

**TRAFFIC ACT 2005****Principal Act**

<b>Act. No. 2005-26</b>	<i>Commencement (LN. 2005/063)</i>	7.4.2005
	<i>Assent</i>	29.3.2005
Amending enactments	Relevant current provisions	Commencement date
Act. 2011-18	ss. 44(4), 89(1)(j) & (2), 92, 97, 98A, 98(2), 101(c) & 104	14.7.2011
LN. 2012/034	ss. 31A, 59, 59A, 60(3), 60A & 61A	19.3.2012
“	ss. 2, 27, 29(1), (1A), (1B), 31, 31B, 32, 32A, 37, 60A-60D	19.1.2013
2013/006	s. 43(1)	19.1.2013
Act. 2013-20	s. 34(3) & (3A)	1.9.2013
2016-21	ss. 2, 39(1), 45(1), 45A, 45B, 63A-63F, 65(1), (2)(c), 66, 68(1), (2), 69(1), 71(1), 73, Sch.	26.1.2016 <sup>1</sup>
“	ss. 2, 44, 44A-44F, 52(1)(a)(ii), (aa), (3), 94A-94L, 96(2), 97, 98A, 104	20.4.2017 <sup>2</sup>
LN. 2017/096	ss. 2, 10(4)-(5), 14(4)-(8)	20.5.2018
Act. 2018-22	ss. 2, 2A	15.11.2018
LN. 2019/034	ss.83(6), 83A – C, 85(3), 85A	14.2.2019
2019/137	s. 59(Z1), (1)	11.7.2019
2020/191	ss. 31(1), (5A), 31B(c)	23.5.2020

**Transposing:**

Directive 2006/126/EC

Directive 2014/46/EU

Directive (EU) 2018/645

<sup>1</sup> Notice of Commencement – LN. 2017/011<sup>2</sup> Notice of Commencement – LN. 2017/076

For Savings and Transitional Provisions please refer to s.24 of the Traffic (Amendment) Act 2016 (2016-21)

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Numbering in the 1957 Act	Numbering in the 2005 Act	Numbering in the 1957 Act	Numbering in the 2005 Act
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72	-	-	102
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AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO TRAFFIC.

**Short title and commencement.**

1. This Act may be cited as the Traffic Act 2005 and comes into operation on the day appointed by the Government by notice in the Gazette.

**PART I**  
**PRELIMINARY**

**Interpretation.**

2. In this Act, unless the context otherwise requires—

“bicycle” includes tricycle;

“cancellation of a registration” means the cancellation of an authorisation for a vehicle to be used in road traffic;

“Commission” means the Traffic Commission established by section 77;

“company” means a body corporate;

“contravention” in relation to any condition or provision, includes a failure to comply with condition or provision, after “contravene” shall be construed accordingly;

“Directive” means the Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences, as the same may be amended from time to time;

“driver” includes a person in control of a vehicle which is being towed and where a separate person acts as steersman of a vehicle includes that person as well as any other person engaged in the driving of the vehicle and the expression “to drive” shall be construed accordingly;

“EEA State” shall be construed in accordance with the provisions of the European Communities Act;

“examiner” means a person appointed under section 6 to be an examiner of drivers or of vehicles, and includes the Chief Examiner;

“European Union” shall be construed in accordance with the provisions of the European Communities Act;

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“goods vehicle” means a vehicle which is so constructed as to show that its primary purpose is the carriage of goods or merchandise;

“highway” includes every place over which the public have a right of way, or to which the public or any part of the public are granted access, and every place where the motor traffic thereon is regulated by a police officer;

“horse” includes a mule or donkey or any cattle when used for transport purposes;

“the Inner City” means the area bounded on the North by a straight line from the site of Waterport Gates to Willis’s Gate; on the East by a straight line from Willis’s Gate to Flat Bastion Gate; on the South by straight lines from Flat Bastion Gate to Prince Edward’s Gate, thence to Southport Gate, thence to the nearest point of the Line Wall; on the West by the Line Wall from the point aforesaid to the site of Waterport Gates;

“International operation” means a road passenger transport operation or a road haulage operation starting or terminating in Gibraltar and involving an international journey by the vehicle concerned, whether or not any driver leaves or enters Gibraltar with that vehicle;

“load” includes passengers;

“moped” means a motorcycle which—

- (a) cannot exceed 45 km/h;
- (b) has a weight not exceeding 250 kg; and
- (c) if fitted with a petrol driven engine, has an engine with a cubic capacity of not more than 50cc;

“motor cycle” means any two wheeled vehicle with a maximum design speed of over 50 km/h or, if powered by an internal combustion engine, with a capacity of more than 50 cubic centimetres; and a motor cycle and sidecar combination shall be treated in the same way as such a vehicle and “tricycle” and “quadricycle” mean respectively any three or four wheeled vehicle in category, B (as specified in section 31) with a maximum design speed of over 50 km/h, or powered by a spark-ignition internal combustion engine with a capacity of more than 50 cubic centimetres or any other

engine of equivalent power provided that the unladen mass of such a powered vehicle shall not exceed 550 kilograms and the unladen mass of such a vehicle which is electrically propelled shall not for the purposes of this provision take account of the battery mass;

“motor tractor” means any mechanically propelled vehicle not being itself constructed to carry any load other than water, fuel, accumulators and other loose equipment used for the purposes of propulsion, loose tools and loose equipment;

“motor vehicle” means any vehicle propelled by mechanical power and constructed for use on roads and not on rails or specially prepared ways and any other vehicle of a class declared by regulations under this Act to be motor vehicles, and does not include a vehicle excluded under section 2A;

“omnibus” means a public service vehicle constructed to carry more than eight passengers exclusive of the driver;

“owner” in relation to a vehicle which is the subject of a hiring agreement or a hire purchase agreement or a bill of sale, includes a person in possession of the vehicle under that agreement or in apparent possession of the vehicle under that bill of sale;

“prescribed device” means a device which has been prescribed as such under section 44C;

“private motor vehicle” means a motor vehicle other than a goods vehicle, motor tractor or public service vehicle;

“public service vehicle” means a motor vehicle used for carrying passengers for hire or reward;

“road” means any highway and any other road to which the public has access and includes bridges over which a road passes and (without restricting the meaning of the foregoing definition for the purposes of any other section or any subsidiary legislation ) for the purposes of sections 24, 45, 45A, 45B, 46, 47, 62, 63, 63A and 63B includes any road belonging to the Crown to which the public have or are permitted access;

“self-drive car” means a private motor vehicle or goods vehicle falling within Category B which is let out for hire or reward, on terms that the hirer shall drive it or be responsible for supplying the driver, but does not include a private motor or good vehicle let out for hire

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where the true intention of the parties is that it shall or may be purchased by the hirer;

“Services vehicle” means a motor vehicle owned and used by the Ministry of Defence and not used except for the purposes of the Ministry of Defence;

“suspension”, in relation to a motor vehicle, means a limited period of time in which a vehicle is not authorised to be used in road traffic following which, provided the reasons for suspension have ceased to apply, it may be authorised to be used again without involving a new process of registration;

“trailer” means a vehicle without motive power other than a side-car attached to a motor cycle designed solely or principally for the carriage of persons or goods and drawn by a motor vehicle.

#### **Exclusion of vehicles.**

2A. The Minister may make Regulations excluding vehicles from the definition of “motor vehicle” in section 2.

#### **Application to the Crown.**

3.(1) Parts I, III, IV (in so far as it relates to bicycles), VII and VIII shall, subject as hereinafter in this Act provided, apply to vehicles and persons in the service of the Crown and for the purpose of proceedings for an offence in connection with any such vehicle against any person other than the driver of the vehicle, the person nominated in that behalf by the department in whose service the vehicle is used shall be deemed to be the person actually responsible, unless it is shown to the satisfaction of the court that the driver only was responsible.

(2) Part II shall, in so far as it relates to the examination of motor vehicles and trailers, bind the Crown in right of the Government of Gibraltar but shall not bind the Crown in right of the Government of the United Kingdom.

#### **Licensing authority.**

4. The licensing authority for the purposes of this Act shall be a public officer designated from time to time by the Government by notice in the Gazette.

## **PART II**

### **TESTING, EXAMINATION AND INSPECTION**

**Designation of Test Centre.**

5.(1) The licensing authority may from time to time by notice designate a place, to be known as the Motor Vehicles Test Centre, as a place for the examination of motor vehicles and trailers, and may, if he considers it necessary or desirable, designate any other place or places for the like purpose.

(2) The licensing authority shall be responsible for providing and maintaining the apparatus needed for the examination of vehicles.

**Appointment of examiners.**

6.(1) The licensing authority may from time to time by order published in the Gazette, appoint a Chief Examiner and as many additional examiners as that authority may think necessary for the testing and examination of drivers and vehicles.

(2) Each examiner shall be professionally competent to oversee correctly the candidate's ability to drive.

(3) The licensing authority shall monitor the work of the examiners to ensure correct and consistent application of the fault assessment of the standards required of candidates for examination.

**Examination of motor vehicles and trailers.**

7.(1) The Government may make regulations requiring the examination of motor vehicles and trailers of all or any classes, to ascertain whether they comply with the requirements of this Act and of any regulations made thereunder for the time being in force relating to the construction and condition of motor vehicles and trailers or their accessories or equipment and providing for the issue of roadworthiness certificates in respect of vehicles which are found to comply with those requirements.

(2) Regulations made under subsection (1) may—

- (a) provide for initial examinations and for annual or other periodical examinations thereafter;
- (b) provide for the issue and validity of roadworthiness certificates;
- (c) provide for notification of failure to satisfy the examiner;

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- (d) provide for the re-examination of vehicles that are found not to comply with the prescribed conditions;
- (e) provide for the reporting of alterations to vehicles and reexamination on account thereof;
- (f) prescribe the fees to be paid to the licensing authority in respect of the initial, annual or periodical examinations or any re-examinations;
- (g) provide for appeals from any decision or requirement of an examiner;
- (h) prescribe penalties for failure to comply with the regulations or any requirement lawfully made under them.

#### **Road side tests.**

8.(1) The Government may make regulations empowering any police officer in uniform, who has reason to suspect that a motor vehicle or dealer being used on a road may, by reason of some defect, be unfit for the purpose for which it is licensed, to require the driver of the vehicle to stop it for examination.

(2) Regulations made under subsection (1) may—

- (a) empower the police officer, either alone or together with an examiner, to examine the vehicle;
- (b) empower the police officer or examiner to require the owner of the vehicle to have such defects as may be found in the vehicle remedied within such time as may be prescribed;
- (c) provide for appeals from any decision or requirement of a police officer or examiner;
- (d) prescribe penalties for failure to comply with the regulations or any requirement lawfully made under them.

#### **Tests of compliance.**

9.(1) If either the licensing authority or the Commissioner of Police has reasonable suspicion that the requirements imposed by law (whether generally or at specified times or in specified circumstances) as to brakes, silencers, steering gear, tyres and lighting equipment and reflectors are not complied with as respects any motor vehicle, he may, by order in writing,

require the owner to apply at the Motor Vehicle Test Centre for the certificate of an examiner that the vehicle does comply with those requirements.

(2) A person who fails without reasonable excuse to comply with an order issued under subsection (1) is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

#### **Suspension of licence.**

10.(1) If, on the examination of a motor vehicle under section 8 or 9, it appears to the examiner that the vehicle, owing to some defect, is unfit for use, he may, by notice in writing given to the owner of the vehicle, suspend the motor vehicle licence for that vehicle.

(2) A copy of the notice of suspension issued under subsection (1) shall be served forthwith on the Commissioner of Police.

(3) Where the examiner is satisfied that the defects in a vehicle do not create an immediate risk to public safety, he may issue a notice under subsection (1) but endorse it to come into operation at some future date.

(4) The examiner shall lift the suspension as soon as he is satisfied that the defects have been remedied, and shall give notice that the suspension has been lifted to the owner of the vehicle and to the Commissioner of Police and in any such a case it now further process of registration may be required.

(5) The suspension under subsection (1) and the lifting of the suspension under subsection (4) shall be recorded electronically in the register maintained under section 14.

#### **Inspection of public service vehicles.**

11.(1) A police officer of or above the rank of sergeant, in uniform, shall be entitled—

- (a) to enter and inspect any public service vehicle, and for that purpose to require any such vehicle to be stopped;
- (b) at any time require a public service vehicle to be submitted to an examiner within such period as he may specify;
- (c) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that a public service vehicle is kept.



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(2) A person who obstructs a police officer in the performance of his duty under this section or, when required to do so, fails to stop a vehicle or fails to submit a vehicle to an examiner within the period specified is guilty of an offence.

#### **Testing of drivers.**

12.(1) The Government may by regulations prescribe tests of competence to drive motor vehicles of any category or categories, and such regulations may prescribe the nature of the tests to be taken and the manner in which the results of such tests are to be evidenced, and without prejudice to the generality of the foregoing, regulations made under this section may require a person submitting himself for a test-

- (a) to provide a suitable vehicle for the purpose of the test; and
- (b) to pay to the licensing authority such fee as may be prescribed, and the regulations may specify different fees in respect of tests of competence to drive vehicles of different categories.

(2) Regulations made under subsection (1) may provide that no person shall take a test of competence to drive a motor vehicle of any category unless he has first undergone such examination as may be prescribed regarding his physical and mental fitness to drive.

#### **Exclusion of liability of lenders.**

13.(1) This section shall apply to any lender.

(2) No provision of this Act shall be construed as placing on a lender liability for any act or omission contrary to the provisions of this Act, where that act or omission involves a motor vehicle, which was in the possession or apparent possession of a person other than that lender.

(3) In this section-

“lender” means a person who contributes funds to another person in the form of a loan or overdraft for the purchase by that other person of a motor vehicle: and a reference to a lender shall be construed as including a reference to a person who offers for hire a motor vehicle under a hire purchase agreement;

“hire purchase agreement” shall be construed in accordance with the Hire Purchase Act; and

“motor vehicle” means a motor vehicle purchased with funds contributed by a lender.

### PART III

#### REGULATION OF MOTOR VEHICLES AND DRIVERS

##### *Registration and Licensing of Vehicles*

##### **Register of Vehicles.**

14.(1) The licensing authority shall keep a register of all motor vehicles licensed by him under the provisions of this Act.

(2) Any person may inspect the register on payment of the prescribed fee and may require a copy of or extract from the register to be certified by the licensing authority on payment of the prescribed fee.

(3) A certificate of registration or a copy of or extract from the register duly certified to be a true copy or extract under the hand of the licensing authority shall in all legal proceedings civil or criminal be received in evidence.

(4) The register referred to in subsection (1) must be capable of electronically recording data on all vehicles registered under this Act.

(5) The register referred to in subsection (1) must include data in respect of the following-

- (a) all mandatory elements in accordance with point II.5 of Annex I of Directive 1999/37/EC as well as the elements of points II.6(J) and II.6(V.7) and (V.9) of that Annex, where the data are available;
- (b) other non-mandatory data listed in Annex I or data from the certificate of conformity as provided for in Directive 2007/46/EC of the European Parliament and of the Council, where possible;
- (c) the outcome of mandatory periodic roadworthiness tests in accordance with Directive 2014/45/EU of the European Parliament and of the Council and the period of validity of the roadworthiness certificate.

(6) The licensing authority may exchange information contained in the register with equivalent competent authorities, in particular so as to check,

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before any registration of a vehicle, the latter's legal status, where necessary in the Member State in which it was previously registered.

(7) The processing of personal data in the context of this section must be carried out in accordance with Directives 95/46/EC and 2002/58/EC of the European Parliament and of the Council.

(8) In this section, a reference to “the Directive 1999/37/EC” means Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles, as the same may be amended from time to time.

### **Registration.**

15.(1) On the first issue of a licence under this Act for a motor vehicle, it shall be the duty of the licensing authority to register the vehicle in the prescribed manner without any further application on that behalf by the person taking out the licence and to assign to the vehicle a registration mark indicating the registered number of the vehicle.

(2) The Government may make regulations with respect to the registration of motor vehicles and in particular—

- (a) requiring any person to or by whom a motor vehicle is sold or disposed of to furnish the prescribed particulars in the prescribed manner;
- (b) providing for the issue of a certificate of registration in respect of the registration of any motor vehicle for the fees to be charged therefor and for the surrender and production, and the inspection by the prescribed persons, of any certificate so issued;
- (c) providing for the issue of a new certificate of registration upon a change of possession of a motor vehicle or in the place of any such certificate which may be lost or destroyed, and for the fee to be paid on the issue of a new certificate; and
- (d) providing for the cancellation of registration of any vehicle destroyed or permanently removed from Gibraltar or which has remained unlicensed for a specified period,

and such regulations may make different provisions in relation to Services vehicles and vehicles other than Services vehicles.

(3) The registered owner of a motor vehicle shall forthwith notify the licensing authority of any circumstance or event which affects the accuracy of any entry in the register relating to the vehicle.

(4) A person who is required by virtue of this Act to furnish particulars in connection with a change of the registration of any motor vehicle and who furnishes any particulars which to his knowledge are false or in any material respect misleading, is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 1 on the standard scale.

#### **Registration marks.**

16.(1) The registration marks assigned to a motor vehicle in accordance with section 15 shall be fixed on the vehicle or on any other vehicle drawn by that vehicle or on both in the prescribed manner.

(2) A person who fraudulently alters or uses or fraudulently lends or allows to be used by any other person any registration mark to be affixed on a motor vehicle in accordance with this section is guilty of an offence and is liable on summary conviction to imprisonment for six months or to a fine at level 1 on the standard scale.

#### **Penalties for not fixing or for obscuring marks.**

17.(1) If any mark to be fixed on a vehicle in accordance with section 16 is not so fixed the person driving the vehicle on a road is guilty of an offence:

Provided that it shall be a defence for a person charged under this subsection with failing to fix a mark to prove that he had no reasonable opportunity of registering the vehicle and that the vehicle was being driven on the road for the purpose of being so registered.

(2) If any mark fixed on a vehicle as aforesaid is in any way obscured or rendered or allowed to become not easily distinguishable the person driving the vehicle is guilty of an offence against this section:

Provided that it shall be a defence for a person charged with an offence under this section to prove that he took all steps reasonably practicable to prevent the mark being obscured or not easily distinguishable.

(3) A person guilty of an offence against this section is liable on summary conviction—

- (a) in respect of the first offence to a fine at level 1 on the standard scale;

- (b) in respect of a second or subsequent offence to a fine at level 2 on the standard scale.

**Issue and exhibition of licences.**

18.(1) Save in the case of a Services vehicle, an application for a motor vehicle licence shall be made in the prescribed manner to the licensing authority who shall subject to the provisions of this Act on receipt of the prescribed fee issue to the applicant a motor vehicle licence in the prescribed form:

Provided that—

- (a) the licensing authority shall not issue a licence in respect of a motor vehicle which has not previously been licensed in Gibraltar unless he is satisfied that the import duty, if any, on that vehicle has been paid;
- (b) where any regulation for the time being in force made under section 7 requires the examination of a motor vehicle, no licence shall be issued on or after the 1st November 1998 in respect of that vehicle unless a valid roadworthiness certificate in respect of it is produced to the licensing authority.

(2) Subject to the provisions of this Act and any regulations made thereunder relating to Services vehicles and dealers licences—

- (a) every motor vehicle licence shall be issued in respect of the vehicle specified in the application for the licence and shall not entitle the person to whom it is issued to use any other vehicle; and
- (b) the licensing authority shall not be required to issue any licence for which application is made unless he is satisfied—
  - (i) that the licence applied for is the appropriate licence for the vehicle specified in the application;
  - (ii) that the vehicle complies with all such conditions as to construction as may be prescribed.

(3) Services vehicles shall be licensed in the manner prescribed.

(4) Every motor vehicle licence shall be fixed to and exhibited on the vehicle in respect of which it is issued in the prescribed manner.

**Period of licence.**

19. Every motor vehicle licence shall be valid for such period as may be prescribed.

**Dealers' licence.**

20.(1) If any person being a motor trader makes in the prescribed manner an application to the licensing authority to take out a licence under this section in respect of all motor vehicles used by him (in this Act referred to as a dealers' licence) in lieu of taking out a licence in respect of each vehicle kept by him, the licensing authority may, subject to the prescribed conditions issue to him a dealers' licence on payment of the prescribed fee.

(2) The holder of a dealers' licence shall not be entitled by virtue of that licence to use more than one vehicle at anyone time except in the case of a vehicle drawing a trailer and used for the prescribed purpose or to use any vehicle for any purpose other than such purposes as may be prescribed.

(3) A dealers' licence shall be valid for such period as may be prescribed.

(4) Nothing in this section shall operate to prevent a person entitled to take out a dealers' licence from holding more than one such licence, and different fees may be prescribed in respect of the second or any subsequent licence held by the same person.

(5) For the purposes of this section—

“motor trader” means a manufacturer or repairer of or dealer in motor vehicles.

**Penalty for using vehicle without licence.**

21.(1) A person who drives or leaves standing, or being the owner permits any other person to drive or leave standing, upon a road any motor vehicle for which there is no licence valid under this Act or for which the licence is suspended, is guilty of an offence and is liable on summary conviction to—

- (a) a fine at level 1 on the standard scale; and
- (b) a penalty equal to the annual fee chargeable in respect of a licence for such vehicle.

(2) For the Purposes of this section, a licence shall be deemed to be suspended if the owner of the vehicle, being under a duty to obtain a

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roadworthiness certificate, fails to take all necessary steps to obtain a roadworthiness certificate within the time prescribed by regulations made under section 7 or if he has been refused a roadworthiness certificate.

(3) The Government may by regulations prescribe circumstances in which, notwithstanding the provisions of this section, a motor vehicle may be driven without a licence or while a licence is suspended.

#### **Using vehicle for purpose not authorised by licence.**

22. A person who knowingly uses a motor vehicle on a road for any purpose not authorised by the terms of the licence issued in respect of the vehicle under this Act is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

#### *Licensing of Drivers*

#### **Licensing authority to keep register.**

23.(1) The licensing authority shall keep a register of all persons licensed by him to drive motor vehicles under the provisions of this Act.

(2) Any person may on payment of the prescribed fee inspect the register and require a copy or extract from the register to be certified under the hand of the licensing authority.

(3) A copy of an entry in or an extract from the register certified to be a true copy or extract by the licensing authority shall in all legal proceedings civil and criminal be received in evidence.

#### **Offence to drive unless licensed.**

24.(1) Subject to the provisions of sections 34, 35 and 59 no person shall—

- (a) drive a motor vehicle of any category upon a road unless he is the holder of a driving licence valid in respect of that category; or
- (b) employ any other person to drive a motor vehicle of any category upon a road unless that person is the holder of such a driving licence.

(2) A person who contravenes the provisions of subsection (1) is guilty of an offence.

#### **Application for driving licence.**

25.(1) An application for a driving licence shall be in such form as may be prescribed and shall—

- (a) specify the category or categories of vehicle which the applicant wishes to be licensed to drive;
- (b) contain a declaration—
  - (i) that he is not, under the provisions of this Act, ineligible or disqualified from obtaining or holding the licence for which he is applying;
  - (ii) that he is or is not, as the case may be, suffering from any such disease or disability as may be specified in the form;
- (c) be accompanied by the prescribed fee.

(2) In any proceedings, the fact that a driving licence has been granted to a person shall be evidence that that person, for the purpose of obtaining that licence, made a declaration that he was not ineligible or disqualified from obtaining or holding a licence.

(3) For the purposes of this section, “driving licence” includes a learner’s licence and a Services driving licence.

**Requirements as to physical and mental fitness.**

26. (1) No driving licence shall be granted to any person who fails to meet such standards of physical and mental fitness as may be prescribed by regulations made by the Government.

(2) Regulations made under subsection (1) may set different standards of fitness for drivers of vehicles of different categories.

*27.Repealed*

**Disqualification.**

28. No. driving licence shall be granted to any person who is disqualified from obtaining or holding a licence—

- (a) under the provisions of this Part, by reason of a conviction; or
- (b) under an order of a court made under this or any other Act.



**No person to hold two licences.**

29. (1) The following provisions apply—

- (a) no person may hold more than one driving licence;
- (b) no driving licence shall be issued where it is established the applicant already holds a driving licence.

(1A) The licensing authority shall take measures to ensure the implementation of subsection (1)(b) and in the context of the issue, replacement, renewal or exchange of a driving licence, and where the licensing authority has reasonable grounds for believing that the applicant is already the holder of a driving licence, the licensing authority shall verify whether this is so by consulting other EEA States.

(1B) If the licensing authority establishes that a driving licence has been issued contrary to subsection (1)(a) the licensing authority must cancel or withdraw the driving licence and shall inform the person concerned.

(2) Sub-section (1) shall not prevent an exchange in accordance with section 59 of a licence which at the time of exchange is valid and issued in an EEA State.

**Form and effect of driving licence.**

30.(1) A driving licence shall be in such form as may be prescribed and may authorise the driving of motor vehicles of any one or more of the categories specific in section 31.

(2) A driving licence granted to a person who passed his test of competence—

- (a) when driving a vehicle with automatic transmission, shall be limited to the driving of vehicles with automatic transmission;
- (b) when driving a vehicle propelled by electrical power, shall be limited to the driving of vehicles so powered,

but nothing in this subsection shall be deemed to prevent a person who passed a test of competence driving a vehicle of which the transmission is manually controlled, from driving such vehicles and also vehicles with automatic transmission and vehicles propelled by electrical power.

(3) A driving licence granted to a person who passed his test of competence driving a special kind of vehicle, which in the opinion of the examiner did not show that such person was competent to drive all vehicles falling within one of the categories specified in section 31, shall be limited to the driving of that particular kind of vehicle.

**Categories of licence and minimum ages.**

31.(1) A driving licence issued under this Act shall authorise the driving of power-driven vehicles in the categories defined hereafter, and may be issued from the minimum age indicated for each category; and for these purposes, a “power-driven vehicle” means any self-propelled vehicle running on a road under its own power, other than a rail-borne vehicle—

Mopeds—

Category AM:

- (i) Two-wheel vehicles or three-wheel vehicles with a maximum design speed of not more than 45 km/h, as defined in Article 1(2)(a) of Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles (excluding those with a maximum design speed under or equal to 25 km/h), and light quadricycles as defined in Article 1(3)(a) of Directive 2002/24/EC;
- (ii) the minimum age for category AM is 18 years;

Motorcycles with or without a sidecar and motor tricycles—

for these purposes “motorcycle” means two-wheel vehicles with or without a sidecar, as defined in Article 1(2)(b) of Directive 2002/24/EC, and

“motor tricycle” means vehicles with three symmetrically arranged wheels, as defined in Article 1(2)(c) of Directive 2002/24/EC.

Category A1—

- (i) motorcycles with a cylinder capacity not exceeding 125 cubic centimetres, of a power not exceeding 11 kW and with a power/weight ratio not exceeding 0,1 kW/kg,
- (ii) motor tricycles with a power not exceeding 15 kW,

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and the minimum age for category A1 is 18 years;

Category A2–

- (i) motorcycles of a power not exceeding 35 kW and with a power/weight ratio not exceeding 0,2 kW/kg and not derived from a vehicle of more than double its power,
- (ii) the minimum age for category A2 is 18 years;

Category A–

- (i) motorcycles. The minimum age for category A is 20 years. However, access to the driving of motorcycles of this category shall be subject to a minimum of two years' experience on motorcycles under an A2 licence. This requirement as to previous experience shall be waived if the candidate is at least 24 years old.
- (ii) motor tricycles with a power exceeding 15 kW. The minimum age for motor tricycles exceeding 15 kW is 21 years.

Motor vehicles as follows–

Category B–

motor vehicles with a maximum authorised mass not exceeding 3,500 kg and designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg, as follows–

- (i) vehicles in this category may be combined with a trailer with a maximum authorised mass exceeding 750 kg, provided that the maximum authorised mass of this combination does not exceed 4,250 kg. In case such a combination exceeds 3,500 kg, the Government shall require in accordance with the provisions of Schedule 9 of the Traffic (Licensing and Registration) Regulations, that this combination is only driven after training has been completed, or a test of skills and behaviour has been passed or both.
- (ii) EEA States shall indicate the entitlement to drive such a combination on the driving licence by means of the

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relevant Community code. The minimum age for category B is 18 years;

Category BE–

- (i) combination of vehicles consisting of a tractor vehicle in category B and a trailer or semi-trailer where the maximum authorised mass of the trailer or semi-trailer does not exceed 3,500 kg.
- (ii) The minimum age for category BE is 18 years;

Category C1–

motor vehicles other than those in categories D1 or D, the maximum authorised mass of which exceeds 3,500 kg, but does not exceed 7,500 kg, and which are designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass not exceeding 750 kg;

Category C1E–

- (i) combinations of vehicles where the tractor vehicle is in category C1 and its trailer or semi-trailer has a maximum authorised mass of over 750 kg provided that the authorised mass of the combination does not exceed 12,000 kg,
- (ii) combinations of vehicles where the tractor vehicle is in category B and its trailer or semi-trailer has an authorised mass of over 3,500 kg, provided that the authorised mass of the combination does not exceed 12,000 kg,

and without prejudice to the provisions of the Traffic (Drivers' Qualifications and Training) Regulations 2008, the minimum age for categories C1 and C1E is fixed at 18 years;

Category C–

motor vehicles other than those in categories D1 or D, whose maximum authorised mass is over 3,500 kg and which are designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg;

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## Category CE–

combinations of vehicles where the tractor vehicle is in category C and its trailer or semi-trailer has a maximum authorised mass of over 750kg;

and without prejudice to the provisions of the Traffic (Drivers' Qualifications and Training) Regulations 2008, the minimum age for categories C and CE is fixed at 21 years;

## Category D1–

motor vehicles designed and constructed for the carriage of no more than 16 passengers in addition to the driver and with a maximum length not exceeding 8 m; motor vehicles in this category may be combined with a trailer having a maximum authorised mass not exceeding 750 kg;

## Category D1E–

combinations of vehicles where the tractor vehicle is in category D1 and its trailer has a maximum authorised mass of over 750 kg,

and without prejudice to the provisions of the Traffic (Drivers' Qualifications and Training) Regulations 2008, the minimum age for categories D and D1E is fixed at 21 years;

## Category D–

motor vehicles designed and constructed for the carriage of more than eight passengers in addition to the driver; motor vehicles which may be driven with a category D licence may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg;

## Category DE–

combinations of vehicles where the tractor vehicle is in category D and its trailer has a maximum authorised mass of over 750 kg,

and without prejudice to the provisions of the Traffic (Drivers' Qualifications and Training) Regulations 2008, the minimum age for categories D and DE is fixed at 24 years;

## Category F–

motor vehicles designed, constructed and used for the purpose of trench digging or any kind of excavating or shovelling work;

Category G—

motor vehicles designed and constructed as mobile cranes;

Category H—

road rollers;

Category I—

motor vehicles of any description not included in categories A to D and F to H;

Category J—

motor vehicles categories F weight exceeding 750 kg.

(2) Subject to the agreement of the European Commission, the Government may make regulations excluding from the application of this section certain specific types of power-driven vehicle such as special vehicles for disabled persons.

(3) The Government may by regulations exclude from the application of this section vehicles used by, or under the control of, the armed forces and civil defence.

(4) Notwithstanding subsection (1), in the case of—

- (a) vehicles used by the fire service and vehicles used for maintaining public order; and
- (b) vehicles undergoing road tests for repair or maintenance purposes,

the minimum age for category C shall be 18 years and for category D 21 years.

(5) References in this Act to categories of driving licence shall be construed as a reference to the driving licence categories set out in this section.

(5A) By way of derogation from the minimum ages laid down in the definitions of Category CE, Category D1E and Category DE in subsection 31(1), the minimum age for issuing a driving licence in categories C and CE; D1 and D1E; and D and DE respectively shall be the minimum age

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prescribed for the driving of such vehicles for holders of a CPC laid down in regulations 6(2), 6(3)(a)(i), 6(3)(a)(ii) and 6(3)(b) of the Traffic (Drivers' Qualification and Training) Regulations 2008, as the case may be.

(6) For the purpose of this section, "motor vehicle" means any power-driven vehicle, which is normally used for carrying persons or goods by road or for drawing, on the road, vehicles used for the carriage of persons or goods. This term includes trolleybuses, that is to say, vehicles connected to an electric conductor and not rail-borne, but not agricultural or forestry tractors, that is to say, any power-driven vehicle running on wheels or tracks, having at least two axles, the principal function of which lies in its tractive power, which is specially designed to pull, push, carry or operate certain tools, machines or trailers used in connection with agricultural or forestry operations, and the use of which for carrying persons or goods by road or drawing, on the road, vehicles used for the carriage of persons or goods is only a secondary function.

#### **Conditions and restrictions.**

31A.(1) Driving licences issued under this Act shall state the conditions under which the driver is authorised to drive.

(2) If, because of a physical disability, driving is authorised only for certain types of vehicle or for adapted vehicles, the test of skills and behaviour required under this Act shall be taken in such a vehicle.

#### **Staging and equivalences between categories.**

31B.(1) The issue of driving licences is subject to the following conditions—

- (a) licences for categories C1, C, D1 and D shall be issued only to drivers already entitled to drive vehicles in category B;
- (b) licences for categories BE, C1E, CE, D1E and DE shall be issued only to drivers already entitled to drive vehicles in categories B, C1, C, D1 and D respectively.
- (c) alternatively fuelled vehicles referred to in Article 2 of Council Directive 96/53/EC with a maximum authorised mass above 3 500 kg but not exceeding 4 250 kg for the transport of goods operating without a trailer by holders of a category B driving licence which was issued at least two years before, provided that the mass in excess of 3 500 kg is due exclusively to the excess of mass of the propulsion system in relation to the propulsion system of a vehicle of the same dimensions, which is equipped with a conventional internal combustion engine

with positive ignition or compression ignition, and provided that the cargo capacity is not increased in relation to the same vehicle.

- (2) The validity of driving licences shall be determined as follows—
- (a) licences granted for categories C1E, CE, D1E or DE shall be valid for combinations of vehicles in category BE;
  - (b) licences granted for category CE shall be valid for category DE as long as their holders are entitled to drive vehicles in category D;
  - (c) licences granted for category CE and DE shall be valid for combinations of vehicles in categories C1E and D1E respectively;
  - (d) licences granted for any category shall be valid for vehicles in category AM, but if there is a practical test as a condition for obtaining category AM the equivalences shall be limited to categories A1, A2 and A;
  - (e) licences issued for category A2 shall also be valid for category A1;
  - (f) licences granted for categories A, B, C or D shall be valid for categories A1, A2, B1, C1, or D1 respectively.
- (3) Subject to prior consultation with the European Commission, the Government may make regulations authorising the driving in Gibraltar of—
- (a) vehicles of category D1 (with a maximum authorised mass of 3,500 kg, excluding any specialised equipment intended for the carriage of disabled passengers) by holders over 21 years old of a driving licence for category B which was obtained at least two years earlier provided that the vehicles are being used by non-commercial bodies for social purposes and that the driver provides his services on a voluntary basis;
  - (b) vehicles of a maximum authorised mass exceeding 3,500 kg by holders over 21 years old of a driving licence for category B which was obtained at least two years before, provided that the main purpose of the vehicles is to be used only when stationary as an instructional or recreational area, and that they are being used by non-commercial bodies for social purposes and that vehicles have been modified so that they may not be used either



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for the transport of more than nine persons or for the transport of any goods other than those strictly necessary for their purposes.

**Issue, validity and renewal of driving licences.**

32.(1) Driving licences shall be issued only to those applicants—

- (a) who have passed a test of skills and behaviour and a theoretical test and who meet medical standards, in accordance with the provisions of Schedules 4A and 4B of the Traffic (Licensing and Registration) Regulations;
- (b) who have passed a theory test only as regards category AM, unless the Government has made regulations that—
  - (i) require applicants to pass a test of skills and behaviour and a medical examination for this category; or
  - (ii) impose a distinctive test of skills and behaviour for tricycles and quadricycles within this category,

and any regulations made may provide for the insertion in the driving licence of a national code for the differentiation of vehicles in category AM;

- (c) who have, as regards category A2 or category A, on the condition of having acquired a minimum of 2 years' experience on a motorcycle in category A1 or in category A2 respectively, passed a test of skills and behaviour only, or completed a training pursuant to Schedule 9 of the Traffic (Licensing and Registration) Regulations;
  - (d) who have completed a training or passed a test of skills and behaviour, or completed a training and passed a test of skills and behaviour pursuant to Schedule 8 of the Traffic (Licensing and Registration) Regulations as regards category B for driving a vehicle combination as defined in section 31(4)(b);
  - (e) who have their normal residence in Gibraltar, or can produce evidence that they have been studying in Gibraltar for at least six months.
- (2) The following provisions apply—

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- (a) licences issued for categories AM, A1, A2, A, B, B1 and BE shall have an administrative validity of 15 years;
- (b) licences issued for categories C, CE, C1, C1E, D, DE, D1, D1E shall have an administrative validity of 5 years;
- (c) The Government may by regulations provide for the renewal of a driving licence to trigger a new administrative validity period for another category or categories the licence holder is entitled to drive, and any such regulations shall be in conformity with the conditions laid down in this Act and the Directive;
- (d) The presence of a microchip pursuant to regulation 80A of the Traffic (Licensing and Registration) Regulations shall not be a prerequisite for the validity of a driving licence and where a driving licence contains a microchip, the loss or unreadability of the microchip, or any other damage thereto, shall not affect the validity of the driving licence.

(3) By regulations, and after the European Commission has been consulted, the Government may apply to the issuing of driving licences such national rules relating to conditions other than those referred to in the Directive as it deems appropriate.

32A. Where the licensing authority establishes that a driving licence has been issued but that the requirements set out in section 32 have not been met, it shall cancel or withdraw the right to drive and shall notify the person concerned.

#### **Production of licences.**

33. A person driving a motor vehicle on a road shall, on being so required by any police officer, produce his driving licence for examination, and if he fails to do so is guilty of an offence:

Provided that if, within five days after the production of his licence was so required the holder of the licence produces it in person at a police station, he shall not be convicted of an offence against this section.

#### **Learners.**

34.(1) For the purpose of enabling a person over the age of seventeen to learn to drive a motor vehicle with a view to passing a prescribed test, the licensing authority may, if so requested by such person and on payment of such fee as may be prescribed, grant him a learner's licence in the prescribed

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form to drive a motor vehicle subject to such conditions and restrictions as may be prescribed.

(2) The learner and the person accompanying him shall be jointly and severally responsible for any offence against this Act which may be committed by the learner unless such person accompanying the learner can satisfy the court that he took all reasonable steps to avoid the commission of the offence.

(3) Subject to subsection (3A), a learner's licence shall remain in force for a period of three months from the date of issue:

Provided that where the holder of a learner's licence is disqualified from holding or obtaining a driving licence his learner's licence shall thereupon cease to have effect.

(3A) A learner's licence issued to a person who has obtained a CBT Certificate under the Traffic (Compulsory Basic Test) Regulations 2013, shall be valid for 15 months from the date of issue:

Provided that where the holder of a learner's licence is disqualified from holding or obtaining a driving licence his learner's licence shall thereupon cease to have effect.

(4) Any licence obtained under this section by a person who at the time of obtaining it is disqualified from holding or obtaining a driving licence shall be of no effect.

(5) If any person to whom a learner's licence is granted fails to comply with any of the conditions thereof he is guilty of an offence.

(6) Section 33 (under which a person driving a motor vehicle on a road may be required by a police officer to produce his driving licence for examination) shall have effect as if—

- (a) the references to a driving licence therein included references to a learner's licence granted under the provisions of this section; and
- (b) the references therein to any person driving a motor vehicle included references to any person accompanying and supervising the holder of such a learner's licence.

**Services driving licences.**

35.(1) Notwithstanding the provisions of section 24 it shall not be an offence for any person to drive a Services vehicle in the execution of his duty as a member of one of Her Majesty's Forces or in the course of his employment by any such Force if he is the holder of a Services driving licence valid in respect of such vehicle issued to him in accordance with the provisions of this section or is learning to drive Services vehicles in accordance with the prescribed conditions.

(2) Subject to the provisions of subsection (3) of this section a Services driving licence may be issued by the Officer Commanding any such Force, or any officer authorised by him, to any member of or person employed in such Force, who—

- (a) has passed a test of competence to drive such category of vehicle as the licence may authorise him to drive to the satisfaction of an examiner appointed by the Governor; or
- (b) holds a driving licence issued under the provisions of this Part.

(3) Notwithstanding anything in this section contained a person shall be disqualified from obtaining a Services driving licence—

- (a) while another Services driving licence granted to him under this Act is in force;
- (b) if he is by conviction under this Part or by an order of the court thereunder or under any other Act for the time being in force disqualified from holding or obtaining a driving licence.

(4) A Services driving licence shall be valid in respect only of such category or categories of vehicle as may be endorsed thereon.

#### **Suspension of licences.**

36.(1) If it appears to the licensing authority that the holder of a driving licence is suffering from any such physical or mental disease or disability as is likely to cause the driving by him of a motor vehicle a source of danger to the public, he may, by notice in writing to such person, suspend the licence.

(2) A person whose licence has been suspended under subsection (1) shall be entitled to submit himself for medical examination as may be prescribed and if, at such examination, he is found to be of the required standard of fitness, the licensing authority shall, by notice in writing, lift the suspension.

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(3) If the person whose licence was suspended is not found to be of the required standard of fitness, the licensing authority shall, by notice in writing, revoke the licence.

(4) A copy of any notice given under this section shall forthwith be served on the Commissioner of Police.

#### **Renewal of licences.**

37. (1) The renewal of driving licences on expiry shall be subject to the following provisions—

- (a) continuing compliance with the minimum standards of physical and mental fitness for driving set out in Annex III for driving licences in categories C, CE, C1, C1E, D, DE, D1, D1E; and
- (b) normal residence in Gibraltar, or evidence that applicants have been studying in Gibraltar for at least six months.

(2) When renewing driving licences in categories AM, A, A1, A2, B, B1 and BE, the licensing authority may require an examination applying the minimum standards of physical and mental fitness for driving set out in Schedule 4A of the Traffic (Licensing and Registration) Regulations.

(3) The Government may, by regulations, limit the period of administrative validity set out in section 32(2) of driving licences issued to novice drivers for any category in order to apply specific measures to such drivers, aiming at improving road safety.

(4) The Government may, by regulations, limit the period of administrative validity of the first licence issued to novice drivers for categories C and D to 3 years in order to be able to apply specific measures to such drivers, so as to improve their road safety.

(5) The Government may, by regulations, limit the period of administrative validity set out in section 32(2) of individual driving licences for any category in case it is found necessary to apply an increased frequency of medical checks or other specific measures such as restrictions for traffic offenders.

(6) The Government may, by regulations, reduce the period of administrative validity set out in section 32(2) of driving licences of holders residing on their territory having reached the age of 50 years in order to apply an increased frequency of medical checks or other specific measures such as refresher courses, but such reduced period of administrative validity can only be applied upon renewing the driving licence.

**Appeals.**

38. A person aggrieved by—

- (a) the refusal of the licensing authority to grant him a driving licence;
- (b) the refusal of the licensing authority to renew a driving licence;
- (c) the suspension by the licensing authority of a driving licence;  
or
- (d) the revocation by the licensing authority of a driving licence,

may, within 21 days of the date of such refusal, suspension or revocation, appeal to the magistrates' court and on any such appeal the court may make such order as it thinks fit and such order shall be binding on the licensing authority.

**Disqualification for offences and endorsement of convictions.**

39.(1) Any court before which a person is convicted of any offence specified in the Schedule—

- (a) may in any case, and shall when so required by this Part, order him to be disqualified from holding or obtaining a driving licence for such period as the court thinks fit; and
- (b) may, in any case and shall where a person is by virtue of a conviction disqualified from holding or obtaining a driving licence, or where an order so disqualifying any person is made or when so required by this Part order that particulars of the conviction and of any disqualification to which the convicted person has become subject shall be endorsed on any driving licence held by the offender:

Provided that if the court thinks fit, any disqualification under this section, other than a disqualification for an offence under section 62, 63, 63A or 63B, may be limited to the driving of a motor vehicle of the same category or description as the vehicle in relation to which the offence was committed.

(2) Any person who by virtue of an order of a court or of a conviction under this Act is disqualified from holding or obtaining a driving licence may appeal against the order in the same manner as against a conviction,

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and the court may if it thinks fit, pending the appeal, suspend the operation of the order.

**Provisions as to disqualifications and suspensions.**

40.(1) Where a person who is the holder of a driving licence is disqualified from obtaining or holding a licence by reason of a conviction or under an order of court, the driving licence shall be suspended so long as the disqualification continues in force.

(2) A driving licence suspended by virtue of this Part shall during the time of suspension be of no effect.

(3) Any person who by virtue of a conviction or order under this Act is disqualified from holding or obtaining a driving licence may at any time after the expiration of whichever is relevant of the following periods from the date of the conviction or order, that is to say—

- (a) six months, if the disqualification is for less than a year;
- (b) one half of the period of the disqualification if it is for less than six years but not less than a year;
- (c) three years in any other case,

apply to the court by which he was convicted or by which the order was made to remove the disqualification, and on any such application the court may, as it thinks proper having regard to the character of the person disqualified and his conduct subsequent to the conviction or order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application:

Provided that where an application under this subsection is refused, a further application thereunder shall not be entertained if made within three months after the date of refusal:

And provided further that in determining the expiration of the period for which a person is disqualified or after which a person may apply for the removal of such disqualification for the purposes of this subsection any time after the conviction during which the disqualification was suspended shall be disregarded.

If the court orders a disqualification to be removed the court shall cause particulars of the order to be endorsed on the licence, if any, previously held by the applicant.

(4) A person disqualified by virtue of a conviction under this Act may appeal against the disqualification in the same manner as against a conviction and the court by or before whom he was convicted may, if it thinks fit, pending the appeal suspend the disqualification.

(5) If any person who under the provisions of this Part is disqualified from holding or obtaining a driving licence applies for or obtains a driving licence while he is so disqualified, or if any such person while he is so disqualified drives a motor vehicle, or, if the disqualification is limited to the driving of a motor vehicle of a particular category or description, a motor vehicle of that category or description, on a road, he is guilty of an offence and is liable on summary conviction to imprisonment for six months or if the court thinks that, having regard to the special circumstances of the case, a fine would be an adequate punishment for the offence, to a fine at level 2 on the standard scale, or to both such imprisonment and such fine, and a driving licence obtained by any person disqualified as aforesaid shall be of no

(6) Notwithstanding any enactment prescribing the time within which proceedings may be brought before the magistrates' court, proceedings for an offence under subsection (5) may be brought—

- (a) within a period of six months from the date of the commission of the alleged offence; or
- (b) within a period which exceeds neither three months from the date on which it came to the knowledge of the prosecutor that the offence had been committed nor one year from the date of the commission of the offence,

whichever period is the longer.

(7) For the purposes of this section, references to orders and convictions under this Part include references to orders and convictions under the corresponding provisions of any enactment repealed by this Act.

**Provisions as to endorsements.**

41.(1) An order that the particulars of any conviction or of any disqualification to which the convicted person has become subject are to be endorsed on any driving licence held by the offender shall, whether the offender is at the time the holder of a driving licence or not, operate as an order that any driving licence he may then hold or may subsequently obtain, shall be so endorsed until he becomes entitled under the provisions of this section to have a driving licence issued to him free from endorsements.



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(2) Where an order is made requiring any driving licence held by an offender to be endorsed, then—

- (a) if the offender is at the time the holder of a driving licence, he shall, if so required by the court, produce the driving licence within five days or such longer time as the court may determine for the purpose of endorsement; and
- (b) if he is not then the holder of a driving licence, but subsequently obtains a driving licence, he shall within five days after so obtaining the driving licence produce it to the court for the purpose of endorsement,

and if he fails to do so, is guilty of an offence; and if the driving licence is not produced for the purpose of endorsement within such time as aforesaid, it shall be suspended from the expiration of such time until it is produced for the purpose of endorsement.

(3) On the issue of a new driving licence to any person, the particulars endorsed on any previous driving licence held by him shall be copied on to the new driving licence unless he has previously become entitled under the provisions of this section to have a driving licence issued to him free from endorsements.

(4) If any person whose driving licence has been ordered to be endorsed and who has not previously become entitled under the provisions of this section to have a driving licence issued to him free from endorsement applies for or obtains a driving licence without giving particulars of the order, he is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 1 on the standard scale, and any driving licence so obtained shall be of no effect.

(5) Where a person in respect of whom an order has been made under this Part, or the corresponding provisions of any Act repealed by this Act requiring the endorsement of any driving licence held by him, has during a continuous period of three years or upwards since the order was made had no such order made against him, he shall be entitled, either on applying for the grant of a driving licence under this Part, or, subject to payment of the prescribed fee, and subject to surrender of any subsisting driving licence on application at any time, to have issued to him a new driving licence free from endorsements:

Provided that, in reckoning such period of three years any period during which the person was by virtue of the order disqualified from holding or obtaining a driving licence shall be excluded.

(6) Where a court orders particulars to be endorsed on a driving licence held by any person, or where by a conviction or order of a court a person is disqualified for holding or obtaining a driving licence, the court shall send notice of the conviction or order to the licensing authority and, in a case where a person is so disqualified, shall also on the production of the driving licence for the purpose of endorsement retain the driving licence until the disqualification has expired or been removed and the person entitled to the driving licence has made a demand in writing for its return to him.

Where the disqualification to which a person has become subject is limited to the driving of a motor vehicle of a particular category or description, the court shall forthwith after the receipt of the driving licence endorse thereon in the prescribed manner the category or description of vehicle which the holder is not thereby authorised to drive.

(7) Where on an appeal against any such order the appeal is allowed, or where any such conviction is quashed, the court by which the appeal is allowed or the conviction is quashed shall send notice thereof to the licensing authority.

(8) Particulars of a conviction endorsed on a driving licence may be produced as prima facie evidence of the conviction.

#### **Meaning of “driving licence.”**

42. For the purposes of sections 39, 40 and 41 the expression “driving licence” shall include a Services driving licence a licence issued by an EEA State and an international driving permit.

#### *Provisions as to Driving and Offences in connection therewith*

#### **Restriction on driving by young persons, etc.**

43.(1) Save in the case of any person learning to drive in accordance with the provisions of section 34 or of a person who having attained the minimum age limit for the category of vehicle set out in Article 4(2) to (4) of the Directive is the holder of a valid EEA driving licence, a person under eighteen years of age shall not drive a motor vehicle on a road.

(2) A person who drives or causes or permits any other person to drive a motor vehicle in contravention of this section is guilty of an offence.

(3) A person prohibited by this section by reason of his age from driving a motor vehicle shall for the purposes of this Part be deemed to be disqualified under the provisions of this Part from holding or obtaining a driving licence.

**Speed limit.**

44.(1) A person who drives a motor vehicle on a road at a speed greater than the speed prescribed by regulations made under this Act for such vehicle or class of vehicle, or in respect of such road, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale and in the case of a second or subsequent conviction to a fine of twice the amount at level 1 on the standard scale.

(2) Subsection (1) shall not apply in respect of the driving of any vehicle on an occasion when it is being used for fire brigade, ambulance, police or customs purposes if the observance of those provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.

(3) A first or second conviction under this section shall not render the person convicted liable to be disqualified from holding or obtaining a licence.

(4) A person prosecuted for an offence under this section shall not be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of the witness the person prosecuted was exceeding the speed permitted by this section.

(5) Subsection (4) does not apply if the evidence relied upon is a record from a device prescribed under section 44C and the procedure set out in section 44E has been followed.

**Duty to give information as to identity of driver etc in certain circumstances.**

44A.(1) This section applies where a person is alleged to have committed an offence under section 44 and evidence of the commission of that offence has been obtained by a prescribed device in accordance with the provisions of sections 44C to 44E.

(2) Where the driver of a vehicle is alleged to be guilty of an offence to which this section applies-

- (a) the registered owner of the vehicle shall give such information as to the identity of the driver as he may be required to give by a police officer or an authorised person; and

- (b) any other person shall if required as stated above give any information which it is in his power to give and may lead to identification of the driver.

(3) Subject to the following provisions, a person who fails to comply with a requirement under subsection (2) is guilty of an offence.

(4) A person shall not be guilty of an offence by virtue of subsection (2)(a) if he shows that he did not know and could not with reasonable diligence have ascertained who the driver of the vehicle was.

(5) Where a body corporate is guilty of an offence under this section and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

(6) Where the alleged offender is a body corporate, or the proceedings are brought against him by virtue of subsection (5), subsection (4) shall not apply unless, in addition to the matters there mentioned, the alleged offender shows that no record was kept of the persons who drove the vehicle and that the failure to keep a record was reasonable.

(7) A requirement under subsection (2) may be made by written notice served by post, and where it is so made—

- (a) it shall have effect as a requirement to give the information within the period of 28 days beginning with the day on which the notice is served; and
- (b) the person on whom the notice is served shall not be guilty of an offence under this section if he shows either that he gave the information as soon as reasonably practicable after the end of that period or that it has not been reasonably practicable for him to give it.

(8) Where the person on whom a notice under subsection (7) is to be served is a body corporate, the notice is duly served if it is served on the secretary or clerk of that body.

(9) For the purposes of this section the proper address of any person in relation to the service on him of a notice under subsection (7) is—

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- (a) in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body or (if the body corporate is the registered owner of the vehicle concerned) the registered address; and
- (b) in any other case, his last known address at the time of service.

(10) In this section—

“Register” means the register maintained pursuant to regulation 5 of the Traffic (Licensing and Registration) Regulations;

“registered address”, in relation to the registered owner of a vehicle, means the address recorded in the Register; and

“registered owner”, in relation to a vehicle, means the person in whose name the vehicle is registered in the Register.

**Proof, in summary proceedings, of identify of driver of vehicle.**

44B. Where on the summary trial of an information for an offence under section 44—

- (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules of court, that a requirement under section 44A(2) to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the information relates has been served on the accused by post; and
- (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,

the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.

*Prescribed devices*

**Prescribed device.**

44C.(1) The Minister may by Notice in the Gazette prescribe, by reference to the type, manufacturer or in such other manner as the Minister deems fit, any device that produces a record or a measurement which may be used to determine whether an offence under this Act or any subsidiary legislation made hereunder has been committed.

(2) The Minister may by further Notice make such amendment to a Notice issued under subsection (1) as he deems fit, including revoking such Notice.

(3) A Notice under subsection (1) may include such conditions as to the purposes for which, the manner or other circumstances in which any device of the type concerned is to be used, as the Minister deems fit.

**Installation of prescribed devices.**

44D.(1) A prescribed device may only be installed at such locations as the Minister has approved.

(2) Subsection (1) shall not operate to prohibit or restrict the use of any handheld or mobile device.

**Prescribed device: evidence.**

44E.(1) Evidence of a fact relevant to proceedings for an offence under section 44 may be given on the production of—

- (a) a record produced by a prescribed device; and
- (b) a signed certificate by a police officer or an authorised person, whether as part of the record referred to in paragraph (a) or in another document, as to the circumstances in which the record was produced and states, where applicable, that the conditions imposed pursuant to section 44C(3) have been satisfied.

(2) In proceedings for an offence, evidence—

- (a) of a measurement made by a device, or of the circumstances in which it was made;
- (b) that the device was a prescribed device; or
- (c) that any conditions subject to which a device was prescribed were satisfied,

may be given by the production of a document which is signed as mentioned in subsection (1) and which, as the case may be, gives particulars of the measurement or of the circumstances in which it was made, or states that the device was a prescribed device or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.

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(3) For the purposes of this section a document purporting to be a record, a certificate or other document of the kind mentioned in subsection (1) shall be deemed to be a record or to be so signed, unless the contrary is proved.

(4) Nothing in subsections (1) or (2) makes a document or certificate admissible as evidence in proceedings for an offence unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence, and nothing in those subsections makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the prosecutor requiring the attendance at the hearing or trial of the person who signed the document or certificate.

(5) In this section “authorised person” means a person authorised by the Minister in writing.

#### **Conviction on the basis of evidence from prescribed device.**

44F. A person prosecuted for any offence under this Act is liable to be convicted solely on the evidence of a record or measurement made or taken by a prescribed device.

#### **Causing death by reckless or dangerous driving of motor vehicles.**

45.(1) A person who causes the death of another person by the driving of a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, is guilty of an offence and is liable on conviction on indictment to imprisonment for 14 years.

(2) Section 11 of the Coroner’s Act shall apply to an offence against this section as it applies to manslaughter.

(3) If upon the trial of a person for an offence against this section the jury are not satisfied that his driving was the cause of the death but are satisfied that he is guilty of driving as mentioned in subsection (1) of this section it shall be lawful for them to convict him of an offence against section 47 whether or not the requirements of section 52 (which relates to notice of prosecution) have been satisfied as respects that offence.

#### **Causing death by careless, or inconsiderate, driving.**

45A. A person who causes the death of another person by driving a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence and is liable—

- (a) on summary conviction to a fine at level 5 on the standard scale or to imprisonment for 12 months or to both;
- (b) on conviction on indictment to imprisonment for five years and to a fine.

**Causing death by careless driving when under influence of drink or drugs.**

45B.(1) If a person causes the death of another person by driving a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, and—

- (a) he is, at the time when he is driving, unfit to drive through drink or drugs;
- (b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds the prescribed limit;
- (c) he has in his body a specified controlled drug and the proportion of it in his blood or urine at that time exceeds the specified limit for that drug, or
- (d) he is, within 18 hours after that time, required to provide a specimen in pursuance of section 65 of this Act, but without reasonable excuse fails to provide it,

he is guilty of an offence and liable—

- (i) on summary conviction to a fine at level 5 on the standard scale or to imprisonment for 12 months, or to both;
- (ii) on conviction on indictment to imprisonment for fourteen years and to a fine.

(2) For the purposes of this section a person shall be taken to be unfit to drive at any time when his ability to drive properly is impaired.



**Careless driving.**

46.(1) A person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road, is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale and in the case of a second or subsequent conviction to a fine twice the amount at level 2 on the standard scale and to imprisonment for four months.

(2) A first or second conviction for an offence against this section shall not render the offender liable to be disqualified from holding or obtaining a driving licence for a longer period than in the case of a first conviction one month or in the case of a second conviction three months:

Provided that when within the three years before the date on which he is convicted for an offence under this section the offender has been convicted for an offence against section 47 that conviction shall be treated for the purposes of this subsection as if it had been a conviction for an offence under this section.

**Reckless or dangerous driving.**

47.(1) A person who drives a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case including the nature, condition and use of the road and the amount of traffic which is actually at the time or which might reasonably be expected to be on the road, is guilty of an offence and is liable—

- (a) on summary conviction to a fine at level 3 on the standard scale or to imprisonment for four months and in the case of a second or subsequent conviction to a fine at level 3 on the standard scale and to imprisonment for six months;
- (b) on conviction on indictment to imprisonment for two years and to a fine.

(2) The court shall order particulars of any such conviction to be endorsed on any driving licence held by the person convicted.

(3) On a second or subsequent conviction under this section the convicting court shall exercise the power conferred by this Part of ordering that the offender shall be disqualified from holding or obtaining a driving licence for a period of not less than nine months unless the court, having regard to the lapse of time since the date of the previous or last previous conviction or for any other special reason thinks fit to order otherwise, but this provision shall

not be construed as affecting the right of the court to exercise the power aforesaid on a first conviction.

(4) Where a person is convicted of aiding, abetting, counselling or procuring, or inciting the commission of an offence against this section, and it is proved that he was present in the vehicle at the time of the commission of the offence, the offence of which he is convicted shall, for the purpose of the provisions of this Part relating to disqualification from holding or obtaining driving licences, be deemed to be an offence in connection with the driving of a motor vehicle.

**Power to convict of reckless or dangerous driving on trial for manslaughter.**

48. Upon the trial of a person who is indicted for manslaughter in connection with the driving of a motor vehicle by him, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence against section 47 to find him guilty of that offence whether or not the requirements of section 52 have been satisfied as respects that offence.

**Power to proceed on charge of careless driving on hearing of charge for reckless driving.**

49.(1) When a person is charged before the magistrates' court with an offence against section 47 and the court is of the opinion that the offence is not proved, then at any time during the hearing or immediately thereafter the court may without prejudice to any other powers possessed by the court direct or allow a charge for an offence against section 46 to be preferred forthwith against the defendant and may proceed with that charge, so however that he or his solicitor or barrister shall be informed of the new charge and be given an opportunity whether by way of cross-examining any witness whose evidence has already been given against the defendant or otherwise, of answering the new charge and the court shall if it considers that the defendant is prejudiced in his defence by reason of the new charge being so preferred, adjourn the hearing.

(2) A defendant in whose case the requirements of section 52 have been satisfied and do not apply as respects the alleged offence under section 47 may be convicted on a charge preferred under subsection (1) of this section notwithstanding that those requirements have not been satisfied as respects the alleged offence against section 46.

**Prohibition of motor racing and speed trials on roads.**

50.(1) A person who promotes or takes part in a race or trial of speed between motor vehicles on a public highway, other than a race or trial

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permitted by the Commissioner of Police, is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 1 on the standard scale.

(2) A person convicted of an offence against this section shall unless the court for special reasons thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification, be disqualified for a period of twelve months from the date of the conviction for holding or obtaining a licence.

#### **Restriction on pillion riding.**

51.(1) It shall not be lawful for more than one person in addition to the driver to be carried on any two wheeled motor cycle nor shall it be lawful for any such one person to be so carried otherwise than on a proper seat securely fixed to the cycle behind the driver's seat.

(2) If any person is carried on any such cycle in contravention of the provisions of this section, the driver of the cycle is guilty of an offence and is liable on summary conviction in the case of the first conviction to a fine at level 1 on the standard scale and in the case of a second or subsequent conviction to a fine of twice the amount at level 1 on the standard scale.

#### **Restriction on prosecutions under the preceding sections.**

52. (1) Where a person is prosecuted for an offence under any of the provisions of this Part relating respectively to the maximum speed at which motor vehicles may be driven, to reckless and dangerous driving, and to careless driving he shall not be convicted unless either—

- (a) he was warned at the time the offence was committed that the question of prosecuting him for an offence under some one or other of the provisions aforesaid would be taken into consideration; or
- (b) within fourteen days of the commission of the offence a summons for the offence was served on him; or
- (c) within the said fourteen days a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence:

Provided that—

- (a) failure to comply with this requirement shall not be a bar to the conviction of the accused in any case where the court is satisfied that—
  - (i) neither the name and address of the accused nor the name and address of the registered owner of the vehicle, could with reasonable diligence have been ascertained in time for a summons to be served or sent as aforesaid; or
  - (ii) the accused by his own conduct contributed to the failure; or
- (aa) failure to comply with this requirement shall not be a bar to the conviction of the accused where the identity of the accused was established following a disclosure under section 44A(2); and
- (b) the requirement of this section shall in every case be deemed to have been complied with unless and until the contrary is proved.

(2) This section shall not apply in relation to an offence if, at the time of the offence or immediately thereafter, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.

(3) The requirement of this section does not apply in relation to an offence in respect of which—

- (a) a fixed penalty notice (within the meaning of Part VIIA of this Act) has been given or fixed; or
- (b) a notice has been given under section 94D.

**Duty to give name and address and to stop: power of arrest.**

53.(1) If the driver of a motor vehicle who is alleged to have committed an offence under the foregoing provisions of this Act as to reckless or dangerous driving or careless driving refuses on being so required by any person having reasonable ground for so requiring to give his name or address or gives a false name or address, he is guilty of an offence.

(2) Any police officer may arrest without warrant the driver of any motor vehicle who within his view commits any offence under the provisions of this Act as to reckless or dangerous driving or careless driving, unless the

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driver either gives his name and address or produces his driving licence for examination.

(3) A person driving a motor vehicle on a road shall stop the vehicle on being so required by a police officer in uniform and if he fails to do so is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

#### **Accidents.**

54.(1) If in any case owing to the presence of a motor vehicle on a road an accident occurs whereby damage or injury is caused to any person, vehicle, property or animal, the driver of the vehicle shall stop and if required so to do by any person having reasonable grounds for so requiring shall give his name and address and also the name and address of the owner of the vehicle.

(2) If in the case of any such accident the driver of the motor vehicle for any reason does not give his name and address to any such person as aforesaid he shall report the accident at a police station or to a police officer as soon as reasonably practicable and in any case within twenty-four hours of the occurrence thereof.

(3) In this section, the expression “animal” means any horse, ox, ass, mule, sheep, pig, goat, dog or monkey.

(4) A person who fails to comply with the provision of this section is guilty of an offence.

#### **Restrictions on persons being towed by, getting on to or tampering with motor vehicles.**

55. (1) If any person otherwise than with lawful authority or reasonable cause takes or retains hold of or gets on to a motor vehicle or trailer while in motion on any road for the purpose of being driven or carried, he is guilty of an offence.

(2) If while a motor vehicle is on a road or on a parking place any person otherwise than with lawful authority or reasonable cause gets on to or tampers with the vehicle or any part thereof, he is guilty of an offence.

#### **Prohibition of motor vehicles not complying with regulations.**

56.(1) Subject to the provisions of this Act, it shall not be lawful to use on any road a motor vehicle or trailer which does not comply with the regulations applicable to the class or description of vehicles to which the vehicle belongs and to the construction, weight and equipment thereof:

Provided that when any regulations made after the commencement of this Act contain provisions varying the construction or weight of any class or description of vehicles, provision shall be made by the regulations for exempting for such period (not being less than five years) as may be specified therein from the provisions aforesaid any vehicle of that class or description registered under this Act before the expiration of one year from the making of the regulations.

(2) If a motor vehicle is used on a road in contravention of this section any person who so uses the vehicle or causes or permits the vehicle to be so used is guilty of an offence.

### **Regulations.**

57. The Government may make regulations for any purpose for which regulations may be made under this Part and for prescribing anything which may be prescribed under this Part and generally as to the use of motor vehicles and of trailers on roads, their construction and equipment and the conditions under which they may be so used and otherwise for the purpose of carrying this Part into effect and in particular but without prejudice to the generality of the foregoing may make regulations with respect to any of the following matters—

- (a) driving licences, and in particular for preventing a person holding more than one driving licence and for facilitating the identification of holders of driving licences and for providing for the issue of a new licence in the place of a licence lost or defaced on payment of such fee as may be prescribed;
- (b) advanced driving certificates;
- (c) the width, height and length of motor vehicles and of trailers and the load carried thereby, the diameter of wheels and the width, nature and condition of tyres of motor vehicles and of trailers;
- (d) dividing motor vehicles for the purposes of this Part and any regulations under this Part into classes whether according to weight, construction, nature of tyres, use or otherwise;
- (e) the consumption of smoke and the emission of visible vapour, sparks, ashes and grit;
- (f) excessive noise due to the design or the condition of the vehicle or the loading thereof;

- (g) the maximum weight unladen of any motor vehicle and the maximum weight laden of motor vehicles and trailers and the maximum weight to be transmitted to the road or any specified area thereof by a motor vehicle or trailer of any class or description or by any part or parts of such a vehicle or trailer in contact with the road and the conditions under which and the manner in which the weight may be required to be tested;
- (h) the particulars to be marked on motor vehicles or trailers;
- (i) the towing or drawing of vehicles by motor vehicles;
- (j) the number and nature of brakes and for ensuring that brakes, silencers and steering gear shall be efficient and kept in proper working order and for empowering persons authorised by or under the regulations to test and inspect either on the road or subject to the consent of the owner of the premises, on any premises where the vehicle is, such brakes, silencers or steering gear;
- (k) the appliances to be fitted for signalling the approach of a motor vehicle or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, or for intimating any intended change of speed or direction of a motor vehicle and for the use of such appliances and for securing that they shall be efficient and kept in proper working order;
- (l) the kinds of lamps that may be carried on motor vehicles, the carrying of such lamps and how and when the same shall be used;
- (m) the registration of dealer's licences, the assigning by the licensing authority of registration marks in respect of dealers' licences, the size, shape and character and display of such marks and the conditions under which and the purposes for which a vehicle may be used under a dealers' licence;
- (n) the keeping of records by holders of licences for goods vehicles of which the net weight exceeds 3 tonnes or motor tractors;
- (o) motor vehicle licences and in particular–

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- (i) for providing for the issue of a new licence in the place of a licence lost or destroyed on payment of the prescribed fee;
  - (ii) for providing for the cancellation of and issue of new licences in cases when vehicles in respect of which licences have been issued are used in an altered condition or in a manner which brings them within a class or description of vehicles for which a licence at a higher fee or of a different class is required; and
  - (iii) providing for the transfer of licences and the remission of fees in respect of the unexpired period of a licence surrendered to the licensing authority;
- (p) the prevention of interference with radio transmission by engines of motor vehicles;
- (q) the size, shape and character of the registration marks to be fixed on any vehicle and the manner in which these marks are to be displayed and rendered easily distinguishable whether by night or by day;
- (r) requiring, subject to such exceptions, if any, as may be specified in the regulations, persons driving or riding (otherwise than in side-cars) on motor cycles of any class specified in the regulations to wear protective headgear of such description as may be so specified,

and without prejudice to the generality of the foregoing such regulations may make provision for requiring drivers of any such vehicles aforesaid to carry prescribed documents and to make prescribed entries therein and for the production of such documents.

#### **Exemption.**

58. The Government may by order exempt from all or any of the provisions of this Part or of any regulations made thereunder any vehicle or class of vehicle or the driver of any class of vehicle in such circumstances and subject to such conditions as may be specified in the order.

#### **Recognition and exchange of EEA State driving licences.**

59.(Z1) Subject to section 59A, a valid national driving licence of an EEA State authorising the driving on any public roads in that State shall for as long as the licence continues to be valid in the EEA State in which it was



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issued have the same validity and effect as if it were a licence issued under this Act.

(1) Subject to section 59A, where the holder of a valid national driving licence of an EEA State authorising the driving on any public roads in that State takes up normal residence in Gibraltar that licence shall for as long as the licence continues to be valid in the EEA State in which it was issued and as long as the holder continues to normally reside in Gibraltar have the same validity and effect as if it were a licence issued under this Act.

(2) Where the holder of a valid national driving licence issued by an EEA State has taken up residence in Gibraltar, he may request that his driving licence be exchanged for an equivalent licence under this Act.

(3) Before issuing a licence pursuant to a request made to it under subsection (2) the licensing authority may make such investigations as it may consider necessary to find out if the driving licence to be exchanged is at the relevant time valid, and if so in respect of which categories, and such a request may be refused where any of the following apply-

- (a) the driving licence is restricted, suspended or withdrawn in an EEA State;
- (b) although the driving licence is issued in an EEA State it has been restricted, suspended or withdrawn in Gibraltar;
- (c) the driving licence has been cancelled in an EEA State.

(4) Upon the issue of a driving licence under this section the licensing authority shall return the surrendered licence to the EEA State which issued the licence and shall give that State reasons why it is doing so.

(5) The licensing authority may renew an expired EEA licence through the issue of a Gibraltar driving licence as from 2 years after the date on which the holder took up normal residency in Gibraltar.

(6) The licensing authority may issue a replacement driving licence to a person from an EEA State who is resident in Gibraltar upon application to it (for example if it been lost or stolen) and in considering such a request the licensing authority shall have regard to any information in its possession or, where appropriate to such proof as may be obtained from the competent authorities of the issuing EEA State.

(7) For the purpose of this Part, “normal residence” means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person

with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

(8) Without prejudice to subsection (10), the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more EEA States shall be regarded as being the place of his personal ties, provided that such person returns there regularly, this subsection does not apply where the person is living in an EEA State in order to carry out a task of a definite duration, and attendance at a university or school shall not imply transfer of normal residence.

(9) The Government may make regulations-

- (a) to apply national provisions on the restriction, suspension, withdrawal or cancellation of the right to drive to the holder of a driving licence issued by an EEA State and, if necessary, exchange the licence for that purpose, and where it does so such regulations shall be subject to observance of the principle of territoriality of criminal and police laws.
- (b) prescribing the fees for and form of requests under this section.

**Recognition of EEA licences: minimum ages.**

59A. For the purposes of section 59, a licence shall only be deemed to be valid if the holder has attained the minimum age limit for the category of vehicle set out in Article 4(2) to (4) of the Directive.

**Exchangeable licences.**

60.(1) The Government may make regulations to provide for the exchange of certain licences from non-EEA states.

(2) Regulations made under subsection (1) may include the following matters-

- (a) the countries or territories in respect of which licences may be exchanged;
- (b) the extent of recognition of any licence or class of licence;
- (c) any procedural requirements connected or incidental to the exchange of such licences including the payment of any fees and the forms to be used; and

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- (d) the exchange of information with the issuing authority of a licence being exchanged.
- (3) Regulations made under this section shall be subject to the following provisions—
- (a) where a driving licence issued by a third country is exchanged for a Community model driving licence—
    - (i) such exchange shall be recorded on the Community model driving licence as shall any subsequent renewal or replacement; and
    - (ii) such an exchange may occur only if the licence issued by the third country has been surrendered to the licensing authority.

**Anti-forgery measures.**

60A. The Government shall take such measures as are necessary to prevent the risk of forgery of driving licences issued pursuant to this Act (irrespective of the date of issue of such licences) and any measures so taken shall be communicated to the European Commission.

**Additional security features.**

60B. The material used for the manufacture of driving licences issued in accordance with Schedule 4C of the Traffic (Licensing and Registration) Regulations shall be made secure against forgery and the Government may by regulations prescribe additional security features.

**Mutual assistance.**

60C. The licensing authority shall assist the authorities in other EEA States and, if available, through the EU driving licence network referred to in the Directive, shall exchange information on the licences it has issued, exchanged, replaced, renewed or revoked.

**Surrender of licences.**

60D. (1) The Government shall ensure that by 19 January 2033 all driving licences issued by the licensing authority are conformity with the Community Model Driving Licence set out in Schedule 4C of the Traffic (Licensing and Registration) Regulations.

(2) For the purpose of compliance with subsection (1) the Government may by regulations provide for the compulsory surrender and replacement of any valid driving licence and for any matter connected thereto.

**Regulations for facilitating international traffic.**

61. The Government may make regulations—

- (a) for the grant and authentication of any passes, certificates or other documents relating to vehicles or the drivers of vehicles which may be required for the purposes of travel abroad;
- (b) for waiving or modifying in relation to motor vehicles brought temporarily into Gibraltar by persons resident outside Gibraltar, and in relation to persons who are temporarily in Gibraltar, any of the provisions of this Act relating to vehicles or the drivers of vehicles;
- (c) for extending any privilege conferred by the regulations to persons resident outside Gibraltar who are temporarily in Gibraltar but are not entitled thereto by virtue of any international agreement, or in relation to vehicles brought temporarily into Gibraltar by such persons, being persons or vehicles satisfying such conditions as may be specified in the regulations;
- (d) for the payment in respect of any such documents as are mentioned in paragraph (a) of such fees as appear to the Government to be appropriate having regard to any services performed in connection therewith in pursuance of the regulations;
- (e) for the purpose of implementing in Gibraltar—
  - (i) international agreements and conventions;
  - (ii) legislation of the European Union, concerned with road transport;
- (f) for the purpose of applying in Gibraltar instruments of the European Union concerned with mutual recognition of diplomas, certificates and other evidence of formal qualification in respect of road transport operators.

**Entitlements not affected by Third Driving Licence Directive.**

61A. The operation of the Traffic (Third Driving Licence Directive) Regulations 2012 shall not be construed as removing or qualifying an entitlement to drive a particular category of motor vehicle obtained before 19 January 2013.

**PART IV**  
**DRINKING AND DRIVING**

**Driving, or being in charge, when under influence of drink or drugs.**

62.(1) A person who is unfit to drive through drink or drugs when driving or attempting to drive a motor vehicle on a public place, is guilty of an offence and punishable on summary conviction by a fine at level 5 on the standard scale or a term of imprisonment for 6 months or to both.

(2) Without prejudice to subsection (1), a person who is unfit to drive through drink or drugs when in charge of a motor vehicle which is on a public place, is guilty of an offence and punishable on summary conviction by a fine at level 4 on the standard scale or a term of imprisonment for 3 months or to both.

(3) A person shall be deemed not to have been in charge of a motor vehicle for the purposes of subsection (2) if he proves that, at the material time, there was no likelihood of his driving it so long as he remained unfit to drive through drink or drugs.

(4) The court may, in determining whether there was such a likelihood as is mentioned in subsection (3), disregard any injury to him and any damage to the vehicle.

(5) For the purposes of this section, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

(6) A police officer may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing an offence under this section.

(7) A police officer may enter (if need be by force) any place where a person is or where the police officer, with reasonable cause, suspects him to be for the purpose of arresting that person under subsection (6).

(8) Where on a person's trial for an offence under subsection (1) the court finds him not guilty of the offence specifically charged in the indictment, the court may find him guilty of an offence under subsection (2).

**Driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit.**

63.(1) If a person—

- (a) drives or attempts to drive a motor vehicle on a public place; or
- (b) is in charge of a motor vehicle on a public place,

after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit he is guilty of an offence and shall be punishable on summary conviction—

- (i) in the case of an offence contrary to paragraph (a) above, to a fine at level 5 on the standard scale, or to 6 months imprisonment or to both; and
- (ii) in the case of an offence contrary to paragraph (b) above, to a fine at level 4 on the standard scale, or to 3 months imprisonment or to both.

(2) It is a defence for a person charged with an offence under subsection (1)(b) to prove that at the time he is alleged to have committed the offence there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit.

(3) The court may, in determining whether there was such a likelihood as is mentioned in subsection (2), disregard any injury to him and any damage to the vehicle.

(4) Where on a person's trial for an offence under subsection (1)(a), the court finds him not guilty of the offence specifically charged in the indictment, they may find him guilty of an offence under subsection (1)(b).

**Driving or being in charge of a motor vehicle with concentration of specified controlled drug above specified limit.**

63A.(1) This section applies where a person (“D”)—

- (a) drives or attempts to drive a motor vehicle on a road or other public place; or
- (b) is in charge of a motor vehicle on a road or other public place,

and there is in D's body a specified controlled drug.

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(2) D is guilty of an offence if the proportion of the drug in D's blood or urine exceeds the specified limit for that drug.

(3) It is a defence for a person ("D") charged with an offence under this section to show that—

- (a) the specified controlled drug had been prescribed or supplied to D for medical or dental purposes;
- (b) D took the drug in accordance with any directions given by the person by whom the drug was prescribed or supplied, and with any accompanying instructions (so far as consistent with any such directions) given by the manufacturer or distributor of the drug; and
- (c) D's possession of the drug immediately before taking it was not unlawful under section 506 Crimes Act 2011 (restriction of possession) because of an exemption in regulations made under section 509 of that Act (authorisation of activities otherwise unlawful).

(4) The defence in subsection (3) is not available if D's actions were—

- (a) contrary to any advice, given by the person by whom the drug was prescribed or supplied, about the amount of time that should elapse between taking the drug and driving a motor vehicle; or
- (b) contrary to any accompanying instructions about that matter (so far as consistent with any such advice) given by the manufacturer or distributor of the drug.

(5) If evidence is adduced that is sufficient to raise an issue with respect to the defence in subsection (3), the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(6) It is a defence for a person ("D") charged with an offence by virtue of subsection (1)(b) to prove that at the time D is alleged to have committed the offence the circumstances were such that there was no likelihood of D driving the vehicle whilst the proportion of the specified controlled drug in D's blood or urine remained likely to exceed the specified limit for that drug.

(7) The court may, in determining whether there was such a likelihood, disregard any injury to D and any damage to the vehicle.

(8) In this section, and in sections 45B, 63D(1), 63E and 68, “specified” means specified in regulations made by the Government.

(9) A limit specified under subsection (2) may be zero.

**Power to administer preliminary tests.**

63B.(1) If any of subsections (2) to (5) applies a police officer may require a person to co-operate with any one or more preliminary tests administered to the person by that police officer or another police officer.

(2) This subsection applies if a police officer reasonably suspects that the person—

- (a) is driving, is attempting to drive or is in charge of a motor vehicle on a road or other public place; and
- (b) has alcohol or a drug in his body or is under the influence of a drug.

(3) This subsection applies if a police officer reasonably suspects that the person—

- (a) has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place while having alcohol or a drug in his body or while unfit to drive because of a drug; and
- (b) still has alcohol or a drug in his body or is still under the influence of a drug.

(4) This subsection applies if a police officer reasonably suspects that the person—

- (a) is or has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place; and
- (b) has committed a traffic offence while the vehicle was in motion.

(5) This subsection applies if—

- (a) an accident occurs owing to the presence of a motor vehicle on a road or other public place; and



- (b) a police officer reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.

(6) A person who, without reasonable excuse, fails to co-operate with a preliminary test in pursuance of a requirement imposed under this section is guilty of an offence punishable on summary conviction to a fine at level 5 on the standard scale or to imprisonment for 6 months or to both.

(7) A police officer may administer a preliminary test by virtue of any of subsections (2) to (4) only if he is in uniform.

(8) In this section a reference to a preliminary test is to a test described in section 63B.

#### **Preliminary breath test.**

63C.(1) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Government, an indication whether the proportion of alcohol in the person's breath or blood is likely to exceed the prescribed limit.

(2) A preliminary breath test administered in reliance on section 63B(2) to (4) may be administered only at or near the place where the requirement to co-operate with the test is imposed.

(3) A preliminary breath test administered in reliance on section 63B(5) may be administered-

- (a) at or near the place where the requirement to co-operate with the test is imposed; or
- (b) if the police officer who imposes the requirement thinks it expedient, at a police station specified by him.

#### **Preliminary drug test.**

63D.(1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is-

- (a) obtained; and
- (b) used for the purpose of obtaining, by means of a device of a type approved by the Government, an indication whether the

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person to whom the test is administered has a drug in his body and if so-

- (i) whether it is a specified controlled drug,
- (ii) if it is, whether the proportion of it in the person's blood or urine is likely to exceed the specified limit for that drug.

(2) A preliminary drug test may be administered-

- (a) at or near the place where the requirement to co-operate with the test is imposed; or
- (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

(3) Up to 3 preliminary drug tests may be administered.

#### **Arrest.**

63E.(1) A police officer may arrest a person without warrant if as a result of a preliminary breath test or preliminary drug test the constable reasonably suspects that-

- (a) the proportion of alcohol in the person's breath or blood exceeds the prescribed limit; or
- (b) the person has a specified controlled drug in his body and the proportion of it in the person's blood or urine exceeds the specified limit for that drug.

(2) The fact that specimens of breath have been provided under section 65 of this Act by the person concerned does not prevent subsection (1) above having effect if the police officer who imposed on him the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the specimens has not produced a reliable indication of the proportion of alcohol in the breath of the person.

(3) A police officer may arrest a person without warrant if-

- (a) the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under section 63B; and

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- (b) the police officer reasonably suspects that the person has alcohol or a drug in his body or is under the influence of a drug.

(4) A person may not be arrested under this section while at a hospital as a patient.

**Power of entry.**

63F. A police officer may enter any place (using reasonable force if necessary) for the purpose of—

- (a) imposing a requirement by virtue of section 63B(5) following an accident in a case where the police officer reasonably suspects that the accident involved injury of any person; or
- (b) arresting a person under section 63E following an accident in a case where the police officer reasonably suspects that the accident involved injury of any person.

**Arrests on suspicion of having alcohol in the body.**

64.(1) Where a police officer has reasonable cause to suspect that a person has committed an offence contrary to section 63 (1)(a) or (b) he may, subject to section 67, arrest that person without warrant.

(2) A police officer may, for the purpose of arresting a person under subsection (1), enter (if need be by force) any place where that person is or where the police officer, with reasonable cause, suspects him to be.

(3) In determining whether a police officer's cause to suspect the commission of an offence contrary to subsection (1) was reasonable, regard shall be had in particular to the following matters—

- (a) whether the person was driving or attempting to drive a motor vehicle in a manner falling below what would have been expected of a competent and careful driver. This might include circumstances where a person was driving or attempting to drive notwithstanding that it would have been obvious to a careful and competent driver that driving in that particular manner (or, indeed, driving at all given the volume of alcohol consumed) would pose a risk to life or property by his sense of judgement being impaired;

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- (b) whether the person was driving or attempting to drive in a manner causing obvious or serious inconvenience to other road users or to pedestrians;
- (c) whether the person was driving or attempting to drive in a manner leading a reasonable observer to believe that the driver was not in proper control of the motor vehicle. This might include, for example, unexplained or excessive swerving or braking, inappropriate speed in relation to prevailing road conditions or ignoring traffic signs or signals;
- (d) whether the person's demeanour behind the steering column of a stationary or moving motor vehicle or whilst the person is en route to the vehicle suggests that he was under the influence of alcohol.

**Provision of specimens for analysis following arrest.**

65.(1) Subject to the provisions of this section and section 67, where a police officer is investigating whether a person has committed an offence contrary to sections 62, 63 or 63A and has arrested that person on suspicion of such an offence he may require that person to attend at a police station or hospital in Gibraltar—

- (a) to provide two specimens of breath for analysis by means of a device of a type approved by the Government; or
- (b) to provide a specimen of blood or urine for a laboratory test.

(2) A requirement under subsection (1)(b) may be made only by a police officer of at least the rank of sergeant and cannot be made unless—

- (a) the police officer has reasonable cause to believe that a specimen of breath cannot be provided or should not be required; or
- (b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a)—
  - (i) is not available at the hospital or police station; or
  - (ii) is not in good working order or has been used on a previous occasion by the police officer and he has reasonable cause to believe will not produce a reliable indication of the proportion of alcohol in the breath of the person concerned; or

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- (iii) it is for any other reason not practicable to use such a device there, or
- (c) the suspected offence is one under section 62 or 63A and the police officer making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug,

but may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide two specimens of breath.

(3) If the provision of a specimen of blood or of urine may be required under this section the question whether it is to be a specimen of blood or a specimen of urine shall be decided by a police officer of at least the rank of sergeant, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be a specimen of urine.

(4) A specimen of urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.

(5) A person who, without reasonable excuse, fails to provide a specimen when required to do so under this section is guilty of an offence and punishable on summary conviction to a fine at level 5 on the standard scale or to imprisonment for 6 months or to both.

(6) A police officer shall warn any person required to provide a specimen under this section that a failure to provide the specimen may render him liable to prosecution.

(7) For the purposes of subsection (1)(a), a device shall be treated as of a type approved by the Government where a statement to the effect is published in the Gazette.

### **Specimens of breath.**

66. Where a person provides two specimens of breath pursuant to section 65, that with the lower proportion of alcohol in the breath shall be used for the purposes of an investigation into an offence having been committed contrary to this Part and the other specimen shall be disregarded.

### **Protection for hospital patients.**

67.(1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a preliminary breath test or to provide a specimen for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and

- (a) if the requirement is then made, it shall be for the provision of a specimen at the hospital; but
- (b) if the medical practitioner objects on the ground specified in subsection (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of blood or urine, the warning required under section 65, would be prejudicial to the proper care and treatment of the patient.

**Detention of persons affected by alcohol or a drug.**

68.(1) Subject to subsections (2) and (3), a person required to provide a specimen of breath, blood or urine may afterwards be detained at a police station until it appears to the police officer that, were that person then driving or attempting to drive a motor vehicle on a road, he would not be committing an offence under sections 62, 63 or 63A.

(2) A person shall not be detained in pursuance of this section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst—

- (a) the person's ability to drive properly is impaired;
- (b) the proportion of alcohol in the person's breath, blood or urine exceeds the prescribed limit; or
- (c) the proportion of a specified controlled drug in the person's blood or urine exceeds the specified limit for that drug.

(3) A police officer shall consult a medical practitioner on any question arising under this section whether a person's ability to drive properly is or might be impaired through drugs or alcohol and must act on the medical practitioner's advice.

**Use of specimens in proceedings for an offence under sections 62, 63 or 63A.**

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69.(1) This section and section 70 apply in respect of proceedings for an offence under sections 62, 63 or 63A.

(2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by the accused shall, in all cases (including cases where the specimen was not provided in connection with the alleged offence), be taken into account by the court and subject to subsection (3) below, it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.

(3) The assumption in subsection (2) shall not be made if the accused proves that the proportion of alcohol in his breath, blood or urine would have not exceeded the prescribed limit, or, if it is alleged that he was unfit to drive through drink, would have otherwise not been such as to impair his ability to drive properly but for the fact that he consumed alcohol before he provided the specimen and—

- (a) in relation to an offence under section 63, after the time of the alleged offence; or
- (b) otherwise, after he ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place.

(4) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner.

(5) Where, at the time a specimen of blood or urine was provided to a police officer by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen provided to the police officer is not admissible on behalf of the prosecution unless—

- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided; and
- (b) the other part was supplied to the accused.

**Documentary evidence as to specimens in such proceedings.**

70.(1) Subject to subsections (3) and (4) and to section 69(5), evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may be given by the production of a document conforming to one of the following descriptions, that is to say—

- (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement; or
- (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

(2) Subject to subsections (3) and (4), evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner may be given by the production of a document purporting to certify that fact and signed by that medical practitioner.

(3) Subject to subsection (4) below—

- (a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsection (1)(a) is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing in court; and
- (b) any other document is so admissible only if a copy of it has been served on the accused not later than seven days before the hearing in court.

(4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing in court or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing of the person by whom the document purports to be signed.

(5) A copy of a certificate required by this section to be served on the accused or a notice required by this section to be served on the prosecutor may be served personally or sent by registered post.

**Discretionary disqualification.**

71.(1) This section shall apply where a person is convicted of an offence contrary to sections 62, 63, 63A, 63B or 65(5).



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(2) Where the conviction is for the first time, a court may, taking all reasonable circumstances into account, disqualify the person from holding or obtaining a driving licence for such period as the court may see fit.

(3) In the case of a subsequent conviction in any period of 6 years, the court shall disqualify the person from holding or obtaining a driving licence for such period as the court may see fit.

**Protection of officers in relation to the arrest of persons suspected of being over the prescribed limit.**

72.(1) Where, in any proceedings for an offence under this Part, the defendant is acquitted the court may, if it sees fit, certify that, in the court's view, there were reasonable grounds for the arrest of the accused.

(2) Where any proceedings, whether civil or criminal, are brought against any police officer on account of the arrest of any person, and judgment is given for the plaintiff or prosecutor, then if either—

- (a) a certificate relating to the arrest has been granted under subsection (1) above; or
- (b) the court is satisfied that there were reasonable grounds for arresting the accused,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment.

(3) Any certificate under subsection (1) above may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it is granted.

**Interpretation of Part.**

73.(1) The following provisions apply for the interpretation of this Part—

“authorised analyst” means any person authorised by the Commissioner of Police to make analyses for the purposes of this section; and a certificate signed by an authorised analyst for the purposes of section 69(1)(b) shall be evidence of his qualification as such;

“controlled drug” has the meaning given by section 502 Crimes Act 2011;

“drug” includes any intoxicant other than alcohol;

“fail” includes refuse;

“hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients;

“the prescribed limit” means, as the case may require—

- (a) 35 microgrammes of alcohol in 100 millilitres of breath;
- (b) 80 milligrammes of alcohol in 100 millilitres of blood; or
- (c) 107 milligrammes of alcohol in 100 millilitres of urine;

“specified”, in relation to a controlled drug, has the meaning given by section 63A(8).

(2) A person does not provide a specimen of breath for a breath test or for analysis unless the specimen—

- (a) is sufficient to enable the test or the analysis to be carried out; and
- (b) is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved.

(3) A person provides a specimen of blood if and only if he consents to its being taken intravenously by a medical practitioner and it is so taken.

## PART V REGULATION OF HORSE-DRAWN VEHICLES AND BICYCLES

### **Examination of vehicles.**

74.(1) If the licensing authority or the Commissioner of Police has reason to suspect that a vehicle licensed under this Part has ceased to be fit for the purpose for which it was licensed or does not comply with any prescribed conditions as to fitness, he may order the person in charge or the owner of the vehicle to produce the vehicle for examination by an examiner at a specified time and place.

(2) If on the report of the examiner it appears to the licensing authority that the vehicle does not comply with any prescribed conditions of fitness or is not fit for the purpose for which it is licensed, he may suspend the licence until all necessary repairs, adjustments or alterations have been effected to

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the satisfaction of an examiner and during the period of such suspension the vehicle shall cease to be a vehicle licensed under this Part.

(3) A person who fails to obey any order given under the provisions of subsection (1) is guilty of an offence.

(4) If any person considers himself aggrieved by the suspension of a licence under this section he may within twenty-one days of the date of such suspension appeal to the magistrates' court and upon such appeal the court may make such order as it thinks fit and such order shall be binding on the licensing authority.

#### **Application to cyclists and to drivers of horsedrawn vehicles.**

75.(1) Sections 46(1), 47(1), 49, 52 (in so far as it relates to offences under sections 46 and 47 but with the omission of the reference to registered owners), 53 and 54 shall, subject to the provisions of this section, apply to persons riding bicycles and tricycles not being motor vehicles, and to drivers of horse-drawn vehicles as they apply to drivers of motor vehicles, and references in those sections to motor vehicle drivers and driving shall be construed accordingly.

(2) A person shall not be liable to be indicted by virtue of this section and the maximum penalties which may be imposed on a conviction by virtue of this section under sections 46, 47 or 62 shall be as follows—

- (a) in the case of a conviction under section 47 or 62 to a fine at level 1 on the standard scale or if the conviction is a second or subsequent conviction to a fine twice the amount at level 1 on the standard scale or imprisonment for three months;
- (b) in the case of a conviction under section 46 to a fine half the amount at level 1 on the standard scale or if the conviction is a second or subsequent conviction to a fine at level 1 on the standard scale.

(3) In determining whether a conviction under section 46, 47 or 62 is a second or subsequent conviction—

- (a) where it is a conviction in connection with the driving of a motor vehicle any previous conviction by virtue of this section shall be disregarded;
- (b) where it is a conviction by virtue of this section any previous conviction in connection with the driving of a motor vehicle shall be disregarded.

**Regulations.**

76. The Government may make regulations for any purpose for which regulations may be made under this Part and for prescribing anything that may be prescribed under this Part and generally as to the use of horse-drawn vehicles and bicycles, their construction and equipment and the conditions under which they may be used and otherwise for the purpose of carrying this Part into effect and in particular but without prejudice to the generality of the foregoing may make regulations with respect to any of the following matters—

- (a) the kind of lamps and reflectors to be carried on horse-drawn vehicles and bicycles, the carrying of such lamps and reflectors and how and when they shall be used;
- (b) the registration of horse-drawn vehicles and the size and shape and character of the registration number to be affixed to the vehicle and the manner in which it is to be displayed and rendered easily discernible by day or night;
- (c) the appliances to be fitted to horse-drawn vehicles and bicycles for signalling their approach when used on roads and for securing that the drivers of such vehicles and the riders of such bicycles shall by means of such appliances give sufficient warning of their approach.

**PART VI**  
**TRAFFIC COMMISSION**

**Traffic Commission.**

77.(1) There is hereby established a Traffic Commission, which shall consist of—

- (a) a chairman who shall be appointed by the Government;
- (b) the Commissioner of Police or his representative;
- (c) a representative of the Government appointed for the purpose by notice in the Gazette;
- (d) one person appointed by the Government after consultation with operators of public service vehicles;

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- (e) one person appointed by the Government after consultation with the Gibraltar Taxi Association; and
- (f) two other members appointed by the Government.

(2) Four members shall constitute a quorum at any meeting of the Commission.

(3) At all meetings of the Commission, the chairman or, in his absence, such other member as the members present shall appoint, shall preside.

(4) All decisions of the Commission shall be decided by a majority vote of the persons present at any meeting, and in the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.

(5) Subject to this Act and any regulations made thereunder, the Commission may by rules or otherwise regulate its own procedure.

#### **Functions of the Commission.**

78. The Commission, having regard to the general policy of the Government in relation to traffic in Gibraltar, shall—

- (a) advise the Government on matters affecting traffic on the roads;
- (b) consider and advise upon any matter which may be referred to it under the provisions of this Act;
- (c) exercise such further and additional functions as may be prescribed.

#### **Procedural powers of the Commission.**

79.(1) The chairman of the Commission may by notice in writing summon any person to appear before the Commission to produce any document or to give evidence.

(2) The Commission may receive such evidence as it thinks fit, and neither the provisions of the Evidence Act nor any other rule of law shall apply to proceedings before the Commission.

(3) Any person who, being summoned to appear before the Commission, refuses or fails without reasonable excuse to appear or to answer any question put to him by or with the consent of the Commission shall be guilty

of an offence and liable on summary conviction to a fine at level 2 on the standard scale and to imprisonment for one month:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him before the Commission, be entitled to the privileges to which he would be entitled if giving evidence before a court of justice.

(4) In proceedings before the Commission, any person may appear in person or be represented by counsel, solicitor or agent.

(5) Any person who behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the Commission shall be guilty of an offence and liable on summary conviction to a fine at level 2 on the standard scale and to imprisonment for one month.

#### *Regulations*

#### **Regulations.**

80. The Government may make regulations for any purpose for which regulations may be made under this Part and for prescribing anything which may be prescribed and generally for the purpose of carrying this Part into effect and in particular, but without prejudice to the generality of the foregoing, may make regulations with respect to any of the following matters—

- (a) the application for and issue of a roadworthiness certificates, the fees to be paid in respect thereof and the manner and conditions of payment;
- (b) the issue of and the fees to be paid in respect of copies of licences or roadworthiness certificates in the case of licences or certificates lost or destroyed;
- (c) the documents, plates and marks to be carried by public service vehicles and the manner in which they are to be carried,

and different regulations may be made as respects different classes or descriptions of public service vehicles and as respects the same class and description of public service vehicles in different circumstances.

### **PART VII**

#### **STREETS AND HIGHWAYS**

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**Powers of Commissioner of Police temporarily to prohibit or restrict traffic on roads or public places.**

81.(1) If the Commissioner of Police is satisfied that traffic on any road or public place should by reason of—

- (a) works of repair or reconstruction being required or being in progress; or
- (b) any public procession, rejoicing, parade, illumination entertainment or similar happening,

be temporarily restricted or prohibited, he may by notice restrict or prohibit the use of that road or public place or any part thereof by vehicles or by vehicles of any particular class or description to such conditions or exceptions as he may consider necessary.

(2) Any such notice shall describe the alternative route or routes available for traffic and shall be kept posted in a conspicuous manner at each end of the part of the road or public place to which it relates and at the points at which it will be necessary for vehicles to diverge from the road or public place.

(3) A person who uses or permits the use of a vehicle in contravention of any restriction or prohibition imposed under this section is guilty of an offence and is liable on summary conviction in the case of a first conviction to a fine of at level 1 on the standard scale and in the case of a second or subsequent conviction to a fine twice the amount at level 1 on the standard scale.

**Projections against or in front of houses, etc.**

82.(1) The Government may give notice in writing to the owner or occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, signpost, sign-iron, showboard, window shutter, wall, gate, or fence or any other obstruction or projection erected or placed against or in front of any house or building and which is an obstruction to the safe and convenient passage of persons, animals or vehicles along any street and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the Government, and in default thereof the Government may remove or alter such obstruction or projection, and the expense of such removal or alteration shall be paid by the owner or occupier so making default, and shall be recoverable summarily as a civil debt:

Provided that, except in the case in which such obstructions or projections are made or put up by the occupier, an occupier shall be entitled to deduct the expense of removing or altering the same from any rent payable by him to the owner of the house or building.

(2) If any dispute shall arise as to the liability of the Government to pay such expenses and compensation for damage or injury (if any) or as to the amount thereof, or if the Government shall refuse to pay the same, such liability shall be determined, and such amount (if any) shall be ascertained by the magistrates' court on the application of the Government or by any person who deems himself aggrieved.

(3) Any projection erected or placed against or in front of any house or building, which, by reason of being insecurely fixed or of defective construction or otherwise, is a source of danger to persons lawfully using a street, shall be deemed to be an obstruction to the safe or convenient passage along the street for the purposes of the section.

#### **Traffic signs.**

83.(1) The Government may cause or permit traffic signs to be placed on or near any road in Gibraltar.

(2) The Commissioner of Police may cause or permit a temporary traffic sign to be placed on or near any road in Gibraltar.

(3) After the commencement of this Act no traffic sign shall be placed on or near any road except under and in accordance with the provisions of this section.

(4) The Government may by notice in writing require the owner or occupier or any land on which there is any object or device (whether fixed or portable) for the guidance or direction of persons using roads to remove it and if any person fails to comply with such a notice the Government may effect the removal doing as little damage as possible.

(5) The Government may enter any land and exercise such other powers as may be necessary for the purpose of the exercise and performance of its powers and duties under this section.

(6) In this Part the expression "traffic sign" shall mean any object or device (whether fixed or portable), and shall include such object's or device's support, for conveying warnings, information, requirements, restrictions or prohibitions of any description to traffic on roads or any specified description of traffic and any line or mark, on a road for conveying such warnings, information, requirements, restrictions or prohibitions.



(7) The Government may authorise the erection on or across any road of such gates and movable traffic barriers as he may deem necessary for the safety, control and regulation of traffic on such road.

(8) For the purposes of this Act a traffic sign placed on or near a road shall be deemed to have been lawfully so placed unless the contrary is proved.

(9) A person who, without lawful authority or excuse pulls down, removes or obliterates a traffic sign placed on or near a highway is guilty of an offence and is liable to a fine at level 1 on the standard scale.

**Informative sign.**

83A.(1) The Minister may authorise the installation of a traffic sign by a non-profit organisation.

(2) Traffic signs installed by non-profit organisations may contain the emblem of such organisation on the sign or on its support provided that such emblem does not make the sign less easy to understand or does not distract a driver of a vehicle.

**Interference with traffic signs.**

83B.(1) No board, notice, marking or device which may-

- (a) be confused with a traffic sign or other traffic control device;
- (b) render a traffic sign or other traffic control device less visible or effective; or
- (c) dazzle or distract a driver in a way prejudicial to traffic safety,

shall be fixed on a road or next to a road.

(2) In this regulation “traffic sign” has the meaning attributed to it under section 83(6).

**Obstruction of pavement or verge.**

83C.(1) No device or equipment may be installed on a pavement or verge if it obstructs the passage of pedestrians, in particular the passage of elderly or disabled persons.

**Traffic wardens.**

84.(1) The Government may appoint persons (to be known as “traffic wardens”) to discharge in aid of the police, functions normally undertaken by the police in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including foot passengers) or vehicles and persons so appointed shall exercise their functions under the direction of the Government.

(2) In so far as a traffic warden is acting in the performance of his functions as such, the references in this Act to a police officer shall include a traffic warden.

(3) The Government shall take steps to ensure that only persons adequately qualified are appointed traffic wardens, and that traffic wardens are suitably trained before undertaking their duties.

(4) Traffic wardens shall wear such uniform as the Government may approve and shall not act as traffic wardens when not in uniform.

(5) When a vehicle is approaching a place in a road where children on their way to or from school are seeking to cross the road, a uniformed traffic warden shall have power, by exhibiting a prescribed sign, to require the person driving or propelling the vehicle to stop it.

(6) When a person has been required under subsection (5) to stop a vehicle—

- (a) he shall cause the vehicle to stop before reaching the place where the children are crossing or seeking to cross the road, so as not to stop or impede their crossing; and
- (b) the vehicle shall not be put in motion again so as to reach the place in question so long as the sign continues to be exhibited,

and a person who fails to comply with paragraph (a) of this subsection or who causes a vehicle to be put in motion in contravention of paragraph (b) there of is guilty of an offence.

(7) In this section “prescribed sign” means a sign of a size, colour and type prescribed by regulations made by the Government; and regulations under this subsection may provide for the attachment of reflectors to signs or for the illumination of signs.

(8) For the purposes of this section—

- (a) where it is proved that a sign was exhibited by a traffic warden, it shall be presumed to be of a size, colour and type prescribed,

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and if it was exhibited in circumstances in which it was required by the regulations to be illuminated, to have been illuminated in a prescribed manner, unless the contrary is proved; and

- (b) where it is proved that a traffic warden was wearing uniform, it shall be presumed, unless the contrary is proved, to be a uniform approved by the Government.

**Penalty for neglect of traffic directions.**

85.(1) When a police officer in uniform is for the time being engaged in the regulation of traffic in a road or where any traffic sign has been lawfully placed on or near any road a person driving or propelling any vehicle who—

- (a) neglects or refuses to stop the vehicle or make it proceed in or keep to a particular line of traffic when directed so to do by the police officer in the execution of his duty; or
- (b) fails to conform to the indication given by the sign, is guilty of an offence.

(2) For the purpose of this section “police officer” includes a member of a Corps of Royal Military Police in uniform.

(3) For the purposes of subsection (1), where the police officer gives an instruction which is in conflict with a road sign, traffic light signal or road marking, the instruction of the police officer is to take precedence over such road sign, traffic light signal or road marking.

**Priority of traffic lights.**

85A.(1) Where instructions regulating priority given to drivers by traffic light signals and road signs conflict, precedence shall be given to the traffic light signals over the road signs.

**Duty of pedestrians to comply with traffic directions given by police officers.**

86.(1) Where a police officer in uniform is for the time being engaged in the regulation of vehicular traffic in a road, a person on foot who proceeds across or along the carriage way in contravention of a direction to stop given by the police officer, in the execution of his duty, Either to persons on foot or to persons on foot and other traffic, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale, or in the case

of a second or subsequent conviction to a fine twice the amount at level 1 on the standard scale.

(2) A police officer may require any person committing an offence against subsection (1) to give his name and address, and if that person fails to do so he is guilty of an offence against this subsection and liable on summary conviction to a fine at level 1 on the standard scale.

**Leaving vehicles in a dangerous position.**

87. A person in charge of a vehicle, who causes or permits the vehicle or any trailer drawn thereby to remain at rest on any road in such a position or in such condition or in such circumstances as to be likely to cause danger to other persons using the road is guilty of an offence.

**Stretching of ropes, etc., across road.**

88. A person who for any purpose places or causes to be placed any rope, wire or other apparatus across a road or any part thereof in such a manner as to be likely to cause danger to any person using the road is guilty of an offence, unless he proves that he had taken all necessary means to give adequate warning of the danger.

**Regulations.**

89.(1) The Government may make regulations for any purpose for which regulations may be made under this Part and for prescribing anything which may be prescribed and generally for carrying this Part into effect, and in particular but without prejudice to the generality of the foregoing may make regulations with respect to any of the following matters—

- (a) prescribing speed limits in any specified place or on any specified route;
- (b) constituting one-way streets;
- (c) prohibiting or restricting the use of specified roads by bicycles, horse-drawn vehicles and motor vehicles of any specified class or weight either generally or during specified hours but not so as to prevent such access to premises as may reasonably be required;
- (d) prohibiting the use of sound signals on any specified road or between specified hours;

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- (e) defining the meanings of traffic signs for the purposes of section 83 (without prejudice to the powers of the Government or Commissioner of Police under that section to cause or permit the placing of traffic signs the meanings of which are evident without the need for definition);
- (f) providing for the removal of vehicles from roads, parking places, and other public places, and the detaining in safe custody of vehicles and their loads;
- (g) providing for the removal of any vehicles specified in paragraph (f) from one position on any road, parking place or other public place to any other position or any road, parking place or other public place;
- (h) requiring the payment by the owners or persons having charge of vehicles, of—
  - (i) specified fixed charges for the removal of vehicles or classes of vehicles under regulations made under this subsection; and
  - (ii) charges, ascertained by reference to scales prescribed in regulations, in respect of periods of time during which vehicles or classes of vehicles are so detained;
- (i) providing that vehicles so detained may be detained until such charges are paid;
- (j) authorising the Commissioner of Police, or such other person or entity as the Minister may authorise or other public officer—
  - (i) to sell, destroy or otherwise dispose of any vehicle (other than an abandoned vehicle) that has been detained for not less than one month in pursuance of any provisions of this Act and in respect of which the charges payable for its removal or detention have not been paid;
  - (ii) to sell, destroy or otherwise dispose of any vehicle abandoned on any public land;
- (k) providing for the application of the proceeds of sale of any vehicle referred to in paragraph (j) and for the reimbursement to the Crown of the costs of removal, detention, sale or other disposal of the vehicle in so far as they are not satisfied out of the proceeds of this sale;

- (l) establishing crossings for pedestrians and for providing for the precedence of vehicles and pedestrians respectively and generally with respect to the movement of traffic (including pedestrians) at or in the vicinity of a crossing;
- (m) empowering the attachment to vehicles of immobilisation devices and appropriate warning signs or notices consequent upon the immobilisation of the vehicle;
- (n) requiring the payment by the owners or persons having charge of vehicles to which such devices have been attached, of specified charges for the removal of such devices from vehicles or classes of vehicles, ascertainable by reference to scales prescribed in regulations, in respect of periods of time during which such devices are so attached to such vehicles or classes of vehicles.

(2) A person who contravenes a regulation made under this section is guilty of an offence and is liable on conviction to imprisonment or to a fine or both as may be prescribed in such regulation.

(3) A charge under this section if not exceeding an amount equivalent to level 1 on the standard scale may be recovered either as a simple contract debt in a court of competent jurisdiction or summarily as a civil debt, and if exceeding an amount equivalent to level 1 on the standard scale may be recovered in the former manner.

#### **Exemption from liability.**

90. When any police officer or any duly authorised person removes or provides for the safe custody, sale, destruction or disposal of any vehicle or attaches any device or notice to it, or employs any other person to remove it or provide for its safe custody, sale, destruction or disposal or to attach any device or notice to it, in accordance with regulations made under section 89, except on proof of failure to exercise reasonable care neither the police officer nor any such person shall be liable to any action or demand whatsoever for the recovery of any alleged damage to such vehicle or its load or otherwise in respect of the removal, safe custody, sale, destruction or disposal thereof or the attachment of the device or notice to it.

#### **Traffic movement.**

91.(1) The Government may by regulations provide for car parks, bus stops, taxi ranks, loading and waiting bays, and other general rules in respect of traffic movement, including regulating, restricting or prohibiting the parking

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or waiting of vehicles generally or classes of vehicles and any other traffic flow or management issue.

(2) The Government or in the case of emergency the Commissioner of Police may by Order provide for temporary diversion of traffic, temporary suspension of parking spaces and loading bays and any other temporary measure required by reason of road or other works, official functions or events, the continuation of the proper movement of traffic or any emergency.

(3) A person who contravenes any regulations or Order made under subsection (1) or (2) is guilty of an offence and liable on summary conviction to a fine up to level 1 on the standard scale.

#### **Fees for use of parking places.**

92.(1) The Government may, by notice in the Gazette or by Regulations, fix fees to be paid for the use of parking places or for the use of specified parts of such parking places or for the use of such parking places or parts thereof during specified periods, and may fix different fees for such use during different periods.

(2) Such fees shall be collected by mechanical means or by attendants appointed and duly authorised in writing for that purpose who shall in every case issue a parking ticket on receipt of the fees and who shall carry with them such authorisations at all times whilst carrying out their duties and shall produce the same on being requested to do so.

(3) For the purposes of this Act the time marked on a parking ticket whether issued by mechanical means or by an attendant shall be presumed to be correct unless the contrary is shown.

(4) The exercise by the Government of their functions under this section shall not render them subject to any liability in respect of the loss or damage to any vehicle in a parking place or the contents or fittings of any such vehicle.

(5) A person in charge of a vehicle who without lawful excuse refuses or neglects promptly to pay the authorised parking fee when demanded by an attendant or otherwise neglects to pay the authorised parking fee, and any such person who causes or permits a vehicle to remain in a parking place after the expiry of the period for which payment of the fee authorises parking, is guilty of an offence.

#### **Issue of directions for guidance of users of roads.**

93.(1) The Government shall prepare a highway code (in this section referred to as the “code”) comprising such directions as appear to be proper for the guidance of persons using roads, and may from time to time revise the code by revoking, varying, amending or adding to the provisions.

(2) The code and any alterations proposed to be made in the provisions of the code on any revision thereof, shall be submitted for approval by the Parliament, and the code or revised code, as the case may be, shall not be issued until the code or the proposed alterations have been approved by the Parliament.

(3) Subject to the foregoing provisions of this section, the Government shall cause the code and every revised edition of the code to be printed and may issue copies thereof to be sold to the public at such price as the Government may determine.

(4) A failure on the part of any person to observe a provision of the code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under this Act) be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in those proceedings.

#### **Dumping of abandoned motor vehicles.**

94.(1) Subject to this section, if a motor vehicle or anything which forms a part of a motor vehicle and was removed from it in the course of dismantling the vehicle is found abandoned in a public place, the owner or the last registered owner of the vehicle shall be guilty of an offence and shall be liable on a summary conviction to a fine at level 4 on the standard scale.

(2) For the purposes of this section a motor vehicle or any such part thereof as is mentioned in subsection (1) shall be deemed to have been abandoned if it is left in a public place in such circumstances and condition and for such period of time that it may reasonably be assumed to have been abandoned.

(3) If the registered owner of a motor vehicle wishes to dispose of it, and if that vehicle is one to which the End-of Life Vehicles Rules 2004 does not apply, he may surrender the licence and the international document, if any, for that vehicle to the licensing authority, and, upon payment of the prescribed fee, the authority shall—

- (a) remove from the register, and cancel the registration of, the motor vehicle;



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- (b) arrange for the disposal of the motor vehicle; and
- (c) issue a certificate to that effect to the registered owner.

(4) In any proceedings under subsection (1) it shall be a defence for the person charged to prove—

- (a) that he has surrendered the licence and the international document, if any, to the licensing authority in accordance with subsection (3); or
- (b) that the vehicle in question was taken away without his authority or consent, express or implied.

## PART VIIA FIXED PENALTIES

### *Introductory*

#### **Fixed penalty offences.**

94A.(1) Subject to subsection (2) any offence, in respect of a vehicle, specified in regulations made by the Minister under this section is a fixed penalty offence for the purposes of this Part.

(2) An offence specified in accordance with subsection (1) is not a fixed penalty offence for those purposes if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any enactment.

(3) Regulations made under subsection (1) may provide for any limitation or exception to the listing of an offence as a fixed penalty offence.

#### **Fixed penalty notices.**

94B.(1) In this Part “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty.

(2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(3) A fixed penalty notice must state—

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- (a) the that proceedings cannot be brought against any person for the offence to which the notice relates until after 28 days following the date of the notice (referred to in this Part as the “suspended enforcement period”);
- (b) the amount of the fixed penalty; and
- (c) to whom and the address at which the fixed penalty may be paid.

**Amount of fixed penalty.**

94C.(1) Fixed penalties for offences shall be prescribed in regulations made under section 94A.

- (2) The regulations referred to in subsection (1) may provide for-
  - (a) a reduction in the sums due on account of prompt or early payment; and
  - (b) an increase in the fixed penalty in the circumstances so prescribed.

*Giving notices to suspected offenders*

**Notices on-the-spot.**

94D.(1) Where on any occasion a constable in uniform or an authorised person has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence the constable or authorised person may give him a fixed penalty notice in respect of the offence.

(2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates before the end of the suspended enforcement period.

(3) Where the fixed penalty has not been paid in accordance with this Part of this Act after the end of the suspended enforcement period, proceedings may be brought in respect of the offence against that person.

*Notices fixed to vehicles*

**Fixing notices to vehicles.**

94E.(1) Where on any occasion a constable or authorised person has reason to believe in the case of any stationary vehicle that a fixed penalty offence is

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being or has on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle.

(2) If at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part proceedings may be brought in respect of the offence against the registered owner of the vehicle.

(3) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this section, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

#### **Payment of penalty.**

94F. Payment of a fixed penalty under this Part of this Act must be made to such person or entity as the Minister may designate by regulations made hereunder.

#### *Conditional offer of fixed penalty*

#### **Issue of conditional offer.**

94G.(1) Where—

- (a) a police officer or authorised person has reason to believe that a fixed penalty offence has been committed; and
- (b) no fixed penalty notice in respect of the offence has been given under sections 94D or 94E,

a notice under this section may be sent to the alleged offender.

(2) A notice under this section is referred to in this section and section 94H as a “conditional offer”.

(3) A conditional offer must—

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
- (b) state the amount of the fixed penalty for that offence; and
- (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the

period of 28 days following the date on which the conditional offer was issued.

(4) A conditional offer must indicate that if within the period of 28 days following the date on which the offer was issued, payment is made any liability to conviction of the offence shall be discharged.

(5) Regulations made under section 94A may also provide for a reduction in the sums due on account of prompt or early payment.

**Effect of offer and payment of penalty.**

94H.(1) This section applies where a conditional offer has been sent to a person under section 94G.

(2) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates.

(3) Where, on the expiry of the period of 28 days following the date on which the conditional offer was made the conditions specified in the offer have not been fulfilled, proceedings may be brought in respect of the offence.

(4) In any proceedings a certificate by a police officer or designated person that by a date specified payment of a fixed penalty was or was not received shall be evidence of the facts stated.

(5) In subsection (4) the reference to a designated person is a reference to a person so designated under section 94F.

*Proceedings in fixed penalty cases*

**General restriction on proceedings.**

94I.(1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.

(2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part of this Act before the end of the suspended enforcement period.

**Defence.**

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94J.(1) Subject to subsection (3), in any proceedings in respect of an offence to which this Part applies it shall be a defence for the registered owner of the vehicle to prove that-

- (a) at the time of the commission of the offence the vehicle was in the charge of some other person; and
- (b) he had exercised all such diligence as was practicable to avoid the commission of the offence by that person.

(2) A person shall not, without the leave of the Court, be entitled to rely on subsection (1) unless within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information or assisting in the identification of that other person as was then in his possession.

(3) This section does not apply to an offence under sections 44 or 44A.

#### **Service of documents.**

94K. A notice to a registered owner may be served on that person-

- (a) by delivering it to him or by leaving it the address held in the register of motor vehicles; or
- (b) by sending it to him by registered post,

and where the person on whom such a notice is to be served is a body corporate it is duly served if it is served on a director or the secretary or by sending it to the registered office or principal place of business.

#### **Interpretation of Part.**

94L. In this Part-

“authorised person” means a person authorised under section 44E(5).

### **PART VIII GENERAL**

#### **Forgery, etc., of licences and certificates.**

95.(1) A person who with intent to deceive-

This version is out of date

- (a) forges within the meaning of the Criminal Offences Act or alters or uses or lends to or allows to be used by any other person a licence or a certificate under any Part of this Act; or
- (b) makes or has in his possession any document so closely resembling such a licence or certificate as to be calculated to deceive,

is guilty of an offence and is liable—

- (i) on summary conviction to imprisonment for six months and to a fine at level 2 on the standard scale;
- (ii) on conviction on indictment to imprisonment for two years and to a fine twice the amount at level 2 on the standard scale.

(2) A person who, for the purpose of obtaining the grant of any licence to himself or any other person or the variation of any licence or for the purpose of preventing the grant or variation of any licence or for the purpose of procuring any condition or limitation in relation to a licence, knowingly makes any false statement is guilty of an offence and is liable on summary conviction to imprisonment for six months and to a fine at level 2 on the standard scale.

(3) If any police officer has reasonable cause to believe that any licence produced to him in accordance with the provisions of this Act by the driver of a motor vehicle is a document in relation to which an offence under this section has been committed he may seize the document and retain the same until the matter has been investigated.

#### **Duty to give information.**

96.(1) Where the driver of a vehicle is alleged to be guilty of an offence under this Act or of any offence involving dishonesty towards a passenger or with respect to any goods or freight carried on the vehicle the owner of the vehicle shall, on demand by any member of the police force, give such information as he can as to the identity of the driver and any other person shall, on such demand, give any information which it is in his power to give and may lead to the identification of the driver and if the owner or such other person fails to do so, he is guilty of an offence.

(2) This section does not apply where a person is required to provide information pursuant to section 44A.

97. *Repealed.*

**General Penalty.**

98.(1) A person convicted of an offence under this Act for which no special penalty is provided is liable on summary conviction in the case of the first offence to a fine at level 1 on the standard scale and in the case of a second or subsequent conviction to a fine twice the amount at level 1 on the standard scale or to imprisonment for three months.

(2) *Deleted.*

98A. *Repealed.*

**Saving of rights.**

99. Nothing in this Act shall affect the right of the Government or any person to recover compensation from the owner or driver of any vehicle for any injury, damage or loss which may be sustained by the Government or by such person by reason of the use of such vehicle.

**Nuisances.**

100. Nothing in this Act shall authorise any person to use on any road any vehicle so constructed or used as to cause a public nuisance or shall affect the civil liability of the driver or owner so using such a vehicle.

**Regulations.**

101. The Government may from time to time make regulations for all or any of the following purposes–

- (a) prescribing fees for services rendered or things done under this Act;
- (b) providing for such other matters as are reasonably necessary for or incidental to the due administration of this Act;
- (c) providing for any matter relating to the control, regulation or restriction of parking or waiting.

**Repeal of Traffic Act.**

102. The Traffic Act is repealed.

**Transitional Provisions.**

This version is out of date

103.(1) In this section the “old Act” means the Traffic Act repealed by section 102.

(2) The substitution of this Act for the old Act shall not affect the continuity of the law.

(3) The repeal of the old Act shall not affect the validity or period of validity of any licence, permit or other authorisation granted under the old Act and accordingly such licence, permit or other authorisation shall have effect and shall be deemed always to have had effect.

(4) The repeal of the old Act shall not affect any proceedings instituted prior to the commencement of this Act and those proceedings shall continue as though this Act had not come into operation.

104. *Repealed.*



## SCHEDULE

### OFFENCES IN RESPECT OF WHICH DISQUALIFICATION OR ENDORSEMENT MAY BE ORDERED

1. Any offence against section 24(1) (driving or employing a person to drive without a licence).
2. Any offence under section 40(5) (applying for or obtaining a licence or driving when disqualified).
3. Any offence against section 43 (restriction of driving by young persons).
4. Subject to the provisions of section 44, an offence under section 44 (speed limit).
5. Manslaughter by the driver of a motor vehicle, any offence under the Crimes Act (causing bodily harm) committed by the person having charge of the motor vehicle, causing death by reckless or dangerous driving or any offence under section 45A,45B, 46 or 47 committed in respect of a motor vehicle.
6. Any offence under section 62 (driving or attempting to drive a motor vehicle when under the influence of drink or drugs) or under section 63 (being in charge of a motor vehicle when under the influence of drink or drugs).
7. Any offence under section 51 (unlawful pillion riding) committed by the driver of a motor cycle.
- 8.(1) Stealing or attempting to steal a motor vehicle.
  - (2) An offence under section 408 Crimes Act committed with reference to the taking of a motor vehicle without the owner's consent.
  - (3) An offence under section 409 Crimes Act 2011 aggravated vehicle taking.
9. Any offence under section 85 (failing to conform with traffic directions).