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An Act to amend the Transport Act 1962

[18 June 1987]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act 1987 and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the 1st day of August 1987.

(3) Sections 2 (4) and (9), 6, and 23 of this Act, and the Second Schedule to this Act to the extent that it inserts Part III into the Second Schedule to the principal Act, shall come into force on a date to be fixed by the Governor-General by Order in Council.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “inflammable liquid”.

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “farmer”, the following definition:

“ ‘Flammable liquid’ includes motor spirits; and includes any other liquid the container or outer package of which is required, pursuant to regulations made under the Dangerous Goods Act 1974, to be marked or labelled with a label indicating that the liquid is highly flammable:”.

(3) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “local authority”, the following definition:

“ ‘Logbook’ means a logbook (being a logbook in a form approved by the Secretary) referred to in sections 70c and 70D of this Act:”.

(4) Section 2 (1) of the principal Act is hereby amended by repealing the definitions of the terms “overloading infringement”, “overloading-infringement fee”, and “overloading-infringement notice”, and substituting the following definitions:

“ ‘Officer of the Department’ includes any person employed in the Department:

“ ‘Operate’, in relation to any vehicle, means to use or drive the vehicle on any road, or to cause or permit the vehicle to be on any road or be driven on any

road, whether or not the person is present with the vehicle; and 'operator' has a corresponding meaning:

“‘Overloading offence’ means an offence against section 69B (2) of this Act.”.

(5) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “parking offence” (as inserted by section 2 (4) of the Transport Amendment Act 1980), the following definition:

“‘Parking warden’ means a parking warden appointed under section 7 of this Act.”.

(6) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “seasonal licence”.

(7) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “traffic officer”, and substituting the following definition:

“‘Traffic officer’ means a traffic officer appointed or deemed to be appointed under section 6 of this Act.”.

(8) Section 2 (1) of the principal Act is hereby amended by omitting from paragraph (d) of the definition of the term “vehicle” the expression “14 inches”, and substituting the expression “355 mm”.

(9) Section 70 (7) of the principal Act (as inserted by section 5 (1) of the Transport Amendment Act (No. 3) 1985) is hereby consequentially amended by repealing paragraph (b).

3. New sections relating to traffic officers and parking wardens inserted—The principal Act is hereby amended by inserting, after section 5, the following sections:

“6. Appointment of traffic officers—(1) Any officer of the Department may be appointed to hold the office of traffic officer.

“(2) Every officer of the Department who holds the office of traffic officer at the commencement of this section is hereby deemed to have been appointed under the authority of subsection (1) of this section.

“(3) Subject to subsection (4) of this section, any local authority may appoint any officer of the local authority to hold the office of traffic officer.

“(4) No person may be appointed under subsection (3) of this section without the prior authority of the Minister, which shall only be given if the Minister is satisfied that the person concerned has been trained to a standard not less than that required for traffic officers who are officers of the Department.

“(5) Every officer of a local authority who is a traffic officer at the commencement of this section shall be deemed to have been appointed under subsection (3) of this section; and subsection (4) of this section shall not apply to the employment of that traffic officer by that local authority or any other local authority that appoints that person as a traffic officer.

“(6) Any person who is not an officer of the Department or an officer of a local authority may be appointed as a traffic officer with the approval of the Minister, and in giving approval the Minister may specify such of the powers of a traffic officer that the person may or may not exercise.

“7. **Appointment of parking wardens**—(1) Any local authority may appoint any person to hold the office of parking warden.

“(2) Every person who holds the office of parking warden at the commencement of this section is hereby deemed to have been appointed under the authority of subsection (1) of this section.

“(3) A parking warden may exercise the functions, duties, and powers of a parking warden conferred or imposed by or under this or any other Act only within the district of the local authority that appointed the parking warden.

“(4) Every local authority that appoints any person under this section shall be liable for the actions of that person as a parking warden in all respects as if that person were an officer or employee of the local authority (whether or not that is the case) and as if any directions given or control exercised by any other person over the parking warden in that capacity were directions given or control exercised by the local authority.

“(5) For the purposes of section 42A of this Act, the expression “officer” shall be deemed to include a parking warden appointed or deemed to have been appointed by a local authority under this section, whether or not the person is an officer or employee of the local authority.”

4. Penalties for offences—Section 30 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3AA) Every person who is convicted of an offence specified in paragraph (c) or paragraph (d) or paragraph (e) of section 58 (1) of this Act (which relates to driving while the proportion of alcohol in the driver’s blood exceeds a specified amount or driving while under the influence of drink or a drug) shall be liable to pay the test fee prescribed by the Minister by notice in

the *Gazette* and in force on the day on which the offence was committed (except where the offence is against section 58 (1) (e) of this Act and no blood test was made); and the test fee is hereby deemed to be a fine imposed on the conviction of the person for the offence.”

5. Court orders relating to persons convicted twice or more of alcohol or drug related traffic offences—

(1) Section 30A of the principal Act (as inserted by section 6 of the Transport Amendment Act (No. 3) 1983) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Court shall not make an order under subsection (1) of this section unless both the offences referred to in that subsection were committed on or after the 1st day of December 1983, and at least one of those offences was an offence—

“(a) Against paragraph (a) or paragraph (b) of section 58 (1) of this Act (or against paragraph (a) of section 58 (1) of this Act as that paragraph was in force before its repeal by section 9 (1) of the Transport Amendment Act 1987) and the proportion of alcohol in the person’s breath, as ascertained by an evidential breath test, exceeded 1,000 micrograms of alcohol per litre of breath; or

“(b) Against paragraph (c) or paragraph (d) of section 58 (1) of this Act (or against paragraph (b) of section 58 (1) of this Act as that paragraph was in force before its repeal by section 9 (1) of the Transport Amendment Act 1987) and the proportion of alcohol in the person’s blood, as ascertained from an analysis of a blood specimen, exceeded 200 milligrams of alcohol per 100 millilitres of blood; or

“(c) Against section 58 (1) (e) of this Act committed on or after the 1st day of August 1987; or

“(d) Against section 58A (5) or section 58B (13) or section 58C (1) or section 58C (2) of this Act.”

(2) Section 30A of the principal Act (as so inserted) is hereby further amended by omitting from subsection (3) the words “against section 58 (1) (b) of this Act”, and substituting the words “referred to in subsection (2) (b) of this section”.

6. New sections relating to infringement offences and infringement fees substituted—(1) The principal Act is hereby amended by repealing sections 42A and 43 (as

substituted by section 7 of the Transport Amendment Act 1980), and substituting the following sections:

“42A. **Infringement offences**—(1) In this Act, the term “infringement offence” means an offence specified in the Second Schedule to this Act; and includes an overloading offence.

“(2) For the purposes of any proceedings in respect of an infringement offence that is an offence against a bylaw made under paragraph (e) or paragraph (g) of section 9 (1) of the Airport Authorities Act 1966, the expressions “traffic officer” and “officer” include traffic officers and officers respectively appointed by an airport authority.

“(3) Where a traffic officer has reason to believe that the user of a vehicle has committed an infringement offence,—

“(a) The user of the vehicle may be proceeded against for the alleged offence under the Summary Proceedings Act 1957 (except where the offence is an overloading offence); or

“(b) The traffic officer may issue an infringement notice in respect of the alleged offence.

“(4) Where a parking warden has reason to believe that the user of a vehicle has committed an infringement offence that may be enforced by a parking warden under section 68BA of this Act,—

“(a) The user of the vehicle may be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or

“(b) The parking warden may issue an infringement notice in respect of the alleged offence.

“(5) Any officer (not necessarily the traffic officer, parking warden, or officer who issued the infringement notice) may do any one or more of the following things:

“(a) Attach an infringement notice, or a copy thereof, to the vehicle to which the notice relates:

“(b) Deliver an infringement notice, or a copy thereof, personally to a person:

“(c) Send an infringement notice, or a copy thereof, to a person by post addressed to the person at the person’s last known place of residence or business.

“(6) Where an infringement notice has been issued, proceedings may not be taken under the Summary Proceedings Act 1957 in respect of the alleged offence unless the infringement fee specified in the notice has not been paid to

the enforcement authority within 2 months after the date on which the notice, or a copy thereof, was—

“(a) Attached to the vehicle to which it relates; or

“(b) Delivered personally or sent in accordance with subsection (5) (c) of this section to any person liable in respect of the alleged offence,—

whichever occurred first; and such proceedings may be commenced on the day after the expiry of that 2-month period or any later date permitted under that Act, notwithstanding that the infringement fee may have been paid after the expiry of that 2-month period.

“(7) Every infringement notice shall be in a form prescribed by regulations made under this Act, and shall contain the following particulars:

“(a) Such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

“(b) In the case of a speeding offence, the prescribed limit of speed and the speed at which it is alleged the user was travelling at the time of the alleged offence, and the number of demerit points that will be recorded under this Act in respect of the user if the infringement fee is paid; and

“(c) In the case of an infringement offence (other than a speeding offence) in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and

“(d) The amount of the infringement fee specified in respect of that offence in the Second Schedule to this Act; and

“(e) The address of the place at which the infringement fee may be paid; and

“(f) A summary of the provisions of subsections (6) and (9) of this section; and

“(g) In the case of an alleged infringement offence that is a parking offence, a summary of the provisions of section 42 of this Act; and

“(h) In the case of an alleged infringement offence that is an overloading offence, a summary of the provisions of section 69B (4) of this Act:

“(i) Where the notice, or a copy thereof, is sent to a person by post, the date the notice or copy is posted; and

“(j) Such other particulars as the Governor-General in Council thinks fit.

“(8) Different forms of infringement notices may be prescribed in respect of different kinds of infringement offences.

“(9) It shall be a defence to proceedings taken under the Summary Proceedings Act 1957 for an infringement offence if the defendant proves that the infringement fee specified in an infringement notice issued in respect of the offence has been paid to the enforcement authority before the date on which, by virtue of subsection (6) of this section, proceedings could be taken under the Summary Proceedings Act 1957 in respect of the offence.

“(10) It shall not be a defence to proceedings taken under the Summary Proceedings Act 1957 for an infringement offence that the infringement fee specified in an infringement notice issued in respect of the offence has been paid after the date on which, by virtue of subsection (6) of this section, proceedings could be taken under the Summary Proceedings Act 1957 in respect of the offence, irrespective of whether or not the proceedings had been commenced when the payment was made.

“(11) In any proceedings taken against a person under the Summary Proceedings Act 1957 for an infringement offence for which an infringement notice has been issued, it shall be presumed, unless the contrary is proved, that—

“(a) The notice, or a copy thereof, has been delivered personally to the person, or sent to the person by post addressed to the person at the person’s last known place of residence or business; and

“(b) The infringement fee specified in the notice has not been paid to the enforcement authority within 2 months of the date the notice, or copy, was so delivered or sent.

“(12) Where an infringement fee is paid to an enforcement authority—

“(a) Where the enforcement authority is not the Department, the authority shall send to the Secretary such particulars of the infringement and of the payment as the Secretary requires; and

“(b) Sections 44 to 51 of this Act shall apply as if the person to whom the infringement notice, or a copy thereof, was delivered or sent had been convicted of the

infringement offence on the date on which the payment is made.

“43. Entitlement to infringement fees—(1) Subject to subsections (2) and (3) of this section, all infringement fees received by an enforcement authority under section 42A of this Act shall be paid into the Public Account to the credit of the Consolidated Account.

“(2) All overloading infringement fees received under section 42A or section 69C of this Act by an enforcement authority or recovered under the Summary Proceedings Act 1957 shall be paid into the National Roads Fund; except that the enforcement authority may retain such portion of the fees so received as the Minister of Finance from time to time approves as being the expenses incidental to their collection.

“(3) A local authority that is an enforcement authority shall be entitled to retain—

“(a) All infringement fees received by it in respect of offences involving—

“(i) Parking in breach of a bylaw of the local authority in any portion of a road where parking is for the time being governed by the location of parking meters placed pursuant to a bylaw of the local authority; or

“(ii) Parking in any other portion of a road in breach of a bylaw of the local authority prohibiting parking for a period in excess of the period fixed by the bylaw where the infringement notice in respect of the offence was issued by an officer or other person appointed by that authority; and

“(b) All towage fees received by it; and

“(c) Such portion of all other infringement fees received by it as the Minister of Finance from time to time approves.

“(4) The Department shall from time to time, out of money appropriated by Parliament for the purpose, pay to a local authority such portion as the Minister of Finance from time to time approves, of the infringement fees (other than towage fees) received by the Department in respect of other offences that involve breaches of the local authority’s bylaws (not being offences that are also offences against an Act or regulation).

“(5) For the purposes of subsections (2), (3) (c), and (4) of this section, the Minister of Finance may approve different portions for different local authorities or enforcement authorities and different categories of infringement offences.

“(6) For the purposes of this section the expression ‘local authority’ includes an airport authority.”

(2) The following enactments are hereby repealed:

- (a) Section 7 (5) of the principal Act (as enacted by section 3 of this Act);
- (b) Section 69D of the principal Act;
- (c) Subsections (2) and (3) of section 3 of the Airport Authorities Amendment Act 1982;
- (d) Section 12 of the Transport Amendment Act (No. 3) 1983;
- (e) Sections 7 and 8 of the Transport Amendment Act 1985;
- (f) Section 13 of the Transport Amendment Act (No. 2) 1985.

7. Speed limit of 50 kilometres an hour—Section 52 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) In any other locality that is declared by the Minister, by notice published in the *Gazette*, to be a closely populated locality for the purposes of this section either at all times, or for any period or periods of any specified year, or every year, as shall be specified in the notice.”

8. Definition of terms relating to breath-alcohol and blood-alcohol offences—(1) Section 57A of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by inserting, before the definition of the term “Area Health Board” (as inserted by section 14 (1) of the Transport Amendment Act (No. 2) 1985), the following definition:

“‘Accompany’, in relation to the accompanying of a traffic officer to any place, includes remaining with a traffic officer at any place whether or not any journey is involved.”

(2) Section 57A of the principal Act (as so substituted) is hereby amended by repealing the definition of the term “authorised person” (as substituted by section 14 (1) of the Transport Amendment Act (No. 2) 1985), and substituting the following definition:

“‘Authorised person’ means—

“(a) A person acting in any hospital who is employed by an Area Health Board or Hospital Board and who in the normal course of the person’s duties takes blood specimens; or

“(b) A nurse registered under the Nurses Act 1977;

or

“(c) A medical laboratory technologist registered under the Medical and Dental Auxiliaries Act 1966 or regulations made under that Act:”.

(3) Section 57A of the principal Act (as so substituted) is hereby amended by repealing the definition of the term “positive evidential breath test”, and substituting the following definition:

“‘Positive evidential breath test’ means an evidential breath test that indicates that the proportion of alcohol in the breath of the person who underwent the test—

“(a) Exceeds 150 micrograms of alcohol per litre of breath in the case of a person who has not, immediately upon being required to do so by an enforcement officer, produced a driver’s licence entitling the person to drive a motor vehicle of the class that the person was driving or attempting to drive, and in respect of whom the officer is not satisfied that the person holds such a licence; or

“(b) Exceeds 500 micrograms of alcohol per litre of breath in any other case,—
and ‘positive’, in relation to an evidential breath test, has a corresponding meaning:”.

(4) Section 57A of the principal Act (as so substituted) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Nothing in the definition of the term ‘positive evidential breath test’ in subsection (1) of this section, and nothing in section 58A (3) (aa) (i) of this Act, shall oblige an enforcement officer to seek any information or take any action (other than requiring the production of a driver’s licence) for the purpose of satisfying himself or herself that the person concerned holds a licence entitling the person to drive the vehicle in question.”

9. Driving with excessive breath-alcohol or blood-alcohol concentration or while under influence of drink or drugs—(1) Section 58 of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every person commits an offence who—

“(a) Being a person who does not hold a driver’s licence entitling the person to drive a motor vehicle of the class that the person was driving or attempting to

drive, drives or attempts to drive such a motor vehicle on any road while the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person, exceeds 150 micrograms of alcohol per litre of breath; or

“(b) Not being a person to whom paragraph (a) of this subsection applies, drives or attempts to drive a motor vehicle on any road while the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person, exceeds 500 micrograms of alcohol per litre of breath; or

“(c) Being a person who does not hold a driver's licence entitling the person to drive a motor vehicle of the class that the person was driving or attempting to drive, drives or attempts to drive such a motor vehicle on any road while the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person, exceeds 30 milligrams of alcohol per 100 millilitres of blood; or

“(d) Not being a person to whom paragraph (c) of this subsection applies, drives or attempts to drive a motor vehicle on any road while the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person, exceeds 80 milligrams of alcohol per 100 millilitres of blood; or

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

(2) Section 58 of the principal Act (as so substituted) is hereby further amended by omitting subsection (4), and substituting the following subsection:

“(4) Notwithstanding any other provision of any Act or rule of law, the result of a positive evidential breath test shall not be admissible in evidence in proceedings for an offence against paragraph (a) or paragraph (b) of subsection (1) of this section if—

“(a) The person who underwent the test is not advised by an enforcement officer, forthwith after the result of the test is ascertained, that the test was positive and

that, if the person does not request a blood test within 10 minutes,—

“(i) In the case of a positive test that indicates that the proportion of alcohol in the person’s breath does not exceed 500 micrograms of alcohol per litre of breath, the test could of itself, unless the person actually holds a driver’s licence entitling the person to drive the vehicle in question, be sufficient evidence to lead to that person’s conviction for an offence under this Act; and

“(ii) In any other case, the test could of itself be sufficient evidence to lead to that person’s conviction for an offence under this Act:

“Provided that this paragraph shall not apply if the person who underwent the test fails or refuses to remain at the place where the person underwent the test until the person can be advised of the result of the test; or

“(b) The person who underwent the test—

“(i) Advises an enforcement officer, within 10 minutes of being advised of the matters specified in paragraph (a) of this subsection, that the person wishes to undergo a blood test; and

“(ii) Complies with section 58B (1) of this Act.”

(3) Section 58 of the principal Act (as so substituted) is hereby further amended by omitting from subsection (5) the expression “subsection (1)(b)”, and substituting the words “paragraph (c) or paragraph (d) of subsection (1)”.

10. Breath tests—Section 58A of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by inserting in subsection (3) (as substituted by section 2 (1) of the Transport Amendment Act 1979) after paragraph (a), the following paragraph:

“(aa) In the case of—

“(i) A person who has not, immediately upon being required to do so by an enforcement officer, produced a driver’s licence entitling the person to drive a vehicle of the class that the person was driving or attempting to drive, and in respect of whom the officer is not satisfied that the person holds such a licence; or

“(ii) A person who is the holder of a learner licence or a restricted licence in relation to the class

of vehicle the person was driving or attempting to drive,—

it appears to the enforcement officer that a breath screening test undergone by the person pursuant to a requirement under this section indicates that there is some alcohol in the person's breath; or”.

11. Blood tests—(1) Section 58B (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting paragraph (b), and substituting the following paragraph:

“(b) It appears to an enforcement officer that an evidential breath test undergone by a person pursuant to section 58A of this Act indicates that the proportion of alcohol in the person's breath exceeds 300, but does not exceed 500, micrograms of alcohol per litre of breath; or”.

(2) Section 58B of the principal Act (as so substituted) is hereby amended by omitting from subsection (1)(e) the expression “section 58 (1) (c)”, and substituting the expression “section 58 (1) (e)”.

(3) Section 58B of the principal Act (as so substituted) is hereby further amended by repealing paragraph (c) of subsection (9A) (as inserted by section 17 of the Transport Amendment Act (No. 3) 1983), and substituting the following paragraph:

“(c) The blood specimen received by the analyst relating to the defendant has been analysed and found to contain,—

“(i) In the case of a defendant charged under paragraph (c) of section 58 (1) of this Act, not more than 30 milligrams of alcohol per 100 millilitres of blood; or

“(ii) In any other case, not more than 80 milligrams of alcohol per 100 millilitres of blood; or”.

12. Hospital blood tests—(1) Section 58D of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting from subsection (4) the word “forthwith” where it first occurs.

(2) Section 58D of the principal Act (as so substituted) is hereby amended by adding the following subsection:

“(8) In this section, the term ‘authorised person’ includes a registered medical practitioner.”

13. Reasonable compliance—Section 58E of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting the words “paragraph (a) or paragraph (b)”, and substituting the words “any of paragraphs (a) to (d)”.

14. Arrest of drivers under influence of drink or drugs—Section 62 of the principal Act (as amended by section 8 (5) of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting the expression “subsection (2) of section 55, section 58 (1) (c)”, and substituting the expression “section 55 (2) or section 58 (1) (e)”.

15. New sections relating to powers of arrest inserted—The principal Act is hereby amended by inserting, after section 62, the following sections:

“**62A. Traffic officer may arrest for assault on traffic officer**—Any traffic officer who is an officer of the Department, and any person on whom the traffic officer calls for assistance, may arrest without warrant any person whom the traffic officer has good cause to suspect of having assaulted that or any other traffic officer acting in the execution of the duties of a traffic officer.

“**62B. Arrested person to be delivered into police custody**—(1) Any person (other than a constable) who exercises any power of arrest conferred by this Act shall, as soon as practicable, deliver the arrested person into the custody of a constable.

“(2) The obligation in subsection (1) of this section shall not apply until the completion of the exercise of any powers that may be exercised under this Act in respect of the arrested person or any vehicle driven by that person.”

16. Constable or traffic officer may prohibit or prevent driving—(1) The principal Act is hereby amended by repealing section 63, and substituting the following section:

“63. (1) Where a constable or traffic officer believes on reasonable grounds that any person who is for the time being in charge of a motor vehicle is, by reason of physical or mental condition, however arising, incapable of having proper control of the vehicle, or that the requirements of section 70B (1) of this Act or the conditions of any exemption granted under section 70B (4) of this Act are not being complied with, and that in all the circumstances of the case the direction or prohibition or

action is necessary in the interests of that person or of any other person or of the public, the constable or traffic officer may—

- “(a) Forbid that person to drive any motor vehicle for such period as the constable or traffic officer specifies:
- “(b) Direct the person to drive the vehicle to a specified place where the driver may obtain rest, or where the load on the vehicle or other conditions make it appropriate that the driver should drive to that place:
- “(c) Take possession of all ignition or other keys of the vehicle, and for that purpose require that person to deliver up forthwith all such keys in that person’s possession:
- “(d) Take such steps as may be necessary to render the vehicle immobile or to remove it to a place where it does not constitute a traffic hazard.

“(2) Every person commits an offence who fails to comply with any direction given under subsection (1) of this section or does or attempts to do any act that is for the time being forbidden under that subsection and may be arrested without warrant by any constable or any traffic officer who is an officer of the Department.

“(3) In any proceedings against any person for an offence against this section arising out of circumstances in respect of which a breath screening test or an evidential breath test was undergone by that person pursuant to section 58A of this Act or a blood specimen was taken from that person pursuant to section 58B or section 58D of this Act, it shall not be a defence that—

- “(a) The breath screening test indicated that the proportion of alcohol in the person’s breath did not exceed 400 micrograms of alcohol per litre of breath; or
- “(b) The evidential breath test indicated that the proportion of alcohol in the person’s breath—
 - “(i) Did not exceed 150 micrograms of alcohol per litre of breath in the case of a person referred to in subparagraph (i) or subparagraph (ii) of section 58A (3) (aa) of this Act; or
 - “(ii) Did not exceed 500 micrograms of alcohol per litre of breath in any other case; or
- “(c) Any evidence given under section 58B or section 58D of this Act in respect of that blood specimen indicates that the proportion of alcohol in that specimen—

“(i) Did not exceed 30 milligrams of alcohol per 100 millilitres of blood in the case of a person referred to in subparagraph (i) or subparagraph (ii) of section 58A (3) (aa) of this Act; or

“(ii) Did not exceed 80 milligrams of alcohol per 100 millilitres of blood in any other case.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 13 of the Transport Amendment Act 1966:

(b) Section 9 of the Transport Amendment Act (No. 2) 1969:

(c) Section 8 (6) of the Transport Amendment Act (No. 3) 1978.

17. Traffic officer may arrest where information not given—Section 66 of the principal Act (as substituted by section 7 (1) of the Transport Amendment Act 1970) is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Every person commits an offence who fails to comply with any request, signal, or demand given under subsection (1) of this section, or who gives, in response to a demand under subsection (1) of this section, any information that the person knows to be false.

“(3) Any constable or any traffic officer who is an officer of the Department may arrest without warrant any person whom the constable or officer has good cause to suspect has committed an offence against subsection (2) of this section.”

18. Owner or hirer to give information as to identity of driver or passenger—Section 67 of the principal Act (as substituted by section 11 (1) of the Transport Amendment Act 1971) is hereby amended by inserting in subsection (1) and subsection (2), after the words “traffic officer”, in both cases the words “or parking warden”.

19. Fees payable where Court orders driving test—Section 68A of the principal Act (as inserted by section 14 of the Transport Amendment Act 1966) is hereby amended by adding the following subsection:

“(10) Where any person undergoes any test pursuant to an order under this section, that person shall be liable to pay the same fees as the person would be liable to pay if the person were an applicant for a licence.”

20. Powers of constables and traffic officers—(1) Section 68B of the principal Act (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967) is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) Direct any person on any road (whether or not in charge of any vehicle) to furnish the person’s name and address and give any other particulars required as to the person’s identity, and give such information as is within the person’s knowledge and as may lead to the identification of the driver or person in charge of any vehicle:”.

(2) Section 68B of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1A), the following subsections:

“(1B) Every person commits an offence who fails to comply with any direction given under subsection (1) (a) of this section or who gives in response to a direction under that provision any information that the person knows to be false.

“(1C) Any constable or any traffic officer who is an officer of the Department may arrest without warrant any person whom the constable or traffic officer has good cause to suspect has committed an offence against subsection (1B) of this section.”

(3) Section 68B of the principal Act (as so inserted) is hereby amended by omitting from subsection (1) (c) (ii) and subsection (4) (b) (as substituted and added by section 9 of the Transport Amendment Act 1980) the words “of safety”, and substituting in both cases the words “where it does not constitute a traffic hazard”.

21. Powers of parking wardens—(1) The principal Act is hereby amended by inserting, after section 68B (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967), the following section:

“68BA. (1) Any parking warden in uniform or in possession of any warrant or other evidence of authority as a parking warden is hereby authorised to enforce the provisions specified or referred to in Schedule 2A to this Act.

“(2) Any parking warden in uniform or in possession of any warrant or other evidence of authority as a parking warden may—

“(a) Direct any person on any road, and apparently in charge of or in any vehicle, to furnish the person’s name and address and give any other particulars required

as to the person's identity, and give such information as is within the person's knowledge and as may lead to the identification of the driver or person in charge of any vehicle:

“(b) If the parking warden believes on reasonable grounds that a vehicle on a road causes an obstruction in the road or to any vehicle entrance to any property, or that the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public,—

“(i) Enter, or authorise another person to enter, the vehicle for the purpose of moving it or preparing it for movement; and

“(ii) Move, or authorise another person to move, the vehicle to any place where it does not constitute a traffic hazard:

“(c) Direct the driver or person in charge of any vehicle on any road to remove the vehicle from the road or any specified part of any road, if the parking warden believes on reasonable grounds that it causes an obstruction in the road or to any vehicle entrance to any property, or that its removal is desirable in the interests of road safety or for the convenience or in the interests of the public.

“(3) Every person commits an offence who fails to comply with any direction given under subsection (2) (a) of this section or who gives in response to a direction under that provision any information that the person knows to be false.

“(4) Every person to whom any direction is given under the authority of this section shall comply with that direction, and no person shall do any act that is for the time being forbidden by any direction given under the authority of this section.

“(5) Any person who is authorised by a parking warden to—

“(a) Enter a vehicle for the purpose of moving it or preparing it for movement; or

“(b) Move a vehicle to a place where it does not constitute a traffic hazard—

may do so, but shall do everything reasonably necessary to ensure that the vehicle is not damaged in the course thereof.

“(6) Any person who—

“(a) Has possession of a vehicle as a result of its being moved under subsection (1) (b) of this section; and

“(b) When requested at any reasonable time to do so by a person who produces satisfactory evidence to the

effect that the person was lawfully entitled to possession of the vehicle immediately before it was moved, fails to deliver possession of the vehicle to that person forthwith—

commits an offence against this Act, and is liable to a fine not exceeding \$1,000.”

(2) The principal Act is hereby amended by repealing Schedule 2A (as inserted by section 8 (2) of the Transport Amendment Act (No. 2) 1983), and substituting the Schedule 2A set out in the First Schedule to this Act.

22. Powers of traffic officers in respect of heavy motor vehicles—(1) Section 69A (1) of the principal Act (as inserted by section 22 of the Transport Amendment Act 1968) is hereby amended by repealing paragraph (c) (as substituted by section 25 (2) of the Road User Charges Act 1977), and substituting the following paragraph:

“(c) Direct the driver or person in charge of any heavy motor vehicle or any vehicle that the traffic officer believes may be a heavy motor vehicle to drive the vehicle to any site and on to a weighing device specified by the traffic officer for the purpose of enforcing the provisions of this Act or the Road User Charges Act 1977 or any regulations or bylaws made under either of those Acts, notwithstanding that the driver may not otherwise be permitted to drive the vehicle to that site:

“Provided that, except where the driver has failed to stop when directed under subsection (1A) of this section, nothing in this paragraph shall authorise a traffic officer to direct the driver or person in charge, in order to drive the vehicle to any site or weighing device, to travel a distance that would increase the total length of the journey by more than 4 kilometres, or by more than 16 kilometres in any case where the traffic officer has good cause to suspect that the driver has detoured from the normal route for the purpose of avoiding being required to have the weight of the vehicle or on any axle of the vehicle measured.”

(2) Section 69A of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Every driver of a heavy motor vehicle shall, whenever directed by a sign displaying the words ‘ALL TRUCKS STOP’,

or whenever so directed by a traffic officer, stop the vehicle and keep it stopped so that a traffic officer may determine whether or not to take any action under subsection (1) of this section.”

(3) Section 69A of the principal Act (as so inserted) is hereby amended by inserting, after subsection (2A), the following subsection:

“(3) Every person commits an offence, and is liable on conviction to a fine not exceeding \$5,000, who fails to comply with or does any act in contravention of any direction given under subsection (1) or subsection (1A) of this section.”

(4) Section 69A of the principal Act (as so substituted) is hereby amended by omitting from subsection (4) the words “subsection (1) or”.

(5) Section 25 (2) of the Road User Charges Act 1977 is hereby consequentially repealed.

23. New sections relating to overloading offences substituted—(1) The principal Act is hereby amended by repealing sections 69B and 69C (as substituted by section 9 (1) of the Transport Amendment Act 1970), and substituting the following sections:

“**69B. Overloading offences**—(1) No user of a heavy motor vehicle or combination of vehicles shall use or permit the use of the vehicle or vehicles in breach of—

“(a) Any of the provisions of this Act or of any regulations made under this Act, other than regulation 19 (6) of the Transport Licensing Regulations 1984; or

“(b) Any limits prescribed by a controlling authority under the Heavy Motor Vehicle Regulations 1974, or any regulations made in substitution for those regulations,—

being provisions which fix, or by or pursuant to which are fixed, maximum gross weight limits for motor vehicles or maximum weight limits for axles or groups of axles of motor vehicles.

“(2) Every person commits an offence who acts in contravention of subsection (1) of this section, and—

“(a) Proceedings in respect of the offence shall be taken by the infringement offence procedure specified in section 42A of this Act:

“(b) The penalty for the offence shall be the appropriate overloading infringement fee or the total of those

fees calculated in accordance with Part III of the Second Schedule of this Act.

“(3) For the purposes of this Act, separate overloading offences shall be deemed to be committed in respect of every axle, every group of axles, and the total number of axles of any heavy motor vehicle or combination of vehicles, the weight on which exceeds the maximum weight fixed by or pursuant to the relevant provision or prescribed limit.

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

“69c. **Overloading of Crown vehicles**—(1) Where any overloading offence is committed in respect of any heavy motor vehicle being used in the service of the Crown by an employee of the Crown, there shall be payable to the enforcement authority in accordance with this section, out of money appropriated by Parliament, the appropriate overloading infringement fee.

“(2) Where a traffic officer has reason to believe that an overloading offence to which subsection (1) of this section applies has been committed, the traffic officer may cause to be served on the Permanent Head of the Department of State in the service of which the motor vehicle was being used a notice containing the following particulars:

- “(a) Such details of the alleged overloading offence as are sufficient fairly to inform that Permanent Head of the time, place, and nature of the offence; and
- “(b) The amount of the appropriate overloading infringement fee payable to the enforcement authority in respect of the offence; and
- “(c) The place at which the fee shall be paid and the times during which it may be paid; and
- “(d) A statement that unless an objection is made under subsection (4) of this section before the date

specified in the notice, being a date not less than 14 days after the date of the service of the notice, the overloading infringement fee must be paid to the enforcement authority not later than the date so specified.

“(3) A notice under subsection (2) of this section shall be served by sending it by registered letter addressed to the Permanent Head at the head office of the department in Wellington, and shall be deemed to have been received when in the ordinary course of post it would be delivered.

“(4) The Permanent Head may, by notice in writing given to the Secretary before the date specified in the notice given pursuant to subsection (2) of this section, object to the last-mentioned notice on the ground that no overloading offence was committed or on the ground that the amount of the overloading infringement fee specified in the notice exceeds the amount properly payable. The Secretary shall refer the objection to the Transport Licensing Authority for the transport district in which the overloading offence is alleged to have been committed.

“(5) The Transport Licensing Authority shall consider the objection, and may allow it or dismiss it, and, notwithstanding anything in this Act, the decision of that Authority shall be final. If the objection is dismissed, the appropriate overloading infringement fee shall be payable to the enforcement authority not later than 14 days after the notification of the decision to the objector.”

(2) Section 44 (1) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970 and amended by section 8 (6) of the Transport Amendment Act 1980) is hereby amended by omitting the words “against subsection (9) of section 69B of this Act or an offence”.

(3) The following enactments are hereby repealed:

- (a) Section 9 of the Transport Amendment Act 1970;
- (b) Section 12 of the Transport Amendment Act 1971;
- (c) Section 2 (2) (c) of the Transport Amendment Act 1972;
- (d) Section 11 of the Transport Amendment Act 1980;
- (e) So much of the First Schedule to the Criminal Justice Act 1985 as relates to section 69B of the principal Act.

(4) The following notices are hereby revoked:

- (a) The Transport (Overloading-Infringement Fees) Notice 1981 (S.R. 1981/111);
- (b) The Transport (Overloading Infringements) Notice 1985 (S.R. 1985/198).

24. New sections relating to driving hours and logbooks inserted—The principal Act is hereby amended by inserting, after section 70A (as inserted by section 5 (1) of the Transport Amendment Act (No. 3) 1985), the following sections:

“70B. Driving hours—(1) No person shall drive any passenger-service vehicle (other than a taxicab or other passenger-service vehicle designed for the carriage of not more than 8 persons including the driver), any heavy motor vehicle, or any goods-service vehicle used for commercial purposes, or any 2 or more such vehicles, and no person shall operate any such vehicle or vehicles, in such a manner that any one person—

“(a) Drives any such vehicle, or both drives and carries out loading activities, for a continuous period exceeding 5½ hours; or

“(b) In respect of any 24-hour period during which the person drives any such vehicle,—

“(i) Spends more than a total of 11 hours in driving any such vehicle and in carrying out loading activities (if any); or

“(ii) Works or is on duty for more than a total of 14 hours within that period; or

“(iii) Does not have at least 10 consecutive hours off duty within that period (not being a 24-hour period that commences during the currency of any such 10-hour off duty period); or

“(c) In respect of any 7-day period during which the person drives any such vehicle,—

“(i) Works or is on duty for more than a total of 70 hours within that period; or

“(ii) Does not have at least 24 consecutive hours off duty within that period (not being a 7-day period that commences during the currency of any such 24-hour off duty period).

“(2) For the purposes of this section, and of section 70C of this Act,—

“(a) Any 2 or more periods spent in driving or in carrying out loading activities, or both, shall be deemed to be a single continuous period unless separated by an interval of not less than half an hour which is available to the driver for rest or during which the driver is off duty:

“(b) No period shall be counted as available for rest if it is spent by the driver in or on any vehicle referred to in subsection (1) of this section, being a vehicle connected with the driver’s business or employment, while that vehicle is moving:

“(c) The terms ‘working’ and ‘on duty’ include engaging in any of the following activities:

“(i) Driving a vehicle referred to in subsection (1) of this section:

“(ii) Loading or unloading any such vehicle, or waiting for the loading or unloading of any such vehicle:

“(iii) Maintenance, cleaning (other than unpaid cleaning that occurs during any off duty period of not less than 24 hours), or other activities relating to any such vehicle:

“(iv) Any other activity (whether or not it relates to a vehicle of any kind) relating to the provision of transport services for passengers or goods:

“(v) Any paid employment of any kind (whether or not it relates to any transport service or to any vehicle of any kind), including any period of paid employment that is, or is set aside for or available as, a rest period:

“(d) A person shall be deemed to be off duty only when that person is not working or on duty within the meaning of paragraph (c) of this subsection:

“(e) The terms ‘loading’ and ‘loading activities’ include unloading and unloading activities.

“(3) The requirements of this section shall apply in respect of any vehicle referred to in subsection (1) of this section whether or not the vehicle is engaged in any transport service or is carrying any load or passengers at any time.

“(4) The Secretary may grant partial or total written exemptions from some or all of the requirements of this section in respect of any driver or operator, any service or occasion, any class of services or occasions, or any time spent on any activity or employment, and may impose conditions relating to the exemption and the records to be kept of driving or time spent in terms of the exemption.

“(5) Any exemption granted under subsection (4) of this section may be amended or revoked at any time by the Secretary in writing.

“(6) Every person who drives a vehicle referred to in subsection (1) of this section and every person who employs any such person shall make all relevant time records, wage records, and related employment records in the possession or control of the person available for immediate inspection on demand at any reasonable time by an officer of the Department authorised in writing by the Secretary in respect of the particular case.

“(7) Every person commits an offence who fails to comply with any of the requirements of this section or the conditions of any exemption granted under subsection (4) of this section and is liable on conviction—

“(a) In the case of a driver, to a fine not exceeding \$2,000, and the person shall, unless the Court for special reasons relating to the offence thinks fit to order otherwise, be disqualified from holding or obtaining a licence to drive a heavy motor vehicle or a passenger-service vehicle, or both, as the Court thinks fit for a period of 3 months or such greater period as the Court thinks fit:

“(b) In any other case, to a fine not exceeding \$10,000.

“(8) It shall be a defence in any proceedings for an offence of failing to comply with this section if the Court is satisfied that the failure to comply with this section was due to unavoidable delay in the completion of any journey arising out of circumstances that could not reasonably have been foreseen by the defendant.

“70C. **Driver logbooks**—(1) Every driver of any vehicle to which this section applies shall maintain a logbook, which shall be in a form approved by the Secretary, containing a clear and legible record of—

“(a) The driver’s name and residential address; and

“(b) All periods spent—

“(i) In driving any vehicle referred to in section 70B (1) of this Act or in carrying out loading activities, or both; and

“(ii) Working or on duty; and

“(iii) As rest periods (being periods of not less than half an hour); and

“(iv) Off duty; and

“(c) The relevant starting and finishing dates, times, and (except in the case of off duty periods) places of the periods referred to in paragraph (b) of this subsection; and

“(d) The registration number of each vehicle driven; and

- “(e) Where the vehicle is required to be fitted with a distance recorder by or under the Road User Charges Act 1977, the distance recorder readings at the start and finish of each period of driving.
- “(2) Except as provided in subsection (3) of this section,—
- “(a) The date, time, and place of commencement of every period required by subsection (1) of this section to be entered in a logbook, and (where driving is involved in any such period) the relevant distance recorder reading and vehicle registration number, shall be entered in the driver’s logbook at the commencement of that period; and
- “(b) The date, time, and place of finishing of any such period, and, where appropriate, the relevant distance recorder reading, shall be entered in the driver’s logbook at the finish of that period.
- “(3) Where 2 or more periods spent in driving or in loading activities, or both, are deemed by section 70B (2) (a) of this Act to constitute a single continuous period,—
- “(a) The driver may enter the relevant dates, times, and places of commencement and finishing, and (except where more than 1 vehicle is driven) the relevant distance recorder readings and vehicle registration number, as if those 2 or more periods were a single period spent in driving or in both driving and loading activities; but
- “(b) Where the driver so elects, the total of those 2 or more periods, together with any time spent between these periods (whether or not such time is actually spent in driving or in loading activities) shall be treated for the purposes of section 70B (1) (a) and (b) of this Act as a single continuous period spent in driving or in both driving and loading activities.
- “(4) Every driver shall—
- “(a) Retain every logbook required to be maintained by the driver under subsection (1) of this section for a period of 12 months after the date of the last entry in the logbook; and
- “(b) In the case of a driver who is an employee, deliver a copy of the logbook to the driver’s employer as soon as practicable after the expiry of 10 days after the last entry in the logbook, and the employer shall retain the copy of the logbook for a period of 12

months after the date of the last entry in the logbook.

“(5) Every driver of any vehicle to which this section applies shall, on demand by any traffic officer, produce any current logbook relating to that day and the previous 10 days that the driver is required by this section to maintain.

“(6) Every person who is required to retain any logbook or any copy of any logbook under subsection (4) of this section shall make it and any relevant time records, wage records, and related employment records available for immediate inspection on demand by the Secretary or an officer of the Department at any reasonable time during the period for which it is required to be retained.

“(7) Every person who fails to comply with any requirement of or demand made under subsection (4) or subsection (6) of this section commits an offence and is liable on conviction—

“(a) In the case of a driver, to a fine not exceeding \$2,000, and the person shall, unless the Court for special reasons relating to the offence thinks fit to order otherwise, be disqualified from holding or obtaining a licence to drive a heavy motor vehicle or a passenger-service vehicle, or both, as the Court thinks fit, for a period of 3 months or such greater period as the Court thinks fit:

“(b) In any other case, to a fine not exceeding \$10,000.

“(8) Except as provided in any Order in Council made under subsection (9) of this section, or as provided in subsection (10) of this section, this section applies in respect of—

“(a) All passenger-service vehicles, other than taxicabs and other passenger-service vehicles designed for the carriage of not more than 8 persons including the driver:

“(b) All goods-service vehicles that have more than 2 axles:

“(c) All goods-service vehicles that have an unladen or tare weight of 5500 kilograms or more:

“(d) All goods-service vehicles while being used in conjunction with any other vehicle where the total number of axles of the vehicles exceeds 3:

“(e) Any vehicle or service or class of vehicle or service that is declared by the Governor-General, by Order in Council, to be a vehicle or service or class of vehicle or service to which this section shall apply.

“(9) This section shall not apply in respect of any vehicle or service or class of vehicle or service declared by the Governor-General, by Order in Council, to be exempt from this section.

“(10) Nothing in this section shall apply in respect of the driving of any vehicle operated by—

“(a) The Armed Forces:

“(b) Any ambulance service, any firefighting service, or the Police:

“(c) Local authority rubbish collection services:

“(d) Operators of bus services only where they are operated wholly within urban transport areas as defined for the purposes of the Urban Transport Act 1980.

“70D. **Offences and proceedings concerning logbooks**—(1) Every person commits an offence who makes or causes to be made any false statement in a logbook or allows any omission to occur in any logbook.

“(2) Every person commits an offence who, being the driver of a vehicle to which section 70C of this Act applies,—

“(a) On demand by a traffic officer fails to produce a logbook; or

“(b) On demand by a traffic officer produces a logbook that is false in a material particular, whether or not the driver knows of the falsehood; or

“(c) On demand by a traffic officer produces a logbook—

“(i) That omits a material particular, whether or not the driver knows of the omission; or

“(ii) In which any material particular is entered illegibly or in such a manner that the matters specified in section 70C (1) of this Act cannot be readily ascertained.

“(3) Every person, not being the driver of the vehicle, commits an offence who causes or permits a vehicle to which section 70C of this Act applies to be used and—

“(a) A logbook is not maintained in respect of the driving of that vehicle, whether or not the person knows that a logbook is not maintained; or

“(b) The logbook maintained in respect of the driving of that vehicle is false in a material particular, whether or not the person knows of the falsehood; or

“(c) The logbook maintained in respect of the driving of that vehicle omits a material particular, whether or not the person knows of the omission.

“(4) It shall be a defence to a charge under subsection (1) or subsection (2) or subsection (3) of this section if the Court is

satisfied that the proceedings relate to a heavy motor vehicle that has been exempted from the requirements of this section by an Order in Council under section 70C (9) of this Act.

“(5) It shall be a defence to a charge under subsection (1), or paragraph (b) or paragraph (c) of subsection (3), of this section if the Court is satisfied that, in the case of a defendant who is not the driver of the vehicle,—

“(a) Reasonable steps were taken by the defendant to prevent the false statement or material omission in the logbook; and

“(b) As soon as reasonably practicable after the false statement or material omission was drawn to the person’s attention by the Secretary or a traffic officer, the person produced to the traffic officer a logbook containing no false statement or material omission.

“(6) Except as provided in subsection (7) of this section, subsection (5) of this section shall not apply unless, within 7 days after the service of the summons, or within such further time as the Court may allow, the defendant has delivered to the prosecutor a written notice—

“(a) Stating that the defendant intends to rely on subsection (5) of this section; and

“(b) Specifying the reasonable steps that the defendant will claim to have taken.

“(7) In any proceedings relating to a charge to which subsection (5) of this section applies, evidence that the defendant took a step not specified in the written notice required by subsection (6) of this section shall not, except with the leave of the Court, be admissible for the purpose of supporting a defence under subsection (5) of this section.

“(8) In proceedings in respect of an offence against section 70B of this Act or subsection (1), subsection (2), or subsection (3) of this section, evidence given by a traffic officer or any person who was a traffic officer at the time when the alleged offence was committed as to the contents of any logbook as seen and recorded by that traffic officer at the time it was produced shall be conclusive evidence of the contents of that logbook, until the contrary is proved by the production to the Court of the logbook or of a duplicate copy of the logbook made simultaneously with the original logbook.

“(9) In any proceedings in respect of an offence against section 70C of this Act, the tare weight of a vehicle displayed on that vehicle in accordance with regulation 14 of the Heavy

Motor Vehicle Regulations 1974 or any regulation made in substitution for that regulation shall be conclusive evidence as to the unladen or tare weight of the vehicle until the contrary is proved.

“(10) Every person who commits an offence against this section is liable on conviction—

“(a) In the case of a driver to a fine not exceeding \$2,000, and the person shall, unless the Court for special reasons relating to the offence thinks fit to order otherwise, be disqualified from holding or obtaining a licence to drive a heavy motor vehicle or a passenger-service vehicle, or both, as the Court thinks fit, for a period of 3 months or such greater period as the Court thinks fit:

“(b) In any other case to a fine not exceeding \$10,000”.

(2) Section 38 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting from subsection (1) the words “this Part of”.

(3) Section 38 of the principal Act (as so substituted) is hereby further amended by repealing paragraph (b) of the proviso to subsection (2) (as substituted by section 5 (1) of the Transport Amendment Act (No. 3) 1978), and substituting the following paragraph:

“(b) Where a person is disqualified on conviction for an offence against this Act of any of the kinds specified in subsection (1) or subsection (2A) or subsection (3) of section 30 of this Act, or for an offence against section 70 or section 70B or section 70C or section 70D of this Act, no order shall be made that authorises the person to obtain a limited licence before the expiration of one month from the date of commencement of the order of disqualification.”

25. Bylaws—(1) Section 72 (1) (f) of the principal Act is hereby amended by inserting, after the word “reinstating” the words “or strengthening”.

(2) Section 72 (1) (l) (as amended by section 3 (1) of the Transport Amendment Act 1970) is hereby amended by omitting the words “not exceeding \$200”, and substituting the words “not exceeding \$500”.

(3) The Transport Amendment Act 1970 is hereby amended by repealing so much of the Schedule as relates to section 72 (1) (l) of the principal Act.

26. Regulations—(1) Section 77 (1) of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Requiring the wearing or use of safety equipment by riders and passengers on vehicles:”.

(2) Section 77 (1) of the principal Act is hereby further amended by repealing paragraph (fb), and substituting the following paragraph:

“(fb) Prescribing requirements as to devices, fittings, or equipment to be incorporated in the construction of, fitted to, or carried on motor vehicles or any specified class of motor vehicles, or to be used by *the driver of or any person in or on a motor vehicle* or any specified class of motor vehicles; and any such regulations may—

“(i) Prescribe, or authorise the Secretary to prescribe, standards for any such device, fitting, or equipment, or class thereof (whether such standards are prescribed in relation to the device, fitting, or equipment as such or in relation to the function of that device, fitting, or equipment):

“(ii) Require the approval of the Minister or Secretary to be obtained, in such way as may be prescribed, for any such device, fitting, or equipment, or class thereof, to be incorporated in, fitted to, or carried on a motor vehicle, or used by the driver of or any person in or on a motor vehicle:”.

(3) Section 77 (1) (g) of the principal Act is hereby amended by inserting, after the words “warrants of fitness”, the words “by the Department, local authorities, or persons approved by the Minister”.

(4) Section 77 (1) of the principal Act is hereby amended by adding to paragraph (p) (as substituted by section 18 of the Transport Amendment Act 1966), the following words:

“and—

“(i) Authorising the Minister, by notice in the *Gazette*, to declare any road or part of a road that is not a motorway and is not subject to a 50 kilometres an hour speed restriction imposed by or under section 52 (1) of this Act to be subject to a specified speed limit between 50 kilometres an hour and 100 kilometres an hour, or to be a limited speed zone; and

“(ii) Specifying the conditions applying to driving in limited speed zones; and

“(iii) Authorising the Secretary, acting with the approval of the National Roads Board, to grant exemptions relating to speed limits for specified heavy vehicles or classes of heavy vehicles and to impose conditions relating to such exemptions”.

(5) Section 77 (1) (za) of the principal Act (as added by section 3 (1) of the Transport Amendment Act 1976) is hereby amended—

(a) By omitting the words “or paragraphs (1) to (n) of section 186 of this Act”;

(b) By inserting, after the word “Secretary”, the words “or in the case of regulations made under the authority of paragraph (f) or paragraph (fa) of this subsection delegating to the Secretary, the local authority, or the person having control over the road, the”.

27. Manufacture or sale of devices, fittings, or equipment for bicycles requiring approval—Section 77C of the principal Act (as inserted by section 12 of the Transport Amendment Act 1972 and renumbered by section 26 of the Transport Amendment Act (No. 3) 1983) is hereby amended by inserting in subsection (1), after the words “motor vehicle” at each of the 4 places where they occur, the words “or bicycle”.

28. Experimental traffic control signs, lights, notices, and markings—The principal Act is hereby amended by inserting, after section 77C (as inserted by section 12 of the Transport Amendment Act 1972), the following section:

“78. (1) The Minister may, by notice in the *Gazette*, approve or require the erection, marking, and maintenance, subject to conditions imposed by the Minister, of signs, lights, notices, or road markings for experimental purposes (in this section called ‘experimental signs, lights, notices, and markings’) that are in substitution for uniform signs, lights, notices, or road markings provided for or prescribed in regulations made pursuant to section 77 (1) (r) of this Act or are considered necessary to evaluate possible changes to traffic laws; and may by notice in the *Gazette* do, in relation to experimental signs, lights, notices, and markings, anything (other than the prescription of offences) that may be done by regulations made pursuant to that section in relation to uniform signs, lights, notices, and road markings.

“(2) Every notice given under subsection (1) of this section shall specify—

“(a) The locations or localities in which the experimental signs, lights, notices, or markings are to be used:

“(b) The period within which the experimental signs, lights, notices, or markings are to be used:

“(c) Any conditions relating to the experimental signs, lights, notices, or markings imposed by the Minister:

“(d) Any equivalent uniform signs, lights, notices, or markings to the experimental signs, lights, notices, or markings.

“(3) Every experimental sign, light, notice, or marking shall for all purposes (including offences) be of the same effect as any equivalent uniform sign, light, notice, or marking.”

29. Certificates of fitness and certificates of loading—

Section 79 of the principal Act (as inserted by section 2 of the Transport Amendment Act (No. 2) 1983) is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) No person shall use any motor vehicle to which this section applies unless there is in force in respect of that vehicle a certificate of fitness and a certificate of loading issued in accordance with regulations made under this Act.

“(1A) In addition to the powers conferred by section 9 of the Ministry of Transport Act 1968, the Secretary is hereby authorised to delegate to any officer of a local authority the powers of the Secretary in relation to certificates of fitness and certificates of loading.

“(1B) The Secretary or any officer of the Department who is authorised to issue certificates of fitness may, in any case where a vehicle does not qualify for the issue of a certificate of fitness but is nevertheless in a safe condition, issue a permit that shall have effect for a specified period of not more than 28 days from the day of issue as if it were a certificate of fitness.

“(1C) Any permit issued under the authority of subsection (1B) of this section shall be subject to such conditions relating to the use of the vehicle as the person issuing the permit considers appropriate; and every operator of any vehicle to which a permit applies shall ensure that all such conditions are complied with.”

30. Conditions relating to driving hours and logbooks—The principal Act is hereby amended by inserting, after section 127 (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983), the following section:

“127A. (1) It shall be a condition of every transport licence (other than a taxicab-service licence) that the requirements of sections 70B and 70C of this Act relating to driving hours and logbooks be complied with.

“(2) It shall be a condition of every taxicab-service licence that the holder of the licence ensures that the requirements of any regulations made under section 178 of this Act relating to driving hours and logbooks be complied with.”

31. Form and effect of transport licence—Section 134 of the principal Act (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) is hereby amended by omitting from subsection (1) the words “or any regulations made under section 178 of this Act”.

32. Appeals in relation to review of taxicab services—Section 154 of the principal Act (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) is hereby amended by adding to subsection (1) the following paragraph:

“(e) Any decision under section 144 of this Act.”

33. Regulations—(1) Section 178 of the principal Act (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) is hereby amended by adding to paragraph (s) the following words:

“including matters relating to the installation and testing of taxi meters by or on behalf of the Secretary, and authorising the Secretary, in addition to the powers conferred by section 9 of the Ministry of Transport Act 1968, to delegate to any officer of a local authority any power conferred upon the Secretary in relation to taxi meters”.

(2) Section 178 of the principal Act (as so substituted) is hereby amended by repealing paragraph (u), and substituting the following paragraph:

“(u) Limiting the hours during which and the conditions upon or subject to which any person may drive vehicles used in connection with taxicab services; empowering the Secretary to grant exemptions from those limitations or conditions and impose other conditions in respect of particular occasions or services; requiring the maintenance and preservation of logbooks recording driving hours and hirings; and prescribing the form of such logbooks:”.

34. Time for instituting proceedings—Section 195 of the principal Act (as substituted by section 31 (1) of the Transport Amendment Act 1974) is hereby amended by adding to subsection (2) the following paragraphs:

“(e) Sections 70B and 70C and 70D of this Act (which relate to driving hours and to the keeping of logbooks by certain drivers):

“(f) Regulations made pursuant to this Act relating to the issue of installation certificates and inspection certificates for alternative fuel systems.”

35. Admissibility of certain statements—The principal Act is hereby amended by inserting, after section 196, the following section:

“196A. Notwithstanding any enactment or rule of law, any statement that is made to a traffic officer by the driver of any passenger-service vehicle, any heavy motor vehicle, or any goods-service vehicle used for commercial purposes, that relates to—

“(a) The identity of the employer of that driver; or

“(b) Any matter that is or ought to be specified in any logbook—

may be given in evidence by that traffic officer and shall be admissible in evidence in any proceedings for an offence against this Act as evidence of the matters referred to in the statement.”

36. Evidence of testing and accuracy of weighing devices and sites, and speed-measuring devices—(1) The principal Act is hereby amended by repealing section 197 (as substituted by section 22 (1) of the Transport Amendment Act 1970), and substituting the following section:

“197. (1) In any proceedings for an offence against this Act or the Road User Charges Act 1977 or any regulations or bylaws made under this Act or that Act, the production of a certificate (or a document purporting to be a copy of a certificate) purporting to be signed by an officer of the Ministry of Transport authorised by the Secretary in that behalf, either generally or in any particular case, certifying that—

“(a) On a specified date, being a date not more than 12 months earlier than the date of the alleged offence, any weighing device referred to in the certificate was tested by an Inspector of Weights and Measures, an officer of the Department of Scientific

and Industrial Research, or any other person who is approved for the purpose by the Minister by notice in the *Gazette*; or

“(b) On a specified date, being a date not more than 5 years earlier than the date of the alleged offence, any weighing site referred to in the certificate was tested or surveyed by an officer of the Department or an officer of the Department of Scientific and Industrial Research—

and found to be accurate shall, in the absence of proof to the contrary, be sufficient evidence that it was accurate on the date of the alleged offence.

“(2) Every certificate issued under subsection (1) of this section shall be deemed to identify the weighing device to which it refers if, in the case of a portable device, it contains the serial number of the device or if, in the case of a weighbridge or weighing site, it refers to the location of the weighbridge or weighing site.

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

“(4) Every document purporting to be a copy of a certificate issued under subsection (1) or subsection (3) of this section shall, in the absence of proof to the contrary, be presumed to be a true copy.

“(5) Every certificate issued under subsection (1) or subsection (3) of this section shall, in the absence of proof to the contrary, be presumed to have been signed by an officer duly authorised to sign it. It shall not be necessary for any such certificate to show on its face that the officer signing it was so authorised.

“(6) In any proceedings for an offence against this Act or the Road User Charges Act 1977, or any regulations or bylaws made under this Act or that Act, proof that any weighing device bore the stamp of a mark of verification under the Weights and Measures Act 1987 indicating that the weighing device had been so stamped in a month not earlier than 12 months before the month of the alleged offence shall, in the absence of proof to the contrary, be sufficient evidence that the

weighing device was accurate on the date of the alleged offence.”

(2) The following enactments are hereby repealed:

(a) Section 22 of the Transport Amendment Act 1970:

(b) Section 21 of the Transport Amendment Act 1971:

(c) Section 19 of the Transport Amendment Act 1972:

(d) Section 30 of the Road User Charges Act 1977:

(e) Section 24 of the Transport Amendment Act (No. 2) 1985.

37. Regulations—Section 199 (1) (a) of the principal Act is hereby amended by inserting, after the word “amount”, the words “or maximum amount”.

38. Infringement fees increased—(1) The principal Act is hereby amended by repealing the Second Schedule, and substituting the Second Schedule set out in the Second Schedule to this Act.

(2) The increased infringement fees provided for in Parts I and IV of the Second Schedule to the principal Act (as substituted by subsection (1) of this section) shall apply only in respect of offences committed on or after the 1st day of August 1987.

(3) The following enactments are hereby consequentially repealed:

(a) Section 8 (1) of the Transport Amendment Act 1980:

(b) Section 7 of the Transport Amendment Act (No. 3) 1985:

(c) Section 53 (7) of, and the Third Schedule to, the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

39. Transitional provision—Every person who, but for the passing of this Act, could have been charged with an offence against paragraph (a) or paragraph (b) of section 58 (1) of the principal Act (as repealed by section 9 (1) of this Act) in respect of any act done before the 1st day of August 1987 may be charged with and convicted of such offence, and the relevant provisions of the principal Act shall continue to apply, as if this Act had not been passed.

40. Repeals—The following enactments are hereby repealed:

(a) The First Schedule to the principal Act:

(b) Section 3 of the Transport Amendment Act 1965:

(c) Section 22 (5) of the Transport Amendment Act (No. 2) 1983:

- (d) The Transport Amendment Act 1984:
- (e) Section 81 (2) of the Survey Act 1986, and so much of the First Schedule to that Act as relates to the principal Act.

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SCHEDULES

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FIRST SCHEDULE

Section 21

NEW SCHEDULE 2A TO PRINCIPAL ACT

“SCHEDULE 2A

Section 68BA

OFFENCES ENFORCEABLE BY PARKING WARDENS

1. Any offence involving parking in any portion of a road in breach of any Act or regulation, or of any bylaw made under the authority of section 72 of this Act.

2. **OFFENCES AGAINST TRAFFIC REGULATIONS 1976**

Offence Against Regulation	Brief Description of Offence
37 (5) 	Failure to display red light on parked goods-service vehicle
71 (1) 	Using worn or damaged tyre
71 (2) 	Using smooth tyre
85 (1) 	Operating vehicle without current warrant or certificate of fitness

3. Offence against section 5 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (using or permitting to be used on a road an unlicensed motor vehicle or a motor vehicle that does not have registration plates affixed in the prescribed manner).”

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Section 38

SECOND SCHEDULE

NEW SECOND SCHEDULE TO PRINCIPAL ACT

Section 42A

"SECOND SCHEDULE
INFRINGEMENT OFFENCES AND FEES

PART I

PARKING OFFENCES

Offence	Infringement fee (In addition to any towage fee—see below)
Any parking offence involving parking on a road in breach of a local authority bylaw, in excess of a period fixed by a meter or otherwise, where the excess time is—	
Not more than 30 minutes ..	\$10 or such lesser amount as is fixed by the local authority
More than 30 minutes but not more than 1 hour	\$14 or such lesser amount as is fixed by the local authority
More than 1 hour but not more than 2 hours	\$20 or such lesser amount as is fixed by the local authority
More than 2 hours but not more than 4 hours	\$30 or such lesser amount as is fixed by the local authority
More than 4 hours	\$34 or such lesser amount as is fixed by the local authority
Any other parking offence ..	\$40

Towage fee: Where expenses are incurred by an enforcement authority in respect of the movement or proposed movement under section 68B (1) (c) or section 68BA (2) (b) of this Act of the vehicle involved in the offence (whether or not the vehicle is in fact moved), the infringement fee shall be the total of the amount specified above in respect of the offence and the amount of the appropriate towage fee (including any goods and services tax payable in respect of the towage fee).

SECOND SCHEDULE—*continued*

PART II

SPEEDING OFFENCES

Offence	Infringement fee \$
Any speeding offence, where the speed exceeds the speed limit by—	
Not more than 10 kilometres an hour	20
More than 10 kilometres an hour but not more than 15 kilometres an hour ..	40
More than 15 kilometres an hour but not more than 20 kilometres an hour ..	60
More than 20 kilometres an hour but not more than 25 kilometres an hour ..	90
More than 25 kilometres an hour but not more than 30 kilometres an hour ..	120
More than 30 kilometres an hour but not more than 35 kilometres an hour ..	160
More than 35 kilometres an hour but not more than 40 kilometres an hour ..	200

PART III

OVERLOADING OFFENCES

TABLE NO. 1—INDIVIDUAL AXLES

Overloading Offence	Infringement Fee for that Axle \$
Where the axle weight recorded, reduced by 5 percent, exceeds the maximum permitted weight on the axle by—	
Not more than 500 kg	30
More than 500 kg but not more than 1,000 kg ..	100
More than 1,000 kg but not more than 1,500 kg ..	180
More than 1,500 kg but not more than 2,000 kg ..	300
More than 2,000 kg but not more than 2,500 kg ..	400
More than 2,500 kg but not more than 3,000 kg ..	550
More than 3,000 kg but not more than 3,500 kg ..	700
More than 3,500 kg	850

SECOND SCHEDULE—*continued*PART III—*continued*OVERLOADING OFFENCES—*continued*

TABLE NO. 2—GROUPS OF TWO OR MORE CONSECUTIVE AXLES AND ALL AXLES OF A VEHICLE OR COMBINATION OF VEHICLES

Overloading Offence	Infringement Fee for the Sum of Axle Weights
Where the sum of the recorded weights on the axles, reduced by 5 percent, exceeds the maximum permitted weight by—	\$
Not more than 1,000 kg	30
More than 1,000 kg but not more than 2,000 kg	100
More than 2,000 kg but not more than 3,000 kg	180
More than 3,000 kg but not more than 4,000 kg	300
More than 4,000 kg but not more than 5,000 kg	400
More than 5,000 kg but not more than 6,000 kg	550
More than 6,000 kg but not more than 7,000 kg	700
More than 7,000 kg but not more than 8,000 kg	850
More than 8,000 kg	1,000

Individual axle weights

1. For each axle the weight on which exceeds the maximum permitted weight for such an axle, the appropriate overloading infringement fee shown in table No. 1 shall be payable.

Two or more consecutive axle weights

2. For each group of 2 or more consecutive axles of a vehicle or combination of vehicles the sum of the weights of which exceeds the sum of the weights permitted on a group of 2 or more consecutive axles with the recorded distance between the centres of the first and last axle of the group, the appropriate overloading infringement fee shown in table No. 2 shall be payable.

Total axle weight of a vehicle or combination of vehicles

3. For each vehicle the sum of the axle weights of which exceeds the permitted sum of axle weights for a vehicle with the recorded distance between the centres of the first and last axle of the vehicle, the appropriate overloading infringement fee shown in table No. 2 shall be payable.

4. For each combination of vehicles the sum of the axle weights of which exceeds the permitted sum of axle weights for a combination of vehicles with the recorded distance between the centre of the first axle of the first vehicle and the centre of the last axle of the last vehicle, the appropriate overloading infringement fee shown in table No. 2 shall be payable.

SECOND SCHEDULE—*continued*

PART IV

OFFENCES AGAINST TRAFFIC REGULATIONS 1976

Offence against Regulation	Brief description of offence	Infringement Fee \$
4 (3)	Failure to drive within a lane	40
6	Failure to comply with lane-usage arrows	40
9 (1) (a)	Failure to stop at a stop sign	40
15 (1) (b), (c)	Failure to signal turn or move to right or left	40
18 (1)	Failure to comply with signals given by traffic lights	40
19 (2)	Towing without required lights	40
28 (1)	Excessive emission of smoke or vapour	40
29 (1)	Excessively noisy vehicle	40
29 (6)	Unreasonable use of warning device	40
30	Failure to ensure child properly restrained in child restraint or seat belt	40
30A	Permitting unrestrained child to ride alongside driver	40
30B	Failure to wear seat belt or ensure child 8-15 years wears seat belt	40
31 (1)	Failure to wear securely fastened safety helmet	40
32	Operating motor cycle without adequate footrests	40
37 (2)	Driving without required lights	40
37 (5)	Failure to display red light on parked goods-service vehicle	40
40	Riding abreast	24
42 (3) (a), (c)	Failure to display red light and reflector on cycle or moped	24
44	Careless riding of cycle or moped	24
.. ..	Any offence involving a cycle or moped not specified above	24
51 to 56	Any offence committed by a pedestrian	16
58 (1) (c)	Motor cycle not equipped with required headlamp	40
60 (1)	No rearward-facing side lamps	24
69 (1)	Vehicle not equipped with required warning device	24
71 (1)	Using worn or damaged tyre	40
71 (2)	Using smooth tyre	40
73 (3)	Driving with obscured windscreen	40
74 (1)	Operating vehicle without rear-vision mirror	40

SECOND SCHEDULE—*continued*PART IV—*continued*OFFENCES AGAINST TRAFFIC REGULATIONS 1976—*continued*

Offence against Regulation	Brief description of offence	Infringement Fee \$
78 (1) ..	Operating vehicle without required seat belts	40
81	Operating vehicle without required exhaust system and silencer ..	40
82A	Operating moped or motor cycle without adequate footrests ..	40
85 (1) ..	Operating vehicle without current warrant or certificate of fitness	40
85 (5) ..	Operating vehicle not up to warrant or certificate of fitness standard	40

PART V

OTHER OFFENCES

Offence against Regulation	Brief description of offence	Infringement Fee \$
Section 5 Transport (Vehicle and Driver Registration and Licensing) Act 1986	Using, or permitting to be used, on a road an unlicensed motor vehicle or a motor vehicle that does not have registration plates affixed in the prescribed manner ..	40
Section 37 (4) (b) Transport (Vehicle and Driver Registration and Licensing) Act 1986	Driving with an expired licence ..	40
Section 41 (1) Transport (Vehicle and Driver Registration and Licensing) Act 1986	Failure to produce driver's licence	40''

This Act is administered in the Ministry of Transport.