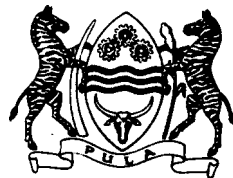


THE ROAD TRAFFIC ACT, 1972

No. 43



of 1972

See Act No. 28/1975

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AN ACT TO PROVIDE FOR THE REGISTRATION AND LICENSING OF MOTOR VEHICLES: FOR THE ISSUE OF DRIVING LICENCES: FOR THE CREATION OF OFFENCES RELATING TO THE USE OF VEHICLES AND FOR THE REGULATION OF TRAFFIC: AND FOR MATTERS INCIDENTAL THERETO

Date of Assent: 30.12.72.

Date of Commencement:

ENACTED by the Parliament of Botswana.

PART I

PRELIMINARY

Short title
and com-
mencement

1. (1) This Act may be cited as the Road Traffic Act, 1972.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint:

Provided that the Minister may by the same notice or different notices appoint different dates for different provisions of the Act to come into operation.

Inter-
pretation

2. (1) In this Act, unless the context otherwise requires –
“authorized officer” means a person specially or generally authorized by the Minister for the matter in question;

“bridge” includes culvert and causeway;

“carriageway” means the part of a road normally used by vehicular traffic including those portions commonly known as the shoulders but excluding any portion of any such road which is set aside for use by pedestrian traffic;

“cattle” includes oxen, bulls, cows, horses, camels, mules, donkeys, sheep, goats and swine;

- “commercial vehicle” means a motor vehicle wholly or primarily constructed or adapted for the carriage of goods or burdens of any description in connection with any trade, business or agriculture, but does not include any type or class of motor vehicle which the Registrar may, by notice in the Gazette, declare not to be a commercial vehicle for the purpose of this Act;
- “cycle” means any vehicle with one or more wheels which is propelled by the muscular energy of the driver acting on the pedals;
- “drive”, in relation to a vehicle, includes the steering of such vehicle;
- “driver”, in relation to a vehicle, means any person who drives or guides, or is in actual physical control of, any vehicle, and in relation to cattle means the person in charge or control of the cattle;
- “driving licence” means a licence to drive a motor vehicle issued under this Act, and any document deemed to be a driving licence by virtue of any regulations made under this Act;
- “driving test examiner” means any person appointed to be a driving test examiner under section 3 (1) (b);
- “heavy commercial vehicle” means a commercial vehicle whose tare weight exceeds 3 455 kilograms;
- “identification plate” means one of the prescribed number of identification plates required to be carried on a motor vehicle under section 11 or section 24;
- “invalid carriage” means a motor vehicle specially designed and constructed for the use of persons suffering from some physical defect or disability;
- “licensing officer” means a licensing officer appointed under section 3(2);
- “light commercial vehicle” means a commercial vehicle of not more than 3 455 kilograms tare weight;
- “main road” means any road declared to be a main road under section 99;
- “motor car” means a motor vehicle having seating accommodation for not more than 11 passengers excluding the driver, but does not include a motor cycle;
- “motor cycle” means a motor vehicle which has two wheels and includes any such motor vehicle with a side-car;

“motor dealer” means any person who deals by way of business in motor vehicles or trailers including a manufacturer and a repairer of such vehicles;

“motor dealer’s licence” means a licence issued under section 23;

“motor omnibus” means –

- (a) a public service vehicle having seating accommodation for more than 7 passengers exclusive of the driver; or
- (b) a motor vehicle having seating accommodation for more than 11 passengers exclusive of the driver;

“motor vehicle” means any vehicle, self-propelled by mechanical or electrical power, but excluding any vehicle running on a specially prepared way such as a railway or tramway or cables and such other vehicles as the Minister may, from time to time by notice published in the Gazette, declare not to be motor vehicles for the purposes of this Act;

“motor vehicle examiner” means any person appointed to be a motor vehicle examiner under section 3 (1) (b);

“motor vehicle licence” means a motor vehicle licence issued under Part III;

“owner”, in relation to a vehicle, includes the owner, joint owner or part owner of a vehicle and, where a vehicle is the subject of a hire-purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“plying for hire” includes –

- (a) standing on any public taxi stand;
- (b) being offered for hire by any notice, advertisement or announcement, or any express or implied invitation;
- (c) standing or travelling whilst exhibiting a “For Hire” notice of any kind;

“provisional licence” means a licence to drive a motor vehicle issued under section 32;

“private hire vehicle” means any public service vehicle having seating accommodation for not more than 7 passengers, exclusive of the driver, such vehicle not being a taxicab;

“public service vehicle” means any motor vehicle which –

- (a) is licensed under Part XIII to carry passengers for hire or reward;
- (b) plies for hire or reward or is let out for hire or reward; or

- (c) is carrying passengers for hire or reward;
- “public service vehicle driver’s licence” or “public service vehicle conductor’s licence” mean respectively one of the licences issued under section 108;
- “registered owner” means the person in whose name a vehicle is registered under section 6;
- “Registrar” means the Registrar of Motor Vehicles appointed under section 3 (1) (a);
- “registration book” means the registration book issued by the Registrar in respect of a vehicle under section 6(5);
- “registration number” means the number allocated to a vehicle when it is registered under section 6(5);
- “road” means the entire surface of any way, road, street, thoroughfare, wharf, car park, footpath, bridle-path or road reserve on which a vehicle is capable of travelling and to which the public has access, and including –
 - (a) any bridge, drift, ford or ferry traversed thereby;
 - (b) any road established, proclaimed or recognised as such under the provisions of any written law; and
 - (c) any road however created which, before or after the commencement of this Act, has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than three years:

Provided that in any prosecution under this Act the road on which the offence is alleged to have occurred shall be presumed to be a road to which the public has access, or which has been in the undisturbed use of the public, or which the public has had a right to use, for not less than 3 years, unless and until the contrary is proved;
- “road authority”, where a road in any area or district has been lawfully vested in a local authority or any other person, means such local authority or such person, and where a road has not been so vested means such public officer as the Minister may, by notice published in the Gazette, appoint to be the road authority for that road for the purposes of this Act;
- “tare weight” means the weight of a vehicle when unladen, inclusive of the weight of the body and all parts (the heavier weight being taken when alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle when used on the road;

“taxicab” means any public service vehicle having seating accommodation for not more than 7 passengers, exclusive of the driver, which is licensed under this Act or any other written law relating to the licensing and operation of taxicabs to ply for hire from a taxi rank or other public place;

“tractor” means a motor vehicle constructed or adapted for the purpose of hauling trailers but which is not itself designed to carry goods or passengers;

“traffic sign” means any sign, signal, signpost, notice, light or other device or object, whether fixed or portable, erected or in any way displayed upon or adjacent to any road by or with the consent of the road authority, for the purpose of warning, regulating, restricting or prohibiting traffic and vehicles of any kind on a road and includes any line, mark, words or other sign on the surface of the road for conveying such warning, regulation, restriction or prohibition:

Provided that all traffic signs shall conform to any regulations as to size, colour and type which may be prescribed under this Act;

“trailer” means any vehicle without motive power designed to be drawn by a motor vehicle, whether or not part of the trailer is superimposed on the drawing vehicle, but does not include a sidecar attached to a motor cycle;

“vehicle” means any conveyance or structure which is designed to be propelled or drawn on land, and includes a motor vehicle, a trailer and an aircraft when such aircraft is stationary or in motion upon a road, but excludes a conveyance propelled or drawn by a human being and designed and used for transporting infants or infirm persons.

(2) A vehicle shall for the purposes of this Act or any regulations made thereunder be deemed to be used when it is on a road, whether it is stationary or moving, and a person shall be deemed to use a vehicle if he is the owner thereof, or is the person in possession, charge or control thereof, or is the driver thereof or if he is the person who caused it to be used.

Appointment
of officers

3. (1) The Minister shall, by notice published in the Gazette, appoint –

- (a) a Registrar of Motor Vehicles, who shall be responsible for the registration and licensing of motor vehicles and trailers, for the licensing of drivers and for the keeping of such records

in relation thereto as are or may be required by or under this Act, and for such other matters as are or may be required of him by or under this Act;

- (b) such motor vehicle examiners and driving test examiners as may be necessary for carrying out the purposes and provisions of this Act and any regulations made thereunder.

(2) The Registrar shall, by notice published in the Gazette, appoint such licensing officers as may be necessary for carrying out the purposes and provisions of this Act and any regulations made thereunder.

4. For the purposes of this Act and any regulations made thereunder, motor vehicles shall be divided into the following classes – Classification of motor vehicles

- (a) motor omnibuses;
- (b) heavy commercial vehicles;
- (c) light commercial vehicles;
- (d) tractors;
- (e) motor cars;
- (f) motor cycles not exceeding 50 cubic centimetres engine capacity;
- (g) motor cycles exceeding 50 cubic centimetres engine capacity;
- (h) invalid carriages;
- (i) special types of motor vehicles as may be specially authorized by the Registrar.

PART II

REGISTRATION OF VEHICLES

5. (1) The Registrar shall keep records of all motor vehicles and trailers registered in Botswana, and shall cause every licensing officer to keep records of all vehicles registered by him. Records of vehicles

(2) Vehicle records maintained by the Registrar or a licensing officer shall be open for inspection by any police officer, and any other person duly authorized by the Minister, who shall be entitled to copy any entry in such records free of charge.

(3) Any person who satisfies the Registrar that he has reasonable cause therefor shall be entitled, on payment of the prescribed fee, to a copy of any entry in such vehicle records.

6. (1) No person shall own, possess or use a motor vehicle or trailer unless such motor vehicle or trailer is registered under this Act: Motor vehicles and trailers to be registered

Provided that this subsection shall not apply in the case of –

- (i) an unregistered vehicle which is owned by and in the possession of a motor dealer for the purposes of sale;
- (ii) a vehicle which is lawfully used under the authority of and in accordance with the conditions of a motor dealer's licence issued under section 23 of this Act;
- (iii) a vehicle which is being driven to or from any place specified by a licensing officer for inspection or testing, or while it is being tested by a motor vehicle examiner;
- (iv) a vehicle lawfully brought into Botswana in accordance with any regulations made by the Minister under section 127 of this Act; or
- (v) a vehicle exempted under the provisions of this Act.

(2) Application for the registration of any motor vehicle or trailer shall be made to a licensing officer in the prescribed form and shall be accompanied by the prescribed fee:

Provided that where a person satisfies the licensing officer that he has been authorized in writing for the purpose of this section, by a person who is absent from Botswana, to make application on his behalf for the registration of a vehicle, the application form may be signed by the person so authorized.

(3) Before registering a motor vehicle or trailer a licensing officer shall, if the vehicle or trailer is over 3 years old at the time of application, or may in any other case if he thinks fit, require the vehicle or trailer to be inspected by a motor vehicle examiner, in order to satisfy himself that the vehicle or trailer is in a fit and proper condition for the purpose for which it is intended to be used, and conforms in all respects to the requirements of this Act and any regulations made thereunder.

(4) If an application is made to register a motor vehicle or trailer the weight or load capacity of which has not been declared by the manufacturers of the chassis, the licensing officer shall not register the vehicle until a motor vehicle examiner has determined its weight and load capacity, such determination being final.

(5) The licensing officer shall, on being satisfied as to the accuracy of the particulars contained in a form of application for the registration of a motor vehicle or trailer, and as to the other matters regarding which he is required to be satisfied under this section, assign to the motor vehicle or trailer a registration number;

particulars of the vehicle and the registration number allocated thereto shall be forwarded by the licensing officer to the Registrar, who shall enter such particulars and number in his records and shall issue to the owner of the vehicle and in his name a registration book in the prescribed form, which book, or duplicate thereof issued under this section, shall be proof of the registration of the vehicle, the name of the registered owner thereof and of the allocation of the specified registration number to the vehicle.

(6) If a registration book has been lost, destroyed, or defaced, or the particulars thereon have become illegible, the owner of the vehicle shall apply in the prescribed form for a duplicate thereof, and the Registrar shall, if satisfied as to such loss, destruction, defacement or illegibility, and upon payment of the prescribed fee, issue a duplicate of the said registration book:

Provided that –

- (i) the Registrar shall cancel and destroy any defaced or illegible registration book; and
- (ii) where any registration book which has been lost is subsequently found such book, or the duplicate thereof, shall forthwith be returned to the Registrar for cancellation and destruction.

(7) In the event of any change of circumstances which affects the accuracy of the registered particulars of a motor vehicle or trailer, the owner thereof shall forthwith inform the Registrar of such change, shall forward to him the registration book in order that it may be amended or cancelled, and shall supply the Registrar with any further information that may be required. If any registered motor vehicle or trailer is broken up, stolen, destroyed, or becomes permanently unfit for use as a motor vehicle or trailer, or is removed permanently from Botswana, the Registrar shall cancel the registration of the vehicle.

(8) If a licensing officer has reason to believe that a motor vehicle or trailer in respect of which registration has been applied for is or may be of a type not previously registered, or is of a type so registered but constructed according to different specifications, he may refuse to register the vehicle until plans or specifications thereof have been submitted to and approved by the Registrar.

7. Where a vehicle is required to be inspected by a motor vehicle examiner under the provisions of this Part, the owner of such vehicle shall, before any inspection is carried out, pay the prescribed fee to a licensing officer.

Inspection
fee

Owner of
vehicle

8. The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle for the purposes of this Act or regulations made thereunder, or for the purpose of any criminal or civil proceedings arising under or by virtue of the Act or such regulations.

Change of
ownership

9. (1) A vehicle, the ownership of which has been transferred by the registered owner thereof, shall not be used on a road for more than 14 days after the date of such transfer unless the new owner is registered as the owner thereof.

(2) Upon the transfer of ownership of a vehicle, the registered owner thereof shall, within 7 days from the date of such transfer, inform the Registrar in the prescribed form of the name and address of the new owner, and deliver to the new owner the registration book in respect of such vehicle, and the new owner shall hand the registration book together with the prescribed fee to a licensing officer in order that the vehicle be registered in the name of the new owner:

Provided that, where in any case the registered owner of a vehicle has failed to comply with this subsection, the Registrar may, on being satisfied that such registered owner has died or has left Botswana or cannot be traced or refuses to comply with this subsection, on payment of the prescribed fee cause the vehicle to be registered in the name of the new owner.

(3) Subsections (1) and (2) shall not apply to a change of possession consequent on a contract of hiring where the period of hiring does not exceed three months, or where the registered owner continues to employ and pay the driver of the vehicle.

(4) Application for registration of a new owner may be made before the actual transfer of the vehicle, but the registration of a new owner shall not be effective until the registration book has been surrendered to and reissued by the Registrar.

(5) Subsections (1), (2) and (4) shall not apply to any change of possession of a vehicle which occurs by reason of the vehicle being lawfully seized under a hire purchase agreement, but in such event the following provisions shall apply –

- (a) the person from whose possession the vehicle was seized shall, within 14 days of the seizure, deliver the registration book to the person who has seized the vehicle, and inform the Registrar in writing of the change of possession; and
- (b) the person seizing the vehicle shall, within 14 days of receiving the registration book, apply to the Registrar to be regis-

tered as the new owner, and on payment of the prescribed fee, the Registrar shall so register him.

(6) On registering a new owner, the Registrar shall make any necessary alterations to the registration book, and shall deliver it, or if he thinks fit a replacement of such registration book, to the new owner.

10. Notwithstanding any other provision of this Act, where a motor vehicle or trailer has been imported into Botswana, a licensing officer shall not register the vehicle unless or until the owner thereof satisfies him –

Registration
of vehicles
imported into
Botswana

- (a) that the vehicle has been lawfully exported from its country of origin or the country in which it was last registered; and
- (b) that the vehicle has been lawfully imported into Botswana, and by producing documentary evidence, in the form of a customs clearance certificate issued by the Department of Customs and Excise, that the vehicle has been cleared from customs control.

11. A motor vehicle or trailer registered under this Act shall not be used on a road unless there is fixed on to the vehicle in the prescribed manner, the prescribed number of identification plates of the prescribed design and colour on which is inscribed the registration number of the vehicle.

Vehicles to
carry
identification
plates

12. (1) The owner of a motor vehicle or trailer shall, when requested by a police or an authorized officer, produce for inspection, either immediately to such officer or within 10 days of such request being made, at a police station nominated by such owner at the time of such request being made, the registration book issued in respect of such vehicle.

Production of
registration
books

(2) Where –

- (a) a motor vehicle or trailer does not bear any special identification number or mark; or
- (b) the manufacturer's serial number or similar identification number or mark has been obliterated or defaced,

the Registrar may cause a special identification number or mark to be cut, impressed, embossed on or attached permanently to such vehicle, which shall thereafter be deemed sufficient identification for the purpose of the registration of such vehicle.

(3) In the circumstances referred to in subsection (2)(b) the Registrar shall cause a full description of such vehicle and the name and address of the applicant applying for registration, to be furnished to the nearest police station.

(4) No person shall, without the written permission of the Registrar, alter, obliterate, deface, or cause the alteration, obliteration or defacement of any identification number or mark used for the purpose of registration in accordance with this Act.

Cancellation
of registration
in certain
cases

13. Where the Registrar has reason to believe that a vehicle registered under this Part has been destroyed, broken up, or has left Botswana permanently, he may give notice, either personally or by post, to the registered owner thereof that he intends to cancel the registration of the vehicle, and if before the elapse of one month from the date of service of such notice the registered owner fails to satisfy him that such vehicle has not been destroyed, broken up, or has not left Botswana permanently, the Registrar shall cancel the registration thereof forthwith. When the Registrar cancels the registration of a vehicle under this section, the registered owner of the vehicle shall within 10 days thereafter hand or send the registration book in respect thereof to the Registrar for cancellation.

Offences and
penalties

14. Any person who contravenes or fails to comply with any of the provisions of this Part or who fails to comply with a requirement lawfully made of him by a police officer, authorized officer, licensing officer or the Registrar under this Part, shall be guilty of an offence and liable, for a first offence, to a fine of 100 rand and to imprisonment for 3 months, and for each subsequent offence to a fine of 200 rand and to imprisonment for 6 months.

Exemptions

15. The Minister may, by notice published in the Gazette, exempt any vehicle or any class or description of vehicle from the provisions of this Part.

PART III

MOTOR VEHICLE LICENCES

Motor
vehicles to be
licensed

16. (1) No person shall own or possess a motor vehicle or trailer, or use it on a road, unless such vehicle is licensed under and in accordance with this Part:

Provided that this section shall not apply in the case of a motor vehicle or trailer –

- (i) lawfully used under the authority of and in accordance with the conditions of a motor dealer's licence;
- (ii) lawfully in Botswana in accordance with regulations made by the Minister under section 127 of this Act;
- (iii) which is owned by and in the possession of a motor dealer for the purpose of sale;

- (iv) which is being driven to or from any place specified by a licensing officer for inspection or testing, or while it is being tested by a motor vehicle examiner; or
- (v) exempted under subsection (2) or any other provision of this Act.

(2) Where the owner or person in possession of a motor vehicle or trailer gives written notice to the Registrar that for a stated period he does not intend that it shall be used on a road, and it is not at any time used on the road during such period, or where he satisfies the Registrar that for a stated period such vehicle was not used on a road, it shall not be necessary for such vehicle to be licensed under this Part during the stated period.

17. Applications for motor vehicle licences shall be made to a licensing officer in the prescribed form accompanied by the prescribed fee and the vehicle registration book.

Application
for motor
vehicle
licence

18. (1) A licensing officer shall not issue or renew a motor vehicle licence unless he is satisfied that –

Conditions
for the issue
of motor
vehicle
licences

- (a) the vehicle is duly registered;
- (b) the particulars in the registration book are correct;
- (c) the vehicle is duly and validly insured in accordance with any written law relating to vehicle insurance;
- (d) any licence issued in respect of such vehicle has not been cancelled or revoked.

(2) Before issuing or renewing a motor vehicle licence in respect of any vehicle of a class or description prescribed for the purposes of this subsection, a licensing officer shall require the applicant to produce a certificate of roadworthiness showing that the vehicle has been examined by a motor vehicle examiner during the three months immediately preceding the commencement of the licence and that the vehicle complies with the provisions of this Act and of any regulations made thereunder:

Provided that a certificate issued under section 106 (2)(g) and dated not earlier than three months before the commencement of the licence shall be deemed to be a certificate of roadworthiness for the purposes of this section.

(3) Where under this section the owner of any motor vehicle is required to have it examined by a motor vehicle examiner, he shall make application therefor in the prescribed form, paying the prescribed fee, and thereupon a motor vehicle examiner shall

examine the vehicle and shall issue a certificate in the prescribed form certifying that the vehicle is roadworthy or is not roadworthy.

(4) A certificate certifying that a vehicle is not roadworthy shall state the reasons why the motor vehicle examiner considers the vehicle not to be roadworthy.

Motor
vehicle
licences

19. (1) Motor vehicle licences shall be in the prescribed form, and may be issued for such period and upon payment of such fees as may be prescribed:

Provided that, where a period is prescribed, a licence issued before the period is prescribed shall not be invalid solely because the period for which it was issued is different from that prescribed.

(2) The holder of a motor vehicle licence shall, on surrendering it to the Registrar for cancellation, be entitled to such refund as may be prescribed.

Licence to be
carried on
vehicle

20. A motor vehicle or trailer which is required to be licensed under this Part shall not be used on a road unless the motor vehicle licence or such part thereof as may be prescribed, which shall be legible and not defaced or mutilated, is carried on the vehicle in the prescribed manner.

Duplicate
motor
vehicle
licences

21. Where a motor vehicle licence is lost, defaced, mutilated or rendered illegible, the Registrar shall, on being satisfied that the licence has been so lost, defaced, mutilated or rendered illegible, and that the person applying on the prescribed form and paying the prescribed fee is entitled to the issue of such licence, issue or cause to be issued a duplicate of the licence:

Provided that where a motor vehicle licence which has been lost is subsequently found the duplicate shall be returned to the Registrar for cancellation.

New motor
vehicle
licence
required in
certain
circumstances

22. (1) The holder of a motor vehicle licence shall apply for a new motor vehicle licence where –

- (a) he desires to use the vehicle for any purpose not authorized by the licence; or
- (b) the vehicle is so altered that a higher duty or duty of a different class is required.

(2) A new motor vehicle licence shall not be issued under this section until the old licence has been surrendered for cancellation and the prescribed fee paid.

PART IV

MOTOR DEALERS' LICENCES

23. (1) The Registrar may issue to a motor dealer, upon application in the prescribed form and upon payment of the prescribed fees, such number of motor dealer's licences as the applicant may require, and with each such licence shall issue two identification plates in the prescribed form.

Motor
dealer's
licence

(2) Subject to sections 24, 25, 26 and 27, and to any other conditions which may from time to time be prescribed, the holder of a motor dealer's licence shall use the said licence only in respect of vehicles in his possession in the course of his business as a motor dealer; and shall not use more than one such vehicle under the authority of one licence at any one time.

24. (1) A vehicle shall not be used on a road under the authority of a motor dealer's licence –

Use of motor
dealer's
licence

- (a) unless such vehicle carries identification plates issued under section 23(1), displayed in the prescribed manner;
- (b) to convey passengers or goods for hire or reward;
- (c) to carry or convey any goods whatsoever except such load as may be necessary for the purpose of testing the motor vehicle, and no such load, and no part thereof, shall be removed from the motor vehicle at any time between the departure from and the return to the loading place of the motor vehicle, save in the case of an accident; or
- (d) except with the permission in writing of the Registrar, for any purpose other than –
 - (i) for proceeding to or returning from any inspection, examination or test as provided for by this Act;
 - (ii) for proceeding from the premises of a motor dealer to a railway station for entraining, or from a train to such premises;
 - (iii) for test or trial during or after completion, construction, assembly or repair;
 - (iv) for test or trial by or on behalf of an intending purchaser, or for proceeding to or from the place where the purchaser intends to keep it;
 - (v) for proceeding to or from a public weighbridge for the purpose of its weight being ascertained or to or from a place for registration;

- (vi) for exportation outside Botswana;
- (vii) for importation into Botswana;
- (viii) for proceeding from the premises of a motor dealer to the premises of a purchaser or of another motor dealer;
- (ix) for towing a motor vehicle which while being driven upon a road has become unable to proceed under its own power from the place where it has broken down to a place for repair or storage;
- (x) for proceeding to or returning from a workshop in which a body is to be or has been fitted to the motor vehicle or where the motor vehicle is to be or has been painted or repaired; or
- (xi) for proceeding to or returning from an exhibition of motor vehicles.

(2) In any proceedings under this section, the burden of proving the fact of an accident for the purposes of subsection (1)(c) shall lie on the person charged.

(3) A motor vehicle shall not be used on any road under the authority of a motor dealer's licence unless the holder of the licence, or a person duly authorized by him, accompanies such vehicle.

(4) Not more than two persons, in addition to the driver, shall be carried within or upon any such vehicle and such persons shall be limited to a prospective purchaser and his agent or a member of his family or, in the case of a vehicle proceeding to or from an accident, two mechanics.

(5) Upon the issue of a motor dealer's licence, the Registrar shall also supply to the person to whom such licence is issued a book in a form approved by the Registrar, in which the holder of such licence shall on each occasion and before such licence is used complete in duplicate the entries for which provision is therein made; one copy of such entries shall remain in the book and the other copy shall be carried with the vehicle during the whole of the journey to which such entries relate, and shall be produced at any time during such journey by the driver for inspection upon demand made by any police officer, authorized officer, licensing officer or the Registrar.

(6) Every such book shall be produced at all reasonable times for inspection by a police officer, authorized officer, licensing officer or the Registrar, and shall be kept available for inspection at the place specified in the declaration made on application for the motor dealer's licence as the place at which the book will be kept.

(7) Any person who defaces or mutilates any such book, or makes any entry therein which is to his knowledge false or misleading, or alters or obliterates any entry made therein, or except as provided by this Act makes any entry therein or addition thereto, or after its removal from such book makes, alters or obliterates any entry in any copy to be carried on the vehicle, shall be guilty of an offence and liable to the penalties provided in section 29.

25. (1) A motor dealer's licence shall continue in force until the 31st December next following the date of issue.

Duration of
motor
dealer's
licence

(2) Every motor dealer's licence shall cease to be valid if the motor dealer ceases to carry on business as a motor dealer in the district for which it is issued.

(3) When a motor dealer's licence expires or is cancelled or otherwise ceases to be valid under this Act, the holder of the licence shall deliver to the Registrar the identification plates which were issued to such holder with such licence:

Provided that upon the expiry of the licence the holder may retain the identification plates issued with such licence if he applies for and is issued with a new licence in respect of the same identification plates and such new licence would during the period of its validity authorize the use of such identification plates in the same manner as the expired licence.

26. (1) The Registrar may at any time cancel a motor dealer's licence for a breach of any of the provisions of this Act or of any regulations made thereunder which relate to motor dealer's licences.

Cancellation
of motor
dealer's
licence

(2) Any person holding a motor dealer's licence who is aggrieved by the decision of the Registrar under this section may, within one month from the date of the service on him of notice of cancellation, appeal to a subordinate court of the first class.

27. A motor dealer's licence shall not be used for any purpose other than a purpose provided for in this Act, and shall not be transferred or assigned to any other person without the written consent of the Registrar.

Motor
dealer's
licence not to
be trans-
ferred with-
out authority

PART V

RECOVERY OF FEES AND PENALTIES

28. Where under Part III or Part IV a licence is required and has not been obtained, a sum equal to the prescribed fee payable in respect of such licence shall be due and owing to the State by the person failing to obtain the licence, and shall be a civil debt recoverable summarily.

Recovery of
licence fees
by civil
process

Penalties

29. (1) Any person who contravenes any provision of Part III or Part IV shall be guilty of an offence and liable for a first offence to a fine of 100 rand and to imprisonment for 3 months, and for each subsequent offence to a fine of 200 rand and to imprisonment for 6 months.

(2) If any person is convicted of an offence under this Act in a case where a licence fee under Part III or Part IV is payable and has not been paid, the court may, whether or not any other penalty is imposed, impose a fine (which shall be disposed of in the same manner as the fee payable on the licence) of an amount equivalent to the fee unpaid, and the payment of such fine shall operate in satisfaction of any civil debt due under section 28.

PART VI

DRIVING LICENCES

Drivers to be
licensed

30. (1) Except as may otherwise be provided by or under this Act, no person shall drive a motor vehicle of any class on a road unless he is the holder of a valid driving licence in respect of that class of vehicle and, in the case of a holder of a provisional driving licence, is accompanied by a person who is the holder of a valid driving licence, other than a provisional driving licence, in respect of that class of vehicle, and has held such licence for not less than two years:

Provided that the provisions of this subsection relating to accompaniment shall not apply in the case of motor cycles.

(2) No person who owns or who has charge of a motor vehicle of any class shall cause or permit any person to drive such motor vehicle unless such person is the holder of a valid driving licence, or is the holder of a provisional driving licence in respect of that class of motor vehicle and is accompanied by a person who is the holder of a driving licence, other than a provisional driving licence, and has held such licence for not less than two years.

(3) No person shall be entitled to more than one driving licence, but a driving licence may be validated by a licensing officer to permit the holder to drive one or more classes of motor vehicle.

(4) Driving licences shall be issued by a licensing officer and shall expire on the day immediately preceding the third anniversary of the date of issue, but any such licence may, before or within one month of the date of expiry, on production thereof by the person to whom it was issued and on payment of the prescribed fee, be renewed from time to time for further periods of three years.

(5) In the event of any change of circumstances which affects the accuracy of any particulars declared under section 31(1) (b), or which would operate to prevent the grant of a driving licence under that section, the holder of the driving licence shall forthwith inform the Registrar of such change.

31. (1) A licensing officer shall not grant an applicant a driving licence in respect of any class of motor vehicle or validate a driving licence in respect of any other class of motor vehicle unless the applicant –

Conditions
for granting
of driving
licence

- (a) produces to the licensing officer a certificate of competency showing that he has passed a test of competence to drive that class or other class of motor vehicle conducted under section 39, or a certificate of competency for that class or other class of motor vehicle issued under the Motor Vehicle and Road Traffic Proclamation (Cap. 168) (repealed by this Act); such certificate having been issued within the previous 2 years, or is the holder of a full valid driving licence for that class or other class of motor vehicle granted by a competent authority in Botswana or any other prescribed country;
- (b) makes a declaration in the prescribed form –
 - (i) as to whether or not he is suffering from any such disease or disability as may be specified in the form, or any other disease or disability which would be likely to cause the driving by him of a motor vehicle, being a vehicle of such class as he would be authorized by the licence to drive, to be a source of danger to the public;
 - (ii) that he is able to read, with glasses if normally worn, a motor vehicle identification plate at a distance of 8 metres; and
 - (iii) stating his age at the date of the application.

(2) If it appears to a licensing officer that there is reason to believe that an applicant for a driving licence, or the renewal of a driving licence, or the validation of a driving licence in respect of any other class of vehicle, is suffering from a disease or disability likely to cause the driving by him of a motor vehicle, of the class or classes in respect of which the application is made, to be a source of danger to the public, he may refuse to grant such application unless the applicant –

- (a) produces a certificate from a medical practitioner, stating that in the opinion of such medical practitioner the applicant is fit to drive the class or classes of motor vehicle in question; and
- (b) undergoes and passes a driving test.

(3) Any person who is aggrieved by the refusal of the Registrar or a licensing officer to grant or renew a driving licence or to validate a driving licence in respect of any other class of vehicle may, after giving to the Registrar notice of his intention so to do, appeal to a subordinate court of the first class, which shall after considering the grounds for such refusal make such order as it thinks fit, and any order so made shall be binding on the Registrar.

Provisional
driving
licence

32. (1) Notwithstanding section 31(1), a licensing officer may issue to an applicant for a driving licence, or for the validation of a driving licence in respect of another class of vehicle, a provisional driving licence validated in respect of any class or classes, or that other class, as the case may be, of motor vehicle, in order that the applicant may learn to drive such class or classes of vehicle, or that other class of vehicle.

(2) A holder of a provisional driving licence shall not drive at a speed exceeding 50 kilometres per hour.

(3) Provisional driving licences shall be valid for three months only and may be issued subject to such conditions as may be prescribed.

Age limits
for granting
of driving
licences

33. A driving licence shall not be issued to any person –

- (a) under the age of sixteen years;
- (b) of the age of sixteen years or over but under the age of eighteen years, except in respect of motor-cycles not exceeding fifty cubic centimetres engine capacity; or
- (c) validated in respect of motor omnibuses or heavy commercial vehicles, unless he –
 - (i) is over the age of twenty-one years; and
 - (ii) has for not less than two years held a licence validated in respect of motor-cars or commercial vehicles.

Form of
application

34. Applications for driving licences shall be made to a licensing officer in the prescribed form, accompanied by the prescribed fee, and the particulars required in such form shall be signed by the applicant.

35. Notwithstanding the provisions of this Part, the Minister may, in regulations made under section 127, prescribe special terms and conditions for the issue of driving licences to uniformed members of the Police and Prisons Services for the purpose of driving service vehicles while on duty, and he may in such regulations order that such licences shall be issued without the payment of any fee.

Driving
licences to
members of
security forces

36. (1) Every person driving a motor vehicle on a road shall carry his driving licence and, on being so required by a police officer, produce it for examination:

Production of
driving
licence on
demand

Provided that a person shall not be convicted of an offence under this section by reason only of failure to carry or to produce his driving licence if he produces it within 10 days at such police station within Botswana as may be specified by him at the time its production was required.

(2) For the purposes of this section, “driving licence” includes such other evidence as will satisfy the police that there is no contravention of section 30.

37. (1) Driving licences shall be in the prescribed form, and there shall be affixed to each licence a photograph of the licence holder, which shall be impressed with the official stamp of the licensing officer.

Form of
driving
licence

(2) The signature of the licence holder shall also be affixed to the licence.

(3) No person shall use a mutilated or defaced driving licence.

(4) A driving licence to be issued to any person who is suffering from any disease or disability as referred to in section 31 shall only be issued with the written permission of the Registrar and shall be subject to such restrictions or conditions as may be determined by the Registrar; such restrictions or conditions shall be entered on the licence, which shall not be valid unless such conditions or restrictions are complied with by the holder thereof.

38. If a driving licence is lost, defaced or mutilated, the Registrar shall, upon application being made in the prescribed form and upon payment of the prescribed fee, issue to the holder a duplicate of such driving licence:

Duplicate
licences

Provided that where any driving licence which has been lost is subsequently found the holder shall forthwith return such duplicate to the licensing officer for cancellation.

Driving test **39.** (1) Driving tests for the purpose of this Act shall be conducted by driving test examiners.

(2) Driving tests shall be carried out in the prescribed manner upon payment of the prescribed fee and shall in any case include a test of the applicant's –

- (a) knowledge of the rules of the road;
- (b) knowledge of recognized traffic signs and signals made by drivers of vehicles;
- (c) knowledge of any authorized highway code;
- (d) fitness to drive a motor vehicle of the class for which the licence is required;
- (e) ability to drive a motor vehicle of the class to which the application relates; and
- (f) eyesight.

Revocation of
driving
licences

40. (1) The Registrar may –

- (a) revoke the driving licence of any person who appears, in the opinion of the Registrar, to be suffering from a disease or disability, whether by reason of age or any other cause, likely to cause the driving by him of a vehicle to be a source of danger to the public; or
- (b) order a fresh driving test in the case of any holder of a driving licence who appears to the Registrar 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, order that his licence shall be revoked.

(2) Where the Registrar has revoked a driving licence under subsection (1), the owner of such licence shall deliver his driving licence to the Registrar, who shall endorse on it the reason for its revocation.

(3) The Registrar shall restore a driving licence revoked under subsection (1) to the person in question under the following conditions –

- (a) in the case of a licence revoked under subsection (1)(a), if such person satisfies the Registrar, by means of a certificate from a medical practitioner, that he is suffering from no disease or disability likely to cause the driving by him of a vehicle, of the class or classes in respect of which his licence was issued, to be a source of danger to the public; and

(b) in the case of a licence revoked under subsection (1)(b), if he passes the prescribed test for the class or classes of motor vehicle in respect of which his licence was originally granted.

(4) Any person who is aggrieved by the revocation of a licence under this section may, after giving to the Registrar notice of his intention so to do, appeal to a subordinate court of the first class, which shall, after considering the grounds for such revocation, make such order as it thinks fit, and any order so made shall be binding on the Registrar.

41. (1) No person shall, for reward, instruct or supervise any other person in the driving of a motor vehicle on a road unless he holds a certificate, for the purpose of this Act referred to as a driving instructor's certificate, issued to him by the Registrar.

Driving
instructors'
certificates

(2) A person desiring to obtain a driving instructor's certificate shall apply to the Registrar on the prescribed form, and pay the prescribed fee.

(3) The Registrar shall require an applicant for a driving instructor's certificate to submit himself to –

- (a) an examination and a test by a competent person nominated by the Registrar in order to determine the competence of such applicant to act as an instructor of learner-drivers; and
- (b) a medical examination by a medical practitioner nominated by the Registrar in order to determine the physical and mental fitness of such applicant to act as an instructor of learner-drivers.

(4) The applicant shall bear the cost of any medical examination carried out under subsection (3)(b) and shall pay the prescribed fee for an examination for a driving instructor's certificate.

(5) The Registrar shall, if satisfied that an applicant referred to in subsection (3) is competent and is a fit and proper person to act as an instructor of learner-drivers, is not suffering from any physical or mental defect so to act, and complies or has complied with such conditions as may be prescribed for the purposes of this subsection, issue to such applicant a driving instructor's certificate in the prescribed form.

(6) A driving instructor's certificate shall be valid for one year from the date of its issue.

(7) Any person who is aggrieved at the refusal of the Registrar to issue to him a driving instructor's certificate, may, within 21 days

of such refusal, lodge a written notice of appeal with the Minister, and such person shall at the same time serve a copy of such notice on the Registrar.

(8) The Registrar shall forthwith after receipt of the copy of a notice referred to in subsection (7), furnish the Minister with his reasons for the refusal to which such notice refers.

(9) For the purpose of deciding an appeal the Minister may –

- (a) appoint any person to examine and test the appellant in order to determine his competence to act as an instructor of learner-drivers;
- (b) appoint a medical practitioner to carry out a medical examination in order to determine the appellant's physical and mental fitness to act as instructor of learner-drivers; and
- (c) require either party to such appeal to furnish such information or evidence as he may deem expedient.

(10) The appellant shall bear the cost of any medical examination carried out under subsection (9)(b).

(11) The Minister shall notify the result of an appeal under this section, in writing, to the parties concerned and, if such appeal is allowed, the Registrar shall give effect to the decision of the Minister.

Penalties

42. Any person who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence and liable for a first offence to a fine of 100 rand and to imprisonment for 3 months, and for each subsequent offence to a fine of 200 rand and to imprisonment for 6 months.

Saving

43. Notwithstanding any other provision of this Act, a person who, at the date of commencement of this Act, holds a valid driving licence, other than a provisional driving licence, in respect of any class or classes of vehicle issued under the Motor Vehicle and Road Traffic Proclamation (repealed by this Act), shall not be required to obtain a driving licence for the same class or classes of vehicles under this Act for a period of one year from the date of commencement of this Act, and the old driving licence shall be deemed to be a driving licence issued under this Act for the same class or classes of vehicle:

Provided that this subsection shall be without prejudice to any provision of this Act relating to the revocation, suspension or cancellation of licences.

PART VII
DRIVING AND OTHER OFFENCES RELATING TO THE
USE OF VEHICLES ON ROADS

44. (1) No person shall drive, or being the owner or person in charge of a vehicle, cause or permit any other person to drive, a vehicle on a road at a speed greater than such speed as the Minister may prescribe as the maximum speed for that class of vehicle. Speed limit

(2) Every vehicle, other than a motor car or a motor cycle, which is subject to a speed limit under subsection (1) of this section shall have painted or affixed to the rear thereof, as close to the rear number plate as possible, and in such a manner as to be conspicuous to any person within 8 metres of the rear of the vehicle, a mark in the prescribed form indicating its maximum speed.

(3) Notwithstanding subsection (1), no person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive, any vehicle at a speed exceeding 50 kilometres per hour on any road within the boundaries of any village or township:

Provided that –

- (i) it shall be lawful for a road authority, subject to any written directions which the Minister may give, either generally or in any specific instance, to make bye-laws permitting any class of vehicle, other than a vehicle which is subject to a speed limit of 50 kilometres per hour or less under subsection (1), to be driven on any road at such speed, being in excess of 50 kilometres per hour, as may be specified in such bye-laws;
- (ii) any such road authority shall display and maintain prescribed traffic signs so as plainly to indicate to drivers entering or leaving the boundaries of such villages or townships where the 50 kilometres per hour speed limit restriction begins and ends, and where any other speed limit restriction imposed under this subsection begins and ends.

(4) Notwithstanding subsections (1) and (3), and subject to any written directions which the Minister may give either generally or in any specific instance, a road authority may –

- (a) impose on any road such lower limit of speed as it considers necessary in circumstances when, by reason of repairs, reconstruction or damage to the road or the condition

of the road, any lower limit of speed is necessary for the public safety or to prevent damage to the road:

Provided that such lower limit shall be imposed only for such period as is necessary to carry out repairs or reconstruction or until the condition of the road is satisfactory;

- (b) to impose on any road or area such lower limit of speed as may be necessary for the safety of the public having regard to the width of streets, nature of traffic or general development of the area.

(5) Where any lower limit imposed under subsection (4) is in force, indication of the maximum speed permitted shall be given by prescribed traffic signs displayed and maintained so as plainly to indicate to drivers entering or leaving such restricted road or area where the lower speed limit begins and ends.

(6) The provisions of this section or of any other Act imposing a speed limit on motor vehicles shall not apply to any vehicle which is fitted with a gong, siren, bell or other warning instrument, when it is being used in cases of emergency for fire brigade, ambulance or police purposes, if the observance of such provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used, and provided that the gong, siren, bell or other instrument is constantly sounded on that occasion:

Provided that this obligation to sound constantly a gong, siren, bell or other warning instrument shall not apply to any vehicle being used for police purposes in order to ascertain whether an offence under this Act is being committed.

Penalties in
relation to
speed

45. Any person who contravenes or fails to comply with any of the provisions of section 44 shall be guilty of an offence and liable to a fine of 100 rand.

Driving, or
being in
charge, when
under in-
fluence of
drink or
drugs

46. (1) A person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs, shall be guilty of an offence and liable to a fine of 800 rand and to imprisonment for 2 years.

(2) Without prejudice to subsection (1), a person who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence and liable for a first offence to a fine of 200 rand and to imprisonment for 6 months, or for a second or subsequent offence to a fine of 400 rand and to imprisonment for 12 months:

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

that at the material time the circumstances were such that there was no likelihood of his driving the vehicle so long as he remained unfit to drive through drink or drugs.

(3) Where a person is convicted of an offence under subsection (2) and has been previously convicted of an offence under subsection (1), he shall be treated for the purposes of subsection (2) as having been previously convicted under that subsection.

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

47. (1) In any proceedings for an offence under section 46, the court shall, subject to the provisions of subsection (3), have regard to any evidence which may be given of the proportion or quantity of alcohol or of any drug which was contained in the blood or present in the body of the accused, as ascertained by analysis of a specimen of blood taken from him with his consent by a medical practitioner, or of urine provided by him, at any material time; and if it is proved that the accused, when so requested by a police officer at any such time, refused to consent to the taking of or to provide a specimen for analysis, his refusal may, unless reasonable cause therefor is shown, be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defence, with respect to his condition at that time.

Evidence on
charge of
unfitness
to drive

(2) For the purposes of any such proceedings, a certificate purporting to be signed by an analyst authorized by the Minister for the purposes of this section, and certifying the proportion of alcohol or any drug found in a specimen identified by the certificate, shall be evidence of the matters so certified and of the qualification of the analyst:

Provided that the foregoing provisions shall not apply to a certificate tendered on behalf of the prosecution unless a copy has been served on the accused not less than 7 days before the hearing or trial, nor if the accused, not less than 3 days before the hearing or trial, or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing or trial of the person by whom the certificate was signed.

(3) Where the accused, at the time a specimen of blood or urine was taken from or provided by him, asked to be supplied with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen shall not be admissible on behalf of the prosecution unless –

(a) the specimen is either one of two taken or provided on the same occasion or is part of a single specimen which was divided into two parts at the time it was taken or provided; and

(b) the other specimen or part was supplied to the accused.

(4) A police officer requesting any person to consent to the taking of or the provision of a specimen of blood or urine for analysis shall offer to supply to him, in a suitable container, part of the specimen or, in the case of a specimen of blood which it is not practicable to divide, another specimen which he may consent to have taken.

(5) The Minister may prescribe a limit to the amount of alcohol permissible in specimens of blood or urine supplied by or taken from an accused under this section, and where the Minister has prescribed such limits, and the results of analysis show that the amount of alcohol found in any specimen taken from or supplied by an accused exceeds the permitted amount, the accused shall be deemed at the relevant time to have been unfit to drive through drink or drugs, in any proceedings for an offence by him under section 46.

Reckless and
dangerous
driving
generally

48. (1) If a person drives a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic and animals which are actually at the time, or which might reasonably be expected to be, on the road, he shall be guilty of an offence and liable to a fine of 800 rand and to imprisonment for 2 years.

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

Causing
death by
reckless
driving etc.

49. Any person who causes the death of another person –

(a) by the driving of a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case including the nature, condition and use of the road, and the amount of traffic and animals which are actually at the time, or which might reasonably be expected to be, on the road;

(b) by the driving or using on a road of a vehicle which is in such a condition as to constitute a danger to the public;

- (c) by the driving of a vehicle on a road whilst he is unfit to drive through drink or drugs; or
- (d) by leaving any vehicle on a road in such a position or manner, or in such a condition as to constitute a danger 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 and animals which are actually at the time, or which might reasonably be expected to be, on the road,

shall be guilty of an offence and liable to a fine of 1000 rand and to imprisonment for 5 years.

50. (1) If a person drives a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons using the road, he shall be guilty of an offence and liable to a fine of 100 rand, or in the case of a second or subsequent offence within a period of 1 year to a fine of 200 rand and to imprisonment for 3 months.

Careless and
inconsiderate
driving

(2) Where a person is convicted of an offence under subsection (1) and he has been previously convicted of an offence under section 48 or section 49 he shall be treated for the purposes of subsection (1) as having been previously convicted under that subsection.

51. (1) Upon the trial of a person for manslaughter contrary to section 200 of the Penal Code in connection with the driving of a motor vehicle, the court may, if it considers that offence not proved, but is satisfied that he is guilty of an offence under section 48, 49 or section 50 of this Act, find him guilty of such other offence.

Alternative
offences
2 of 1964

(2) Upon the trial of a person for an offence under section 49 of this Act the court may, if it considers that offence not proved, but is satisfied that he is guilty of an offence under section 48 or section 50 of this Act, find him guilty of such other offence.

(3) Upon the trial of a person for an offence under section 48 of this Act the court may, if it considers that offence not proved, but is satisfied that he is guilty of an offence under section 50 of this Act, find him guilty of that offence.

52. (1) Where a person is convicted of manslaughter contrary to section 200 of the Penal Code in connection with the driving of a motor vehicle on a road, or of an offence under section 49 of this Act, the court convicting him shall order that he be disqualified from driving or from holding or obtaining a driving licence for 3 years.

Mandatory
dis-
qualification

(2) Where a person is convicted of an offence under section 46(1) of this Act the court convicting him shall order that he be disqualified

from driving or from holding or obtaining a driving licence for 2 years.

(3) Where a person is convicted of an offence under section 46 (2) or section 48 of this Act, the court convicting him shall order that he be disqualified from driving or from holding or obtaining a driving licence for 1 year.

(4) Where a person is convicted of an offence under section 45 of this Act committed within a period of 1 year from a previous conviction for the same offence, or an offence under section 46, 48, 49 or section 50 of this Act, the court convicting him shall disqualify him from driving or from holding or obtaining a driving licence for 3 months.

(5) Where a person is convicted of an offence under section 50 of this Act committed within a period of 1 year from a previous conviction for the same offence, or for an offence under section 45, 46, 48 or section 49 of this Act, the court convicting him shall disqualify him from driving or from holding or obtaining a driving licence for 3 months.

(6) The powers of the court under this section shall be without prejudice to its powers under section 84 to order a longer period of disqualification.

Power of
arrest

53. (1) Without prejudice to the powers of arrest conferred on a police officer under any other written law, a police officer may arrest without warrant the driver of any motor vehicle whom he suspects of having committed an offence under section 46, 48 or section 49 of this Act.

(2) A police officer may require any person whom he suspects of having committed an offence under this Act or any regulations made thereunder to give his name and address and if such person fails on demand to give his name and address the police officer may arrest him without a warrant, and any such person who fails on demand to give his name and address when it is so demanded from him, or who gives a false name or false address, shall be guilty of an offence and liable to a fine of 25 rand.

Right to
demand
name and
address

54. If any person has reasonable grounds for believing that the driver or person in charge of any motor vehicle has committed an offence under section 46, 48, 49 or section 50 of this Act, he may, within a reasonable time after the occurrence of the event which gave rise to such belief and in the absence of a police officer, require any person who is or was in any way connected with such motor vehicle at the time of such occurrence, to furnish him with his name and

address, and if such last-mentioned person fails to comply with such requirement or furnishes a false name or false address he shall be guilty of an offence and liable to a fine of 25 rand.

55. (1) No fuel shall be used in any motor vehicle except that specified in the vehicle licence in respect of such vehicle or, in the case of a motor vehicle the motor unit of which is a compression ignition engine, light amber mineral fuel oil: Proper fuel to be used in motor vehicles

Provided that the Minister may, subject to such conditions as he may see fit to impose, exempt any specified vehicle, the motor unit of which is a compression ignition engine, from the provisions of this subsection and may specify the fuel which shall be used in such motor vehicle.

(2) If the owner or the driver of any motor vehicle uses any fuel contrary to subsection (1) or if any person sells any fuel having reason to believe that it will be so used, the owner and the driver and such other person shall each be guilty of an offence and liable to a fine of 1000 rand and to imprisonment for 3 years, and in addition such vehicle shall be liable to be forfeited.

56. (1) The driver of a vehicle shall at all times – Signals and signs to be obeyed

- (a) obey any directions given, whether verbally or by signal, by a police officer in uniform, in the execution of his duty;
- (b) conform to the indications given by any duly prescribed traffic sign or signal; and
- (c) when any person in charge of any cattle, on or about to cross any road, raises his hand or in any manner gives a signal to stop, forthwith stop his vehicle and keep it stationary for as long as it is reasonably necessary for the safety of road users.

(2) Notwithstanding subsection (1) instructions conveyed by traffic signs consisting of lights shall take precedence over those conveyed by other means, and the directions given by a police officer in uniform shall take precedence over the instructions conveyed by any traffic sign and over any rules of the road.

57. (1) Any person who, being the driver of a vehicle, in any parking bay or parking area — Offences relating to parking bays and areas

- (a) leaves the vehicle for a period in excess of the time prescribed by any traffic sign relating to that bay or area;
- (b) contravenes or fails to comply with any traffic sign relating to that bay or area as to the manner in which vehicles shall stand in or be driven into or out of, the bay or area; or

(c) leaves the vehicle in contravention of any traffic sign relating to that bay or area, shall be guilty of an offence and liable to a fine of 20 rand.

(2) In relation to an offence under subsection (1), the reference in that subsection to the driver of a vehicle shall be construed as a reference to the person driving the vehicle at the time it was left in the parking bay or parking area.

(3) Where the driver of a vehicle is alleged to be guilty of an offence under subsection (1) —

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

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

(4) A person who fails to comply with —

(a) subsection (3) (a) shall be guilty of an offence unless he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who the driver of the vehicle was; and

(b) subsection (3) (b) shall be guilty of an offence, and liable to a fine of 100 rand and to imprisonment for 1 month.

(5) In this section —

“parking area” means an area designated as such by a road authority where motor vehicles, or vehicles of any class or description, may wait;

“parking bay” means a space in a parking area where a vehicle may wait.

Vehicles not
to obstruct
roads

58. (1) A vehicle shall not be allowed to remain in any position on any road so as to obstruct or to be likely to obstruct or cause inconvenience or danger to other traffic using the road, and, save where the contrary is expressly provided in this Act or any regulations made thereunder, every vehicle on a road, when not in motion, shall be drawn up as close to the side of the road as possible:

Provided that, except in order to avoid an accident or in compliance with a traffic sign or with a direction given by a police officer or for any cause beyond the control of the driver, a vehicle shall not be drawn up on the right hand side of a road facing on-coming traffic.

- (2) (a) The driver of any vehicle shall, in case of a breakdown, remove such vehicle from the carriageway as soon as possible, and until so removed the vehicle shall be placed as close to the side of the carriageway as possible.
- (b) If the vehicle remains on the carriageway between sunset and sunrise, its position shall be clearly indicated by a light or lights visible to drivers of vehicles approaching from either direction and by such other means as may be prescribed.
- (3) Any person who leaves any vehicle on a road or carriageway in such a position or manner or in such a condition as to cause or be likely to cause any danger to any person shall be guilty of an offence and liable to a fine of 600 rand and to imprisonment for 18 months.

59. (1) No person shall, without the written consent of the road authority and of the Commissioner of Police, promote or take part in any race, road rally or speed trial between vehicles on a road, and in giving their consent the road authority and the Commissioner of Police may impose such conditions as they think fit.

Racing,
pacemaking
and trial of
speed

(2) A person convicted of an offence under this section shall, unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to order a longer period of disqualification, be disqualified from driving and from holding or obtaining a driving licence for a period of 12 months.

60. (1) A vehicle shall not be used on a road unless such vehicle and all parts and equipment thereof, including lights and tyres, comply with the requirements of this Act and any regulations made thereunder, and such parts and equipment shall at all times be maintained in such a condition that the driving of the vehicle is not likely to be a danger to other users of the road or to persons travelling on the vehicle.

Condition of
vehicles

(2) A motor vehicle the weight or dimensions of which laden or unladen exceeds the maximum weight or dimensions provided for such vehicles by regulations made under this Act shall not be used on a road.

61. (1) A vehicle shall not be used on a road with a load greater than the load specified by the manufacturer of the chassis of the vehicle or than the load capacity determined by a motor vehicle examiner under this Act.

Limitation

(2) No vehicle shall be used on a road if it is loaded in such a manner as to make it a danger to other persons using the road or to

persons travelling on the vehicle; and should any load or part of a load fall from any vehicle on to a road such fact shall be *prima facie* evidence that the vehicle was loaded in a dangerous manner until the contrary is proved to the satisfaction of the court.

(3) For the purpose of this section, persons travelling on a vehicle shall be deemed to be part of the load.

Exemptions

62. (1) A road authority may, with the approval of any police officer of or above the rank of Assistant Superintendent, grant a permit subject to such conditions as may be specified therein —

- (a) for the use on a road of a vehicle the weight or dimensions of which exceed the maximum weight or dimensions provided for by regulations made under this Act;
- (b) for the carriage by a vehicle on a road of any specified load which it is unlawful to place on the vehicle under the provisions of any regulations made under this Act.

(2) Every permit granted under this section shall be in writing, and shall be carried on the vehicle in question whenever such vehicle is being used under the authority of such permit.

Penalty for improper condition or overloading

63. (1) Any person who drives or uses on a road a vehicle in contravention of section 60 or 61 shall be guilty of an offence and liable to a fine of 300 rand and to imprisonment for 9 months.

(2) For the purpose of subsection (1), any person who is shown to the satisfaction of the court to be responsible for the maintenance of the vehicle, and any person who is shown to the satisfaction of the court to have been responsible for the loading of the vehicle, shall be deemed to have used the vehicle on the road.

(3) (a) In any case where a vehicle is twice or more times, in a period of 12 months, the subject of a successful prosecution under section 60 or section 61 the court may order the Registrar to suspend the licence of such vehicle for a period of 6 months.

(b) The Registrar shall thereupon suspend the licence of such vehicle for such period, and the owner of the vehicle shall return the licence of the vehicle to the Registrar, who in no case shall issue another licence in respect of such vehicle until the termination of the period of suspension.

(c) A vehicle licence shall not be returned or a new licence shall not be granted in respect of a vehicle whose licence has been so suspended unless a motor vehicle examiner certifies that the vehicle is fit in all respects for use upon the road.

(4) When a vehicle licence has been suspended under subsection (3), no refund of licence fee shall be made.

64. (1) No person shall molest, obstruct or interfere with the driver of a motor vehicle while it is being driven.

Obstructing
driver of
motor
vehicle

(2) Passengers shall not be carried in such numbers or in such a position in a motor vehicle as to be likely to interfere with the safe driving of such motor vehicle; and in the event of a contravention of this subsection the driver and the person in charge of the motor vehicle shall be guilty of an offence.

(3) No person driving a motor vehicle shall be in such a position that he cannot control the same or obtain a full view of the road including traffic ahead and in the rear.

65. (1) No person shall drive a motor cycle on a road unless his feet are, except for exceptional and temporary reasons, resting on foot rests suitable for the purpose and, where the design of such motor cycle makes it possible to do so, he is seated astride on the saddle of such motor cycle.

Motor
cycles

(2) No person shall, on a road, carry a passenger on a motor cycle unless such cycle has an engine with a cylinder capacity exceeding 50 cubic centimetres and unless such passenger is seated astride a pillion attached to such cycle and, in such event, foot rests have been provided for such passenger.

(3) Not more than two persons shall ride upon a motor cycle on a road.

(4) No person shall be carried in a side-car attached to a motor cycle on a road.

(5) No person or animal or article shall be carried on a motor cycle on a road in front of the driver thereof:

Provided that an article of a non-bulky nature may be so carried if securely attached to the motor cycle or placed in a suitable carrier fitted thereon for that purpose and carried in such a way as not to obstruct the driver's view or prevent his exercising complete control over such motor cycle.

(6) Persons, other than police officers, driving motor cycles on a road shall drive in single file except in the course of overtaking another motor cycle, and two or more persons driving motor cycles shall not overtake another vehicle at the same time:

Provided that where a road is divided into traffic lanes each such lane shall, for the purposes of this subsection, be regarded as a road.

(7) No person driving a motor cycle on a road shall take hold of any other vehicle in motion.

(8) A person driving a motor cycle on a road shall do so with at least one hand on the handle-bars of such motor cycle.

Riding in a dangerous position

66. (1) Except for the purpose of testing or repairing a motor vehicle, no person shall ride or be carried on the footboard, tailboard, steps, mudguards, canopy, roofing or elsewhere on the outside of any vehicle.

(2) No person shall ride or be carried on any load upon a vehicle if such a proceeding is unsafe.

Restriction on towing and mounting a vehicle

67. (1) No person, otherwise than with lawful authority or reasonable cause, shall take or retain hold of, or get on or off, a motor vehicle or trailer while it is in motion on any road.

(2) No person shall drive or permit any person to drive any vehicle on a road towing another vehicle —

(a) unless the tow-rope or chain or other connecting appliance is so adjusted that the distance separating the two vehicles does not exceed 4 metres;

(b) unless the towed vehicle is securely attached to the towing vehicle and is under proper control;

(c) unless the means of connection between the two vehicles has been rendered easily discernible to other users of such road:

Provided that this paragraph shall not apply where the towed vehicle is a trailer or where the distance separating the two vehicles does not exceed 2 metres;

(d) unless there is a person in control of the steering apparatus of the towed vehicle, where such towed vehicle is a motor vehicle other than a trailer, and such person holds a licence entitling him to drive the class of vehicle which is being towed:

Provided that the provisions of this paragraph shall not apply when a vehicle is so towed that its steering wheel or wheels is or are carried clear of the ground or where the towed vehicle is connected to the towing vehicle by a steering lock tow-bar;

(e) at a speed in excess of the rate of 30 kilometres per hour in the case of a motor vehicle towing another motor vehicle,

other than a trailer, unless the connecting appliance is a tow-bar, in which case the speed shall not exceed 50 kilometres per hour;

- (f) if the towed vehicle is conveying passengers, except where such towed vehicle is a trailer:

Provided that —

- (i) a tractor not designed for or capable of exceeding a speed of 30 kilometres per hour on a reasonably level road, may tow one trailer conveying passengers, otherwise than for hire or reward, where such conveyance is not prohibited in terms of any other provision of this Act; and
 - (ii) this paragraph shall not apply where the towed vehicle is a trailer intended for and licensed for the carriage of passengers;
- (g) if the towed vehicle is a motor vehicle without efficient brakes, unless the connecting appliance is a tow-bar.

68. No person shall throw any object at a vehicle or at any person in or on such vehicle, nor shall he place any object on any road nor by any means impede the progress of any vehicle whereby injury or damage might be caused to such vehicle or any person.

Causing
damage to
a vehicle

69. No person shall, without the knowledge or permission of the owner, or without reasonable excuse, get on to a motor vehicle, or attempt to manipulate any of the levers, the starter, brakes or machinery of such a vehicle, or in any way tamper with a vehicle.

Tampering
with a vehicle

70. (1) If any person, whether employed by the owner or not, takes and drives away or attempts to take and drive away a motor vehicle without the consent of the owner thereof or other lawful authority, he shall be guilty of an offence and liable to a fine of 300 rand and to imprisonment for 9 months:

Taking a
vehicle
without
authority

Provided that if the court is satisfied that the accused acted in the reasonable belief that he had lawful authority, or in the reasonable belief that the owner would, in the circumstances of the case, have given his consent if he had been asked therefor, the accused shall not be liable to be convicted of an offence.

(2) If, in any prosecution for stealing a motor vehicle, the court is of opinion that the defendant is not guilty of stealing the motor vehicle, but is guilty of an offence under this section, the court may find him guilty of an offence under this section.

(3) In addition to any penalty specified in this section, the court may order that the convicted person shall pay to the owner of the motor vehicle such sum as represents fair compensation for any damage sustained by the owner of the motor vehicle.

Unattended
motor
vehicles

71. No person shall, on a road —

- (a) leave unattended any motor vehicle with the engine running; or
- (b) quit any vehicle without having taken due precautions against its moving from its stationary position.

Offences in
connection
with level
crossings

72. (1) No person shall drive, pull or push, or attempt to drive, pull or push any vehicle, conveyance or animal on to or across a level crossing on a railway line when there is any risk of the vehicle, conveyance or animal being involved in a collision with a locomotive, railcar, carriage, wagon or other vehicle using the railway line.

(2) Every person driving a motor vehicle shall when approaching a level crossing reduce speed to enable the motor vehicle to be brought to a halt if necessary before reaching the level crossing, and shall not increase speed until he has crossed the railway line. It shall be his duty to keep a vigilant look-out for any approaching locomotive, railcar, carriage, wagon or other vehicle using the railway line.

(3) If at any level crossing there is erected an automatic warning device and such device is giving warning of the approach of any locomotive, railcar, carriage, wagon or other vehicle using the railway line, it shall be the duty of the person in charge of any vehicle or animal to stop the vehicle or animal clear of the railway line and not proceed over the level crossing until it is safe to do so.

(4) If at any level crossing there is erected a traffic sign warning traffic to stop, it shall be the duty of the person in charge of any vehicle or animal to stop the vehicle or animal clear of the railway line before crossing it for such time as may be necessary for him to ascertain whether there is any risk of the vehicle or animal being involved in a collision with any locomotive, railcar, carriage, wagon or other vehicle using the railway line.

(5) Any person who acts in contravention of this subsection, or who crosses or attempts to cross any railway line when it is unsafe to do so shall be guilty of an offence and liable to a fine of 100 rand.

73. Any person who contravenes or fails to comply with any of the provisions of this Part for which no other penalty is provided shall be guilty of an offence and liable for a first offence to a fine of 100 rand and to imprisonment for 3 months, and for each subsequent offence to a fine of 200 rand and to imprisonment for 6 months.

Offences and penalties

PART VIII

REGULATION OF TRAFFIC

74. The driver of any vehicle travelling on a road shall, except where road conditions render it impossible —

Rule of the road

- (a) keep to the left of the centre of the road whether approached by another vehicle or not;
- (b) when overtaking or passing another vehicle going in the same direction pass on the right side of the said vehicle;
- (c) when meeting a stationary vehicle on his left side of the road or another vehicle on his left side of the road proceeding in the same direction, pass the stationary vehicle or vehicle proceeding in the same direction only if he is able to do so without obstructing the line of passage of any vehicle coming in the opposite direction.

75. (1) The Minister may prepare a code (in this section referred to as the Highway Code) comprising such directions as appear to him to be proper for the guidance of persons using roads, and may from time to time revise the Highway Code by revoking, varying, amending or adding to the provisions thereof in such manner as he thinks fit.

Highway Code

(2) The Highway Code and any alterations proposed to be made in the provisions thereof shall be laid before the National Assembly and, if a resolution of the National Assembly is passed within thirty days of their being so laid that such Code be revoked or amended in accordance with such resolution, such Code shall be deemed to be revoked or amended accordingly, but without prejudice to anything previously done or suffered by virtue thereof.

(3) A failure on the part of any person to observe any provision 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 to negative any liability which is in question in those proceedings.

Police
empowered to
regulate
traffic

76. Without prejudice to any powers or duties of the police under this Act or any other written law, the police shall have power —

- (a) to regulate all traffic and to keep order and prevent obstruction in all roads, parking places and other places of public resort;
- (b) to divert traffic temporarily, or to restrict or close and deny public access to any road, parking place or other place of public resort, where any emergency or any assembly or other event appear to render advisable such a course; and
- (c) to temporarily forbid any person to continue to drive or be in charge of a vehicle if it appears to a police officer that such person, by reason of his physical or mental condition, howsoever arising, is incapable for the time being of driving or being in charge of such a vehicle and, in such a case, the police officer shall arrange for the safe disposal or parking of the vehicle as in his opinion may be necessary or desirable in the circumstances.

Traffic signs

77. (1) Subject to and in conformity with such general or other directions as may be given by the Minister, a road authority may cause or permit traffic signs to be placed on or near a road.

(2) Traffic signs shall be of the prescribed size, colour and type except where the Minister authorizes the erection or retention of a sign of another character.

(3) After the commencement of this Act, no traffic signs shall be placed on or near any road except under and in accordance with subsections (1) and (2):

Provided that —

- (i) nothing in this subsection shall apply to any notice in respect of the use of a bridge; and
 - (ii) a road authority or police officer of or above the rank of Inspector may authorize the erection of any traffic sign for any special purpose for a period not exceeding 7 days, and such traffic sign shall be deemed to be lawful even though it does not conform to the requirements of this section.
- (4) For the purposes of this Act, all traffic signs shall be deemed to have been lawfully erected until the contrary is proved.
- (5) A road authority may, by notice in writing, require the owner or occupier of any land on which there is any traffic sign or any object which so closely resembles a traffic sign that it might

reasonably be taken to be such a sign, to remove it, and if any person fails to comply with such a notice the road authority may effect the removal and may recover the expense incurred in so doing as a civil debt recoverable summarily from the person so in default:

Provided that this subsection shall not apply in the case of any sign or object so long as its retention is expressly authorized by the road authority.

78. (1) A road authority or its authorized representative may, with the approval of the Minister, for the purpose of preventing damage being caused to any road or for the purpose of carrying out any works which it considers necessary or desirable in connection with the maintenance or improvement of any road, close the whole or any part of such road to all vehicles or any particular type of vehicle at any time for such period as it thinks fit.

Closure of
roads

(2) Where, in the opinion of a police officer of or above the rank of Assistant Superintendent, it is desirable in the interests of public safety, or of maintaining law and order, or for the enforcement of this Act or any regulations made thereunder, to block or close any road, such police officer may direct the blockage or closure of such road for such period, not exceeding 48 hours, as he thinks fit.

79. If any injury is caused to a bridge or road as a result of any contravention of this Act or of any regulations made thereunder, the road authority concerned may make good such injury and recover the cost thereof from the owner of the vehicle responsible for the injury, and the certificate of the road authority of the amount of the cost of making good such injury shall be conclusive evidence of the amount payable by such owner.

Injury to
bridge and
roads

80. (1) A road authority may charge fees in respect of the parking of vehicles on a road or section thereof within its area of jurisdiction and may, for the purpose of collecting any such fees, instal parking meters.

Power of
road
authority to
instal parking
meters

(2) The fees referred to in subsection (1) may differ in respect of different roads or different sections of the same road as the road authority thinks fit.

(3) A parking meter referred to in subsection (1) shall only be installed in conjunction with a demarcated parking place and shall bear thereon a legend indicating the days and hours when the requirements to deposit coins therein shall apply and the value of the coins to be deposited for a specified period of parking.

(4) The period of time for which a vehicle may be lawfully parked in a parking place referred to in subsection (3) shall, unless the contrary is proved, be as measured by the parking meter for such place.

(5) All fees collected by a road authority by means of parking meters under this section shall be used only to defray the costs of and incidental to any scheme, works or undertaking for the improvement or regulation of traffic conditions within its area of jurisdiction, including the cost of installing and maintaining such meters.

(6) The exercise by a road authority of its functions under this section shall not render the road authority subject to any liability in respect of the loss of or damage to any vehicle or the contents or fittings of any such vehicle while such vehicle is in a parking place.

PART IX

ACCIDENTS

Duty to stop
and report

81. (1) If a vehicle is involved in or contributes to any accident whereby injury or damage is caused to any person, property, dog or cattle, the driver of the vehicle shall stop, and if required to do so by any person having reasonable grounds for so requiring give his name and address, the name and address of the owner of the vehicle and of the company with whom the vehicle is insured, and the registration number of the vehicle.

(2) Any other person in the vehicle at the time of the accident shall also, if required to do so, give his name and address.

(3) (a) In the case of any such accident the driver of the vehicle shall report the accident at a police station or to a police officer —

(i) if for any reason he does not, at the scene, supply the particulars referred to in subsection (1); or

(ii) if any person has been injured or killed in the accident.

(b) After reporting the accident at a police station or to a police officer, the driver of the vehicle shall remain at the scene or return to the scene and wait unless or until he has been authorized by the police to depart, or unless he has to assist the injured or receive attention himself.

(c) Until the driver of the vehicle concerned reports the accident to the police under this subsection he shall not take any intoxicating liquor or drug, unless prescribed by a doctor.

(4) When stopping as required by this section the driver of the vehicle concerned in the accident shall take such steps as he is able to ensure the safety of other traffic at the site of the accident.

(5) The owner of a vehicle which is involved in or contributes to an accident, shall supply to the police all information necessary to identify the driver of the vehicle at the time of the accident.

82. Any person who contravenes or fails to comply with any of the provisions of section 81 shall be guilty of an offence and liable — Penalties for not stopping and reporting

(a) where the accident has resulted in the death of or injury to a person, to a fine of 1200 rand and to imprisonment for 3 years;

(b) where the accident has resulted in damage to any property or animal, to a fine of 400 rand and to imprisonment for 1 year.

83. (1) Where an accident arises out of the presence of a motor vehicle on a road, any police officer, or any person duly appointed in writing by a police officer, may inspect any vehicle in connection with which the accident arose, and for that purpose may enter at any reasonable time any premises where the vehicle is, and if any person obstructs such police officer or duly appointed person in the performance of his duty under this subsection he shall be guilty of an offence. Police empowered to inspect and remove and detain vehicles involved in an accident

(2) Where an accident arises out of the presence of a motor vehicle on a road, any police officer, or any person duly appointed in writing by a police officer, may, if he considers the presence of such vehicle on a road to be likely to cause an obstruction or to create a danger to other traffic or if he wishes to investigate the roadworthiness of such vehicle, may remove it or cause it to be removed to such place as he may determine and there detain it until collected by the owner or until its roadworthiness is ascertained, as the case may be, and if any person obstructs such police officer or duly appointed person in the performance of his duty under this subsection he shall be guilty of an offence.

(3) Any person who is guilty of an offence under this section shall be liable for a first offence to a fine of 100 rand and to imprisonment for 3 months, and for each subsequent offence to a fine of 200 rand and to imprisonment for 6 months.

PART X

POWERS OF COURT, DISQUALIFICATION ETC.

Powers of
court

84. (1) Without prejudice to the provisions of this Act relating to mandatory disqualification, any court before which a person is convicted of any offence under this Act or any regulations made thereunder may —

- (a) disqualify such person from driving, and from holding or obtaining a driving licence for such period as the court may determine;
- (b) if the person convicted holds a driving licence, suspend such licence until such time as the person passes another driving test under section 39 of this Act; or
- (c) if the person convicted holds a driving licence, cause particulars of the conviction to be endorsed thereon, and forward notice of the conviction and endorsement to the Registrar.

(2) Any disqualification or suspension imposed under subsection (1) may be limited to the driving of a particular class or description of vehicle.

(3) Where a court suspends a driving licence until such time as the holder passes another driving test, a licensing officer shall, on application being made and upon payment of the prescribed fee, issue a provisional driving licence to such holder.

Right of
appeal

85. An appeal shall lie against any order made by a court under section 84 in the same manner as against a conviction, and the court making the order or the court to which the appeal lies may suspend the operation of the order pending the determination of the appeal.

Effects of dis-
qualification
or suspension

86. (1) Where a court disqualifies a person from driving or suspends a licence under any provision of this Act, it shall require and obtain production of any driving licence held by the offender, shall cause particulars of the offence to be endorsed on the licence, and forward it to the Registrar together with a notice of the conviction and sentence.

(2) Where a driving licence has been suspended the Registrar shall retain such licence until the holder passes another driving test, when it shall be returned to the holder.

(3) Where a court disqualifies a person from driving for a period in excess of 6 months, any driving licence held by such person shall be cancelled in respect of the class or classes of vehicles in respect of

which the disqualification was made, and, at the end of the period of disqualification, the licensing officer shall treat such person as if he were applying for a driving licence in respect of such class or classes of vehicles for the first time, and shall in no circumstances issue him with a driving licence until he has passed the prescribed driving test. Any new driving licence issued to such person shall contain any endorsements that were on his previous licence.

(4) Where a court disqualifies a person from driving for a period of 6 months or less, the Registrar shall, on application by the holder and subject to the exercise of his powers under section 40, return the licence to the holder on the expiration of the period of disqualification.

(5) Where the suspension or disqualification by the court is limited to a particular class of vehicles, the Registrar shall, upon receipt of the licence, issue to the licence holder a new licence on which there shall be indicated in the prescribed manner the class or classes of vehicle which the licence holder is thereby authorized to drive.

87. Any person who, whilst he is disqualified from driving or from holding or obtaining a driving licence under this Part or any other provisions of this Act — Driving whilst disqualified

- (a) drives a motor vehicle on a road; or
- (b) if the disqualification is limited 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,

shall be guilty of an offence and liable to a fine of 600 rand and to imprisonment for 18 months, and the court convicting him shall disqualify him from driving or from holding or obtaining a driving licence for a period of 1 year consecutive to his current period of disqualification.

88. Any person who — Fraudulent application for driving licence

- (a) having had an application for a driving licence refused, or having been disqualified from driving or from holding or obtaining a driving licence, applies for and obtains a licence without disclosing the fact of such refusal or disqualification; or
- (b) whilst he is, either under this Part or any other provision of this Act, disqualified from driving or from holding or obtaining a driving licence either generally or in respect of a particular class or description of motor vehicle, applies

for and obtains a driving licence, or a driving licence for the particular class or description of motor vehicle, as the case may be,

shall be guilty of an offence and liable to a fine of 600 rand and to imprisonment for 18 months, and any driving licence so obtained shall be of no effect. Where the accused is disqualified from driving or from holding or obtaining a driving licence, any period during which he has held such a fraudulently obtained licence shall be added to such period of disqualification.

Particulars
of endorse-
ment to be
inserted in
new licence

89. On the issue of a driving licence to any person, the particulars endorsed on any previous licence held by him shall be inserted in the new licence, unless he has previously become entitled under section 91 to the issue of a licence free from endorsement.

Applying for
licence
without
disclosing
endorsement

90. If any person whose driving licence has been ordered to be endorsed, and who has not previously become entitled under section 91 to have a licence issued to him free from endorsement, applies for or obtains a licence without giving particulars of the order, he shall be guilty of an offence and liable to a fine of 200 rand and to imprisonment for 6 months; and any licence so obtained shall be of no effect.

Issue of new
licence free
from endorse-
ment

91. Where a person in respect of whom an order has been made under this Act requiring the endorsement of any driving licence held by him has, during a continuous period of 3 years or upwards since the order was made, had no other such order made against him, he shall be entitled, at any time, on application and subject to the payment of the prescribed fee and to the surrender of any existing licence, to have issued to him a new licence free from endorsement:

Provided that in reckoning the said period of 3 years any period during which the person was by virtue of the order disqualified from driving and from holding or obtaining a driving licence or during which his driving licence was suspended shall be excluded.

PART XI

OFFENCES BY DRIVERS OF VEHICLES OTHER THAN MOTOR VEHICLES

Driving
under in-
fluence of
drink

92. Any person who when driving or attempting to drive, or when in charge of a vehicle, other than a motor vehicle, on a road or in a public place is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle shall be guilty of an offence and liable to a fine of 100 rand and to imprisonment for 3 months.

93. Any person who drives any vehicle, other than a motor vehicle, on a road or in a public place 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, shall be guilty of an offence and liable to a fine of 100 rand and to imprisonment for 3 months.

Reckless
driving

94. Any person who drives a vehicle, other than a motor vehicle, on a road or in a public place without due care or attention, or in such a manner as to be an annoyance to the public, shall be guilty of an offence and liable to a fine of 20 rand.

Careless
driving

95. (1) No person shall ride a cycle on a road unless he is seated astride on the saddle of such cycle.

Restrictions
on riding
cycles

(2) Persons riding cycles on a road shall ride in single file except in the course of overtaking another cycle and two or more persons riding cycles shall not overtake another vehicle at the same time.

(3) No person riding or seated on a cycle on a road shall take hold of any other vehicle in motion.

(4) No person riding a cycle on a road shall deliberately cause such cycle to swerve from side to side.

(5) No person riding a cycle on a road shall carry thereon any animal or article which obstructs his view or which prevents him from exercising complete control over the movements of such cycle.

(6) No person riding a cycle on a road shall carry thereon more than one person who shall not be carried otherwise than sitting on a carrier securely fixed to the cycle or on a step especially fitted to carry a passenger.

(7) A person riding a cycle on a road shall do so with at least one hand on the handle-bars of such cycle.

(8) Whenever a road authority has set aside a portion of a road for use by persons riding cycles, no person shall ride a cycle on any other portion of such road, except for the purpose of crossing the road.

(9) Any person contravening or failing to comply with any of the provisions of this section shall be guilty of an offence and liable to a fine of 20 rand.

PART XII

MISCELLANEOUS PROVISIONS AS TO ROADS

Restrictions
on
pedestrians

96. (1) Whenever a sidewalk or footpath abuts on a road, a pedestrian shall not walk on such road except for the purpose of crossing from one side of such road to the other or for some other sufficient reason.

(2) A pedestrian on a road which has no sidewalk or footpath abutting on it shall walk as near as is practicable to the edge of the road on his right hand side so as to face on-coming traffic on such road.

(3) A pedestrian shall not cross a road without satisfying himself that the road is sufficiently free of on-coming traffic to permit him to do so in safety.

(4) A pedestrian, when crossing a road, shall not loiter thereon but shall proceed with due despatch.

(5) A pedestrian on a road shall not conduct himself in such a manner as to or as is likely to constitute a source of danger to himself or to other traffic which is or may be on such road.

Pedestrian
crossings

97. The Minister may make regulations with respect to the precedence of vehicles and pedestrians respectively and generally with respect to the movement of traffic (including pedestrians) on roads, and at or in the vicinity of road crossing, including the establishment of special crossings for pedestrians, the traffic signs to be used on or near road crossings or pedestrian crossings, and such other matters as may be necessary or desirable in connection with such crossings.

Restrictions
on animal-
drawn
vehicles on
roads

98. (1) No person shall operate an animal-drawn vehicle on a road unless the vehicle and the harness and other equipment thereof are in an efficient and safe condition.

(2) The owner of an animal-drawn vehicle shall not cause or permit such vehicle to be used on a road by any person who is not competent to drive and control such vehicle.

(3) The driver of an animal-drawn vehicle on a road shall at all times give his undivided attention to the driving of the vehicle under his control and, if the vehicle is standing on a road, the driver shall not cease to retain control over every animal which is still harnessed to the vehicle unless some other person competent to do so takes charge of every such animal or every such animal is so fastened that it cannot move from the place where it has been left.

(4) The driver or other person in charge of a vehicle drawn by any animal shall not, on a road outside an urban area, permit such vehicle to follow any other vehicle similarly drawn at a distance of less than 150 metres reckoned from the foremost animal of such first-mentioned vehicle, except for the purpose of overtaking a vehicle travelling at a slower speed or when a vehicle travelling at a greater speed, having overtaken such vehicle, is drawing away from it.

(5) The owner, driver or person in charge of a vehicle drawn by animals, shall not allow an animal which is of materially defective vision to be used for drawing such vehicle on a road.

(6) No person shall drive or conduct any vehicle drawn by animals on a road without having reins to guide the animals, unless a person leads or drives the animals in such a manner as to have proper control over them.

99. (1) No person shall on any road —

Offences in
connection
with roads

- (a) wilfully or negligently lead or drive any animal or vehicle on a footpath or in a road drain;
- (b) play any games to the annoyance, inconvenience or danger of persons using the road;
- (c) wilfully obstruct the free passage of persons or vehicles passing along the road.

(2) No owner or person in charge of any cattle or other animals shall —

- (a) permit such cattle or other animals to be on a main road unless they are attended by a person in such a manner as to have proper control over them;
- (b) leave such cattle or other animals in a place from which they are likely to stray on to a main road.

(3) Any person driving or conducting any cattle, dog or other animal along the carriageway of a main road shall keep it or them as close as possible to the edge of the carriageway on the left hand side, allowing on-coming traffic to pass on his right.

(4) No person shall, on a main road or a road proclaimed as a public road under the Public Roads Proclamation, —

(Cap. 169)

- (a) use a vehicle drawn by a team of more than 18 oxen or of more than 6 donkeys, mules or horses;
- (b) use a vehicle drawn by a team of animals which are more than two abreast.

Encroachment on and damage to roads

(5) The Minister may, by notice in the Gazette, declare any road to be a main road for the purposes of this section.

100. (1) Any person who, without the written permission of the appropriate road authority —

- (a) encroaches on a road or on any land reserved therefor at the side or sides thereof by making or erecting any building, fence, ditch, advertisement sign or other obstacle or by digging thereon or by planting or sowing any tree, shrub or seeds thereon;
- (b) leaves on a road any timber, stones or other material so as to obstruct or endanger persons using the road or negligently or wilfully deposits or causes or permits to be deposited any petrol or other liquid fuel or any oil or grease or other inflammable or offensive matter, ashes or other refuse from a vehicle upon such road;
- (c) digs up, removes, alters or damages in any way the soil or surface of a road, or of any land reserved therefor at the side or sides thereof, or if done for the purpose of moving a vehicle without immediately thereafter making good the damage;
- (d) wilfully fills up, alters or obstructs any ditch or drain, whether on a road or contiguous thereto, made by or under the control of the road authority to carry water off the road or to keep it from flowing on to the road;
- (e) allows any sludge or any filthy or noisome matter to flow from any building or land in his occupation on to a road or into any ditch or drain made by, or under the control of, the road authority;
- (f) causes or allows any timber, sledge, plough or other heavy material, vehicle or implement not wholly raised above the ground on wheels to be dragged on a road;
- (g) pitches any tent, booth or stall on a road; or
- (h) makes any fire on any road,

shall be guilty of an offence:

Provided that any person who has been unable to avoid creating an obstruction such as that referred to in subsection (1)(b) due to any reason beyond his control shall not be guilty of an offence if he takes the requisite steps to remove it as soon as possible and, if he cannot remove it immediately, to warn other road-users and the police of its presence.

(2) It shall be lawful for the road authority to remove anything whatsoever which has been placed or erected on a road or land reserved therefor in contravention of this section.

101. (1) No person shall use or cause or permit to be used on any road any vehicle having ribbed, studded or spiked wheels or fitted with crawler type metal tracks: Prohibition
on use of
tracked
vehicles

Provided that this subsection shall not apply —

- (i) where such wheels or tracks are fitted with special rims or street plates which would ensure an even contact with the road surface;
- (ii) in any case where the road authority has given permission in writing for the use of such a vehicle and such permission is carried on the vehicle to which it relates.

(2) No person shall use or cause or permit to be used on any road any vehicle not fitted with pneumatic tyres, except in the case of an ox-drawn vehicle being used on a road set aside for ox-drawn vehicles or on a road where no alternative road in a reasonably usable condition exists for ox-drawn vehicles.

(3) No person shall use or cause or permit to be used on any road which has a bituminous surface any vehicle the wheels of which are fitted with chains or any device of a similar kind which damage or are likely to damage the road surface.

102 It shall not be lawful for the driver or person in charge of a vehicle to drive or haul the vehicle or cause it to be driven or hauled over any bridge on or near which a conspicuous notice has been placed to the effect that such a bridge is insufficient to carry traffic in excess of a specified weight, unless the gross weight of such vehicle and any trailer attached thereto is less than the weight specified or unless he has obtained the consent in writing of the road authority. Restriction
with regard
to use of
bridge

103. (1) The road authority shall not be liable for any loss or damage which may be caused to any person or property through the condition of a road or the failure of a road to sustain the weight of a vehicle. Non-liability
of road
authority for
damage

(2) Nothing in this Act shall affect the right of the road authority or of any person to recover compensation from the owner or driver of any vehicle for any loss, damage or injury which may be sustained by the road authority or such person by the use of a vehicle.

(3) If any injury to a bridge or road or any traffic sign or other marker used on the bridge or road is caused through any con-

travention of this Act, it shall be lawful for the road authority to make good such injury and to recover the cost thereof from the person or persons responsible and the certificate of the road authority of the amount of the cost of making good such injury shall be conclusive evidence of the amount payable by such person or persons.

Penalties

104. Any person who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence and liable to a fine of 20 rand.

PART XIII

PUBLIC SERVICE VEHICLES

Public service vehicles.

105. (1) No person shall use any public service vehicle on a road, unless there is in force in relation to such vehicle a public service vehicle licence issued under this Part, herein referred to as a public service vehicle licence.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of 400 rand.

Application for public service vehicle licence

106. (1) Application for the licensing of any motor vehicle as a public service vehicle shall be made by the registered owner of such vehicle to a licensing officer in the prescribed form and in the prescribed manner.

(2) No public service vehicle licence shall be issued in respect of any motor vehicle —

- (a) other than to the registered owner of such vehicle;
- (b) which is not registered and licensed under Parts II and III of this Act;
- (c) which does not comply with the provisions of this Act and any regulations made thereunder as to construction, equipment and use;
- (d) which is intended to be used as a motor omnibus, unless the owner of such vehicle is in possession of a valid road service licence in respect thereof issued under any written law relating to transport licensing and unless such vehicle complies with any conditions attached to such licence;
- (e) which is intended to be used as taxicab or private hire vehicle, unless such vehicle has been registered or licensed as a taxicab or private hire vehicle under any other written law relating to such vehicles;
- (f) unless a certificate is granted to the applicant by a police officer of or above the rank of Assistant Superintendent

or by the District Commissioner of the district in which the applicant is residing, certifying that the applicant is a fit and proper person to hold such a licence; or

- (g) which has not previously been so licensed, or the construction of which has been altered or modified in any way since it was last so licensed, and which is intended to be used as a motor omnibus, unless the owner of the vehicle has obtained in respect thereof a certificate in the prescribed form signed by a motor vehicle examiner, certifying that the vehicle is fit for the purpose for which it is to be licensed, and has paid the prescribed fee.

107. (1) The licensing officer, if he is satisfied that the provisions of section 106 (2) have been complied with, shall, upon payment of the prescribed fee, issue a public service vehicle licence in the prescribed form.

Issue and
conditions of
public service
licence

(2) A public service vehicle licence may be issued for such period as may be prescribed:

Provided that, where a period is so prescribed, a licence issued before the period is prescribed shall not be invalid solely by reason that the period for which it was issued is different from that prescribed.

(3) Where any public service vehicle licence is cancelled for any reason during the period of its validity, no refund of licence fee shall be made in respect of the unexpired period of such licence.

(4) Every licence issued under this section shall be carried on the vehicle to which it relates in the prescribed manner.

(5) A public service vehicle licence shall not be transferred or assigned to any other person or vehicle.

(6) Whenever the holder of any public service vehicle licence ceases to be the owner of the vehicle specified in the licence, he shall forthwith return such licence to the Registrar for cancellation, and the vehicle shall from the date of such change of ownership cease to be licensed as a public service vehicle.

- (7) (a) If any public service vehicle licence is lost, or becomes illegible, the owner of the vehicle to which such licence relates shall forthwith apply to the Registrar in the prescribed form for a duplicate thereof and shall return any illegible licence to the Registrar for cancellation; the Registrar shall, on payment of the prescribed fee and on being satisfied as to the loss or illegibility, issue a duplicate of such licence.

- (b) Where any public service vehicle licence which has been lost is subsequently found, any duplicate public service vehicle licence issued under this subsection shall forthwith be delivered up to the Registrar for cancellation.

108. (1) A person shall not drive or act as the conductor of a public service vehicle on a road unless he is licensed for the purpose under this Part, and a person shall not employ or permit any person who is not so licensed so to do:

Provided that this subsection shall not apply to any person who has hired a private hire vehicle, which he drives himself and whose passengers, if any, are not carried for hire or reward, nor to any driver or conductor of a public service vehicle which is not carrying passengers.

(2) A person shall be disqualified from holding or obtaining a licence to drive, or a licence to act as the conductor of, a public service vehicle unless he is, in the case of a licence to drive, over the age of 21 years, and, in the case of a licence to act as a conductor, over the age of 18 years.

(3) Upon application being made in the prescribed manner, in the prescribed form and upon payment of the prescribed fee, the Registrar, if he is satisfied that the information given in the application form is correct, and that the applicant —

- (a) is not disqualified by reason of age, in accordance with subsection (2);
- (b) for a public service vehicle driver's licence is the holder of a valid driving licence in respect of that class or classes of vehicles for which the public service vehicle driver's licence is required, which has been held by him for not less than two years at the date of application, and which has not been endorsed;
- (c) is not disqualified under any written law from holding or obtaining a driving licence or a public service vehicle driver's or conductor's licence, as the case may be;
- (d) produces a certificate granted by a police officer not below the rank of Assistant Superintendent or by the District Commissioner of the district in which the applicant is residing certifying that he is a fit and proper person to hold such a licence; and
- (e) fulfils and complies with such other conditions as may be prescribed,

shall issue the licence applied for:

Provided that before issuing a public service vehicle driver's licence, the Registrar may, if he considers it desirable in the interests of public safety, require the applicant to take and pass a driving test on the class or classes of vehicle which he will or is likely to drive.

(4) A licence to drive, or a licence to act as the conductor of a public service vehicle shall be valid for two years from the date of issue unless it is previously cancelled under this Part; and, where any such licence is cancelled for any reason, no refund of licence fee shall be payable in respect of any unexpired period of the licence.

(5) The Registrar may issue any licence under this section subject to such conditions as he thinks fit.

(6) A person licensed as a driver or conductor of a public service vehicle shall not drive or act as a conductor of such vehicle on a road without wearing the prescribed badge:

Provided that this subsection shall not apply to any driver or conductor of a public service vehicle which is not carrying passengers.

(7) In the event of a public service vehicle driver's or conductor's licence or badge becoming lost or rendered illegible, the holder thereof shall forthwith apply to the Registrar in the prescribed form, together with the prescribed fee, and any licence or badge which has become illegible, for the issue of a duplicate thereof.

(8) Where any original licence or badge is found after being lost, the duplicate thereof, if any, shall forthwith be returned to the Registrar.

109. (1) Any licence issued under this Part may be cancelled at any time by the Registrar if he is satisfied that, by reason of the conduct of the holder of such licence or the condition of any vehicle in respect of which the licence is issued such cancellation would be in the public interest; and upon receipt of a notice of such cancellation, the licence holder shall forthwith deliver up such licence to the Registrar.

Power to
cancel licence
and disqualify

(2) Any court before which a person is convicted of any offence under this Part, or any offence relating to the construction, equipment, condition or use of a public service vehicle, may —

(a) cancel any licence issued under this Part to the accused, and disqualify him from holding or obtaining a similar licence for a stated period; or

(b) cause or direct particulars of the conviction to be endorsed on any licence held by the accused.

(3) Where the court has made any order under subsection (2) (a), it shall require and obtain production of the licence concerned and forward it to the Registrar together with a notice of the conviction and order. Any such licence issued to the accused after the period of disqualification shall be endorsed with particulars of the conviction and order, unless the Registrar otherwise directs.

Right of
appeal

110. Any person aggrieved by the refusal or failure to grant or by the cancellation of a licence under this Part or by any condition attached thereto by the Registrar, or by the refusal of a police officer or a District Commissioner to issue a certificate required under section 106 (2)(f) or section 108 (3)(d), may appeal in writing to a subordinate court of the first class, whose decision shall be final, and any such licence shall continue in force during the period of its validity until the appeal has been disposed of.

Passengers
and loads

111. (1) The Registrar shall, in respect of any public service vehicle, and in accordance with this Act and any regulations made thereunder, determine the maximum number of passengers, whether sitting or standing, and the weight of baggage or goods allowed to be carried at any time on such vehicle or on any vehicle of a similar class or description.

(2) If any public service vehicle carries more persons, baggage or goods than it is licensed to carry, the driver, the conductor and the owner of such vehicle, or the agent of such owner, shall each be guilty of an offence and liable to a fine of 200 rand:

Provided that the owner or agent shall not be guilty as aforesaid if such offence is committed without his knowledge or consent and if he took all reasonable precautions to prevent it.

(3) No person who is requested by the owner, owner's agent, driver or conductor of a public service vehicle not to enter the vehicle shall enter or attempt to enter the vehicle when it is carrying the full number of persons it is licenced to carry; and any person disobeying such a request shall be guilty of an offence and liable to a fine of 20 rand.

(4) For the purposes of this section —

(a) a child who is under the apparent age of five years and who does not occupy a seat shall not be counted as a person;

(b) any two children each of whom is over the apparent age of five years and under the apparent age of twelve years shall count as one passenger.

112. No person shall, for the purpose of inviting or obtaining passengers for any public service vehicle, make any noise or sound any instrument, or do anything which causes or is likely to cause annoyance, inconvenience or danger to the public. Touting

113. Any person who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence and liable, where no other penalty is specifically provided, to a fine of 100 rand. Penalties

PART XIV

GENERAL

114. (1) A police officer in uniform may stop any vehicle, and the Registrar, a police officer, licensing officer or motor vehicle examiner may — Inspection of vehicles

- (a) enter and inspect any vehicle;
- (b) drive any vehicle which he is licensed to drive or cause any vehicle to be driven; and
- (c) upon reasonable suspicion of any offence under this Act or any regulations made thereunder, enter any premises or order and require the owner of any vehicle to bring the vehicle to him,

for the purpose of carrying out any examination and test of any vehicle with a view to ascertaining whether this Act and any regulations made thereunder are being complied with.

(2) If any person is not attired in official uniform when exercising any authority conferred upon him by this Act, he shall, if so required by any person in charge of any vehicle or the owner or occupier of any premises in respect of which such authority is being exercised, produce an official identification document bearing his photograph and signature.

(3) Any person who fails to comply with any instruction or order given under this section shall be guilty of an offence and liable to a fine of 50 rand.

115. (1) Where any vehicle is found in use on a road in contravention of the provisions of this Act or of any regulations made thereunder, or where any vehicle has been left on any road or other public place in such circumstances as to make it appear that such vehicle has been abandoned or should be removed to a place of safety, or where any vehicle has been left on a road in a position which causes or is likely to cause danger to other road users and the owner or driver cannot readily be found, any police officer or any motor vehicle examiner may take the vehicle or cause it to be Removal of vehicles from road

taken to a police station or other place of safety by such method, route and under such conditions as he may consider necessary, having regard to all the circumstances of the case.

(2) Where under subsection (1) it is considered necessary to have a vehicle towed, transported, driven or otherwise removed, or where it is considered necessary to carry out emergency repairs or to adjust or off-load any part of the load of such vehicle, any expense incurred thereby shall be payable by the owner of the vehicle and no such vehicle shall be released from the police station or other place of safety until either —

- (a) such expenses have been paid to the person to whom they are due; or
- (b) such person certifies in writing that he is willing to allow the vehicle to be removed before he receives such expenses due to him.

(3) A police officer or motor vehicle examiner who orders the removal of a vehicle under this section shall not be held liable for any damage to or loss of any item from such vehicle during its removal to or detention at a police station or other place of safety.

(4) Any police officer of or above the rank of Inspector or who is in charge of a police station, any licensing officer, any motor vehicle examiner or the Registrar, if he is of the opinion that any vehicle is being used in contravention of section 60 or section 61 or in contravention of any regulations relating to the construction, use and equipment of vehicles, may by order prohibit the use of such vehicle, under such conditions and for such purposes as he may consider necessary for the safety of the public or to ensure that such vehicle does comply with the aforementioned provisions; and any such order shall remain in force until the repairs specified therein have been satisfactorily completed and the vehicle has been certified as complying with the aforesaid conditions with respect to construction, use, equipment and weight.

(5) Any person who uses any vehicle in respect of which any prohibition or restriction is in force other than in conformity with any conditions or for such purpose as may have been specified shall be guilty of an offence and liable to a fine of 400 rand and to imprisonment for 12 months.

(6) Any order issued under this section shall be in writing.

(7) Where any vehicle is required to be examined and tested for the purpose of being certified as complying with the provisions

of this Act and any regulations made thereunder, the fee, if any, shall be paid by the owner of the vehicle.

(8) Any person who fails to comply with any instruction or order given under this section shall be guilty of an offence and liable to a fine of 50 rand.

116. A police officer may detain at a police station or other place of safety any vehicle which has been removed from a road or other public place under section 115 until such inquiries have been made by the police as they may think necessary in the circumstances of the case. Detention of vehicles

117. (1) If in any proceedings under this Act any question arises as to whether a vehicle does or does not comply with this Act or any regulations made thereunder, the certificate of a motor vehicle examiner to the effect that he has examined the vehicle and as to the result of his examination may be read as evidence although the motor vehicle examiner is not called as a witness. Certificates admissible in evidence

(2) The court, if it thinks fit, may summon and examine the motor vehicle examiner as to the subject matter of his certificate.

(3) In any proceedings under this Act an extract from the records of registered vehicles, certified under the hand of the Registrar or a licensing officer, may be received in evidence although the Registrar or licensing officer is not called as a witness, and shall be *prima facie* evidence of the facts therein set forth.

118. The owner of any vehicle and any other person who is able to provide such information shall, as soon as reasonably possible and in any case within 7 days after having received a verbal or written request for such information, give such information as he may be required by a police officer to give as to the identity of the driver of such vehicle. Owner or other person to furnish name and address of driver of vehicle

119. (1) Any person who employs any other person to drive a motor vehicle shall keep a written record of the name, address and driving licence number of such other person. Owner to keep list of drivers employed

(2) Such record shall be preserved for a period of six months after the date when such person ceases to be employed as a driver, and shall be made available to any police officer on demand.

(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine of 50 rand.

120. Any person to whom any application is made for anything to be done under this Act may require any facts stated in the application to be verified to his satisfaction. Verification of facts

Giving false
information

121. Any person who makes any statement which to his knowledge is false or in any respect misleading in connection with any information lawfully demanded or required under this Act shall be guilty of an offence and liable to a fine of 400 rand and to imprisonment for 12 months, and if such statement is made to any person in connection with an application for any licence or permit the court convicting such person may also order that any licence or permit issued as a result of such application shall be of no effect and that no similar licence or permit shall be issued for a stated period.

Fraudulent
imitation etc.
of documents

122. (1) Any person who fraudulently imitates, alters, mutilates, destroys or uses, or fraudulently lends or allows to be used by any other person, any licence, permit, document, plate or mark issued or prescribed under this Act shall be guilty of an offence and liable to a fine of 400 rand and to imprisonment for 12 months.

(2) A police officer may after issuing a receipt to the person concerned take possession of any licence, permit, document, plate or mark relating to any suspected offence under this section.

Endorsement
of licence to
be proof of
conviction

123. Notwithstanding anything to the contrary in any written law contained, it shall be lawful for a court to accept the particulars of endorsements on any licence issued in compliance with this Act as *prima facie* evidence of previous convictions recorded against the holder thereof.

Notice to
attend court

124. (1) Notwithstanding anything to the contrary in any written law contained, a police officer may serve, either personally or by post, upon any person who is reasonably suspected of having committed any offence in connection with the use of any vehicle which is punishable only by a fine, or by a fine and imprisonment for a period not exceeding 6 months, a notice in the prescribed form requiring such person to attend court in answer to the charges stated thereon, at such place and on such date and time (not being less than 14 days from the date of such service) as are shown on such notice or to appear by advocate or to enter a written plea of guilty:

Provided that —

- (i) such notice shall be served not later than 3 months from the date upon which the offence is alleged to have been committed;
- (ii) 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 the name and address of the accused could not with reasonable diligence have been ascertained in time for such notice to be

served as aforesaid, or that the accused by his own conduct contributed to the failure.

(2) Such notice as aforesaid shall for all purposes be regarded as a summons issued under the Criminal Procedure and Evidence Proclamation. Cap. 18

(3) A copy of such notice as aforesaid shall be placed before the court by which the charge is to be heard before the time fixed for such hearing.

125. (1) The Minister may, by regulation, prescribe — Scheduled traffic offences

(a) a schedule of traffic offences (in this section referred to as the scheduled offences) which may be dealt with and prosecuted in accordance with the provisions of this section, and may for the purposes of this section prescribe a statutory penalty, which shall not exceed the penalty prescribed for such offence by this Act or any regulations made thereunder, for any of the scheduled offences to be so dealt with and prosecuted; and

(b) a form of police notification of a traffic offence for use under this section.

(2) Subject as herein, any statutory penalty prescribed under subsection (1) shall, notwithstanding that any other penalty may be prescribed by this Act or any regulations made thereunder, have effect for offences dealt with under this section.

(3) Notwithstanding any provision contained in this or any other written law, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to attend court to answer such charge or charges, at such time (not being sooner than 21 days after the date of such service) as is shown on such notification.

(4) Such notification as aforesaid shall for all purposes be regarded as a summons issued under the Criminal Procedure and Evidence Proclamation: Cap. 18

Provided that the person served with the notification shall not be obliged to attend court in answer to the charge if he has pleaded guilty in writing and sent the notification, together with the amount

of the statutory penalty or penalties for the offence or offences to which he has pleaded guilty by prepaid registered post or by hand, to the address indicated in the notification so as to reach that address within the time indicated in the notification.

(5) A copy of the notification shall be placed before the court by which the charge is to be dealt with at the time fixed for the attendance of the accused to answer the charge, and, unless the court otherwise directs, such copy may be used as a charge sheet.

(6) If any person having been served with a notification issued under this section fails either to attend the court on the day and at the time specified in such notice or to plead guilty and pay the statutory penalty in the manner indicated before such day, he may be brought before the court either by summons or by warrant.

(7) If any person served with a notification under this section fails to comply with such notification, and cannot with reasonable diligence be found, the registered owner of the vehicle or, when the registered owner is a company, the person appointed by the company for the purposes of this subsection or, in default of such appointment, the secretary, or person performing the duties of secretary, of such company, shall be liable for the offence unless it is shown by such person, owner or secretary, as the case may be, that he was not driving or in charge of the vehicle at the relevant time and he satisfies the court that he has given all information at his disposal to the police or the court to enable the person who was driving or in charge at the relevant time to be summoned.

(8) (a) If any person, other than an authorized person, removes from a vehicle a police notification of a traffic offence which has been affixed thereto by a police officer in pursuance of this section, or any portion of such notification, or tears or defaces the same, he shall be guilty of an offence and liable for a first offence to a fine of 20 rand, and for each subsequent offence to a fine of 50 rand and to imprisonment for 3 months.

(b) In this subsection, "authorized person" means the driver, owner or person in charge of the vehicle or any person authorized by the owner to remove the notification.

(9) Any driver, owner or person in charge of a vehicle who finds affixed thereto a police notification of a traffic offence which appears to have been torn or defaced so that it is not fully legible shall within 2 days report, either in writing or personally, to the police station of

the area in which the notification was found, and if he fails so to report he shall be guilty of an offence and liable to a fine of 10 rand.

(10) The provisions of this section shall be without prejudice to the power of the police to proceed in the normal manner against the accused person, in which case the statutory penalties prescribed under this section and the other provisions of this section shall not apply.

126. (1) Any person who acts in contravention of or fails to comply with any provision of this Act or of any regulations made thereunder, or who acts in contravention of or who fails to comply with the conditions of any licence, order, demand, requirement or direction issued under or in pursuance of this Act or such regulations, shall be guilty of an offence. General
penalty

(2) Any person who is guilty of an offence under this Act for which no penalty is otherwise provided shall be liable —

- (a) for a first offence to a fine of 50 rand; and
- (b) for a second or subsequent offence to a fine of 100 rand and to imprisonment for 3 months.

127. (1) The Minister may make regulations in respect of any matter contemplated, required or permitted to be prescribed under this Act and generally as to the use of any vehicle on a road, its construction and equipment, and the conditions under which it may be so used, and in any other respect for the better carrying out of this Act, and in particular, but without prejudice to the generality of the foregoing, such regulations may make provision concerning — Regulations

- (i) the height and width of any load which may be carried by any vehicle, the manner in which it may be loaded, and the extent of any projection or overhang of the load;
- (ii) the emission of exhaust gas, smoke, fuel, oil, sparks, ashes or grit from any vehicle on a road;
- (iii) excessive noise made by any vehicle on a road;
- (iv) the towing of any vehicle by another vehicle;
- (v) the conditions in which a lefthand drive vehicle may be used on a road;
- (vi) the number and nature of brakes to be used on any vehicle, or any class of vehicle, and for ensuring that brakes and steering gear shall be efficient and in proper working order;

- (vii) the furnishing of accident reports and statistics of any nature whatsoever;
- (viii) the fees to be charged for any purpose under this Act;
- (ix) the carriage of persons as passengers on any vehicle which has been constructed or designed solely or primarily for the carriage of goods and not for the carriage of passengers and their effects;
- (x) the forms to be used for any purpose of this Act;
- (xi) the weight of goods and passengers, the number of passengers which vehicles may carry, the method by which seating capacity may be determined and the gross weight of vehicles;
- (xii) the weight and size of vehicles which may be permitted on any class of road and the manner in which, if at all, vehicles whose weight or size is in excess of the prescribed maximum weight or size may be allowed to use any road;
- (xiii) the carrying on any class of vehicle or of vehicles used by any particular class of persons of any special identification plates;
- (xiv) all matters relating to the inspection, registration, licensing, regulation and control of vehicles and to the conditions which may be imposed in regard thereto;
- (xv) the regulation of the conduct of drivers and conductors of public service vehicles and the wearing by them of special badges and uniforms;
- (xvi) conditions of service and hours of work for persons employed by owners of public service and commercial vehicles;
- (xvii) the regulation of the carriage of luggage and goods on public service vehicles;
- (xviii) the rules of the road, and the signals to be given and obeyed by the drivers of vehicles;
- (xix) the procedure to be adopted and the conditions to be observed in connection with the issue of documents necessary for international travel, and the use of such documents in Botswana;
- (xx) the conditions in which motor vehicles licensed outside Botswana may be used within Botswana and in

which persons holding driving licences or permits issued outside Botswana may be allowed to drive within Botswana;

- (xxi) giving effect to any convention or agreement relating to the circulation of traffic;
- (xxii) measures for controlling or prohibiting the movement of vehicles of any specified class or description between sunset and sunrise;
- (xxiii) measures for general restricting or regulating the use of vehicles in such manner as the circumstances and safety on the roads may appear to him to require;
- (xxiv) any matter relating to safety in connection with the use of vehicles, including special safety equipment or apparel to be used in vehicles or to be worn by the drivers of vehicles;
- (xxv) the regulation of motor dealers and the records that they may be required to keep and maintain.

(2) In any case when the Minister has not prescribed a suitable form for the purposes of this Act or any regulations made thereunder, the Registrar may direct that a particular form shall be used for a particular purpose.

128. Regulations made by the Minister under section 127 may provide for —

- (a) the establishment and constitution of a Road Safety Committee, the procedure of such Committee and the powers that may be exercised, or the duties that may be performed by such Committee;
- (b) the establishment and management of a National Road Safety Fund, the revenues of which shall consist of such moneys as may be provided by Parliament, the proceeds of any levy provided for under paragraph (c) and such other moneys as may be provided for in the regulations;
- (c) the imposition and collection of a levy to be paid annually by all users or owners of vehicles in Botswana or visiting Botswana.

129. The Minister may, by notice published in the Gazette, suspend, restrict or limit the application of any of the provisions of this Act, either generally or in respect of any particular class or classes or description of vehicle, for such period and subject to such conditions as he may think fit, and, similarly, may exempt any

Road Safety
Committee
and National
Road Safety
Fund

Power to
suspend, and
exempt from,
certain
provisions

vehicle or any class or classes or description of vehicle from all or any of such provisions.

Saving

130. Any vehicle which was, at the date of commencement of this Act, registered under any written law then, or previously in force in Botswana, shall for a period of 6 months from the date of such commencement be deemed to have been registered under this Act. At the termination of such period of 6 months such registration shall lapse, but any such vehicle may before the termination of such period be registered under this Act without payment of the prescribed fee.

Repeal
(Cap. 168)

131. The Motor Vehicle and Road Traffic Proclamation is hereby repealed.

Passed by the National Assembly this 21st day of December, 1972.

I.P. GONTSE,
Clerk of the National Assembly.