted ceases to be the owner of the vehicle, he shall—

- (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 registration had, pursuant to the provisions of this Act, been granted or renewed without payment of a fee or on payment of a reduced registration fee which was less than the fee that would otherwise have been payable in relation to that vehicle had the particular circumstances not applied, and unless the provisions of subsection (1) of section 30 of this Act have been complied with, forthwith return the certificate of registration and the number plate issued in respect of that vehicle to the Authority.

(8) Subject to subsection (9) of this section, where a person to whom a certificate of registration 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 certificate the transfer thereof to that executor or administrator.

(9) An application for a transfer may be refused for any reason for which an application for a certificate of registration by the same person for the same vehicle might be refused.

(10) A person who becomes the owner of a vehicle in respect of which a certificate of registration has been granted shall, immediately upon becoming the owner,—

- (a) apply to the Authority for the transfer of the certificate of registration to him and pay the prescribed transfer fee; or
- (b) deliver up to the Authority the number plate issued in respect of the vehicle.

(11) A person shall not, whether on his own behalf or on behalf of any other person, knowingly make any false or misleading statement in relation to the registration of a vehicle under this Act, or to any application in respect thereof.

Penalty: Two hundred dollars.

(12) Regulations made under this Act may make provision—

- (a) for the carrying out of functions on behalf of the Authority in relation to the registration of off-road vehicles by a public authority; and
- (b) for the inspection of vehicles for the purposes of this Act by persons authorized to do so on behalf of the Authority.

Change in
fee payable.

30. (1) Where a certificate of registration has been issued by the Authority, without the payment of a fee, or upon the payment of a reduced fee, by reason of specified conditions or of the circumstances applicable to the ownership, location or use of the vehicle, and those conditions are not observed or those circumstances are changed, or the vehicle is put to some other use, then, unless or until the fee that would otherwise have been payable, or the difference between that fee and the reduced fee, has been paid in respect of that vehicle a person who uses that vehicle contravenes the provisions of section 7 of this Act.

(2) Where a certificate of registration is issued pursuant to the provisions of this Act and the fees paid in respect of that registration are subsequently

found to be either in excess of or less than the fees which are properly payable in respect of the registration, the Authority—

- (a) shall forthwith upon demand refund the amount of the excess to the person to whom the certificate of registration was issued;
- (b) may recover the deficiency in a court of competent jurisdiction from the person to whom the certificate of registration 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.

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

Registration
obtained by
means of
dishonoured
cheque void.

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

(3) A person to whom a certificate of registration is so issued shall not, after demand so made,—

- (a) fail so to deliver the certificate of registration or the number plate; or
- (b) use or continue to use, or allow any other person the use of, the certificate of registration or the number plate relating to that registration.

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

Refund of
registration
fees.

32. (1) The Authority may refund a fair proportion of the registration 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 registration fee, or a proportion thereof, is made under any provision of this Act, the Authority shall charge a prescribed fee for such refund and deduct that fee from the amount to be refunded.

Appeal.

33. (1) There shall be an appeal to a court of petty sessions, whose order shall be final, in any case where a registration, or the renewal or a transfer of a registration, under this Act is refused or a registration is suspended.

(2) On the hearing of the appeal the court may order that the registration, renewal or transfer shall be effected or the suspension removed, 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.

Number
plate to be
displayed.

34. (1) A person shall not drive or use a vehicle registered under this Act, otherwise than on private land by consent, unless the number plate issued in respect of the vehicle is affixed to the vehicle so that it is plainly visible and complies with any prescribed requirement relating thereto.

(2) A person shall not drive or use a vehicle licensed under the Road Traffic Act, 1974, on any land (except in the circumstances prescribed under that Act, on private land by consent, or otherwise with the prior approval of the Authority) unless the number plates issued under that Act in respect of the vehicle are affixed to the vehicle in the manner required by that Act and the regulations in force thereunder.

Penalty: Two hundred dollars.

35. A person shall not—

- (a) wilfully alter or deface any number plate issued under this Act;
- (b) cause or permit a number plate issued under this Act to be affixed to a vehicle other than the vehicle for which that number plate was issued;
- (c) being the owner of a vehicle which was registered under this Act, but for which the registration has expired and not been renewed for a period exceeding fifteen days, fail to deliver up the number plate issued under this Act in respect of the vehicle; or
- (d) use on any vehicle a number plate not issued in respect of that vehicle, or any counterfeit or false number plate or any thing apparently intended to resemble or pass for a number plate.

Other offences concerning number plates.

Penalty: Two hundred dollars.

36. In the application of the provisions of the Road Traffic Act, 1974, to vehicles to which this Act applies or to persons using vehicles in circumstances to which this Act applies—

Road Traffic Act provisions.

- (a) the obligations set out in subsection (6) of section 54 and subsection (1) of section 56 of that Act shall be deemed to extend to and in relation to the use of a vehicle otherwise than on a road; and
- (b) any reference in section 53, section 54, section 57, section 58, section 86A or section 89 of that Act to a patrolman shall be construed as a reference to an authorized officer within the meaning of this Act.

37. (1) Where an authorized officer has reason to believe that a person has committed any offence against this Act or any regulation or by-law made pursuant to this Act in respect of which a modified penalty is prescribed he may serve on that person

Infringement notices.

an infringement notice in the prescribed form, 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 the office of the council specified in the notice, within twenty-one days after the date of the service of the notice, the amount of the modified penalty.

(2) An infringement notice may, in any case, be served on the alleged offender personally or be addressed to and served on the owner of the vehicle within thirty days after the date on which the offence is alleged to have been committed, but where the identity of the driver or person in charge of a vehicle in respect of which an offence is alleged to have been committed is not known and cannot immediately be ascertained, an infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by attaching it to the vehicle or leaving it in or on the vehicle.

(3) Where, under the provisions of subsection (2) of this section, an infringement notice is addressed to and served on the owner of a vehicle within the time specified in that subsection or addressed to the owner of a vehicle and served by attaching it to the vehicle or leaving it in or on the vehicle, then, unless within twenty-one days after the date of the service of the infringement notice—

(a) the modified penalty is paid; or

(b) the owner of the vehicle—

- (i) informs the clerk of the council or such other person as may be specified in that notice as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
- (ii) satisfies the clerk of the council that the vehicle had been stolen or unlawfully taken, or was being unlawfully used, at the time the offence is alleged to have been committed,

the owner is, in the absence of proof to the contrary, deemed to have been the driver or person in charge of the vehicle at the time of the alleged offence.

(4) A person who receives an infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed modified penalty within the period of twenty-one days after the date of service of 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) An infringement notice may, whether or not the modified 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 person authorized by the council, to the alleged offender advising the alleged offender that the infringement notice has been withdrawn, and, in that event, the amount of any modified penalty that has been paid shall be refunded.

(6) Where a modified penalty has been paid pursuant to an 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 modified penalty pursuant to an infringement notice constitutes 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 infringement notice was given.

(8) A person, other than the owner, driver or person in charge of a vehicle in respect of which an offence is alleged to have been committed, shall not remove any infringement notice relating to the offence affixed to the vehicle or left in or on the vehicle by an authorized person.

Penalty: Fifty dollars.

(9) An infringement notice served under subsection (2) of this section shall *inter alia* contain a short statement of the effect of subsection (3) of this section.

(10) Regulations or by-laws made under this Act may make provision in respect of the issue and use of infringement notices and may prescribe modified penalties not exceeding fifty dollars for any contravention specified therein and may prescribe differing penalties for the same offence according to the circumstances by which the offence is attended.

Authorized
officers.

38. (1) For the purposes of this Act an authorized officer is—

- (a) any member of the Police Force;
- (b) any person appointed as such pursuant to subsection (2) of this section within the area of jurisdiction entrusted to him by the appointment;
- (c) any person appointed as such pursuant to subsection (3) of this section within the area of jurisdiction entrusted to him by the appointment.

(2) The Minister may appoint any person who is or acts in the office of—

- (a) an inspector, under the Environmental Protection Act, 1971;
- (b) a forest officer, under the Forests Act, 1918;
- (c) a wildlife officer, under the Wildlife Conservation Act, 1950;
- (d) a ranger, under the National Parks Authority Act, 1976;
- (e) a member of the staff of the Museum or an honorary warden, under the Aboriginal Heritage Act, 1972;
- (f) an inspector or honorary warden, under the Waterways Conservation Act, 1976;
- (g) an inspector, under the Fisheries Act, 1905;
or

(h) a prescribed officer of a public authority, to be an authorized officer for the purposes of this Act either in respect of the whole of the State or any part thereof defined in the appointment.

(3) The council of a municipality may by resolution appoint—

(a) any officer of the council; and

(b) where the Minister by notice published in the *Government Gazette* authorizes the council to do so, any member of that council,

to be an authorized officer for the purposes of this Act either in respect of the whole of the district of that municipality or any part thereof defined in the appointment.

(4) A person who is appointed as an authorized officer pursuant to subsection (2) or subsection (3) of this section—

(a) has within the area of jurisdiction entrusted to him by the appointment the duties and powers of an authorized officer under this Act, and may exercise such powers within that area;

(b) may exercise the powers conferred upon him by this Act in relation to any person or vehicle which he has reason to believe is concerned in a contravention of this Act notwithstanding that such person or vehicle is not then within the area of jurisdiction entrusted to him if that person or vehicle was pursued from that area or is known to have been in that area at the time of the contravention;

(c) may, for the purposes of this Act in the course of his duty, enter on any land or, using only such force as is necessary, may enter a vehicle for the purpose of removing it; and

(d) shall be issued with a certificate of his appointment as an authorized officer in the prescribed form, evidencing the area of jurisdiction entrusted to him under this Act, which he shall, on reasonable demand, produce for inspection by any person.

(5) The Minister may appoint any person to be an honorary inspector under this Act, and a person so appointed shall have within the area of jurisdiction entrusted to him by the appointment the powers conferred on an honorary inspector by this Act, including the power to issue infringement notices, and the duty to report to the council contraventions of this Act, and any such person shall be issued with a certificate of his appointment in the prescribed form and shall, on reasonable demand, produce that certificate for inspection.

(6) A person shall not wilfully obstruct any authorized officer or an honorary inspector acting in the execution of this Act.

Penalty: Two hundred dollars.

(7) Where an authorized officer or an honorary inspector has reasonable grounds to believe that a person has contravened or that a vehicle contravenes, or was used or driven in contravention of, the provisions of this Act, the officer or inspector may stop that person or vehicle and may request that person to furnish his name and address to that officer or inspector or to produce any license, registration, permit or exemption relating to the vehicle in his possession, and to give full information as to the ownership, use, construction and equipment of that vehicle and where such a person fails or refuses to do so, or furnishes a name or address or other information that the officer or inspector reasonably believes to be false, he shall be treated as having wilfully obstructed that officer or inspector for the purposes of subsection (6) of this section.

(8) An authorized officer may require any person to permit him to examine and test drive a vehicle in the possession of that person and may require that person to unlock or open any such vehicle and to deliver any key relating thereto, and where he has reason to believe that any vehicle is so constructed or in such condition that it is likely to occasion danger to any person or damage to property or otherwise does not comply with the prescribed requirements for vehicles registered under this Act he may attach to the vehicle a notice,

in a prescribed form, prohibiting the use of that vehicle, except for the purpose of presenting it for inspection and such other purposes as may be specified in that notice, either forthwith or on or after a date specified in the notice, until—

- (a) the defects specified in the notice have been remedied or the requirements specified in the notice have been met; and
- (b) the vehicle has been presented for further inspection at a place designated by the Authority and the notice has been removed by or on behalf of the Authority after an inspection of the vehicle has been made.

(9) Where an authorized officer pursuant to subsection (8) of this section orders a driver to discontinue using a vehicle of which he is not the owner the driver shall bring the notice to the attention of the owner.

(10) A person who uses a vehicle in respect of which a notice under subsection (8) of this section is in force otherwise than for a purpose specified in that notice or for the purpose of presenting the vehicle to the Authority for inspection by or on behalf of the Authority, or who wilfully removes, damages or obliterates any such notice attached to a vehicle, commits an offence.

Penalty: Two hundred dollars.

(11) An authorized officer may without warrant stop, seize and detain any vehicle which he has reason to believe contravenes, or was used or driven in contravention of the provisions of this Act if—

- (a) the vehicle appears to him to be neither licensed under the Road Traffic Act, 1974, nor registered under this Act; and
- (b) the identity of the owner or driver of the vehicle can not be established to the satisfaction of that officer,

and may cause the vehicle to be conveyed to a place of safe custody until such time as it may be dealt with according to law.

(12) Any member of the Police Force may without warrant stop, seize and detain—

(a) any off-road vehicle; or

(b) any vehicle licensed under the Road Traffic Act, 1974, when in use otherwise than on a road or private land by consent,

if the vehicle is in his opinion so constructed or in such condition that it is likely to occasion danger to any person or damage to any property, and may cause the vehicle to be conveyed to a place of safe custody until such time as it may be dealt with according to law.

(13) No authorized officer or other person acting in the performance of his duties shall be liable for anything done or seizure made under this Act for which there shall have been reasonable cause, nor in respect of any loss or damage, however arising, during any period in which a vehicle is detained under this Act.

(14) Regulations made under this Act may make provision in respect of the removal and detention of vehicles pursuant to this Act, and for the custody, disposal or sale of such vehicles, and in respect of recouping the costs of the removal, custody, and disposal or sale whether by deduction from the proceeds of sale or by recovery from the owner in a court of competent jurisdiction, and for the payment or appropriation of the proceeds of any such sale or other moneys relating thereto.

(15) Any vehicle seized under this Act shall be taken before a Justice to be dealt with according to law, and in accordance with section 42 of this Act may be ordered to be detained by or on behalf of the Authority or a council until registered or otherwise disposed of pursuant to this Act.

(16) Where a vehicle is taken before a Justice under subsection (15) of this section any person claiming to be the owner of that vehicle may appear before that Justice and make such representations as he may think fit.

39. (1) In any proceedings for an offence against this Act— Proof of certain matters.

(a) an averment in the complaint that—

- (i) any place at which a vehicle is alleged to have been driven or used is, or is not, as the averment may specify, within a permitted area or within a prohibited area;
- (ii) a vehicle was not licensed under the Road Traffic Act, 1974; or
- (iii) a vehicle was not registered under this Act,

shall be deemed to be proved in the absence of proof to the contrary;

(b) the onus of proving that—

- (i) any place at which a vehicle was driven or used is situate on private land, or is within a permitted area; or
- (ii) any vehicle was being used in circumstances where the provisions of this Act do not apply, or pursuant to and in accordance with any restrictions, limitations or conditions applicable to a permit or exemption granted under this Act,

is on the person alleging that to be the case; and

(c) the averment on the process that an officer of a council is authorized to take the proceedings shall be sufficient proof of that fact and of his appointment as such an officer unless the contrary is shown.

(2) Where by way of defence to any prosecution for an offence under this Act it is alleged that any vehicle was driven or used or was intended to be

driven or used on private land by consent that defence shall not be taken to have been established unless—

(a) it is shown that the land in question was—

- (i) land (not being land comprised in a reserve pursuant to section 29 of the Land Act, 1933, whether or not vested in or leased to any person or body under that Act) which is alienated from the Crown for any estate or interest;
- (ii) land the subject of any conditional purchase agreement or of any lease from the Crown;
- (iii) land comprised in a reserve under any Act and leased for any purpose; or
- (iv) other land, in respect of which a right of occupation or use is held by any person or body not being a right conferred principally for mining purposes,

and that the vehicle was driven or used in that place at the material time with the specific prior consent of a lawful occupier or the owner of that land; or

(b) the Court is otherwise satisfied that the vehicle was lawfully in a place the property or use of which is vested in a person or body who or which consented to the vehicle being there, not being land of the kind referred to in paragraph (a) of this subsection.

Summary
proceedings.

40. All proceedings for offences under this Act may be instituted by any person aggrieved, or by any officer of a council or other authorized officer, and may be dealt with summarily before Justices.

41. (1) Any person convicted of an offence against this Act is liable, where no penalty is expressly provided for the offence, to a penalty not exceeding one hundred dollars.

General
penalty.

(2) In addition to any penalty which may be imposed the Court before which a person is convicted of an offence against this Act may order that the person convicted make restitution of or pay compensation for any damage caused to any land, vegetation or structure or expenses incurred by reason of the unlawful use of a vehicle concerned in the offence.

42. (1) Where the Court or a Justice finds that any vehicle is so constructed or in such condition that it is likely to occasion danger to any person or damage to property or that any vehicle has been used in the commission of an offence against this Act the Court or that Justice may order that the vehicle shall be detained by or on behalf of the Authority or a council—

Detention of
vehicles.

- (a) for a period not exceeding twelve months;
or
- (b) until the Authority is satisfied that arrangements have been made that will ensure that the construction or condition of the vehicle will be so changed as to eliminate the source of danger,

but where it appears to the Court or that Justice that some person is lawfully entitled to possession and is not guilty of an offence in relation thereto the Court or that Justice may order the vehicle to be delivered to that person.

(2) Where any vehicle is detained by or on behalf of the Authority or a council pursuant to this Act and—

- (a) the owner cannot be found after reasonable inquiry; or

- (b) the owner dies, and after reasonable inquiry no other person appears to the Authority or that council to be lawfully entitled to possession of the vehicle; or
- (c) the vehicle is not recovered from the custody of the Authority or that council within a prescribed period,

then, after the expiry of the period of detention relating thereto, the Authority or that council may dispose of or sell that vehicle and apply the proceeds of that disposal or sale in accordance with regulations made under this Act.

Expenses
of this Act,
and appro-
priation of
penalties,
etc.

43. (1) The expenses of the Minister in connection with the administration of this Act shall be paid out of moneys from time to time appropriated by Parliament for that purpose.

(2) The expenses of the Authority in connection with the administration of this Act shall be paid in so far as is practicable out of moneys derived from the administration of the scheme of registration effected by this Act, and in so far as such moneys shall not be sufficient for that purpose out of moneys from time to time appropriated by Parliament for that purpose.

(3) Subject to subsection (2) of this section, moneys derived by the Authority pursuant to the provisions of this Act shall be paid into an account to be maintained at the Treasury and called the "Off-Road Vehicles Account" which shall be dealt with in such manner as the Minister, with approval of the Treasurer, may direct.

(4) For the purposes of the Fines and Penalties Appropriation Act, 1909, fines and penalties incurred under this Act shall be taken to be fines or penalties incurred under the provisions of an Act relating to local government.

44. (1) The Governor may make and publish in the *Government Gazette* uniform general by-laws for all or any of the purposes for which by-laws may be made under this Act. Uniform
By-laws.

(2) Subject to subsection (3) of this section, any uniform general by-law published under subsection (1) of this section shall apply in the whole of each district within the State, and shall have the same force and effect in each district and may be enforced by the council as if it were a by-law made under this Act by the council of the district.

(3) The Governor may from time to time by Order declare that any uniform general by-law published under subsection (1) of this section shall not apply to a district specified in the Order, or to any specified part of the district, and thereafter that by-law (and any amendment or substitution of that by-law effected pursuant to subsection (1) of this section) shall not apply thereto unless the Order is varied so as to allow such application or is revoked.

(4) An Order made under subsection (3) of this section may be varied or revoked by a subsequent Order.

(5) Where and to the extent that there is inconsistency between the provisions of a uniform general by-law having force and effect under this section and a by-law made by a council under this Act, the provisions of the uniform general by-law prevail.

45. (1) A council may make by-laws for any of the purposes permitted by this Act and any such by-law shall have effect in the area for which that council is the administrative authority, whether within the district of the council or regarded as being within that district for the purposes of this Act. Council
By-laws.

(2) The Governor may cause to be prepared and published in the *Government Gazette* draft model by-laws which a council may adopt, with or without alterations, for the purposes of this Act.

(3) Where a draft model by-law is adopted, with or without alterations, by a council that by-law shall for all purposes have effect as if it were in fact made by the council.

(4) By-laws made under this section are required to be confirmed by the Governor before being published in the *Government Gazette* and laid before each House of Parliament.

(5) The provisions of the Interpretation Act, 1918, in general, and those of sections thirty-six and thirty-eight of that Act in particular, apply in respect of by-laws made and the making of by-laws under this Act.

(6) Where a council intends to make a by-law, whether by adoption of a model by-law or otherwise, the council shall—

- (a) cause a draft of the proposed by-law to be prepared, or specify the draft model by-law to be adopted setting out any alterations proposed;
- (b) resolve that the by-law be made, specifying in the resolution any alterations proposed to a draft model by-law;
- (c) record the resolution in, or substantially in, the form required under the Local Government Act, 1960, for the making or adoption of a by-law, as the case may require, and cause the seal of the municipality to be affixed to that form;
- (d) cause notice of the intention to submit the by-law for confirmation by the Governor to be published once in a newspaper circulating in the district of the municipality, and cause to be stated in the notice the purport of the by-law, and of the

alterations, if any, where a draft model by-law is adopted, and notification that the full text of the by-law may be inspected by members of the public free of charge at the office of the council;

- (e) for a period of twenty-one days commencing on the day of the publication of the notice in a newspaper pursuant to the requirements of paragraph (d) of this subsection, cause—
 - (i) a copy of that notice to be kept posted on the official notice board of the council; and
 - (ii) a copy of the full text of the by-law to be available free of charge for public inspection during office hours at the office of the council.

(7) The notice of the intention to submit the by-law for confirmation by the Governor published in a newspaper in accordance with paragraph (d) of subsection (6) of this section and the notice posted on the official notice board of that council in accordance with paragraph (e) of that subsection shall in each case include a provision making known to the public that objections to and representations in respect of the proposed by-law may be made to the council during the period of twenty-one days commencing on the date of the publication and in the manner specified in the notice.

(8) Within the period of twenty-one days commencing on the date of the publication and in the manner so specified, any person or body that wishes to make an objection or representation to the council in respect of the proposed by-law may submit that objection or representation with all relevant accompanying documents or information to the council.

(9) The council shall consider any objection or representation made under subsection (8) of this section and, if the council thereafter still desires to

make the by-law in the form published, cause the sealed record of the resolution mentioned in paragraph (c) of subsection (6) of this section to be delivered to the Minister together with a report on the objections and representations made in respect of the proposal.

(10) The Minister, if he is satisfied that the council has complied with the requirements of this section and he considers the proposed by-law to be necessary and desirable, shall present the sealed record to the Governor and the Governor shall thereupon—

- (a) confirm the by-law; or
 - (b) decline to confirm the by-law,
- as he thinks fit.

(11) If the Governor confirms the by-law the Minister shall cause the full text of the by-law to be published in the *Government Gazette* and to be laid before both Houses of Parliament as required by section thirty-six of the Interpretation Act, 1918.

By-laws
generally.

46. (1) Any uniform general by-law or other by-law made under this Act may be so made—

- (a) as to apply generally or in a particular class of case, or particular classes of cases, at all times or at a specified time or specified times, throughout the district or in a specified part or specified parts of the district and in areas which although not within the district are by the operation of the provisions of this Act nevertheless to be regarded as being within the district;
- (b) as to require a matter affected by it to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to delegate to or confer upon a specified body a discretionary authority; and

- (c) as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified.

(2) Any uniform by-law or other by-law may make provision for the imposition of penalties not exceeding one hundred dollars in respect of any contravention.

(3) Where in relation to a by-law made under this Act the expression "specified" is used, the expression, unless the context requires otherwise, means specified in that by-law.

(4) The provisions of section two hundred and sixty to section two hundred and sixty-four, inclusive, of the Local Government Act, 1960, apply to a by-law made under this Act as if it were in fact made under that Act.

(5) A council shall cause—

- (a) copies of the by-laws which are made under this Act and which are in force in the district to be available for sale at a price not exceeding the cost price for each copy, as determined by the council, to persons applying for them at the office of the council; and
- (b) copies of those by-laws in force to be available for inspection, free of charge, during office hours, at the office of the council.

47. (1) Where any by-law has been or is made by a council under this Act or the Local Government Act, 1960, or any town planning scheme has been or is made under the Town Planning and Development Act, 1928 and that by-law or scheme, or any provision of such a by-law or scheme, is in the opinion of the Governor repugnant to or inconsistent with the provisions of this Act the Governor may by notice published in the *Government Gazette* revoke

Revocation
or amend-
ment of
by-laws
and town
planning
schemes.

or amend that by-law or scheme, or the relevant provision thereof, in so far as it is so repugnant or inconsistent and effect shall be given to any such revocation or amendment but without affecting the validity, or curing the invalidity, of any thing done, or of the omission of any thing, in the meantime.

(2) The Minister shall cause a copy of any notice published under this section to be laid before each House of Parliament within six sitting days of that House next following the publication, and if either House of Parliament passes a resolution of which notice has been given within the first fourteen sitting days of that House after the copy of a notice under this section has been laid before that House that the notice be disallowed, the notice thereupon ceases to have effect, but the disallowance of the notice does not affect or invalidate anything done in good faith before the passing of the resolution.

Regulations.

48. (1) The Governor may make regulations for or with respect to any matter or thing which is required or permitted for the proper administration of this Act or for achieving the objects and purposes of this Act.

(2) The regulations may prescribe penalties, not exceeding a fine of one hundred dollars in respect of a breach of any of the regulations.

(3) The regulations may require that any information or form required to be given or furnished thereunder shall be verified by statutory declaration.

(4) Where and to the extent that there is inconsistency between any regulation made under this Act and any by-law made under this Act, the provisions of the regulation prevail.