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1970, No. 136

An Act to amend the Transport Act 1962

[2 December 1970]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act 1970, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) Part I of this Act (except sections 42 and 43 of the principal Act as substituted by section 2 of this Act), Part II of this Act, and the Schedule to this Act shall come into force on the 1st day of February 1971.

(3) Sections 42 and 43 of the principal Act (as so substituted) shall come into force on a date to be fixed by Order in Council.

(4) Sections 19 and 20 of this Act shall be deemed to have come into force on the 1st day of April 1970.

(5) Except as provided in subsections (2), (3), and (4) of this section, this Act shall come into force on the date of its passing.

PART I

PENALTIES FOR OFFENCES, AND DISQUALIFICATION OF DRIVERS

2. Part IV of principal Act substituted—The principal Act is hereby amended by repealing Part IV, and substituting the following Part:

“PART IV

“PENALTIES FOR OFFENCES, AND DISQUALIFICATION OF DRIVERS

“30. Penalties for offences—(1) Every person who commits—

“(a) An offence against section 55 of this Act (which relates to causing bodily injury or death through reckless or dangerous driving or driving while under the influence of drink or drugs or while the proportion of alcohol in the driver’s blood exceeds a specified amount); or

“(b) An offence against subsection (4) of section 65 of this Act (which relates to the duties of a driver in the case of an accident where any other person is killed or injured in the accident); or

“(c) A second or subsequent offence against subsection (1) of section 35 of this Act (which relates to driving while disqualified or contrary to the terms of a limited licence)—

is liable on conviction on indictment to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$1,000 or to both, and (without prejudice to the power of the Court to order a longer period of disqualification) the Court shall order him to be disqualified from holding or obtaining a driver’s licence for a period of 1 year, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

“(2) For the purposes of paragraph (c) of subsection (1) of this section, an offence against section 39 of this Act (as in force before the commencement of this section) committed before the commencement of this section shall be deemed to be an offence against subsection (1) of section 35 of this Act.

“(3) Every person who commits an offence against—

“(a) Section 34 or section 50 of this Act (which relate to applying for or obtaining a driver’s licence while disqualified); or

- “(b) Section 56 of this Act (which relates to causing bodily injury or death through careless use of a motor vehicle); or
- “(c) Section 57 of this Act (which relates to reckless or dangerous driving); or
- “(d) Section 58 of this Act (which relates to driving while the proportion of alcohol in the driver’s blood exceeds a specified amount or while under the influence of drink or drugs); or
- “(e) Section 58c of this Act (which relates to refusing to supply a specimen of blood); or
- “(f) Subsection (5) of section 65 of this Act (which relates to the duties of the driver in the case of an accident where no other person is killed or injured in the accident)—

is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$400 or to both, and (without prejudice to the power of the Court to order a longer period of disqualification) the Court shall order him to be disqualified from holding or obtaining a driver’s licence for a period of 6 months, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

“(4) Every person who commits an offence against this Act or against any regulations made under this Act for which no penalty is provided elsewhere than in this subsection is liable to a fine not exceeding \$200, and, if in the opinion of the Court the offence (not being an offence against subsection (9) of section 42 or subsection (9) of section 69B or subsection (8) of section 194A of this Act) relates to road safety, the Court may order him to be disqualified from holding or obtaining a driver’s licence for such period as the Court thinks fit.

“31. Application of disqualification provisions where offender is already a disqualified person—Where a person, while disqualified from holding or obtaining a driver’s licence, commits any offence which renders him liable to be disqualified from holding or obtaining a driver’s licence, the Court, on convicting him for that offence, shall, in addition to any other penalty which may be imposed and without prejudice to the power of the Court to order a longer period of disqualification, order him to be disqualified from holding or obtaining a driver’s licence for a period of 6 months (or, where any provision of this Act requires a longer period of disqualification to be ordered, for that longer

period) commencing on the date of the expiration of the first period of disqualification, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

“32. Disqualification on application by local authority or insurance company or Commissioner of Police or Secretary for Transport—(1) If it is satisfied that the safety of the public is unduly endangered, the Court, on an application made in accordance with the provisions of this section, may make an order disqualifying any person from holding or obtaining a driver’s licence for such a period as the Court thinks fit.

“(2) An application under this section may be made by—

“(a) Any local authority, whether or not the licence with respect to which the application is made has been issued by that authority; or

“(b) Any insurance company which has in accordance with Part VI of this Act entered into a contract with the holder of the licence as owner of a motor vehicle; or

“(c) The Commissioner of Police or a member of the Police authorised by him in that behalf, either generally or in any particular case; or

“(d) The Secretary for Transport.

“(3) Every application under this section shall be made by way of complaint under the Summary Proceedings Act 1957, and shall be determined by a Magistrate’s Court presided over by a Magistrate, and may in the discretion of the Magistrate be heard in open Court or in chambers.

“33. Effect of disqualification—(1) Where the holder of a driver’s licence is disqualified by an order of a Court from holding or obtaining a licence, the licence shall be deemed to be suspended so long as the disqualification continues in force, and during the period of suspension shall be of no effect.

“(2) Where the holder of a driver’s licence is disqualified from holding or obtaining a driver’s licence for a period of more than 12 months or for 2 or more cumulative periods totalling more than 12 months, and his disqualification will expire before the expiration of the term of the licence, the licence shall, on the expiration of his disqualification, continue to be of no effect until the holder thereof undergoes and passes such tests as are prescribed for a driver’s licence authorising him to drive motor vehicles of the class or classes that he was

authorised to drive by virtue of his driver's licence or any of those classes.

“(3) Where any person to whom subsection (2) of this section applies—

“(a) Is the holder of a driver's licence by virtue of which he is authorised to drive 2 or more classes of motor vehicles; and

“(b) Undergoes and passes such tests as are prescribed in relation to only 1 or more but not all of the classes of motor vehicles that he is authorised to drive by virtue of his licence,—

the local authority on behalf of which the tests were conducted shall endorse the licence accordingly, and thereupon, notwithstanding anything in subsection (2) of this section, that person shall be authorised to drive by virtue of that licence only motor vehicles of a class or classes in respect of which he has passed those tests.

“(4) The provisions of subsection (2) of this section shall not apply to a person who has been authorised to obtain a limited licence by an order of a Court made under the provisions of section 38 of this Act (or the corresponding provisions of any former enactment) less than 12 months after the date of the commencement of the period of disqualification, or, where he is disqualified for 2 or more cumulative periods, less than 12 months after the date of the commencement of the first period of disqualification.

“(5) The provisions of subsection (2) of this section shall apply to a person who has been authorised to obtain a limited licence by an order of a Court under the provisions of section 38 of this Act (or the corresponding provisions of any former enactment) made 12 months or more after the date of the commencement of the period of disqualification, or, where he is disqualified for 2 or more cumulative periods, made 12 months or more after the date of the commencement of the first period of disqualification, as if the period of disqualification or, as the case may be, the first period of disqualification had expired before the date of the making of the order.

“34. **Disqualified person not to apply for or obtain driver's licence while disqualified**—Every person commits an offence who applies for or obtains a driver's licence which he is disqualified by an order of a Court from obtaining, and any such licence so obtained shall be of no effect.

“35. Driving while disqualified or contrary to the terms of a limited licence—(1) Every person commits an offence who—

“(a) Drives a motor vehicle on any road while he is disqualified from holding or obtaining a driver’s licence authorising him to drive that vehicle; or

“(b) Being the holder of a limited licence issued to him pursuant to an order made under section 38 of this Act (or the corresponding provisions of any former enactment), drives on any road any motor vehicle otherwise than in accordance with the terms of the order authorising the issue of the limited licence.

“(2) Every person who commits an offence against this section is liable—

“(a) For a first offence, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000 or to both, and the Court may order him to be disqualified from holding or obtaining a driver’s licence for such period as the Court thinks fit:

“(b) For a second or subsequent offence, to the penalties specified in subsection (1) of section 30 of this Act.

“36. Commencement of period of disqualification—

(1) Subject to the provisions of section 31 of this Act, where an order is made under this Part of this Act disqualifying any person from holding or obtaining a driver’s licence, the period of disqualification shall commence on the date of the making of the order:

“Provided that that person shall not be deemed to have committed an offence against section 35 of this Act by reason of the fact that he drove a motor vehicle on any road at any time on that day before the making of the order.

“(2) Notwithstanding anything in subsection (1) of this section, the Court by which an order is made disqualifying a person from holding or obtaining a driver’s licence may direct that the period of disqualification so ordered shall commence on a date later than the date of the order.

“37. Retention and custody of licence of disqualified driver—(1) Where by an order of a Court the holder of a driver’s licence is disqualified from holding or obtaining a licence, the person in respect of whom the order is made shall forthwith, and whether demand is made on him or not,

surrender his licence to the Court where the order was made

or to a member of the Police or any traffic officer or at any office of the Ministry of Transport.

“(2) When a driver’s licence is surrendered as aforesaid, it shall forthwith be forwarded to the Secretary, who shall—

“(a) In the case of a licence issued by a local authority, endorse the terms of the disqualification on the licence and forward it to the local authority:

“(b) In the case of a licence issued by the Secretary, endorse the terms of the disqualification on the licence and retain it.

“(3) The local authority or the Secretary, as the case may be, shall keep the licence until the disqualification has expired or been removed and the person entitled to the licence has made a request in writing for its return to him.

“(4) Where the person entitled to the licence is a person to whom subsection (2) of section 33 of this Act applies, the licence shall not be returned to him until he has passed the tests prescribed by that section.

“38. Issue of limited licence to disqualified person—

(1) This section applies with respect to any person who is disqualified by an order under this Part of this Act from holding or obtaining a driver’s licence.

“(2) On the making of the order of disqualification or at any time thereafter, the Court, on the application of the person in respect of whom the order was made, may, if it is satisfied that the order of disqualification has resulted or will result in undue hardship (whether to the applicant or to any other person and whether in relation to employment or otherwise), make an order under this section authorising him to obtain, immediately or after the expiration of such period as the Court may specify, a driver’s licence (in this Part referred to as a limited licence) authorising him to drive to such extent (being the least extent that is necessary to alleviate that hardship) as the Court specifies in the order.

“(3) In making an order under this section, the Court shall specify in the order the purpose for which the limited licence is issued, the particular vehicle or the type of vehicle which may be driven, the days of the week and times at which that vehicle may be driven, and such other matters as may be necessary to limit the order to alleviating the undue hardship which was alleged and proved.

“(4) If the order to which any such application relates has been made by a Magistrate’s Court, the application shall be made to a Magistrate exercising jurisdiction in the Court by which the order was made.

“(5) If any application under this section is refused, a further application in respect of the same order shall not be entertained if made within 3 months after the date of that refusal.

“(6) If the Court makes an order under this section, any local authority or the Secretary, as the case may require, may, notwithstanding anything in this Act to the contrary but otherwise subject to the provisions of this Act, issue to the person entitled thereto a limited licence in accordance with the terms of the order.

“(7) Where at the time when the Court makes an order under this section the applicant is the holder of a driver’s licence which is suspended by virtue of the order of disqualification, and the period of disqualification will expire before the expiration of the term of the licence, the local authority or the Secretary, as the case may be, may, instead of issuing a limited licence, endorse the particulars of the order granting the limited licence on his existing licence, which shall thereafter have effect as a limited licence.

“(8) Where the holder of a limited licence is convicted of any offence for which he is liable to disqualification under this Part of this Act, his limited licence shall be deemed to be revoked and, whether or not the Court imposes any penalty for that offence, the original order of disqualification shall revive and have effect for the balance of the term for which it was originally imposed.

“(9) The holder of a limited licence that is deemed to be revoked pursuant to subsection (8) of this section shall forthwith, and whether demand is made on him or not, surrender his licence to the Court by which he is convicted or to a member of the Police or any traffic officer or at any office of the Ministry of Transport.

“(10) The provisions of this Act shall apply with respect to every driver’s licence that is in force at the commencement of this section which was issued under section 35 or section 35A of this Act (as in force before the commencement of this section) or endorsed under section 35B of this Act (as in force before the commencement of this section), as if the licence were a limited licence granted under this section.

“39. **Removal of disqualification**—(1) Subject to the provisions of this section, any person who by order of a Court is disqualified from holding or obtaining a driver’s licence may, after the expiration of 6 months from the date on which the order of disqualification became effective, and thereafter

from time to time, apply to the Court by which that order was made to remove the disqualification, and on any such application the Court may, having regard to the character of the applicant and his conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application or treat the application as one made under section 38 of this Act and make an order accordingly under that section.

“(2) Where any such application is refused, a further application shall not be entertained if it is made within 3 months after the date of that refusal.

“(3) Where the disqualification was ordered by a Magistrate’s Court, every application under this section shall be made to a Magistrate exercising jurisdiction in the Court by which the order was made.

“(4) Where any person in respect of whom an order is made under this section is, before the expiration of the period for which the original order of disqualification was made, convicted of any offence for which he is liable for disqualification, the Court shall, whether or not it imposes any penalty for that offence, order that he be disqualified from holding or obtaining a driver’s licence for the balance of the period in respect of which the original order was made.

“40. Particulars of disqualification orders and of removal of disqualifications and of order authorising limited licences to be sent to Secretary and to local authority—Where a Court makes an order disqualifying a person from holding or obtaining a driver’s licence or an order under section 38 of this Act authorising the issue of a limited licence or an order under section 39 of this Act removing any disqualification, particulars of the order shall be sent by the Registrar of the Court to the Secretary and to the local authority by which the licence (if any) of the defendant was issued.

“41. Appeals against disqualification order or order refusing a limited licence or refusing removal of disqualification—

(1) For the purposes of Part IV of the Summary Proceedings Act 1957, an order of a Magistrate’s Court by which any person is disqualified from holding or obtaining a driver’s licence shall be deemed to be a sentence or part of a sentence, as the case may be. If a notice of appeal against any such order is filed, the Court may, if it thinks fit, defer the

operation of the order pending the appeal, but otherwise the order shall have effect.

“(2) Any person who—

“(a) Being a person who is disqualified by an order of a Magistrate’s Court from holding or obtaining a driver’s licence, applies for a limited licence and whose application is refused; or

“(b) Being a person who is disqualified by an order of a Magistrate’s Court from holding or obtaining a driver’s licence, applies for a removal of that disqualification and whose application is refused—
may appeal against the refusal to the Supreme Court, and in any such case the provisions of Part IV of the Summary Proceedings Act 1957 shall, with the necessary modifications, apply.

“(3) Any person who—

“(a) Being a person who is disqualified by an order of the Supreme Court from holding or obtaining a driver’s licence, applies for a limited licence and whose application is refused; or

“(b) Being a person who is disqualified by an order of the Supreme Court from holding or obtaining a driver’s licence, applies for a removal of that disqualification and whose application is refused—
may, with the leave of the Court of Appeal, appeal to the Court of Appeal against the refusal, and in any such case the provisions of subsections (3) to (5) of section 379A of the Crimes Act 1961 shall, with the necessary modifications, apply as if it were an appeal under that section.

“(4) Where application is made to the Court of Appeal for leave to appeal to that Court against a sentence of the Supreme Court that is or includes an order of disqualification, the Supreme Court may, if it thinks fit, defer the operation of the order pending the application for leave to appeal and, if leave is granted, pending the appeal.

“(5) If any such appeal to the Supreme Court or Court of Appeal is allowed, whether in whole or in part, the Registrar of the Supreme Court shall send notice thereof to the Secretary and also to the local authority by which the licence (if any) of the defendant was issued.

“(6) In determining the expiration of the period for which a person is disqualified from holding or obtaining a licence, any time during which the operation of the disqualification order is deferred under this section shall be disregarded.

“Speeding Offences

“42. **Penalty for speeding offences—**(1) In this section—

“‘Enforcement authority’ means—

“(a) The Secretary, in the case of an alleged speeding offence detected by a traffic officer who is an officer of the Ministry of Transport:

“(b) The local authority, in the case of an alleged speeding offence detected by a traffic officer who is an officer of a local authority:

“‘Speeding infringement’ means a speeding offence which—

“(a) Where a speed limit of 55 miles an hour or over has been fixed, consists of exceeding that limit by not more than 20 miles an hour:

“(b) Where any other speed limit has been fixed, consists of exceeding that limit by not more than 15 miles an hour:

“‘Speeding-infringement fee’ means a speeding infringement fee prescribed pursuant to subsection (3) of this section:

“‘Speeding-infringement notice’ means a notice under this section containing the particulars specified in subsection (6) of this section:

“‘Speeding offence’ means an offence which consists solely of exceeding any limit of speed fixed by this Act or by any regulations made under this Act or by any bylaw made under the authority of section 72 of this Act or by regulations made under section 12 of the Public Works Amendment Act 1947 (which relates to motorways).

“(2) Where the driver of any motor vehicle commits a speeding offence which is also a speeding infringement—

“(a) He may be proceeded against summarily for the offence; or

“(b) He may be served with a speeding-infringement notice, in which case he shall pay to the enforcement authority, in accordance with this section, the appropriate speeding-infringement fee;—

but, where he is proceeded against summarily for the offence, he shall not be served with a speeding-infringement notice, and, where he is served with such a notice, he shall not be proceeded against summarily for the offence.

“(3) The Minister may from time to time, by notice in the *Gazette*, prescribe a scale of speeding-infringement fees payable under this section in respect of speeding infringements,

and that scale may fix different amounts having regard to the excess of speed over the prescribed limit:

“Provided that the scale shall not fix a speeding-infringement fee in respect of any speeding infringement in excess of the following amounts:

“(a) In any case where a speed limit of 55 miles an hour or over has been fixed, and—

“(i) The infringement consists of exceeding that limit by not more than 10 miles an hour, a fee of \$15:

“(ii) The infringement consists of exceeding that limit by more than 10 miles an hour but not more than 15 miles an hour, a fee of \$40:

“(iii) The infringement consists of exceeding that limit by more than 15 miles an hour but not more than 20 miles an hour, a fee of \$100:

“(b) In any case where a speed limit of less than 55 miles an hour has been fixed, and—

“(i) The infringement consists of exceeding that limit by not more than 5 miles an hour, a fee of \$15:

“(ii) The infringement consists of exceeding that limit by more than 5 miles an hour but not more than 10 miles an hour, a fee of \$40:

“(iii) The infringement consists of exceeding that limit by more than 10 miles an hour but not more than 15 miles an hour, a fee of \$100.

“(4) Where a traffic officer has reason to believe that the driver of any motor vehicle has committed a speeding infringement, a speeding-infringement notice may be served as hereinafter provided by that traffic officer or by any other officer of the enforcement authority.

“(5) A speeding-infringement notice may be served by delivering it personally to the driver of the motor vehicle who appears to have committed the speeding infringement or by sending it by registered letter addressed to him at his last known place of residence or business. Every speeding-infringement notice served by registered letter shall be deemed to have been received when in the ordinary course of post it would be delivered, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Every speeding-infringement notice shall be in a form prescribed by the Minister, by notice in the *Gazette*, and shall contain the following particulars:

- “(a) Such details of the alleged speeding infringement as are sufficient fairly to inform the driver to whom it is addressed of the time, place, and nature of the infringement; and
 - “(b) The prescribed limit of speed and the speed at which it is alleged the driver was travelling at the time of the alleged offence; and
 - “(c) The amount of the appropriate speeding-infringement fee payable to the enforcement authority in respect of the speeding infringement; and
 - “(d) The place at which the fee shall be paid and the times during which it may be paid; and
 - “(e) A statement that if the fee is not paid before the date specified in the notice, being not less than 14 days and not longer than 21 days after the date of the service of the notice, proceedings may be taken under the Summary Proceedings Act 1957 for an offence against subsection (9) of this section, a copy of which subsection shall be set out in the notice; and
 - “(f) A statement that if proceedings are taken for an offence against subsection (9) of this section, then, without restricting any other defence that the driver may consider he has, he is entitled to defend the charge on the grounds that he did not commit the alleged speeding infringement or that, for special reasons relating either to the speeding infringement or to the failure to pay the speeding-infringement fee or to the defendant, the amount of that fee is excessive.
- “(7) Any notice given by the Minister under this section shall be deemed to be a regulation for the purposes of the Regulations Act 1936, and *prima facie* evidence of the notice may be given in all Courts and in all legal proceedings in the manner specified in section 5 of that Act.
- “(8) Where any notice is required to be given by any officer of the enforcement authority, the production of a document purporting to be a copy of that notice (being a notice purporting to have been signed by an officer of the enforcement authority) shall, in the absence of proof to the contrary, be sufficient evidence of the contents of the original notice, the signature of the officer concerned, and the authority of the officer to sign that notice.

“(9) Every person commits an offence against this Act who, having committed a speeding infringement and having been served, not later than 6 months after the date of the commission of that infringement, with a speeding-infringement notice relating to that infringement, fails to pay to the enforcement authority before the date specified in the notice the appropriate speeding-infringement fee payable in respect of that infringement.

“(10) Where in any proceedings for an offence against subsection (9) of this section it is proved that the defendant drove at a speed not less than the actual speed specified in the speeding-infringement notice, he shall be deemed to have driven at the speed so specified.

“(11) In proceedings for an offence against subsection (9) of this section, the production of a statement purporting to be signed by the enforcement authority, or by any officer of the enforcement authority (other than a traffic officer) authorised by the enforcement authority in that behalf, either generally or in any particular case, shall, in the absence of proof to the contrary, be sufficient evidence of the failure by the defendant to pay the speeding-infringement fee by the due date; and every officer signing any such statement shall, in the absence of the proof to the contrary, be presumed to be duly authorised to sign it.

“(12) Where any person is convicted of any offence under subsection (9) of this section and the amount of the speeding-infringement fee has not been paid before the hearing, then, whether or not any penalty is imposed in respect of the offence, the Court shall when entering the conviction make an order that the defendant shall pay to the enforcement authority as a debt due to that authority the amount of the appropriate speeding-infringement fee:

“Provided that the Court may if it thinks fit, for special reasons relating either to the speeding infringement or to the failure to pay the speeding-infringement fee or to the defendant, order that the defendant pay any lesser amount fixed by the Court.

“(13) On production to the Registrar of the Magistrate’s Court of civil jurisdiction nearest to the place where the defendant resides or carries on business of a certificate of conviction for an offence under subsection (9) of this section specifying the amount of the speeding-infringement fee ordered to be paid by the defendant, the Registrar shall forthwith enter judgment in the Court in favour of the

enforcement authority for the amount so ordered, and the enforcement authority may proceed to execution on that judgment.

“(14) For the purposes of Part IV of the Summary Proceedings Act 1957, an order of a Magistrate’s Court under subsection (12) of this section shall be deemed to be a sentence or part of a sentence, as the case may be, for the offence against subsection (9) of this section.

“(15) Where any person on whom a speeding-infringement notice has been served pays to the enforcement authority the amount of the speeding-infringement fee specified in the notice (not being a payment made pursuant to an order under subsection (12) of this section),—

“(a) In any case where the payment is made to an enforcement authority other than the Secretary, the enforcement authority shall send to the Secretary such particulars of the speeding infringement and of the payment as the Secretary requires; and

“(b) The provisions of sections 44 to 51 of this Act shall apply as if the driver had been convicted on the date on which the payment is made of the speeding offence that constituted the speeding infringement.

“(16) For the purposes of sections 44 to 51 of this Act and of any regulations made under the said section 51, every offence against subsection (9) of this section shall be deemed to be an offence in connection with the driving of a motor vehicle.

“43. Speeding-infringement fees payable into Public Account—All speeding-infringement fees received by an enforcement authority under section 42 of this Act shall be paid into the Public Account to the credit of the Consolidated Revenue Account:

“Provided that the enforcement authority shall be entitled to deduct such portion of the fees so received as the Minister of Finance from time to time approves as being the expenses incidental to the collection thereof.

“Demerit Points System

“44. Recording of demerit points—(1) Where any person is convicted of an offence against this Act or any other Act or any regulation or bylaw (being an offence in connection with the driving of a motor vehicle, but not being an offence against subsection (9) of section 69B of this Act), the Commissioner shall record in respect of that person such number

of points in relation to the offence (in this section and sections 45 to 51 of this Act referred to as demerit points) as may be prescribed by regulations made pursuant to section 51 of this Act.

“(2) Where any person is convicted of any such offence, the Registrar of the Court shall send to the Secretary particulars of the conviction.

“(3) Where a person is convicted of 2 or more offences arising out of the same set of circumstances, demerit points shall be recorded in relation to 1 offence only. That offence shall, in any case where the same number of points has not been prescribed for all those offences, be the offence or one of the offences for which the greatest number of points is prescribed.

“45. Appeal against conviction—(1) Where any person appeals against a conviction for an offence to which section 44 of this Act applies,—

“(a) No demerit points shall be recorded in relation to the offence pending the determination of the appeal:

“(b) Any recording of demerit points made in relation to the offence before the filing of the notice of appeal and any disqualification imposed as a result thereof shall be deemed to be cancelled:

“(c) If on the determination of the appeal the conviction is upheld, or if the appeal is abandoned or is dismissed for want of prosecution, demerit points shall be recorded in relation to the offence.

“(2) In the case of any such appeal, the Registrar of the Court in which the appellant was convicted shall send to the Secretary notice of the filing of the notice of appeal and of the result of the determination of the appeal, or, if the appeal is abandoned or is dismissed for want of prosecution, notice of that fact.

“46. Cancellation of points—(1) When 2 years have elapsed since the date of the conviction for the offence in relation to which demerit points were recorded in respect of any person, the entry of the points made in respect of that offence shall cease to have effect except in relation to other offences of which that person is convicted before the expiration of that period.

“(2) Where any person is disqualified for a period of 3 months or more by an order of any Court made under this Part of this Act, or his licence is suspended under the provisions of section 48 of this Act, or he is disqualified under

that section from holding or obtaining a licence, the Secretary shall cancel the entry of all demerit points recorded in respect of that person before the expiration of the period of disqualification or suspension.

“47. **Notice of points**—(1) When a total of 60 or more but less than 75 demerit points are recorded in respect of any person, the Secretary shall cause a notice in writing to be given to that person informing him of the number of demerit points recorded and of the consequences of further points being recorded against him.

“(2) When a total of 75 or more but less than 100 demerit points are recorded in respect of any person, the Secretary shall cause a notice in writing to be given to that person requiring him to attend before a traffic officer, being an officer of the Ministry of Transport of a status not lower than that of Senior Traffic Officer, at a place, time, and date specified in the notice for an interview for the purpose of assisting that person in improving his driving habits and knowledge of traffic laws.

“(3) Except with the consent of that person, the place specified in a notice under subsection (2) or subsection (4) of this section shall not be more than 15 miles by the most practicable route from his usual place of residence.

“(4) Where a person fails without reasonable excuse to comply with a notice given under subsection (2) of this section, the Secretary may, by notice in writing given to that person not less than 14 clear days before the date of the commencement of the period of suspension or disqualification—

“(a) Suspend that person’s driver’s licence; or

“(b) Where on the date of the giving of the last-mentioned notice that person is not the holder of a driver’s licence, disqualify him from holding or obtaining a driver’s licence—

from a date specified in the last-mentioned notice until he attends for an interview as aforesaid at a place, time, and date arranged between that person and a traffic officer who is an officer of the Ministry of Transport.

“(5) Any person whose licence is suspended under subsection (4) of this section shall, during the period of suspension, be deemed to be disqualified from holding or obtaining a driver’s licence.

“48. **Disqualification under points system**—(1) Where a total of 100 or more demerit points are recorded in respect of

any person, the Secretary shall, by notice in writing given to that person, suspend the driver's licence of that person, or, where he is not the holder of a driver's licence on the date of the giving of the notice, disqualify him from holding or obtaining a driver's licence, as follows:

“(a) Where the total of 100 or more demerit points have been recorded in respect of convictions entered within a period of more than 1 year but less than 2 years, for a period of 3 months commencing on the date of the giving of the notice to that person:

“(b) Where the total of 100 or more demerit points have been recorded in respect of convictions entered within a period not exceeding 1 year, for a period of 6 months commencing on the date of the giving of the notice to that person.

“(2) Any person whose driver's licence has been suspended under subsection (1) of this section shall be deemed to be disqualified from holding or obtaining a driver's licence until the expiration of the period of suspension.

“(3) Where the driver's licence of any person has been suspended by the Secretary under the provisions of this section, that person shall, forthwith upon receiving notice of the suspension, forward his licence to the Secretary, who shall—

“(a) In the case of a licence issued by a local authority, endorse particulars of the suspension on the licence and forward it to the local authority:

“(b) In the case of a licence issued by the Secretary, endorse particulars of the suspension on the licence and retain it.

“(4) The local authority, or, in the case of a licence issued by the Secretary, the Secretary, shall keep the licence until the suspension has expired or the Court has authorised the issue of a limited licence under section 38 of this Act and the person entitled to the licence has made a request in writing for its return to him.

“49. **Issue of limited licence**—The provisions of section 38 of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to the suspension of a driver's licence under section 48 of this Act, as if the notice of suspension of the licence were an order of disqualification made by a Magistrate exercising jurisdiction in the Magistrate's Court nearest to the place of residence of the holder of the licence.

“50. Disqualified person not to apply for or obtain driver’s licence—Every person commits an offence who applies for or obtains a driver’s licence while under section 47 or section 48 of this Act he is disqualified from holding or obtaining a driver’s licence, and any licence so obtained shall be of no effect.

“51. Regulations as to demerit points—(1) Without limiting the general power to make regulations conferred by section 199 of this Act, regulations may be made under that section prescribing the number of demerit points to be recorded in relation to offences against this Act or any other Act or any regulations or any bylaw, being offences in connection with the driving of a motor vehicle.

“(2) Regulations made pursuant to subsection (1) of this section may provide for a greater number of demerit points to be recorded in respect of a second or subsequent conviction for any offence referred to in that subsection.

“(3) The maximum number of points that may be prescribed by regulations made pursuant to subsection (1) of this section in respect of any offence—

“(a) Shall be 60 demerit points in the case of—

“(i) Any offence to which subsection (1) or subsection (3) of section 30 of this Act applies and for which under that section the Court does not order that the defendant be disqualified; and

“(ii) A first offence against section 35 of this Act for which under subsection (2) of that section the Court does not order that the defendant be disqualified:

“(b) Shall be 40 demerit points in the case of any other offence.”

3. Consequential amendments and repeals—(1) The principal Act is hereby further amended in the manner indicated in the Schedule to this Act.

(2) Section 44A of the Criminal Justice Act 1954 (as inserted by section 11 (1) of the Criminal Justice Amendment Act 1969) is hereby amended by omitting from subsection (4) the words “sections 35 to 35B and 37 to 51”, and substituting the words “sections 33 to 35 and 37 to 41”.

(3) The following enactments are hereby repealed:

(a) Subsection (5) of section 2 of the principal Act (as added by section 2 of the Transport Amendment Act (No. 2) 1963) and the Third Schedule to the principal Act:

- (b) The Transport Amendment Act (No. 2) 1963:
 - (c) Sections 7 to 9 of the Transport Amendment Act 1964:
 - (d) Sections 9 to 11 of the Transport Amendment Act 1966:
 - (e) Sections 2 and 4 to 6 of the Transport Amendment Act (No. 2) 1967:
 - (f) Sections 7 to 12 and 29 of the Transport Amendment Act 1968:
 - (g) Section 8 of the Transport Amendment Act (No. 2) 1969.
- (4) Where at the commencement of this Part of this Act any person is disqualified from holding or obtaining a driver's licence pursuant to any provision of Part IV of the principal Act (as in force before the commencement of this Part), the provisions of Part IV of the principal Act (as substituted by section 2 of this Act) shall apply with respect to that person as if he had been so disqualified pursuant to Part IV of the principal Act (as substituted by the said section 2).

PART II

DRIVING WITH EXCESSIVE BLOOD-ALCOHOL CONCENTRATION OR WHILE UNDER INFLUENCE OF DRINK OR DRUGS

4. Causing bodily injury or death through reckless or dangerous driving or driving while under the influence of drink or drugs or with excessive blood-alcohol concentration—(1) Section 55 of the principal Act is hereby amended by inserting in subsection (2), after the words “proper control of the vehicle”, the words “, or while the proportion of alcohol in his blood, as ascertained from an analysis made in accordance with the provisions of section 58B of this Act, exceeds 100 milligrammes of alcohol per 100 millilitres of blood,”.

(2) Section 55 of the principal Act is hereby further amended by adding the following subsection:

“(5) It shall not be a defence to an indictment for an offence under subsection (2) of this section (being an offence committed while the proportion of alcohol in the blood of the defendant exceeded the amount specified in that subsection) that any of the provisions of sections 58A and 58B have not been strictly complied with, provided there has been reasonable compliance with the provisions of those sections.”

5. New sections (as to driving with excessive blood-alcohol concentration or while under influence of drink or drugs) substituted—The principal Act is hereby further amended by repealing section 58, and substituting the following sections:

“58. Driving with excessive blood-alcohol concentration or while under influence of drink or drugs—(1) Every person commits an offence who—

“(a) Drives or attempts to drive a motor vehicle on any road while the proportion of alcohol in his blood, as ascertained from an analysis for which he subsequently permits a specimen of blood to be taken under section 58B of this Act, exceeds 100 milligrammes of alcohol per 100 millilitres of blood; or

“(b) Drives or attempts to drive a motor vehicle on any road while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle.

“(2) It shall not be a defence to a charge under paragraph (a) of subsection (1) of this section that any of the provisions of sections 58A and 58B of this Act have not been strictly complied with, provided there has been reasonable compliance with the provisions of those sections.

“58A. Breath tests—(1) Where a constable or traffic officer has good cause to suspect that any person has committed an offence against—

“(a) Subsection (2) of section 55 of this Act (being an offence committed while under the influence of drink or with an excessive amount of alcohol in his blood); or

“(b) Paragraph (a) of subsection (1) of section 58 of this Act; or

“(c) Paragraph (b) of subsection (1) of section 58 of this Act (being an offence committed while under the influence of drink),—

he may require that person to provide forthwith a specimen of his breath for a breath test.

“(2) If—

“(a) It appears to a constable or traffic officer as a result of a breath test carried out by him under subsection (1) of this section that the device by means of which the test was carried out indicates that the proportion of alcohol in any person’s blood exceeds 80 milligrammes of alcohol per 100 millilitres of blood; or

“(b) Any person, having been required to provide a specimen of breath by a constable or traffic officer under subsection (1) of this section, fails or refuses to do so; or

“(c) A constable or traffic officer has good cause to suspect that any person has committed any offence specified in subsection (1) of this section, but an approved breath-testing device is not readily available or for any reason a breath test cannot then be carried out,—

the constable or traffic officer may require that person to accompany him to any place where a specimen of blood may be taken or to remain where he is so that a specimen of blood may be taken:

“Provided that where it is not practicable to take a specimen of blood at that place a constable or traffic officer may require that person to accompany him to any other place so that a specimen of blood may be taken at that other place.

“(3) Every person commits an offence who fails or refuses to accompany a constable or traffic officer to any place or to remain at any place, when required so to do under subsection (2) of this section, and a constable or traffic officer may arrest him without warrant.

“(4) Where any person—

“(a) Has, pursuant to a requirement under subsection (2) of this section, accompanied a constable or traffic officer to any place, or remained at any place when required so to do by a constable or traffic officer, so that a specimen of blood may be taken; or

“(b) Has been arrested under subsection (3) of this section and taken to or detained at any such place,—
he shall at that place, and not less than 20 minutes after the time when he was required under subsection (2) of this section to accompany a constable or traffic officer to that place or to remain at that place or, as the case may be, was arrested, provide forthwith on being so required by a constable or traffic officer a specimen of his breath for a breath test, whether or not he has provided a specimen of his breath pursuant to a requirement under subsection (1) of this section.

“(5) Where under subsection (4) of this section any person (not being a person who is already under arrest) has been required to provide a specimen of his breath for a breath test at any place to which he accompanied a constable or traffic officer, or, as the case may be, at any place in which he was at the time when he was so required to provide a specimen of his breath, he shall remain at that place until after the

result of a test of a specimen of his breath provided by him has been ascertained, and, if he leaves or attempts to leave that place in breach of this subsection, a constable or traffic officer may arrest him without warrant.

“(6) For the purposes of this section—

“(a) Every specimen of breath for a breath test shall be provided by means of a device of a kind approved for the purpose by the Minister, by notice in the *Gazette*:

“(b) Every breath test shall be conducted in a manner prescribed by the Minister, by notice in the *Gazette*.

“(7) Any notice given by the Minister under this section or the corresponding provisions of any former enactment shall be deemed to be and always to have been a regulation for the purposes of the Regulations Act 1936, and *prima facie* evidence of the notice may be given in all Courts and in all legal proceedings in the manner specified in section 5 of that Act.

“58B. Blood tests—(1) If—

“(a) Any person fails or refuses to provide a specimen of breath when required so to do under subsection (4) of section 58A of this Act; or

“(b) It appears to a constable or traffic officer, as a result of a breath test carried out under that subsection, that the device by means of which the test was carried out indicates that the proportion of alcohol in a person's blood exceeds 80 milligrammes per 100 millilitres of blood; or

“(c) An approved breath-testing device is not readily available at the place to which any person has, pursuant to a requirement under subsection (2) of the said section 58A, accompanied a constable or traffic officer or has been taken under arrest, or at the place where any person has, pursuant to the said subsection (2), been required to remain by a traffic officer or constable, or for any reason a breath test cannot then be carried out at that place,—

a constable or traffic officer may require that person to permit a registered medical practitioner to take for the purpose of analysis a specimen of that person's venous blood in accordance with normal medical procedures, and that person shall permit a specimen of blood to be so taken from him forthwith at the request of a registered medical practitioner.

“(2) Every specimen of blood taken under the provisions of subsection (1) of this section shall forthwith be divided into 2 parts, or, if the specimen is insufficient to be divided into 2 parts, that person shall permit a further specimen of blood to be taken from him forthwith at the request of the registered medical practitioner, and each part or specimen, as the case may be, shall be placed in a separate container which shall be sealed. Where any specimen of blood is divided into 2 parts as aforesaid, each such part shall be deemed to be a specimen of blood for the purposes of this Act.

“(3) Any preservative substance and any anti-coagulant substance may be added to any specimen of blood taken under this section by placing them in the container, whether before or after the specimen is taken and placed in that container.

“(4) In proceedings for an offence against this Part of this Act, it shall be presumed, until the contrary is proved, that where—

“(a) The container in which each part or specimen of blood was placed was received by the registered medical practitioner in a sealed outer container having endorsed thereon or affixed thereto a label indicating that it had been supplied by the Department of Scientific and Industrial Research; and

“(b) When so received the container in which each part or specimen of blood was placed contained a substance that was stated by a label affixed to that container to be a preservative and an anti-coagulant,—

the substance in that last-mentioned container was a preservative and an anti-coagulant. For the purposes of this section, a combination or mixture of 2 or more substances shall be deemed to be 1 substance.

“(5) In any proceedings for an offence under this Part of this Act,—

“(a) A certificate purporting to be signed by a registered medical practitioner and certifying that—

“(i) A specimen of venous blood was taken by him in accordance with normal medical procedures from a person named in the certificate; and

“(ii) The specimen was divided by him into 2 parts, or that the specimen was insufficient for division and a further specimen was taken by him; and

“(iii) He placed and sealed in a separate container each part or specimen, as the case may be; and

“(iv) Each such separate container was received by him in a sealed outer container having endorsed thereon or affixed thereto a label indicating that it had been supplied by the Department of Scientific and Industrial Research; and

“(v) Each such separate container when so received contained a substance that was stated by a label affixed to that container to be a preservative and an anti-coagulant; and

“(vi) He handed each such separate container to a constable or traffic officer named in the certificate,—

shall be sufficient evidence, until the contrary is proved, of such of those matters as are so certified and of the qualification of the person by whom the specimen of blood was taken:

“(b) Where the certificate names a person having the same name, address, and occupation as the defendant as the person from whom the specimen of blood was taken, it shall be presumed, until the contrary is proved, that the specimen was taken from the defendant.

“(6) A constable or traffic officer shall forthwith deliver or cause to be delivered, either personally or by registered post, both parts of a specimen of blood taken under subsection (1) of this section or both those specimens, as the case may be, to the Dominion Analyst or a Government Analyst, or to an officer of the Department of Scientific and Industrial Research on his behalf, for the analysis of one of those parts or one of those specimens, as the case may be, and the custody of the other:

“Provided that, upon the request of the person from whom the blood was taken or of his solicitor or counsel made before the blood has been sent under this subsection to the Dominion Analyst or a Government Analyst or to an officer of the Department of Scientific and Industrial Research, one of those parts or one of those specimens, as the case may be, shall be supplied to an analyst specified by that person or by his solicitor or counsel or by any person acting on his behalf.

“(7) Where under subsection (6) of this section both parts of a specimen of blood or both specimens of blood taken from

any person are sent to the Dominion Analyst or a Government Analyst, or to an officer of the Department of Scientific and Industrial Research on his behalf, the Dominion Analyst or Government Analyst, as the case may be, shall supply one of those parts or specimens to an analyst specified by that person or by his solicitor or counsel, if application is made by that person or by his solicitor or counsel not later than 14 days after—

“(a) The date on which a summons in respect of an offence against this Part of this Act (being an offence arising out of the circumstances in respect of which the specimen of blood was taken) is served on the defendant; or

“(b) Where the defendant is arrested pursuant to a warrant under section 19 or, as the case may be, section 147 of the Summary Proceedings Act 1957 in respect of any such offence, the date on which the defendant is so arrested; or

“(c) In any case to which paragraph (a) or paragraph (b) of this section does not apply, the date on which the defendant is first charged in Court with any such offence.

“(8) Notwithstanding anything in subsection (9) or subsection (11) of this section, where application is made under subsection (7) of this section, within the time specified in that subsection, to the Dominion Analyst or a Government Analyst for 1 part of a specimen of blood or, as the case may be, 1 specimen of blood to be sent to an analyst, and the part or specimen is not sent to the analyst in compliance with that application, any certificate given under subsection (9) of this section in relation to the other part of the specimen of blood or, as the case may be, the other specimen of blood shall not be admissible in evidence in any proceedings for an offence against this Part of this Act.

“(9) For the purposes of any proceedings for an offence under this Part of the Act,—

“(a) A certificate purporting to be signed by an analyst and certifying that—

“(i) Upon analysis of a specimen of blood by an analyst specified in the certificate, a specified proportion of alcohol was found in the specimen; and

“(ii) No such deterioration or congealing was found as would prevent a proper analysis,—
shall be sufficient evidence, until the contrary is proved, of the matters so certified and of the

qualification and authority of the person by whom the analysis was carried out; and

“(b) Every analyst signing any such certificate shall, until the contrary is proved, be presumed to be duly authorised to sign it; and

“(c) Where the certificate refers to the specimen of blood analysed as being a specimen that had been taken from a person having the same name, address, and occupation as the defendant, it shall be presumed, until the contrary is proved, that the specimen of blood was taken from the defendant.

“(10) For the purposes of subsection (9) of this section, the term ‘analyst’ means the Dominion Analyst or a Government Analyst or an officer of the Department of Scientific and Industrial Research authorised in that behalf by the Dominion Analyst or a Government Analyst, either generally or in any particular case.

“(11) For the purposes of proceedings for an offence against this Part of this Act arising out of the circumstances in respect of which a specimen of blood was provided by the defendant under this section, it shall be conclusively presumed that the proportion of alcohol in his blood at the time of the alleged offence was the same as the proportion of alcohol in the specimen of blood provided by the defendant.

“(12) Upon the request of any person from whom a specimen of blood has been taken under subsection (1) of this section or of his solicitor or counsel, a copy of the certificates given under subsections (5) and (9) of this section in respect of that blood, or of either of those certificates, shall be supplied to him by the prosecutor.

“(13) Notwithstanding anything in subsection (5) of this section, a certificate purporting to be given under that subsection shall not be admissible in evidence where the defendant, by notice in writing given to the prosecutor at least 7 clear days before the hearing, requires that the registered medical practitioner who took the specimen of blood be called by the prosecutor as a witness at the hearing.

“(14) Notwithstanding anything in subsection (9) or subsection (11) of this section, a certificate given under the said subsection (9) shall not be admissible in evidence where the defendant, by notice in writing given to the prosecutor at least 7 clear days before the hearing, requires that the person who made the analysis be called by the prosecutor as a witness at the hearing.

“(15) In any proceedings against any person for an offence against section 63 of this Act arising out of the circumstances in respect of which a specimen of blood was provided by that person, it shall not be a defence that a certificate given under subsection (9) of this section in respect of that specimen certifies that the proportion of alcohol in that specimen did not exceed 100 milligrammes per 100 millilitres of blood.

“58c. **Refusal to supply specimen of blood**—(1) Every person commits an offence and may be arrested, without warrant, by a constable or traffic officer, who—

“(a) Having been required by a constable or traffic officer, under subsection (1) of section 58B of this Act, to permit a specimen of blood to be taken, fails or refuses to do so; or

“(b) Having been requested by a registered medical practitioner, under subsection (1) or subsection (2) of section 58B of this Act, to permit a specimen of blood to be taken, fails or refuses to do so.

“(2) It shall be a defence in proceedings for an offence against subsection (1) of this section if the Court is satisfied, on the evidence of a registered medical practitioner, that the taking of a specimen of blood from the defendant would have been prejudicial to the health of the defendant.

“(3) In any proceedings for an offence against subsection (2) of section 55 or paragraph (b) of subsection (1) of section 58 or section 63 of this Act, if it is proved that the defendant, when required by a constable or traffic officer to permit a specimen of blood to be taken, failed or refused, without reasonable cause, to do so, his refusal may be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defendant, with respect to the condition of the defendant at the time of the alleged offence.

“58d. **Special provisions for persons under medical treatment**—No person who is in a hospital or a registered medical practitioner’s surgery or other place for the purpose of receiving medical care or treatment shall be required under section 58A or section 58B of this Act to provide a specimen of breath or to permit a specimen of blood to be taken, unless the constable or traffic officer first notifies the registered medical practitioner in immediate charge of the care or treatment of that person and the registered medical practitioner is satisfied that the giving or taking of such a specimen would

not be prejudicial to the proper care or treatment of that person.”

6. Consequential amendments and repeals—(1) The principal Act is hereby further amended—

(a) By repealing sections 59A to 59F (as inserted by section 13 of the Transport Amendment Act 1968):

(b) By inserting in section 61, after the words “section 58”, the words “or section 58A, or section 58c”:

(c) By omitting from section 62 the words “section 58”, and substituting the words “paragraph (b) of subsection (1) of section 58”:

(d) By repealing subsection (10) of section 201.

(2) The *First Schedule to the Summary Proceedings Act 1957* (as amended by section 201 (10) of the principal Act) is hereby amended by omitting from Part II so much thereof as relates to the principal Act, and substituting, in their appropriate columns, the following words:

“The Transport Act 1962	35 (1) (Being a second or subsequent such offence)	Driving while disqualified or contrary to the terms of a limited licence
	55 (1)	Causing bodily injury or death through reckless or dangerous driving
	55 (2)	Causing bodily injury or death through driving while under influence of drink or a drug or with excessive blood-alcohol concentration
	65 (4)	Failing to stop after accident and render assistance to injured person”.

(3) The following enactments are hereby repealed:

(a) Sections 13 and 14 of the Transport Amendment Act 1968:

(b) The Transport Amendment Act 1969.

PART III

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

7. On demand by constable or traffic officer, user of vehicle to stop and give name and address—(1) The principal Act is hereby further amended by repealing section 66 (as substituted by section 10 of the Transport Amendment Act (No. 2) 1969), and substituting the following section:

“66. (1) The user of a vehicle shall stop at the request or signal of a constable or traffic officer in uniform or of a traffic officer who is wearing a cap, hat, or helmet which identifies him as a traffic officer, and on demand give him his name and address and state whether or not he is the owner of the vehicle, and, if he is not the owner of the vehicle, shall also give the name and address of the owner.

“(2) Any person commits an offence who fails to comply with any provision of subsection (1) of this section, and may be arrested by any constable without warrant.”

(2) Section 10 of the Transport Amendment Act (No. 2) 1969 is hereby consequentially repealed.

8. Owner or hirer to give information as to identity of driver—Section 67 of the principal Act is hereby amended by inserting, after the word “shall”, the words “, within 14 days after the receipt of the request,”.

9. Overloading infringements—(1) The principal Act is hereby further amended by repealing section 69B (as inserted by section 23 of the Transport Amendment Act 1968), and substituting the following section:

“69B. (1) In this section and in sections 69C and 69D of this Act—

“‘Enforcement authority’ means—

“(a) The Secretary, in the case of an alleged overloading infringement detected by a traffic officer who is an officer of the Ministry of Transport:

“(b) The local authority, in the case of an alleged overloading infringement detected by a traffic officer who is an officer of a local authority:

“‘Overloading infringement’ means the use on any road of any heavy motor vehicle in breach of any provision of this Act or of any regulations made under this Act—

“(a) By or pursuant to which maximum gross weight limits for motor vehicles are fixed; or

“(b) By or pursuant to which maximum weight limits for axles or groups of axles of motor vehicles are fixed;—

and for the purposes of this section and of section 69c of this Act an overloading infringement shall be deemed to have been committed in respect of every axle and of every axle of a group of axles the weight on which exceeds the maximum so fixed:

“Provided that for the purposes of this definition the Motor Vehicle Taxation Regulations 1966 and any regulations made in amendment thereof or in substitution therefor shall be deemed not to be regulations by or pursuant to which maximum gross weight limits for motor vehicles or maximum weight limits for axles or groups of axles of motor vehicles are fixed:

“‘Overloading-infringement fee’ means an overloading-infringement fee prescribed pursuant to subsection (3) of this section:

“‘Overloading-infringement notice’ means a notice under this section containing the particulars specified in subsection (6) of this section.

“(2) Where the user of any motor vehicle commits an overloading infringement, he shall be liable to pay to the enforcement authority, in accordance with this section, the appropriate overloading-infringement fee.

“(3) The Minister may from time to time, by notice in the *Gazette*, prescribe a scale of overloading-infringement fees, not exceeding \$500 in the case of any infringement, payable under this section in respect of overloading infringements of any specified description. The scale of fees so prescribed may fix different amounts having regard to the extent of the overloading.

“(4) Where a traffic officer has reason to believe that the user of any motor vehicle has committed an overloading infringement, an overloading-infringement notice may be served as hereinafter provided by that traffic officer or by any other officer of the enforcement authority.

“(5) An overloading-infringement notice may be served by delivering it personally to the user of the motor vehicle who appears to have committed the infringement or by sending it by registered letter addressed to him at his last known

place of residence or business. Every overloading-infringement notice served by registered letter shall be deemed to have been received when in the ordinary course of post it would be delivered, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Every overloading-infringement notice shall be in a form prescribed by the Minister, by notice in the *Gazette*, and shall contain the following particulars:

“(a) Such details of the alleged overloading infringement as are sufficient fairly to inform the user to whom it is addressed of the time, place, and nature of the infringement; and

“(b) The amount of the appropriate overloading-infringement fee payable to the enforcement authority in respect of the infringement; and

“(c) The place at which the fee shall be paid and the times during which it may be paid; and

“(d) A statement that if the fee is not paid before the date specified in the notice, being not less than 14 days and not longer than 21 days after the date of service of the notice, proceedings may be taken under the Summary Proceedings Act 1957 for an offence against subsection (9) of this section, a copy of which subsection shall be set out in the notice.

“(7) Any notice given by the Minister under this section or the corresponding provisions of any former enactment shall be deemed to be and always to have been a regulation for the purposes of the Regulations Act 1936, and *prima facie* evidence of the notice may be given in all Courts and in all legal proceedings in the manner specified in section 5 of that Act.

“(8) Where any notice is given by any officer of the enforcement authority, the production of a document purporting to be a copy of that notice (being a notice purporting to have been signed by an officer of the enforcement authority) shall, in the absence of proof to the contrary, be sufficient evidence of the contents of the original notice, the signature of the officer concerned, and the authority of the officer to sign that notice.

“(9) Every person commits an offence against this Act who, being the user of the motor vehicle in respect of which an overloading infringement is committed, and having been served with an overloading-infringement notice relating to that infringement, fails to pay to the enforcement authority

before the date specified in the notice the appropriate overloading-infringement fee payable in respect of that infringement.

“(10) In proceedings for an offence against subsection (9) of this section, the production of a statement purporting to be signed by the enforcement authority, or by any officer of the enforcement authority (other than a traffic officer) authorised by the enforcement authority in that behalf, either generally or in any particular case, shall, in the absence of proof to the contrary, be sufficient evidence of the failure by the defendant to pay the overloading-infringement fee by the due date; and every officer signing any such statement shall, in the absence of proof to the contrary, be presumed to be duly authorised to sign it.

“(11) In proceedings for an offence against subsection (9) of this section, where the gross weight of the motor vehicle or the weight on any axle or group of axles of the motor vehicle is measured at some place other than the place where the overloading infringement is alleged to have been committed, it shall be presumed, in the absence of proof to the contrary, that the gross weight of the motor vehicle or, as the case may be, the weight on that axle or group of axles at the time when and the place where the infringement is alleged to have been committed was the same as the gross weight or, as the case may be, the weight on that axle or group of axles as ascertained at the time when and the place where that weight was measured.

“(12) Notwithstanding anything to the contrary in the Criminal Justice Act 1954, the provisions of section 42 of that Act shall not apply to any proceedings for an offence against subsection (9) of this section unless the amount of the overloading-infringement fee has been paid before the hearing.

“(13) Where any person is convicted of any offence under subsection (9) of this section and the amount of the overloading-infringement fee has not been paid before the hearing, then, whether or not any penalty is imposed in respect of the offence, the Court shall when entering the conviction make an order that the defendant shall pay to the enforcement authority as a debt due to that authority the amount of the appropriate overloading-infringement fee. On production to the Registrar of the Magistrate's Court of civil jurisdiction nearest to the place where that person resides or carries on business of a certificate of conviction for that offence, the Registrar shall forthwith enter judgment in the Court in

favour of the enforcement authority for the amount of the overloading-infringement fee, and the enforcement authority may proceed to execution on that judgment.

“(14) Notwithstanding anything in section 69 or section 193 of this Act or in any regulations made under this Act, a breach of the said section 69 or of any provision of any such regulations which is an overloading infringement within the meaning of this section shall not be an offence.”

(2) Section 13 of the Transport Amendment Act (No. 2) 1969 is hereby repealed.

10. Permission to use overweight vehicles—Section 70 of the principal Act is hereby repealed.

11. Bylaws as to the use of roads—(1) Section 72 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (d), the following paragraph:

“(dd) Prohibiting, either absolutely or conditionally, the driving of horses, cattle, sheep, or pigs along any road, and requiring that no horses, cattle, sheep, or pigs shall be taken upon or enter any road unless they are confined within a motor vehicle:”.

(2) Section 72 of the principal Act is hereby further amended by inserting in subsection (1), after paragraph (k), the following paragraph:

“(kk) Prohibiting, subject to the erection of the prescribed signs, vehicles on a roadway from turning to the right or to the left or turning from facing or travelling in one direction to facing or travelling in the opposite direction:”.

12. Warrants of fitness—(1) Section 77 of the principal Act is hereby amended by omitting from paragraph (g) of subsection (1) (as amended by section 12 of the Transport Amendment Act 1964 and section 7 of the Decimal Currency Act 1964) the words “not exceeding, in the case of examinations for the issue of warrants of fitness, seventy-five cents”.

(2) Section 12 of the Transport Amendment Act 1964 is hereby repealed.

13. Owners of motor vehicles required to insure—Section 79 of the principal Act is hereby amended by inserting in subsection (3A) (as inserted by section 2 (1) of the Transport Amendment Act 1963), after the words “lawfully in the motor

vehicle”, the words “(not being a person to whom subsection (3) of this section applies)”.

14. Companies willing to undertake third-party risks insurance business to notify Registrar—(1) Section 80 of the principal Act is hereby amended by omitting from the proviso to subsection (1) the words “after the thirty-first day of March”, and substituting the words “on or after the 28th day of February”.

(2) Section 80 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) Except as provided in subsection (3) of this section, a notice of revocation given by an insurance company shall, as from the date on which it takes effect, relieve the insurance company from its obligations under this Part of this Act. A notice of revocation shall take effect as follows:

“(a) Where the notice is delivered to the Registrar before the 28th day of February in any licensing year as defined in section 6 of this Act and no date is specified therein as the date on which it shall take effect, the notice shall take effect on the first day of July in the following licensing year:

“(b) Where the notice is delivered to the Registrar before the 28th day of February in any such licensing year and is expressed to take effect on a date earlier than the 1st day of July in the following licensing year, it shall not take effect on the date specified therein but shall take effect on the 1st day of July in that following licensing year:

“(c) Where the notice is delivered to the Registrar before the 28th day of February in any such licensing year and is expressed to take effect on a date after the 1st day of July in the next following licensing year, it shall not take effect on the date specified therein but shall take effect on the 1st day of July in the licensing year following the date so specified:

“(d) Where the notice is delivered after the 28th day of February in any such licensing year and on or before the 30th day of June in that licensing year, then, whether or not the date on which it is to take effect is specified therein, it shall take effect on the 1st day of July in the second licensing year following the licensing year in which the notice is given.”

15. Exemption from transport licences—Section 113 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) The carriage of school children and their teachers in a passenger service vehicle to and from a school which is open for instruction on the day of that carriage—

“(i) On a regular daily basis; or

“(ii) On trips not exceeding 3 days conducted as part of the school curriculum:

“Provided that these exemptions shall not apply where other persons are at the same time carried for hire or reward on the vehicle:”.

16. Harbour-ferry services by hovercraft—The principal Act is hereby further amended—

(a) By inserting in the definition of the expression “harbour ferry” in subsection (1) of section 2, after the word “vessel”, the words “or hovercraft”:

(b) By inserting in subsection (3) of section 133, after the words “Shipping and Seamen Act 1952”, the words “or, as the case may be, by any enactment relating to hovercraft”.

17. Review of taxicab services—Section 134 of the principal Act is hereby amended by adding to subsection (2) the words “and whether or not the grant of additional licences would materially affect the economic stability of other holders of taxicab-service licences”.

18. Transfer of licences—Section 138 of the principal Act is hereby amended by omitting from the first proviso to subsection (1) the words “only in special circumstances”, and substituting the words “only in the case of the death of the person to whom the licence was granted or where the licensing authority is satisfied that the licensee is unable through serious illness to operate the licence”.

19. Deputy of Licensing Appeal Authority or Charges Appeal Authority—Section 158 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) The Governor-General may from time to time appoint a qualified person to be the Deputy Transport Licensing Appeal Authority or the Deputy Transport Charges Appeal Authority.

“(1A) The Deputy Transport Licensing Appeal Authority and the Deputy Transport Charges Appeal Authority shall hold office during the pleasure of the Governor-General.

“(1B) On the occurrence from any cause of a vacancy in the office of Licensing Appeal Authority or Charges Appeal Authority (whether by reason of death, resignation, or otherwise) and in the case of the absence from duty of either of those Authorities (from whatever cause arising), and so long as any such vacancy or absence continues, or where he considers it not proper or desirable that he should adjudicate on any appeal pending before him, his deputy shall have and may exercise all the powers, duties, and functions of the Authority whose deputy he is, either generally or, as the case may be, with respect to the appeal so pending.”

20. Remuneration of Transport Licensing Appeal Authority and Transport Charges Appeal Authority and deputies—The principal Act is hereby further amended by inserting, after section 159, the following section:

“159A. There may be paid out of money appropriated by Parliament for the purpose to any person who is appointed as the Licensing Appeal Authority, the Charges Appeal Authority, the Deputy Transport Licensing Appeal Authority, and the Deputy Transport Charges Appeal Authority and who is not for the time being the holder of any other judicial office remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the person holding any of those offices were a member of a statutory Board within the meaning of that Act.”

21. Parking infringements—(1) Section 194A of the principal Act (as inserted by section 27 (1) of the Transport Amendment Act 1968) is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Where a traffic officer has reason to believe that a parking infringement has been committed in respect of any vehicle, a parking-infringement notice may be served as hereinafter provided by that traffic officer or by any other

officer of the Ministry of Transport or of the local authority, as the case may be.”

(2) Section 194A of the principal Act (as so inserted) is hereby further amended by adding the following subsections:

“(12) Any notice given by the Minister under this section (whether before or after the commencement of this subsection) shall be deemed to be and always to have been a regulation for the purposes of the Regulations Act 1936, and *prima facie* evidence of the notice may be given in all Courts and in all legal proceedings in the manner specified in section 5 of that Act.

“(13) Where any notice is given by any officer of the local authority or the Ministry of Transport the production of a document purporting to be a copy of that notice (being a notice purporting to have been signed by an officer of the local authority or of the Ministry) shall, in the absence of proof to the contrary, be sufficient evidence of the contents of the original notice, the signature of the officer concerned, and the authority of the officer to sign that notice.

“(14) In proceedings for an offence against subsection (8) of this section, the production of a statement purporting to be signed by an officer of the Ministry of Transport or of the local authority (other than a traffic officer) authorised by the Secretary or the local authority in that behalf, either generally or in any particular case, shall, in the absence of proof to the contrary, be sufficient evidence of the failure by the defendant to pay the parking-infringement fee by the due date; and every officer signing any such statement shall, in the absence of proof to the contrary, be presumed to be duly authorised to sign it.”

22. Evidence of testing and accuracy of weighing devices and speed-measuring devices—(1) The principal Act is hereby further amended by repealing section 197, and substituting the following section:

“197. (1) In any proceedings for an offence against this Act or any regulations or bylaws made thereunder, the production of a certificate (or a document purporting to be a copy of a certificate) purporting to be signed by an officer of the Ministry of Transport authorised by the Secretary in that behalf, either generally or in any particular case, certifying that on a specified date, being a date not more than 12 months earlier than the date of the alleged offence, any weighing device referred to in the certificate was tested by an

Inspector of Weights and Measures and stamped by him as being accurate shall, in the absence of proof to the contrary, be sufficient evidence that it was accurate on the date of the alleged offence.

“(2) Every such certificate shall, in the absence of proof to the contrary, be presumed to have been signed by an officer duly authorised to sign it, and it shall not be necessary for any such certificate to show on its face that the officer signing it was so authorised.

“(3) Every document purporting to be a copy of such a certificate shall, in the absence of proof to the contrary, be presumed to be a true copy.

“(4) Such a certificate or copy thereof shall be deemed sufficiently to identify the weighing device to which it refers if, in the case of a portable device, it contains the serial number of the device or if, in the case of a weighbridge, it refers to the location of the weighbridge.

“(5) In any proceedings for an offence against this Act or any regulations or bylaws made thereunder, proof that any weighing device was stamped with a mark of verification under the Weights and Measures Act 1925 in a month not earlier than 12 months before the month of the alleged offence shall, in the absence of proof to the contrary, be sufficient evidence that it was accurate on the date of the alleged offence.

“(6) In any proceedings for an offence against this Act or any regulations or bylaws made hereunder, the production of a certificate purporting to be signed by an officer of the Ministry of Transport authorised by the Secretary in that behalf as to the testing and accuracy of any speed-measuring device referred to in the certificate shall be admissible as evidence that the device referred to has been tested and is accurate.

“(7) Every such certificate shall, in the absence of proof to the contrary, be presumed to have been signed by an officer duly authorised to sign it. It shall not be necessary for any such certificate to show on its face that the officer signing it was so authorised.”

(2) Section 22 of the Transport Amendment Act (No. 2) 1969 is hereby consequentially repealed.

SCHEDULE

Section 3 (1)

AMENDMENTS OF PRINCIPAL ACT

Section Amended	Amendment
Section 55	By repealing subsection (3).
Section 56 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (1) the words "and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred dollars".
Section 57 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting the words "and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred dollars".
Section 65 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (4) the words "on conviction on indictment to imprisonment for a term not exceeding five years or to a fine not exceeding one thousand dollars", and substituting the words "to the penalties specified in subsection (1) of section 30 of this Act".
	By omitting from subsection (5) the words "imprisonment for a term not exceeding three months or a fine not exceeding two hundred dollars", and substituting the words "the penalties specified in subsection (3) of section 30 of this Act".
Section 72 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from paragraph (1) of subsection (1) the words "not exceeding one hundred dollars", and substituting the words "not exceeding \$200".
Section 84 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (1) the words "and is liable to a fine not exceeding two hundred dollars".
Section 90G (as inserted by section 6 of the Transport Amendment Act 1963 and amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (3) the words "and is liable to a fine not exceeding two hundred dollars".
Section 108	By repealing subsection (3).
Section 143 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (3) the words "to a fine not exceeding two hundred dollars and", and substituting the words "in addition to the penalty prescribed by subsection (4) of section 30 of this Act".
Section 144 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (2) the words "and is liable to a fine not exceeding twenty dollars".

SCHEDULE—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 188 (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969)	By omitting from subsection (8) the words "and is liable to a fine not exceeding \$200".
Section 189 (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969)	By omitting from subsection (3) the words "and is liable to a fine not exceeding \$200".
Section 190 (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969)	By omitting from subsection (10) the words "and is liable to a fine not exceeding \$200".
Section 193	By repealing subsection (2).
Section 196 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from subsection (1) the words "not exceeding one hundred dollars", and substituting the words "not exceeding \$200".
Section 199 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting the words "not exceeding one hundred dollars", and substituting the words "not exceeding \$200".

This Act is administered in the Ministry of Transport.
