

TRANSPORT AMENDMENT BILL (NO. 4)

EXPLANATORY NOTE

THIS Bill amends the Transport Act 1962 in several respects.

Part I substitutes a new Part III in the principal Act relating to the licensing of motor vehicle drivers and the maintenance of a national register of drivers' licences. A new provision provides that as from 1 March 1984 all motor drivers' licences will be issued by the Secretary and all existing licences are deemed to have been issued by him. Provision is made for the Secretary to appoint agents to exercise his functions, duties, and powers under the Part.

Part II makes a number of amendments relating to offences and penalties; notably *clause 4* which relates to disqualification for those with 2 or more convictions for alcohol or drug related traffic offences until they present a favourable report from an Assessment Centre; *clause 6* which relates to the removal of disqualifications from holding a drivers' licence; and *clause 8* which deals with the effect of the payment of an infringement fee after proceedings have been commenced for the infringement offence.

Part III makes changes to the principal Act in respect of breath and blood testing and related proceedings, and the random stopping of drivers in order to ascertain whether or not there is good cause to suspect that a driver has recently consumed alcohol. If that cause is given, an enforcement officer may require the driver to undergo a breath screening test.

Part IV makes miscellaneous unrelated amendments to the principal Act.

The provisions of the Bill, and the changes they make are explained in more detail below.

Clause 1 relates to the Short Title and commencement. Except as provided in specific provisions as mentioned below, the Act is to come into force 28 days after the date on which it receives the Governor-General's assent.

PART I

LICENSING OF DRIVERS OF MOTOR VEHICLES

This Part replaces the present Part III of the principal Act and the Part III which was substituted by the Transport Amendment Act 1971, but which, except for sections 28E and 29, has not been brought into force.

Clause 2 substitutes a new *Part III (sections 25 to 29F)* in the principal Act. It comes into force on 1 March 1984.

NEW PART III

LICENSING OF DRIVERS OF MOTOR VEHICLES

The new *section 25* prohibits unlicensed persons from driving motor vehicles on roads, and prohibits any person from employing or permitting any unlicensed person to drive a motor vehicle. The present exemptions for persons teaching others to drive is retained. With one exception, the provision is materially similar to the existing section 25.

The exception is the proposed *section 25 (4)* which is new. It provides that in any proceedings for an offence of failing to comply with the section, a certificate purporting to be signed by an officer of the Ministry of Transport and certifying that the officer has checked the national register of motor drivers licences and has not found an appropriate licence for a person is sufficient evidence, until the contrary is proved, that the person did not have such a licence.

The new *section 26* prohibits a person from applying for or obtaining a licence while he already holds a licence, or while he is under the age of 15 years. The provision is materially similar to subsections (3) and (4) of the existing section 26.

The new *section 27* requires the driver of any motor vehicle to produce his drivers' licence whenever requested to do so by a constable or traffic officer. Any such driver is deemed to comply with the request if he produces the licence within 7 days at a place specified by the constable or traffic officer.

These provisions are materially similar to the existing section 26 (8).

The proposed *section 27 (3)* imposes a requirement that the driver of the motor vehicle sign his name or produce other evidence to establish his identity if required to do so when producing his licence. A provision to this effect is not at present in force, but it is similar to the section 26 (8A) set out in section 4 of the Transport Amendment Act 1971 (not in force).

Issue of Licences

The new *section 28* is a new provision. It empowers the Secretary to appoint any local authority or other person to act as his agent for the purposes of this Part.

The new *section 29* is a new provision. It provides that every motor driver's licence issued by a local authority is deemed to have been issued by the Secretary.

The new *section 29A* requires local authorities that were issuing authorities to forward to the Secretary no later than *1 May 1984* such information relating to licences issued by it as the Secretary requires for the purpose of compiling and maintaining the national register of driver's licences.

The new *section 29B* provides for the issue of drivers' licences. The principal change from the existing provision is that all licences will be issued by the Secretary. At present licences are issued by both local authorities and the Secretary.

In other respects the proposed section is materially similar to subsections (1), (2), (6), (7), and (9) to (12) of the existing section 26.

The new *section 29C* requires the Secretary to keep a national register of motor drivers' licences and Court orders made in respect of them. The provision is materially similar to the present section 28A which is not in force, though the matters to be included in the register are set out in more detail.

The new *section 29D* provides for the surrender and retention by the Medical Superintendent of the driver's licences of patients who are committed patients or special patients within the meaning of the Mental Health Act 1969. Provision is made for the revocation of the licences of such patients on their discharge if the Medical Superintendent considers the patient unfit to hold a driver's licence. The Medical Superintendent may return any licence to any committed or special patient on leave if he certifies that the person is fit to hold a licence. The provision is materially similar to the existing section 28.

The new *section 29E* prohibits any person from engaging in the teaching of motor vehicle driving for reward unless he holds a current certificate of approval issued by the Secretary.

The provision is materially similar to the existing section 28B which is one of the 2 sections inserted in 1971 that has been brought into force.

The new *section 29F* provides for the making of regulations relating to drivers' licences. The empowering provisions are materially similar to the existing section 29, which is the other of the 2 sections inserted in 1971 that has been brought into force.

Clause 3 makes consequential amendments and repeals.

PART II

OFFENCES AND PENALTIES

Clause 4 which comes into force on *1 March 1984* inserts new provisions relating to persons who have more than one conviction for alcohol or drug related traffic offences within 5 years.

The proposed *section 30A* provides that where any person is convicted of any specified alcohol or drug related traffic offence and that person has been convicted of the same or any other such specified offence that was committed within 5 years of the commission of the other offence, the Court must make an order disqualifying him from holding or obtaining a driver's licence. The only exception is that the Court may make an order that the provisions relating to Assessment Centres are not to apply to the person if it is satisfied that an Assessment Centre is not reasonably available to the person and in that case a disqualification order under this provision is not to be made.

The duty to make an order under this provision does not restrict the duty or right of the Court to make any other disqualification order or to impose any other penalty.

The proposed *section 30B* sets an Assessment Centre fee of \$100 that must be paid by all persons in respect of whom an order of disqualification is made under the proposed *section 30A*, whether or not they choose to attend an Assessment Centre.

The proposed *section 30C* deals with the issue of a driver's licence to a person in respect of whom an order has been made that he should attend an Assessment Centre.

The person is entitled to have a licence issued to him if no other disqualification order is in force and he complies with the requirements relating to the issue of licences—

- (a) Not less than 6 months after the date of the order if the person has attended an Assessment Centre and the person in charge of the Centre has certified that he has received any necessary counselling or treatment and has benefited from that counselling or treatment.
- (b) Not less than 12 months after the date of the order if the person has attended an Assessment Centre and the person does not suffer from any condition that requires the counselling or treatment available at or through the Centre.

Clause 5 substitutes a new *section 31* in the principal Act which relates to the situation where a person who is disqualified from holding or obtaining a driver's licence or who holds a limited licence is convicted of any further offence that renders him liable to further disqualification.

On convicting any such person the Court is required to disqualify the person for 6 months or any longer period that is required by law.

Where the person is already subject to a disqualification the order for the further disqualification takes effect after the other period or periods of disqualification have expired. The present section 31 probably cannot be applied where a person committed an offence while disqualified but the

disqualification had expired before the date of conviction. That situation is now covered by the proposed *section 31 (3)*, while the commencement of the order in other cases is determined under *section 36* of the principal Act.

There is also doubt as to the applicability of the present section to the situation where a disqualified driver holds a limited licence. Under the proposed *section 31* such a person can be dealt with as if he were fully disqualified. *Section 38 (8)* of the principal Act should also be considered in conjunction with this provision.

Clauses 6 and 7 which come into effect on *1 March 1984* should be considered in conjunction with *clause 15* which repeals a provision empowering the Court to order attendance at a driving course on convicting any person of an offence relating to road traffic or the driving of a motor vehicle; and *clause 6* should also be considered in conjunction with the new provisions relating to Assessment Centres that are inserted by *clause 4* of this Bill.

Clause 6 amends *section 39* of the principal Act which empowers a Court to remove an order of disqualification relating to the holding of a motor driver's licence, or to issue a limited licence.

The clause inserts a provision requiring the Court, in having regard to the conduct of the person subsequent to the disqualification order, to have regard to whether or not a course operated by a traffic improvement school or defensive driving organisation was available to the person, and, if so, whether or not he attended the course and any report on him made by the person conducting the course.

Where an order has been made under the proposed *section 30A (2) (a)* in respect of the applicant the Court must also have regard to any certificate from the person in charge of an Assessment Centre as to whether or not the person has benefited from counselling or treatment, or needs or does not need counselling or treatment.

Clause 7 inserts a new *section 39A* in the principal Act which empowers the Secretary, by notice in the *Gazette*, to approve any traffic instruction school or defensive driving organisation as a school or organisation that conducts courses available to disqualified drivers.

Clause 8 amends *section 42A* of the principal Act so far as it relates to the effects and consequences of the payment of infringement fees.

The new *subsection (9)* provides that where an infringement fee is paid after the commencement of proceedings in respect of the offence, the fee is not refundable unless the person against whom the proceedings are taken is acquitted, or the proceedings are dismissed.

In an unreported High Court decision (*Mogridge v. Ministry of Transport*, Christchurch, 26 May 1982) Mr Justice Casey observed that payment of the infringement fee after the commencement of proceedings for the infringement offence was irrelevant to the action under the Summary Proceedings Act 1957, and that any practice to recover it is unauthorised. His Honour observed that it raises false expectations in the mind of the payer and tends to fetter the Court's discretion on penalty, and there may be circumstances in which the fee should be refunded on the grounds that the matter is being dealt with by the Court.

It is considered that a person who pays an infringement fee after proceedings have been commenced would not want the fee refunded to him. He will have an opportunity if he so wishes to inform the Court that he has paid the fee and the fact of that payment (albeit late) may be a matter that the Court would consider in determining the appropriate penalty for the offence.

The new *subsection (10)* is similar to the existing *subsection (9) (b)* which provides that the demerit points system is to apply to a person who pays an infringement fee as if he had been convicted of an infringement offence on the date the payment is made. The change from the existing provision is that this is now only to apply in the case of an infringement fee paid before proceedings are commenced in respect of the infringement offence.

The new *subsection (11)* is materially similar to the present *subsection (9) (a)*.

Clause 9: The effect of this clause is that a local authority that is an enforcement authority will only be able to retain infringement fees received by it in respect of parking in excess of a time limit fixed by its bylaws if the infringement notice was issued by a traffic officer employed by it. If the infringement notice was issued by a traffic officer employed by the Ministry of Transport, the fee must be paid into the Public Account.

Clause 10 substitutes a new *section 47* in the principal Act. The present *section 47* provides—

- That the Secretary must give notice to any person who incurs 60–74 demerit points informing him of the number of points recorded and the consequences of further points being recorded against him:
- That a person who has 75–100 demerit points is to be required to attend an interview with a Senior Traffic Officer or higher ranking traffic officer:
- That the licence of a person who fails to comply with a notice to attend such an interview has his licence suspended and is disqualified from holding a licence until he attends an interview.

The new *section 47* does not contain any interview procedure but requires the Secretary, where reasonably practicable, to inform any person who has 60 or more demerit points of the number of points recorded against him, and the consequences of further demerit points being recorded against him.

Those consequences are set out in *section 48* of the principal Act, and are the suspension of the licence of any person against whom more than 100 demerit points are recorded for varying periods according to the time within which the points were accumulated.

PART III

ROAD TRAFFIC

Clause 11 provides that in proceedings for a blood-alcohol offence it will not be a defence that there was or might have been an error in the evidential breath test, or that such an error did not entitle or empower any person to request or require a blood test.

The proposed change would not apply in respect of any offence that is alleged to have been committed before 1 *December 1983*.

Clause 12: The effect of *section 58A (1) (c)*, at present, is that where an enforcement officer has good cause to suspect that a person has recently committed an offence against regulations made under Part IV of the Transport Act 1962 involving the use of a motor vehicle he is entitled to require that person to undergo a breath screening test. This clause removes any doubt that regulations made under the authority of *section 77* of the Transport Act 1962 and made under *section 199* of that Act are regulations to which that provision applies. *Section 77* is in Part IV of the Act but *section 199* is not; and *section 77* specifies purposes for which regulations may be made under *section 199*.

Clause 13 amends section 58B of the principal Act which sets out various presumptions that apply in respect of proceedings for offences based on blood alcohol specimens.

The present section 58B (9) provides that a certificate purporting to be signed by a Government analyst is to be sufficient evidence of the matters stated in it relating to a blood specimen until the contrary is proved. However, such certificates are not admissible in evidence if the Court, on the application of the defendant, orders that the Government analyst who gave the certificate is to appear as a witness.

The effect of this amendment is that the Court shall not make such an order unless the application by the defendant is accompanied by an affidavit sworn by his private analyst to the effect that—

- He has not received the blood specimen relating to the defendant; or
- The specimen received by him was not capable of analysis; or
- The specimen was capable of analysis but for specified reasons the analysis was not carried out; or
- The specimen has been analysed but for specified reasons the results are not available; or
- The specimen has been analysed and found to contain not more than 80 milligrams of alcohol per 100 millilitres of blood; or
- The specimen has been analysed and found to contain 20 or more milligrams of alcohol per 100 millilitres of blood more or less than the proportion of alcohol per 100 millilitres of blood specified in the Government analyst's certificate.

Clause 14 inserts a new provision relating to the random stopping of vehicles for the purpose of determining whether or not there are grounds to require the driver to undergo a breath screening test. The section does not empower the random testing of drivers.

The proposed *section 58G (1)* empowers any traffic officer to direct the driver of any vehicle on any road to stop the vehicle so that he or another traffic officer can form an opinion as to whether or not he has grounds to require the driver to undergo a breath screening test. The traffic officer requiring the vehicle to be stopped need not have any cause to suspect that any offence has been committed.

[Under section 58A (1) of the principal Act a constable or traffic officer may require the driver of a motor vehicle on any road, or any person attempting to drive a motor vehicle on any road to undergo a breath screening test if he has good cause to suspect that the driver has recently consumed drink. He may also do so if he has good cause to suspect that any person has recently committed certain offences under the Act or regulations.]

The power to require the stopping of a vehicle conferred by the proposed *section 58G (1)* may be exercised where—

- The traffic officer is within or near an area identified as an area where vehicles are or may be stopped by traffic officers:
- There must be at least 3 traffic officers within or near the area:
- All the traffic officers must be in uniform:
- The traffic officer must have a warrant issued by the Secretary authorising him to act under this provision:
- All vehicles used by traffic officers at or near the area must be marked vehicles.

The proposed *section 58G (3)* provides that it is not a defence to any proceedings for an offence that any of the requirements set out in the proposed *subsection (2)* have not been strictly complied with, or have not been complied with at all, so long as there is reasonable compliance with the requirements.

In the absence of proof to the contrary, it is to be presumed that the requirements have been complied with.

It will be an offence to fail to comply with any direction to stop a motor vehicle given under the proposed *section 58G (1)*, and any person who commits that offence may be arrested by a constable without warrant.

The proposed *section 58G (6)* provides that where a traffic officer requires a driver to stop a vehicle under this section he or any other traffic officer may exercise any other power conferred upon him by the principal Act or any other Act.

The proposed *section 58G (7)* provides that the powers conferred by the new section to require a driver to stop a vehicle may be exercised irrespective of any other power to stop a vehicle, and do not restrict any other power to stop a vehicle. Nor do the powers conferred by this section prevent a traffic officer from deciding to require a driver to undergo a breath screening test, after stopping the vehicle under any other power to stop a vehicle conferred upon him by the principal Act or any other Act, if he then has good cause to suspect that the driver has been drinking.

The random stopping provision expires on *31 December 1985*.

Clause 15, which comes into force on *1 March 1984*, repeals section 68 of the principal Act which empowers a Court to order a person convicted of a driving offence to attend a course of instruction at a traffic improvement school or defensive driving organisation.

In future, Courts will not be able to order attendance at such courses, but, under the amendments proposed by *clause 6* of this Bill, voluntary attendance at such courses is a matter for consideration on an application for removal of a disqualification order.

Clause 16 deals with the jurisdiction of traffic officers. The principal change is that the jurisdiction of traffic officers appointed by a territorial authority is extended to any road. At present the jurisdiction is only extended beyond the area of the territorial authority that appointed the traffic officer in limited situations.

The clause also provides that powers conferred by other Acts on traffic officers may be exercised in the same manner as powers conferred by the principal Act. For example, the Civil Defence legislation confers certain powers on traffic officers in national and civil defence emergencies.

This clause is similar to clause 14 of the Transport Amendment Bill 1981, though the last-mentioned point was not included in that clause.

Clause 17: At present, section 69A (2) of the principal Act requires a traffic officer to direct that an over-weight vehicle be kept stopped if it exceeds a weight restriction by 20 percent or 5,000 kilograms, unless the load on the vehicle is indivisible. The effect of this clause is to remove the reference to the indivisibility of the load, and the traffic officer will be required to direct that such over-weight vehicles be kept stopped in all cases.

PART IV

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

Clause 18, which comes into force on *1 March 1984*, inserts a definition of the term "moped" in the principal Act and repeals the definition of the term "power cycle". The principal change is that a moped must be designed to be ridden at a speed not exceeding 50 kph under normal conditions of use, while there is no such restriction in the definition of the term "power cycle".

Clause 19 exempts trailers attached to or being drawn by certain exempted vehicles from the registration and licensing provisions of the Act. This clause is the same as clause 13 of the Transport Amendment Bill 1981.

Clause 20: The effect of this clause is that officers of the Crown, local authorities, and automobile associations acting in the course of their duties will no longer be entitled to a certificate of the name and address of the owner of a motor vehicle free of charge, but will be required to pay the prescribed fee. Provision is also made for the information to be given without prior payment of the fee if the Registrar is satisfied that adequate arrangements for its payment have been made.

Clause 21 permits the Registrar to endorse on the particulars of a change of ownership a certificate of registration or duplicate certificate without the signature of the person selling or otherwise disposing of the vehicle if the Registrar is satisfied that ownership of the vehicle has changed, and the person who should have signed the notice of change of ownership has failed or refused to do so. The person seeking the endorsement must make a statutory declaration that he is the new owner of the vehicle, explaining the circumstances in which he became the new owner, and detailing any efforts he has made to have the previous owner sign the notice of change of ownership.

Hon. Mr Gair

TRANSPORT AMENDMENT (NO. 4)

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A BILL INTITULED

An Act to amend the Transport Act 1962

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

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1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act (No. 4) 1982, 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 sections 2 (2), 3 (12), 4 (2), 6 (2), 7 (2), 11 (2), 15 (3), and 18 (6) of this Act, this Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent. 10

PART I

LICENSING OF DRIVERS OF MOTOR VEHICLES

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2. New Part substituted—(1) The principal Act is hereby amended by repealing Part III, and substituting the following Part:

"PART III

"LICENSING OF DRIVERS OF MOTOR VEHICLES

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"25. Unlicensed persons not to drive motor vehicles—
(1) Except as otherwise provided in this section, no person shall—

"(a) Drive a motor vehicle on any road, unless he is the holder of a driver's licence for the time being in force which authorises him to drive such a motor vehicle; or 25

"(b) Employ or permit any other person to drive a motor vehicle on any road, unless that other person is the holder of a driver's licence for the time being in force which authorises him to drive such a motor vehicle. 30

"(2) Subject to subsection (3) of this section, where any person (in this section called 'the learner') is driving a motor vehicle— 35

*Reprinted 1974, Vol. 3, p. 2489

Amendments: 1975, No. 4; 1976, No. 126; 1977, No. 3; 1978, Nos. 3, 46; 1979, No. 17; 1980, No. 96; 1982, Nos. 4, 10, 105

“(a) Accompanied by a person seated alongside him who is teaching the learner to drive and who is the holder of a driver’s licence for the time being in force which authorises him to drive such a motor vehicle; or

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“(b) Under the direction of a testing officer for the issue or extension of a motor driver’s licence—

the learner, any person employing or permitting the learner to drive the motor vehicle, and the testing officer shall be deemed not to be acting in contravention of subsection (1) of this section.

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“(3) Nothing in subsection (2) of this section applies in any case where—

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“(a) The learner has not attained the age that qualifies him to obtain a driver’s licence to drive the motor vehicle that he is driving; or

“(b) The learner is subject to an order that disqualifies him from holding or obtaining a driver’s licence and is not driving the vehicle in accordance with a limited licence authorised under section 38 of this Act.

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“(4) Every person commits an offence who acts in contravention of subsection (1) of this section.

“(5) In any proceedings against any person for acting in contravention of subsection (1) of this section, a certificate purporting to be signed by an officer of the Department to the effect that he has checked the register of drivers’ licences kept by the Secretary under section 29c of this Act, and—

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“(a) Has found no record that the person has ever held a driver’s licence; or

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“(b) Has found a record that the person has held a licence to drive a vehicle of the type referred to in the proceedings, and that the licence has expired; or

“(c) Has found a record that the person holds a licence to drive a vehicle, but not a vehicle of the type referred to in the proceedings; or

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“(d) Has found a record that the person holds a licence to drive a vehicle, but not a vehicle of the type referred to in the proceedings, and that the licence has expired—

40 shall, in the absence of proof to the contrary, be sufficient evidence of the matters contained in the certificate.

“(6) In any proceedings against any person for failing to comply with the requirements of subsection (1) of this section, a certificate purporting to be signed by any officer of the Department to the effect that the person has checked the

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register of driver's licences kept by the Secretary under section 29c of this Act and has not found any record of a licence currently in force for that person authorising him to drive such a motor vehicle shall, in the absence of proof to the contrary, be sufficient evidence that the person did not hold a licence to drive such a motor vehicle. 5

Cf. 1962, No. 135, s. 25; 1964, No. 126, s. 4; 1971, No. 57, s. 3 (s. 25)

“26. Prohibitions relating to drivers' licences—(1) The holder of a driver's licence shall not apply for or obtain another driver's licence while the licence held by him is in force; and any licence that is so obtained shall be of no effect. 10

“(2) No person who is under the age of 15 years shall apply for or obtain a driver's licence; and any licence that is obtained by any such person shall be of no effect. 15

Cf. 1962, No. 135, s. 26 (3), (4); 1971, No. 57, s. 3 (s. 26 (3), (4))

“27. Production of driver's licence on request—(1) The driver of any motor vehicle shall produce his driver's licence for inspection whenever requested to do so by a constable or traffic officer. 20

“(2) Any person to whom a request is made under subsection (1) of this section shall be deemed to have complied with the request if, within 7 days after having been so required to produce his driver's licence, he produces it at a place specified by the constable or traffic officer. 25

“(3) Where the driver of a motor vehicle produces his driver's licence under subsection (1) or subsection (2) of this section, he shall, if so required by the person to whom it is produced, sign his name with his ordinary signature to establish that he is the holder of the licence, or establish his identity by some other means. 30

Cf. 1962, No. 135, s. 26 (8); 1971, No. 57 s. 3 (s. 26 (8) (8A)); 1972, No. 129, s. 4

Issue of Licences

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“28. Secretary may appoint local authority or other person as agent—(1) The Secretary may appoint any local authority or other person as his agent for the purposes of this Part of this Act; and any agent so appointed shall have and may exercise all the functions, duties, and powers of the Secretary under this Part of this Act. 40

“(2) The Secretary may enter into contracts with any local authority or other person setting out the conditions under which the local authority or other person may act as the agent of the Secretary for the purposes of this Act; including
5 conditions relating to retention by the agents of part of the fees payable for the issue of licences under this Part of this Act or other means of remuneration of agents, maintenance of records by agents, confidentiality, the forwarding to the Secretary of details of licences issued, matters that may result
10 in the termination of agencies by the Secretary, and other conditions relating to the proper and efficient conduct of the agency.

“29. **Licences issued by local authorities deemed to have been issued by Secretary**—Every driver’s licence
15 issued under this Act by any local authority before the commencement of this Part of this Act is hereby deemed to have been issued by the Secretary.

“29A. **Details of licences issued by issuing authorities to be forwarded to Secretary**—Every local authority that
20 was, at the commencement of this Part of this Act, an issuing authority within the meaning of this Act shall forward to the Secretary, not later than the 1st day of May 1984, such details concerning drivers’ licences issued by it as the Secretary may require for the purposes of compiling and maintaining the
25 national register of drivers’ licences in accordance with section 29C of this Act.

“29B. **Issue of drivers’ licences and extensions of licences**—(1) The Secretary shall, on receipt of the prescribed fee (if any) for each licensing year for which the
30 licence is issued, issue a driver’s licence to any person who satisfies him that he is qualified in accordance with this Act and with any regulations made under this Act to be the holder of a driver’s licence to drive the class or classes of motor vehicles specified in the licence.

35 “(2) The Secretary shall grant an extension of any driver’s licence, where the holder of that licence satisfies him that he is qualified in accordance with this Act and with any regulations made under this Act to be the holder of a driver’s licence to drive the class or classes of motor vehicles in respect
40 of which the extension is applied for.

“(3) Except as may be otherwise provided by this Part of this Act or by regulations made under this Act, every driver’s licence shall be operative throughout New Zealand, and shall remain in force until the end of the licensing year in which it

takes effect or, at the option of the holder and on payment of the appropriate prescribed fee, the end of the first or second or third or fourth licensing year after the licensing year in which the driver's licence takes effect, and, unless renewed, shall then expire.

“(4) Nothing in this section shall be construed so as to authorise the issue to any person of a driver's licence having effect in any licensing year after the year in which it is issued, if, pursuant to regulations made under this Act, an application by that person for a driver's licence for that licensing year would have to be accompanied by a medical certificate.

“(5) Where, during the currency of a driver's licence, the holder is granted an extension of the licence authorising him to drive the class or classes of motor vehicle specified in the extension, and the application for the extension is required by regulations made under this Act to be accompanied by a medical certificate, the driver's licence so extended shall expire at the end of the licensing year in which the extension was granted.

“(6) Unless otherwise provided by regulations under this Act, where any applicant for a driver's licence or an extension of a driver's licence is required to undergo any practical driving test on the ground that he has not previously or within a prescribed period been the holder of a driver's licence granted in New Zealand of the class applied for, there shall be payable by the applicant, in addition to the fee prescribed for the purposes of subsection (1) of this section, the prescribed testing fee (if any), and that testing fee shall be payable whether or not a driver's licence or extension of a driver's licence is granted to him.

Cf. 1962, No. 135, s. 26 (1), (2), (5)–(7), (9)–(12); 1964, No. 126, s. 5; 1966, No. 107, s. 5; 1971, No. 57, s. 3 (s. 26 (1), (2), (5)–(7), (9), (10)); 1980, No. 96, s. 6

“29c. **National register of driver's licences**—The Secretary shall keep a national register of all driver's licences issued or deemed to have been issued by him under this Act, showing with respect to each driver's licence the following particulars:

- “(a) The full name, address, and date of birth of the holder of the licence:
- “(b) The number of the licence:
- “(c) The date of issue of the licence:
- “(d) The date of expiry of the licence:

- “(e) The class or classes of vehicles to which the licence applies:
- “(f) Any conditions subject to which the licence is issued:
- 5 “(g) Particulars of any order of disqualification made against the holder of the licence under section 30 or section 30A or section 32 of this Act:
- “(h) Particulars of any order made under section 38 of this Act whereby a limited licence is issued to a person who has been disqualified by an order made under Part IV of this Act from holding or obtaining a driver’s licence:
- 10 “(i) Particulars of any order made under section 39 of this Act whereby the disqualification of a motor driver is removed.
- 15 “(j) Particulars of any suspension of a licence or disqualification from holding a licence under section 47 or section 48 of this Act:
- “(k) Particulars of any order of disqualification made against the holder of the licence under section 44A of the Criminal Justice Act 1954:
- 20 “(l) Particulars of any revocation or suspension of the licence under any regulations made under the authority of section 29F of this Act.

Cf. 1962, No. 135, s. 28A; 1971, No. 57, s. 3 (s. 27)

25 “29D. **Licences of mentally disordered persons to be suspended**—(1) Where any person becomes a committed patient or a special patient within the meaning of the Mental Health Act 1969 and is at the date he becomes a committed patient or a special patient the holder of a driver’s licence, 30 that licence shall be deemed to be suspended on and from that date until such time as he is neither a committed patient nor a special patient under that Act.

“(2) Any person who has possession of a driver’s licence of any person who is a committed patient or a special patient 35 within the meaning of the Mental Health Act 1969 shall, on the request of the Medical Superintendent of the hospital in which the holder of the licence is received or detained, deliver the licence to that Medical Superintendent, who shall retain the licence until the person ceases to be a committed patient 40 or a special patient in that hospital.

“(3) Where a person to whom this section applies ceases to be a committed patient, or, as the case may be, ceases to be a special patient without becoming a committed patient, under the Mental Health Act 1969 and the Medical Superintendent

considers him to be unfit to hold a driver's licence, the Medical Superintendent shall forward to the Secretary a certificate to that effect together with that person's driver's licence, which shall thereupon be deemed to be revoked.

“(4) Where—

5

“(a) Any person to whom subsection (1) of this section applies is, under section 66 of the Mental Health Act 1969, permitted to be absent on leave from a hospital under that Act; and

“(b) The Medical Superintendent of the hospital certifies 10 in writing that in his opinion that person is fit to hold a driver's licence—

the provisions of subsection (1) of this section shall not apply to that person while he is absent on leave from the hospital, and, if his driver's licence is held by the Medical 15 Superintendent pursuant to subsection (2) of this section, the Medical Superintendent shall return it to him.

Cf. 1962, No. 135, s. 28; 1971, No. 57, s. 3 (s. 28A)

“29E. **Professional driving instructors**—No person shall engage for financial gain in the teaching of motor vehicle 20 driving unless he is the holder of a certificate of approval for the time being in force issued by the Secretary under the authority of regulations made pursuant to section 29F of this Act.

Cf. 1962, No. 135, s. 28B; 1971, No. 57, s. 3 (s. 28B)

“29F. **Regulations as to motor drivers' licences**— 25 Without limiting the general power to make regulations conferred by section 199 of this Act, regulations may be made under that section for all or any of the following purposes:

“(a) Providing, either generally or with respect to any particular locality or localities, or with respect to 30 any particular class or classes of motor vehicles, for the examination and testing of applicants for drivers' licences or extensions of drivers' licences or of any class of such applicants; and prescribing the persons or classes of persons by whom the 35 examinations and tests are to be conducted, and the conditions upon or subject to which licences or extensions may be granted:

“(b) Providing for the granting of different classes of drivers' licences, and prescribing the effect of 40 drivers' licences of each class:

- 5 “(c) Providing that in the case of a renewal, an extension, or any other alteration to any driver’s licence, the renewal, extension, or alteration may be made by the issue of a new driver’s licence or by endorsement on the existing licence, as the case may be; and providing for the issue of interim licences pending the issue of such new licences:
- 10 “(d) Providing for granting of probationary drivers’ licences, and prescribing the period or periods of probation and the conditions upon or subject to which those licences may be issued; and applying to those licences with such modifications as may be considered necessary, any of the provisions of this Act and any regulations made pursuant to any other provisions of this section; and providing for the revocation or suspension of a probationary driver’s licence upon the conviction of the holder for an offence in connection with the driving of a motor vehicle:
- 15 “(e) Providing, notwithstanding anything in this Act, for the issue of provisional, restricted, and full motor drivers’ licences authorising the holders to drive motor cycles only; and prescribing the terms and conditions upon or subject to which those licences may be issued; and prescribing the fees for the issue of those licences; and prescribing that the holders of provisional or restricted licences may drive only motor cycles with engines of limited total piston displacement, or, in the case of motor cycles with an electrically driven engine, with engines of limited power output; and applying to licences to drive a motor cycle, with such modifications as are considered necessary, any of the provisions of this Part of this Act and of any other regulations made pursuant to this section:
- 20 “(f) Providing for the issue of provisional motor drivers’ licences authorising the holder to drive a motor vehicle other than a motor cycle; and prescribing the terms and conditions upon or subject to which those licences may be issued; and prescribing the fees for those licences; and prescribing that such a provisional licence may not be issued until the applicant has demonstrated by written and oral examination that he has a knowledge of traffic law; and prescribing that the holder of such a
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provisional licence may not drive a motor vehicle, unless he is accompanied by a person who holds a motor driver's licence for that class of vehicle and is engaged in teaching the holder of the provisional licence to drive; and prescribing that a person may not drive any motor vehicle on any road as a learner driver, unless he is in possession of such a provisional motor driver's licence: 5

“(g) Providing for the granting of extensions of drivers' licences: 10

“(h) Providing for the special examination and testing of the holders of drivers' licences in any case where it is considered by the Secretary to be necessary in the interest of public safety, and for the revocation of their drivers' licences if the holders refuse or neglect to submit to the examination or testing, or if they are found, whether as a result of examination or testing or otherwise, to be for any reason unfit to continue to hold their drivers' licences, subject to a right of appeal against the revocation to a District Court Judge, whose decision shall be final; and prescribing the time within which and the manner in which such appeals may be made: 15 20

“(i) Providing for the exemption, either unconditionally or upon or subject to such conditions as may be prescribed by or in accordance with the regulations, of any person who is a visitor to New Zealand from overseas from any of the requirements of this Act with respect to a licence to drive a motor vehicle, and delegating to the Minister power to grant any such exemption or to appoint any person to grant such exemption: 25 30

“(j) Prescribing, or authorising the Secretary to prescribe, forms of drivers' licences, forms of applications for drivers' licences, and other forms that may be required for the purposes of this Part of this Act or of any regulations made under this Act: 35

“(k) Prescribing, or authorising the Secretary to prescribe, the documentary evidence of identity and date of birth which must be submitted with any application for a driver's licence or for any extension or renewal of a driver's licence: 40

5 “(1) Providing for the issue by the Secretary of certificates
of approval to persons engaged for reward in
teaching motor-vehicle driving, and prescribing
the conditions (including conditions as to the
character of applicants for or holders of such
certificates and the examination and testing of such
applicants) upon or subject to which those
certificates may be issued or revoked, subject to a
right of appeal to a District Court Judge, whose
10 decision shall be final, against any decision of the
Secretary refusing to issue such a certificate or
revoking such a certificate:

15 “(m) Providing that where a person applies for a driver’s
licence or a probationary driver’s licence, and that
person has not previously been the holder of a
motor driver’s licence granted in New Zealand, the
applicant may be required to demonstrate a
knowledge of traffic law and of the principles of
safe and efficient operation of motor vehicles, as set
out in publications published by the Government
Printer and available in New Zealand, either by
20 way of free issue or by way of sale.”

(2) This section shall come into force on the 1st day of
March 1984.

25 Cf. 1962, No. 135, s. 29; 1971, No. 57, s. 3 (s. 29); 1974,
No. 61, s. 5; 1978, No. 46, s. 2

3. Consequential amendments and repeals—(1) Section
2 (1) of the principal Act (as substituted by section 2 (1) of
the Transport Amendment Act 1972) is hereby consequen-
30 tially amended by repealing the definition of the term
“issuing authority”, and substituting the following definition:

35 “‘Issue’, in relation to any motor driver’s licence,
includes, where appropriate, the issue of a renewal
notice for insertion in an existing licence and the
alteration of any existing licence to show that it
applies in respect of any class or classes of motor
vehicle:”.

(2) Section 2 (1) of the principal Act (as so substituted) is
hereby further amended by repealing the definition of the
40 term “licensing year”, and substituting the following
definition:

“ ‘Licensing year’ in relation to any driver’s licence means a period of 12 months ending with the 30th day of June in any year, and in relation to any such licence issued during that period means the period commencing with the date of issue of the licence and ending with the next 30th day of June:” 5

(3) Section 2 (1) of the principal Act (as so substituted) is hereby further amended by omitting from the definition of the term “motor driver’s licence” the expression “section 29”, and substituting the expression “section 29F”. 10

(4) Section 32 (2) (a) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “, whether or not the licence with respect to which the application is made has been issued by that authority”. 15

(5) Section 33 (3) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “local authority on behalf of which the tests were conducted”, and substituting the word “Secretary”. 20

(6) Section 37 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) Every person who receives a licence under subsection (1) of this section shall forward it to the Secretary who shall retain it until the disqualification has expired or has been removed, and the person entitled to the licence has made a request in writing for it to be returned to him.” 25

(7) Section 38 (6) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “any local authority or the Secretary, as the case may require,”, and substituting the words “the Secretary”. 30

(8) Section 38 (7) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “the local authority or the Secretary, as the case may be,”, and substituting the words “the Secretary”. 35

(9) Section 40 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “and to the local authority by which the licence (if any) of the defendant was issued”. 40

(10) Section 41 (5) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby 45

amended by omitting the words “and also to the local authority by which the licence (if any) of the defendant was issued”.

(11) The following enactments are hereby consequentially
5 repealed:

(a) Sections 4 to 6 of the Transport Amendment Act 1964:

(b) Section 4 of the Transport Amendment Act 1965:

(c) Sections 5 to 8 of the Transport Amendment Act 1966:

(d) Sections 3 and 4 of the Transport Amendment Act
10 1971:

(e) Section 5 of the Transport Amendment Act 1974:

(f) The Transport Amendment Act Commencement Order
1976 (S.R. 1976/203).

(12) This section shall come into force on the 1st day of
15 March 1984.

PART II

OFFENCES AND PENALTIES

4. New sections inserted—(1) The principal Act is hereby amended by inserting, after section 30, the following sections:

20 “**30A. Court orders relating to persons convicted twice or more of alcohol or drug related traffic offences**—
Where—

“**(a)** Any Court convicts any person of an offence against
25 any of the following provisions of this Act, namely,—

“**(i)** Section 55 (2); or

“**(ii)** Section 56 (1A) (b); or

“**(iii)** Section 58; or

“**(iv)** Section 58A (5); or

30 “**(v)** Section 58B (13); or

“**(vi)** Subsection (1) or subsection (2) of section
58C; and

“**(b)** The offence in respect of which the person is convicted
35 was committed after the 1st day of December 1983;
and

“**(c)** The person has previously been convicted of an
40 offence against the same provision or against any
other provision specified in paragraph (a) of this
subsection, being an offence committed within 5
years before the date of the commission of the
offence to which that paragraph relates,—

the Court shall make an order under subsection (2) of this
section.

“(2) Where any Court is required by subsection (1) of this section to make an order in respect of any person the Court shall—

“(a) Make an order under this section disqualifying the person from holding or obtaining a driver’s licence; 5
or

“(b) If it is satisfied in the particular case that there is no Assessment Centre that is reasonably available to the person, make an order that nothing in sections 30B to 30C of this Act is to apply to that person. 10

“(3) The duty imposed upon the Court by this section shall not in any way restrict any other duty or power of the Court to disqualify any person from holding or obtaining a driver’s licence, or to impose any other penalty.

(4) For the avoidance of doubt it is hereby declared that 15 sections 33 to 41 of this Act shall apply in respect of any order made under subsection (2) (a) of this section and any person in respect of whom such an order is made.

“**30B. Assessment Centre fee**—(1) Every person in respect of whom an order is made under section 30A (2) (a) of 20 this Act shall pay an Assessment Centre fee of \$100, which shall be payable whether or not that person attends an Assessment Centre.

“(2) Where any person is required to pay any fee under subsection (1) of this section that fee shall be payable to the 25 Court and shall be recoverable in the same manner as any fine imposed by the Court on the conviction of that person.

“**30C. Issue of licence to disqualified person after attendance at Assessment Centre**—(1) Where an order has been made under section 30A (2) (a) of this Act in respect of 30 any person (in this section called “the applicant”), the Secretary shall, if he is satisfied that the requirements of this Act and any regulations made under this Act relating to the issue of a driver’s licence to the applicant have been complied with, and that the applicant is not disqualified from holding 35 or obtaining a driver’s licence other than by virtue of an order made under section 30A (2) (a) of this Act, issue a licence to the applicant on his application if—

“(a) Not less than 6 months after the date of the order, the applicant has submitted to the Secretary a 40 certificate from the person in charge of an Assessment Centre to the effect that—

“(i) The applicant has attended the Assessment Centre; and

“(ii) The applicant has received any necessary counselling or treatment at the Centre or as recommended by the Centre; and

5 “(iii) The applicant has benefited from the counselling or treatment; or

“(b) Not less than 12 months after the order, the applicant has submitted to the Secretary a certificate from the person in charge of the Assessment Centre to the effect that—

10 “(i) The applicant has attended the Assessment Centre; and

“(ii) That he is satisfied that the person does not have a condition that requires the counselling or treatment that is available at or at the recommendation of the Centre.

15 “(2) The effect of the issue under subsection (1) of this section of a licence to the applicant shall be to terminate the order of disqualification made in respect of him under section 30A (2) (a) of this Act.”

20 (2) Section 2 of the principal Act (as substituted by section 2 (1) of the Transport Amendment Act 1972) is hereby amended by inserting, after the definition of the term “approved urban transport scheme” (as inserted by section 42 of the Urban Transport Act 1980), the following definition:

25 “ ‘Assessment Centre’ means any establishment for the time being approved as an Assessment Centre for the purposes of this Act by the Director-General of Health.”

5. Application of disqualification provisions where offender already disqualified—The principal Act is hereby amended by repealing section 31 (as substituted by section 2 of the Transport Amendment Act 1970), and substituting the following section:

35 “31. (1) Where—

“(a) Any person who is disqualified from holding or obtaining a driver’s licence; or

“(b) Any person who holds a limited licence issued under section 38 of this Act—

40 is convicted of any offence that renders him liable to be disqualified from holding or obtaining a driver’s licence, the Court shall, subject to subsection (2) of this section, order him to be disqualified from holding or obtaining a driver’s licence for a period of 6 months, or where any provision of this Act requires that a longer period of disqualification be
45 ordered, for that longer period.

“(2) The penalty that shall be imposed by the Court under subsection (1) of this section shall be in addition to any other penalty that may be imposed and without prejudice to any power of the Court to order a longer period of disqualification.

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“(3) Where any person in respect of whom an order is made under subsection (1) of this section is at the time when the order is made already disqualified from holding or obtaining a driver’s licence, the period of disqualification ordered under subsection (1) of this section shall commence on the date on which the order or the last of the orders to which he is already subject ceases to have effect, and in every other case shall commence in accordance with section 36 of this Act.”

10

6. Removal of disqualification—(1) Section 39 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by inserting, after subsection (1), the following subsection:

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“(1A) In having regard under subsection (1) of this section to the conduct of any person subsequent to an order disqualifying him from holding or obtaining a driver’s licence, the Court shall have regard to—

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“(a) Whether or not any course operated by a traffic improvement school or defensive driving organisation approved under section 39A of this Act was reasonably available to that person; and

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“(b) Whether or not that person attended that course; and

“(c) Any report of any person conducting such a course on the conduct of the person in respect of whom the order was made, and on his awareness of the responsibilities of drivers and suitability to hold a driver’s licence; and

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“(d) Any certificate from the person in charge of an Assessment Centre as to whether or not the person has benefited from the counselling or treatment available at or under the direction of the Centre, or the need or lack of a need of the person for such counselling or treatment.”

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(2) This section shall come into force on the 1st day of March 1984.

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7. Approval of traffic improvement schools and defensive driving courses—(1) The principal Act is hereby amended by inserting, after section 39, the following section:

“39A. The Secretary may, by notice in the *Gazette*, approve any traffic instruction school conducted by the Department or any local authority, or any defensive driving organisation as a school or organisation that conducts courses available to
5 persons in respect of whom orders disqualifying them from holding or obtaining a driver’s licence have been made by any Court.”

(2) This section shall come into force on the 1st day of March 1984.

10 **8. Infringement fees**—Section 42A of the principal Act (as enacted by section 7 of the Transport Amendment Act 1980) is hereby amended by repealing subsection (9), and substituting the following subsections:

15 “(9) Where proceedings are being or have been taken against a person under the Summary Proceedings Act 1957 for an infringement offence and the infringement fee is paid after the commencement of the proceedings, the infringement fee shall not be refundable to the person who made the payment unless the person against whom the proceedings are
20 or have been taken is acquitted of the infringement offence, or the proceedings in respect of the offence are dismissed.”

“ (10) Where an infringement fee is paid to an enforcement authority before the commencement of proceedings in respect of the infringement offence for which the fee has been paid,
25 sections 44 to 51 of this Act shall apply as if the person to whom the infringement notice, or a copy of that notice, was delivered or sent had been convicted of the infringement offence on the date on which the payment is made.

30 “(11) Where an infringement fee is paid to an enforcement authority other than the Department, the enforcement authority shall send to the Secretary such particulars of the infringement offence and the payment as the Secretary requires.”

9. Retention of infringement fees by local
35 **authorities**—Section 43 (2) (a) (ii) of the principal Act (as enacted by section 7 of the Transport Amendment Act 1980) is hereby amended by inserting, after the words “the bylaw”, the words “where the infringement notice in respect of the offence was issued by a traffic officer employed by that
40 authority”.

10. Notice of demerit points—The principal Act is hereby amended by repealing section 47 (as substituted by section 2 of the Transport Amendment Act 1970), and substituting the following section:

“47. The Secretary shall, where reasonably practicable, 5
cause a notice in writing to be given to any person in respect
of whom 60 or more demerit points have been recorded
informing that person of the number of demerit points so
recorded and the consequences of further demerit points
being recorded against him.” 10

Cf. 1962, No. 135, s. 47; 1974, No. 61, s. 11

PART III

ROAD TRAFFIC

11. Error in evidential breath test not to vitiate proceedings for offence relating to blood alcohol concentration—(1) Section 58 of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by adding the following subsections: 15

“(5) It shall not be a defence to a charge under subsection 20
(1) (b) of this section—

“(a) That there was or may have been an error in the result
of the evidential breath test; or

“(b) That the occurrence or likely occurrence of any such
error did not entitle or empower any person to 25
request or require a blood test.

“(6) Subsection (5) of this section shall not apply in respect
of any offence that is alleged to have been committed before
the 1st day of December 1983”.

(2) This section shall come into force on the 1st day of 30
December 1983.

12. 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 omitting from subsection (1) (c) the words “made under this Part of this Act”, and substituting the words “authorised by section 77 of this Act 35
and made under section 199 of this Act”.

13. Analyst’s certificate relating to blood specimen analysis conclusive evidence in certain cases—Section 58B of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended 40
by inserting, after subsection (9), the following subsection:

5 “(9A) The Court shall not make an order under paragraph (e) or paragraph (f) of subsection (9) of this section unless the application made by the defendant is accompanied by an affidavit sworn by the private analyst specified by the defendant or his solicitor or counsel under subsection (7) of this section to the effect that—

10 “(a) Since the date given to him as the date on which application was made under subsection (7) of this section for the sending to him of a blood specimen relating to the defendant he has not received any such specimen; or

“(b) The blood specimen received by him relating to the defendant—

15 “(i) Was not suitable for analysis; or

“(ii) Was suitable for analysis but, for specified reasons, that analysis was not carried out; or

“(iii) Was suitable for analysis and that analysis was carried out but, for specified reasons, the results of the analysis are not available; or

20 “(c) The blood specimen received by him relating to the defendant has been analysed and found to contain not more than 80 milligrams of alcohol per 100 millilitres of blood; or

25 “(d) The blood specimen received by him relating to the defendant has been analysed and found to contain 20 or more milligrams of alcohol per 100 millilitres of blood more or less than the proportion of alcohol per 100 millilitres of blood specified in the certificate given under subsection (9) (a) (ii) of this section.”

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14. Stopping of vehicle for possible breath screening test of driver—The principal Act is hereby amended by inserting, after section 58F, the following section:

35 “58G. (1) Any traffic officer may, whether or not he has good cause to suspect that any offence has been committed against this or any other Act, direct the driver of any vehicle on any road to stop that vehicle so that the traffic officer or any other traffic officer may form an opinion about whether or not he has grounds under section 58A (1) of this Act to require

40 the driver to undergo a breath screening test.

“ (2) The power to direct a driver to stop a vehicle conferred by subsection (1) of this section may be exercised where—

- “(a) The traffic officer exercising the power to direct a driver to stop a vehicle is within or near an area that is identified by signs, lights, or other devices as a place where vehicles are intended to be or are being stopped by traffic officers; and 5
- “(b) No fewer than 3 traffic officers are within or near the area; and
- “(c) All traffic officers within or near the area are in uniform; and
- “(d) Every traffic officer exercising the power to direct a driver to stop a vehicle has in his possession, and produces if requested to do so, a warrant issued by the Secretary authorising him to direct drivers to stop vehicles under this section; and 10
- “(e) The vehicles used by the traffic officers at the area are marked in the manner ordinarily used for marking marked vehicles of the Ministry of Transport or the local authority that employs traffic officers. 15
- “(3) It shall not be a defence to any proceedings for any offence against this Act or any regulations made under this Act that any of the requirements of subsection (2) of this section were not strictly complied with or were not complied with at all, provided there has been reasonable compliance with those requirements. 20
- “(4) In any proceedings for any offence against this Act or any regulations made under this Act it shall be presumed, until the contrary is proved, that the requirements of subsection (2) of this section have been complied with. 25
- “(5) Every person commits an offence against this Act who fails to comply with any direction given under subsection (1) of this section, and may be arrested by any constable without warrant. 30
- “(6) Where any traffic officer requires any driver to stop any vehicle under the powers conferred by this section he or any other traffic officer may exercise any other power conferred upon him by this or any other Act. 35
- “(7) The powers conferred by this section may be exercised notwithstanding any other power conferred by this or any other Act on any traffic officer to require any person to stop any vehicle, or any obligation imposed by this or any other Act on any person to stop any vehicle, and shall not in any way affect or restrict any such powers or obligations, or the actions that may be taken in the exercise of any such powers. 40
- “(8) This section shall expire with the close of the 31st day of December 1985 and shall be deemed to be repealed as from the close of that day.” 45

15. Repeal of provision empowering Court to order attendance at traffic improvement school or defensive driving course—(1) The following enactments are hereby repealed:

- 5 (a) Section 68 of the principal Act:
(b) Section 6 of the Transport Amendment Act (No. 2) 1971:
(c) Section 19 of the Transport Amendment Act 1974.
10 (2) The repeal of the enactments specified in subsection (1) of this section shall not affect the validity of any order made by any Court before the commencement of this section, or the obligations of any person under any such order.
(3) This section shall come into force on the 1st day of March 1984.

15 **16. Jurisdiction of traffic officers—**(1) The principal Act is hereby amended by repealing section 68D (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967), and substituting the following section:

20 “68D. (1) Any power or authority conferred by this or any other Act or by any regulations or bylaws for the time being in force under this or any other Act on any traffic officer who is an officer of the Department, or a traffic officer who is appointed as such by a territorial authority, may be exercised by that officer on any road.

25 “(2) Any power or authority conferred by this or any other Act or by any regulations or bylaws for the time being in force under this or any other Act on any traffic officer to whom subsection (1) of this section does not apply may be exercised by that traffic officer—

30 “(a) On any road that is under the control of the authority by which he has been appointed as a traffic officer:

“(b) On any other road—

35 “(i) Where he has good cause to suspect that an offence against section 58 of this Act has been committed by the driver or person in charge of a motor vehicle on a road that is under the control of the authority by which he has been appointed as a traffic officer:

40 “(ii) For the purpose of identifying or arresting, pursuant to section 62 of this Act, the driver or person in charge of the motor vehicle or of identifying the motor vehicle or of preventing the continuance of the offence, where he has good cause to suspect that any other offence against this

Act or any offence against any regulations or bylaws in force under this Act has been committed by the driver or person in charge of any motor vehicle within the area under the control of that other authority, and it is necessary for him to proceed beyond that district or area for that purpose: 5

“(iii) In any case where he believes on reasonable grounds that it is necessary for him to exercise that power or authority in order to deal with any accident or emergency or to prevent the continuance of any danger to the public or to any person.” 10

(2) Section 10 of the Transport Amendment Act 1980 is hereby consequentially repealed. 15

17. Duty of traffic officer to order overloaded motor vehicle off road—Section 69A (2) of the principal Act (as substituted by section 21 (1) of the Transport Amendment Act 1974) is hereby amended by omitting the words “, unless the load on the motor vehicle is indivisible,”. 20

PART IV

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

18. Definition of term “moped”—(1) Section 2 (1) of the principal Act (as substituted by section 2 (1) of the Transport Amendment Act 1972) is hereby amended by inserting, after the definition of the term “Minister”, the following definition: 25

“‘Moped’ means a motor vehicle running on 2 or 3 wheels that is fitted with a motor having a power output not exceeding 2 kilowatts and is designed to be ridden at a speed not exceeding 50 kilometres per hour under normal conditions of use.”. 30

(2) Section 2 (1) of the principal Act (as so substituted) is hereby amended by repealing the definition of the term “power cycle” (as substituted by section 2 (2) of the Transport Amendment Act 1974). 35

(3) Section 2 (1) of the principal Act (as so substituted) is hereby amended by omitting from the definitions of the terms “driver”, “motorcar”, and “motor cycle”, the words “power cycle”, and substituting in each case the word “moped”.

(4) The First Schedule to the principal Act (as substituted by section 3 (1) of the Transport Amendment Act 1977) is hereby amended by omitting from clause 5 of Part I and from clauses 2 and 8 of Part II the words “power cycle”, and substituting in each case the word “moped”. 40

(5) Section 2 (2) of the Transport Amendment Act 1974 is hereby consequentially repealed.

(6) This section shall come into force on the 1st day of March 1984.

5 **19. Certain trailers exempted from registration and licensing provisions**—Section 7 of the principal Act is hereby amended by inserting, after subsection (4A) (as inserted by section 6 of the Transport Amendment Act (No. 2) 1969), the following subsection:

10 “(4B) Nothing in subsection (1) of this section shall apply with respect to any trailer that is attached to or being drawn by any exempted vehicle within the meaning of section 188 of this Act.”

15 **20. Details of register**—(1) Section 17 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

20 “(2) Subject to subsection (3) of this section, any person shall, on making oral or written application to the Registrar or to a Deputy Registrar, be entitled to a certificate containing the name and address of the registered owner of a specified motor vehicle or, if he so wishes, shall be entitled to that information given orally or by other means.

25 “(3) No person shall be entitled to a certificate or to be given information under subsection (2) of this section unless he has paid the appropriate prescribed fee, or the Registrar is satisfied that adequate arrangements have been made for the later payment of that fee.”

(2) Section 4 (b) of the Transport Amendment Act 1980 is hereby consequentially repealed.

30 **21. Change of ownership of motor vehicle**—Section 18 of the principal Act is hereby amended by inserting, after subsection (8), the following subsection:

35 “(8A) Notwithstanding subsection (8) of this section, the Registrar may endorse particulars of a change of ownership on the certificate of registration or on a duplicate certificate issued for the purpose if—

“ (a) The endorsement fee has been paid; and

“ (b) The Registrar is satisfied that ownership of the vehicle has changed; and

40 “ (c) The Registrar is satisfied that the person selling or otherwise disposing of the vehicle has failed or

refused to notify the change of ownership in accordance with subsection (1) of this section; and

“(d) The person seeking the endorsement has made a statutory declaration—

“(i) That he is the new owner of the vehicle; and 5

“(ii) Explaining the circumstances under which he became the new owner; and

“(iii) Detailing any efforts he has made to have the previous owner sign the notice of change of ownership.” 10