

TRANSPORT AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Transport Act 1962.

Clause 1 relates to the Short Title and commencement.

Part I (relating to penalties for offences and disqualification of drivers) and Part II (relating to driving with excessive blood-alcohol concentration or while under the influence of drink or a drug) and the Schedule are to come into force on a date fixed by Order in Council.

Clauses 19 and 20 are declared to have come into force on 1 April 1970.

The other provisions of the Bill will come into force on the date of its passing.

PART I

PENALTIES FOR OFFENCES, AND DISQUALIFICATION OF DRIVERS

Clause 2 substitutes a new Part IV in the principal Act (comprising new sections 30 to 51), relating to the penalties for offences and the disqualification of drivers. This Part rearranges the existing provisions, and divides offences into 3 categories, as follows:

- (a) Offences in the first category carry a maximum penalty of imprisonment for 5 years or a fine of \$1,000 or both, with a minimum period of disqualification for 1 year:
- (b) Offences in the second category carry a maximum penalty of imprisonment for 3 months or a fine of \$400 or both, with a minimum period of disqualification for 6 months:
- (c) Offences in the third category carry a maximum penalty of \$200, with the Court having a discretion to order disqualification if road safety is involved.

The principal changes made by this Part are as follows:

- (a) The present minimum period of disqualification for the offences of causing death or injury while under the influence of drink or drugs is 3 years. This Part fixes a minimum period of 1 year where death or injury results and 6 months in other cases:
- (b) The present minimum period of disqualification for a breach of the provisions relating to blood-alcohol is 6 months in the case of a first

offence and 3 years in the case of a second offence. This Part fixes a minimum period of 6 months for each offence:

- (c) The existing provisions fix a higher period of disqualification for second or subsequent offences. This distinction is abolished, and the question of a higher penalty for a second or subsequent offence is left to the discretion of the Court:
- (d) The present minimum period of disqualification for reckless or dangerous driving is 1 year. This Part fixes a minimum period of 6 months:
- (e) The provisions for the endorsement of drivers' licences are omitted.

The new *sections 30 to 51* provide as follows:

Section 30 fixes the penalties for offences and the periods of disqualification, as follows:

- (a) In the case of the offence of causing death or bodily injury while driving under the influence of drink or drugs, or with an excessive blood-alcohol concentration, or while driving in a dangerous or reckless manner, or the offence of failing to stop after an accident where a person is killed or injured, or a second or subsequent offence of driving while disqualified, the maximum penalty is imprisonment for 5 years or a fine of \$1,000 or both, and the minimum period of disqualification is 1 year unless for special reasons the Court orders otherwise:
- (b) In the case of the offence of driving while under the influence of drink or drugs or with an excessive blood-alcohol concentration, or refusing to supply a specimen of blood, or dangerous or reckless driving, or causing bodily injury or death by careless driving, or failing to stop after an accident where no other person is killed or injured, or obtaining a driver's licence while disqualified, the maximum penalty is imprisonment for 3 months or a fine of \$400 or both, and the minimum period of disqualification is 6 months unless for special reasons the Court orders otherwise:
- (c) In the case of any other offence, the maximum penalty is a fine of \$200, and the Court may order disqualification if the offence relates to road safety.

Section 31 re-enacts the existing provisions as to the application of the disqualification provisions in cases where an offender who is already disqualified commits a further offence which renders him liable to disqualification. The only material change is that he is to be disqualified for a minimum period of 6 months commencing on the date of expiration of the original period of disqualification, unless for special reasons the Court orders otherwise. Under the existing provisions, the minimum period of disqualification is that fixed in respect of the subsequent offence.

Section 32 re-enacts the existing provisions enabling the Court, if it is satisfied that the safety of the public is unduly endangered, to order disqualification on the application of a local authority, an insurance company, the Commissioner of Police, or the Secretary for Transport.

Section 33 re-enacts the existing provisions as to the effect of a disqualification order. During the period of disqualification, the offender's licence will have no effect, and at the expiration of a period of disqualification for 12 months or more the licence will continue to be of no effect until the holder undergoes and passes a test.

Section 34 re-enacts the existing provisions that a disqualified person may not obtain a driver's licence while he is disqualified.

Section 35 re-enacts the existing provisions relating to the offence of driving while disqualified or in breach of the terms of a limited licence, but the maximum penalties are increased.

In the case of a first offence, the maximum penalty is imprisonment for 3 months (as at present) or a fine of \$1,000 (the present maximum being \$200) or both, and the Court may order disqualification.

In the case of a second or subsequent offence, the maximum penalties are now prescribed by *section 30 (1)*, referred to earlier in these notes.

Section 36 re-enacts the existing provisions as to when a period of disqualification commences, and the power of the Court to postpone its commencement.

Section 37 re-enacts the existing provisions as to the retention and custody of the licence of a disqualified driver.

Section 38 makes provision for the issue of limited licences, and replaces the existing provisions of sections 35, 35A, and 35B of the principal Act relating to partial exemption from a disqualification order to enable a licence to be issued authorising the holder to drive in the course of his occupation or employment, and to partial exemption from a disqualification order on the grounds of hardship.

Under the new section 38, the Court may authorise the issue of a limited licence on the ground of undue hardship only. The Court must specify the purpose for which the licence is to be issued, the type of vehicle which may be driven, the times at which it may be driven, and such other matters as may be necessary to limit the order to alleviating the hardship.

Section 39 makes provision for the Court to order removal of disqualification on certain grounds, and makes some changes in the existing provisions.

Under the existing provisions, an application for removal of a disqualification from driving may be made after the order has been in effect for 6 months, but this period is extended to 12 months in the case of a first offence of causing death or injury while under the influence of drink or a drug or of driving or attempting to drive while under the influence of drink or a drug, and to 2 years in the case of a second or subsequent such offence.

Under the new section, application for removal of the disqualification may be made after 6 months in all cases. On such an 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 other relevant circumstances, refuse the application, remove the disqualification, or grant a limited licence under *section 38*.

Section 40 re-enacts the existing provisions requiring particulars of orders of disqualification or of removal of disqualification or authorising the issue of limited licences to be sent to the Secretary for Transport and to the local authority concerned.

Section 41 re-enacts the existing provisions relating to appeals to the Supreme Court against a disqualification order, a refusal to grant partial exemption from a disqualification order (now referred to as a limited licence), or a refusal to order removal of a disqualification.

The section makes it clear that with the leave of the Court of Appeal there is a right of appeal to that Court against a refusal by the Supreme Court to authorise the issue of a limited licence or to order removal of a disqualification. There is already a right of appeal, with leave, to the Court of Appeal under Part XIII of the Crimes Act 1961, against an order of disqualification made by the Supreme Court.

Speeding Offences

Section 42 is a new provision, introducing a system of dealing with certain types of speeding offences. This system is similar to the procedure for dealing with parking infringements provided by section 194A of the principal Act.

The section applies to speeding infringements consisting of exceeding a speed limit by not more than 15 miles an hour or, where the speed limit is 55 miles an hour or over, by not more than 20 miles an hour.

The system is to operate in the following manner:

- (a) A driver detected committing a speeding offence which is also a speeding infringement may be proceeded against for the offence in the usual way, or may be served with a speeding-infringement notice under the section in which case the provisions of the section will apply. He may not be dealt with under both procedures:
- (b) The speeding-infringement notice would contain the following particulars:
 - (i) Details of the time, place, and nature of the infringement:
 - (ii) The speed at which the driver was alleged to be travelling:
 - (iii) The amount of the speeding-infringement fee. These fees are to be fixed by the Minister of Transport, by notice in the *Gazette*, and may be on a graduated scale having regard to the excess of speed. Maximum fees which may be fixed by the Minister are specified in *subsection (3)*:
 - (iv) The time and place for paying the fee to the enforcement authority:
 - (v) A statement that if the fee is not paid before a date specified in the notice, which must be not less than 14 nor more than 21 days from the service of the notice, proceedings may be taken for the offence of not paying the fee:
- (c) Failure to pay the speeding-infringement fee will constitute an offence for which the driver may be prosecuted, but, where the speeding-infringement notice procedure is adopted by the enforcement authority, he may not be prosecuted for the speeding offence.
- (d) On convicting a defendant of the offence of failing to pay a speeding-infringement fee, the Court is to make an order for the payment of the fee by the defendant, unless the fee has been paid before the hearing. On the lodging of the certificate of conviction with the Registrar of the appropriate Court, he is to enter judgment for the amount of the fee and the enforcement authority may proceed to execution on that judgment.

Section 43 provides that all speeding-infringement fees received by an enforcement authority are to be paid into the Consolidated Revenue Account, but the authority will be entitled to deduct such portion as the Minister of Finance approves as being expenses incidental to the collection of the fees.

Demerit Points System

Sections 44 to 51 re-enact the existing provisions relating to the demerit points system, the only changes being of a drafting nature to conform to the new provisions of this Part relating to the disqualification of drivers.

Clause 3 of the Bill provides for consequential amendments and repeals.

PART II

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

Clause 4 amends section 55 (2) of the principal Act, which at present provides that it is an offence for any person in charge of a motor vehicle, while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, to cause the death of or bodily injury to any person by any act or omission in relation to that vehicle.

The effect of this amendment is that it will also be an offence under that subsection for any person in charge of a motor vehicle, while the proportion of alcohol in his blood exceeds 100 milligrams of alcohol per 100 millilitres of blood, to cause the death of or injury to any person by any act or omission in relation to that vehicle.

Subclause (2) adds to section 55 a provision that it will not be a defence in proceedings for an offence of causing injury or death while driving with an excessive blood-alcohol concentration that any of the provisions of the new *sections 58A and 58B* (substituted by *clause 5*) relating to breath tests and blood tests have not been strictly observed, provided there has been reasonable compliance with those provisions.

Clause 5 substitutes new *sections 58 to 58D* for section 58 and sections 59A to 59F of the principal Act. The present section 58 makes it an offence if any person, while under the influence of drink or drugs so as to be incapable of having proper control of the vehicle, drives or attempts to drive a motor vehicle on any road, and sections 59A to 59F relate to driving with an excessive blood-alcohol concentration and to breath tests and blood tests. The effect of the new sections is as follows:

The new *section 58* includes the provisions of the present *section 58* referred to above, and also includes the existing offence under the present section 59A of driving or attempting to drive a motor vehicle on any road while the proportion of alcohol in the driver's blood exceeds 100 milligrams of alcohol per 100 millilitres of blood. The existing penalty for an offence against section 59A is now increased by the inclusion of that offence in the new section 58. See the earlier note on the new *section 30*, inserted by *clause 2* of this Bill.

Subsection (2) is a new provision. It provides that it will not be a defence in proceedings for an offence of driving with an excessive blood-alcohol concentration that any of the provisions of the new *sections 58A and 58B* relating to breath tests and blood tests have not been strictly observed, provided there has been reasonable compliance with those provisions.

Sections 58A to 58D: The existing sections 59B to 59F relate to the breath testing and blood testing of persons suspected of having committed an offence against the existing section 55 (2) of the principal Act (causing bodily injury or death while driving under the influence of drink), or section 58 (driving or attempting to drive while under the influence of drink), or section 59A (driving or attempting to drive with an excessive blood-alcohol concentration).

The existing sections 59B to 59F provide that if a constable or traffic officer has good cause to suspect that a driver has committed one of those offences, he may require him to undergo a breath test by means of a device approved by the Minister and conducted in a manner prescribed by the Minister. If that test indicates that the proportion of alcohol in the driver's blood exceeds 80 milligrams of alcohol per 100 millilitres of blood, he may require the driver to undergo a second breath test not less than 20 minutes after the time when he was required to undergo the first test, and, if that second test also indicates a blood-alcohol concentration in excess of 80 milligrams of alcohol per 100 millilitres of blood, the driver may be required to permit a registered medical practitioner to take for the purposes of analysis a specimen of the driver's venous blood in accordance with normal medical procedures. Provision is made in the sections for cases where the driver refuses to undergo either or both of the breath tests or to supply a specimen of blood.

The specimen of blood is to be sent to the Dominion Analyst or a Government Analyst for analysis (half of the specimen, or, if necessary, a second specimen, being sent to a nominated analyst at the request of the driver), and the certificate of that analysis shall be sufficient evidence, in the absence of proof to the contrary, of the proportion of alcohol in the specimen of blood, unless the driver requires the analyst to be called as a witness at the hearing. The sections contain further incidental provisions.

The new *sections 58A to 58D* are generally to the same effect as the existing provisions, but there are some changes in substance, and there are also some drafting changes made to give better effect to the existing provisions. The changes in substance are as follows:

- (a) It is made clear that if a driver who has been taken to, or is in, one place for the purposes of a breath test and it is not practicable for a specimen of blood to be taken at that place, he may be required by a constable or traffic officer to go to another place for the purposes of providing a specimen of blood (*section 58A (2)*):
- (b) A driver must remain at the place where the second breath test is carried out (or the only breath test in cases where only one is taken) until the result of the test has been ascertained. If he leaves or attempts to leave before then, he may be arrested by any constable or traffic officer (*section 58A (5)*):
- (c) Where a driver is required to supply a specimen or a second specimen of blood, he must provide it forthwith (*section 58B (1) and (2)*). The power of arresting a driver who refuses may also be exercised in the case of a refusal to supply a second specimen of blood on the ground that the specimen taken is insufficient to be divided into 2 parts (*section 58C (1)*):
- (d) In proceedings for an offence, proof that the container in which the registered medical practitioner placed a specimen of blood was received by him in a sealed outer container bearing a label indicating that it had been supplied by the Department of Scientific and

Industrial Research, and that when received the container in which that specimen was placed contained a substance stated in a label affixed thereto to be a preservative and an anti-coagulant, shall be *prima facie* proof that the substance was a preservative and an anti-coagulant (*section 59B (4)*).

- (e) In proceedings for an offence, *prima facie* proof that a specimen of the driver's venous blood was taken by a registered medical practitioner in accordance with normal medical procedures and as to certain other matters may be given by a certificate signed by the medical practitioner (*section 58B (5) (a)*), unless the defendant requires the prosecutor to call the medical practitioner as a witness at the hearing (*section 58B (13)*):
- (f) In proceedings for an offence there will be a presumption, in the absence of proof to the contrary, that the specimen of blood in respect of which that certificate is given by a registered medical practitioner was taken from the defendant (*section 58B (5) (b)*):
- (g) Where both parts of a specimen of blood or, where 2 specimens were taken, both specimens, are sent to the Dominion Analyst or a Government Analyst before application is made by or on behalf of the driver for 1 part or specimen to be sent to a nominated analyst, an application for 1 part or specimen to be sent to a nominated analyst may be made at any time up to 14 days after a summons for an offence is served on the driver or the driver is arrested and brought before the Court on warrant or, in any other case, the date on which he is first charged in Court with the offence (*section 58B (7)*). At present, application must be made within 21 days after the taking of the specimen from the driver:
- (h) A certificate of analysis may be given by the person who actually analysed the specimen of blood (*section 58B (9)*). At present, the certificate is to be signed by the Dominion Analyst or Government Analyst where an officer under his control carries out the analysis:
- (i) In proceedings for an offence, it will be presumed, until the contrary is proved, that the specimen of blood referred to in the analyst's certificate was taken from the defendant (*section 58B (9) (c)*):
- (j) The power of arresting a driver who fails or refuses to permit a specimen of blood to be taken is extended to traffic officers (*section 58c (1)*):
- (k) The existing provisions of the present sections 59B (7) and 59c (10) that a negative breath test or blood test is a bar to any drinking or driving charge are omitted.

Clause 6 provides for consequential amendments and repeals.

PART III

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

Clause 7: Section 66 (1) of the principal Act provides that the user of a vehicle shall stop at the request or signal of a constable in uniform or of a traffic officer wearing a distinctive cap, hat, or helmet with a badge of authority affixed thereto. In a recent Court case it was held that the crest on a traffic officer's safety helmet was not a badge of authority but a transfer, and accordingly a prosecution against a person for failing to stop on request was dismissed.

This clause re-enacts section 66 in an amended form, the only change being that a driver must stop at the request or signal of a traffic officer who is in uniform or, if not in uniform, is wearing a cap, hat, or helmet which identifies him as a traffic officer.

Clause 8: Section 67 of the principal Act provides that where a motor vehicle is involved in the commission of an offence or a parking infringement, the owner or hirer, on being requested by a constable or traffic officer, must give all the information in his possession or available to him which may lead to the identification and apprehension of the driver. No time limit is set at present for this information to be given.

This amendment provides that the information must be provided by the owner or hirer within 14 days of the request being made.

Clause 9 re-enacts in an amended form section 69B of the principal Act relating to overloading infringements. It re-enacts the existing provisions with the following changes:

- (a) An overloading-infringement notice may be delivered or posted by any officer of the enforcement authority. It will not be necessary for the traffic officer who detected the infringement to deliver or post the notice (*subsection (5)*):
- (b) The due date fixed for payment of the overloading-infringement fee must not be more than 21 days after service of the notice on the user of the motor vehicle (*subsection (6) (d)*):
- (c) The manner in which a notice by the Minister may be proved in Court proceedings is specified (*subsection (7)*):
- (d) The manner in which a notice given by an officer of the enforcement authority may be proved in Court proceedings is specified (*subsection (8)*):
- (e) Section 42 of the Criminal Justice Act 1954 will not apply to proceedings for the offence of failing to pay the overloading-infringement fee (*subsection (12)*) unless the overloading-infringement fee has been paid before the hearing. That section empowers the Court to discharge an offender without conviction or sentence notwithstanding that the offence is proved. As liability for payment of an overloading-infringement fee is dependent on a conviction for non-payment of the fee, a dismissal of the charge under section 42 has at present the effect of making the defendant not liable for the fee, even though he committed the overloading infringement:
- (f) On convicting a defendant of the offence of failing to pay an overloading-infringement fee, the Court is to make an order for the payment of the fee by the defendant, unless the fee has been paid before the hearing. On the lodging of the certificate of conviction with the Registrar of the appropriate Court, he is to enter judgment for the amount of the fee and the enforcement authority may proceed to execution on that judgment.

Clause 10: Section 70 of the principal Act gives the Secretary for Transport power to exempt a vehicle from the maximum weight limits prescribed in section 69. Section 69 was repealed by section 11 (1) of the Transport Amendment Act (No. 2) 1969, and both maximum weight limits and the power to grant exemptions from these limits (which is now a function of the road controlling authority) appear in the Heavy Motor Vehicle Regulations 1969 (S.R. 1969/231).

Accordingly, section 70 is no longer necessary, and this clause repeals it.

Clause 11: Subclause (1) authorises the controlling authority of any road to make bylaws prohibiting, either absolutely or conditionally, the driving of stock along any road and requiring that stock be moved on any road by motor vehicle only.

Subclause (2): Under the Traffic Regulations 1956 local authorities are required to erect an appropriate sign wherever drivers are prohibited from making "U" turns. Although such prohibitions are in force in many parts of the country, there is no express power in section 72 of the principal Act (which specifies the matters in respect of which controlling authorities may make bylaws) for bylaws to be made prohibiting "U" turns.

This subclause gives to controlling authorities power to make bylaws prohibiting "U" turns on streets or roads under their control.

Clause 12: At present fees for examinations for warrants of fitness are to be fixed by regulations made pursuant to section 77 (1) (g) of the principal Act, up to a maximum of 75 cents, and those fees are now fixed by regulation 52 of the Traffic Regulations 1956 (reprinted S.R. 1968/32).

This clause removes the limit of 75 cents that may be fixed by the regulations.

Clause 13: Section 79 of the principal Act requires the owner of a motor vehicle to insure against his liability to pay damages for the death of or injury to any person in connection with the use of his vehicle. Subsection (3) indemnifies a licensed driver who is driving with the owner's permission, and subsection (3A) indemnifies any person who is lawfully in the vehicle (e.g., a passenger who opens a door and causes an accident). The owner is also indemnified in such cases.

Doubts have arisen as to whether as a result of subsections (3) and (3A) a person who is learning to drive and is thus an unlicensed driver is indemnified or not. The effect of the proposed amendment to subsection (3A) is that every person lawfully in the vehicle, except a licensed driver in charge of the vehicle with the owner's authority (who is covered separately by subsection (3)), will be indemnified against his liability to pay damages for death or injury caused by his negligence, and the owner will also be indemnified.

Clause 14: Section 80 of the principal Act provides that any insurance company willing to undertake third-party risks insurance business must give notice to the Registrar of Motor Vehicles. The notice will take effect on 1 July following the giving of the notice unless it is given after 31 March and before 1 July in any year, in which case it will not take effect until 1 July in the following year. In effect this means that at least 3 months' notice is required. A company may revoke that notice, and the revocation will take effect on a date specified in subsection (4) of section 80, which varies according to when the notice of revocation is given.

Subclause (1) of this clause provides that if notice of willingness to undertake third-party insurance business is given after 31 December in any licensing year, it will not have effect until the second following licensing year, and this means, in effect, that at least 6 months' notice is required.

Subclause (2) increases the length of notice that must be given of intention to cease third-party risks insurance business. In effect, the subclause fixes a minimum period of 6 months' notice in such cases.

Clause 15: Section 113 (1) of the principal Act exempts from transport licensing the carriage to and from school of school children and their teachers in a passenger-service vehicle, unless other persons are at the same time carried for hire or reward on the vehicle.

The purpose of this clause is to restrict this exemption to bona fide school bus services operating on days when the school is open for instruction on a regular daily basis or on one-day trips conducted as part of the school curriculum.

Clause 16: The effect of this clause is to extend the provisions of the principal Act relating to harbour-ferry services to transport services carried on by means of hovercraft.

Clause 17: Section 134 (2) of the principal Act provides that the Licensing Authority must, at intervals of not less than 3 years, hold a review of taxicab-service licences for the purposes of ascertaining whether the services are adequate to meet the reasonable public demand in the district in respect of which the review is being held and whether or not those services are being carried on in an efficient manner. If on that review the Licensing Authority considers the services to be inadequate, it may notify its intention to authorise a specified number of additional licences.

There is no requirement for the Licensing Authority to consider at this stage the economic stability of the industry, but if application is made for any of the additional licences the Authority must when dealing with the application consider the economic stability of the industry and may then decline to issue an additional licence because its issue would affect that stability.

The effect of this amendment will be that the Licensing Authority must consider the economic stability of the industry at the stage when the Authority is considering whether or not additional licences are to be authorised.

Clause 18: Section 138 of the principal Act restricts the transfer of taxicab-service licences. They may not be transferred within 3 years after the grant of the licence and may not be transferred within the next 3 years except in special circumstances.

The effect of this amendment is that instead of a taxicab-service licence being transferable in the second 3-year period in special circumstances, it may be transferred during that period where the licensee dies or the Licensing Authority is satisfied that by reason of serious illness the licensee is unable to operate the licence.

Clause 19: Section 158 of the principal Act provides that where the Licensing Appeal Authority or the Charges Appeal Authority becomes incapable of acting or considers it not proper or desirable that he should adjudicate on any appeal pending before him, a qualified person may be appointed as his deputy to act in his place.

This clause will enable a deputy of either of those Authorities to be appointed on a permanent basis, with power to act during any vacancy in the office of the Authority or during the absence of the Authority or where the Authority considers it not proper or desirable that he should adjudicate on any particular appeal.

Clause 20 provides that the persons appointed as Transport Licensing Appeal Authority or Transport Charges Appeal Authority or as the deputy of either of those Authorities may be paid remuneration and allowances in accordance with the Fees and Travelling Allowances Act 1951.

Clause 21 amends section 194A of the principal Act, relating to the parking-infringement fee system. Under that section a parking infringement is not an offence, but the person committing the infringement is liable to pay a parking-infringement fee to the local authority. He commits an offence if he fails to pay the fee, but he cannot be proceeded against for the offence of over-parking.

The amendments made by this clause are as follows:

- (a) *Subclause (1)* provides that a parking-infringement notice may be delivered or posted by the traffic officer who detected the infringement or by any officer of the Ministry of Transport or of the local authority;
- (b) *Subclause (2)* adds to section 194A new subsections (12) to (14) providing as follows:
 - (i) The manner in which a notice by the Minister under the section may be proved in Court proceedings is specified;
 - (ii) The manner in which a notice given by an officer of the Ministry of Transport or of the local authority may be proved in Court proceedings is specified;
 - (iii) In proceedings for the offence of not paying the parking-infringement fee, *prima facie* proof of non-payment may be given by the production of a statement to that effect signed by an authorised officer of the Ministry of Transport or of the local authority.

Clause 22 substitutes a new section for section 197 of the principal Act, which provides how the accuracy of weighing devices and speed-measuring devices may be proved in proceedings for offences.

The present section provides that the accuracy of such a device may be proved—

- (a) In the case of either a weighing device or a speed-measuring device, by a certificate of an authorised officer of the Ministry of Transport that the device has been tested and found to be accurate;
- (b) In the case of a weighing device, by proof that it was stamped with a mark of verification under the Weights and Measures Act 1925 not earlier than 12 months before the date of the alleged offence. However, no mark of verification has to date been authorised under that Act.

The new section 197 re-enacts the existing provisions as to speed-measuring devices, but includes new provisions as to weighing devices. The section provides that proof of the accuracy of a weighing device may be given—

- (a) By the production of a certificate by an officer of the Ministry of Transport that on a date not earlier than 12 months before the date of the alleged offence the device was tested by an Inspector of Weights and Measures and stamped as being accurate; or
 - (b) In the manner prescribed by the present section 197 (3). This will not in practice be effective until a mark of verification is prescribed by regulations to be made under the Weights and Measures Act 1925.
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Hon. Mr. Gordon

TRANSPORT AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	
PART I	
PENALTIES FOR OFFENCES, AND DISQUALIFICATION OF DRIVERS	
2. Part IV of principal Act substituted	
PART IV	
PENALTIES FOR OFFENCES, AND DISQUALIFICATION OF DRIVERS	
30. Penalties for offences	37. Retention and custody of licence of disqualified driver
31. Application of disqualification provisions where offender is already a disqualified person	38. Issue of limited licence to disqualified person
32. Disqualification on application by local authority or insurance company or Commissioner of Police or Secretary for Transport	39. Removal of disqualification
33. Effect of disqualification	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
34. Disqualified person not to apply for or obtain driver's licence while disqualified	41. Appeals against disqualification order or order refusing a limited licence or refusing removal of disqualification
35. Driving while disqualified or contrary to the terms of a limited licence	
36. Commencement of period of disqualification	<i>Speeding Offences</i>
	42. Penalty for speeding offences
	43. Speeding-infringement fees payable into Public Account
	<i>Demerit Points System</i>
	44. Recording of demerit points
	45. Appeal against conviction
	46. Cancellation of points
	47. Notice of points
	48. Disqualification under points system
	49. Issue of limited licence

50. Disqualified person not to apply for or obtain driver's licence	
51. Regulations as to demerit points	
3. Consequential amendments and repeals	
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	
5. New sections (as to driving with excessive blood-alcohol concentration or while under influence of drink or drugs) substituted	
58. Driving with excessive blood-alcohol concentration or while under influence of drink or drugs	
58A. Breath tests	
58B. Blood tests	
58C. Refusal to supply specimen of blood	
58D. Special provisions for persons under medical treatment	
6. Consequential amendments and repeals	
	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
	8. Owner or hirer to give information as to identity of driver
	9. Overloading infringements
	10. Permission to use overweight vehicles
	11. Bylaws as to the use of roads
	12. Warrants of fitness
	13. Owners of motor vehicles required to insure
	14. Companies willing to undertake third-party risks insurance business to notify Registrar
	15. Exemption from transport licences
	16. Harbour-ferry services by hovercraft
	17. Review of taxicab services
	18. Transfer of licences
	19. Deputy of Licensing Appeal Authority or Charges Appeal Authority
	20. Remuneration of Transport Licensing Appeal Authority and Transport Charges Appeal Authority and deputies
	21. Parking infringements
	22. Evidence of testing and accuracy of weighing devices and speed-measuring devices
	Schedule

A BILL INTITULED

An Act to amend the Transport Act 1962

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

5

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) Parts I and II of this Act and the Schedule to this Act shall come into force on a date to be fixed by the Governor-General by Order in Council:

Provided that a different date may be fixed for the commencement of any provision of either of those Parts.

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

*Reprinted 1967, Vol. 3, p. 2309
Amendments: 1968, No. 48; 1969, Nos. 8, 137

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

PART I

5 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:

10 “PART IV

“PENALTIES FOR OFFENCES, AND DISQUALIFICATION OF DRIVERS

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

15 “(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

20 “(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

25 “(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)—

30 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
35 special reasons relating to the offence thinks fit to order otherwise.

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

40 “(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 5

“(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 10

“(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) — 15

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. 20

“(3) 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. 30

“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 35 40

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.

5 “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
10 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—

15 “(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;
20 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.

25 “(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.

30 “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.

35 “(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
40 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
45 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—

5 “(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

10 “(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—

15 “(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:

20 “(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—

25 (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:

30 “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.

35 “(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

40 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
45 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: 5

“(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. 10

“(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. 15

“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 or was so disqualified by an order made before the commencement of this Part under the provisions of any former enactment. 20

“(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), 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. 25 30

“(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 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. 35 40

“(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 “(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.

10 “(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.

15 “(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
20 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.

25 “(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
30 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
35 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
40 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 5 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 10 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 15 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 20 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 disqualifi- 25 cation, 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 35 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**— 40
(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
5 operation of the order pending the appeal, but otherwise the order shall have effect.

“(2) Any person who—

10 “(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

15 “(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.

20 “(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

25 “(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
30 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
35 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.

40 “(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

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“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:

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“(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—

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“(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 20 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 25 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 30 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 35 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;—

5 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
10 *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-
15 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
20 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
25 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
30 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
35 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
40 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. 5

“(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: 10

“(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 15

“(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 20

“(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. 25 30

“(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. 35

“(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. 40 45

“ (9) Every person commits an offence against this Act, who, having committed a speeding infringement and having been served with a speeding-infringement notice relating to that infringement, fails to pay to the enforcement authority before
5 the date specified in the notice the appropriate speeding-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
10 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
15 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.

“(11) Where any person is convicted of any offence under subsection (9) of this section and the amount of the speeding-
20 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
25 appropriate speeding-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
30 favour of the enforcement authority for the amount of the speeding-infringement fee, and the enforcement authority may proceed to execution on that judgment.

“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
40 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 42 or 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. 5 10

“(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. 15 20

“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: 25

“(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: 30

“(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. 35 40

“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
5 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
10 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.

15 “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
20 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
25 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.

30 “(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
35 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
40 “(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
45 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. 5

“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: 10

“(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: 15

“(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. 20

“(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. 25

“(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— 30

“(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: 35

“(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. 40

“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
5 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**
10 **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.

15 “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
20 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
25 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—

30 “(a) Shall be 60 demerit points in the case of—
“(i) Any offence to which subsection (1) or subsection (2) of section 30 of this Act applies and for which under that section the Court does not order that the defendant be disqualified; and

35 “(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.”

40 **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”.

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(3) The following enactments are hereby repealed:

(a) The Third Schedule to the principal Act:

(b) Sections 7 to 9 of the Transport Amendment Act 1964:

(c) Sections 9 to 11 of the Transport Amendment Act 1966:

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(d) Sections 2 and 4 to 6 of the Transport Amendment Act (No. 2) 1967:

(e) Sections 7 to 12 and 29 of the Transport Amendment Act 1968:

(f) Section 8 of the Transport Amendment Act (No. 2) 1969.

15

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,”.

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

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“(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.”

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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:

40

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

5 “(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

10 “(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.

15 “(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.

20 **“58A. Breath tests—**(1) Where a constable or traffic officer has good cause to suspect that any person has committed an offence against—

25 “(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

30 “(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—

35 “(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

40 “(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,— 5

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: 10

“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. 15

“(4) Where any person— 20

“(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 25

“(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. 30 35

“(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 40

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
 5 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
 10 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*.

15 “(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
 20 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
 25 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
 30 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
 35 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,—

40 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 or anti-coagulant substance may be added to any specimen of blood taken under this section by placing it 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.

"(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

5 “(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

10 “(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

15 “(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:

20 “(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.

25 “(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 30 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:

35 “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 40 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.

45 “(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— 5

“(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 10

“(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 15

“(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. 20

“(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. 25 30

“(9) For the purposes of any proceedings for an offence under this Part of the Act,— 35

“(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 40

“(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

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

10 “(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.

15 “(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.

20 “(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.

25 “(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
30 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
35 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.

40 “(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. 5

“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— 10

“(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. 15

“(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. 20

“(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. 25 30

“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 35 40

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”:
- 10 (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.

15 (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:

20	“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
25		55 (1)	Causing bodily injury or death through reckless or dangerous driving
30		55 (2)	Causing bodily injury or death through driving while under influence of drink or a drug or with excessive blood-alcohol concentration
35		65 (4)	Failing to stop after accident and render assistance to injured person”.
40			

- (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

5

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: 10

“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. 15

“(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.” 20

(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,”. 25

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: 30

“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: 35

“(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: 40

“ ‘Overloading infringement’ means the use on any road of any heavy motor vehicle in breach of any pro-

vision 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

5 “(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:

10 “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:

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

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

25 “(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.

30 “(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.

35 “(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.

40 “(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 send-

45

ing 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 5 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 10 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 15 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 20 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. 25

“(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* 30 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) 35 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. 40

“(9) Every person commits an offence against this Act, who 40 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 45

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

5 “(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.

10 “(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.

15 “(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.

20 “(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.” 5

(2) Section 13 of the Transport Amendment Act (No. 2) 1969 is hereby repealed. 10

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: 15

“(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:” 20

(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:” 25

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”. 30

(2) Section 12 of the Transport Amendment Act 1964 is hereby repealed. 35

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)”. 40

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 1st day of January”.

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

10 “(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:

15 “(a) Where the notice is delivered to the Registrar before the 31st day of December 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 year:

20 “(b) Where the notice is delivered to the Registrar before the 31st day of December in any such licensing year and is expressed to take effect on a date earlier than the 1st day of July in the following year, it shall not take effect on the date specified therein but shall take effect on the 1st day of July in that following year:

25 “(c) In all other cases, the notice shall take effect on such date as is specified in the notice in that behalf, but not earlier than the 1st day of July in the year following the date of the delivery of the notice to the Registrar.”

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:

35 “(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—

40 “(i) On a regular daily basis; or

“(ii) On one-day trips 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”.

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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”.

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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”.

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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:

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“(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.

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“(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.”

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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:

- 5 “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
10 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
15 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
20 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
25 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:

- 30 “(12) Any notice given by the Minister under 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
35 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
40 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
5 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
10 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
15 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)
20 1969 is hereby consequentially repealed.

Section 3 (1)

SCHEDULE

AMENDMENTS OF PRINCIPAL ACT

Section Amended	Amendment
Section 55 Section 56 (as amended by section 7 of the Decimal Currency Act 1964)	By repealing subsection (3). 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 imprison- ment 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 <u>subsection (1)</u> of <u>section 30</u> of this Act”.
Section 72 (as amended by section 7 of the Decimal Currency Act 1964)	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 <u>sub-</u> <u>section (2)</u> of <u>section 30</u> of this Act”.
Section 84 (as amended by section 7 of the Decimal Currency Act 1964)	By omitting from paragraph (1) of sub- section (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 108 Section 143 (as amended by section 7 of the Decimal Currency Act 1964)	By repealing subsection (3). 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 <u>subsection (3)</u> of <u>section 30</u> 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”.
Section 188 (as substi- tuted by section 24 of the Transport Amend- ment Act (No. 2) 1969)	By omitting from subsection (8) the words “and is liable to a fine not exceeding \$200”.

SCHEDULE—*continued*

AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
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”.