
THE ROAD TRAFFIC ACT, 2002

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

THE ROAD TRANSPORT AND SAFETY AGENCY

3. Establishment of Agency
4. Functions and powers of Agency
5. Composition of Agency
6. Director, Secretary and other staff

PART III

REGISTRATION OF MOTOR VEHICLES AND TRAILERS

7. Motor vehicle and trailer registers
8. Re-registration
9. Registers etc. to be accepted as evidence
10. Motor vehicle to be cleared by Customs and Interpol
11. Registration of motor vehicles and trailers
12. Sale or transfer of motor vehicle
13. Change of ownership
14. Position of registered owner who is not absolute owner
15. Furnishing evidence of weights and dimensions of motor vehicle or trailer
16. Temporary registration card
17. Details required for temporary registration
18. Particulars to be endorsed on application forms
19. Motor vehicle or trailer deemed to be registered, etc.
20. Special examination of motor vehicles and trailers
21. Test of satisfactory conditions of motor vehicles and trailers
22. Certificate of examination to be admissible in evidence
23. Obligatory test certificate
24. Provisions not applicable to vehicle to which Part IX applies
25. Destruction or permanent removal of motor vehicle or trailer from Zambia
26. Exemptions from registration
27. Registration marks
28. Prohibition of manufacture of number plates without serial number
29. Offences in connection with registration marks

*Single copies of this Act can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price K42,000 each.*

PART IV

VEHICLE LICENSING

30. Vehicles to be licensed
31. Form of licence
32. Duration of licence
33. Owner to receive licence or token
34. Transfer of licence of vehicle other than motor vehicle or trailer
35. Application for licence
36. Issue of licences
37. Conditions to be satisfied before the issue of licence
38. Alterations in conditions on which licence is issued
39. Duration of licence
40. Suspension or refusal of licence
41. Duplicate motor vehicle and trailer licence
42. Taxes
43. Licence to be carried on motor vehicle or trailer
44. Penalty for affixing false licence or token
45. Motor dealer's vehicle licence
46. Use of motor dealer's vehicle licence
47. Motor dealer's identification plates
48. Duration of motor dealer's vehicle licence
49. Fees for each identification number of motor dealer's vehicle licence
50. Cancellation of motor dealer's vehicle licence
51. Motor dealer's vehicle licence not to be misused
52. Farm vehicle licence
53. Contract cars
54. Duty to remit fees
55. Provisions of Part IV not to apply to certain vehicles

PART V

LICENSING OF DRIVERS OF MOTOR VEHICLES
AND DRIVING SCHOOLS

56. Driver of motor vehicle to be licensed
57. Tests of competence to drive
58. Review of conduct of tests
59. Application for issue of driving licence
60. Driving tests
61. Provisional driving licences
62. Physical fitness
63. Classes of motor vehicle

64. Age of driver
65. Driving test fees
66. Form and duration of licences
67. Fees for licences
68. Revocation, etc., of driving licences
69. Appeals
70. Control of driving schools and of the teaching for gain
71. Instructor's licences and driving school licences
72. Appeals concerning driving school licences or instructor's licences
73. Instructor's licences and driving school licences not transferable
74. Inspection of premises, etc.

PART VI

ENDORSEMENT, SUSPENSION AND CANCELLATION OF DRIVING LICENCES

75. Powers of court
76. Right of appeal
77. Production of driving licence for endorsement
78. Suspended licence to be no effect
79. Application for removal of disqualification
80. Removal of disqualification no longer provided for
81. Fraudulent application for driving licence
82. Particulars of endorsement to be copied on new licence
83. Applying for licence without disclosing endorsement
84. Issue of new licence free from endorsement
85. Removal of endorsement

PART VII

COMPULSORY THIRD PARTY INSURANCE

86. Users of motor vehicles to be insured against third party risks
87. Saving in respect of liability
88. Requirements in respect of policies of insurance
89. Requirements in respect of securities
90. Right of injured party to proceed against insurer
91. Certain conditions in policy to be of no effect
92. Avoidance of contracts so far as restrictive of liability in respect of death or injury to passengers in public service vehicles
93. Hospital expenses
94. Documentary proof of existence of insurance policy
95. Production of certificate of insurance
96. Customs Officer may refuse to permit entry of uninsured vehicle

97. Making false statements
98. Certificate of insurance or security to be produced before issue of licence
99. Duty of insurer when policy is cancelled, etc.

PART VIII

LICENSING OF PUBLIC SERVICE VEHICLES

100. Public sittings
101. Use of vehicles as public service vehicles for carrying of goods
102. Use of vehicles as public service vehicles for carrying of passengers
103. Use of station wagon as taxicab, or public service vehicle
104. Terms etc. of road service licences to be observed
105. Person required to hold road service licence
106. Notice to be given to Director of alteration of vehicles
107. Temporary substitution of authorised vehicles in emergency
108. Road service licences
109. Short-term licences
110. Extension of validity of licences
111. Road Service Appeal Tribunal
112. Appeal to Tribunal
113. Protection of Chairperson of Tribunal and Director
114. Obligation to keep records and returns
115. Number of passengers, weights of public service vehicles
116. Touting
117. Driver of public service vehicle to wear uniform
118. Prohibition of supply and consumption of liquor or narcotic drugs by driver of public service vehicle
119. Limitation of time for which drivers of certain vehicles may remain continuously on duty
120. Tickets and fares

PART IX

EXAMINATION FOR CERTIFICATE OF FITNESS FOR CERTAIN CLASSES OF VEHICLES

121. Application of Part IX
122. Certificates of fitness
123. Form and display of certificate of fitness
124. Period of validity of certificates of fitness
125. Defects
126. Examination on suspension of vehicle being unfit
127. Inspection by road traffic inspector
128. Examination by other examiners

129. Persons empowered to examine vehicles exempted from liability for damage
130. Appeals
131. Prescribed fees
132. Exemptions
133. Offences

PART X

EXCLUSIVE CONCESSIONS

134. Power to grant concessions
135. Particulars to be given to Director
136. Restriction on other operators
137. Saving for existing operators
138. Revocation of road service licence held by existing operator
139. Termini of non-concession routes
140. Duty of concession holder to provide services
141. Prescribed fees
142. Powers of Director
143. Saving for mails, parcels and luggage
144. Express running agreements
145. Undertaking at disposal of Government in emergency
146. Expiration of concession
147. Determination of concession by legislation

PART XI

ROAD SAFETY PROVISIONS AND DRIVING OFFENCES

148. Speed limit
149. Exemption of drivers of fire engines, etc. from speed limit
150. Certain classes of motor vehicles to contain recording device to measure speed
151. Road racing
152. Travelling backwards
153. Warning devices
154. Careless driving
155. Reckless or dangerous driving
156. Being in charge of motor vehicle when under influence of intoxicating liquor or a narcotic drug
157. Driving when under influence of intoxicating liquor or narcotic drugs
158. Driver to submit to medical examination
159. Detention of persons affected by intoxicating liquor a narcotic drug
160. Week-end imprisonment
161. Causing death by reckless or dangerous driving
162. Warning to be given before prosecution

-
163. Driving motor vehicle in dangerous condition
 164. Loads to be secure
 165. Position of driver
 166. Limitation of numbers of occupants of motor vehicles
 167. Obligation to wear seat belts
 168. Restrictions on carrying children not wearing seat belts in motor vehicles
 169. Driving when using a hand held mobile telephone
 170. Drivers to obey traffic signs
 171. Vehicles to give way to all locomotives at railway crossings
 172. Stopping of vehicles at school crossing
 173. Side of the road on which vehicle is to be driven
 174. Driving on divided public roads
 175. Overtaking of vehicle
 176. Right of way at roundabout
 177. Right of way at four-way junction
 178. Procedure when turning
 179. Compulsory stops
 180. Duties of driver and passenger of vehicle on public road
 181. Duties of driver of motor cycle or motor tricycle
 182. Protective helmets for motor cyclists
 183. Pedestrian's right of way on pedestrian crossing
 184. Duties of pedestrians
 185. Stopping of vehicles
 186. Parking of vehicle
 187. Certain vehicles may stop and park at any place where necessary
 188. Obstruction of roadway by vehicle
 189. Disabled vehicles
 190. Removal of vehicles from roads
 191. Vehicles abandoned or left on road
 192. Engine to be stopped when vehicle unattended
 193. Opening doors of vehicle
 194. Silencer
 195. Discharge of oil and smoke
 196. Filling petrol, etc.
 197. Prohibition of sale of vehicles in condition not complying with regulations as to construction, etc.
 198. Prohibition of use of motor vehicles not complying with regulations as to construction etc.
 199. Pillion riding on motor cycle

200. Application to pedal cyclists of provisions relating to certain driving offences
201. Brakes, etc., on bicycles and tricycles
202. Excessive loads on two-wheeled vehicles
203. Throwing articles at or from vehicles
204. Interference with vehicles
205. Placing of handbill, etc., in or on motor vehicle
206. Unauthorised use of goods vehicles
207. Taking hold of or getting on a vehicle in motion
208. Stretching rope, etc., across road: obstruction of road
209. Liability for animal on road
210. Failure of driver of motor vehicle to stop and render assistance to injured person
211. Duty to stop in case of accident
212. Additional powers of police and others; requirements to be obeyed
213. Powers concerning vehicles suspected of being used as public service vehicles
214. Registration document and licences to be produced to police, etc., on demand
215. Duty to give information
216. Penalty for giving false information
217. Unlawful imitation, etc. of documents
218. Verification of facts in applications
219. Condition for release of impounded vehicle or trailer
220. No liability for impoundment
221. Liability of driver and owner for offences
222. Vehicle causing excessive noise
223. Use of hooter
224. Riding of pedal cycles
225. General penalty

PART XII

MISCELLANEOUS PROVISIONS

226. Licensing officers etc.
227. References to Commissioner
228. Control of parking charges on roads
229. Admissibility as evidence of certificates relating to ownership of driver of motor vehicle
230. Doubt concerning classification of vehicles
231. Highway Code
232. Implementation of international treaties
233. Power of Minister to make regulations

234. Repeal of Parts V to XIV of the Roads and Road Traffic Act, Cap. 464 and transitional provisions.
235. Repeal of Cap. 471

FIRST SCHEDULE

PART I

ADMINISTRATION

1. Seal of Agency
2. Tenure of office and vacancy
3. Filling of casual vacancy
4. Proceedings of Agency
5. Committees of Agency
6. Allowances of members
7. Disclosure of interest
8. Prohibition of publication of or disclosure of information to unauthorised persons

PART II

FINANCIAL PROVISIONS

9. Funds of Agency
10. Financial year
11. Accounts
12. Annual report

SECOND SCHEDULE

Taxes payable on annual licences

THIRD SCHEDULE

Cancellation, suspension and endorsement of driving licences

FOURTH SCHEDULE

Prescribed fee

FIFTH SCHEDULE

PART I

TRANSITIONAL PROVISIONS IN RELATION TO THE ROAD TRAFFIC COMMISSION

1. Vesting of assets of the Road Traffic Commission
2. Registration of property to be transferred by Government
3. Legal proceedings
4. Terms of service of employees of Commission

PART II

TRANSITIONAL PROVISIONS IN RELATION TO THE NATIONAL ROAD SAFETY

COUNCIL

1. Vesting of assets of the National Road Safety Council
2. Registration of property to be transferred by Council
3. Legal proceedings
4. Terms of service of employees of Council

GOVERNMENT OF ZAMBIA

ACT

No. 11 of 2002

Date of Assent: 31st December, 2002

An Act to establish the Road Transport and Safety Agency and to define its functions; to provide for a system of road safety and traffic management; to provide for the licensing of drivers and motor vehicles; to provide for the registration of motor vehicles and trailers; to provide for compulsory third party insurance of motor vehicles; to provide for the licensing and control of public service vehicles; to provide for the promotion of road safety; to provide for the regulation of road transport between Zambia and other countries with which Zambia has concluded cross-border road transport agreements; to provide for the implementation of the SADC Protocol on Transport, Communications and Meteorology, the Protocol on Third Party Motor Vehicle Insurance Scheme adopted by the Member States of COMESA and Protocols on transit trade and transit facilities; to repeal the National Road Safety Council Act, 1995 and to provide for matters connected with or incidental to the foregoing.

[31st December, 2002

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Road Traffic Act, 2002 and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commence-
ment

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

Interpretation

“ Agency ” means the Road Transport and Safety Agency established by section *three*

“ animal ” means any horse, cattle, ass, sheep, mule, pig, goat or dog;

“ appointed date ” means the date appointed by the Minister under section *one*;

Act No. 12
of 2002

- “ authorised officer ” means any police officer, road traffic inspector or member of staff of the Drug Enforcement Commission or of the Anti-Corruption Commission designated as authorised officers for the purposes of this Act and includes any other person declared by the Minister, by statutory order, to be an authorised officer;
- “ auto cycle ” means a bicycle which has pedals and a motor attached and can be propelled by means of such pedals and by mechanical or electrical power from such motor;
- “ axle weight ” has the meaning assigned to it in the Public Roads Act,
- “ bicycle ” shall include a tricycle;
- “ carriageway ” means that part of a road designed and constructed to be used for vehicular traffic or used or reasonably usable for the time being for that purpose, but shall not include a cycle track;
- “ Chairperson ” means the person appointed as Chairperson of the Agency under section *five*;
- “ COMESA ” means the Common Market for Eastern and Southern Africa;
- “ Committee ” means a committee of the Agency established under paragraph 5 of the First Schedule;
- “ construction vehicle ” means:—
- (a) a motor vehicle incorporating water-bring machinery, or construction machinery of the nature of a crane, grader, shovel, scraper, pipelayer, cable layer or of such other nature as may be prescribed; or
 - (b) any motor vehicle or class of motor vehicle which may, by regulation, be declared to be a construction vehicle;
- “ contract car ” means a motor vehicle primarily constructed or adapted for the carriage of passengers and having seating accommodation for more than seven persons other than the driver, which is let out on hire to a hirer who is to drive oneself or provide the driver for such motor vehicle;
- “ Council ” means the former National Road Safety Council established under the repealed Act,;
- “ customs clearance certificate ” shall have the meaning assigned to it by section *ten*;

Act No. 35 of
1995

- “cycle track” means a portion of a road exclusive of the carriage way set aside for use solely by persons riding bicycles;
- “Deputy-Director” means a person appointed as Deputy-Director under section *six*;
- “Director” means the person appointed as Director under section *six*;
- “driver”, in relation to a vehicle, means the person or persons having control of the steering apparatus thereof;
- “driving examiner” means any person appointed under the provisions of this Act to examine persons for driving licences;
- “fare” means the amount paid or payable for a passenger’s conveyance in a public service vehicle or for the hire of a whole passenger-carrying public service vehicle, and includes any sum paid or payable for the conveyance of luggage in excess of any free allowance and any other sums lawfully charged or chargeable by the owner of a public service vehicle or by that person’s representative in connection with the conveyance of a passenger in such vehicle;
- “footpath” means a portion of a road exclusive of the carriageway set aside for use solely by pedestrians;
- “Fund” means the National Road Fund established under the National Road Fund Act;
- “gate” means a gate of sufficient width to allow the reasonable free use of the road, having regard to the road traffic thereon, and of not less width than five metres, having a balance or catch or other free fastener so fixed as to enable the gate to move clear of the road from drag;
- “goods” include goods or burden of any description;
- “goods vehicle” means a motor vehicle constructed or adapted for use primarily for the carriage or haulage of goods or a trailer so constructed or adapted;
- “gridiron track” means a track constructed through an opening in a fence inter-secting a road, with the object of allowing the passage of vehicles and preventing the passage of livestock;
- “gross weight” means the net weight of a motor vehicle or trailer together with such weight of goods or passengers or both as the vehicle or trailer may be authorised in terms of this Act to carry;
- “heavy trailer” means a trailer exceeding three thousand six hundred kilogrammes gross weight;
- “heavy vehicle” means a motor vehicle exceeding three thousand six hundred kilogrammes, gross weight;

Act No. 13
of 2002

- “heavy goods vehicle” means a heavy vehicle, constructed or adapted for use of the carriage or haulage of goods, or a heavy trailer so constructed or adapted;
- “Highway Code” means the code comprising directions for the guidance of persons using roads issued under section *two hundred and thirty-one*;
- “hire car” means a public service vehicle having seating accommodation for not more than seven persons other than the driver which is let with a driver under contract over a period which is not less than twenty-four hours for the carriage of passengers otherwise than at separate fares;
- “identity card” means, in the case of a police officer, a certificate of appointment or other document issued by or on behalf of the Inspector-General of Police and, in the case of a road traffic inspector, a certificate of appointment or other document issued by or on behalf of the Director to enable the holder to be identified as a police officer or road traffic inspector, as the case may be;
- “inter-section” means the crossing of two or more roads;
- “Interpol” means the International Criminal Police Organisation;
- “Interpol Clearance Certificate” means a certificate issued by an Interpol officer under section *ten*;
- “intoxicating liquor” includes both intoxicating liquor as defined in the Liquor Licensing Act and traditional beers as defined in the Traditional Beer Act;
- “invalid carriage” means a mechanically propelled vehicle the weight of which unladen does not exceed two hundred and fifty kilogrammes and which is specially designed and constructed, and not merely adapted, for the use of persons with some physical disability and is used solely by such persons;
- “laden weight” means the net weight of a motor vehicle or trailer, together with the actual weight of goods or passengers or both carried by such vehicle or trailer;
- “licensing officer” means a person appointed by the Agency as licensing officer under section *two hundred and twenty-six*;
- “light trailer” means a trailer fitted with pneumatic tyres, the gross weight of which does not exceed nine hundred kilogrammes;
- “lighting-up time” means from sunset to sunrise;
- “local authority” means a city council, municipal council or district council established under the Local Government Act.

Cap 167
Cap 168

Cap 281

“local authority area” means the area for a city council, municipal council or district council;

“manufacturer’s permitted gross weight” means the weight that the manufacturer of a motor vehicle or trailer or that manufacturer’s representative certifies that such vehicle or trailer has been built to carry in addition to its own weight;

“member” means a member of the Agency, or a committee of the Agency;

“motor-cycle” means any motor vehicle—

(a) which is carried on two wheels only and includes any such motor vehicle with a sidecar or similar attachment, and an auto cycle; or

(b) which is carried on three wheels only, and is not capable of being driven backwards under its own power, and which does not exceed three hundred and twenty kilograms net weight;

“motor omnibus” means a public service vehicle, other than a hire car and a taxi cab, hired for conveying passengers for reward, whether at separate fares or otherwise;

“motor omnibus service” means a service for the carriage of passengers in a motor omnibus but, except as provided by section *one hundred and forty-three*, does not include the carriage of goods in, on or about any motor omnibus or any trailer attached thereto;

“motor vehicle” means any mechanically propelled vehicle intended for use, or capable of being used, on roads unless such vehicle shall have been specifically excluded by regulations from this definition;

“National Road Fund Agency” means the National Road Fund Agency established under the National Road Fund Act;

Act No. 13 of
2002

“narcotic drug” has the meaning assigned to it in the Narcotic Drugs and Psychotropic Substances Act;

Cap 96

“net weight” means the actual weight of a motor vehicle when unladen, but inclusive of the weight of the body, the full amount of water, fuel and accumulators which are normally carried or used for purposes of propulsion and the normal full equipment of loose tools and accessories, and in the case of a trailer, means the actual weight of the trailer when unladen but inclusive of the normal full equipment of loose tools and accessories;

“owner” means, in relation to a vehicle other than a registered motor vehicle or trailer, the person having habitual possession and control thereof and, in relation to a registered motor vehicle or trailer, the person in whose names the motor vehicle or trailer is registered:

Provided that in the case of a hire-purchase agreement, “owner” means the person in possession of the vehicle under that agreement;

“parcel” means any package not exceeding five kilogrammes in weight, and not exceeding one metre in length or two metres in length and girth combined;

“park” means to keep a vehicle, whether occupied or not, stationary for a period of time greater than is reasonably necessary for the actual loading or unloading of persons or goods except if such vehicle is stationary for a reason beyond the control of the person in charge of the vehicle, and “parking” shall have a corresponding meaning;

“pneumatic tyre” means a tyre composed of flexible material and when in use kept inflated at an air pressure than atmospheric pressure;

“prescribed” means prescribed by rules or regulations under this Act;

“private motor car” means a motor vehicle (other than a public service vehicle, motor cycle or contract car) constructed or adapted for use primarily for the carriage of passengers;

“public place” includes any public way or place, other than a building, to which for the time being the public are entitled or permitted to have access either with or without condition;

“public road” has the meaning assigned to it in the Public Road Act;

“public service vehicle” means a motor vehicle or trailer, other than a contract car hired for conveying passengers or goods or both or otherwise used for conveying passengers or goods or both for reward:

Provided that for the purposes of this definition—

(a) a hire-purchase agreement shall be deemed to be a hiring; and

(b) goods shall be deemed to be carried for hire or reward if the person who has purchased or otherwise

acquired such goods from some other person transports them to any other place, and resells or otherwise disposes of them to the person from whom that person purchased or otherwise acquired them;

- “repealed Act” means the National Road Safety Council Act; Act No. 35 of 1995
- “road” has the meaning assigned to it in the Public Roads Act; Act No. 12 of 2002
- “road authority” means the authority responsible for the construction, care and maintenance of any road or class of road in accordance with the provisions of the Public Roads Act; Act No. 12 of 2002
- “road reserve” has the meaning assigned to it under the Public Roads Act; Act No. 12 of 2002
- “road traffic inspector” means any person appointed as such under section *two hundred and twenty-six*, by the Agency;
- “SADC” means the Southern African Development Community;
- “structure” includes—
- (a) any building, pole, power line, petrol pump, machinery, wall, plantation or hedge and any other object which could in like manner cause obstruction; and
 - (b) any external alteration or addition to a structure;
- “taxicab” means a public vehicle having seating accommodation for not more than seven persons other than the driver which is let with a driver over a period of less than twenty-four hours for the carriage of passengers otherwise than at separate fares;
- “tonne” means one thousand kilogrammes;
- “tractor” means a motor vehicle which is used for the purpose of drawing one or more trailers, but which is not itself designed to carry any load;
- “traffic” includes vehicles, pedestrians, processions and bodies of troops, and all animals being ridden, driven or led;
- “trailer driver” means the person driving the vehicle by which the trailer is being drawn, and in respect of an animal drawn vehicle, means the person driving the animals, and “drive” has a corresponding meaning;

“Tribunal” means the Road Service Appeal Tribunal established under section *one hundred and eleven*;

“vehicle” includes any engine, wagon, dray, cart, carriage, bicycle, or other means of carrying goods or persons by land, having two or more wheels, whether drawn or propelled by human, animal, steam electric or other power; and

“vehicle examiner” means any person appointed by the Agency as vehicle examiner under section *two hundred and twenty-six*

PART II

THE ROAD TRANSPORT AND SAFETY AGENCY

Establishment
of Agency

3. (1) There is hereby established the Road Transport and Safety Agency which shall be a body corporate with perpetual succession and a common seal, capable of suing, and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may, by law, do or perform.

(2) The provisions of the First Schedule shall apply to the Agency.

Functions
and Powers
of Agency

4. (1) Subject to the other provisions of this Act the functions of the Agency shall be—

- (a) to implement policy on road transport, traffic management and road safety;
- (b) to register motor vehicles under the Act;
- (c) to issue licences and permits under the Act;
- (d) to pay out such percentage of money into the Road Fund from revenues payable under this Act in respect of fees for licences, permits and concessions granted and registration fees, as the Minister shall, after consultation with the Minister responsible for finance and national planning and the Agency, by regulations, prescribe;
- (e) to conduct road safety education and, through publicity campaigns, undertake and assist in the dissemination of information on road safety for the benefit of all sections of the community;
- (f) to coordinate road safety programmes;
- (g) to approve road safety programmes undertaken by, any person, body or institution:

Provided that no person, body or institution shall, without the prior approval of the Agency, undertake any road safety programme;

- (h) in conjunction with local authorities, to formulate and conduct programmes designed to promote road safety;
 - (i) to make contributions towards the cost of programmes for promoting road safety undertaken by other authorities or bodies; and
 - (j) to carry out such other activities as are necessary or conducive to the performance of its functions under this Act.
- (2) Without prejudice to the generality of subsection (1) and in pursuance of their functions under that subsection the Agency shall—
- (a) conduct studies on accidents arising out of the use of vehicles on roads;
 - (b) in the light of those studies recommend to the Government new road safety measures and proposals for road safety policy, taking into account technological development, legal requirements and social and economic conditions;
 - (c) review and publish reports on the effectiveness of road safety operations conducted by the police officers and road traffic inspectors;
 - (d) in consultation with the Road Development Agency, established under the Public Roads Act, establish road safety standards to be observed in the construction of roads and during the maintenance of such roads;
 - (e) in partnership with the Curriculum Development Centre develop a road safety curriculum to be used in schools in Zambia;
 - (f) provide guidelines for the safe use of public roads, speedways and racecourses by motor clubs;
 - (g) set the minimum specification for vehicles so as to comply with road safety standards;
 - (h) review and publish reports on safety measures that may be considered by the Road Development Agency during the planning, designing and building of new roads and the upgrading of existing roads in order to promote orderly traffic flow and the creation of road safety consciousness amongst all road users;

Act No. 12
of 2002

- (i) review and publish standards of road fitness that vehicles shall comply with in order to be fit to be driven on the roads;
- (j) undertake periodic reviews of existing road traffic and road safety legislation with a view to advising the Government with regard to all necessary amendments;
- (k) revise and recommend to the Minister the upgrading of the Highway Code, where necessary;
- (l) formulate and update the training programmes required for driving instructors and driving schools; and
- (m) affiliate to, and liaise with, road safety organisations in other countries, on road safety education, information and materials.

(3) Notwithstanding the other provisions of this section the Agency may, by direction in writing and subject to such conditions as it thinks fit, delegate to any member, committee or the Director any of its functions under this Act.

Composition
of Agency

5. (1) The Agency shall consist of the following part-time members who shall be appointed by the Minister:

- (a) a representative of the Pensions and Insurance Authority;
- (b) a representative of the Passengers, Pedestrians and Cyclists Association;
- (c) a representative of persons with disabilities recommended by the ministry responsible for community development and social welfare;
- (d) a representative of the Chartered Institute of Transport;
- (e) a representative of passenger transport association;
- (f) a representative of the truckers associations;
- (g) a representative of the Medical Council of Zambia;
- (h) a representative of the Attorney-General;
- (i) a representative of the ministry responsible for communications and transport;
- (j) a representative of the ministry responsible for home affairs;
- (k) the Director of the Road Development Agency;
- (l) the Director of the National Road Fund Agency established under the National Road Fund Act; and
- (m) one other person.

(2) The members referred to in paragraphs (a) to (j) of subsection (1) shall be nominated by their respective organisations ministries.

(3) The Director of the Road Development Agency and the Director of the National Road Fund Agency referred to in paragraphs (k) and (l) of subsection (1) shall be *ex-officio* members of the Agency and shall have no vote.

(4) The Chairperson shall be appointed by the Minister.

(5) The Vice-Chairperson shall be elected by the members of the Agency from among their number.

(6) The Agency shall report to the Committee of Ministers on Road Maintenance Initiative at such times and at such places as the Minister may determine.

(7) The Committee of Ministers referred to in subsection (6) shall comprise the Minister responsible for communications and transport who shall be the Chairperson, the Minister responsible for works and supply who shall be the Vice-Chairperson, and the Ministers responsible for finance and national planning, local government and housing, energy and water development, agriculture and co-operatives, tourism, environment and natural resources and legal affairs.

(8) A person shall not be appointed as a member of the Agency if the person—

(a) is an undischarged bankrupt;

(b) has been convicted of an offence under this Act;

(c) has been convicted of an offence involving fraud or dishonesty;

(d) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six months without the option of a fine.

6. (1) Subject to subsection (2), the Agency shall, with the approval of the Minister, appoint a Director on such terms and conditions as it may, with the approval of the Minister, determine, who shall be the chief executive officer of the Agency and who shall, subject to the control of the Agency, be responsible for the day to day administration of the Agency.

(2) The Director shall attend the meetings of the Agency and any committee of the Agency and may address such meetings, but shall have no vote.

(3) The Director shall be the Secretary to the Agency.

Director,
Secretary
and other
staff

- (4) The Agency shall appoint—
- (a) a deputy director who shall be responsible for road transport; and
 - (b) a deputy director who shall be responsible for road safety.
- (5) The Deputy Directors referred to in subsection (4) shall—
- (a) assist the Director in the performance of the Director's duties under this Act; or
 - (b) discharge the functions of the Director if the Director is absent or is for any other reason unable to discharge the functions of the Director's office.
- (6) The Agency may, on such terms and conditions as it may, with the approval of the Minister determine, appoint such other staff for the Agency as it considers necessary for the performance of its functions under this Act.

PART III

REGISTRATION OF MOTOR VEHICLES AND TRAILERS

Motor
vehicle and
trailer
registers

7. (1) The Director shall keep registers of motor vehicles and trailers, and may upon payment of the prescribed fee, supply to any person applying for a copy of such entries as that person shows has reasonable cause to require:

Provided that no fee shall be payable when the person to whom copies are supplied is an officer of the Government or a local authority acting in an official capacity.

(2) Separate registers shall be kept by the licensing officer in any locality as directed by the Director.

(3) A licensing officer shall, within fourteen days, forward to the Director a copy of every entry made in that officer's register.

(4) Any licensing officer shall, upon application being made to that officer by any other licensing officer, supply a copy of entries in that officer's register relating to any motor vehicle or trailer specified in such application.

(5) A licensing officer shall allow any authorised officer to inspect that officer's licensing register at any time and shall permit the authorised officer to take a copy of any entry in the register relating to any specified motor vehicle or trailer.

(6) A licensing officer may supply to any other person applying for a copy of the entries relating to any specified motor vehicle or trailer a copy of these entries on payment of the prescribed fee, where the person shows that there is reasonable cause for requiring such a copy:

Provided that no fee shall be payable when the person to whom the copies are supplied is an officer of the Government or a local authority acting in an official capacity.

8. (1) On the recommendation of the Agency, the Minister may, by regulation, provide for re-registration of motor vehicles or trailers on a date being not less than ten years after the previous re-registration of motor vehicles or trailers.

Registration

(2) Notwithstanding subsection (1), any person who has been issued with a registration book for a motor vehicle or trailer under this Act shall surrender such registration book to the licensing officer who shall, upon payment of the prescribed fee by such person re-register that motor vehicle or trailer and issue that person with a new registration book.

9. (1) Any extract from a register or other records kept in terms of this Act or any regulation made under it shall, if it purports to be certified to be a true extract by the officer having custody or control of such register or records, be received in any court on production by any person and without further proof as *prima-facie* evidence of the facts therein stated.

Registers, etc.,
to be accepted
as evidence

(2) The registration document of any motor vehicle or trailer shall be received in any court on production by any person and without further proof as *prima-facie* evidence of the facts stated in the registration document.

10. (1) Notwithstanding the other provisions of this Act, where a motor vehicle is imported into Zambia, the owner or person in charge of the motor vehicle shall produce, to a Customs Officer at a port of entry, a declaration under the Customs and Excise Act in respect of the motor vehicle.

Motor vehicle
to be cleared
by Customs
and Interpol

Cap. 322

(2) Where a declaration or certificate is produced under subsection (1) the officer shall upon being satisfied that it complies with the Customs and Excise Act, issue a Customs Clearance Certificate.

Cap. 322

(3) The motor vehicle together with the Customs Clearance Certificate issued under subsection (2) shall be presented to an Interpol Officer at the port of entry or if the Interpol office is at Lusaka or at a place of some considerable distance from the port, the owner or person in charge of the motor vehicle shall, within thirty days of declaring

that vehicle to the Customs Division, present the vehicle to an Interpol Officer for verification of the engine number, the chassis number, colour and any other identification of the motor vehicle and the officer shall, if satisfied with the authenticity of the motor vehicle issue an Interpol Clearance Certificate.

(4) Where a motor vehicle is acquired in Zambia, the person who acquires the motor vehicle shall, within thirty days of the acquisition, present the vehicle together with the letter of sale, the change of ownership certificate and the registration document of the motor vehicle or ownership certificate at the Zambia Police Headquarters for Interpol clearance.

(5) A person who fails to comply with subsection (1), (3) or (4) or who presents a false declaration to a Customs Division Officer commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Registration
of motor
vehicles and
trailers

11. (1) Subject to the other provisions of this Act, no person shall use a motor vehicle or trailer unless such vehicle or trailer is registered in accordance with the provisions of this Act.

(2) An application for the registration of a motor vehicle or trailer shall be made by the owner on the prescribed form within fourteen days of change of ownership into the applicant's name.

(3) The licensing officer to whom such application is made shall assign to the motor vehicle or trailer a registration mark and number containing such feature as the Minister may, on the recommendation of the Agency, by statutory instrument, prescribe and such registration mark and number shall not be transferable on the sale or disposal of the motor vehicle or trailer:

Provided that—

(a) a motor vehicle or trailer shall not be registered unless the applicant produces—

(i) in the case of vehicles wholly manufactured or assembled in Zambia, a certificate of local manufacture or assembly; or

(ii) in any other case, a Customs Clearance Certificate;
and

(b) a motor vehicle or trailer shall not be registered unless it complies with the provisions of this Act and of any regulations made under it with regard to the maximum limits

permitted for axle weights, gross weight, height, length and width of motor vehicles or trailers or unless it shall have been exempted by the Director appointed under the Public Roads Act from compliance with such limits.

Act No. 12
of 2002

(4) Notwithstanding the other provisions of this section, all motor vehicles shall be registered using the series of registration marks ending with ZM from such a date as the Minister may, by statutory instrument, appoint.

(5) For the purposes of subsection (3):—

(a) a “Customs Clearance Certificate” means a certificate given by or on behalf of the Commissioner, Customs and Excise, of the Zambia Revenue Authority setting out particulars of ownership and of the motor vehicle or trailer and such other particulars as may be prescribed and certifying that all customs formalities have been complied with in respect of the said motor vehicle or trailer; and

(b) “certificate of local manufacture or assembly” means a certificate given by or on behalf of the manufacturer or assembler of the motor vehicle or trailer, or trailer setting out particulars of the motor vehicle or trailer, the name of the manufacturer or assembler and such other particulars as may be prescribed and certifying that the motor vehicle or trailer has been wholly manufactured or assembled in Zambia.

(6) A licensing officer may, in accordance with such procedure or such conditions as may be prescribed, on the request of any person and on payment of the prescribed fee, assign to a motor vehicle or trailer owned by that person a particular registered letter or letters and number which shall become the registration mark of such motor vehicle or trailer.

(7) The owner of every motor vehicle or trailer shall, upon its registration, pay the fee prescribed for registration and shall obtain from the licensing officer a registration document containing such particulars as may be prescribed.

(8) Whenever it appears to the satisfaction of a licensing officer that—

(a) the registration document issued to any person has been lost or destroyed;

(b) the essential particulars of the registration document have been defaced;

(c) the registration document is in a state of dilapidation; or

(d) that space on the registration document is lacking for essential particulars;

the licensing officer shall, on payment of the prescribed fee, issue a duplicate of the registration document with the word "duplicate" written thereon:

Provided that, where there is no space available in a registration document for further essential particulars, no fee shall be charged for the issue of a duplicate.

(9) Before a duplicate registration document is issued on account of defacement, dilapidation, or lack of space for essential particulars, the old registration document shall be submitted to the licensing officer.

(10) If a motor vehicle or trailer does not bear a registration mark as provided by this section, this fact shall be regarded as *prima facie* evidence that the motor vehicle or trailer has not been registered and a police officer or road traffic inspector may detain the vehicle or trailer until inquiries have been made.

(11) The onus of proving that the motor vehicle or trailer has been registered rests upon the owner of the vehicle or trailer.

(12) The owner of a motor vehicle or trailer shall notify the licensing officer of the District in which the motor vehicle or trailer is registered of every change of address and of any other circumstances or event which affects the accuracy of the entries in the register, and shall at the same time forward the registration document for amendment.

(13) The Director and any licensing officer may request any owner of a motor vehicle or trailer at any time to furnish information required for the verification of the entries in the register.

(14) Any person who fails to comply with the provisions of subsections (1) to (13) commits an offence and shall be liable, upon conviction, in the case of a first offence to a fine not exceeding one thousand penalty units and in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units.

Sale or
transfer of
motor vehicle

12. (1) A person shall at the time of the sale or delivery of a motor vehicle furnish to the purchaser a letter of sale and change of ownership certificate effecting the sale.

(2) A person shall, at the time of transfer or delivery of a motor vehicle, furnish to the person to whom the motor vehicle is transferred or delivered a change of ownership certificate effecting the transfer.

(3) A letter of sale or change of ownership certificate effecting the sale or transfer of ownership of a motor vehicle under subsection (1) or (2) shall be in the prescribed form specifying—

(a) in the case of a seller or transferor, the seller or transferor's full names and physical address; or

(b) in the case of a motor dealer, the motor dealer's full names, business name and address;

and affirming that the motor vehicle in question has been lawfully sold or transferred to the purchaser or transferee, and the letter of sale or change of ownership shall be duly signed or endorsed by the seller, transferor, or motor dealer.

(4) A person who contravenes subsection (1) or (2) commits an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a period not exceeding three years, or to both.

13. (1) On the change of ownership of a motor vehicle or trailer otherwise other than by death—

Change of
ownership

(a) the registered owner shall, within fourteen days, inform the licensing officer of the District in which the motor vehicle or trailer is registered in writing of the name and address of the new owner, and the date of the change of ownership of the motor vehicle or trailer and shall deliver that person's motor vehicle or trailer's registration document and licence to the new owner;

(b) the new owner shall, within fourteen days, deliver the registration document to the licensing officer who shall register the new owner:

Provided that where a person is under the provisions of section *fourteen* entered in the register of the licensing officer and in the registration document as the absolute owner of a motor vehicle or trailer, the licensing officer shall consult that person before registering a person as the new owner of such motor vehicle or trailer.

(2) An application for registration of a new owner may be made before the actual transfer of the motor vehicle or trailer, but the registration of the new owner shall not be effective until the registration

document has been surrendered to, and re-issued by, the licensing officer.

(3) On the death of the registered owner of a motor vehicle or trailer, the person who has custody of the motor vehicle or trailer shall, within fourteen days of its coming into that person's custody, give notice of the fact to the licensing officer of the District in which the motor vehicle or trailer is registered.

(4) Subsections (1) and (2) shall not apply to any change of ownership of a motor vehicle or trailer which occurs by reason of the motor vehicle or trailer being unlawfully seized under a hire-purchase agreement, but in such circumstances the following provisions shall apply:

- (a) the registered owner or the owner's representative shall, within seven days of the seizure, deliver the motor vehicle or trailer licence and the registration document to the person who seized the motor vehicle or trailer and inform the licensing officer in writing of the change of ownership;
- (b) the person who seizes the motor vehicle shall, within seven days of receiving the motor vehicle or trailer licence and the registration document, apply to the licensing officer to be registered as the owner thereof in place of the registered owner and shall be registered accordingly unless the licensing officer thinks it fit to order otherwise;
- (c) the licensing officer shall, if the licensing officer is satisfied that the person whose name has been entered in the register and registration document under section *fourteen* as the absolute owner of the motor vehicle or trailer, is unable within seven days of the seizure, to procure the motor vehicle or trailer licence and the registration document from the registered owner or the registered owner's representative, supply such person on request with duplicate copies of the licence document and such person shall be deemed to be the registered owner and the licensing officer shall accept that person's signature as such until the next change of ownership is effected.

(5) Subject to the provisions of subsection (4), any change of ownership of any motor vehicle or trailer not notified in writing to the licensing officer of the District in which the motor vehicle or trailer is registered may render the vehicle or trailer liable to be impounded by any road traffic inspector in uniform or by any police officer.

(6) Notwithstanding any other provisions in this section, where the holder of motor dealer's vehicle licence acquires the ownership of a motor vehicle or trailer by way of purchase, or otherwise, for the purpose of resale, the procedure to be followed regarding the registration of the change of ownership shall be prescribed.

(7) On the registration of a new owner, the licensing officer shall charge the prescribed fee, make necessary alterations to the registration document or issue a new registration document, and shall deliver the altered or new registration document to the new registered owner as the case may be.

14. (1) Where the person entitled to the possession of a motor vehicle or trailer is not the absolute owner of the vehicle, but is registered as the owner of the vehicle, any person claiming to be the absolute owner of the vehicle (hereinafter called the "claimant") may apply to the licensing officer of the District in which the motor vehicle or trailer is registered to enter that person's name in the register, and in the registration document of the motor vehicle or trailer as the absolute owner in addition to the name of the registered owner.

Position of registered owner who is not absolute owner

(2) On receipt of the application referred to in subsection (1), the licensing officer shall make such inquiries into the matter as the licensing officer considers necessary and shall, depending on the officer's findings, enter the name of the absolute owner or refuse such entry:

Provided that any person aggrieved by such a decision may, within thirty days, appeal to the Director.

(3) Where a decision made in accordance with subsection (2) requires that the name of the claimant be entered in the registration document, the registered owner shall produce the document for the entry to be made upon being required to do so.

(4) When any person whose name has been entered in the register and registration document as the absolute owner of a motor vehicle or trailer ceases to be the absolute owner, that person shall inform the licensing officer who shall thereupon delete the entries:

Provided that the licensing officer may delete the entries otherwise than upon the information given by the claimant, if the officer is satisfied that the person has ceased to be the absolute owner of the vehicle or trailer.

15. (1) Every owner of a motor vehicle or trailer shall, if so required by the Director or a licensing officer, furnish such evidence to the Director or licensing officer in regard to the net weight and maximum weight, including—

Furnishing evidence of weight and dimensions of motor vehicle or trailer

(a) the weight that the manufacturers of the motor vehicle or trailer state that such vehicle or trailer has been built to carry; and

(b) the recommended distribution of the weight over the several axles of the vehicle and the height, length and width of the motor vehicle or trailer,

and any person who fails to comply with any such requirement commits an offence.

(2) The Director or a licensing officer may require—

(a) any dealer in motor vehicle or trailer to furnish a sworn declaration specifying the net weight, maximum weight, including the weight, that the manufacturer of the motor vehicle or trailer state that such vehicle or trailer has been built to carry, including the recommended distribution of such weight over the several axles of the motor vehicle or trailer, and the height, length and width of any motor vehicle trailer sold by the dealer; and

(b) any builder of motor vehicle or trailer bodies to furnish such a declaration concerning the weight and dimensions of any such body built by the dealer.

(3) Any dealer or builder who fails to comply with the requirement under subsection (2) commits an offence.

(4) Any applicant for a registration document or for a duplicate licence or for a duplicate of such document or licence or any other person required in terms of the provisions of this section to give any information, who wilfully gives false, misleading or inaccurate information commits an offence, and shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding twenty-five thousand penalty units and, in the case of second or subsequent offence, to a fine not exceeding fifty thousand penalty units.

Temporary
registration
card

16. (1) Any person who becomes the owner of a motor vehicle or trailer which is not registered or licensed in terms of this Act, and who wishes to take the motor vehicle or trailer for registration from the District in which the person resides or carries on business, may apply on the prescribed form to the licensing officer of the District from which such person acquired such motor vehicle or trailer.

(2) The licensing officer on receipt of the application referred to in subsection (1) and of the prescribed fee, and if satisfied that there is in force in respect of the use of the motor vehicle or trailer a policy of

insurance which complies with the requirements of section *eighty-eight*, and which policy shall be valid for the whole period during which such vehicle or trailer may be used with temporary registration cards attached to it, shall issue the applicant two temporary registration cards on the prescribed form which shall be valid for a period of fourteen days from the date of issue or for such lesser period as may be specified on the temporary registration card.

(3) A person to whom temporary registration cards have been issued in terms of this section shall—

(a) cause the temporary registration cards to be affixed to the motor vehicle or trailer in respect of the cards which were issued, in such position as may be prescribed;

(b) on or before the date of expiry of the period of validity of the temporary registration cards or on registration of the motor vehicle or trailer under this Act, whichever is the earlier, surrender the temporary registration cards to the licensing officer of the District in which the person resides or carries on the person's business.

(4) Notwithstanding the provisions of subsection (2), a licensing officer may refuse to issue temporary registration cards for any vehicle or trailer that does not comply with the provisions of this Act and of the regulations made under it with regard to the maximum limits permitted for axle weights, gross weight, height, length and width of motor vehicles or trailers unless such vehicle or trailer shall have been exempted by the Director of the Road Development Agency from compliance with such limits.

17. Temporary registration cards shall specify such particulars as may be prescribed.

Details required for temporary registration

18. The licensing officer when issuing temporary cards shall endorse on the application form relating to the temporary cards such particulars as may be prescribed.

Particulars to be endorsed on application forms

19. A motor vehicle or trailer shall be deemed to be registered and licenced under this Act and a registration document shall be deemed to have been issued under this Act for a motor vehicle or trailer if valid temporary registration cards in respect of the motor vehicle or trailer are attached to it in the prescribed position.

Motor vehicle or trailer deemed to be registered, etc.

20. (1) Before registering any motor vehicle or trailer, the licensing officer shall verify all the particulars entered on the application form and may, if the licensing officer considers it necessary, order that any such vehicle or trailer be taken to a vehicle examiner to be examined

Special examination of motor vehicles and trailers

for the purpose of ensuring that it is of such construction and in the condition as complies with the requirements of this Act and of the regulations made under it.

(2) A licensing officer shall, in respect of any motor vehicle or trailer which the officer has reason to believe is not in a fit and proper condition or state of repair, or does not conform with the provisions of this Act or any regulations made under it, have the power to order that the motor vehicle or trailer be taken to a vehicle examiner for examination.

(3) Where a vehicle examiner on examining a motor vehicle or trailer sent to the vehicle examiner under the provisions of subsection (1) or (2), or submitted to the vehicle examiner pursuant to a prohibition under paragraph (f) of subsection (1) of section *two hundred and twelve*, finds that the motor vehicle or trailer, does not comply with the provisions of any law in regard to construction and equipment applicable to such motor vehicle or trailer the vehicle examiner shall make a full list (hereinafter called a "defects list") of all defects found and shall give the owner of the vehicle or trailer a copy of the defects list and shall notify the owner of the date (hereinafter called the "notified date") by which the defects must be remedied and the vehicle or trailer produced for re-examination.

(4) If, upon re-examination of a motor vehicle or trailer under the provisions of this section to ascertain whether the defects in a defects list have been remedied, the vehicle examiner finds any further defects the vehicle examiner shall require, in the manner set forth in subsection (3), the owner to remedy the defects.

(5) If a motor vehicle or trailer is not produced for re-examination on the notified date or if the defects have not been remedied on the notified date, or if, upon examination of a motor vehicle or trailer under the provisions of this section, it is considered necessary in the interest of safety, a vehicle examiner may prohibit the use of such motor vehicle or trailer, or issue such other directions as the examiner may think necessary restricting its use.

(6) Any order made under subsection (5) and any prohibition of the use of motor vehicle or trailer under paragraph (f) of subsection (1) of section *two hundred and twelve* may be cancelled or revoked by the vehicle examiner as soon as the defects of such vehicle or trailer have been remedied to such an extent that in the vehicle examiner's opinion the motor vehicle or trailer may safely be used on a road.

(7) When all the defects listed have been remedied to the vehicle examiner's satisfaction, the vehicle examiner shall cancel the defects list and, if the examination was made under the provisions of subsection (1), the vehicle examiner shall inform the licensing officer that the vehicle examiner has cancelled the defects list.

(8) On each examination of a motor vehicle or trailer as provided in this section, and on any subsequent examination for the purpose of ensuring that defects in a defects list have been remedied the prescribed fee shall be paid by the owner of a vehicle or trailer, and the fees shall be allocated in the prescribed manner:

Provided that no fee shall be payable for re-examination for the purpose of ascertaining whether defects have been remedied and no fee shall be payable for an examination pursuant to a prohibition under paragraph (f) of subsection (1) of section *two hundred and twelve*.

(9) If any owner of a motor vehicle or trailer is aggrieved by any decision of a vehicle examiner, the owner may appeal to the Director who may vary or cancel the requirements of the vehicle examiner or dismiss the appeal.

(10) Any person who fails to comply with or who disobeys any order made by a licensing officer under subsection (1) or (2) commits an offence.

(11) Any person who fails to comply with or who disobeys any order made by a vehicle examiner under subsection (5) commits an offence and shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding five hundred penalty units, and in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units.

21. (1) The Minister may, on the recommendation of the Agency, by regulation, make provision for examination of motor vehicles and trailers submitted for examination under this section and for the issue, where it is found on such an examination that the requirements are complied with, or a certificate (hereinafter referred to as a "test certificate") that at the date of the examination the said requirements were complied with in relation to the motor vehicle or trailer so examined.

Test of
satisfactory
conditions of
motor
vehicles and
trailers

(2) Where a test certificate is refused, the vehicle examiner shall issue a notification of the refusal stating the ground thereof, and any person aggrieved by the refusal may appeal to the Director within thirty days; and on any appeal the Director shall cause a further examination to be made and either issue a test certificate or confirm the notification earlier issued by the vehicle examiner.

(3) The Minister may, on the advice of the Agency, by statutory instrument, make regulations for the purpose of giving effect to the provisions of this section and for prescribing anything authorised by this section to be prescribed and in particular as to:

- (a) the establishment and maintenance of stations where examinations under this section may be carried out and the provisions and maintenance of apparatus for carrying out such examination;
- (b) the manner in which the conditions under which the inspection of premises at which apparatus with which the examinations are being, or are to be carried out;
- (c) the manner in which applications for, or notices of examinations due under this section are to be made, the manner in which appeals may be brought under subsection (2), the information to be supplied and documents to be produced on such application, examination or appeal, and the repayment of the whole or part of the fee paid on such an appeal where it appears to the Director that there were substantial grounds for contesting the whole or part of the decision appealed against;
- (d) the form of, and particulars to be contained in, test certificates, their display and production on demand to police officers or road traffic inspectors, and the form of notification or a refusal to issue a test certificate;
- (e) the issue of duplicates or test certificates lost or defaced, and the fees to be paid for their issue;
- (f) the keeping by vehicle examiners or registers of test certificates, and the inspections of such registers by such persons and in such circumstances as may be prescribed; and
- (g) the keeping by the vehicle examiners of such other records as may be prescribed and the furnishing by them of returns and information to the Director.

(4) Regulations under this section may make different provisions in relation to different motor vehicles and trailers or classes of motor vehicles and trailers.

Certificate of
examination
to be
admissible in
evidence

22. If in any proceedings under this Act any question arises whether a motor vehicle or trailer does or does not comply with any provision of this Act or any regulation made under it, a certificate purporting to be signed by any person appointed by *Gazette* notice, by the Agency, to act as a vehicle examiner for the purposes of this Act, that such person has examined the vehicle or trailer and as to the result of the

person's examination, shall be admissible in evidence and shall be *prima facie* evidence of any fact or opinion stated therein relating to the matter in question without calling as a witness the person who purports to have signed such certificate:

Provided that any person against whom the evidence of such certificate is sought to be used shall have the right to object to the admissibility of such certificate as evidence unless the person who purports to have signed it is called as a witness.

23. (1) Any person who uses a motor vehicle or trailer on a road at any time or causes or permits to be used a motor vehicle or trailer to which this section applies and in respect of which no test certificate has been issued within the appropriate period commits an offence and shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding seven hundred and fifty penalty units, and in the case of a second or subsequent offence, to a fine not exceeding one thousand five hundred penalty units.

Obligatory
test certificate

(2) Notwithstanding the provisions of subsection (1), any motor vehicle or trailer on which no test certificate is displayed may be impounded by any road traffic inspector in uniform or by a police officer.

(3) The motor vehicles and trailers to which this section applies at any time shall be such as the Minister, on the recommendation of the Agency, may, by statutory notice, determine.

(4) The Minister may, on the recommendation of the Agency, by regulation exempt from subsection (1) and (2)—

(a) the use of motor vehicles or trailers for such purposes as may be prescribed; and

(b) the use of motor vehicles or trailers in any such road as may be prescribed.

(5) The Minister may, on the recommendation of the Agency, by regulation provide that, where application is made under section *thirty-five* for a licence of a motor vehicle or trailer to which this section applies, licence shall not be granted except after—

(a) the production of such evidence as may be prescribed of the granting of an effective test certificate or (if it is so prescribed) the production of such a certificate; or

(b) the making of such a declaration as may be prescribed that the motor vehicle or trailer is not intended to be used during the period for which the licence is to be in force except

for a purpose prescribed under subsection (3) or in an area or on a road prescribed under subsection (4).

(6) In paragraph (a) of subsection (5), the expression “effective test certificate” means in relation to an application for a licence for a motor vehicle or trailer a test certificate relating to the motor vehicle or trailer and issued within the appropriate period before the date from which the licence is to be in force.

(7) In this section “appropriate period” means a period of twelve months or such shorter period as may be prescribed.

(8) Where within the appropriate period after the issue of a test certificate, but not earlier than one month before the end of the period, a further test certificate is issued in respect of the same motor vehicle or trailer, the further certificate shall be treated for the purposes of this section as if issued at the end of the said appropriate period.

(9) For the purposes of spreading the work of issuing certificates in anticipation of the coming into operation of this section or of a change in the length of the appropriate period—

(a) the order appointing a day for coming into operation of this section may appoint different days in respect of different motor vehicles, trailers or classes of motor vehicles or trailers;

(b) the regulations changing the length of the appropriate period may be made so as to come into operation on different days in respect of different motor vehicles, trailers or classes of motor vehicles or trailers.

Provisions
not appli-
cable to
which Part
IX applies

24. The provisions of subsections (2), (3), (4), (5) and (6) of section *twenty*, *twenty-one* and *twenty three* shall not apply in relation to any motor vehicle or trailer to which the provisions of Part IX apply.

Destruction
or permanent
removal of
motor vehicle
or trailer
from Zambia

25. (1) When any motor vehicle or trailer is broken up, destroyed or permanently taken out of Zambia, the person who at the material time is the owner of such motor vehicle or trailer shall, within fourteen days, notify the licensing officer of the District in which the vehicle or trailer is registered and shall deliver up the registration document to the licensing officer.

(2) The licensing officer may on receipt of such information and the registration document assign the registration mark of such motor vehicle or trailer to any other motor vehicle or trailer subsequently registered by that officer.

(3) Where a motor vehicle or trailer has not been licensed or exempted from being licensed, for a consecutive period of five years, its registration shall be cancelled by the licensing officer of the District in which it is registered, and its registration mark may be assigned to any motor vehicle or trailer subsequently registered by such licensing officer and a registration so cancelled shall be of no effect.

26. The following classes of motor vehicles or trailers shall be exempt from the need for registration:

Exemption
from
registration

- (a) motor vehicles or trailers in the possession of manufacturers of, or dealers in, motor vehicles or trailers, but subject to such provisions as the motor dealer's vehicle licences as may appear hereinafter;
- (b) motor vehicles or trailers brought into Zambia by visitors, whether used under the authority of an international certificate or not, and exempted from registration in accordance with any regulation made under this Act;
- (c) trailers used exclusively for agriculture purposes and not used on any public road; or
- (d) any other motor vehicle or trailer as may, by regulation, be exempted from registration.

27. (1) There shall be fixed and maintained on every motor vehicle and trailer in such a manner as may be prescribed the registration mark and number referred to in subsection (3) of section *eleven*.

Registration
marks

(2) When a motor vehicle is being used to tow a trailer or trailers, its registration mark shall also be fixed at the rear of such trailer or, if there is more than one trailer, at the end of the last trailer, in such manner as may be prescribed.

(3) No other figures, letters or designs may be placed on or within such distance as may be prescribed from a registration mark lawfully fixed on a motor vehicle in terms of this section.

28. (1) A person who manufactures a registration mark and number shall obtain a permit from the Director and comply with such terms and conditions as the Director may determine.

Prohibition of
manufacture
of number
plates
without serial
number

(2) Any person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Offences in
connection
with
registration
marks

29. (1) If the registration marks and numbers to be fixed and maintained in accordance with this Act and regulations made under it are so fixed and maintained and, are in anyway obscured or rendered or allowed to become not easily distinguishable, the person driving the motor vehicle or trailer and its owner commits an offence, and shall be liable, upon conviction, in the case of a first offence to a fine not exceeding seven hundred penalty units, and in the case of a second or subsequent offence, to a fine not exceeding one thousand five hundred units:

Provided that a person shall not be convicted of an offence under this section if in the case of a prosecution for obscuring a mark or rendering or allowing it to become not easily distinguishable, the person proves that the person has taken all steps reasonably practicable to prevent the mark from being obscured or rendered not easily distinguishable.

(2) A person who knowingly drives or is in charge or control of motor vehicle which bears a false registration mark commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment not exceeding five years, and in the case of a second subsequent offence, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding ten years, or both.

(3) Notwithstanding anything contained in subsection (1), any motor vehicle or trailer having false registration marks and numbers affixed may be impounded by any road traffic inspector in uniform or by any police officer.

PART IV

VEHICLE LICENSING

Vehicles to be
licensed

30. (1) No person shall use, or being the owner shall cause or permit to be used upon a road, any motor vehicle or trailer unless there is in force in relation to that vehicle or trailer a licence issued in accordance with the provisions of this Part, and no person shall use or cause or permit to be used a motor vehicle or trailer for a purpose not authorised by, or in contravention of any condition or other provision contained in any licence in force in relation to such motor vehicle or trailer under this Part.

(2) Any person who contravenes the provisions of subsection (1) commits an offence, and shall be liable, upon conviction, to a fine not

exceeding treble the amount of tax payable on an annual licence for the motor vehicle concerned:

Provided that a person shall not be convicted of an offence under this section by reason of not holding a valid licence if that person proves that such person has not had a reasonable opportunity of obtaining such licence and that the vehicle was being used for the purpose of obtaining such licence.

(3) Subject to the provisions of subsection (2), any motor vehicle or trailer on which no valid licence is displayed may be impounded by any road traffic inspector in uniform or by any authorised officer.

31. (1) Vehicle licences in respect of vehicles other than motor vehicles and trailers shall be in the prescribed form and shall be issued by a licensing officer.

Form of
licence

(2) An application for the licensing of a vehicle or trailer shall be made in the prescribed form.

(3) A person applying for a licence for a vehicle under this section shall furnish to the licensing officer such particulars as may be prescribed.

(4) On being furnished with the particulars required by subsection (3) the licensing officer shall, subject to the provisions of this Act, issue a licence to the applicant.

(5) A licensing officer who is satisfied that a vehicle licence duly issued under this section has been lost or destroyed shall, upon payment of the prescribed fee, issue a duplicate of the vehicle licence.

32. Every vehicle licence, not being a licence for a motor vehicle or trailer, shall be in force from the date of its issue until the next ensuing 31st December.

Duration of
licence

33. (1) The owner of a vehicle, not being a motor vehicle or trailer, to whom a vehicle is issued shall be provided with a licence or token which shall be in the form prescribed as suitable for the particular class or type of vehicle, and shall maintain the licence or token affixed while valid in a conspicuous place on the vehicle in respect of which it is issued.

Owner to
receive
licence or
token

(2) Where a licence or token referred to in subsection (1) is lost, a new licence or token may be issued to the owner on payment of the prescribed fee.

34. (1) Every person who transfers the ownership of a vehicle not being a motor vehicle or trailer shall, within fourteen days, deliver the vehicle licence to the licensing officer and shall inform the licensing officer in writing of the name and address of the transferee.

Transfer of
licence of
vehicle other
than motor
vehicle or
trailer

	(2) On application by the transferee and on payment of the prescribed fee, the licence, amended as may be necessary, shall be registered.
Application for licence	35. An application for the licensing of a motor vehicle or trailer shall be made on such form as may be prescribed or, if no such form is prescribed, in person or by letter.
Issue of licences	36. Subject to the provisions of this Part, licences in respect of motor vehicles and trailers shall be issued by the licensing officer to which application is made, who shall enter on such licence such particulars as may be prescribed, including the purpose for which the motor vehicle or trailer is being licensed.
Conditions to be satisfied before issue of licence	37. A licensing officer shall not issue a motor vehicle or trailer licence unless the motor vehicle or trailer has been duly registered, or renew a motor vehicle or trailer licence unless that person is satisfied that the motor vehicle or trailer does not differ in any respect from the particulars in the register.
Alteration in conditions on which licence is issued	38. (1) Where the holder of a motor vehicle or trailer licence desires to use the motor vehicle or trailer for a purpose not authorised by the licence, or where, after the issue of a licence, a motor vehicle or trailer is altered so that a different rate of tax becomes payable, the existing licence shall become void and the holder shall apply for a new licence: <p style="margin-left: 40px;">Provided that in such cases the new licence shall not be issued until the old licence has been surrendered.</p> <p>(2) The licensing officer shall require the holder to pay, or shall refund to the holder, as the case may be, such difference in tax between the old and new licences, for the unexpired period of the old licence, as may be appropriate: <p style="margin-left: 40px;">Provided that, in each case of refund, the sum of one hundred and one penalty units shall be deducted.</p> <p>(3) Where a new licence is issued in the circumstances referred to in this section, the licensing officer shall duly amend the register, or notify the licensing officer of the District in which the vehicle is registered, as the case may be, and shall issue a new registration document.</p></p>
Duration of licence	39. Every motor vehicle and trailer licence shall be in force from the date of issue until— <p style="margin-left: 40px;">(a) if an annual licence, the last day of a twelve month period beginning on the first day of the quarter in which the licence was issued;</p>

(b) if a half-yearly licence, the last day of a six month period beginning on the day of the quarter in which the licence was issued; or

(c) if a quarterly licence, the last day of the quarter in which the licence was issued.

40. (1) If upon an examination of a motor vehicle or trailer under the provisions of subsection (2) or (3) of section *twenty* or under the provisions of *twenty-one*, the motor vehicle or trailer is found to be so constructed or in such a condition as to be a source of danger to any person travelling in the motor vehicle or trailer, or to any users of the road, or to be injurious to the roads themselves, or if the owner of the motor vehicle or trailer fails by the notified date to remedy the defects pointed out by the motor vehicle examiner, the Director may suspend or refuse the renewal of a motor vehicle or trailer licence for that vehicle or trailer:

Suspension
or refusal of
licence

Provided that any owner of a motor vehicle or trailer in respect of which the licence is so suspended or for which the renewal of the licence is refused may, within thirty days, appeal against the decision of the Director to the Minister, who may, if the Minister thinks fit, direct the Director in writing to grant or withhold the issue of the licence applied for.

(2) This section shall not apply in relation to any motor vehicle or trailer to which Part IX applies.

41. If a motor vehicle or trailer licence is lost, defaced, mutilated or rendered illegible, the licensing officer shall issue a duplicate licence on payment of the prescribed fee:

Duplicate
motor
vehicle or
trailer
licence

Provided that, if any such licence be subsequently found, the holder of the duplicate shall immediately deliver up to the licensing officer the duplicate, and any person knowingly retaining or having in that person's possession both an original and a duplicate licence commits an offence under this Act.

42. (1) Subject to the other provisions of this section, the taxes specified in the Second Schedule shall be payable in respect of vehicle, motor vehicle and trailer licences.

Taxes

(2) For every annual licence for a motor vehicle or trailer the tax shall be as specified in the Second Schedule, for every half-yearly licence there shall be paid fifty-five per centum of the tax set out in the Second Schedule, and for every quarterly licence thirty per centum of tax set out in the Second Schedule shall be payable.

(3) The holder of a motor vehicle or trailer licence other than a quarterly licence shall, on surrendering it for cancellation to the licensing officer who issued the licence, be entitled to a refund of one-twelfth part of annual tax paid on the licence for each complete calendar month of the licence period still to run:

Provided that—

- (a) the sum of one hundred and one penalty units shall be deducted from the total amount so computed and shall not be refunded;
- (b) the licensing officer may, where it is proved to the licensing officer's satisfaction that it is not possible for the holder of a licence to surrender it for cancellation, dispense with the surrender of such licence.

(4) Notwithstanding any provision contained in this section, the tax payable in respect of vehicle, motor vehicle and trailer licences issued on or after the 6th of July, shall be computed—

- (a) for the period from 6th July, to 30th September, both dates inclusive, at the rate in force immediately before the 6th July;
- (b) for any period after the 30th September, at the rate in force on the 6th July; and the tax so computed shall be payable in respect of the licence.

Licence to
be carried on
motor
vehicle or
trailer

43. (1) Every motor vehicle or trailer licence shall be carried on the vehicle or trailer in the manner prescribed when the vehicle or trailer is in use:

Provided that a motor vehicle's licence need not be carried on a vehicle or trailer used under the authority of the licence, and provided further that a trailer licence may be carried in or on the motor vehicle drawing it at the time.

(2) Every motor vehicle or trailer may be inspected on demand by any traffic inspector in uniform or by a police officer or by any other person so authorised in writing by the Director.

Penalty for
affixing false
licence or
token

44. Any person who shall manufacture or be in wilful possession of or wilfully affix any false licence or token to any vehicle, or who shall affix a licence or token to vehicle other than the vehicle in respect of which it was issued, commits an offence to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding five years, and in the case of a second or subsequent offence, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding ten years, or to both.

45. Notwithstanding any other provision contained in this Part, a licensing officer may issue to a dealer in, or manufacturer of, motor vehicles and trailers, who makes application in the prescribed form, a motor dealer's vehicle licence in the prescribed form which, subject to the payment of the tax specified in the Second Schedule and to the provisions of section *forty-six* to *fifty-one*, and to any other conditions which may from time to time be prescribed, shall authorise the use of such number of motor vehicles or trailers as may be specified in the motor dealer's vehicle licence.

Motor
dealer's
vehicle
licence

46. A motor dealer's vehicle licence shall authorise the use of any motor vehicle or trailer for purposes of being driven to the motor dealer's place of business after delivery to the motor dealer, or being tested by the motor dealer, or being tested or used for the purpose of effecting a sale, or for such other purposes as may be prescribed:

Use of motor
dealer's
vehicle
licence

Provided that a motor dealer's vehicle licence shall not authorise the carriage of passengers of goods for hire or reward or any passenger not employed by the motor dealer or not engaged in testing the vehicle or trailer or inspecting the same with a view to purchase.

47. (1) The licensing officer shall assign sufficient identification numbers and, if so prescribed, sufficient discs or other tokens in the prescribed form to identify all vehicles and trailers used under the authority of a motor dealer's vehicle licence, and shall enter such number in the licence.

Motor
dealer's
identification
plates

(2) The plates bearing the assigned identification numbers shall be interchangeable between all vehicles or trailers in the motor dealer's possession when used for the purposes set forth in section *forty-six* and shall be fixed or suspended on the vehicle or trailer in the prescribed manner.

48. (1) A motor dealer's vehicle licence shall continue in force from the date of its granting until the next following 31st December:

Duration of
motor
dealer's
vehicle
licence

Provided that the licence shall cease to be valid if the motor dealer ceases to carry on business in the District in which it is issued.

(2) A motor dealer's vehicle licence may be transferred or assigned to any other motor dealer with the approval of the licensing officer.

49. For each separate identification number included in a motor dealer's vehicle licence a fee shall be charged as specified in the Second Schedule.

Fees for each
identification
number of motor
dealer's vehicle
licence

50. Where the holder of a motor dealer's vehicle licence is convicted before any court of an offence contrary to any of the provisions of this Act or of any regulations made under it relating to such licences, the court may in addition to imposing any other penalty order the cancellation of the licence.

Cancellation
of motor
dealer's
vehicle
licence

Motor
dealer's
vehicle
licence not to
be misused

51. (1) No motor dealer's vehicle licence shall be used for any purpose not provided for in this Act.

(2) No motor vehicle or trailer shall be used on any road under the authority of a motor dealer's vehicle licence unless the holder of the licence or a person duly authorised by the holder of the licence accompanies such vehicle, and any person so using a motor vehicle or trailer, commits an offence.

Farm vehicle
licence

52. Notwithstanding any other provision contained in this Part, a licensing officer may issue to any farmer who makes an application in the prescribed form and manner a farm vehicle licence which, subject to the payment of the tax specified in the Second Schedule and to any other conditions which may from time to time be prescribed, shall authorise the use of such number of motor vehicles and trailers, used exclusively by the farmer concerned for agricultural purposes as may be specified in the prescribed form, subject to the following provisions:

(a) the motor vehicle and trailers used under such licence shall not be used on any public road except—

(i) for the purposes of proceeding to or from a workshop for the purposes of maintenance or repair;

(ii) for the purpose of going from one portion of land belonging to or in the occupation of the owner of the farm vehicle to any other portion;

or

(iii) for the purpose of complying with the provisions of this Act or any regulations made under it or with any order or direction made or given under the Act or regulations, relating to the examination of vehicles;

(b) every such licence shall be valid for twelve months from the first day of the quarter in which it is issued;

(c) every motor vehicle or trailer used on a road under the authority of a farm vehicle licence shall display in such manner as may be prescribed a farm vehicle identification plate or token in the prescribed form.

Contract cars

53. (1) No person shall let out on hire any contract car unless the motor vehicle licence in respect of such contract car has been inscribed by the licensing officer as being valid for a contract car.

(2) No motor vehicle licence issued in respect of a contract car shall be used on any motor vehicle other than the motor vehicle in respect of which it was issued.

(3) Any person who fails to comply with the provisions of this section commits an offence.

54. The revenues collected under the provisions of this Act shall be paid into the general revenues of the Republic and the Road Fund in such proportion as the Minister responsible for finance may determine.

Duty to remit fees

55. (1) The provisions of this Part shall not apply—

(a) subject to the provisions of section *forty-five* to *fifty-one*, to any vehicle or trailer held for the purpose of sale only;

(b) to any vehicle or trailer for which a licence is required under any other law for the time being in force;

(c) to vehicles owned by the Government and the President, operation vehicles of Defence Forces and such other vehicles as the Minister may, by statutory instrument, prescribe; or

(d) to any motor vehicle or trailer brought into Zambia by visitors, whether used under the authority of an international certificate or not, and exempted from being licenced under this Act or in accordance with any regulations under this Act.

Provisions of Part IV not to apply to certain vehicles

PART V

LICENCING OF DRIVERS OF MOTOR VEHICLES AND DRIVING SCHOOLS

56. (1) No person shall drive a motor vehicle unless that person is the holder of a driving licence authorising such person to drive a vehicle of that class or description.

Driver of motor vehicle to be licensed

(2) No person shall permit or employ any person to drive a motor vehicle on a road unless that person is the holder of driving licence issued under this Act.

(3) Any person who acts in contravention of any provision of subsection (1) or (2) commits an offence and shall be liable, upon conviction, in the case of a first offence, to fine not exceeding one thousand five hundred penalty units, and in the case of the second or subsequent offence, to a fine not exceeding one thousand penalty units:

Provided that this section shall not apply to any person who is the holder of an international driving permit or of any other driving licence or permit issued outside Zambia, or of a military driving licence, or of the equivalent of such licence or permit, which is deemed, by regulation under this Act to have effect within Zambia as though it were a driving licence issued under section *fifty-nine* or *sixty-one*.

(4) Subject to the provisions of subsection (1) or (2), any motor vehicle which is driven on a road by any person who is not the holder of a valid driving licence authorising that person to drive a vehicle of that class or description, may be impounded by any road traffic inspector in uniform or by any police officer.

(5) Upon the issue of a driving licence to a person, any driving licence previously issued to that person, whether inside or outside Zambia shall become void in so far as it may authorise the holder to drive a motor vehicle in Zambia.

Tests of
competence
to drive

57. (1) A licence authorising the driving of motor vehicles of any class shall not be granted to any person unless the person satisfies the Director—

(a) that at some time during the period of two years ending with the date the application is made but not earlier than the appointed date the person has passed the test of competence to drive prescribed under subsection (2);

(b) that at some time not earlier than the appointed date the person has held a full licence authorising the driving of vehicles of that class;

(c) that at some time during the period of two years ending with the date the application is made the person has passed the test of competence to drive vehicles of that or a corresponding class conducted under the law of another SADC Member State or country of the Commonwealth.

(2) The Minister may on the recommendation of the Agency, by regulation, make provision with respect to—

(a) the nature of tests of competence to drive for the purposes of this section;

(b) the qualifications, selection and appointment of persons by whom the tests may be conducted and the revocation of any appointment of such persons; and

(c) evidence of the results of tests referred to in this subsection and generally with respect to such tests.

(3) Regulations referred to in subsection (2) may provide—

(a) a person submitting oneself for a test to provide a vehicle for the purposes of the test which regulation may also prescribe the type of vehicle in relation to the type of vehicle licence being applied for:

Provided that in the case of an application for a vehicle licence to drive prescribed types of goods vehicles, regulations under this section may require a person submitting oneself for a test to provide a vehicle which is loaded or unloaded as the case may be and, if requirements as respect loading are prescribed, loaded in accordance with the requirements;

(b) a fee of such amount as may be specified in the regulations to be paid by a person who submits oneself for a test or applies for an appointment for a test;

(c) that the person submitting oneself for a test and failing to pass that test shall not be eligible to submit oneself for another test by the same or any other person before the expiration of the period specified in the regulations, except under an order made by a court;

and different regulations may be made with respect to the test of competence to drive different kinds of vehicles.

58. (1) On the application for the review of the conduct of a test a person who has submitted oneself for a test of competence to drive a court may determine whether the test was properly conducted in accordance with regulations.

Review of
conduct of
test

(2) The court may, if it appears that the test was not so conducted—

(a) order that the applicant shall be eligible to submit oneself for another test before the expiration of such period as the court may specify; and

(b) order that any fee payable by the applicant in respect of the test shall not be paid or if it has been paid, shall not be repaid.

59. (1) An application for a driving licence or for a duplicate driving licence or for the renewal of such licence or for the extension by endorsement, of a driving licence, shall, subject to the provisions of subsection (2), be made to a licensing officer and shall be in such form as may be prescribed.

Application
for issue of
driving
licence

(2) An application under the provisions of subsection (1) shall be made to the Agency.

(3) Any person making an application under this section shall comply with such conditions and make such declaration as may be prescribed:

Provided that where conditions are so prescribed the Director may dispense with compliance with such conditions in such circumstances as may be prescribed.

(4) Subject to the provisions of this Act and to any regulation made under it and on payment of the prescribed fee, a licensing officer or the Director shall issue, renew or extend a driving licence or a duplicate driving licence.

(5) Driving licences shall be renewed or extended in such manner as may be prescribed.

Driving tests

60. (1) A driving test shall be conducted by a driving examiner, and the form of the test shall be in accordance with the general instructions laid down by the Director and every person taking a test shall comply with such conditions as the Agency may, with the approval of the Minister, prescribe.

(2) Upon being satisfied, on such test, that the applicant is competent to drive a motor vehicle of the class in respect of which the test was held, the driving examiner shall, on payment of such fee as may be prescribed, issue to the applicant a certificate in such form as may be prescribed stating that the holder is competent to drive such class of motor vehicle as may be specified in such certificate.

Provisional driving licences

61. (1) Notwithstanding anything to the contrary contained in section *fifty-six* and subject to subsection (2), a licensing officer may issue a provisional driving licence or any licence to any person who wishes to learn to drive a motor vehicle and applies for such licence in such form and manner, if any, as may be prescribed.

(2) For the purpose of subsection (1), a person shall be required to pass a prescribed theory test conducted, by a driving examiner, for the purpose of obtaining a provisional driving licence.

(3) A provisional driving licence shall be in the prescribed form and shall entitle the holder, for a period of three months from the date of issue in the case of any motor vehicle other than a motor cycle, to drive, upon any road, a motor vehicle of the class in respect of which it has been issued.

(4) A person issued with a provisional driving licence shall whilst driving a motor vehicle at all times be under the supervision of a person who shall sit beside that person or, if this is not possible, as near as is practicable, and who shall be in possession of a licence to drive the vehicle and such plates as may be prescribed shall be displayed upon such vehicle.

(5) The plates referred to in subsection (4) for use when a person is under instruction shall be removed when any person holding a valid driving licence issued under section *fifty-nine* is driving the vehicle.

(6) Subsections (4) and (5) shall not apply to a vehicle used specially for driving instructions and owned by a person licenced in accordance with section *seventy-one* as a driving instructor or to a vehicle being driven by a person holding a valid licence during any period when a person holding a provisional licence is under instruction.

(7) A person riding a motor cycle or auto cycle or other vehicle which is not constructed or adapted to carry more than one person whilst in possession of a provisional driving licence shall not be required to be under supervision as specified in subsection (4) and no person other than the rider shall be carried on a motor cycle or auto cycle when the rider thereof has a provisional driving licence.

(8) Where a public service vehicle is being driven by the holder of a provisional driving licence, no person other than the person supervising the driving of the vehicle by the holder in accordance with the provisions of subsection (2) shall be carried as a passenger in the vehicle:

Provided that—

- (i) the provisions of this subsection shall not apply where a person is being carried in the vehicle for the sole purpose of receiving instruction in the driving of such vehicle; and
- (ii) only the person being carried for the purpose of receiving instruction shall be in the front seat with the driving instructor.

(9) Any person failing to comply with the provisions of this section commits an offence and shall be liable, upon conviction, in the case of the first offence, to a fine not exceeding one thousand penalty units, and in the case of a second or subsequent conviction to a fine not exceeding two thousand penalty units.

(10) Notwithstanding anything contained in subsection (9), any motor vehicle in respect of which an offence is committed under this section may be impounded by any road traffic inspector in uniform or by any police officer.

62. A licensing officer shall not issue a provisional driving licence to any person who is unable to certify in the prescribed manner that the person's physique, vision, hearing, body and mental fitness are

Physical
fitness

such as to warrant the issue to that person of a licence, and before issuing a provisional driving licence the licensing officer shall require the applicant to produce a satisfactory medical certificate in such form as may be prescribed, signed by a registered medical practitioner.

Classes of
motor
vehicle

63. (1) A driving licence and a provisional driving licence, unless expressed to be valid for all classes of motor vehicle, shall be valid only for the class or classes of motor vehicle specified in the driving licence, but may by endorsement of the licence in the manner and form prescribed, and on payment of the prescribed fee, be extended to any other class of motor vehicle:

Provided that the passing of a test to drive a particular class of vehicle specified in such regulations as may be made in that behalf shall entitle the applicant to have the applicant's licence endorsed for other classes of vehicle as may be specified in such regulations.

(2) For the purposes of this section, motor vehicles shall be classified as may be prescribed.

Age of driver

64. (1) Notwithstanding any other provision of this Act, no person shall obtain or attempt to obtain a driving licence or provisional driving licence—

(a) to drive an auto cycle or invalid carriage, unless that person has attained the age of sixteen years; or

(b) to drive a construction vehicle, a heavy goods vehicle or an articulated vehicle, unless that person has attained the age of eighteen years; or

(c) to drive a public service vehicle carrying passengers for hire or reward, or a private motor minibus used otherwise than for private or domestic purposes, unless that person has attained the age of twenty-five and acquired at least two years of driving experience; or

(d) to drive any motor vehicle not mentioned in paragraph (1) (b) or (c), unless that person has attained the age of eighteen years.

(2) For the purposes of this section, an "articulated vehicle" means a motor vehicle with a trailer so attached to the drawing vehicle that part of the trailer is superimposed upon the drawing vehicle and when the trailer is uniformly loaded not less than twenty percentum of the load is borne by the drawing vehicle.

(3) Any driving licence or provisional driving licence obtained in contravention of this section shall be void.

(4) Any person contravening the provisions of this section commits an offence.

65. (1) A person applying to undergo a driving test shall pay the prescribed fee.

Driving test fees

(2) If a person fails to present oneself for the test for which that person has applied, the fee paid shall be forfeited:

Provided that if that person gives forty-eight hours' notice of that person's inability to appear for any test which has been arranged for such person, the fee paid shall be refunded to that person.

(3) The disposal of fees forfeited in terms of subsection (2) shall be as may be prescribed.

(4) No fee shall be payable in respect of a test carried out as a result of an order passed under paragraph (c) of subsection (1) of section *sixty-eight*.

66. (1) Driving licences shall be in such form and be valid for such period as may be prescribed;

Form and duration of driving licences

Provided that different forms and different periods of validity may be prescribed for different types of driving licences.

(2) Duplicate driving licences shall be in such form and may be issued in such circumstances and subject to such conditions as may be prescribed.

(3) The signature, or thumb mark, and, where so required by regulations made under subsection (4), the photograph of the holder shall be affixed to a driving licence in the prescribed manner, and a licensing officer may require that such holder, or any person to whom a driving licence is to be issued, shall appear before the licensing officer in person for the purpose of affixing such signature, mark or photograph.

(4) The Agency, with the approval of the Minister, may, by regulation—

(a) require a photograph, of such size and type as may be prescribed, of the holder of a driving licence or of any specified type of driving licence, to be affixed to such licence;

(b) prescribe a date after which licences, or any specified type of licence, shall cease to be valid;

(c) provide for the replacement of driving licences issued under this Act, the procedure to be adopted upon such replacement, and the fee, if any, to be paid in respect thereof.

(5) In this section—

“type” in relation to a licence, means a licence authorising the holder of the licence to drive vehicles of a certain class or description, or certain classes or descriptions.

Fees for
licences

67. (1) There shall be payable in respect of a driving licence the fee prescribed in the Fourth Schedule.

(2) There shall be payable in respect of a provisional driving licence such fee as the Minister may prescribe.

(3) Any fee payable in respect of a driving licence or a provisional driving licence shall be paid to the licensing officer by whom it is issued at the time it is issued.

(4) Any fee paid to a licensing officer in respect of a driving licence or a provisional driving licence shall be paid into the Road Fund and the general revenues of the Republic in such proportions as the Minister responsible for finance may determine.

Revocation
etc., of
driving
licences

68. (1) Notwithstanding anything to the contrary contained in this Act, the Director may—

(a) revoke a licence or an endorsement authorising the holder of such licence or endorsement to drive a public service vehicle if, in the opinion of the Director, the conduct or character of the holder is such as to render the holder unfit to drive such vehicle from the point of view of the safety of the public;

(b) revoke a driving licence of any person who appears, in the opinion of the Director, to be suffering from a disease or disability likely to cause the driving by the person of a motor vehicle to be a source of danger to the public; or

(c) order a fresh driving test by a driving examiner in the case of any holder of a driving licence who appears to the Director to be so deficient in driving ability as to be a source of danger to the public, and if the licence holder fails to pass such test, the Director shall revoke that person's licence.

(2) The Director may at any time cancel or vary an order made by the Director under this section.

(3) No revocation may be made under this section unless the licence holder concerned has first been given an opportunity to make representations to the Director.

(4) Any person aggrieved by an order decision of the Director under this section may appeal to the Tribunal within fourteen days from the making thereof.

(5) Any order under this section shall be in writing and shall be sent or delivered to the licence holder concerned, and in the case of an order to revoke a driving licence or an endorsement of such licence the licence holder shall, within fourteen days of the receipt of such order or of the failure of an appeal against such order, as the case may be, deliver or send such licence to the Director.

69. (1) Any person aggrieved by the refusal of a licensing officer or of the Director to issue a driving licence under this Part may, within thirty days of such refusal, appeal to the Tribunal or, where the appeal is from a refusal of the Tribunal to the High Court the form and manner of appeals to the Tribunal.

Appeals

(2) An appeal against a refusal to issue a driving licence or a duplicate driving licence shall be in such form and manner as the Minister may, by regulations, prescribe.

70. (1) No person shall teach for gain the driving of motor vehicles except under the authority of a licence, hereinafter referred to as an instructor's licence, issued by the Director, and no person shall set up or maintain an establishment for teaching for gain the driving of motor vehicles save under the authority of a licence, hereinafter referred to as a driving school licence, issued by the Director.

Control of driving schools and of the teaching for gain

(2) Any person who contravenes any of the provisions of this section commits an offence.

71. (1) A person applying for an instructor's licence or for a driving school licence or a variation of any of the conditions of any such licence shall apply to the Agency in the prescribed form and shall submit to the Director such particulars as may be prescribed.

Instructor's licences and driving school licences

(2) On receipt of an application for an instructor's licence, the Director shall cause the applicant's competence to be tested, and may in case of any application for an instructor's licence or a driving school licence or any variation thereof, if that person considers it necessary, cause to be verified the facts stated therein, and shall then, if the application is in order, and if all the information that the Director

requires is provided, consider it, and shall grant or refuse a licence or variation, as the case may be, subject to such conditions as the Director may impose.

(3) Licences shall be valid for such period as may be prescribed and shall be subject to the payment of such fees as may be prescribed.

Appeals concerning driving school licences or instructor's licences

72. If the Director refuses to issue an instructor's licence or driving school licence or a variation of the conditions thereof, the applicant may appeal to the Tribunal in accordance with such procedure and upon payment of such fees as may be prescribed.

Instructors' licences and driving school licences not transferrable

73. An instructor's licence and driving school licence shall be personal to the person who is teaching the driving of motor vehicles or who is the proprietor of the driving school, as the case may be, and shall not be transferable.

Inspection of premises, etc.

74. The Agency, with the approval of the Minister may, by statutory instrument, make regulations—

- (a) providing for the inspection of any premises, vehicles, equipment, records or any other place or thing used in connection with the teaching for gain of driving, and for ensuring that the curriculum and, where provided, the accommodation and food supplied to pupils, are suitable, and that the instructors are competent;
- (b) providing for the revocation of instructor's licences and of driving school licences, or for the variation of the conditions thereof, and for the making and hearing of appeals in respect of such licences;
- (c) containing such other provisions as the Agency may consider necessary for the proper licensing, control and inspection of the teaching, for gain, of driving and for ensuring that the terms of any licences relating to such teaching are observed.

PART VI

ENDORSEMENT, SUSPENSION AND CANCELLATION OF DRIVING LICENCES

Powers of court

75. (1) Any court before which a person is convicted of an offence under this Act—

- (a) may in accordance with the Third Schedule, and unless the court thinks fit to order otherwise, if the person convicted holds a driving licence or its equivalent granted in any other country and which is valid in Zambia—

- (i) suspend the licence or its equivalent, for such time as the court thinks fit; or
- (ii) cancel the licence or its equivalent; and declare the person convicted disqualified from obtaining another licence in Zambia for a stated period:

Provided that where the provisions of this section apply, and where the person convicted holds no driving licence or its equivalent, the court may, unless the court for special reasons thinks fit to order otherwise declare that person disqualified from obtaining a licence in Zambia for a stated period;

- (b) may in accordance with the Third Schedule order that particulars of the conviction and of any suspension or cancellation of the driving licence and any disqualification to which the person has become subject shall be endorsed on the licence or its equivalent held by that person;
- (c) may in cases where a licence is suspended or cancelled order that the person be disqualified from holding or obtaining a licence in Zambia unless and until that person has, since the date of such order, passed a driving test:

Provided that if the court thinks fit, any suspension of a licence or disqualification imposed under this section may be limited to the driving of a motor vehicle of the same class as the vehicle in relation to which the offence was committed.

- (2) Any court before which a person is convicted of the offence of theft of motor vehicle under the Penal Code shall if the person convicted holds a driving licence granted in Zambia or a driving licence granted in any other country and which is valid in Zambia, suspend the licence for a period twice the term of imprisonment to which the person is sentenced:

Cap. 87

Provided that where a person is convicted for the third time the court shall cancel the person's driving licence and declare the person disqualified from obtaining another licence in Zambia for life.

- (3) Any court, hereinafter called the "convicting court", making an order under the provisions of subsection (1) or (2) shall cause a copy of such order to be sent to the Director.

- (4) Where the convicting court or any other court varies an order made under the provisions of subsection (1), the convicting court shall cause the Director to be notified of such variation.

- (5) Where the Director receives a copy of an order or is notified of a variation of an order, under the provisions of this section, the

Director shall cause the order of variation to be recorded in such manner as may be prescribed.

Right of
appeal

76. A person whose licence by virtue of an order of a court is suspended or cancelled or who is disqualified from holding or obtaining a driving licence or whose licence is endorsed, may appeal against the order in the same manner as against a conviction, and the court may, if it thinks fit, pending an appeal, suspend the operation of the order.

Production
of driving
licence for
endorsement

77. Where an order is made requiring any licence or its equivalent held by an offender to be endorsed in such manner as the Minister may, by statutory instrument, prescribe—

(a) if the offender is at the time the holder of a licence or its equivalent that person shall, if so required by the court, produce the licence or its equivalent within five days or such longer time as the court may determine for the purpose of endorsement;

(b) if the offender is not the holder of licence but subsequently obtains a licence that person shall, within five days after so obtaining the licence, produce it to the court for the purpose of endorsement;

(c) if the offender fails to produce the licence or its equivalent to the court for the purpose of endorsement within such time as specified in paragraph (a) or (b), that person commits an offence under this Act;

(d) if the licence or its equivalent is not produced for the purpose of endorsement within such time as specified in paragraph (a) or (b), it shall be suspended from the expiration of the time referred to in those paragraphs until it is produced for the purpose of endorsement.

Suspended
licence to be
of no effect

78. A driving licence or its equivalent suspended by a court shall during the period of suspension be of no effect, and a person whose licence or its equivalent is cancelled and who is declared by the court to be disqualified from obtaining a licence shall during the period of the disqualification be disqualified from obtaining a driving licence.

Application
for removal
of disqualifi-
cation

79. (1) Any person whose driving licence is by virtue of a conviction order suspended or who is by virtue of a conviction order disqualified from holding or obtaining a driving licence may apply to the court before which the person was convicted or by which the order was made to cancel the suspension or remove the disqualification:

Provided that no such application shall be made before the expiration of whichever is relevant of the following periods from the date of the conviction order by virtue of which the suspension or disqualification was imposed, that is to say—

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

(2) Notwithstanding paragraphs (a), (b) and (c) of the proviso to subsection (1), if in the opinion of a court, circumstances are such as to justify the removal of the suspension or disqualification of a driving licence in a lesser period, the court may direct accordingly.

(3) In determining the expiration of the period for which a licence is suspended or a person is disqualified by virtue of a conviction or by an order made in consequence of such a conviction or after which, under the provisions of this section, a person may apply for the cancellation for such suspension or for the removal of such disqualification, any time after the conviction during which the suspension or disqualification was suspended or that person's licence was not suspended or that person was not disqualified shall be disregarded.

(4) Upon an application under this section a court may if it thinks proper, having regard to the character of the person whose licence is suspended or who is disqualified and that person's conduct subsequent to the conviction order, the nature of the offence and any other circumstances of the case, by order remove the suspension or disqualification as from such date as may be specified in the order, or refuse the application:

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

(5) If the court orders a suspension to be cancelled or a disqualification to be removed, the court shall cause particulars of the order to be endorsed on the licence or its equivalent, if any, previously held by the applicant, and the court shall have power to order the applicant to pay for the whole or any part of the cost of the application.

80. Where as a result of any order passed prior to the appointed date a person is disqualified from holding or obtaining a driving licence

Removal of
disqualifica-
tion no
longer
provided for

or that person's licence is suspended, and where such disqualification or suspension is no longer provided for in this Act, the court shall, upon the application of the person concerned, cancel such disqualification or suspension.

81. If any person—

(a) who under the provisions of this Act is disqualified from holding or obtaining a driving licence applies for or obtains a licence while that person is so disqualified; or if any person while disqualified or while the licence is suspended drives a motor vehicle on a road or, if the disqualification or suspension applies to the driving of a motor vehicle of a particular class or description, drives a motor vehicle of that class or description, on a road; or

(b) who has been refused a licence applied for or obtains a licence without disclosing such refusal;

that person commits an offence and shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding three thousand penalty units or to imprisonment for a period of not exceeding six months, and in the case of a second or subsequent offence, to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding one year.

82. (1) On the issue of a new driving licence to any person, the particulars endorsed on any previous licence or its equivalent held by that person shall be copied on to the new licence, unless that person has previously become entitled under the provisions of section *eighty-four* to have a licence issued to that person free from endorsement.

(2) Notwithstanding subsection (1), the particulars endorsed on any previous licence or its equivalent may be entered in an official record book kept by a licensing officer or any person as the Director may, from time to time, authorise in that behalf.

83. If any person whose driving licence or its equivalent has been ordered to be endorsed, and who has not previously become entitled under the provisions of section *eight-five* to have a licence issued to that person free from endorsements, applies for, or obtains a licence without giving particulars of the order of endorsement, the person commits an offence and is liable, upon conviction, in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units, and in the case of a second or subsequent offence, to a fine not

Fraudulent
application
for driving
licence

Particulars
of
endorsement
to be copied
on new
licence

Applying
for licence
without
disclosing
endorsement

exceeding three thousand penalty units, and any licence so obtained shall be of no effect.

84. Where a person in respect of whom an order has been made under this Act requiring the endorsement of any driving licence or its equivalent held by the person has during the continuous period of three years or upwards since the order was made had no further similar order made against that person, that person shall be entitled, on application and subject to the payment of the fee specified for the issue of a driving licence, and to the surrender of any substituting licence or its equivalent, at any time to have issued to the person a new licence free from endorsement:

Issue of new
licence free
from
endorsement

Provided that, in reckoning the said period of three years, any period during which the person was by virtue of the order qualified from holding or obtaining a licence or for which that person's licence was suspended shall be excluded.

85. Whereas a result of any order passed prior of the appointed date, a driving licence or its equivalent is endorsed, and where such endorsement is no longer provided for under this Act, the holder of that licence or its equivalent shall be entitled to a new licence free from endorsement as provided for in section *eighty-four*, free of cost.

Removal of
endorsement

PART VII

COMPULSORY THIRD PARTY INSURANCE

86. (1) No person shall use or cause or permit any person to use a motor vehicle or trailer on a road unless there is in force in relation to the use of such vehicle or trailer by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part.

Users of motor
vehicles to be
insured against
third party
risks

(2) Any person who contravenes the provisions of this section commits an offence and is liable, upon conviction, in the case of a first offence to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding twelve months, and in case of a second or subsequent offence, to a fine not exceeding seven thousand five hundred penalty units or to imprisonment for a period not exceeding twelve months, or to both.

(3) Notwithstanding the provision of any other written law, there shall be in respect of all Government vehicles such policy of insurance of such a security in respect of third party risks referred to in subsection (1) as the Minister, in consultation with the Agency, may prescribe.

Saving in respect of liability

87. A person charged with using a motor vehicle or trailer in contravention of section of *eighty-six* shall not be convicted if that person proved that the vehicle or trailer did not belong to that person and was not in that person's possession under a contract of hiring or loan, that such person was using the vehicle or trailer in the course of that person's employment, and that such person did not know or had no reason to believe, that there was not in force or in relation to the vehicle or trailer such a policy of insurance or security as complies with the requirements of this Part.

Requirements in respect of policies of insurance

88. (1) In order to comply with the requirements of this Part, a policy of insurance must be a policy which—

(a) is issued by an insurance company registered by the registrar for the purpose of this Part; and

(b) insures such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by that person or such persons in respect of the death of or bodily injury to any person caused by, or arising out of the use of the motor vehicle or trailer on a road to an amount of at least—

(i) one hundred and sixty-six thousand seven hundred fee units in respect of anyone person killed or injured; and

(ii) three hundred and thirty-three thousand three hundred and fifty fee units in respect of any one accident or series of accidents due to or arising out of the occurrence of any one event:

Provided that any policy in terms of this section shall not be required to cover—

(A) any liability in respect of the death of, or bodily injury to, a person in the employment of any person insured by the policy, if such death or bodily injury arises out of and in the course of that person's employment; or

(B) any contractual liability.

(2) In this section "Registrar" means the Registrar of Pensions and Insurance appointed under the Pension Scheme Regulation Act, 1996.

Act No. 28 of 1996

Requirements in respect of securities

89. (1) In order to comply with the requirements of this Part, a security shall—

(a) consist of an undertaking by the giver of the security to make good, subject to any conditions specified in the security, and up to an amount approved by the Agency, any failure by the owner of the motor vehicle or trailer or such other persons or classes of persons as may be specified in the security duly to discharge any such liability as is required to be covered by a policy of insurance under section *eighty-eight*, which may be incurred by such owner or persons; and

(b) be proved by the Agency and deposited with the Agency.

(2) Whenever such a security is approved by the Agency and deposited with the Agency, the Agency shall give to the owner of the motor vehicle or trailer concerned a certificate (hereinafter called a certificate of security) in the prescribed form and containing such particulars of any conditions subject to which the security is given as may be prescribed.

(3) References in the remainder of this Part to a policy, an insurer or an insured shall be deemed to include references to a security, a giver of a security or a person secured as the case may be.

90. (1) Any person having a claim against a person insured in respect of any liability in regard to which a policy of insurance has been issued for the purposes of this Part shall be entitled in that person's own name to recover directly from the insurer any amount not exceeding the amount covered by the policy, for which the person insured is liable to the person having the claim:

Right of
injured party
to proceed
against
insurer

Provided that—

(i) the rights of any person claiming directly against the insurer shall, except as provided in subsection (2), be not greater than the rights of the person insured against such insurer;

(ii) the right to recover directly from the insurer shall terminate upon the expiration of a period of three years from the date upon which the claimant's cause of action against the person insured arose;

(iii) the expiration of such period as is mention in paragraph (ii) of this proviso shall not affect the validity of any legal proceedings commenced during such period for the purpose of enforcing a right given under this section.

(2) In respect of the claim of any such person claiming directly against the insurer, any condition in a policy purporting to restrict the insurance of the person insured thereby shall be of no effect:

Provided that nothing in this section shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of the operation of this subsection shall be recovered by the insurer from that person.

Certain conditions in policy to be of no effect

91. (1) Any condition in a policy given under this Part providing that, in the event of some specified thing being done or omitted to be done no liability shall arise under the contract, or that in any such event any liability so arising shall cease, shall be of no effect in connection with any claim in respect of which the policy holder is required to be insured by virtue of the provisions of this Part:

Provided that nothing in this section shall be taken to render void any provisions in a policy requiring the person insured to repay the insurer any sums which the latter may have become liable to pay under the policy or under the provisions of section *ninety* and which have been applied to the satisfaction of the claims of third parties.

(2) A person issuing a policy of insurance for the purposes of this Part shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

(3) In this section, and in section *ninety*, "persons insured" include any person whom a person issuing a policy of insurance for the purpose of this Part shall be liable to indemnify by virtue of subsection (2).

Avoidance of contracts of conveyance so far as restrictive of liability in respect of death or injury to passengers in public service vehicles

92. Any contract for the conveyance of a passenger in a public service vehicle, so far as it purports to negate or to restrict the liability of any person in respect of any claim which may be made against that person in respect of the death of, or bodily injury to the passengers while being carried in, entering, or alighting from the vehicle, or purports to impose any condition with respect to the enforcement of such liability shall be void.

Hospital expenses

93. (1) Where an insurer makes any payment under the provisions of this Part in respect of the death of, or bodily injury to, any person who has received treatment in a hospital in respect of the fatal or other bodily injury so arising, the insurer shall also pay to such hospital the expenses reasonably incurred in affording such treatment.

(2) The Minister may, by statutory instrument, prescribe the amount of money to be paid by an insurer to a hospital for the expenses, referred to in subsection (1), which are incurred in the treatment of each person so treated as an in-patient or as an out-patient.

94. Upon the issue of insurance in accordance with the requirements of this Part, the insurer shall issue to the insured in respect of each vehicle or trailer a certificate (in this Part referred to as a "certificate of insurance") in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed, and different forms and different particulars may be prescribed in relation to different cases or circumstances.

Documentary
proof of
existence of
insurance
policy

95. (1) Any person driving a motor vehicle on a road, or any person whom a police officer has reasonable cause to believe to have been the driver of a motor vehicle at the time when an accident occurred owing to its presence on a road, or any person whom a police officer has reasonable cause to believe to have committed an offence in relation to the use of a motor vehicle on a road, shall, on being so required by a police officer, give that person's name and address and the name and address of the owner of the vehicle and shall produce the person's certificate of insurance and if that person fails to do so that person commits an offence:

Production of
certificate of
insurance

Provided that if the driver of a motor vehicle within seven days after the date on which the production of that driver's certificate was so required, or within such greater period as the police officer requiring the person to produce that person's certificate, may specify, produces or otherwise furnishes the certificate at such police station as may have been specified by the person at the time its production was required, the person shall not be convicted of an offence under this subsection by reason only of failure to produce that person's certificate to the police officer.

(2) If in any case, owing to the presence of a motor vehicle or trailer on a road, an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce the person's certificate to a police officer or to some person, who having reasonable ground of so doing, has required its production, the driver shall as soon as possible, and in any case within twenty-four hours of the occurrence of the accident, report the accident at the police station or to a police officer and thereupon produce that person's certificate, and if the person fails to do so the person commits an offence:

Provided that a person shall not be convicted of an offence under this subsection by reason of failure to produce that person's certificate if, within seven days after the occurrence of the accident or within such greater period as the police officer to whom that person reported the accident may specify, the person produces or otherwise furnishes

the certificate at such police station as may be specified by the person at the time the accident was reported.

(3) The owner of a motor vehicle shall give such information as that person may be required by or on behalf of the Inspector-General of Police to give for the purpose of determination whether the vehicle was or was not being driven in contravention of section *eighty-six* on any occasion when the driver was required under this section to produce the person's certificate, and if the owner fails to do so the person commits an offence.

(4) In this section, the expression "produce that person's certificate" means produce for examination the relevant certificate of insurance or certificate of security or such other evidence that the vehicle was or was not being driven in contravention of section *eighty-six* as may be prescribed.

(5) In the case of motor vehicles or trailers that are subject to Part IX, a road traffic inspector may exercise all the powers conferred upon a police officer by this section.

Customs
Officer may
refuse to
permit entry
of uninsured
vehicle

96. Any Customs Officer may refuse to permit into Zambia by road any motor vehicle or trailer if that officer is satisfied that there is not in force in relation to the use of the motor vehicle or trailer such a policy of insurance or such security in respect of third party risks as complies with the requirements of this Part.

Making false
statements

97. If any person, for the purposes of obtaining a policy as required by section *eighty-six* makes any false statements, knowing it to be false, in consequence whereof the policy is liable to be annulled, willfully does any act which disentitles the person to claim under the policy, the person commits an offence, and is liable, upon conviction, in a case of a first offence, to a fine not exceeding ten thousand penalty units, and in the case of a second or subsequent offence, to a fine not exceeding fifteen thousand penalty units.

Certificate of
insurance or
security to
be produced
before issue
of licence

98. No licensing officer shall issue to any person a license or transfer to any person a licence of a motor vehicle or trailer unless the person produces to the licensing officer—

- (a) a certificate issued in the prescribed form by an insurer approved which states that a policy of insurance complying with the requirements of this part will be in force in respect of the use of such vehicle or trailer on the date upon which the licence or transfer applied for is to come into force and for the period which the said licence is to be issued or, remain in force; or

(b) a certificate of security in respect of the use of such vehicle or trailer which will be in force on the date upon which the licence of the transfer applied for is to come into force and for the period for which the licence is to be issued or remain in force.

99. Where to the knowledge of an insurer a policy for the purposes of this Part ceases to be effective without the consent of the person to whom it was issued otherwise than by the effluxion of the time or by reason of that person's death, the insurer shall forthwith notify the Inspector- General of Police of the date on which the policy ceased to be effective.

Duty of insurer when policy is cancelled, etc.

PART VIII

LICENSING OF PUBLIC SERVICE VEHICLES

100. (1) Subject to the provisions of section one *hundred and eight* and *one hundred and nine*, the Director shall, for the purpose of hearing and determining applications for the grant of road service licences or the variation of terms or conditions of such licence, and may for other purposes, hold public sittings at such places within Zambia and at such times as appear to the Director to be required, having regard to the purposes of this Part and the interests of the parties concerned:

Public sittings

Provided that the Director may, on giving at least fourteen days notice in the *Gazette* of the intention so to do, vary a road service licence without holding a public sitting if the Director is of the opinion that, having regard to the final character of the variation, it is not necessary to hold a public sitting.

(2) At any public sitting the Director shall sit with two assessors, who shall be approved by a Committee, as advisers.

101. (1) No person shall use or cause or permit to be on a road any vehicle as a public service vehicle for the carriage of goods unless there is in force in relation to such vehicle a road service licence authorising such use.

Use of vehicles as public service vehicles for carrying of goods

(2) Any person who contravenes any of the provisions of this section commits an offence and is liable, upon conviction, in the case of a first offence, to a fine not exceeding three thousand penalty units, and in the case of a second or subsequent offence, to a fine not exceeding seven thousand five hundred penalty units.

102.(1) Subject to the provisions of Part X no person shall use or cause or permit to be used any vehicle for the purpose of standing or plying for hire or as a public service vehicle for the carriage of persons

Use of vehicles as public service vehicles for carrying of passengers

unless there is in force in relation to the vehicle a road licence authorizing such use.

(2) Any person who contravenes any of the provisions of subsection (1) commits an offence and shall be liable, upon conviction, in the case of a first offence to a fine not exceeding three hundred thousand penalty units, and in the case of a second or subsequent offence, to a fine not exceeding seven hundred and fifty thousand penalty units.

(3) Where a person is charged with using a vehicle in contravention of the provisions of subsection (1) and it is proved that a police officer or road traffic inspector observed such vehicle on two or more occasions in such circumstances as to cause the police officer or road traffic inspector reasonably to suspect that such vehicle was being used for the purpose of standing or plying for hire or as a public service vehicle for the purpose of persons, it shall be presumed, unless the contrary is proved, that such vehicle was used for such purpose or as a public vehicle for the carriage of persons, as the case may be.

(4) Where any person is convicted of an offence in under subsection (2) and the court is satisfied that such person has been previously convicted under that subsection within the twelve months immediately preceding the date on which the offence was committed, the court shall order—

(a) cancellation by a licensing officer of the licence issued under the provisions of Part IV in respect of the vehicle used for the purpose of standing or plying for hire or as a public service vehicle for the carriage of persons, as the case may be; and

(b) that for such period, been not less than six months and not exceeding twelve months as the Court may direct, the vehicle may not be licensed by any person.

(5) Where a court has made an order under subsection (4) that for a specific period a vehicle may not be licenced, any person who uses the vehicle on the road during such period and while the order is in force commits an offence and is liable, upon conviction, to a fine not exceeding seven thousand five hundred penalty units.

(6) Any court which has made an order under subsection (4) that for a specific period a vehicle may not be licensed may, on the application of the owner for the time being of such vehicle, revoke such order at any time after it has been made.

(7) Nothing in this section shall be construed as to prohibit the sharing of expenses of the journey by a passenger with the owner or driver of the motor vehicle other than a goods vehicle.

(8) Subject to subsections (9) and (11) no taxicab shall operate from a taxi rank prescribed by a city council, municipal council, township or district council established under the Local Government Act, unless such a taxicab has a metre.

Cap 281

(9) Notwithstanding subsection (8)—

(a) taxicabs with metres shall operate only from taxi-ranks prescribed by a city council, municipal council, township or district council established under the Local Government Act; and

Cap 281

(b) taxicabs without metres shall operate only along prescribed routes which shall be endorsed on their district licences at the time of issue by the Director.

103. (1) Notwithstanding anything in this Part contained, a road service licence shall be granted for authorising the use on such terms and conditions as the Agency may determine, of any station wagon vehicle as a taxi cab or public service vehicle for the carriage of persons.

Use of station wagon as taxicab or public service vehicle

(2) The Minister may, by statutory instrument, at the request of, or after consultation with and subject to such conditions as the Agency may determine, make regulations prohibiting the use of other types of vehicles as taxicabs.

104. (1) No person shall use or cause or permit to be used on a road any public service vehicle except in accordance with the terms and conditions of a road service licence authorising such use of the vehicle:

Terms, etc. of road service licences to be observed

Provided that any person holding more than one road service licence authorising such person to carry goods may, subject to the conditions of any permit granted in terms of regulations made under the provisions of the Public Roads Act, in respect of any vehicle authorised under any of these licences, use any such vehicle on any route or in any area specified in any of those licences so long as the maximum number of vehicles, which that person is by that licence authorised to use, or the maximum aggregate weight, which the person is so authorised to carry, is not exceeded.

Act No. 12 of 2002

(2) Notwithstanding subsection (1), the Director may, subject to such conditions as that person thinks fit, grant a permit in respect of any vehicle, allowing a higher laden weight or higher maximum axle weight than those fixed by regulation, and where such permit is granted it shall not, so long as the conditions, if any attached to the permit are

complied with, be an offence for such vehicle to be used on that road by reason only that the vehicle does not comply with such regulations.

(3) Any person who contravenes the provisions of this section commits an offence and is liable, upon conviction, in the case of a first offence to a fine not exceeding three thousand penalty units, and in the case of a second or subsequent offence, to a fine not exceeding seven thousand five hundred penalty units.

Person
required to
hold road
service
licence

105. (1) The person required to hold a road service licence in respect of a public service vehicle shall be—

(a) if the vehicle is on hire to another person for a purpose other than the conveyance by that other person of passengers or goods for hire or reward, the person in whose name the vehicle is registered;

(b) in any other case, the person using the vehicle.

(2) Except as provided in this section, a road service licence shall not be capable of being transferred or assigned:

Provided that the Minister may, by regulation, provide for enabling a person taking over the business of the holder of a road service licence to continue for such time as may be specified to use the vehicles authorised in such licence in the event of the death, incapacity, bankruptcy or liquidation of the holder, or the appointment of a receiver or manager in relation to the business.

(3) Any person who contravenes the provisions of this section commits an offence and is liable, upon conviction, in the case of a first offence to a fine not exceeding three thousand penalty units, and in the case of a second or subsequent offence, to a fine not exceeding seven thousand five hundred penalty units.

Notice to be
given to
Director of
alteration of
vehicles

106.(1) The holder of the road service licence, shall on any material alteration other than by way of replacement of parts being made in the structure of fixed equipment of any authorised vehicle specified in the licence, forthwith give notice of the alterations to the Director.

(2) If any person fails to comply with the provisions of this section, the person commits an offence.

Temporary
substitution
of authorised
vehicles in
emergency

107.(1) Notwithstanding any other provisions contained in this Part, in the event of breakdown or other unforeseeable emergency, the holder of a road service licence may temporarily substitute a vehicle which is not an authorised vehicle under a road service licence for an authorised vehicle:

Provided that—

- (a) that person is unable in any other way to provide the service authorised in that person's road service licence;
- (b) within twenty-four hours of making such substitution, such holder shall notify the Director of such substitution, and no vehicle so substituted shall be used in place of an authorised vehicle for a period longer than seven days without the consent of the Director.

(2) Any person who fails to comply with the provisions of this section commits an offence.

108. (1) Subject to the provisions of this section, the Director may grant to any citizen of Zambia applying for a road service licence a road service licence in the prescribed form authorising the holder to provide such road service as may be specified in the road service licence.

Road service
licences

(2) The Director may vary the provisions of a road service licence granted under subsection (1) on application of the holder of the licence.

(3) Notwithstanding subsection (1) the Director may grant a road service licence to, or vary the provisions of a road service licence held by a person who is not a citizen of Zambia, but is a holder of an investment licence issued in terms of the Investment Act.

Cap. 385

(4) In this section "citizen of Zambia" means—

- (a) in relation to an individual, an individual who is a citizen of Zambia;
- (b) in relation to a partnership, a partnership which is composed exclusively of persons who are citizens of Zambia;
- (c) in relation to a body corporate, a body corporate which is incorporated under the laws of Zambia and—
 - (i) is certified under the hand of the Minister to be controlled by the State; or
 - (ii) not less than seventy-five per centum of membership is exclusively composed of persons who are citizens of Zambia;
 - (iii) whose Directors are exclusively citizens of Zambia;
and
 - (iv) which is not controlled by any means directly or indirectly, outside Zambia or by persons who are not exclusively citizens of Zambia.

(5) For the purpose of subsection (2), persons shall be deemed to control a body corporate notwithstanding that other persons are associated with the control of the body corporate, if they can override those other persons.

(6) The Director shall not grant or vary a road service licence in respect of any route if it appears to the Director from any particulars furnished in pursuance of subsection (7) that the provisions of this Act or of the regulations under the Act relating to the speed of motor vehicles are likely to be contravened.

(7) Subject to subsections (1) and (2), the Director in deciding whether to grant or refuse or vary a road service licence in respect of any route or area, shall have regard to the following:

- (a) the suitability of the routes on which a service may be provided under the licence;
- (b) the needs of Zambia as whole in relation to traffic and the co-ordination of all forms of transport;
- (c) the payment of reasonable wages and observance of proper conditions of service in respect of the drivers and conductors of the applicant employees;
- (d) the reliability and financial stability of the applicant;
- (e) facilities at the disposal of the applicant for carrying out vehicle maintenance and mechanical repairs; and
- (f) any previous convictions of the applicant for any offence under this Act.

(8) To enable objections or representations to be made, the Director shall, if the particulars required under subsection (7) have been supplied and the application is otherwise in order, cause a notice of the application to be published in the *Gazette* and in such other manner as may be prescribed by regulations or in the absence of such regulations as the Director may think fit, at least forty days before the meeting at which the application is heard.

(9) Notice of objections or other representations from persons already providing transport facilities along or near the routes or in the area in respect of which the application is made or any part thereof or from any local authority stating the grounds on which they desire to object or make representations shall be given in writing in accordance with such procedure as may be prescribed.

(10) The Director may grant a road service licence subject to such conditions as the Director may think fit and may, from time to time, vary such conditions in such manner as the Director thinks fit.

(11) Compliance with the provisions of this Act and of any regulations made under it and adherence to the rates fixed and laid down in respect of any service shall be implied conditions of the road service licence referred in subsection (10) under which that service is operated.

(12) A person applying for a road service licence, and a holder of such licence applying for its variation, shall submit to the Director—

- (a) particulars of the vehicle to be used;
- (b) in the case of regular services, the timetables of the services which it is proposed to provide under the licence;
- (c) in any other case, such particulars as to the frequency of the services, the times to be taken, and the vehicles to be used on the journeys included in those services as the Director requires;
- (d) the rate of fares of the proposed services;
- (e) particulars of any bankruptcy or of any agreement with creditors entered into by the applicant;
- (f) particulars of any agreement or arrangement affecting in any material respect the provision, within Zambia, of facilities for the transport of goods or passengers for hire or reward entered into by the applicant with any other person by whom such facilities are provided;
- (g) particulars of any financial interest (whether as a partner or shareholder or as a result of any loan, guarantee or other financial transaction) which any person providing facilities for the transport of goods or passengers for hire or reward or controlling (either solely or in conjunction with any other person) the business of the applicant, and in the case of an applicant being a company, of any right which any such director of the company and any such interest or right which the applicant has in the business of any other person engaged in the operation of public service vehicles within Zambia;
- (h) such other information as the Director may require.

(13) In the case of any material mis-statement of any of the particulars referred to in subsection (12), the Director may revoke any road service licence or any variation made by the Director upon the application containing such mis-statement.

(14) Where any application made by any person in accordance with subsection (12) is refused by the Director and within a period of six months from the date of such refusal a further application is made by the same person which, in the opinion of the Director is substantially the same as the one refused, the Director may refuse to entertain such further application until the expiry of such period of six months.

(15) The Director on granting, revoking or suspending in whole or in part a road service licence or vary the terms or conditions of such a licence shall publish and notice thereof in the *Gazette*, and in such other manner, if any, as may be prescribed by regulations or, in the absence of such regulation, as the Director may think fit, but failure to publish such notice shall not operate to invalidate any matter in respect of which such notice ought to have been given.

(16) A road service licence may be revoked or suspended in whole or in part or its terms or conditions may be varied by the Director on the ground that any condition subject to which the licence or a variation was granted has not been complied with:

Provided that the Director shall not revoke, suspend or in terms of this subsection, vary such a licence unless owing to the frequency of the breach of conditions on the part of the licence holder or to the breach having been committed willfully, or to the danger to the public involved in the breach, the Director is satisfied that the licence should be revoked, suspended or varied.

(17) A road service licence may be withdrawn or cancelled by the Director if any of the conditions subject to which such licence was granted are not complied with.

(18) Subject to the subsection (19), where it comes to the knowledge of the Director that the services specified in any road service licence are not being adequately provided, the Director may revoke or suspend the licence in whole or in part, or vary its terms or conditions, and it shall not be necessary for the Director to decide such cases, or those referred to in subsection (15), at a public sitting unless requested by the holder of the licence so to do:

Provided that where the Director has been requested to hold a public sitting in accordance with the provisions of this subsection the Director may, if the Director considers it necessary in the public interest for the

safety of the public or any member of the public, declare the licence suspended until a public sitting can be held.

(19) Notwithstanding subsection (18), the Director shall, prior to revoking a licence, give notice in writing to the person concerned that the Director intends to revoke the licence and giving that person an opportunity to state, within a specified period, any reason why the licence should not be revoked.

(20) Subject to the provisions of section *one hundred and nine*, every road service licence shall be granted for a period of one year ending on 31st December of each year.

(21) For the issue of every road service licence or duplicate of the road service licence, for every variation of such licence, and for each authorised vehicle specified in the road service licence, there shall be paid the prescribed fee.

(22) The Director shall have power to take evidence on oath and make such other necessary investigations as the Director may consider fit in assisting the Director to come to a decision regarding the issue, suspension, cancellation, variation or refusal of the road service licence, or the variation of any conditions attached thereto, and for those purposes the Director shall have power to administer oaths.

(23) Notwithstanding the provisions of this section and of section *one hundred*, the Director may, on giving at least fourteen days' notice in the *Gazette* of the intention so to do, without holding a public sitting, grant to any person applying for a road service licence to provide a rural feeder service after having regard only to the matters contained in paragraph (b) of subsection (7), and to any objections or representations made by any person in respect thereof.

(24) For the purposes of this section, a rural feeder service shall mean a service for conveying goods for hire or reward in areas or on roads that are declared by the Agency to be primarily rural in character, subject to the following conditions:

- (a) that on a rural feeder service no goods shall be kept at any point on any specified route or in any point on any specified area and on the same journey be set down at any other point on any specified route or in any such specified area;
- (b) that no rural feeder service shall be authorised to operate on a specified route or in a specified area beyond the nearest point on that route or in that area at which such service can reasonably terminate;

and for the purposes of this section, specified routes and specified areas shall be those notified by the Minister from time to time in the *Gazette*.

(24) Any road service licence—

- (a) issued in contravention of subsection (1) to a person who is not a citizen of Zambia shall be void; or
- (b) issued to a person who or which, by reason of any reason or event, ceases to be a citizen of Zambia during the period of validity of such licence, shall, upon the happening of such event, expire; or
- (c) may be revoked by the Minister, on the recommendation of the Agency, by statutory order, if it is issued to a body corporate and the Minister is satisfied, after such inquiry as the Director may make or cause to be made with respect to such mentioned body corporate or partnership, that it is not a citizen of Zambia.

(26) Notwithstanding the provisions of this section, the Director shall discourage monopolies and encourage competition as provided in the Competition and Fair Trading Act.

Cap. 417

(27) Any person who knowingly—

- (a) gives false information to the Director in connection with an application for a road service licence; or
- (b) makes a false entry in the prescribed form in respect of an application for a road service licence;

commits an offence and shall be liable, upon conviction—

- (i) in the case of a first offence, to a fine not exceeding fifteen thousand penalty units or, in default of payment, to imprisonment for a period not exceeding eighteen months;
- (ii) in the case of a second or subsequent conviction, to a fine not exceeding thirty thousand penalty units or, in default of payment, to imprisonment for a period not exceeding three years.

(28) Where, in a prosecution for an offence under this section, it is relevant to prove that a person is not a citizen of Zambia, it shall be presumed that such person is not a citizen of Zambia until the contrary is proved.

Short term
licences

109. (1) Upon payment of the prescribed fee, the Director may, if satisfied in the particular circumstances that the needs of those concerned cannot reasonably be met from other sources or that it is

desirable in the public interest, issue to any person applying for it a short-term road service licence in the form and manner prescribed for any period not exceeding three months.

(2) The short-term road service licence issued under subsection (1) shall enable the person to whom it is issued to use, temporarily, public service vehicles—

(a) for the purpose of seasonal business;

(b) for the purpose of the execution of a particular piece of work;
or

(c) for any other purpose of limited duration;

and such short-term licences may be issued without the necessity for the Director to hold a public sitting.

(3) In granting short-term road service licences under this section, the Director may exercise all the powers conferred upon the Director by section *one hundred and eight*.

110. If on the date of the expiration of a road service licence, other than a short term licence, proceedings are pending before the Director on an application by the holder of that licence for the grant to that person of a new licence in substitution for the existing licence, the existing licence shall continue in force until the application is disposed of, without prejudice, however, to the exercise in the meantime of the power of suspension and revocation conferred by this Part.

Extension of
validity
licences

111. (1) There is hereby established the Road Service Appeal Tribunal whose functions shall be to hear and determine appeals under this Act.

Road Service
Appeal
Tribunal

(2) The Tribunal shall consist of the following part-time members appointed by the Minister:

(a) a Chairperson who shall be a legal practitioner of not less than ten years standing recommended by the Judicial Service Commission and who, in the opinion of the Judicial Service Commission, has experience qualifying that person to be appointed judge of the High Court for Zambia; and

(b) two other persons.

(3) A member of the Tribunal shall, subject to subsection (4), hold office for a period of four years from the date of appointment but may be eligible for re-appointment for one further term.

(4) The office of a member of the Tribunal shall become vacant—

(a) upon the member's death;

(b) if the member is absent without reasonable excuse from three consecutive meetings of the Tribunal of which the member had notice;

(c) if the member is an undischarged bankrupt; or

(d) if the member who is a legal practitioner ceases to practice as such on disciplinary grounds confirmed by the Law Association of Zambia.

(5) If a vacancy occurs in accordance with subsection (4), a new member may be appointed in accordance with subsection (2), but such member shall hold office only for the unexpired part of the term.

(6) The Minister may appoint alternate members of the Tribunal who shall have and may perform the functions of a member during the member's illness or absence.

(7) A member of the Tribunal shall be paid such allowances as the Minister may determine.

(8) The Minister may, by regulations, regulate the procedure of the Tribunal.

(9) The Minister shall appoint a Secretary to the Tribunal who shall have such functions as may be conferred by regulations made under subsection(8).

Appeal to
Tribunal

112. Any person who—

(a) being an applicant for the grant or variation of any licence which may be issued under this Part, is aggrieved by the decision of the Director on the application or by any condition subject to which the licence was granted or attached to the licence;

(b) having duly made an objection to or a representation concerning any such application under this Part, is aggrieved by the decision of the Director thereon; or

(c) being the holder of a road service licence, is aggrieved by the revocation or suspension thereof, or by any variation of the conditions attached thereto;

may appeal to the Tribunal within thirty days of the decision appealed against.

(2) The Tribunal may, by notice in writing, require any person, subject to the payment or tender of the reasonable expenses of the person's attendance, to attend as a witness and give evidence, or to produce any documents in that person's possession or power which

relate to any matter in question on an appeal under this section, and if any person without reasonable excuse fails to comply with any of the provisions of such notice that person commits an offence.

(3) The Tribunal shall hear and determine the matter of the appeal, and may make such order therein in addition to, or substitution for, the matter appealed against as it thinks fit.

(4) The Tribunal—

(a) shall have power to take evidence on oath and make such other investigations as it may consider fit in assisting it to come to a decision regarding any matter before it, and for that purpose the Chairperson shall have the power to administer oaths; and

(b) may award to any party to an appeal such costs as the Tribunal considers reasonable, and direct how and by what parties they are to be paid:

Provided that the Director shall not be directed to pay any such costs.

(5) Either party to an appeal to the Tribunal may appeal to the High Court from the decision of the Tribunal on any question of law or question of mixed law and fact but not on a question of fact alone.

(6) The High Court shall hear and determine any such appeal and may make any order on such appeal including an order as to costs or otherwise, as the High Court may consider fit.

(7) Notice of appeal shall be given to the High Court within thirty days of the decision of the Tribunal.

113. No action shall be brought against the Chairperson or any member of the tribunal or against the Director or any member of the Agency in respect of any act done or order made by the Chairperson or member of the Tribunal or the Director or a member of the Agency in good faith in the execution or supposed execution of the powers and duties conferred upon them under this Act and any regulations made under the Act.

Protection of
Chairperson
of Tribunal
and Director

114. (1) Any person carrying on the business of operating public service vehicles shall keep such accounts and records in relation to the business and make such financial and statistical returns to such person and in such manner and at such times as may be prescribed:

Obligation to
keep records
and returns

Provided that the Agency may, subject to such conditions, if any, as the Agency thinks fit to impose, authorise the submission of financial and statistical returns in a manner and at times other than as may be prescribed.

(2) The owner of a public service vehicle shall at the request of the Director produce for inspection all accounts or records kept in accordance with subsection (1).

(3) If any person fails to comply with the provisions of this section that person commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred and fifty penalty units and, in the case of a continuing offence, to a fine not exceeding one hundred and fifty penalty units for every day during which the offence continues.

Number of
passengers,
weights of
public
service
vehicles

115. (1) The gross weight of a public service vehicle, the weight of goods and the maximum number of passengers that may be carried on a public service vehicle shall be determined by a vehicle examiner in the prescribed manner, and, together with such other particulars as may be prescribed, shall be described on the certificate of fitness for the vehicle issued under Part IX and shall be legibly painted in a conspicuous position on the vehicle in such manner as may be prescribed:

Provided that, notwithstanding the provisions of this subsection and of any regulations which may be made prescribing the manner in which the number of passengers that may be carried in a public service vehicle shall be determined, the Director may, by *Gazette* notice, authorise, subject to such conditions as the Director may specify in such notice, the carriage of standing passengers in such omnibuses or classes of omnibuses as the Director may so specify.

(2) If, in any public service vehicle, there are more passengers than the vehicle is permitted to carry, the conductor of the vehicle, if any, or, if no conductor is carried, the driver, commits an offence and is liable, upon conviction, to a fine of two hundred penalty units in respect of every passenger carried in excess of the permitted number of passengers.

(3) If any person being requested by the conductor or driver of a public service vehicle not to enter the vehicle enters or attempts to enter the vehicle when it is carrying the full number of passengers, which it is permitted to carry, that person commits an offence.

(4) For the purposes this section, a child under five years of age and not occupying a seat shall not be counted as a person, and three children over five years of age and under ten years of age shall be counted as two persons.

Touting

116. (1) No owner, driver or conductor acting on behalf of the owner or driver or conductor of a public service vehicle authorised to

carry passengers shall make any loud noise or sound any instrument in order to attract the attention of the public or of a possible passenger, or by troublesome or frequent demands or by persistent following hold out the vehicle for hire to the public, or attempt to induce any person to become a passenger therein in such manner as to constitute a nuisance, or act in any way so as to cause annoyance or inconvenience to any person.

(2) Any person who contravenes subsections (1) commits an offence.

117. (1) A driver of a public service vehicle shall, while on duty, as defined in subsection (3) of section *one hundred and eighteen*, wear a uniform of such colour and such style as may be prescribed.

Driver of public service vehicle to wear uniform

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units.

118. (1) Any person who knowingly sells or supplies any intoxicating liquor or narcotic drugs to any driver of a public service vehicle, while such driver is on duty, and any such driver who buys or consumes intoxicating liquor while on duty commits an offence, and such person or driver shall upon conviction be liable, in the case of a first offence, to a fine not exceeding five thousand penalty units or to imprisonment for a period not exceeding six months, and in the case of a second or subsequent offence, to a fine not exceeding seven thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

Prohibition of supply and consumption of liquor, or narcotic drugs by driver of public service vehicle

(2) Any person licensed to drive a public service vehicle who, at any time within six hours before the time at which that person is due to take charge of a public service vehicle in respect of any journey renders oneself incapable of taking proper control of a motor vehicle, by the consumption of intoxicating liquor, commits an offence and shall be liable upon conviction, in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding six months and, in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(3) For the purposes of this section, the driver of a public service vehicle shall be deemed to be on duty during the time when that driver is in charge of, or responsible for, the driving of a public service vehicle in the course of any journey, including the period of any halt during such journey other than a halt overnight.

(4) A Passenger of a public vehicle is obliged to report any driver contravening section 118(1)(2)

Limitation of time for which drivers of certain vehicles may remain continuously on duty

119. In the case of any public service vehicle or any other vehicle the gross weight of which, with any trailer attached to it, exceeds eighteen thousand kilograms, any person who drives or cause or permits any person employed by that person or subject to that person's orders to drive in excess of such hours as may be prescribed by the Minister, on the recommendation of the Agency, commits an offence:

Provided that the provisions of this section and any regulations made under this section may be extended to the drivers of such other vehicles or classes of vehicles as may be prescribed by the Minister, on the recommendation of the Agency, by statutory notice.

Tickets and fares

120. (1) Any person authorised to receive fares from passengers or intending passengers in a public service vehicle other than a hire car or taxicab shall forthwith issue to each passenger or intending passengers who have paid their fare a ticket showing the amount of such fare and such other particulars as may be prescribed.

(2) Any passenger in a public service vehicle who has paid a fare may, if the vehicle fails to start on its journey from its terminal point within six hours of the time approved in its time-table, or if the operator fails to convey the passenger to such passenger's destination within a reasonable time, recover the whole fare paid by such passenger.

(3) Where a fare is recoverable under subsection (2) the person who received the fare or the person on whose behalf the fare was received if it has been handed over to that person shall repay it to the passenger on demand.

(4) If any person who has a duty to repay a passenger fare under subsection (3) fails so to repay the fare that person commits an offence and a court may, on conviction, order that person to repay the fare, in addition to any other fine to which that person may be liable, and the amount of the fare shall be recovered as a fine, and imprisonment may be imposed in default of payment.

(5) Nothing in this section shall affect any civil remedy for the recovery of the fare or any part thereof, which may be recoverable under this section.

(6) Any owner or person in control of a public service vehicle used for the carriage of passengers shall, in respect of every long distance journey, cause to be displayed, in a conspicuous place inside the public service vehicle concerned, a list of passengers aboard the public service vehicle during the course of the journey.

(7) The owner or person in control of a public service vehicle shall cause a copy of the list referred to in subsection (6) to be retained at the principal place of business.

(8) Any person who contravenes subsection (6) commits an offence and is liable on conviction, in the case of a first offence to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding eighteen months, or to both, and in the case of a second or subsequent offence to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(9) For the purposes of subsection (6) "long distance journey" means a journey covering a distance of two hundred kilometres or more from the point of commencing the journey to the final destination.

PART IX

EXAMINATION FOR CERTIFICATES OF FITNESS FOR CERTAIN CLASSES OF VEHICLES

121. The vehicles to which this Part applies shall be public service vehicles, heavy trailers, contract cars, and motor vehicles used for gain for the teaching of driving.

Application
of Part IX

122. No vehicle or trailer to which this Part applies shall be used on any road unless there is in force in respect of such vehicle or trailer a valid certificate of fitness, issued by a vehicle examiner, and no licensing officer shall issue a motor vehicle or trailer licence for any vehicle or trailer to which this Part applies unless there is produced to that licensing officer such evidence as may be prescribed that either on the date when the licence comes into operation there will be in force in respect of that vehicle or trailer a valid certificate of fitness, or that such vehicle or trailer will be exempt from the need to hold such a certificate:

Certificates
of fitness

Provided that—

- (i) no person shall be liable to a penalty for a breach of this section if that person proves that such person has not had a reasonable opportunity to obtain a certificate of fitness;
- (ii) in the case of vehicles or trailers registered and licensed outside Zambia, regulations may be made granting exemption from the provisions of this section.

123. (1) A certificate of fitness shall record such matters as are specified in section *one hundred and fifteen* and such other matters as may be prescribed, and shall state that the vehicle or trailer in respect of which it is issued is in all respects fit for the purpose for which it is to be used, and that it complies with any conditions as to fitness and construction as may from time to time be prescribed.

Form and
display of
certificate of
fitness

(2) A certificate of fitness shall at all times be displayed in a conspicuous place on the vehicle in respect of which it was issued, or in the case of a trailer on the trailer or on the vehicle drawing it at the time.

(3) Any vehicle or trailer to which this Part applies on which no certificate of fitness is displayed in the manner prescribed in subsection (2) may be impounded by any road traffic inspector in uniform or by any police officer.

Period of
validity of
certificate of
fitness

124. A certificate of fitness shall be valid from the date of coming into force of such certificate—

(a) for four months in the case of a public service vehicle, heavy vehicle or heavy trailer used for the carrying of passengers, a contract car and a motor vehicle used for the teaching for gain of driving; and

(b) for twelve months in the case of other public service vehicles, heavy vehicles and heavy trailers.

Defects

125. (1) Where a vehicle examiner on examining a vehicle or trailer under the provisions of this Part finds that the said vehicle or trailer does not comply with the provisions of any law in regard to construction and equipment applicable to such vehicle or trailer, the vehicle examiner shall make a full list (hereinafter called a "defects List") of all defects found and shall give the owner of the vehicle or trailer a copy thereof and shall notify the owner of the date (hereinafter called the "notified date") by which the defects must be remedied and the vehicle or trailer produced for re-examination.

(2) If upon re-examining a vehicle or trailer under the provisions of this section to ascertain whether the defects in a defects list have been remedied, the vehicle examiner finds any further defects the vehicle examiner shall require, in the manner set forth in subsection (1), the owner to remedy such defects.

(3) If a vehicle or trailer is not produced for re-examination on the notified date, if the defects in the defects list have not been remedied on the notified date or if upon examining a vehicle or trailer under the provisions of this section it is considered necessary in the interests of safety, a vehicle examiner may prohibit the use of such vehicle or trailer or issue such other directions as the vehicle examiner may think necessary restricting its use.

(4) Any directions issued under subsection (3) or prohibition of the use of a motor vehicle or trailer under paragraph (f) of subsection

(1) of *two hundred and twelve* may be cancelled or revoked by the vehicle examiner as soon as the defects of such vehicle or trailer have been remedied to such an extent that in the opinion of the vehicle examiner the vehicle or trailer may safely be used on the road.

(5) If upon examining a vehicle or trailer in accordance with this section no defects are found, or if any defects found are remedied to the satisfaction of the vehicle examiner, the examiner shall—

(a) if the examination is for a fitness certificate, issue such a certificate and cancel any defects list that may have been issued; or

(b) if the examination is pursuant to a prohibition made under paragraph (f) of subsection (1) of section *two hundred and twelve*, cancel any defects list that may have been issued.

(6) Where a vehicle examiner prohibits the use of a vehicle or trailer to which this Part applies, the vehicle examiner shall take and retain in the vehicle examiner's possession the certificate of fitness, if any, of the vehicle or trailer concerned until its use on a road is permitted and the vehicle examiner shall return the certificate to the owner of the vehicle or trailer.

126. Any licensing officer in whose District a vehicle or trailer to which this Part applies is being used and who has reason to suspect that the vehicle or trailer has ceased to be fit for the purpose for which it is being used may order that the vehicle or trailer be produced for examination by a vehicle examiner at a specified time and place and, if such order is not obeyed, the licensing officer may prohibit the use of the vehicle or trailer until the order is obeyed.

Examination
on suspicion
of vehicle
being unfit

127. (1) A road traffic inspector shall at any time on production if so required, if that road traffic inspector's identity card, be entitled to enter and inspect any vehicle or trailer to which this Part applies, and for that purpose may require any such vehicle or trailer to be stopped and may at any time which is reasonable, having regard to the circumstance of the case, after obtaining a search warrant, enter any premises upon which the road traffic inspector has reason to believe that any such vehicle or trailer is kept.

Inspection by
road traffic
inspector

(2) If, upon inspection made under subsection (1), a road traffic inspector is satisfied that it is necessary to do so, the traffic inspector may order that the vehicle or trailer be taken off the road forthwith or may issue such directions restricting the use of the vehicle or trailer as the traffic inspector may think fit, and the inspector shall notify the Director of any such order or direction.

Examination by other examiners	<p>128. Subject to an appeal to the Director, no person shall have such person's vehicle or trailer examined for the purpose of ascertaining whether defects discovered earlier have been remedied, by a vehicle examiner other than the one who discovered such defects, unless such examiner shall consent to the examination of the vehicle or trailer by such other examiner.</p>
Persons empowered to examine vehicles exempted from liability for damage	<p>129. No person who is empowered under this Act to examine, or to order the examination of, or to issue any other direction concerning any vehicle under this Act, shall be liable for the loss of any such vehicle or the contents thereof or for any damage caused to any vehicle or the contents thereof, resulting from any action taken by that person in good faith and without negligence and in the exercise of any powers under this Act.</p>
Appeals	<p>130. (1) The decision of a vehicle examiner that a vehicle or trailer is fit for use shall be final.</p> <p>(2) The decision of a vehicle examiner that any vehicle or trailer is unsafe for use and any order, direction or prohibition made under section <i>one hundred and twenty-five</i> and <i>one hundred and twenty seven</i> shall be subject to an appeal to the Director within fourteen days of the decision, order, direction or prohibition concerned being made.</p>
Prescribed fees	<p>131. (1) The fees to be charged for examination and re-examination under this Part shall be as may be prescribed by regulations made under section <i>two hundred and thirty-three</i>:</p> <p>Provided that no fees shall be payable for an examination conducted in accordance with section <i>one hundred and twenty five</i> if no defects are discovered, or for an examination conducted in accordance with section <i>one hundred and twenty-six</i></p> <p>(2) The fees to be charged under this Part shall be paid to the Agency, which shall pay the fees received into the Road Fund and general revenue of the Republic in such proportion as the Minister responsible for finance may determine.</p>
Exemptions	<p>132. The Minister may, on the recommendation of the Agency, by statutory order, exempt any vehicle or trailer to which this Part applies from the requirements of its provisions, subject to such conditions as the Minister may impose for ensuring the safety of the occupants of the vehicle and of the public.</p>
Offences	<p>133. If any person—</p> <p>(a) uses or causes or permits to be used on a road a vehicle or trailer to which this Part applies and for which there is no certificate of fitness in force;</p> <p>(b) fails to display on a vehicle or trailer to which this part applies a certificate of fitness;</p>

- (c) obstructs any road traffic inspector or vehicle examiner in the course of the road traffic inspector or vehicle examiner's duty;
- (d) fails to stop a vehicle or trailer when required by a road traffic inspector so to do under this Part; or
- (e) fails to comply with an order or direction given to that person by a road traffic inspector or vehicle examiner under this Part;

that person commits an offence and shall be liable, upon conviction, in the case of the first offence to a fine not exceeding one thousand five hundred penalty units, and in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units.

PART IX

EXCLUSIVE CONCESSIONS

134. (1) The Minister may, on the recommendation of the Agency, with the approval of the Commissioner of the Competition and Fair Trading Commission by statutory notice, give to any person or to any two or more persons jointly an exclusive concession to provide a motor omnibus service along any road (hereinafter referred to as a concession road) or in any area upon such conditions and for such period as shall be specified in the grant and subject to the provisions of this Act:

Power to
grant
concessions

Provided that, where the area of any local authority is included within a concession area, the local authority may at any time after the grant of the concession concerned apply to the Agency for the excision from the area of the local authority of an area of not more than twenty kilometres radius from the principal post office in the local authority area and for the grant to such local authority of an exclusive concession to provide from its own resources motor omnibus services within such excised area.

(2) Any concession shall be revocable in accordance with any provision as to revocation which may be contained in it.

(3) Where the Agency is satisfied that it is necessary or desirable that a concession be extended and applied to any free road or free area the Agency shall recommend to the Minister to extend and apply the concession, by statutory notice and subject to any provisions as to extension which may be contained in the grant.

(4) Reference in this Part to the date of the grant of a concession shall be deemed to mean, in relation to any area or road to which a concession is extended and applied under the provisions of this subsection, the date upon which the concession was so extended and applied.

(5) The provisions of sections *one hundred and two, one hundred and four, one hundred and seven, one hundred and eight, one hundred*

and *nine* and *one hundred* and *ten* shall not apply to any service or vehicle from time to time provided or used under or by virtue of a concession.

Particulars to
be given to
Director

135. Not less than one month before commencing to operate any new service under or by virtue of any concession, the concession holder shall give to the Director particulars of the route along which such service is to be operated, the points at which passengers may be taken up or set down, and a copy of the fare and time-table of the service, and if the concession holder shall make any alterations in the route of the time-table or in any of the fares or charges for the carriage of passengers on any service for the time being operated by the concession holder under or by virtue of the concession holder's concession, the concession holder shall without delay notify the Director of such alteration:

Provided that—

- (a) the concession holder may with the consent of the Director commence to operate a service notwithstanding that the concession holder shall not in respect of that service, have complied with the foregoing provisions of this section; and
- (b) the concession holder shall not be required to notify the Director of any temporary alteration in the route or time-table of any service made by the concession holder at times of race meetings, public gatherings or the like special occasions or to facilitate the carrying out road repairs or in consequence of any accident or any cause beyond the control of the concession holder.

Restrictions
on other
operators

136. (1) Subject to the provisions of this Part, no person other than the concession holder shall, during the continuance in force of a concession, use any motor omnibus on any concession road or in any concession area without the prior consent of the concession holder, and no road service licence shall, during the continuance in force of a concession, be granted to any person to provide a motor omnibus service on any concession road or in any concession area without the like consent:

Provided that—

- (i) if the Director, after considering any representations made by the concession holder and the duties of the concession holder under this Act and the concession, declares that the consent of the concession holder is in any particular case unreasonably withheld, the concession holder's consent shall not in that case necessary;

(ii) in respect of any concession road, the Director may issue to any person, other than the concession holder, roads service licences for the provision of motor omnibus services by such number of motor omnibus not exceeding in the aggregate one motor omnibus for every nine used by the concession road as the Director may think fit, and any motor omnibus used upon such concession by an existing operator shall be included in computing the aggregate.

(2) The provisions of paragraphs (c), (d), (e) and (f) of subsection (5) of section *one hundred and eight* shall not apply to an application for a licence to be granted under the powers conferred upon the Director by paragraph (ii) of the provision to subsection (1).

(3) Notwithstanding the provisions of subsection (1), a road service licence may be granted to any person in respect of a special tour or journey of *bona fide* tourist or sporting facilities and the provisions of the subsection shall not apply to any motor omnibus whilst it is being used on such special tour or journey:

Provided that where any such special tour or journey originates within a concession area or any concession road the concession holder or that person's nominee shall, if that person is in possession of road service licence to operate such tour or journey on any free road or in any free area which may be included in the itinerary of the tour or journey, have the exclusive right to provide the special tour or journey unless the Director is satisfied that the fares proposed to be charged by the concession holder in respect of such special tour or journey are unreasonable or that the concession holder is unable or unwilling to provide such special tour or journey and, in any such case, the Director may issue a short-term road service licence to any other person in respect of the tour or journey:

137. (1) Notwithstanding the provisions of section *one hundred and thirty-six* any existing operator may, so long as the operator is authorised by a road service licence so to do, continue to provide any motor omnibus service, in accordance with the conditions of that operator's road service licence and time-tables in force at the date of the grant of the concession concerned, which the existing operator was licensed to provide on any concession road or in any concession areas at the date of the grant of the concession:

Saving for
existing
operators

Provided that—

- (i) the Director may modify the conditions and time-table, as long as the rights of the existing operator at the date of the grant of the concession are not diminished thereby;
- (iii) except as provided by section *one hundred and thirty six*, an existing operator shall not, without the approval of the

Director and the prior consent of the concession holder concerned, at any time use a greater number of motor omnibuses upon such service that the operator was authorised to use under any road service licence in force at the said date, or if such road service licence does not specify a number of vehicles, then such number as the existing operator was using thereon at any time during the twelve months ending on such date.

Revocation of road service licence held by existing operator

138. Where a road service licence held by an existing operator in respect of a motor omnibus service on any concession road or in any concession area is or has been revoked and where such order or revocation has not been reversed in any appeal against such order, the existing operator shall forfeit all the operator's rights as the existing operator in respect of the road service licence and shall not be granted any new road service licence under subsection *one hundred and thirty-seven* in substitution for the road service licence so revoked:

Provided that the provisions of this section shall not prevent the existing operator from applying for or from being granted a road service licence in accordance with and subject to the provisions of section *one hundred and eight* or *one hundred and thirty-six* or a short term road service licence in accordance with and subject to the provisions of section *one hundred and nine*.

Termini of non-concession routes

139. (1) Where a road service licence is or has been granted authorising a motor omnibus service to provide for the needs of any free road area, nothing in this Act shall make it unlawful for the holder of such licence to use motor omnibuses for the purposes of such service over so much of any concession road or concession area as the Director may determine to be necessary to enable such service—

- (a) to reach any other part of the free road or free area; or
- (b) to reach the nearest convenient point at which connection can be made with any other motor omnibus service.

(2) No passenger on such service shall be taken up at any point on any concession road or in any concession area and issued with a ticket with the intention that on the same journey the passenger should be set down at any point on any road or in any area to which the same concession applies.

(3) Any person who contravenes the provisions of subsection (2) commits an offence and, on conviction, for such offence the Director may revoke the determination or the road service licence appertaining to such service.

- | | |
|---|--|
| <p>140. During the continuance in force of a concession, the concession holder shall provide such motor omnibus services which will serve adequately and efficiently the needs in respect of passenger traffic or such concession roads or concession areas along or in which motor omnibus services are from time to time necessary or desirable in the public interest and can be provided by the concession holder safely and, having regard to all the duties of the concession holder under the concession, without wasteful or unjustifiable expense.</p> | <p>Duty of concession holder to provide services</p> |
| <p>141. The fees payable in respect of any public service vehicle used for providing any service under a concession granted under this Part shall be as may be prescribed by regulations.</p> | <p>Prescribed fees</p> |
| <p>142. (1) If it shall appear to the Director from any information given to the Director by a concession holder under the provisions of section <i>one hundred and thirty-five</i> from any representations made to the Director by any person that—</p> | <p>Powers of Director</p> |
| <p>(a) the concession holder has without reasonable cause failed to provide along any concession road or in any concession area such service of motor omnibuses as it is the concession holder's duty under section <i>one hundred and forty</i> and that concession holder's duty to provide;</p> <p>(b) any of the fares charged or proposed to be charged for the carriage of passengers on any service provided or proposed to be provided under or by virtue of any concession is unreasonable;</p> <p>(c) any road upon which the concession holder is providing or proposing to provide a service under or by virtue of the concession is not suitable for that service or is suitable for that service only subject to conditions as to the type of vehicle used or to be used on that service;</p> <p>(d) the frequency of any such service is excessive or insufficient having regard to the needs of the route along which the service is or is to be provided by the concession holder or by an existing operator along that route or any part thereof;</p> <p>(e) for the convenience of the public the time-table of any such service requires modification; or</p> <p>(f) on any such service passengers should not be taken up or set down except at specified points or should not be taken up or set down between specified points;</p> | |

143. (1) Notwithstanding any other provision of this Act, a concession holder may, without obtaining a road service licence in respect thereof, carry in, on or about any motor omnibus used on a service provided under or by virtue of the holder's concession and in any trailer attached to such motor omnibus, mails, parcels and passenger's luggage, effects and bicycles.

Savings for
mails,
parcels and
luggage

(2) Nothing in this section shall be construed as authorising a concession holder to carry goods other than those mentioned in subsection (1), except under the provisions of valid road service licence.

144. Where arrangements are made between a concession holder and any other person operating a motor omnibus service for the interchange or express carriage of passengers between or over any services provided by any of the parties to such arrangements or the express running of the vehicles of any party over the route or any part of the route of any motor omnibus service provided by any other such party, a vehicle used under those arrangements as a motor omnibus on any concession road or in any concession area, shall be deemed for the purposes of section *one hundred and thirty-six* to be so used by the concession holder:

Express
running
agreements

Provided that where any vehicle is used in accordance with this section, during the whole period of such use there shall be displayed on the front or on the near side of such motor vehicle a notice stating that the vehicle is being used under contract with the concession holder.

145. (1) The President at any time of emergency and when it is necessary in the public interest may, by written notice addressed to the registered office of a concession holder, require such concession holder to place at the disposal of the Government the entire fleet of omnibus, or any specified part thereof belonging to the concession holder together with the whole or any specified part of the staff, plant, workshops and depots of the concession holder, and such fleet, staff, plant, workshops and depots or any part thereof may be retained by the Government subject to the payment to the concession holder concerned of such compensation as may thereafter be agreed upon between the concession holder and the Government, and failing such agreement the amount of compensation payable under this subsection shall be submitted to arbitration in accordance with the Arbitration Act.

Undertaking
at disposal of
Government
in emergency

(2) Any notice purporting to be given under the provisions of subsection (1) of this section and signified under the hand of the Minister shall be conclusive evidence of the existence of the conditions necessary for the issue thereof and if the concession holder to whom

subject to the provisions of this section, the Director may make any such order as the Director may consider necessary to secure that the service or proposed service will adequately and efficiently but, having regard to all the duties of the concession holder under the concession, without wasteful or unjustifiable expense, meet the needs of the route along which it is proposed to be operated.

(2) Any order made by the Director under subsection (1) may be amended, altered or revoked by any order subsequently so made.

(3) Before making any order under this section, the Director shall give to the concession holder and to any person who has made representations to the Director relating to the subject matter of the proposed order notice in writing of the Director's intention to consider the making of such an order together with a draft of the proposed order, and shall afford such concession holder or person the opportunity of making representations or objections in respect of the proposed order and submitting evidence, whether orally or in writing, in support of such representations or objections as the concession holder or such person may reasonably require.

(4) If after hearing and considering any objections or representations made and any evidence given in support of such objections or representations, the Director is satisfied that the order proposed to be made is necessary, whether with or without modification, for any of the purposes mentioned in subsection (1), the Director shall make the order subject to such modifications, if any, as the Director may consider necessary for that purpose and shall forthwith give notice of the making of the order to the concession holder concerned.

(5) Any order made by the Director under this section shall not, without the consent of the concession holder, come into force until the expiration of the time prescribed for appealing there from and, if an appeal is lodged, until the appeal is withdrawn or disposed of.

(6) If any concession holder contravenes or fails to comply with the provisions of any order in force under or by virtue of this section the concession holder commits an offence and, in the case of a conviction for failing to comply with an order made pursuant to representations under paragraph (a) of subsection (1), the route or area concerned may be severed from the concession concerned by order of the Director:

Provided that no such order of severance shall be of any effect unless confirmed by the Minister.

(2) Where the Government acquires any undertaking in accordance with the provisions of subsection (1)—

(a) as consideration for the acquisition the Government shall pay to the concession holder such sum as may be agreed between the Government and the concession holder or, in default of agreement, determined by arbitration in accordance with the Arbitration Act to be the fair market value of the undertaking as a going concern without any deduction or diminution by reason of the termination of the concession;

Act No. 19 of
2000

(b) on payment of such consideration by the Government to the concession holder such estate or interest as the concession holder may at the date of acquisition be entitled to sell and assign in lands or buildings used wholly or mainly by the concession holder for the purposes of or in connection with the carriage of passengers or goods and all vehicles, plants, equipment and stores belonging to the concession holder at the date of acquisition and used wholly or mainly for these purposes shall be transferred or delivered to the Government;

(c) subject to the provisions of paragraph (d) and, on payment of such consideration the Government shall, to the exclusion of the concession holder, be subject to all obligations and liabilities whether arising by statute or otherwise howsoever to which the concession holder shall immediately before the date of acquisition have been subject other than any liabilities of the concession holder in respect of any securities or money issued or borrowed or agreed to be issued or borrowed by the concession holder;

(d) all profits, receipts, outgoings and liabilities in respect of the undertaking which shall have accrued or become payable on or before the date of acquisition shall belong to or be discharged by, as the case may be, the concession holder, and all profits, receipts, outgoings and liabilities in respect of the undertaking which shall accrue or become payable after such date shall belong to or be discharged by, as the case may be, Government, and, if necessary, any profits, receipts, outgoings and liabilities shall be apportioned as at the said date;

(e) any question, difference or dispute arising between the Government and a concession holder as to any matter which in default of agreement is under this section to be

such notice is addressed shall fail to comply with all the terms of such notice within such time as may be specified therein, the President may, notwithstanding any provision of the concession concerned, forthwith revoke the concession.

Expiration of concession

146. (1) Where a concession is not at its expiration renewed, or is renewed in respect of some but not all of the road or areas over or in which the concession holder is then providing motor omnibus services under or by virtue of the concession, if the concession holder applies before the date of the expiration of the concession for a road service licence to authorise the concession holder to continue after that date to provide any service provided by the concession holder at any time during the twelve months immediately preceding the expiration of the concession over any road or in any area in respect of which the concession is not to be renewed the Director shall, notwithstanding the provisions of section *one hundred and eight* of this Act, grant such application.

(2) Where an application is granted under subsection (1), the Director shall issue to the concession holder a road service licence authorising the concession holder to continue during the normal currency of such licence to provide the service at the times and fares and with the number of motor omnibuses at or which the service was at any time during the period of twelve months operated by the concession holder:

Provided that, if the Director is satisfied that the concession holder has, during the twelve months period referred to in this section, failed to operate such service efficiently and that by reason of such failure the application ought in the public interest to be refused or to be granted only subject to conditions for securing the efficient operation of this service, the Director may refuse the application or grant the licence so applied for subject to such conditions as the Director may consider necessary for that purpose.

Determination of concession by legislation

147. (1) If by any written law made or enacted after the date of the grant of a concession or by the exercise of any power conferred by any such law such concession be determined or cease to be of effect, the concession holder may, by notice in writing to the Government require the Government to acquire and the Government shall acquire the undertaking of such concession holder on the terms in accordance with the provisions of this section.

Act No. 19 of
2000

determined by arbitration in accordance with the Arbitration Act or as to the lands or buildings or other property which, or the estate or interest of the concession holder which is to be transferred or delivered to the Government pursuant to this subsection shall, in default of agreement, be subject to any provision as to arbitration which may be contained in the grant of the concession.

PART X

ROAD SAFETY PROVISIONS AND DRIVING OFFENCES

Speed limit

148. (1) The general speed limit—

- (a) in respect of every public road or section thereof situated within the area of a local authority;
- (b) in respect of every public road or section thereof situated outside the area of a local authority; or;
- (c) in respect of every freeway;

shall be as prescribed by the Minister, on the recommendation of the Agency.

(2) An appropriate road traffic sign, set by the Agency, may be displayed on any public road indicating a speed limit other than the general speed limit which under subsection (1) applies in respect of that road:

Provided that such other speed limits shall not be higher than the speed limits prescribed under paragraph (c) of subsection (1).

(3) The Minister may, after consultation with the Agency, in respect of any particular class of vehicle prescribe a speed limit which is lower or higher than the general speed limit prescribed under paragraph (b) or (c) of subsection (1).

(4) No person shall drive a vehicle on a public road at a speed in excess of—

- (a) the speed limits which under subsection (1) applies in respect of that road;
- (b) the speed limit indicated under subsection (2) by an appropriate road traffic sign, set by the Agency, in respect of that road; or
- (c) the speed limit prescribed by the Minister, in consultation with the Agency, under subsection (3) in respect of the class of vehicle concerned.

Exemption of
drivers of fire
engines, etc
from speed
limit

149. Notwithstanding the provisions of section *one hundred and forty-eight*, the driver of a vehicle belonging to —

- (a) a fire-fighting organisation;
- (b) a rescue organisation or hospital; or
- (c) a traffic police department;

who drives a vehicle in the execution of driver's duties may exceed the applicable speed limit:

Provided that the driver shall drive the vehicle concerned with due regard to the safety of other traffic and such vehicle shall be fitted with a device capable of emitting a sound or with a bell and with an identification lamp, as prescribed, and such device or bell shall be constantly sounded and such lamp shall be in operation while the vehicle is driven in excess of the applicable speed limit.

150. (1) No person shall operate on a public road a motor vehicle of a prescribed class unless such vehicle is fitted with a prescribed automatic, electronic, electric or mechanical recording device to record the speed at which such motor vehicle is being driven.

Certain classes of motor vehicles to contain recording device to measure speed

(2) The driver of a motor vehicle of a class referred to in subsection (1) shall, when driving such motor vehicle on a public road, use the recording device referred to in subsection (1).

151. Any person who promotes or takes part in any race or trail of speed between motor vehicles on a road except with the consent of, and in accordance with any condition imposed, by the Inspector-General of Police, commits an offence and shall be liable, upon conviction, in the case of a first offence to a fine not exceeding one thousand five hundred penalty units, and in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units.

Road racing

152. Any person who permits any motor vehicle to travel backwards for a longer distance than may be necessary for turning or other reasonable purposes commits an offence.

Travelling backwards

153. (1) A driver of any vehicle shall at all times when it is necessary for the safety or convenience of the public given audible or sufficient warning of the driver's approach or position by using by such warning device as may be prescribed.

Warning devices

(2) When a motor vehicle is stationary on a road no person shall use or permit to be used in connection with such a motor vehicle any instrument provided for the purpose of giving audible warning, except when such use is necessary on grounds of safety and such warning device shall not be used in such a manner as to be a nuisance to the public.

(3) The Minister may, notwithstanding anything contained in subsection (1), by regulation, specify that in certain areas or on certain

roads the use of sound warning shall be prohibited at all times or at certain times, except as may be provided in the regulations.

(4) No motor vehicle other than an ambulance, a fire engine, or a motor vehicle used solely for ambulance, fire brigade, police or such other purpose as may be prescribed, shall be fitted with a gong, bell or siren:

Provided that the provisions of this subsection shall not apply to any motor omnibus, which is fitted with a bell intended solely as a means of communication between the conductor or passengers and the driver.

(5) Any person who fails to comply with the provisions of this section commits an offence.

Careless
driving

154. (1) If any person drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road, that person commits an offence and shall be liable upon conviction, in the case of a first offence, to a fine not exceeding seven hundred and fifty penalty units, and in the case of a second or subsequent offence, to a fine not exceeding one thousand five hundred penalty units.

(2) A person may be charged under subsection (1) where the offence does not amount to an offence under section *one hundred and fifty-five* and, when a person is charged with an offence under section *one hundred and fifty-five* and the court is of the opinion that the person has not committed an offence under subsection (1), that person may be convicted of an offence under subsection (1) although that person was not charged with it

Reckless or
dangerous
driving

155. (1) Any person who drives a motor vehicle upon any road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to circumstances of the case, condition and use of the road, and to the amount of traffic, which is actually at the time, or which might reasonably be expected to be on the road, commits an offence and is liable, upon conviction, to a fine not exceeding fifteen thousand penalty units or to be imprisoned for a period not exceeding three years, or to both.

(2) Any road traffic inspector in uniform or police officer may arrest without warrant the driver of any motor vehicle who commits or is reasonably suspected of committing an offence under subsection (1) within the road traffic inspector or police officer's view if the driver refuses to give the driver's name and address or if the traffic inspector or police officer has reason to believe that the name or address given is false, or if the motor vehicle does not bear a registration mark.

(2) Without restricting the ordinary meaning to the word “reckless” any person who drives a vehicle in wilful or wanton disregard for the safety of persons or property shall be deemed to drive that vehicle recklessly

156. (1) Any person who, when in charge of a motor vehicle which is on a road, but not driving the vehicle, is under the influence of intoxicating liquor or narcotic drugs to such an extent as to be incapable of having proper control of such vehicle, commits an offence and is liable, upon conviction, to a fine not exceeding one thousand five hundred penalty units, and in the case of a second or subsequent conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding two years, or to both:

Being in charge of motor vehicle when under influence of intoxicating liquor or narcotic drugs

Provided that the person shall be deemed, for the purposes of this section, not to have been in charge of a motor vehicle if the person proves—

(a) that at the material time the circumstances were such that there was no reasonable likelihood of the person driving the vehicle so long as the person remained unfit to drive; and

(b) that between the time of that person becoming unfit to drive and the material time the person had not driven or attempted to drive the vehicle on a road.

(2) In this section, the expression “unfit to drive” means being under the influence of intoxicating liquor or narcotic drugs to such an extent as to be incapable of having proper control of a motor vehicle.

(3) Any road traffic inspector in uniform or police officer may arrest without warrant any person committing or reasonably suspected of committing an offence under this section.

157. (1) Any person who, when driving or attempting to drive a motor vehicle on a road, is under the influence of intoxicating liquor or narcotic drugs to such an extent as to be incapable of having proper control of such vehicle, commits an offence and is liable, upon conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Driving when under influence of intoxicating liquor or narcotic drugs

(2) Any road traffic inspector in uniform or police officer may arrest without warrant any person committing or reasonably suspected of committing an offence under this section.

(3) Any person detained for contravention of any provision of this section shall not during that person’s detention consume any substance containing alcohol, except on the instruction of, or when administered by, a medical practitioner.

Driver to
submit to
medical
examination

158. (1) A person who has been arrested for an offence under section *one hundred and fifty-six* or *one hundred and fifty-seven* may be required by a road traffic inspector in uniform or police officer to subject oneself to a medical examination by a medical practitioner for the purpose of ascertaining whether, in the opinion of the medical practitioner, the person was, at the time when in charge of a motor vehicle on a road or when the person was driving or attempting to drive a motor vehicle on a road, the person was under the influence of intoxicating liquor or narcotic drugs to such an extent as to have been incapable of having proper control of such vehicle.

(2) Any person who has been required to submit oneself to a medical examination under subsection (1) shall, if requested to do so by the medical practitioner conducting the examination, provide a specimen of blood or urine for a laboratory test.

(3) A road traffic inspector in uniform or a police officer when requiring a person to subject oneself to a medical examination under subsection (1) shall warn such person that failure to submit to medical examination or to provide a specimen, as the case may be, shall make that person liable to prosecution and if such police officer or road traffic inspector does not warn such person, a court before which such person may be charged with an offence under subsection (5) shall acquit that person.

(4) No person shall, without reasonable excuse for health reasons, fail to comply with a request made under subsection (1), by a road traffic inspector in uniform or a police officer to provide a specimen of breath or to submit to the taking of a specimen of that person's blood or urine.

(5) Any person to who—

(a) fails to submit oneself to a medical examination under subsection (1); or

(b) fails to provide a specimen of blood, or within one hour a specimen of urine on request under subsection (2);

commits an offence and is liable, on conviction, to fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding six months.

(6) Any road traffic inspector in uniform or police officer may arrest without warrant any person committing or reasonably suspected of committing an offence under this section.

(7) For the purposes of this section—

“fail” in relation to providing a specimen includes refuse and

“failure” shall be construed accordingly;

“laboratory test” means the analysis of a specimen provided for the purpose; and

“medical practitioner” means a person registered on the register of fully registered, provisionally registered or temporarily registered medical practitioners under the Medical and Allied Professions Act.

(8) For the purposes of this section—

(a) the specimen of blood shall be taken from such part of the body as the medical practitioner shall determine; and

(b) the specimen of blood or urine shall be in such quality as the medical practitioner shall consider adequate for the purpose of the laboratory test.

Cap. 297

159. (1) Subject to subsections (2) and (3), a person required to provide a specimen of breath, blood or urine may be detained at a police station until it appears to the police officer that, when released, if the person has to drive or attempt to drive a motor vehicle on a road, the person will not be committing an offence under section *one hundred and fifty-six* or *one hundred and fifty-seven*.

Detention of persons affected by intoxicating liquor or narcotic drug

(2) A person shall not be detained under this section if it appears to the police officer that there is no likelihood of the person driving or attempting to drive a motor vehicle while the person's ability to drive properly is impaired or while the proportion of alcohol in the person's breath, blood or urine exceeds the prescribed limit.

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

160. (1) Any court before which a person is convicted of an offence under section *one hundred and fifty-six* or *one hundred and fifty-seven* may sentence the convicted person to—

Week-end imprisonment

(a) community service under the Prisons Act; or

(b) imprisonment to be served during a number of consecutive week-ends, not being less than thirty or more than fifty-two, in this section referred to as “week-end imprisonment”.

Cap. 97

(2) A person sentenced to week-end imprisonment under subsection (1) may in addition be liable to a fine not exceeding ten thousand penalty units.

(3) Where a person is sentenced to week-end imprisonment—

(a) the warrant of the court which passed the sentence shall be the authority for the person to be immediately taken to a prison situated as close as possible to the person's usual place of abode;

- (b) the officer in charge of the prison to which the person is taken shall record, or cause to be recorded, the relevant particulars of the person and shall give to the person a record book in which shall be recorded by the prison authorities the number of week-ends to be served by the person in prison and the dates and times of the person's surrender to and release from prison and on the completion of the recording of these particulars, which shall take no longer than absolutely necessary, the person sentenced to week-end imprisonment shall be released until the person first surrenders oneself in accordance with paragraph (c);
- (c) the person shall surrender to the prison at 18:30 hours each Friday and be released at 18:30 hours each Sunday during the continuance of the person's sentence.

(4) When considering whether to pass a sentence of week-end imprisonment, the court shall ask the person about to be sentenced whether the person has any objection to the course being taken and shall record the reasons given for any objection which may be raised.

(5) If the person sentenced to week-end imprisonment fails to surrender oneself at the times and place required and as recorded in the book referred to in paragraph (b) of subsection (3), the officer in charge of the prison shall give written notification of the fact to the court which passed the sentence, and the court shall issue a warrant for the person to be arrested and brought before the court.

(6) Where, under subsection (5), a person is brought before the court by which the person was sentenced to week-end imprisonment, the court shall, unless it orders the continuation and completion of the total number of week-ends to be served in prison, cancel its original order and substitute for the sentence making allowance for any week-ends served, a sentence of imprisonment for a period not exceeding five years.

(7) The Minister may, on the recommendation of the Agency by notice in the *Gazette* make regulations pertaining to week-end imprisonment.

161. (1) Any person who causes the death of another person by the driving of a motor vehicle on the road recklessly, or at a speed, or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Causing
death by
reckless or
dangerous
driving

(2) When a person is charged with an offence under subsection (1) and the court is of the opinion that the person has not committed the offence, but that the person has committed an offence under section *one hundred and fifty-four*, or *one hundred and fifty-five* that person may be convicted of the offence of which the court is of the opinion that the person is guilty of notwithstanding that the person is not charged with that offence and whether or not that the requirement of section *one hundred and sixty-two* have been satisfied as respects such offence.

(3) Any road traffic inspector in uniform or police officer may arrest without warrant any person committing or reasonably suspected of committing an offence under this section.

162. (1) Where a person is prosecuted for an offence under any of the provisions of this Part relating to the maximum speed at which vehicles may be driven, reckless driving, dangerous driving, careless driving, failure to obey traffic signs or signal, or the obstruction of a road by a vehicle, that person shall not be convicted unless—

Warning to
be given
before
prosecution

(a) the person was warned at the time the offence was committed that the question of prosecuting that person for an offence under one or other of the sections providing for the offence would be taken into consideration;

(b) within fourteen days of the commission of the offence a summons for the offence was served on that person; or

(c) within the fourteen days referred to in paragraph (b) a notice of the intended prosecution specifying the alleged offence and the time and place where it is alleged to have been committed was served on or sent by registered post to that person or to the person registered as the owner of the vehicle at the time of the commission of the offence, and the summons was served within twenty-eight days of the commission of the offence, unless the consent in writing of the Director of Public Prosecutions is obtained to serve the summons outside the period of twenty-eight days:

Provided that failure to comply with this requirement shall not be a bar to the conviction of the accused in any case where the court is satisfied that—

(i) the name and address of the accused or the name of the registered owner of the vehicle could not with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent as aforesaid; or

(ii) the accused by the accused's conduct substantially contributed to the failure.

(2) The requirements of subsection (1) shall be presumed to have been complied with unless and until the contrary is proved.

Driving motor vehicle in dangerous condition	<p>163. (1) No person shall use or cause or permit to be issued on a road any motor vehicle or trailer which is in such a condition or any of the equipment or fittings of which are such that a danger is caused or is likely to be caused, to any person on the vehicle or trailer on the road, and no person, being the owner of a motor vehicle or trailer shall permit or cause such motor vehicle or trailer to be so driven.</p> <p>(2) Any person contravening any of the provisions of this section commits an offence and shall be liable to arrest without warrant by any road traffic inspector in uniform or by any police officer.</p> <p>(3) Any person convicted of an offence under this section shall be liable, in the case of a first offence, to a fine not exceeding one thousand penalty units, and in the case of a second offence or subsequent offence, to a fine not exceeding two thousand penalty units.</p> <p>(4) Notwithstanding anything contained in subsection (3), any motor vehicle or trailer in respect of which an offence is committed under this section may be impounded by any road traffic inspector in uniform or by any police officer.</p>
Loads to be secure	<p>164. (1) No person shall use or cause or permit to be used on a road any vehicle which causes or is liable to cause danger to any person on the road by the reason of the load or part of the load being insecurely fastened and falling or liable to fall from the vehicle or by reason of the load or part thereof projecting from the vehicle, and the Minister may, in consultation with the Agency, by statutory instrument make such regulations as may appear necessary to minimise such danger.</p> <p>(2) Any person contravening the provisions of this section commits an offence and liable to a fine not exceeding one thousand penalty units or imprisonment for a period not exceeding three months for a first offence and to a fine not exceeding three thousand penalty units or imprisonment for a period not exceeding six months or to both.</p>
Position of Driver	<p>165. The driver of a vehicle shall not drive from such a position that the driver has no full control of the vehicle and full view of the road and traffic ahead and to the sides of the vehicle, and shall not permit any person to sit beside the driver in such a manner as in any way to obstruct the driver's view or hinder the driver in steering or controlling the vehicle.</p>
Limitation of numbers of occupants of motor vehicles	<p>166. (1) No person shall use or cause or permit to be used on a road any motor vehicle in which the number of occupants, including the driver, exceeds the seating capacity of such motor vehicle as determined in such manner and by such method as may be prescribed.</p> <p>(2) In determining the number of occupants in any such motor vehicle, children under the apparent age of four years shall not be</p>

counted and two children of or over the apparent age of four years but under the apparent age of eight years shall be counted as one occupant.

(3) Any person who contravenes the provisions the subsection (1) commits an offence.

167. (1) Subject to subsection (2), a person shall not drive or ride in, a motor vehicle on a road without fastening the seat belt.

Obligation to wear seat belts

(2) Notwithstanding subsection (1)—

- (a) users of vehicles constructed or adapted for the delivery of goods or mail to consumers or addresses, as the case may be, while engaged in making local rounds of deliveries;
- (b) the drivers of vehicles while performing a manoeuvre which includes reversing;
- (c) any person holding a valid certificate signed by a medical practitioner to the effect that it is inadvisable on medical grounds for such person to wear a seat belt; or
- (d) any person in a vehicle which, on account of being an old model, is not fitted with seat belts;

shall be exempted from the requirement to wear a seat belt in terms of this section.

(3) A person who drives or rides in motor vehicle in contravention of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one thousand penalty units:

Provided that notwithstanding any provisions of any other law no person other than the person actually committing the contravention commits an offence.

(4) If the person who is the holder of any certificate referred to in paragraph (c) of subsection (2) is informed by a police officer that such person may be prosecuted for an offence under subsection (3), such person shall not in proceedings for that offence rely on the exemption afforded to such person by the certificate unless—

- (a) it is produced to the police officer at the time the person is so informed; or
- (b) it is produced—
 - (i) within seven days after the date on which the person is so informed; or
 - (ii) as soon as is reasonably practicable;

at such police station as the person may have specified to the police officer:

Provided that where it is not produced at such police station within the period specified in this paragraph, it is produced there before the day on which the proceedings are commenced.

Restrictions
on carrying
children not
wearing seat
belts in
motor
vehicles

168. (1) Subject to subsection (3), any person carrying in that person's vehicle a child who is less than ten years old shall not allow that child to occupy the front passenger seat.

(2) Where a child under the age of ten years is in the rear of a motor vehicle and any seat belt is fitted in the rear of that vehicle, a person shall not without reasonable excuse drive the vehicle on a road unless the child is wearing a seat belt.

(3) Notwithstanding subsection (1), where—

(a) a child under the age of ten years, and who is less than one hundred and fifty centimetres in height, is in a passenger car;

(b) no seat belt is fitted in the rear of a passenger car; and

(c) a seat in the front of the passenger car is provided with a seat belt but is not occupied by any person;

a person shall not without reasonable excuse drive the passenger car on a road unless the child is occupying the front seat and is wearing a seat belt.

(4) A person who drives a motor vehicle in contravention of this section commits an offence and shall be liable upon conviction, to a fine not exceeding one thousand penalty units.

Driving
when using a
hand held
mobile
telephone

169. (1) No person shall drive a vehicle on a public road—

(a) while holding a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body;

(b) while using or operating a cellular or mobile telephone or other communication device;

unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used, to enable such driver use or operate such telephone or communication device without holding it in the manner specified in paragraph (a), and remains so affixed while being used or operated.

(2) Sub subsection (1) does not apply to the following persons while driving in execution of their duties:

(a) the driver of a fire-fighting vehicle; or

(b) the driver of a rescue vehicle or ambulance:

Provided that such person drives the vehicle concerned with due regard to the safety of other road users.

(3) For the purposes of this section—

(a) the word "headgear" includes for the purposes of this section a device which is specially designed or adapted to allow the driver to use a cellular or mobile telephone or other communication device in such manner that such person does not hold it in one or both hands or with any other part

of the body, and which is connected to the cellular or mobile telephone or other communication device concerned, directly or indirectly, while being fitted to or attached to one or both ears of the driver; and

(b) the phrase “ cellular or mobile telephone or any other communication device ” excludes land mobile radio transmission and reception equipment.

(4) If a person drives a vehicle on a public road or other public place while making or receiving or conducting a telephone call using a hand-held cellular or mobile telephone or any other communication device in contravention of this section, that person commits an offence and is liable on conviction to a fine exceeding one thousand five hundred penalty units.

170. (1) Subject to subsection (3) and unless otherwise directed by a road traffic inspector in uniform or police officer, no person shall fail to comply with any direction conveyed by a road traffic sign displayed in the prescribed manner.

Drivers to
obey traffic
signs

(2) Any person who fails to comply with any direction conveyed by a road traffic sign commits an offence.

(3) In any prosecution for an offence under subsection (1), it shall be presumed, in the absence of evidence to the contrary, that the road traffic sign concerned was displayed by the proper authority and in accordance with the provisions of this Act.

(4) Subsection (1) and any other law imposing a speed limit on vehicles shall not apply to any vehicle on an occasion when it is being used for fire brigade, ambulance or police purposes, or by a road traffic inspector in the execution of road traffic inspector's duty, if the observance of those provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion:

Provided that such vehicle shall be driven —

(a) with due regard to the safety of other traffic; and

(b) with sounding device and identification lamp activated as prescribed activated.

171. (1) All vehicles on any road shall give way to any railway locomotive or rolling stock which is approaching or crossing such road by means of a railway line:

Vehicles to
give way to
all locomotives
at
railway
crossings

Provided that this section shall apply only when all reasonable steps have been taken to clearly and properly indicate the railway crossing by means of appropriate traffic signs, and between sunset and sunrise—

(a) in the case of any level crossing specified by the Minister by *Gazette* notice, when all reasonable steps have been taken to illuminate such level crossing so that rolling stock on

such level crossing is clearly visible at a distance of one hundred metres; or

(b) in the case of any other level crossing within local authority area, when all reasonable steps have been taken to indicate such level crossing by luminous signs or other illuminate devices of such type and pattern and in such manner as may be prescribed.

(2) Any person who fails to comply with the provisions of subsection (1) commits an offence.

Stopping of
vehicles at
school
crossing

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

(2) When a person has been required under subsection (1) to stop a vehicle—

(a) that person shall cause the vehicle to stop before reaching the place where the children are crossing or seeking to cross, and has not to stop or impede their crossing; and

(b) the vehicle shall not be put in motion so as to reach the place in question so long as the sign continues to be exhibited; and a person who fails to comply with paragraph (a), or who causes a vehicle to be put in motion in contravention of paragraph (b) commits an offence.

(3) In this section—

(a) “prescribed sign” means a sign prescribed by the Minister on the advice of the Agency;

(b) “school traffic warden” means a person appointed by the Minister to be a school traffic warden for the purpose of this section.

(4) For the purpose of this section—

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

(b) where it is proved that a school traffic warden was wearing uniform, the uniform shall be presumed, unless the contrary is proved, to be uniform approved by the Minister; or

(c) where it is proved that a prescribed sign was exhibited by a school traffic warden at a place in a road where children were crossing or seeking to cross the road, it shall be presumed, unless the contrary is proved, that those children were on their way to or from school.

173. (1) Any person driving a vehicle on a public road shall drive on the left side of the carriageway and, where such carriageway is of sufficient width, as in such manner as not to encroach on that half of the carriage way to that person's right:

Side of the road on which vehicle is to be driven

Provided that such encroachment shall be permissible—

(a) where it can be done without obstructing or endangering other traffic or property which is or may be on such carriageway and it is not prohibited by a road traffic sign; or

(b) in compliance with a direction of a road traffic inspector in uniform or a police officer.

(2) On a dual carriage way a person driving—

(a) a slow moving vehicle shall drive on the outer lane of the carriage way; and

(b) a fast moving vehicle shall drive on the inner lane of the carriage way.

174. (1) Whenever any public road has been divided into two or more carriageways by means of a continuous white line or by a physical barrier or dividing section constructed to impede vehicular traffic, no person shall drive a vehicle upon such public road except upon the left hand carriageway unless directed or permitted by an appropriate road traffic sign or a road traffic inspector in uniform or police officer to use another carriageway.

Driving on divided public road

(2) No person shall drive a vehicle on, over, across, or within any driving space, continuous white line, barrier or section referred to in subsection (1) except through an opening in such space, barrier or section at a cross-over or inter-section.

(3) Notwithstanding subsection (2), no person shall drive through any opening or at any such opening or intersection where the driving is prohibited by an appropriate road traffic sign, a road traffic inspector in uniform or police officer:

Provided that the provisions of this section shall not apply to a police officer in the execution of that police officer's duties.

175. Subject to the provisions of section *one hundred and seventy-three*, the driver of a vehicle intending to pass any other vehicle proceeding in the same direction on a public road shall pass to the

Overtaking of vehicle

right of it at a safe distance and shall not drive on the left side of the carriage until safely clear of the vehicle so passed:

Provided that passing to the left of such vehicle shall be permissible if the person driving the vehicle does so with safety to oneself and other traffic or property, which is or may be on such road and—

- (a) the vehicle being passed is turning to its right or its driver has signalled the intention of turning to the right; and
- (b) such road is a public road in an urban area and
 - (i) is restricted to vehicles moving in one direction; and
 - (ii) the carriage way is of sufficient width for two or more lines of moving vehicles moving in one direction.

Right of way
at round-
about

176. The driver of a vehicle on a public road shall, when the driver intends to enter any public road which constitutes a junction of two or more public roads where vehicular traffic is required to move around a traffic roundabout within such junction, yield the right of way to all vehicular traffic approaching from the driver's right within such junction, unless the driver's entry into such junction is controlled by an instruction given or a direction conveyed by a road traffic inspector in uniform or a police officer or communicated by a traffic sign requiring the driver to differently.

Right of way
at four way
junction

177. The driver of a vehicle on a public road shall, when the driver intends to enter any public road which constitutes a junction of two public roads where vehicular traffic which is approaching from all directions is required to stop at such junction, yield the right of way to all vehicular traffic which arrived at the junction before such driver on a first- come first-go basis, unless the driver's entry into such junction is controlled by an instruction given or a direction conveyed by a road traffic inspector in uniform or a police officer or communicated by a traffic sign requiring the driver to act differently.

Procedure
when turning

178. (1) The driver of a vehicle on a public road who desires to turn to the left shall, having due regard to the provisions of section *one hundred and seventy-four*, before reaching the point at which the driver intends to turn, indicate the driver's intention to turn and shall steer the vehicle as near to the left side of a carriageway on which the driver is travelling as circumstances may permit and shall make such turn with due care and merge into such traffic as may at the time be proceeding along, towards or into the public road into which the driver desires to turn.

(2) The driver of a vehicle on a public road who desires to turn to the right shall, having due regard to the provisions of section *one hundred and seventy-four*, before reaching the point at which the driver desires to turn, indicate in the prescribed manner, the intention to turn and shall not effect such turning unless the driver can do so without obstructing or endangering other traffic and—

(a) if the driver is driving a vehicle on a carriageway of a public road where such carriageway is intended for traffic in both directions—

(i) the driver shall steer the vehicle as near as circumstance may permit to the immediate left of the middle of the carriageway on which the driver is travelling; and

(ii) where the turn is at any intersection, the driver shall not encroach on the right half of the carriageway into or out of which the driver intends to turn, except in the inter-section itself but shall in any event pass to the left of any traffic roundabout in such intersection or comply with the direction indicated by an appropriate road traffic sign; or

(b) if the driver is driving a vehicle on the carriageway of a public road where the roadway is intended for traffic in one direction only—

(i) the driver shall steer the vehicle as near as circumstances permit to the right side of carriageway;

(ii) where the turn is at an inter-section the driver shall not encroach on the right half of the carriageway into which the driver intends to turn, except in the inter-section itself but shall in any event pass to the left of any roundabout in such intersection or comply with the directions conveyed by an appropriate road traffic sign:

Provided that where the turn is to be made into a carriageway intended for traffic in one direction only, the driver may encroach on the right half of that carriageway.

179. The driver of a vehicle on a public road shall stop the vehicle—

(a) in compliance with any direction indicated by a road traffic inspector in uniform or police officer; or

(b) at the request or the signal of a person leading, riding or driving any animal, or ostrich on such road.

Compulsory
stops

Duties of
driver and
passenger of
vehicle on
public road

180. (1) No person having a vehicle on a public road shall—

- (a) cause the vehicle to travel backwards unless it can be done in safety, or cause it to run backwards for a distance or time longer than may be necessary for the safety or reasonable convenience of any other occupant of that vehicle or of other traffic on such road;
- (b) follow another vehicle more closely than is reasonable and prudent having regard to the speed of the other vehicle and the traffic on, and the condition of, the carriageway;
- (c) permit any person, animal or object to occupy any position in or on the vehicle which may prevent the driver from exercising complete control over the movement of the vehicle or signalling of the driver's intention of slowing down or changing direction;
- (d) when driving the vehicle, permit any person to take hold of or interfere with the steering or operation mechanism of the vehicle;
- (e) when driving the vehicle, occupy such position that the driver has no complete control over such vehicle or has not a full view of the carriage and traffic ahead of such vehicle;
- (f) allow the vehicle to remain unattended on the road without setting its brakes or adopting another method that will effectively prevent the vehicle from moving from the position in which it is left;
- (g) if the vehicle is parked or is stationary at the side of the road, drive the vehicle from the position unless the driver is able to do so without interfering with moving traffic approaching from any direction and with safety to the driver and others;
- (h) fail to give an immediate and absolute right of way to a vehicle sounding a device or bell in terms of section *one hundred and fifty-three*;
- (i) allow any portion of the driver's body to protrude beyond the vehicle while it is in motion on such road except for the purpose of giving a hand signal which the driver is required or authorised to give in terms of this Act or unless the driver is engaged in examining or testing the vehicle;
- (j) permit any person or animal to occupy the roof, any step or running board or any other place on top of a vehicle while the vehicle is in motion;
- (k) cause or allow the engine of the vehicle to run in such manner that it emits smoke or fumes which would not be emitted if

the engine were in good condition or run in an efficient manner;

- (l) cause or allow the engine of the vehicle to run while the motor vehicle is stationary and unattended;
- (m) negligently or wilfully deposit or cause or permit to be deposited any petrol or other liquid fuel or any oil or grease or other inflammable or offensive matter, ashes or other refuse, of whatever nature, from the vehicle upon or alongside the road; or
- (n) cause or allow the engine to run while petrol or other inflammable fuel is being delivered into the fuel tank of the vehicle or cause or allow the engine to be started up before the delivery of petrol or other inflammable fuel into the fuel tank of the vehicle has been completed and the cover of the fuel tank has been replaced.

(2) No person, other than the driver, shall take hold of, or interfere with, the steering or operating mechanism of a vehicle while it is in motion on a public road unless it may reasonably be inferred that the driver is no longer capable of steering or controlling the vehicle.

(3) No passenger in a vehicle on a public road shall permit any part of the passenger's body to protrude beyond the vehicle.

(4) No person shall enter or alight from any vehicle on a public road unless is stationary and unless the person can do so with safety to that person and other users of the road.

(5) No person shall drive, pull or push a vehicle upon a sidewalk:

Provided that the provisions of this section shall not apply to a perambulator, invalid chair, baby cart or child's play vehicle.

(6) Any person who contravenes any of the provisions of this section commits an offence.

181. (1) No person shall drive a motor-cycle on a public road unless that person's feet are resting on the front foot-rests suitable for the purpose and, where the design of the motor cycle or motor tricycle makes it possible to do so, the person is seated astride on the saddle of the motor cycle or motor tricycle.

Duties of
driver of
motor cycle
or motor
tricycle

(2) No person shall on a public road carry a passenger on a motor cycle unless the cycle has an engine with a cylinder capacity exceeding fifty cubic centimetres and unless the passenger is seated in a side-car or astride on a pillion attached to the cycle and, in such latter event, the feet of the passenger are resting on foot-rests suitable for that purpose.

(3) Subject to the provisions of subsection (2), not more than two persons shall ride upon a motor cycle on a public road excluding a person riding in a side-car attached to the motor cycle.

(4) Not more than two adult persons shall be carried in a side car attached to motor cycle on a public road.

(5) No person or animal or article shall be carried on a motor cycle or motor tricycle on a public road in front of the driver:

Provided that an object of a non-bulky nature may be carried if securely attached to the motor cycle or motor tricycle or placed in a suitable carrier fitted on such motor cycle or motor tricycle for that purpose and carried in such a way as not to obstruct the driver's view or prevent the driver from exercising complete control over such motor cycle or motor tricycle.

(6) Any person driving a motor cycle or motor tricycle on a public road shall do so with at least one hand on the handle-bars of such motor cycle or motor tricycle.

Protective helmets for motor cyclists

182. (1) The Minister may, in consultation with the Agency, by statutory instrument, make regulations—

(a) making it compulsory for protective helmets to be worn by persons riding on motor cycles, or in side-cars attached to motor cycles; and

(b) prescribing the shape, construction or quality of protective helmets.

(2) If any person sells, or offers for sale any helmet as a helmet for affording protection as referred to in subsection (1), and the helmet fails to comply with any requirement prescribed under this section, that person commits an offence and is liable upon conviction, in the case of a first offence, to a fine not exceeding one thousand penalty units or in default imprisonment for a term not exceeding three months.

(3) In this section, "helmet" includes any head-dress, and references in this section to selling or offering for sale include respectively reference to letting on hire and offering to let on hire.

Pedestrian's right of way on pedestrian crossing

183. (1) Where a pedestrian crossing is situated in conjunction with a traffic signals, a pedestrian shall not enter the crossing except in accordance with the indication of such traffic signal as prescribed.

(2) In circumstances not referred to in subsection (1), the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the carriageway, within a pedestrian crossing when the pedestrian is upon the half of the carriageway upon which the vehicle is travelling or when the pedestrian is approaching so closely from the opposite half of the carriageway as to be in danger.

(3) No pedestrian shall suddenly enter a pedestrian crossing and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield as contemplated in subsection (2).

(4) Whenever any vehicle is stopped at a pedestrian crossing to permit pedestrian to cross the carriageway, the driver of any other vehicle approaching from the rear shall not pass such a stopped vehicle.

184. (1) Whenever a side-walk or footpath abuts on the carriageway of a public road, a pedestrian shall not walk in the roadway except for the purpose of crossing from one side of the carriageway to the other or for some other sufficient reason.

Duties of
pedestrians

(2) A pedestrian on a public road which has no sidewalk footpath abutting on the carriageway, shall walk as near as is practicable to the edge of the carriageway on the pedestrian's right-hand side so as to face on-coming traffic on such carriageway.

(3) No pedestrian shall cross a public road without satisfying oneself that the carriageway is sufficiently free of on-coming traffic to permit the pedestrian to do so in safety.

(4) A pedestrian, when crossing a public road by means of a pedestrian crossing or in any other manner, shall not loiter on the road but shall proceed with the due dispatch.

(5) No pedestrian on a public road shall conduct oneself in such manner as to, or as is likely to, constitute a source of danger to that pedestrian or to other traffic which is or may be on such road.

(6) Any person who contravenes this section commits an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units.

185. (1) Except in order to avoid an accident, or in compliance with a road traffic sign or with a direction given by a road traffic inspector in uniform or a police officer or for any cause beyond the control of the driver, no person shall stop a vehicle on the carriageway of a public road—

Stopping of
vehicles

- (a) alongside or opposite an excavation or obstruction on the public road if other traffic would be obstructed or endangered by such stopping;
- (b) within any tunnel or subway or on any bridge or within six metres of any tunnel, subway or bridge;
- (c) in or within six metres from the beginning or end of any part of such carriageway where the normal width thereof has for any reason been constricted;
- (d) in contravention of a road traffic sign;
- (e) on the right-hand side thereof, facing on-coming traffic;

- (f) along-side or opposite any other vehicle on such roadway, where such roadway is less than nine metres wide;
- (g) within the railway reserve at a level crossing;
- (h) within nine metres of one's approach side of a pedestrian crossing demarcated by appropriate road traffic signs for the purpose of loading or unloading persons or goods; or
- (i) in any other place where the stopping of the vehicle would or would be likely to constitute a danger or an obstruction to other traffic.

Parking of
vehicle

186. (1) No person shall park a vehicle on a public road—

- (a) in contravention of any road traffic sign;
- (b) in any place specified in section *one hundred and seventy-two*;
- (c) on the same side as a fire hydrant within an area bounded by the centre-line of the carriageway and lines at right angles to the centre-line on either side of the hydrant, if the hydrant is clearly visible to and recognisable as such by drivers of moving traffic signs;
- (d) in any place where the vehicle would obstruct any road traffic sign;
- (e) in such manner as to encroach upon the sidewalk, if any; or
- (f) in such manner as to obstruct any private or public vehicular entrance to the road.

(2) No person shall park a vehicle on any portion of the carriageway (excluding the shoulders) of a public road outside an urban area or any part of the vehicle within five metres of the edge of the carriageway except in parking places demarcated by an appropriate road traffic sign.

(3) No person shall park a vehicle on the carriageway of a public road within an urban area—

- (a) within nine metres of the side from which that person approaches a pedestrian crossing demarcated by an appropriate road traffic sign, unless the parking is permitted by appropriate road traffic signs;
- (b) within five metres of any inter-section;
- (c) upon or over the actuating mechanism of a traffic signal;
- (d) with the outside of any left-hand wheel of the vehicle more than forty millimetres within the carriageway unless the

parking is done in conformity with an appropriate road traffic signs; or

(e) which is less than five and a half metres wide unless the public road concerned is restricted to vehicles moving in one direction and the parking is permitted by appropriate road traffic signs.

187. (1) Notwithstanding the provisions of sections *one hundred and eighty-five* and *one hundred and eighty six*, the driver—

Certain vehicles may stop and park at any place

(a) of a motor vehicle belonging to—

- (i) a fire-fighting organisation;
- (ii) a rescue organisation or hospital;
- (iii) a traffic police department in execution of its duties; or
- (iv) traffic inspectorate of the Agency in the execution of duties;

(b) who drives a motor vehicle while it is used in construction or maintenance of a public road or is rendering essential public service;

may stop or park the vehicle concerned at any place where it may be necessary to do so.

(2) A vehicle stopped or parked under subsection (1) shall while such vehicle is so stopped or parked, display appropriate identification lamps.

188. (1) A vehicle when not in motion on a road shall be placed as far as possible to the left-hand side of the carriageway by the driver or other person in charge of the vehicle, and shall not be placed or allowed to remain in any position so as to obstruct or be likely to obstruct other traffic using the road.

Obstruction of roadway by vehicle

(2) Every driver of a vehicle shall obey any instructions as to the placing of the vehicle given by a police officer or road traffic inspector in uniform or as indicated by any traffic sign lawfully erected.

(3) Any person failing to comply with the provisions of this section commits an offence and is liable, upon conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

(4) Upon the conviction of any person of an offence under this section, the court, may in addition to the penalty prescribed in subsection (3), order that the vehicle in respect of which the offence was committed be impounded.

Disabled
vehicles

189. (1) If a vehicle is disabled, it shall whenever possible be removed from the carriageway by the driver or other person in charge of the vehicle, or if this is not possible, placed as far to the left-hand side of the carriageway as is possible.

(2) Any person failing to comply with the provisions of this section commits an offence and is liable, upon conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

(3) Upon the conviction of any person of an offence under this section, the court may, in addition to the penalty prescribed in subsection (2), order that the disabled vehicle in respect of which the offence was committed be prohibited from the road after considering a vehicle examiner's report that the disabled vehicle is no longer roadworthy.

(4) Any disabled vehicle prohibited from the road under the provisions of subsection (3) shall not be disposed of in any way unless the owner of the vehicle has obtained from the Agency a certificate stating that the defects discovered earlier have been properly remedied, and that the vehicle is again fit for use on the road.

(5) Any person who contravenes subsection (4) commits an offence and is liable, upon conviction, to a fine not exceeding three thousand penalty units.

Removal of
vehicles
from roads

190. (1) The Minister may, in consultation with the Agency, by statutory instrument, make regulations for following purposes:

- (a) to provide for removal from a road of any vehicle which has broken down, or which has been permitted to remain at rest on a road, in contravention of any of the provisions of this Act;
- (b) to provide for the removal from a road or road reserve of any vehicle which has been permitted to remain at rest in such a position or in such a condition or in such circumstances as to be likely to cause danger to persons using any road or to cause obstruction to such persons;
- (c) to specify the circumstances in which a vehicle shall be deemed to have been abandoned and to provide for the removal of vehicles deemed to have been abandoned;
- (d) to provide for the disposal by sale or otherwise of any vehicle referred to in paragraph (c) if it is not claimed within such time and according to such procedure as may be prescribed, or if any expenses incurred in the removal, storage, or in the arrangement for the disposal of the vehicle, are not paid in full;
- (e) to provide for the removal of any property carried in or any vehicle referred to in paragraph (c) and for the disposal

by the sale or otherwise of the property or part thereof if it is not claimed by the owner within such time and according to such procedure as may be prescribed, or if any expenses incurred in the removal or in respect of storage or in arranging for the disposal of the property are not paid in full;

- (f) to provide for the forfeiture of the proceeds of the disposal of any vehicle or property referred to in this subsection if the proceeds are not claimed within the period and according to the procedure prescribed; and
- (g) to provide for the protection against any claim in any legal proceedings or otherwise to be afforded to persons acting under or in the pursuance of regulations made under this subsection, and to specify the circumstances in which such protection will be afforded.

(2) Expenses reasonably incurred in the execution of any power or duty imposed by regulations made under subsection (1) shall be recoverable summarily as a civil debt from the owner of the vehicle and any sum so recovered shall be paid to the authority which lawfully incurred it.

(3) No person or authority who may be authorised to take any action under regulation made under paragraph (a) of subsection (1) shall be liable for any damage caused to any vehicle, or for any damage to or loss of any contents of the vehicle, resulting from any action taken by the person or authority in good faith and without negligence and in intended exercise of any authorisation under that subsection.

191. (1) Any vehicle standing on a public road in a position or in a circumstance which, in the opinion of a road traffic inspector in uniform or a police officer, is likely to cause danger or obstruction to other traffic on the road, may be removed forthwith to a safer place by the road traffic inspector or police officer.

Vehicles
abandoned or
left on road

(2) Any vehicle—

(a) parked in a place where—

- (i) the stopping of a vehicle is prohibited; or
- (ii) a vehicle or the class to which the vehicle belongs may not be parked;

(b) left for a continuous period of more than—

- (i) twenty four hours in the same place on a public road outside an urban area;
- (ii) seven days in the same place on a public road within an urban area ; or

(c) found on a public road and to which—

(i) no registration number is affixed or, in the opinion of a road traffic inspector in uniform or a police officer, a false registration number is affixed; or

(ii) no other number or anything else is affixed which may, in the opinion of a road traffic inspector in uniform or a police officer, serve to identify the owner;

shall be deemed to have been abandoned by the owner and the vehicle may be removed by or on behalf of the authority having jurisdiction over the place or road concerned.

(3) The authority referred to in subsection (2) shall take all reasonable steps to trace the owner and the owner shall, except in the case of a stolen vehicle be liable to pay the authority for expenses incurred—

(a) to remove the vehicle;

(b) to keep the vehicle in custody for a period not exceeding four months; and

(c) to trace the owner ;

and the authority may, subject to the provisions of subsection (4), retain possession of the vehicle until the expenses have been paid.

(4) if—

(a) the owner of the vehicle is traced by the authority referred to subsection (2) and fails to recover the vehicle concerned and pay the expenses referred to in subsection (3) within fourteen days of being requested to do so ;or

(b) after lapse of one month from the date of removal referred to subsection (2), the owner cannot be traced;

the vehicle and anything contained therein may be sold in the manner prescribed by any law governing the sale of movable property by the authority and, whenever possible, the Agency shall be advised of such sale.

(5) The proceeds of any sale referred to in subsection (4) shall be applied to the cost of the removal, custody and the sale of the vehicle concerned and all the endeavours made to trace the owner of the vehicle and any balance shall be paid to the owner thereof upon the owner establishing the owner's claim thereto:

Provided that if no claim is established within one year of the date of sale the balance shall be forfeited to the general revenues of the Government.

(6) If any authority referred to in subsection (2) is unable to sell any vehicle as contemplated in subsection (4), it may dispose of the vehicle in any manner it considers fit and any monies received as a result of the disposal shall be forfeited to the authority.

(7) An authority referred to subsection (2) may delegate , either generally, or specifically , any power conferred upon it in terms of that subsection to any person in its employ.

(8) The exercise by any person or authority of the powers conferred by this section shall not render the person or authority subject to any liability in respect of the costs or theft of or damage to any vehicle or part thereof or of anything therein.

(9) Subject to the provisions of any other law, no person shall leave a vehicle in the same place on a public road for a continuous period of more than seven days.

192. (1) Any person leaving a motor vehicle unattended on a road shall, before doing so, stop the engine and take such steps as are necessary to prevent the vehicle from moving.

Engine to be stopped when vehicle unattended

(2) Any person who fails to comply with the provisions of this section commits an offence.

193. (1) No person shall open any door of any motor vehicle or trailer on or near a road without reasonable consideration of the safety of other persons using the road.

Opening doors of vehicles

(2) No person in charge of a motor vehicle or trailer shall allow any door of the vehicle or trailer while stationary on a road to remain open on the side of the motor vehicle or trailer on which other vehicular traffic is moving, or is likely to move, for a period of time longer than is necessary to load or unload passengers or goods from the motor vehicle or trailer.

(3) The provisions of subsection (2) shall not apply to any motor vehicle or trailer the doors of which when open, or when being opened, do not project beyond the normal width of the motor vehicle or trailer.

(4) No person shall drive a motor vehicle or trailer on a road unless the doors of the motor vehicle or trailer are closed.

(5) Any person who contravenes any of the provisions of this section commits an offence.

194. No driver of a motor vehicle shall use a cut-out or otherwise permit the exhaust gases from the engine to escape into the atmosphere otherwise than through an efficient silencer.

Silencer

195. (1) The owner and the driver of any motor vehicle shall take proper precautions to prevent the unnecessary discharge of fuel, oil or lubricants on any road, and the unnecessary discharge of smoke from any motor vehicle.

Discharge of oil and smoke

(2) Any person contravening the provisions of this section commits an offence.

(3) Notwithstanding anything contained in subsection (2) any motor vehicle excessively discharging fuel, oil or lubricants or smoke

on any road may be impounded by a road traffic inspector in uniform or a police officer:

Provided that no such vehicle shall be impounded if it is being tested on the road for the purpose of repairing any fuel, oil or lubricant leakage or, of preventing the unnecessary discharge of smoke or, in the case of a diesel vehicle, if it is discharging smoke as a result of moving at a restricted speed.

Filling
petrol, etc

196. (1) Any person who fills petrol or other inflammable fuel into a motor vehicle while the engine is running or while any light, other than an electric light, is alight on the vehicle, or any person who smokes or lights a match or introduces any naked lights in close proximity while petrol or other inflammable fuel is being filled commits an offence.

(2) Any driver of a public service vehicle or a person in control of such a vehicle who allows petrol or other inflammable fuel to be filled into a public service vehicle while any passenger is within the vehicle commits an offence.

(3) Any driver of a public service vehicle or person in control of such a vehicle who carries petrol or any other inflammable fuel in a public service vehicle commits an offence.

Prohibition
of sale of
vehicles in a
condition not
complying
with
regulations
as to
construction

197. (1) Subject to the other provisions of this section, no person shall sell or supply, or offer to sell or supply, a motor vehicle or trailer for delivery in a condition that the use thereof on a road in that condition would be unlawful by virtue of any provisions of this Act or of the regulations made under the Act as to the construction, weight and equipment thereof or by virtue of any provisions made as respects brakes, steering gear or tyres or in such a condition as respects lighting equipment or reflectors or the maintenance thereof, that it is not capable of being used on a road during lighting up time without contravention of the requirements imposed by the law as to obligatory lamps or reflectors.

(2) If a motor vehicle or trailer is sold, supplied or offered in contravention of the provisions of this section, any person who so sells, supplies or offers it or causes or permits it to be so sold, supplied or offered, commits an offence.

(3) A person shall not be convicted for an offence under this section in respect of the sale, supply or offer of a motor vehicle or trailer if that person proves that the person had reasonable cause to believe that the vehicle or trailer would not be used on a road until it had been put in to a condition in which it might be lawfully used, or, in the case of a vehicle or trailer, the sale, supply or offer of which is alleged to be unlawful by reason of its condition as respects lighting equipment or

reflectors or the maintenance thereof, would not be used during lighting-up time until it had been put into a condition in which it might be used during that time without contravention of the requirements imposed by law as to obligatory lamps or reflectors.

(4) Nothing in this section shall affect the validity of any contract or any rights arising under a contract.

(5) In this section "obligatory lamps or reflectors" means, in relation to a motor vehicle or trailer, the lamps or reflectors required by law to be carried on the motor vehicle which is on a road during lighting-time.

(6) The provisions of this section shall not apply to any motor vehicle light or trailer sold or supplied or offered for sale or supply where it is intended that its subsequent use on a road shall be solely for the purpose of taking to a place where it is to be broken up or put into a condition in which its use on a road would be lawful:

Provided that—

- (i) in the case of a motor vehicle, the subsequent use on a road shall not include use under the vehicle's own power;
- (ii) nothing in this section shall apply to tractors or trailers used solely for agriculture purposes.

198. (1) Subject to provisions of this Act and of any regulation made under it, no person shall use on any road any vehicle which does not comply with regulations, applicable to the class or description of vehicles to which the vehicle belongs, relating to the construction, equipment and use thereof.

(2) Any person who uses any vehicle, or causes or permits any vehicle to be used, on any road in contravention of the provisions of subsection (1) commits an offence.

199. (1) No person shall—

- (a) carry more than one person in addition to the driver on any two-wheeled motor cycle; or
- (b) be carried otherwise than sitting astride the cycle on a proper seat securely fixed to the cycle behind the driver's seat with that person's feet resting on the foot rests securely fixed to the cycle.

(2) If any person is carried on any two-wheeled motor cycle in contravention of subsection (1) the driver of the cycle and any person carried thereon commits offence.

Prohibition of use of motor vehicles not complying with regulations as to construction, etc

Pillion riding on motor cycle

Application
to pedal
cyclists of
provisions
relating to
certain
driving
offences

200. (1) The following provisions, that is to say:
- (a) section *one hundred and fifty-four*, which penalises careless driving;
 - (b) section *one hundred and fifty-five*, which penalises reckless or dangerous driving;
 - (c) section *one hundred and fifty-seven*, which penalises driving under the influence of intoxicating liquor or narcotic drugs, but with the omission of the reference to attempting to drive;
 - (d) section *one hundred and sixty-one*, which penalises the causing of death by reckless or dangerous driving;
 - (e) section *one hundred and sixty-two*, which requires the giving of warning of proposed prosecution, in so far as it relates to offences against sections *one hundred and fifty-four* and *one hundred and fifty-five*, providing for careless driving and reckless or dangerous driving, but with the omission of reference to registered owners;
 - (f) section *two hundred and ten*, providing for failure of a driver to stop and render assistance to an injured person after an accident;
 - (g) section *two hundred and fifteen*, which requires drivers to stop and give their names and addresses except that part of subsection (1) which relates to the name and address of the owner and the registration mark of the vehicle;

shall, subject to the provisions of this section, apply to persons riding animals or driving vehicles, not being motor vehicles, as they apply to the drivers of motor vehicles, and references in those enactments to motor vehicles, drivers and driving shall be construed accordingly.

(2) The maximum penalties which may be imposed on a conviction of persons referred to in subsection (1) by virtue of an offence under section *one hundred and fifty-four*, *one hundred and fifty-five* or *one hundred and fifty-seven* in relation to the application of subsection (1) shall be as follows:

- (b) in the case of a conviction under section *one hundred and fifty-five* or *one hundred and fifty-seven*, a fine of three hundred penalty units, or if the conviction is for a second or subsequent conviction, a fine of three hundred penalty units or imprisonment for a term of three months;
- (c) in the case of a conviction under the section *one hundred and fifty-four* a fine of one hundred and fifty penalty units, or, if the conviction is for a second or subsequent offence, a fine of three hundred penalty units.

(3) In determining, whether a conviction under section *one hundred and fifty-four, one hundred and fifty-five* or *one hundred and fifty-seven* is for a second or subsequent offence—

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

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

201. (1) No person shall ride a bicycle or a tricycle on a public road unless it complies with any regulations in force governing the construction and equipment of bicycles and tricycles.

Brakes, etc.
on bicycles
and tricycles

(2) Any person contravening the provisions of this section commits an offence.

202. No person shall, while riding a two-wheeled vehicle, carry thereon such number of persons or load of goods or both as to deprive that person of full control of the vehicle or as to hinder the person in its control, or as to obstruct the person's view.

Excessive
loads on
two-wheeled
vehicle

203. If any person throws any particle at any vehicle on any road or at any person in the vehicle, that person commits an offence and shall be liable, upon conviction, to a fine not exceeding three thousand penalty units, or to imprisonment for a period not exceeding twelve months, or to both.

Throwing
articles at or
from
vehicles

(2) If any person throws from any vehicle an article that is in itself dangerous or that in the circumstances of the case causes or is likely to cause danger to other persons, that person commits an offence.

204. (1) Any person who, without the knowledge or consent of the owner of a vehicle other than a motor vehicle, rides or drives or takes away the vehicle or in any way interferes with any vehicle or part thereof commits an offence.

Interference
with vehicles

(2) If any person without lawful authority or reasonable cause enters or gets on to a motor vehicle or interferes with or wilfully damages the vehicle or its accessories, that person commits an offence and is liable, upon conviction, in the case of a first offence, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding six months, and in the case of a second or subsequent offence, to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(3) If any person, whether employed by the owner or not, takes and drives away any motor vehicle without the consent of owner or other lawful authority that person commits an offence and is liable, upon conviction, in the case of a first offence, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding six months, and in the case of a second or subsequent offence, to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding twelve months, or both.

(4) If a court is satisfied that in any offence under subsection(1) or (3) the accused acted in reasonable belief that the person had lawful authority, or that the owner would, in the circumstances of the case, have given the owner's consent if the owner had been asked for it, the accused shall not be liable to be convicted of the offence.

(5) If in a prosecution for stealing or attempting to steal a vehicle the court is of the opinion that the accused was not guilty of stealing or attempting to steal the vehicle, but was guilty of an offence under this section and that person shall be liable to be punished accordingly.

(6) A road traffic inspector in uniform or police officer may arrest without a warrant any person reasonably suspected by the road traffic inspector or police officer of having committed or of attempting to commit an offence under this section.

(7) In addition to any penalty specified in this section, the court may order that the convicted person shall pay to the owner of the vehicle such sum as may represent fair compensation for any damage sustained by the owner of the vehicle.

Placing of
hand bill
etc., in or on
motor
vehicle

205. Any person other than a road traffic inspector in uniform or police officer acting in the course of a road traffic inspector's or police's duty, who places any handbill, leaflet or other similar document on or in any motor vehicle without the consent of the owner or person in charge of the motor vehicle commits an offence.

Unauthorised
use of goods
vehicles

206. (1) No person shall permit any person to ride, and no person shall ride on the wings, fenders, luggage grid, roof, running board, drawing bar, towing bar or bonnet of a motor vehicle or trailer on any road except for purposes incidental to and necessary for the repair of the vehicle or trailer.

(2) Apart from the driver and one other representative of the owner or hirer of a goods vehicle, no person shall permit any person to ride, and no person shall ride on any such goods vehicle:

Provided that the provisions of this subsection shall not apply to any case where—

- (i) the goods vehicle is being used in the normal course of the business of the owner or hirer, and the person riding on the vehicle is doing so for any purpose connected with the business; or
- (ii) the person riding on the goods vehicle is the owner or hirer thereof or a member of the family of the owner or hirer; or
- (iii) the person riding on the goods vehicle is an employee, or a member of the family of an employee of the owner or hirer of the vehicle; and for the purposes of this paragraph "employee" shall, in the case of an educational or other institution, include a pupil or other inmate thereof;
- (iv) a person is riding on a goods vehicle in an emergency; or
- (v) the road on which such goods vehicle is being used is not served by a motor omnibus service.

(3) No person shall ride or be permitted to ride on any load in a goods vehicle, unless there is sufficient protection as may be prescribed to prevent persons so carried from falling from the vehicle.

(4) No person shall carry or permit to be carried in any goods vehicle any goods other than goods carried on behalf or with the consent of the owner or hirer of the vehicle.

(5) Any person failing to comply with the provisions of this section commits an offence.

207. If any person without lawful authority or reasonable cause takes or retains hold of or gets on a motor vehicle or trailer while in motion on any road for the purpose of being drawn or carried, that person commits an offence.

Taking hold of or getting on vehicle in motion

208. (1) Any person who for any purpose places or causes to be placed any rope, wire or other apparatus across a road or any part thereof in such manner as to be likely to cause danger to persons using the road shall, unless that person proves that such person had taken all necessary means to give adequate warning of the danger, commits an offence, and is liable upon conviction, in the case of a first offence, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding six months and, in the case of a second or subsequent offence, to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding twelve months.

Stretching rope, etc., across road; obstruction of road

(2) No person shall place or abandon or cause to be placed or abandoned upon a road any object or thing which is capable of causing danger to traffic on or to such road:

Provided that nothing contained in this section shall apply in respect of any object or thing placed upon a road by a road authority, road

traffic inspector in uniform or police officer acting under and in terms of any written law.

(3) No person shall on a road wilfully and without lawful excuse prevent, hinder or interrupt the free and proper passage of vehicles, persons or animals thereon.

(4) Any person contravening the provisions of subsection (2) and (3) commits an offence.

(5) A police officer may arrest without warrant any person committing or suspected on reasonable grounds of having committed an offence under this section.

Liability for
animal on
road

209. (1) Subject to the provisions of subsection (2), no person shall leave or permit any animal to be on any road which is fenced or enclosed in any other manner along both sides, and no person shall leave any such animal in a place from which it may stray on to such road.

(2) The provisions of subsection (1) shall not apply to—

(a) any animal which is being ridden or is been used to draw a vehicle upon a road; or

(b) any animal which is being moved upon the road from one place to another, other than for the purpose of grazing on the road, under the immediate control of a reasonable attendant in such a manner as not to constitute a source of danger or injury to any person or any traffic upon such road.

(3) In any prosecution for a contravention of subsection (1), the owner of the animal concerned shall be presumed, until the contrary is proved, to have left or allowed the animal to be on the road concerned, or to have left it in a place from where it may have strayed on to such road, and a road shall be regarded as fenced or enclosed along both sides even though there are openings in the fence or barriers providing access to the road.

(4) No person shall drive any animal referred to in subsection (1) upon a road between sunset and sunrise unless that person exhibits a white light visible in clear weather or on straight road for a distance of at least one hundred and fifty metres, or, in the case of a flock or herd of more than ten animals, a person carrying a white light as prescribed, preceds and another carrying a light follows such animal.

(5) A person in charge of an animal on a road shall tend it in such a manner as not to constitute an obstruction or danger to other traffic.

(6) Any person failing to comply with the provisions of this section commits an offence.

210. (1) If the presence of a motor vehicle in any way causes a person to be injured on a road, and if the person in charge of the motor vehicle fails to stop the vehicle or to render reasonable assistance to the injured person, that person commits an offence and is liable, upon conviction, to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding two years, or to both:

Failure of driver of motor vehicle to stop and render assistance to injured person

Provided that it shall be a valid defence to a charge under this section if the driver of the motor vehicle had reason to believe that by stopping after the accident that person would be endangering the person's own safety, or the safety of the other occupants of the motor vehicle.

(2) In the case of any accident as described in subsection (1), the driver of the motor vehicle shall report the accident to a road traffic inspector in uniform or police officer as soon as reasonably practical:

Provided that in case of an accident in which no person is injured, no such report need be made by a driver who has at the time of the accident given that person's name and address to any other person owning or in charge of any property or animal injured in such accident.

(3) If any person fails to comply with subsection (2) of this section, that person commits an offence and is liable, upon conviction, in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding three months, and in the case of a case of a second or subsequent offence, to a fine not exceeding three thousand penalty units and to imprisonment as aforesaid for a term not exceeding three months.

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

Duty to stop in case of accident

(2) In the case of any such accident as described in subsection (1), the driver of the motor vehicle shall report the accident to a road traffic inspector in uniform or police officer as soon as reasonably practical:

Provided that in any case of an accident in which no person is injured, no such report need be made by a driver who has at the time of the accident given the driver's name and address to any other person owning or in charge of any property or animal injured in such accident.

(3) If any person fails to comply with the provisions of this section, the person commits an offence, and is liable on conviction in the case of a first offence to a fine not exceeding one thousand five hundred penalty units, or to imprisonment for a period not exceeding three months, and in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units and to imprisonment for a term not exceeding three months:

Provided that it shall be a valid defence to a charge under this section if the driver of the motor vehicle had reason to believe that by stopping after the accident such driver would be endangering the driver's safety, or the safety of other occupants of the motor vehicle.

Additional
powers of
police and
others

212. (1) In addition to any other powers conferred by this Act, any police officer or road traffic inspector in uniform may at any time require the driver of any motor vehicle to stop the vehicle, and the police officer or road traffic inspector in uniform, or who, if not in uniform, produces that police officer or road traffic inspector's identity card, may, at anytime—

- (a) require the driver of any motor vehicle to furnish the driver's name and address and give any other particulars required as to the driver's identification;
- (b) require any person in any motor vehicle to furnish that person's name and address and give any other particulars required as to that person's identity and to give such information as is in that person's power to give and may lead to the identification of the driver or owner of such vehicle;
- (c) inspect the brakes or any part of any motor vehicle or trailer or the equipment thereof with a view to ascertaining whether the motor vehicle, trailer or equipment thereof complies with the provisions of this Act or regulations made under the provisions of this Act;
- (d) ascertain the dimensions of any motor vehicle or trailer or the laden weight, or the axle weights, and for this purpose require any persons or goods to be removed from the motor vehicle or trailer;
- (e) direct the reduction or redistribution of the load of any motor vehicle or trailer, the laden weight of which or the weight carried on any axle thereof exceeds the limit specified in any

law applicable to the road in question for the time being in force under this Act or any regulations made under it;

(f) if the condition of a motor vehicle or trailer is such that danger is likely to be caused to the occupants or to members of the public, direct its removal forthwith from the road, and prohibit its use until the defects have been remedied to the satisfaction of a vehicle examiner in accordance with provisions of section *twenty* or, if the vehicle is one to which Part IX applies, in accordance with the provisions of section *one hundred and twenty-five*;

(g) drive any motor vehicle where necessary in the execution of that driver's duties, to investigate whether an offence is being committed under this Act in relation to the motor vehicle:

Provided that no police officer or road traffic inspector may drive any motor vehicle in the exercise of any of the powers and duties conferred or imposed on the officer or inspector under the provisions of this Act or any regulations made under it unless that officer or inspector is the holder of a driving licence of the appropriate class.

(2) The Director or any officer duly authorised by the Agency in writing shall, for the purposes of ascertaining the dimensions of any motor vehicle or trailer or its laden weight or its axle weight, have the powers conferred on Police officers by subsection (1).

(3) The Minister may, on the advice of the Agency, by statutory instrument, make regulations for the taking of motor vehicles or trailers to weighbridges, for the weighing of them at such weighbridges, for the issue of certificates showing the recorded weight of such vehicles or trailers and for the exemption of vehicles or trailers that have been exempted from further weighing during the validity of such certificates.

(4) The provisions of subsection (1), other than paragraphs (d), (e), (f) and (g), shall apply to bicycles, as they apply to motor vehicles, and any reference therein to motor vehicles, drivers or the provisions of any regulations made under this Act shall be construed accordingly.

213. (1) Any police officer or road traffic inspector in uniform may at any time stop any motor vehicle or trailer on which more than one person in addition to the driver of the vehicle is or goods are being conveyed or suspected of being used for the purpose of ascertaining whether the vehicle is being used, for the purpose for which the vehicle is not licensed to be used, and the police officer or road traffic inspector

Powers concerning vehicles suspected of being used as public service vehicles

in uniform, or who, if not in uniform, produces that police officer or road traffic inspector's identity card, may at any time—

- (a) require the driver of the vehicle to furnish that driver's name and address, the name and address of the owner of the vehicle and particulars of the business in connection of which the vehicle is being used;
- (b) require any person who is on any vehicle suspected of being used for a purpose for which the vehicle is not licensed to be used or who is suspected of having being on the vehicle recently, to give that person's full name and address and to state whether or not any remuneration has been or is to be given by that person for been conveyed on the vehicle;
- (c) require the drivers of , or any other such person in any such vehicle to furnish the name and address of the sender and consignee and the name of the points between which any goods on such vehicle are to be conveyed; or
- (d) require any other person to give such information as it is in that person's powers to give to assist the police officer or the road traffic inspector to ascertain whether the vehicle is being used for the purpose of which it is not licensed to be used.

(2) Any person who fails to comply with the requirement or direction lawfully made or given in terms of this section commits an offence.

Registration document and licences to be produced to police, etc., on demand

214. (1) Any road traffic inspector in uniform or police officer who, if not in uniform, produces an identity card and any other person authorised in writing by the Minister to exercise the powers bestowed by this section who produces such authority may demand —

- (a) from the owner of any motor vehicle or trailer the registration document and the current licence for the vehicle or trailer in force at the date of the demand, and in the case of a public service vehicle the road service licence authorising the use of that vehicle at that time and place;
- (b) from any person driving a motor vehicle on a road the person's driving licence, or provisional driving licence and, in the case of the latter, the driving licence of the person supervising the driving in terms of proviso (i) to subsection (2) of the section *sixty-one*.

(2) Any person who fails to produce on demand any document referred to in subsection (1) commits an offence unless within fourteen days thereafter or within such greater period as a road traffic inspector in uniform or police officer or person authorised in writing may specify, that person produces or otherwise furnishes the document at such police station as may have been specified by the officer or inspector.

(3) In the case of a motor vehicle or trailer that is subject to Part IX, a road traffic inspector may exercise all the powers bestowed upon a police officer by this section.

215. (1) Where any police officer has reason to believe that an offence in connection with the vehicle has been committed, that officer or any other police officer may require the owner of the vehicle to give all information in that person's possession as to the name, address, description and whereabouts—

Duty to give information

(a) of the person driving and the occupants of the vehicle at the time of the time of the alleged offence; or

(b) if no person was driving at the time of the alleged offence, of the last person who drove the vehicle before the alleged offence.

(2) Any person who fails to give information referred to in subsection (1) commits an offence, unless that person shows to the satisfaction of the court that the person did not have the information and could not with reasonable diligence have obtained it.

(3) A police officer may require any other person to give the information referred to in subsection (1), or any other information which it is in that person's power to give and which may lead to the identification of any of the persons referred in paragraph (a), or (b) of subsection (1) and, if the person fails to do so, that person commits an offence.

(4) In the case of motor vehicles that are subject to Part IX, a road traffic inspector may exercise all the powers bestowed upon a police officer by this section.

216. (1) If any person in or in connection with an application for a vehicle licence or the registration of a motor vehicle or a trailer or a driving or other licence or the endorsement of such a licence or any change or correction in a licence or in the registration of a motor vehicle or trailer or in giving any information required under this Act or any regulation made under the Act, makes any statement which to that person's knowledge is false, or any material respect misleading, that person commits an offence and, is liable, upon conviction, in the case of first offence, to a fine not exceeding ten thousand penalty units

Penalty for giving false information

and, in the case of a second or subsequent offence, to a fine not exceeding fifteen thousand units.

(2) Any licence, registration document or other authority acquired as a result of the false statement referred to in subsection (1) shall be void.

Unlawful
imitation
etc., of
documents

217. Whoever without lawful cause or excuse imitates, alters, mutilates, destroys or uses, or without lawful cause or excuse sells, supplies, lends or allows to be used by any person any registration mark, vehicle licence, registration document, driving licence or any other licence issued or deemed to have been issued under this Act commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

Verification
of facts in
applications

218. Where an application is made for anything to be done under this Act the director may require—

(a) any facts stated in the application to be verified;

and

(b) any other necessary information to be given;
to the Director's satisfaction.

Condition
for release of
impounded
vehicle or
trailer

219. Any registered owner whose motor vehicle or trailer is impounded under any provision of this Act may apply to the Director for the release of that person's motor vehicle or trailer after the termination of any criminal proceedings instituted against that person, or as the case may be, after due compliance with any provisions of this Act contravened by the person and, where necessary, after remedying any mechanical defects required to be remedied in order to render the vehicle or trailer roadworthy.

No liability
for impound-
ment

220. No police officer or road traffic inspector shall be liable for any damage caused to any motor vehicle or trailer or for any damage to, or loss of, any contents of the motor vehicle or trailer impounded by that officer or inspector in good faith and without negligence under any provision of this Act:

Provided that the police officer or road traffic inspector shall be personally liable for any damage to the motor vehicle or trailer—

(a) if that person impounded the motor vehicle or trailer in bad faith; or

(b) if that person did not secure the motor vehicle after the motor vehicle or trailer was impounded.

221. Unless otherwise expressly provided by this Act if—

Liability of
driver and
owner for
offences

- (a) on any road any motor vehicle or trailer is used which does not comply with or contravenes any provision of this Act or of any regulations or order made under it;
- (b) any motor vehicle or trailer is used in such a state or condition or in such a manner as to contravene any provision of this Act or of any regulation or order made under it; or
- (c) anything is done or omitted in connection with a motor vehicle or trailer in contravention of any of the provisions of this Act or any regulation or order made under it;

Unless otherwise expressly provided by this Act—

- (i) the driver of the motor vehicle or trailer at the time of the offence commits an offence unless the offence was not due to any act, omission, neglect, or default on the driver's part; and
- (ii) the owner of the motor vehicle or trailer commits an offence, if present at the time of the offence, or if absent, unless the offence was committed without their consent of the owner and was not due to any act or omission on the owner's part, and the owner had taken all reasonable precautions to prevent an offence.

222. (1) No person shall operate a vehicle on a public road if the vehicle causes any excessive noise either directly or indirectly as a result of—

Vehicle
causing
excessive
noise

- (a) any defect in the vehicle, including a defect in design or construction, lack of repair to or faulty adjustment of the vehicle;
- (b) the faulty packing or adjustment of the load of the vehicle;
- (c) the use of a device, or bell or any fitting which produces excessive noise:

Provided that this paragraph shall not apply to vehicles referred to in subsection (3) of section *one hundred and fifty-three*; or

- (d) any wilful act or omission by such person.

(2) In any prosecution under subsection (1) it shall be a defence if the person proves to the satisfaction of the court that the noise in respect of which that person is charged was due to some temporary or

accidental cause and could not have been prevented by the exercise of due diligence and care on that person's part.

Use of
hooter

223. (1) No person shall, on a public road, use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this Act or on the grounds of safety.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding one thousand five hundred penalty units.

Riding of
pedal cycles

224. (1) No person shall ride a pedal cycle on a public road unless that person is seated astride on the saddle of the pedal cycle.

(2) Persons riding pedal cycles on a public road shall ride in single file except in the course of overtaking another pedal cycle and two or more persons riding pedal cycles shall not overtake another vehicle at the same time.

(3) No person riding or seated on a pedal cycle on a public road shall take hold of any other vehicle in motion.

(4) No person riding pedal cycle on a public road shall deliberately cause such pedal cycle to swerve from side to side.

(5) No person riding a pedal cycle on public road shall carry on it any person, animal or object which obstructs that person's view or which prevents that person from exercising complete control over the movements of the pedal cycle.

(6) A person riding a pedal cycle on a public road shall do so with at least one hand on the handle-bars of such pedal cycle.

(7) Whenever a portion of a public road has been set aside for use by persons riding pedal cycles, no person shall ride a pedal cycle on any other portion of such road.

(8) A person riding a pedal cycle on a public road or a portion of public road set aside for use by persons riding pedal cycles shall do so in such manner that all the wheels of such pedal cycle are in contact with the surface of the road at all times.

General
penalty

225. Any person who commits an offence under this Act for which no penalty is provided shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding three months and, in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty unit or to imprisonment for a term not exceeding six months, or to both.

PART XII

MISCELLANEOUS PROVISIONS

226. (1) The Agency shall appoint such licensing officers as may be necessary for the due carrying out of the provisions of this Act and of the regulations made under it.

Licensing officers, etc.

(2) Each licensing officer appointed under subsection (1) shall be under the direction of the Director and shall perform such duties as may be specified in the licensing officer's appointment.

(3) All licences and registration documents issued under this Act shall be issued by licensing officers on behalf of the Agency.

(4) The Agency shall appoint such driving examiners, vehicle examiners and road traffic inspectors as may be necessary for the performance, by the Agency, of its functions under this Act.

227. On the appointed date, reference in any written law or any other legal document to the Road traffic Commissioner shall be read and construed as references to the Director appointed under section *five* of this Act.

References to Commissioner

228. Notwithstanding anything contained in any other law, no person shall, except with the consent of the Minister, levy any charge for or in connection with parking on any public street as defined in the Local Government Act.

Control of parking charges on roads
Cap. 281

229. (1) In any proceedings for an offence against this Act, a certificate in the prescribed form purporting to be signed by a road traffic inspector or by a police officer of or above the rank of Inspector and certifying that a person specified in the certificate stated to the road traffic inspector or to the police officer—

Admissibility as evidence of certificates relating to ownership of driver of motor vehicle

- (a) that a particular motor vehicle was being driven by, or belonged to, that person on a particular occasion;
- (b) that a particular motor vehicle belonged on a particular occasion to a firm in which that person stated that the person was at the time of the statement a partner; or
- (c) that a particular motor vehicle belonged on a particular occasion to a corporation of which that person stated that the person was at the time of the statement a director, officer or employee;

shall be admissible as evidence for the purposes of determining by whom the vehicle was being driven, or to whom it belonged, as the case may be, on that occasion.

(2) Nothing in this section shall be deemed to make a certificate admissible as evidence in proceedings for any offence—

(a) unless a copy of the certificate has not less than seven days before the hearing or trial been served on the person charged with the offence; or

(b) if that person, not later than three days before hearing or trial, or within such further time as the court may in special circumstances allow, serves notice on the prosecutor requiring the attendance at the trial of the person who signed the certificate.

Doubt
concerning
classification
of vehicles

230. In case any doubt shall arise as to the use to which any vehicle is put or whether any vehicle or class or type of vehicle falls within any particular class or type of vehicle defined by this Act, the matter shall be referred to the Director, who shall determine within what particular class or type of vehicle defined by this Act the vehicle falls.

Highway
Code

Act No. 37
of 1958

231. (1) The Highway Code issued under section *two hundred and fifty-seven* of the Roads and Road Traffic Act shall notwithstanding the repeal of Part XIV of that Act, continue to have effect as if issued under this Act, subject to revision in accordance with the provisions of this section.

(2) Subject to the provisions of this section the Minister may revise the Highway Code by revoking, varying, amending or adding to the provisions of the Code in such manner as the Minister thinks fit.

(3) Where the Minister proposes to revise the Highway Code by making alterations in the provisions of the Code the Minister shall, as soon as possible, lay the proposed alterations before the National Assembly, and the Highway Code or its revision, as the case may be shall not be issued until the said Code or proposed alterations or revision have been approved by the National Assembly.

(4) Before revising the Highway Code by making any alteration in its provisions which are required by subsection (3) to be laid before the National Assembly, the Minister shall consult the Agency and such other representative organisations as the Minister thinks fit.

(5) The Minister shall cause the Highway Code and every revised edition thereof to be printed and issued to the public at such price as may be prescribed.

(6) A failure on the part of any person to observe any provisions of the Highway Code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal and including proceedings for

an offence under this Act) be relied upon by any party to the proceedings as tending to establish or negative any liability which is in question in those proceedings.

232. Notwithstanding any other provision of this Act, the Minister may on the advice of the Agency, by statutory instrument—

Implementa-
tion of
international
treaties

- (a) regulate the cross-border carriage of goods, cross-border road transport services, vehicle safety and equipment, vehicle dimensions and vehicle combinations, the conveyance of abnormal, awkward and hazardous substance loads and such other matter as the Minister may consider necessary and may incorporate the requirements of the SADC Protocol on Transport, Communications and Meteorology;
- (b) provide for the implementation of Protocols on transit trade transit and facilities and on the Third Party Motor Vehicle Insurance Scheme adopted by the Member States Of COMESA; and
- (c) provide for the implementation of any agreement relating to road transport to which Zambia is a party.

233. (1) The Minister may on the advice of the Agency, by statutory instrument, make regulations in relation to any matter contemplated, required or permitted to be prescribed in terms of this Act, and the power to make regulations conferred by this Act shall be published in the *Gazette* at least thirty days before the date upon which they shall come into effect.

Power of
Minister to
make
regulations

(2) In particular, and without derogating from the generality of the foregoing, the regulations referred to in subsection (1) may be made—

- (a) prescribing the fees payable for licences and for the various appeals, documents and services in the Second Schedule;
- (b) prescribing the circumstances under which fees paid may be refunded either wholly or in part;
- (c) prescribing the allocation of taxes and fees paid, and the rendering of accounts for such taxes and fees;
- (d) prescribing the form of vehicle and motor vehicle licences, driving licences and their renewals and all other licences, registration documents, certificate of all kinds, the conditions attaching to them and the conditions precedent

to their issue and, where applicable, the periods of their validity, and the manner of displaying the certificates and licences; and regulating the issue of duplicates of licences, registration documents, certificates and other documents specified in this Act;

- (e) prescribing measures to prevent a person holding illegally more than one licence, registration documents or certificate, and to facilitate the identification of the holders of the same;
- (f) regulating the particulars that are to be marked on vehicles, motor vehicle or trailer and the manner in which they are to be displayed or affixed, and prohibiting the display of any registration or distinguishing mark other than that of the country in which such motor vehicle or trailer is registered and licensed:

Provided that the Minister may delegate to the Director the power to prescribe the letters which shall be used as registration marks on motor vehicles and trailers;

- (g) providing for the safety of traffic on a public road, including the restriction of the use of any road or part thereof by traffic and the duties of the users of any road; regulating traffic on any road or portion or on any ford, bridge, pontoon or culvert;
- (h) prescribing the rules of the road, the signals to be given by the drivers of vehicles, and the signals and traffic signs to be observed by such drivers and by pedestrians and for the establishment of crossings on roads for pedestrians;
- (i) prescribing the maximum speeds permitted for different classes of vehicles in or on different areas and roads or parts of such areas and roads;
- (j) prohibiting the leaving of vehicles at rest in dangerous positions and the abandoning of vehicles and providing for their removal from roads and road reserves and for the recovery of expenses in this regard;
- (k) providing for the detention of any vehicle in respect of any contravention or suspected contravention of this Act or any regulation or notice made under it, and providing for the sale of any vehicle so detained which is not claimed within a period of thirty days after the date of detention;

- (l) providing for the detention, inspection and disinfection of any vehicle passing through or out of any area in which tsetse fly exists or are suspected to exist;
- (m) prohibiting sound warnings on specified roads or in specified areas or parts of such roads or areas either at all times or at specified times;
- (n) prescribing the construction and equipment of vehicles, motor vehicles and trailers and the conditions under which they may be used on roads, including the prohibition of emblems, mascots or other devices that are liable to be a source of danger to any person on the road or of distraction to the driver or to other road users;
- (o) prohibition nuisances caused through the emission or discharge of exhaust gas, smoke, fuel, oil, fumes, sparks or other matter from vehicles or, excessive noise caused by the functioning of a vehicle or due to the loading thereof or the use of any accessories or appliances fitted thereto; and prescribing the maximum allowable noise level and method of determining the level of noise caused by a vehicle;
- (p) regulating the transportation of dangerous goods specified or described in the regulations, their classification, the conditions and requirements to be complied with in the transportation of the goods, and the powers and duties of road traffic inspectors in respect of the transportation of dangerous goods;
- (q) regulating the towing, pushing or drawing of any vehicle by another vehicle;
- (r) providing for the operation and control of vehicles on public roads, their construction, equipment, width or tracks, dimensions, weight and use in respect of either chassis and body or chassis, body and load and the conditions on which they may be used.
- (s) prescribing the width, height, length and other dimensions of vehicles, motor vehicles and trailers, or trains of such and of the loads carried thereby;

- (t) providing for the identification of vehicles and, in relation to a motor vehicle, the size, shape, colour and character of the registration mark or number to be displayed thereon and the means to be applied to render the mark or number easily distinguishable;
- (u) prescribing the width, height and length of any vehicle and the diameter of the wheels and the width, nature and condition of the tyres thereof;
- (v) prescribing the gross weight of vehicle, motor vehicles and trailers and the maximum weight to be transmitted to the road or any specified area thereof by a vehicle, motor vehicle or trailer of any class or description or by any part or parts of the vehicle or trailer in contact with the road, and prescribing the methods by which the weights shall be determined, and the conditions under which they may be required to be tested;
- (w) prescribing the number of trailers which may be drawn by a vehicle and the towing of one vehicle by another, and prohibiting the operation of any vehicle which is being used to trailers if the combined length of vehicle and trailers exceeds a prescribed limit;
- (x) prescribing the number of persons who may be carried on vehicles or trailers for the purpose of controlling or attending to them; and prohibiting the carriage of persons on vehicles constructed or designed primarily for the carriage of goods;
- (y) regulating the number and kinds of lamps and reflectors that are to be carried on vehicles, motor vehicles, trailers and farm implements, prescribing how and when the same shall or shall not be used, prohibiting the use of any lamp or lighting device as may be specified, and prohibiting the sale or letting on hire of bicycles which do not comply with any regulations which may be made regulating the carrying on bicycles of lights, reflectors, reflective clothing and wearing helmets and carrying other devices to make cyclists conspicuous at night;
- (z) regulating and prescribing the number and type of brakes, the affixing of efficient brakes and ensuring that brakes,

steering gear and other parts of a vehicle are maintained in proper working order;

- (aa) prohibiting the use of any cut-out, fitting or other apparatus or device rendering it possible to open the exhaust of a motor vehicle; providing for efficient silencers, to minimise noise; prohibiting the unnecessary issue of smoke or fumes, and the unnecessary discharge of fuel, oil, or lubricants; prohibiting nuisances caused by the working of motor vehicles, and prohibiting the use on roads or motor vehicles or trailers which cause excessive noise due to defect, lack of repair, or faulty adjustment or faulty packing of loads on such vehicles or trailers;
- (bb) regulating the loading of vehicles, motor vehicles and trailers, and the securing of loads so that danger is not caused or is likely to be caused, by reason of the load or part of it falling, or being liable to fall, from the vehicle or trailer;
- (cc) prohibiting the use on roads of any motor vehicle which is so constructed or loaded that manual signals given by the driver cannot be readily seen from the rear of such vehicle by a person in line with the offside unless it is fitted with an apparatus to enable the driver efficiently to signal the intention of the driver to stop or change direction;
- (dd) prescribing the methods to be used and appliances to be fitted for signalling the approach of a motor vehicle, for enabling the driver of a motor vehicle to become aware of the approach of another motor vehicle from the rear, for intimating the intended movement of a motor vehicle and for securing that such appliances shall be efficient and kept in proper working order;
- (ee) providing for the examination on the road or elsewhere, of motor vehicles, either generally or of such classes as may be specified, for the exemption of specified vehicles or classes of vehicle from the need to be examined and for the notification of the result of examinations;
- (ff) prescribing those vehicles or motor vehicles that may be exempted from the need to be registered or licensed and under what conditions, and the conditions on which motor vehicles registered and licensed in any specified country

outside Zambia may be used within Zambia without being registered or licensed therein or without holding a certificate of fitness; prescribing the driving licenses or permits issued outside Zambia or the military driving licences, or the equivalents of such licences, or permits, that may be deemed to have effect within Zambia as if issued under section *fifty nine* or section *sixty-one*;

- (gg) prescribing the procedure to be adopted and the conditions to be observed in connection with the issue of international certificates for motor vehicles and international driving permits and in connection with the use of such certificates and permits issued elsewhere than in Zambia;
- (hh) exempting, or empowering prescribed officers to exempt vehicles, motor vehicles and trailers from compliance with the requirement of this Act and of the regulations with regard to constructions and equipment;
- (ii) prescribing the circumstances in which public service vehicles or any classes thereof shall be exempt from compliance with all or any of the provisions of Part VIII, and under what conditions;
- (jj) prescribing the construction and equipment for public service vehicles, the method to be adopted to determine the maximum load and the number of passengers that they may carry; prescribing for the safe custody and redelivery or disposal of any property and fixing the charges to be made in respect of thereof; prescribing the circumstances in which and the conditions upon which public service vehicles may be substituted for authorised breakdown or unforeseeable emergency and prescribing the circumstances in which public service vehicle may be temporarily suspended;
- (kk) prescribing the hours and conditions of service of the drivers of classes of motor vehicles as may be specified, regulating the licensing and conduct of drivers of public service vehicles and of conductors in omnibus, and prescribing the badges to be worn by the drivers and conductors, and regulating the conduct of passengers in passenger-carrying public service vehicles;
- (ll) prescribing the records that are to be kept and the returns that are to be made by persons holding or applying for licences issued under Part VIII of subject to Part IX;

- (mm) prescribing the manner in which applications for road service licences, and the grant, revocation or suspension of the licences or the variation of their conditions, are to be published, including period of driving experience for eligibility to obtain public service vehicle licences;
- (nn) prescribing the means of identifying public service vehicles authorised to be used under road service licences, the period of validity of the means of identification, the particulars that they are to contain, the manner of their display, the fees to be charged for such means of identification and their custody, production, return, and cancellation on expiration, suspension or revocation;
- (oo) prescribing the classes of motor vehicles for which driving licences and provisional driving licences may be valid;
- (pp) providing for the confiscation of bicycles and for the custody of such bicycles during the period of confiscation;
- (qq) providing for the licensing, control and inspection of driving schools and of instructors;
- (rr) prescribing penalties for the breach of any regulation, provided that no such penalty shall exceed a fine of one thousand penalty units or imprisonment for a period of three months;
- (ss) providing for the form, manner and procedure of appeal authorised under this Act;
- (tt) prescribing the exclusion of certain specified vehicles from the definition of "motor vehicle" as contained in section *two*
- (uu) providing for the amendment of driving licences where the name or address of the holder has been changed and for the keeping of records and registers of driving licences issued, renewed or extended by endorsement;
- (vv) providing for the production of prescribed documents and of vehicles to driving examiners for the purpose of driving tests, and the procedure to be followed before, during and after such tests and the examiners who may conduct the tests;
- (ww) prescribing requirements for award of a licence for operating a passenger motor vehicle service, including requirements for validity of motor vehicle insurance, and certificate of road-worthiness for passenger motor vehicle; or

(xx) prescribing requirements for health and competence certificates for drivers of passenger motor vehicles;

(yy) prescribing any form, process or token which the Minister may, in consultation with the Agency, prescribe for the purposes of this Act and the information to be furnished for the purpose of any such form, process or token; and

(zz) prescribing matters necessary or convenient for the better carrying out or giving effect to this Act.

(3) The regulations made under this section shall apply to government vehicles.

Repeal of
Parts V to
XIV of the
Roads and
Road Traffic
Act, Cap.
464 and
transitional
provisions

234. (1) Parts V to XIV of the Road and Road Traffic Act and the First Schedule, Second Schedule and the Third Schedule to that Act are hereby repealed.

(2) Notwithstanding subsection (1), any subsidiary legislation made under that Act in force immediately before the appointed date—

(a) shall remain in force unless inconsistent with this Act and be deemed to be subsidiary legislation under this Act; and

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

Act No. 37
of 1958

(3) Any order, notice or direction made or given under the Roads and Road Traffic Act and in force, immediately before the appointed date, shall, unless contrary to this Act, or revoked continue in force, as if made or given under this Act.

(4) The Fifth Schedule shall have effect with regard to transitional provisions in relation to the Road Traffic Commission and the National Road Safety Council.

Repeal of
Cap 471, Act
No. 35 of
1995

235. The National Roads Safety Council Act shall stand repealed on the appointed date.

FIRST SCHEDULE

(Section 3)

PART 1

ADMINISTRATION OF AGENCY

Seal of
Agency

1. (1) The seal of this Agency shall be such device as may be determined by the Agency and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Agency.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Agency by the Secretary or any other person generally or specifically authorised by the Agency in that behalf.

(4) Any document purporting to be a document under this seal of the Agency or issued on behalf of the Agency shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) Subject to the other provisions of this Act, a member of the Agency shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment for one further term of three years:

Tenure of
office and
vacancy

Provide that the first members shall be appointed for periods ranging from two to three years in order to facilitate retirement by rotation.

(2) A member, other than an *ex-officio* member, may resign upon giving one month's notice, in writing, to the organisation which nominated the member and to the Minister.

(3) The office of the member shall become vacant—

- (a) upon the member's death;
- (b) if the member is absent without reasonable excuse from the three consecutive meetings of the Agency of which the member has had notice;
- (c) on ceasing to be a representative of the organisation which nominated the member;
- (d) if the member becomes mentally or physically incapable of performing the duties of a member of the Agency;
- (e) if the member is declared bankrupt;
- (f) if the member is convicted of an offence involving fraud or dishonesty; or
- (g) if the member is convicted of an offence against any other written law and sentenced to a term of imprisonment of not less than six months without the option of a fine.

(4) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall such further period exceed four months.

3. Whenever the office of a member becomes vacant before the expiry of the term of office the Minister may appoint another member in place of the member who vacates office but such member shall hold office only for the unexpired part of the term.

Filling of
casual
vacancy

Proceedings
of Agency

4. (1) Subject to the other provisions of this Act, the Agency may regulate its own procedure.

(2) The Agency shall meet for the transaction of business at least once every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Agency and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Agency.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subparagraph (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Six members, other than *ex-officio* members, shall form a quorum at any meeting of the Agency.

(6) There shall preside at any meeting of the Agency—

(a) the chairperson;

(b) in the absence of the Chairperson the Vice- Chairperson, in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Agency on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Agency may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Agency but such person shall have no vote.

(9) The validity of any proceedings, act or decisions of the Agency shall not be affected by any vacancy in the membership of the Agency or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

Committees
of Agency

5. (1) The Agency may, for the purpose of performing its functions under this Act, constitute any committees as it considers necessary and may delegate to any such committee such of its functions as it considers fit.

(2) The Agency may appoint as members of a committee, persons who are, or are not, members of the Agency, except that at least one member of a committee shall be a member of the Agency.

(3) A person serving as a member of the committee shall hold office for such period as the Agency may determine.

(4) Subject to any specific or general direction of the Agency, a committee may regulate its procedure.

6. The Members of the Agency or any committee shall be paid such allowances as the Agency may, with the approval of the Minister, determine.

Allowances of members

7. (1) If a member or person is present at a meeting of the Agency or any committee of the Agency at which any matter is the subject of consideration and in which matter the member or person or the member or person's is directly or indirectly interested in a private capacity, the member or person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Agency or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

Disclosure of interest

(2) A declaration of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

8. (1) A person shall not, without the consent in writing given by, or on behalf of, the Agency, publish or disclose to any person otherwise than in the course of duties, the contents of any documents, communication, or information which relates to, and which has come to that person's knowledge in the course of that persons duties under this Act.

Prohibition of publication of or disclosure of information to unauthorised persons

(2) Any person who knowingly contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

PART II

FINANCIAL PROVISIONS

9. (1) The funds of the Agency shall consist of such moneys as may—

Funds of Agency

(a) be appropriated to the Agency by Parliament through the Road Fund;

(b) be allocated to the Agency from the Road Fund;

(c) be paid to the Agency by way of grants or donations through the Road Fund; and

(d) vest in or accrue to the Agency.

(2) There shall be paid from the Funds of the Agency—

(a) Salaries, allowances, loans, gratuities and pensions of staff of the Agency and other payments for the recruitment and retention of staff;

(b) Such reasonable travelling and subsistence allowances for members and members of any committee of the Agency when engaged on the business of the Agency and at such rates as the Agency with the approval of the Minister, may determine; and

(c) any other expenses incurred by the Agency in the performance of its functions based on a percentage of the annual work plan.

Financial
year

10. The financial year of the Agency shall be the period of twelve months ending on 31st December of each year.

Accounts

11. (1) The Agency shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Agency shall be audited annually by independent auditors appointed by the Agency.

(3) The auditors' fees shall be paid by the Agency.

Annual
report

12. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Agency shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Agency and there shall be appended to the report—

(a) an audited balanced sheet;

(b) an audited statement of the income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in sub-paragraph (1), lay the report before the National Assembly.

SECOND SCHEDULE

Section 42

TAXES PAYABLE ON ANNUAL LICENCES

RATE OF TAX

	<i>Fee units</i>
1. Motor vehicles owned by the government	Nil
2. For every hand- cart per wheel	10
3. For every motor-cycle	50
4. For every public service vehicle (except a contract car, hire car, taxi cab or trailer) if the manufacturers permitted gross weight-	
(a) does not exceed 2 tonnes	200
(b) exceeds 2 tonnes but does not exceed 5 tonnes	300
(c) exceeds 5 tonnes but does not exceed 8 tonnes	400
(d) exceeds 8 tonnes but does not exceed 11 tonnes	500
(e) exceeds 11 tonnes but does not exceed 14 tonnes	600
(f) exceeds 14 tonnes but does not exceed 17 tonnes	700
(g) exceeds 17 tonnes but does not exceed 20 tonnes	800
(h) exceeds 20 tonnes	1000
5. For every contract car, hire car or taxicab, if the weight-	
(a) does not exceed 800 kg	400
(b) exceeds 800 kg but does not exceed 1000 kg	500
(c) exceeds 1000 kg but does not exceed 1200 kg	600
(d) exceeds 1200 kg but does not exceed 1400 kg	700
(e) exceeds 1400 kg but does not exceed 1600 kg	800
(f) exceeds 1600 kg	1000
6. For every private motor car, if the net weight-	
(a) does not exceed 800kg	200
(b) exceeds 800kg but does not exceed 1000kg	250
(c) exceeds 1000kg but does not exceed 1200kg	300
(d) exceeds 1200kg but does not exceed 1400kg	350
(e) exceeds 1400kg but does not exceed 1600kg	400
(f) exceeds 1600kg	500

7.	For every motor vehicle (except farm tractor) if the net weight—	
	(a) does not exceed 800kg	200
	(b) exceeds 800kg but does not exceed 1200kg	250
	(c) exceeds 1200 kg but does not exceed 2000kg	300
	(d) exceeds 2000kg but does not exceed 4000kg	350
	(e) exceeds 4000kg but does not exceed 6500kg	400
	(f) exceeds 6500kg but does not exceed 9000kg	450
	(g) exceeds 9000kg	500
8.	For every trailer, if the manufacturers permitted gross weight	
	(a) does not exceed 2 tonnes	200
	(b) exceeds 2 tonnes but does not exceed 4 tonnes	300
	(c) exceeds 4 tonnes but does not exceed 6 tonnes	400
	(d) exceeds 6 tonnes but does not exceed 9 tonnes	500
	(e) exceeds 9 tonnes but does not exceed 12 tonnes	600
	(f) exceeds 12 tonnes but does not exceed 15 tonnes	700
	(g) exceeds 15	800
9.	For each motor dealer's vehicle	1000
10.	For each identification number included in a motor dealer's vehicle licence	600
11.	For every farm vehicle licence	100
12.	For every farm tractor used on a road otherwise than in accordance with a farm vehicle licence	250

NOTE:

Where any licence is issued in respect of the period 1st July to 31st December, half the above mentioned taxes shall be payable

THIRD SCHEDULE

(Section 75)

CANCELLATION, SUSPENSION AND ENDORSEMENT OF DRIVING LICENCES

Schedule showing where it is obligatory, and where it is permissible to—

- (a) cancel a driving licence and disqualify the holder from obtaining another for a stated period—section 75 (1) (a); or
- (b) suspend a driving licence for a stated—section 75 (1) (a); or
- (c) endorse a driving licence - section 75 (1) (b)

NOTE 1 —The cancellation or the suspension of a driving licence must be endorsed on that licence

Section	Offences	First, Second, subsequent offence	Cancellation with disqualification		Suspension		Endorsement		Remarks
			Obligatory	Permissible	Obligatory	Permissible	Obligatory	Permissible	
23	No test certificate	First Second or subsequent	No	No	No	No	No	Yes	
			No	No	No	Yes	Yes*	Yes	
30	No motor vehicle or trailer licence	First Second or subsequent	No	No	No	No	No	Yes	*If licence is suspended, vide Note 1 above
			No	No	No	Yes	Yes*	Yes	
57	Driving with no driving licence.	First Second or subsequent	No	No	No	No	No	Yes	*If licence is suspended, vide Note 1 above
			No	No	No	No	No	Yes	
61 (3)	Passenger in public service vehicle with learner driving - driver, and supervisor	First Second or subsequent	Yes	No	No	No	Yes	No	
			No	No	No	No	No	Yes	

THIRD SCHEDULE - continued

Section	Offences	First, second, subsequent offence	Cancellation with disqualification		Suspension		Endorsement		Remarks
			Obligatory	Permissible	Obligatory	Permissible	Obligatory	Permissible	
82	Fraudulent application for driving licence, or driving when disqualified or while licence suspended.	First or subsequent	Yes*	No	No	No	Yes	No	*To take effect from expiry of current period of disqualification - where applicable
86	Vehicle uninsured	First or subsequent	No	No	No	Yes	Yes*	Yes	*If licence is suspended, vide Note 1 above
118 (1) (2)	Public service vehicle driver drinking or drunk	First or subsequent	No	No	No	Yes	Yes*	Yes	*If licence is suspended, vide Note 1 above
132	Using vehicle without certificate of fitness, or when use is prohibited	First Second or subsequent	No	No	No	No	No	Yes	*If licence is suspended, vide Note 1 above
			No	No	No	Yes	Yes*	Yes	
148	Exceeding speed limit	Second, Third or Subsequent	No	No	No	No	No	Yes	*If licence is suspended, vide Note 1 above
			No	No	No	Yes	Yes*	Yes	
154	Careless driving	First Second or subsequent	No	No	No	No	No	Yes	*If licence is suspended, vide Note 1 above
			No	No	No	Yes	Yes*	Yes	
155	Reckless or dangerous driving	First or Subsequent	No	No	No	Yes	No	Yes	*If licence is suspended, vide Note 1 above

THIRD SCHEDULE - continued

Section	Offences	First, Second, subsequent offence	Cancellation with disqualification		Suspension		Endorsement		Remarks
			Obligatory	Permissible	Obligatory	Permissible	Obligatory	Permissible	
156	Intoxicated when in charge of motor vehicle	First Second or subsequent	No	No	No	No	No	Yes	*If licence is suspended, vide Note 1 above. *If licence is suspended, vide Note 1 above
157	Intoxicated when driving	First or Subsequent	No	No	No	Yes	Yes*	Yes	
			No	Yes	Yes	No	Yes	No	
161	Causing death by reckless or dangerous driving	First or Subsequent	No	Yes	Yes	No	Yes	No	
163	Driving motor vehicle or trailer in dangerous condition	First or Subsequent	No	No	No	No	No	Yes	
210	Failure to stop or render assistance	First or Subsequent	No	Yes	Yes	No	Yes	No	
211	Failure to stop in case of accident	First or Subsequent	No	Yes	Yes	No	Yes	No	
206	Carrying passengers or goods without authority of owner or hire	First or Subsequent	No	Yes	No	Yes	Yes	No	

Road Traffic

[No. 11 of 2002 255

FOURTH SCHEDULE

(Section 67)

	PRESCRIBED FEE UNITS
DRIVING LICENCE	60

FIFTH SCHEDULE

(Section 234)

SAVINGS AND TRANSITIONAL PROVISIONS

PART I

TRANSITIONAL PROVISIONS IN RELATION TO THE ROAD TRAFFIC
COMMISSION

Vesting of
assets of the
Road Traffic
Commission

1. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Agency by virtue of this Act and without further assurance—

(a) the affairs of the Road Traffic Commission; and

(b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the Road Traffic Commission.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the commencement of this Act in respect of the Road Traffic Commission, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations there under could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effects as from the date of assignment thereof, as if—

(a) the Agency had been a party thereto;

(b) for any reference to the Government there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Agency; and

(c) for any reference to any officer of the Road Traffic Commission not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after commencement of

this Act, or reference to such officer of the Agency as the Agency shall designate.

(3) Subject to the provisions of subsection (2), documents other than those referred to therein, which refer specifically or generally to the Road Traffic Commission shall be construed in accordance with subsection (2) as far as applicable.

2. (1) Whenever in pursuance of this Act, any property, rights, liabilities and obligations of the Government through the Road Traffic Commission are deemed transferred to the Agency in respect of which transfer a written law provides for registration, the Agency shall make an application in writing to the appropriate authority for registration of the transfer.

Registration
of property
to be
transferred
by Govern-
ment

(2) The registration authority referred to in sub-paragraph (1) shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue the transferee concerned with a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect thereof.

3. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligations vests in the Agency by virtue of this, the Agency and all other persons shall, as from the appointed date of this Act, have the same right, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining or perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Agency.

Legal
proceedings

(2) Any legal proceedings or application of any authority pending immediately before the appointed date by or against the Government in respect of the Road Traffic Commission may be continued by or against the Agency.

(3) After the appointed date, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Government in respect of the Road Traffic Commission may be instituted by or against the Agency.

4. (1) On or after the appointed date, the Agency shall on such terms and conditions as it may, with the approval of the Minister, determine appoint as officers of the Agency such public officers from the Public Service as may be necessary for the performance of the functions of the Agency

Terms of
service of
employees
of Commis-
sion

(2) Where an officer from the Public Service is appointed to the service of the Agency—

(a) the terms and conditions of service with the Agency shall not be less favourable than those the officer enjoyed in the Public Service; and

Act No. 35
of 1996

(b) the officer shall be deemed to have retired under section *thirty-nine* of the Public Service Pensions Act.

(3) On or after the appointed date employees of the Commission who are not engaged by the Agency under subsection (2) shall be retained by the Government and shall—

(a) be redeployed in the service of the Government; or

Act No. 35
of 1996

(b) be retired under section *thirty-nine* of the Public Service Pensions Act.

PART II

TRANSITIONAL PROVISIONS IN RELATION TO THE NATIONAL ROAD SAFETY COUNCIL

Vesting of
assets of the
Council

5. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Agency by virtue of this Act without further assurance—

(a) the affairs of the National Road Safety Council; and

(b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the National Road Safety Council.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the Council was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations there under could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if—

(a) the Agency had been a party thereto;

(b) for any reference to the Council there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Agency; and

(c) for any reference to the officer of the Council not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after commencement of this Act, a reference to such officer of the Agency as the Agency shall designate.

(3) Subject to the provisions of subsection (2), documents, other than those referred to therein, which refer specifically or generally to the Council shall be construed in accordance with subparagraph (2) as far as applicable.

6. (1) Whenever in pursuance of this Act, any property, rights, liabilities and obligations of the Council are deemed transferred to the Agency in respect of which transfer a written law provides for registration, the Agency shall make an application in writing to the appropriate authority for registration of the transfer.

Registration
of property
to be
transferred
by Council

(2) The registration authority referred to in the subparagraph (1) shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue the transferee concerned with a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect of thereof.

7. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vest in the Agency by virtue of this Act, the Agency and all other persons shall, as from the appointed date, have the same right, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting that right, liability or obligation as they would have and if it had at all times been a right, liability or obligation of the Agency.

Legal
proceedings

(2) Any legal proceedings or application of any authority pending immediately before the appointed date by or against the Council may be continued by or against the Agency.

(3) After the appointed date, proceedings in respect of any right, liability or obligations which was vested in, held, enjoyed, incurred or suffered by the Council may be instituted by or against the Agency.

8. (1) On or after the appointed date, the Agency shall, on such terms and conditions as it may, with the approval of the Minister, determine appoint as officers of the Agency such officers of the Council as may be necessary for the performance of the functions of the Agency.

Terms of
service of
employees of
Council

(2) Where an officer of the Council is appointed to the service of the Agency—

(a) the terms and the conditions of service with the Agency shall not be less favourable than those the officer enjoyed in the service of the Council; and

(b) the officer shall be deemed to have retired under the terms and conditions of service of the Council.

(3) On or after the appointed date employees of the Council who are not engaged by the Agency under subsection (2) shall be retained by the Government and shall—

(a) be redeployed in the service of the Government; or

(b) be retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 35
of 1996