

LAND TRANSPORT ACT 1998

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SCHEDULE

AN ACT

TO ESTABLISH THE LAND TRANSPORT AUTHORITY, TO REGULATE THE REGISTRATION AND USE OF VEHICLES, THE LICENSING OF DRIVERS OF VEHICLES AND THE ENFORCEMENT OF TRAFFIC LAWS AND TO PROVIDE FOR THE REPEAL OF THE TRAFFIC ACT AND RELATED MATTERS

ENACTED by the Parliament of the Fiji Islands -

PART 1 - PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Land Transport Act 1998.
- (2) This Act comes into force on a date or dates appointed by the Minister and published in the *Gazette*.
- (3) The Minister may appoint different dates for coming into force of different provisions of this Act.

Interpretation

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

'animal' means any horse, mare, gelding, colt, filly, ass, mule, cow, ox, steer, heifer, calf, goat, kid, sheep, lamb, hog, sow, pig or any other animal;

'authorised inspector' means a person appointed as such under section 55(1)(b);

'authorised officer' means a person appointed as such under section 9(1)(c) in respect of the relevant functions;

'Authority' means the Land Transport Authority established by section 6;

'carrier' has the meaning given to it by section 63(3)(d)(ii);

~~**'charter service'** means a service provided to meet the needs of a group of passengers with a common interest or travel needs on either a regular or temporary basis;~~

'Chief Executive' means the Chief Executive of the Authority appointed under section 17;

'code of practice' means a document endorsed by the Authority and containing guidelines or standards which describe the Authority's requirements with respect to aspects of this Act and made under section 38;

'council' means the municipal council of a city, town or district constituted under the Local Government Act, or any other council, association, authority or body designated by the Minister;

'demerit points' means demerit points awarded against a person convicted of an offence under this Act or the regulations as provided by section 87;

'disqualification' means disqualification from holding or obtaining a driver's licence;

'driver' means a driver of a vehicle, and includes the rider in control of a motor cycle, powered cycle or bicycle, or a person in control of a motor vehicle which is being towed, and where a separate person acts as steerman of a motor vehicle includes that person as well as any other person engaged in the driving of that vehicle; and **'drive'** has a corresponding meaning;

'driver's licence' means a licence issued pursuant to Part V and includes a learner's permit or provisional licence granted under the provisions of this Act;

'express service' has the meaning ascribed to it in subparagraph (3)(a)(ii) of section 65;

'financial year' has the meaning given to it by section 38;

'fixed penalty' means a penalty payable on receipt of a Traffic Infringement Notice under section 87;

'goods' means any merchandise, produce, material, article or thing and includes animals or birds (whether dead or alive);

'goods vehicle' means a motor vehicle which is constructed or adapted for the conveyance of goods and is primarily used for that purpose in connection with trade, business or agriculture, and includes a motor vehicle used by the Government or a council or local authority for the purposes of carrying on its business;

'heavy goods vehicle' means a vehicle licensed in that category under Part IV;

'highway authority' means -

- (a) within a city or town, the city or town council;
- (b) outside a city or town, the Government agency or any person responsible for road maintenance and management; or
- (c) in relation to a place designated as a public street pursuant to section 71, the council, Government agency or private interest named in such designation;

'learner's permit' means a permit to learn to drive a motor vehicle of a prescribed class issued under section 57(1);

'licence' in relation to a motor vehicle or trailer, means the conditions or restrictions according to which such vehicle may be used;

'load' means goods carried on or in a motor vehicle or trailer and includes passengers;

'mini-bus' has the meaning given to it by section 62(3)(e);

'Minister' means the Minister responsible for land transport;

'motor vehicle' means any automobile, motor car, motor carriage, motor cycle, traction engine, tractor, or other carriage or vehicle propelled or capable of being propelled by means of an engine powered wholly or partly by any volatile spirit, steam, oil, gas, or electricity, or by any means other than human or animal power, but does not include -

- (a) a bicycle propelled or capable of being propelled by means of an internal combustion engine that is fitted to but detachable from the bicycle, being an engine the generating capacity of which does not exceed 20 watts; or
- (b) a wheelchair to be driven by an invalid;

'omnibus' has the meaning given to it by section 63(3)(d)(i);

'order' means a set of regulations specific to the management or control of traffic in an area, generally a town or city, or section of road;

'owner' when used in reference to a motor vehicle or trailer means -

- (a) subject to paragraph (b), if the vehicle is registered, the person registered as the owner of the vehicle and includes a person in lawful possession;
- (b) if a registered vehicle is sold or otherwise disposed of by the person registered as the owner of the vehicle, and he has given notice thereof to the Authority, the purchaser;
- (c) if a trade plate is placed on the vehicle under the authority of a trader identification permit, the person to whom or to which the plate was issued; or
- (d) if the vehicle is not registered, the person who is entitled to the immediate possession of the vehicle, solely or jointly or in common with some other person;

and **'owns'** has a corresponding meaning;

'parking' means the act by which a vehicle is stopped for a purpose other than-

- (a) picking up waiting persons or setting down passengers, regardless of whether the driver leaves the vehicle unattended;
- (b) loading or unloading goods; or
- (c) stopping in compliance with the provisions of this Act;

'parking offence' means an offence arising by reason of a vehicle being placed, left, or allowed to remain in a stationary position in any public street contrary to this Act;

'parking place' means any place set aside for the parking of vehicles and includes a bus stand, taxi stand or other place set aside for the parking of a particular class of vehicle;

‘passenger’ means (subject to regulations regarding children) any person other than the driver who is carried in or on a vehicle;

‘Permanent Secretary’ means the Permanent Secretary to the Minister;

‘person’ includes any company or association or body of persons corporate or incorporate;

‘prescribed’ means prescribed by this Act or by regulations under it;

‘prescribed penalty’ means the penalty mentioned in the third column of the Schedule as the maximum penalty for an offence against the section of this Act mentioned in the first column of the Schedule;

‘provisional licence’ means a driver's licence issued under section 57(2);

‘public service permit’ means a permit issued under section 63;

‘public service vehicle’ means a motor vehicle licensed under Part VI for the purpose of carrying passengers for hire or reward;

‘public street’ means-

- (a) any land or place vested in the State for the purpose of a road or public road, as defined in any Act;
- (b) any street, road, land, thoroughfare, footpath, bridge or other place open to or used by the public for passage with vehicles and includes every carriageway, footpath, traffic island, median, nature strip or any area provided to separate vehicular traffic on any such street, road, land, thoroughfare, footpath, bridge or other place, regardless of whether such place has been vested in the State for the purpose of being a road or public road as defined in any Act; or
- (c) any place declared under section 71.

‘registered’ in relation to a motor vehicle or trailer, means the inclusion of a motor vehicle or trailer in the register of such vehicles maintained in the records of the Authority pursuant to Part IV or regulations;

‘registration plate or label’ means a plate or label affixed to vehicle pursuant to this Act showing, that it has been registered under this Act;

‘regulations’ means regulations made under section 113;

‘rule’ means any standard adopted by the Authority either specifically or by reference for the purpose of determining the technical standard or specification of any vehicle, component or material;

‘stage service’ has the meaning ascribed to it in subparagraph(3)(a)(i) of section 65;

‘stand’ when used in relation to a parking place for taxis means a parking area provided by the appropriate council or rural local authority or highway authority for use by taxis;

‘stopping’ means the act by which a vehicle is stopped other than in compliance with the provisions of the Act including for the purpose of picking up waiting passengers or settling down passengers or loading or unloading goods;

‘trader identification permit’ means a permit issued under regulations made under section 113(2)(ff);

‘trade plates’ means registration plates authorised by a trader identification permit;

‘Traffic Infringement Notice’ or "Notice" means a notice issued under section 86;

‘trailer’ means a contrivance-

- (a) without motor power that is drawn or propelled or is capable of being drawn or propelled by a motor vehicle from which it is detachable; and
- (b) that is equipped with wheels upon which it moves or is moved; but does not include -
 - (i) a side-car or side-box attached to a motor cycle; or
 - (ii) any other class of contrivance that is declared by regulations not to be a trailer for the purposes of this Act;

‘Tribunal’ means the Land Transport Appeals Tribunal established by section 40;

'vehicle' includes any description of vehicle designed to move or to be moved on one or more wheels or revolving runners, or any truck, barrow, carriage or similar vehicle but does not include a vehicle excluded by regulations.

Act to bind State

3. This Act binds the State.

Administration of act

4. This Act shall be administered by the Land Transport Authority.

Application of act

5. This Act applies throughout the Fiji Islands, including any person in the Fiji Islands irrespective of the person's nationality or citizenship, subject to any exemptions under this Act.

PART II - LAND TRANSPORT AUTHORITY

DIVISION 1 - ESTABLISHMENT AND FUNCTIONS OF AUTHORITY

Establishment of Land Transport Authority

6. (1) This section establishes the Land Transport Authority.
- (2) The Authority shall be a body corporate with perpetual succession and a common seal and may enter into contracts and sue and be sued in its corporate name and shall have the power to acquire, hold and dispose of property both real and personal and generally do all such acts and things that are necessary for or incidental to the performance of its functions under this Act or any other written law.

Composition of authority

7. (1) The Authority shall consist of 7 members, as follows -
- (a) a Chairman who is to be a person with knowledge and ability in the fields of management and administration to be appointed by the Minister;
 - (b) 5 other members appointed by the Minister, who in his opinion have experience and expertise in the areas covered by the functions of the Authority or in the engineering, legal, commercial, insurance, business or administration fields; and
 - (c) the Permanent Secretary.
- (2) The Chief Executive shall be an *ex officio* member with no voting rights.

Functions of Authority

8. (1) The functions of the Authority are -
- (a) to devise, initiate, and carry out measures for the co-ordination, improvement and economic operation of passenger transport and goods transport by road;
 - (b) to ensure so far as is practicable the provision of road transport passenger services adequate to meet the requirements of the public;
 - (c) to register vehicles, license drivers and establish standards for such registration and licensing consistent with the objectives of road safety;
 - (d) to develop and implement traffic management strategies and practices consistent with the needs of road users and the objectives of road safety, in conjunction with highway authorities;

- (e) to develop and implement enforcement strategies in consultation with the Commissioner of Police consistent with road safety and road infrastructure protection objectives;
- (f) to do anything incidental or conducive to the performance of any of the preceding functions.

(2) In addition to the powers conferred on it by subsection (1) the Authority may in the case of an emergency and subject to any directions given to it by the Minister under section 10 enter into a contract with any person for the carrying on and maintenance, in a particular case and for the purpose of meeting a particular emergency, of any road transport service.

Powers of Authority

- 9.** (1) The Authority may, subject to this Act and to any directions given to it by the Minister under section 10 -
- (a) regulate and control all or any means of land transport;
 - (b) take such steps and to do all such acts, matters, and things as it may think* necessary or desirable for effecting the co-ordination of road transport services, and the improvement of the means of, and facilities for, road transport;
 - (c) appoint in writing authorised officers for all or particular purposes of this Act;
 - (d) do all things necessary or convenient to be done for or in connection with, or incidental to, the exercise of its powers or the performance of its functions under this Act or any other Act.
- (2) An authorised officer appointed under this section must, when performing functions under this Act, carry and if requested produce a written authorisation from the Authority.

Minister may give directions

- 10.** In the exercise of its Powers and functions under this Act, the Authority shall act in accordance with any general or specific direction as to policy given to it in writing by the Minister.

Official seal of Authority

- 11.** (1) A court or tribunal shall take judicial notice of the official seal of the Authority that has been affixed to a document and shall, unless the contrary is proved, presume that the seal was properly affixed.
- (2) The common seal of the Authority shall not be affixed except pursuant to a resolution of the Authority and in the presence of either the Chairman or the Chief Executive, and one member, and the affixing is to be authenticated by their signatures.
- (3) All documents to which the Authority is a party, other than those required by law to be under seal, may be signed on behalf of the Authority by either the Chairman or the Chief Executive or by a member or employee of the Authority generally or specially authorised by a resolution passed at a meeting of the Authority.

Authority may delegate

- 12.** (1) The Authority may by instrument in writing delegate to a person specified in the instrument the performance or exercise of such of its functions and powers under this Act or any other Act (other than this power of delegation) as are specified in the instrument, and may, by instrument in writing, revoke wholly or in part any such delegation.
- (2) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstances, as are specified in the instrument.

- (4) Notwithstanding any delegation under this section, the Authority may continue to perform or exercise all or any of the functions or powers delegated.
- (5) Any act or omission done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Authority and shall be deemed to have been done by or to the Authority.
- (6) An instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts or tribunals be received in evidence as if it were an instrument executed by the Authority and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority under this section.
- (7) Notwithstanding subsection (1) the Authority shall not delegate a power in such a way as to be contrary to the provisions of-
- (a) section 56 dealing with licensing of drivers; or
 - (b) section 65 dealing with public service permits.
- (8) If a person is aggrieved by a decision made by a person to whom a power has been delegated under subsection (1), the aggrieved person may, by notice in writing addressed to the Authority, require the Authority to reconsider the decision of its delegate and the Authority may either confirm or reverse the decision of its delegate.
- (9) The Authority shall cause an instrument of delegation made under subsection (1) and the revocation of such an instrument to be published in the *Gazette*.

Term of appointment

- 13.** (1) The Chairman of the Authority and members, other than Permanent Secretary-
- (a) shall be appointed for 2 years;
 - (b) and are eligible for reappointment;
 - (c) May resign by notice in writing to the Minister.
- (2) If the Permanent Secretary is for any reason unable to attend a meeting of the Authority he may appoint some other person in his stead to attend that particular meeting, and the presence of that other person at a meeting shall be deemed to be attendance of the Permanent Secretary.

Meetings

- 14.** (1) The Chairman of the Authority shall preside at all meeting of the Authority except that if the Chairman is absent or has not been appointed the members present may appoint one of them to preside.
- (2) The Chairman or other person presiding at a meeting of the Authority has a deliberate vote, and in the event of an equality of votes shall have and exercise a second or casting vote.
- (3) Four members of the Authority constitute a quorum at any meeting of the Authority.
- (4) Subject to this Act the Authority may regulate its own procedures.
- (5) Minutes shall be kept of all meeting of the Authority, including any committee formed by the Authority, and such minutes shall be transcribed by or under the direction of the Chief Executive to form a permanent record of such meetings.

Members' remuneration

- 15.** The Chairman of the Authority and members other than the Permanent Secretary are entitled to remuneration and other expenses, as fixed by the Minister.

Removal of members and Chief Executive

- 16.** (1) The Minister may revoke the appointment of the Chairman of the Authority or of any member other than the Permanent Secretary if the Minister is satisfied that the Chairman or a member-
- (a) has become permanently incapable of carrying out the duties of his office;

- (b) has misconducted himself in the performance of the duties of his office;
 - (c) has, without the leave of the Authority, been absent from 3 or more consecutive meetings of the Authority;
 - (d) has been declared bankrupt; or
 - (e) has been convicted of an offence of such a nature that renders it improper for him to continue to hold his office.
- (2) The Authority may revoke the appointment of the Chief Executive if-
- (a) the Authority is satisfied that one or more of the provisions of subsection (1) applies to him; or
 - (b) the Chief Executive has failed to comply with the terms and conditions on which he was appointed.
- (3) Without prejudice to the generality of subsection (1)(b), a member of the Authority is deemed to have misconducted himself in the performance of his duties if-
- (a) the member knowingly votes on any matter before the Authority in which the member has, directly or indirectly, a pecuniary interest; or
 - (b) takes part in, or is present at the discussion of any such matter before the Authority without disclosing his pecuniary interest to the members of the Authority present.
- (4) In the case of persons who are married or living together in a *de-facto* relationship a pecuniary interest of one partner is, unless proved to be unknown to the other partner, deemed for the purpose of this section to be also a pecuniary interest of that other partner.

DIVISION 2 - MANAGEMENT AND ADMINISTRATION OF AUTHORITY

Chief Executive

- 17.** (1) There shall be a Chief Executive of the Authority who is to be appointed by the Authority for a period of not less than 3 years and entitled to remuneration to be fixed by the Higher Salaries Commission as if the Authority were a corporation specified in the First Schedule to the Higher Salaries Commission Act, and on such terms and conditions as the Authority may determine.
- (2) The Chief Executive shall devote the whole of his services to the Authority and shall not occupy any other office or employment, whether remunerated or not, except that he may act as a member of any board, committee or commission established by the Government as approved by the Authority.

Responsibilities of Chief Executive

- 18.** (1) The Chief Executive shall be responsible to the Authority for the management and the execution of its policy.
- (2) Subject to the provisions of this Act and any resolution passed at a meeting of the Authority, the Chief Executive may do all things necessary or convenient to be done in connection with the performance of his duties under this Act or any other written instrument.
- (3) The Chief Executive shall make a report at each meeting of the Authority of all contracts or agreements entered into by him on behalf of the Authority since the previous meeting of the Authority.
- (4) Where the Chief Executive is prevented by illness, absence or other like cause from performing his duties, or when the office of Chief Executive is vacant, the Authority shall appoint one or more of the Authority's officers to perform those duties during any such period.

Appointment of staff

- 19.** (1) The Authority may-
- (a) appoint and employ persons in addition to the Chief Executive subject to terms and conditions necessary for the proper carrying out of the provisions of this Act; and

- (b) fix the remuneration and allowances of persons employed by it
- (2) A person is not eligible for employment with the Authority if the person has, directly or indirectly, any share or interest in any contract with, for, or on behalf of the Authority or any officer or employee of the Authority
- (3) The Authority may enter into an agreement with the Public Service Commission to provide for the secondment of public officers to the service of the Authority on such terms and conditions as may be specified in the agreement.
- (4) A person employed by the Authority shall at all times while performing his duties carry an identity card in a form determined by the Authority and signed by that person and the Chief Executive.
- (5) The Authority may dismiss any employee who acquires an interest or share in any contract with or on behalf of the Authority either directly or indirectly.

Police officers to assist

- 20.** All police officers shall, subject to the directions of the Commissioner of Police, aid and assist the Authority in the performance of its functions and the exercise of its powers under this Act.

Protection against personal liability

- 21.** A person who is or has been-
- (a) a Chairman, member or employee of the Authority;
 - (b) a police officer assisting the Authority in accordance with section 20,
- shall not be personally liable for any civil proceedings or demand for any act done or contract entered into, in good faith, by or on behalf of the Authority.

Records

- 22.** (1) The particulars of the registration of vehicles, of drivers' licences and of any other licence or permit, and any other particulars prescribed by this Act, shall be recorded by an appropriate officer of the Authority.
- (2) Any extract from, or copy of, an entry contained in a record kept under subsection (1), certified under the hand of the officer in charge of it, shall be received as evidence in any proceedings (whether under this Act or otherwise), and deemed sufficient proof of all particulars contained in such entry, without requiring the production of the record, or any licence, notice, or other document upon which the entry was founded.

Disclosure and use of information

- 23.** (1) Subject to subsection (2), a person who is or has been a Chairman of the Authority or member or employee of the Authority, shall not, directly or indirectly, disclose to any other person information obtained by the person in the exercise of any power conferred, or duty imposed, on the person by this Act, or by virtue of the person's employment under, or for the purposes of, this Act.
- (2) Subsection (1) does not operate to prevent the disclosure of information if that disclosure-
- (a) was made in connection with the administration or execution of this Act;
 - (b) was ordered by a court, or by any other body or person authorised by law to examine witnesses, in the course of, and for the purpose of, the hearing or determination by that court, body, or person of any matter or thing;
 - (c) relates to a person, and was made with the approval in writing of that person.
- (3) Where a person receives or obtains any information for the administration of this Act in the exercise of his functions, powers or duties, the person shall not use the information to his or any other person's benefit or advantage whether directly or indirectly.

- (4) A person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to the prescribed penalty.
- (5) In this section-
- (a) a reference to "information" includes a reference to the contents of a record; and
 - (b) a reference to the "disclosure of information" includes a reference to the delivery or giving in whatever means to a person of that record or a copy of it or any part of it.

DIVISION 3 - FUNDS, ACCOUNTS AND ASSETS OF AUTHORITY

Funds and resources of Authority

- 24.** (1) The funds and resources of the Authority shall consist of-
- (a) any property, investments, mortgages and debentures, acquired by or vested in the Authority and any money earned or arising therefrom;
 - (b) the fees and fixed penalties paid to the Authority under this Act;
 - (c) money borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;
 - (d) all money appropriated by Parliament to the Authority;
 - (e) all other money or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.
- (2) The Authority may invest moneys standing to the credit of the Authority in accordance with the law for the time being in force in the Fiji Islands.

Borrowing powers

- 25.** (1) Subject to the provisions of subsections (2) and (3), the Authority may borrow sums required by it for meeting any of its duties or discharging any of its functions.
- (2) The power of the Authority to borrow shall be exercisable only with the written approval of the Minister responsible for Finance as to the amount and sources of the borrowing and as to the terms on which the borrowing may be effected: Provided that no such approval shall be required in respect of any loan not exceeding \$500,000 obtained from a bank.
- (3) An approval given for the purposes of subsection (2) may be either general or limited to a particular borrowing or otherwise and may be conditional or unconditional.
- (4) The repayment of any money borrowed or loan raised under this section and the payment of interest thereon may be secured by mortgage, debenture or other charge upon" the assets of the Authority.

Payments by the Authority

- 26.** (1) The Authority may from its funds and resources-
- (a) pay any expenses lawfully incurred by it, including legal, survey and other fees and costs;
 - (b) pay any other expenses, costs or expenditures properly incurred or accepted by it in pursuance of its purposes under this Act.
- (2) The Authority may assign, either in whole or in part, funds, including fees, charges or penalties due to it under this Part from another authority that was responsible for the raising of the fund.

Surplus revenue and shortfalls

27. (1) In any year, there shall be transferred to the Consolidated Fund such proportion of the surplus revenue of the Authority as the Minister, in consultation with the Minister responsible for Finance and the Authority, may determine.
- (2) In any year, the Minister responsible for Finance may transfer from the Consolidated Fund amounts equal to or part of any shortfall in the accounts of the Authority following consideration of the Authority's report of such accounts in consultation with the Minister and the Authority.

Financial year

28. The financial year of the Authority shall be from 1st January to 31st December or such other period as the Authority may from time to time resolve.

Estimates of expenditure

29. (1) The Authority shall on or before 30th October in every year submit to the Minister for approval an estimate of the expenditure which the Authority expects to incur in the discharge of its functions during the next financial year.
- (2) The Authority may at any time during the financial year for which an estimate has been approved cause a revised or supplementary estimate to be prepared and approved.

Accounts and audits

30. The Authority shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor appointed by the Authority with the approval of the Minister.

Annual report

31. (1) The Authority shall, as soon as practicable after the end of each financial year but not later than 31st May, furnish to the Minister a report on the operations, business and affairs of the Authority in respect of that financial year and a copy of the statement of accounts for that financial year required to be submitted to the Minister under section 30.
- (2) The Minister shall cause the report received under subsection (1) to be laid in each House of Parliament within 30 days of its receipt or as soon as practicable.

Transfer of land and property to the Authority

32. (1) Notwithstanding the provisions of the Land Transfer Act, all real and personal property vested in or belonging to the State and administered by the Department of Road Transport and all other property of every description vested or belonging to the State for the use of the Department of Road Transport shall without further assurance vest in the Authority on the commencement of this Act or such other day as may be specified by the Minister by notice in the *Gazette*.
- (2) There shall be transferred to the Authority to enable it to perform its functions under this Act such other land vested in or belonging to the State as the Minister responsible for land matters may from time to time determine and any such land shall, notwithstanding the provisions of the Land Transfer Act, thereupon vest in the Authority without further assurance:

Provided that the Minister responsible for Lands shall by notice in the *Gazette* specify the particulars pertaining to the land transferred under this subsection.

- (3) Upon a transfer under subsection (1) or (2) all debts, liabilities and obligations in connection with or appertaining to such land and property shall be transferred to and vest in the Authority and shall be deemed to have been incurred by the Authority.

DIVISION 4 - ADMINISTRATION

Delivery of notices and other documents

33. (1) For the purpose of delivering notices and similar documents under this Act it shall be sufficient for the Authority or any other person to arrange for such documents to be delivered by registered mail

to the address of a person, company, or organisation shown in the records of the Authority or as may otherwise be reasonably determined by the Authority or any other person.

(2) In addition to the provisions of subsection (1), the Authority may arrange for the delivery of a notice or similar documents by hand by a police or authorised officer and the certification of such officer shall be sufficient evidence of such delivery.

Prescribed fees payable

- 34.** (1) Regardless of whether the payment of a prescribed fee is specifically required by this Act, any prescribed fee is to be paid in advance to the Authority when-
- (a) considering an application;
 - (b) issuing any licence, registration, certificate, permit, label, plate, or marks;
 - (c) transferring any licence, registration, permit or certificate;
 - (d) changing any record; or
 - (e) otherwise carrying out its obligations under this Act.
- (2) Where, in respect of matters specified in subsection (1), a prescribed fee is paid, by means of a cheque which is subsequently dishonoured the purported grant of any matter specified under subsection (1) is void and the person is liable to the relevant offence under this Act as if that matter had not been granted.

Authority may demand penalties payable

- 35.** (1) The Authority may demand the payment of penalties payable under this Act by notice issued, in the case in which-
- (a) a penalty is payable in relation to a motor vehicle - to the registered owner of the motor vehicle at the time the relevant offence was committed;
 - (b) a penalty is payable in relation to a driver or a person acting other than in a capacity as an owner - to such person.
- (2) For penalties payable under paragraph (a) of subsection (1) the Authority may take action, including the cancellation of any licence or other remedy provided for in this Act, as if the penalty was payable under paragraph (b) of subsection (1).
- (3) The Authority may demand the payment of arrears of fees in relation to a motor vehicle by notice issued to the registered owner of the vehicle, regardless of any change of ownership, as if the arrears were a penalty imposed on the owner of the motor vehicle for non-payment when the fees are due.

Provided that the payment by the new owner of the motor vehicle of the arrears shall not validate the previous owner's act or omission.

- (4) The person named in a notice of demand from the Authority shall make the required payment within 14 days from the date of receipt of the notice, otherwise the Authority may, without further notice take such remedies as may be provided for in this Act.
- (5) The Authority may, in addition to any other remedy provided for in this Act, engage the services of a debt collection agency, including the Sheriff or any licensed private collector of debts, in which case the person named in the notice shall also be liable for any collection fee.

Authority may seek further information

- 36.** The Authority may, in considering an application made to it under this Act, if circumstances warrant, seek further information from the Police or any other body or person for the purposes of determining the application.

Power to prescribe forms

- 37.** (1) The Authority, with the approval of the Minister, may make regulations prescribing forms, certificates, permits, labels, plates or marks which may be issued under this Act.

(2) Any document issued by the Authority under subsection (1) may be marked with the words "Confidential - for use only as authorised by the Authority" in which case any person who uses the form without the consent and approval of the Authority commits an offence and is liable on conviction to the prescribed penalty.

Authority to have codes of practice

- 38.** (1) The Authority shall establish codes of practice which specify the procedures, standards and other criteria which the Authority will use in considering applications and conducting tests and inspections.
- (2) The Authority shall make available to the public those codes of practice or parts thereof which it considers appropriate for the purpose of providing information which may be of assistance in preparing and submitting applications and otherwise understanding the procedures and criteria used by the Authority in considering applications and conducting tests and inspections.
- (3) The Authority, with the approval of the Minister, may issue a code of standards relating to the driving or use of vehicles or the use of public streets, a breach of which will be relevant whenever the question of negligence in the use of a public street or dangerous, careless or reckless driving arises.

Notification of change of name, address, etc.

- 39.** (1) Any person who owns or is in possession of a motor vehicle or is a holder of any licence, permit or certificate issued pursuant to this Act, shall notify the Authority within 4 days of any change which may affect the records of the Authority with regards to-
- (a) a person's name;
 - (b) a person's residential or other address;
 - (c) a person's employment or business; or
 - (d) any other detail requiring notification to be given to the Authority pursuant to this Act.
- (2) Notification of any change under subsection (1) shall be made to the Authority-
- (a) on the prescribed form for that purpose;
 - (b) accompanied by the prescribed fee; and
 - (c) accompanied by the relevant licence, certificate or permit.
- (3) A person who contravenes subsection (1) commits an offence and is liable on conviction to the prescribed penalty.

PART III - LAND TRANSPORT APPEALS TRIBUNAL

Establishment of Tribunal

- 40.** (1) This section establishes the Land Transport Appeals Tribunal.
- (2) The function of the Tribunal is to hear and determine appeals against decisions of the Authority relating to-
- (a) licensing of drivers under section 56;
 - (b) any matter requiring a decision of the Authority under Part VI;
 - (c) any other matter prescribed by the Minister by regulations,

Appointment of Tribunal

- 41.** (1) The Judicial Service Commission may appoint a person who-
- (a) is qualified to be appointed as a judge; or
 - (b) has relevant academic qualifications and experience,
- to be the Tribunal.
- (2) The Judicial Service Commission may appoint a person possessing the qualifications stipulated in subsection (1) to be alternate Tribunal, to sit whenever the person first appointed is unable to do so.

- (3) The Tribunal or the alternate Tribunal is entitled to remuneration and expenses fixed by the Authority with the approval of the Minister.

Secretary to Tribunal

42. The Authority shall appoint a Secretary to the Tribunal and the person so appointed is entitled to such remuneration and expenses as the Authority may specify in the instrument of appointment.

Term of appointment

43. The Tribunal, or alternate Tribunal, shall hold office for a term not exceeding 3 years as may be specified in the instrument of appointment:

Provided that an appointment is to be revoked for inability or incapacity to perform his functions or for neglect, corruption or other good cause proved to the satisfaction of the Judicial Service Commission.

Appeals

44. (1) No person may appeal to the Tribunal unless provision is made for such appeal in this Act.
(2) No appeal shall lie to the Tribunal from a decision of a delegate of the Authority unless that decision has been confirmed or otherwise dealt with by the Authority pursuant to section 12(7).

Appeals procedure

45. (1) An appeal under this section shall be commenced by notice of appeal, in writing, which shall state specifically and concisely the grounds of appeal, and shall be lodged with, or forwarded to, the Secretary to the Tribunal not later than 14 days after the date of the decision in respect of which the appeal is brought or within such other period as may be provided in the regulations.
(2) At the time of lodging or forwarding of the notice of appeal, the appellant shall cause to be deposited with the Secretary to the Tribunal the application fee for this purpose and such fee shall be forfeited in the event the appeal is dismissed.
(3) As soon as practicable after the receipt by the Secretary of a notice of appeal under this section, the Tribunal shall-
- (a) fix a time and place for the hearing of the appeal; and
 - (b) cause notice of the time and place of the hearing of the appeal to be given to the appellant, to the Authority, and to any other persons involved as applicants or objectors to the original application the decision on which gave rise to the appeal,
- (4) The time and place for the hearing of an appeal under this section shall be fixed and notified to the appellant and any other interested party within 28 days after the date on which the notice of appeal is lodged with or forwarded to the Secretary to the Tribunal in accordance with this section.

Powers of Tribunal

46. (1) The Tribunal shall have and may exercise, for the purpose of hearing and determining appeals under this Part, the following powers-
- (a) to issue a summons to a witness in the prescribed form;
 - (b) to call for the production of books, plans and documents;
 - (c) to examine witnesses on oath or affirmation;
 - (d) to admit any evidence whether written or oral and whether or not such evidence would be admissible in civil or criminal proceedings;
 - (e) to exclude any person if necessary so as to ensure the proper conduct of the appeal or to preserve order.
- (2) On an appeal under this Part the Tribunal may dismiss the appeal or make such order as it thinks just and reasonable in the circumstances directing the Authority to issue, transfer, or cancel any

licence, certificate or permit, or to impose, vary, or remove any condition or restriction in respect of a licence, certificate or permit, and the Authority shall comply with that order.

(3) Upon the determination of an appeal under this section the Tribunal may make such order as it thinks just with the respect to the costs of the appeal, and any person to whom any such costs are awarded may recover the amount of those costs in any court of competent jurisdiction, as a debt due from the person against whom those costs are awarded.

Determination of appeal

47. For the purposes of the hearing and determination of any appeal the Tribunal shall have regard to those matters which the Authority is required to have regard to in considering an application under this Act.

Decisions of Tribunal

48. A decision of the Tribunal shall be subject to an appeal, only on points of law, to the High Court.

PART IV - REGISTRATION OF MOTOR VEHICLES AND TRAILERS

Motor vehicles and trailers to be registered

49. (1) A person who owns a motor vehicle or trailer shall register the motor vehicle or trailer with the Authority irrespective of whether the motor vehicle or trailer is to be used exclusively on private property.
- (2) A person who has registered a motor vehicle or trailer may apply to the Authority for the motor vehicle or trailer to be exempted from the requirements of this Part.
- (3) A person who drives or uses or permits to be driven or used upon a public street any motor vehicle or trailer which is not registered under subsection (1) commits an offence and is liable on conviction to the prescribed penalty.

Motor vehicles to comply

50. (1) No person shall drive or use or permit to be driven or used upon a public street any motor vehicle or trailer which does not comply with regulations as to construction, equipment, dimension and load applicable to the class or description to which the motor vehicle or trailer belongs.
- (2) The Authority may issue the owner of a motor vehicle or trailer with an exemption or permit which allows the use of such motor vehicle or trailer in a manner which does not otherwise comply with this Act, subject to the conditions which the Authority may determine.
- (3) A person who contravenes subsection (1), or any conditions imposed under subsection (2), commits an offence and is liable on conviction to the prescribed penalty.

Registration certificate

51. (1) The Authority shall issue at the time a motor vehicle is first registered in the Fiji Islands a registration certificate which contains the following information-
- (a) the date or year of manufacture from which the age of the motor vehicle shall be determined;
 - (b) the chassis, engine and any other numbers from which the motor vehicle may be identified;
 - (c) the registered owner of the motor vehicle and all parties with a financial interest in the motor vehicle..
 - (d) the date of first registration in the Fiji Islands and the expiry date of the registration;
 - (e) the country of manufacture and reference to the registration of the motor vehicle in other countries, if any;

- (f) the classification of the motor vehicle as either new, second hand, reconditioned, reconstructed or other class that may be prescribed;
 - (g) the registered number, the licence class, and any exemptions and conditions; and
 - (h) any other matter the Authority thinks fit for the purpose of administering this Act.
- (2) The records contained on the registration certificate shall be kept and maintained in accordance with the provisions of this Act and include, but not be limited to-
- (a) renewal of registration including payment of third party insurance and the passing of required inspections;
 - (b) current expiry date and date of next inspection;
 - (c) changes of ownership or financial interest;
 - (d) modifications to the vehicle;
 - (e) changes in the licence class, and any exemptions and conditions

Registration and third party insurance

- 52.** Except as may otherwise be prescribed, a motor vehicle or trailer shall not be registered or the registration of a motor vehicle or trailer shall not be renewed unless a premium for third party insurance cover has been paid under the provisions of the relevant Act in respect of the use of that motor vehicle or trailer for the period for which that motor vehicle or trailer is registered or for which its registration is renewed as the case may be.

Motor vehicle licence

- 53.** (1) The Authority may register motor vehicles under the provisions of this Act to operate under the following classes of motor vehicle licence-
- (a) a private licence which-
 - (i) authorises the use of the motor vehicle subject to this Act and the conditions of the licence; and
 - (ii) does not authorise the use of the motor vehicle for commercial purposes, or as a public service vehicle;
 - (b) a commercial licence which-
 - (i) authorises the use of the motor vehicle for the carriage of goods in relation to the business of the owner, subject to this Act and the conditions of the licence; and
 - (ii) limits the carriage of passengers to bona-fide employees and other persons directly involved in the carrying on of the business of the owner.
 - (c) a government licence which authorises the use of the motor vehicle for purposes related to the functions of government, subject to this Act and the conditions of the licence;
 - (d) a diplomatic licence which authorises the use of the vehicle consistent with the provisions of this Act and the Diplomatic Privileges and Immunities Act and the conditions of the licence;
 - (e) a public service vehicle licence as provided for in Part VI.
- (2) A licence issued pursuant to this Part may include conditions, as the Authority may determine, relating to the use of the motor vehicle for private purposes.
- (3) The Authority may cancel or suspend a licence issued under this Part.
- (4) The conditions under which a vehicle is licensed to operate shall, unless the licence otherwise expires, or is cancelled or suspended under the provisions of this Act, only be in effect for the period of the registration of the vehicle and shall lapse with the expiry, cancellation or suspension of the registration pursuant to this Act.

(5) A person who uses a motor vehicle contrary to the condition of the class of licence issued under subsection (1) commits an offence and is liable upon conviction to the prescribed penalty.

Authorised dealing in motor vehicles

- 54.** (1) The Authority may authorise a person to operate a motor vehicle dealing business in accordance with this Act and any conditions that the Authority may determine.
- (2) A person may apply to the Authority in the prescribed form for a motor vehicle dealing certificate.
- (3) No person shall-
- (a) sell, by auction or tender, a motor vehicle or otherwise operate a motor vehicle dealing business without being the holder of a motor vehicle dealing certificate;
 - (b) not being the holder of a motor vehicle dealing certificate take or use any name, title, additions or description implying that the person is the holder of such a certificate.
- (4) Subsection (3)(a) does not apply to-
- (a) the registered owner disposing of a motor vehicle purchased for his own use and not for the purpose of trading such vehicle for profit;
 - (b) a hire purchase provider disposing of a motor vehicle which is or has been the subject of a hire purchase agreement issued by the provider; or
 - (c) a motor vehicle insurer disposing of a motor vehicle which is or has been the subject of a motor vehicle insurance policy issued by the insurer.
- (5) A person who contravenes subsection (3) commits an offence and is liable on conviction to prescribed penalty.

Authorised inspection of motor vehicles

- 55.** (1) The Authority may authorise a person to-
- (a) operate a motor vehicle inspection business in accordance with this Act and any conditions that the Authority may determine pursuant to it by issuing such person with a motor vehicle inspection certificate; and
 - (b) inspect motor vehicles for the purpose of this Act by issuing to such person a motor vehicle inspector's permit.
- (2) A person may apply to the Authority in the prescribed form for a motor vehicle inspection certificate or motor vehicle inspector's permit.
- (3) No person shall-
- (a) operate a motor vehicle inspection business without being the holder of a motor vehicle inspection certificate;
 - (b) undertake motor vehicle inspections without being the holder of a motor vehicle inspector's permit, except where the person is authorised by the Authority;
 - (c) not being the holder of a motor vehicle inspection certificate or motor vehicle inspector's permit take or use any name, title, additions or description implying that the person is the holder of such a certificate or permit; or
 - (d) not being the holder of a motor vehicle inspector's permit, undertake the inspection of motor vehicles.
- (4) A person who contravenes subsection (3) commits an offence and is liable on conviction to the prescribed penalty.

PART V - LICENSING OF DRIVERS

Drivers' licences

- 56** (1) A person may apply to the Authority in accordance with this Act for a licence to drive a motor vehicle of a prescribed class.

- (2) Subject to section 57(1), no licence shall be issued to a person under the age of 17 years.
- (3) No person shall-
 - (a) drive a motor vehicle on a public street unless the person is the holder of a driver's licence of the appropriate class issued under this Part;
 - (b) employ or permit or cause or allow any other person to drive a motor vehicle unless that other person is the holder of a driver's licence of the appropriate class issued under this Part.
- (4) If the Authority has delegated the power to issue or cancel drivers' licences, such delegation shall not extend to refusals of applications or cancellations other than for reasons of-
 - (a) the applicant's inability to pass a driving test;
 - (b) the evidence of a medical practitioner that the applicant's health is such that the applicant should not be the holder of such a licence; or
 - (c) the applicant not being entitled to a licence under this Act.
- (5) Regulations may be made exempting the holder of a driver's licence issued by the appropriate authority in another country from the requirement to be licensed under the provisions of this Part,
- (6) A person who contravenes subsection (3) commits an offence and is liable on conviction to the prescribed penalty.

Learners' permits and provisional licences

- 57. (1) A person who is 16 years and 6 months or over may apply to the Authority for a permit to learn to drive a motor vehicle and the Authority if satisfied that the person is suitable to hold a permit may issue one.
- (2) A person who has passed a driving test or examination shall be issued with a provisional licence for a period of 2 years before a full driver's licence is issued.
- (3) The Authority may attach conditions to the issue of a provisional driver's licence.

Fitness of drivers

- 58. (1) The Authority may refuse to issue or renew a driver's licence, or suspend for such period as it thinks fit or cancel at any time during the currency thereof, any driver's licence if, for any reason whatsoever, it is satisfied that any applicant or person who holds a driver's licence is not fit to be the holder of a licence or is not capable of driving a motor vehicle with safety to the public.
- (2) An application for a licence or for the renewal of a licence to drive a public service shall be refused by the Authority if the Authority, because of the nature of any conviction recorded against the applicant, is of the opinion that the applicant is not a fit and proper person to drive a public service vehicle.

Disqualification

- 59. (1) If a person is convicted of a second or subsequent offence against this Act as a driver or person in charge of a motor vehicle and there is no provision made for disqualification, the court may, in addition to any other penalty the court is entitled to impose, order that the person be disqualified from obtaining or holding a driver's licence for such period as the court thinks fit.
- (2) Unless disqualification is mandatory, if a person is convicted of an offence for which disqualification is part of the prescribed penalty, the court may, if sufficient reason is shown, disqualify the person for a shorter period than that prescribed, or decide not to disqualify the person, and must specify the reason.
- (3) Whenever a person is convicted of an offence for which disqualification is part of the prescribed penalty, the court may award up to 3 demerit points against the person, if it does not disqualify the person.
- (4) If a court orders that a person be disqualified from obtaining or holding a driver's licence under this Act, it may order that the period of disqualification shall commence at the expiration of any period of disqualification already imposed on that person.

- (5) If a person is disqualified from obtaining or holding a driver's licence under this Act-
- (a) by a court-
 - (i) the court may, if it is satisfied that reasonable cause exists for doing so, order that the disqualification shall take effect from a day or hour subsequent to the time of the making of the order; or
 - (ii) the court shall, where an order of disqualification is made in the absence of that person, order that the commencement of that period be postponed for a period not less than 10 days;
 - (b) as a result of a Traffic Infringement Notice, the effective date of disqualification is the date upon which the full payment of the penalty prescribed in the Traffic Infringement Notice was made.
- (6) If the period of disqualification is postponed under subsection (4) the period commences-
- (a) on the day immediately after the date of the expiration of the period of postponement; or
 - (b) if the licence is surrendered to the Authority during the period of postponement, on the date of surrender.
- (7) Where a person is disqualified from holding or obtaining a driver's licence under this Act or any other Act-
- (a) if the period of disqualification is less than 12 months, any licence held by the person shall be suspended for the period of the disqualification; or
 - (b) if the period of disqualification is for 12 months or more, any licence held by the person shall be cancelled.
- (8) If an order of disqualification is postponed under subsection (4), subsection (6) does not apply until the period of the disqualification commences.
- (9) A driver's licence suspended by virtue of this Act shall during the period of the suspension be of no effect.
- (10) If a person is convicted by a court and is disqualified from holding or obtaining a drivers licence for more than 6 months the person may, after the expiration of 6 months from the commencement date of disqualification, apply to the court for an order to remove the disqualification.
- (11) In determining an application under subsection (10) the court-
- (a) shall take into account the character of the applicant, his or her conduct after the conviction, the nature of the offence and any other matter as it thinks fit; and
 - (b) may order the removal of the disqualification in relation to one or more classes of vehicle, or may refuse the application.
- (12) If an application under subsection (10) is refused, no further application shall be made within 3 months from the date of refusal.
- (13) Subject to subsection (11)(b) any disqualification of a driver's licence pursuant to this Act shall be an absolute disqualification of any class of motor vehicle which the licence authorises the holder to drive.
- (14) Subject to any order made by the Court that the person be issued with a full driving licence, where a person is disqualified from obtaining or holding a driving licence and the period of disqualification expires, the Authority may issue a provisional licence-
- (a) in the case of a person who is a holder of a full driver's licence, for a period not exceeding 12 months; or
 - (b) in the case of a person who is a holder of a provisional licence, for a period of not less than 12 months nor more than 2 years.

Driving schools and instruction of drivers

- 60.** (1) The Authority may issue to a person-

- (a) a driving school certificate to operate a driving school business in accordance with this Act and any conditions that the Authority may determine; or
 - (b) a driving instructor permit to instruct for profit, another person to drive a motor vehicle.
- (2) A person may apply to the Authority in the prescribed form for a driving school certificate or a driving instructor permit.
- (3) No person shall-
- (a) operate a driving school business without being the holder of a driving school certificate;
 - (b) instruct, for profit, another person to drive a motor vehicle without being the holder of a driving instructor permit;
 - (c) not being the holder of a driving school certificate or driving instructor permit, take or use any name, title, additions or description implying that the person is the holder of a certificate or permit; or
 - (d) being the holder of a driving instructor's permit, undertake the instruction for profit of persons to drive motor vehicles unless he is employed by a person or business who or which is the holder of a driving school certificate.
- (4) A person who contravenes subsection (3) commits an offence and is liable on conviction to the prescribed penalty.

PART VI - PUBLIC SERVICE VEHICLE LICENSING

Public service vehicles

- 61.** (1) Subject to subsection (2), a motor vehicle used for the carriage of passengers for hire, reward or other consideration is deemed to be a public service vehicle for the purpose of this Act and the regulations.
- (2) A motor vehicle may, on an application made to the Authority, be exempted as a public service vehicle although it is being used for the carriage of passengers for hire, reward or other consideration if-
- (a) such carriage is not the principal activity of the owner of the vehicle and the passengers are being carried in the course of that principal activity; or
 - (b) the vehicle is also being used for the carriage of goods and is carrying the owner of the goods or his employee.
- (3) For the purpose of paragraph (a) of subsection (2), 'principal activity' includes the operation of a school, charitable or religious organisation or similar institution but does not include any commercial activity as may be determined by the Authority.
- (4) A holder of a driving school certificate may apply to the Authority for the approval of the use of an omnibus or mini-bus for the purposes of driving tests or examinations.
- (5) An omnibus or mini-bus approved under subsection (4) is deemed to be a licensed public service vehicle for the purposes of driving tests or examinations.
- (6) No person shall, from the date of commencement of this Part, be granted a public service vehicle driver's licence unless that person has attended and participated in a formal course and programme of instruction in defensive driving and road safety approved by the Authority.
- (7) A person who is a holder of a public service vehicle driver's licence on the date this Part comes into force shall be required to attend and participate in a formal course and programme in defensive driving and road safety conducted or approved by the Authority within 12 months from that date or within such other period as may be determined by the Authority, and the Authority may refuse to renew a public service vehicle driver's licence for non-compliance with this subsection.

Public service vehicles to be licensed

62. (1) No person shall drive or use any motor vehicle, or cause or permit one to be driven or used, as a public service vehicle unless it is licensed as a public service vehicle.
- (2) No person shall drive or use, or cause or permit to be driven or used, any public service vehicle contrary to the terms of a public service vehicle licence or public service permit relating to that public service vehicle.
- (3) An owner of a motor vehicle that is licensed as a public service vehicle shall ensure that at all times-
- (a) the prescribed licence label is affixed to the motor vehicle; and
 - (b) the correct public service vehicle identification number is clearly marked on it.
- (4) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to the prescribed penalty.

Public service vehicle licences

63. (1) The Authority may issue to a person who meets the prescribed requirements a public service vehicle licence of a class described in subsection (3) to enable a motor vehicle owned by that person to operate in the manner described in a public service permit held by that person.
- (2) A public service vehicle licence shall only be issued to the holder of a public service permit -
- (a) which is of an appropriate type; and
 - (b) which, except in the case of a road permit, is for the time being not used.
- (3) The classes of public service vehicle licence are-
- (a) a taxi licence, which shall only be issued in respect of a motor vehicle equipped for the conveyance of not less than 4 and not more than 5 persons excluding the driver;
 - (b) a rental vehicle licence, which shall only be issued in respect of a motor vehicle equipped for the conveyance of not more than 8 persons excluding the driver;
 - (c) a hire vehicle licence, which shall only be issued in respect of a motor vehicle equipped for the conveyance of not less than 4 and not more than 8 persons excluding the driver;
 - (d) a road service vehicle licence, which shall only be issued in respect of-
 - (i) an omnibus which, for the purpose of this Act, is a motor vehicle equipped for the conveyance of not less than ~~12~~ 16 persons, excluding the driver and constructed so that the driver and the passengers are located in the same compartment; or
 - (ii) a carrier which, for the purpose of this Act, is a motor vehicle constructed and equipped for the safe carriage of passengers and goods such that the majority of passengers are located separate from the driver's compartment; or
 - (e) a mini-bus licence, which shall only be issued in respect of a motor vehicle equipped for the conveyance of not less than 8 and not more than 15 persons excluding the driver.

Authority of public service permits

64. (1) A public service permit issued under this Part does not authorise the use of any motor vehicle otherwise than in accordance with such conditions as may be prescribed in relation to that permit.
- (2) The holder of a public service permit is, upon application at least 28 days before the expiry of the permit, and upon payment of the prescribed fee, entitled to the renewal of the permit unless the Authority is satisfied that the holder is in breach of this Act or the regulations in respect of a public service licence or of any condition attached to the permit.

Public service permits

65. (1) The Authority may issue public service permits of the types described in subsection (2).

- (2) A person may apply to the Authority for a public service permit of the following types -
- (a) a taxi permit which authorises the use of a motor vehicle licensed as a taxi, subject to this Act and licence and permit conditions, to ply or stand for hire in a base for which it is issued, or from an approved stand outside that base, for the carriage of passengers within, from or to that base;
 - (b) a rental permit which authorises the use of a motor vehicle licensed as a rental vehicle, subject to this Act and licence and permit conditions, to be driven by a person other than the owner of the motor vehicle or his servant;
 - (c) a hire permit which authorises the use of a motor vehicle licensed as a hire vehicle with driver provided, subject to this Act and licence and permit conditions, on a route and for a fare negotiated between the permit holder or his servant and the passenger carried but shall not authorise the vehicle to ply or stand for hire for the carriage of passengers; ~~or~~
 - (d) a road permit which authorises the use of a motor vehicle licensed as a road service vehicle, subject to this Act and subsection (3) and licence and permit conditions, except that-
 - (i) only a road permit may authorise a person to conduct a regular service between two terminating points; and
 - (ii) only a taxi permit may authorise a person to stand or ply for hire; or
 - (e) a mini-bus permit which authorises the use of a vehicle licensed as a mini-bus, subject to this Act and licence and permit conditions, to ply or stand for hire in a base for which it is issued, or from an approved stand outside that base, for the carriage of passengers within, from or to that base.
- (3) A person may apply to the Authority for a road permit in respect of-
- (a) a road route licence authorising the conduct of one or more road services for the transportation of passengers and goods at separate fares on -
 - (i) a stage service, which is a scheduled service along a specified route between terminating points with stops intended to meet the needs of persons along or in the vicinity of that route; or
 - (ii) an express service, which is a scheduled service between terminating points with or without a limited number of stops at hotels or towns intended to meet the needs of the general public;
 - (b) a road contract licence authorising the conduct of one or more road services for the transportation of passengers and goods on the basis of a contract, either express or implied, between the holder of the licence and another person; or
 - (c) a carrier licence authorising the use of a motor vehicle licensed as a carrier to provide passenger service between terminating points with or without a limited number of stops:

Provided that the fare shall be charged in accordance with the fares fixed by the Authority.

(4) A person who operates or permits to be operated a public service vehicle without or contrary to the conditions of a public service permit issued under this section commits an offence and is liable on conviction to the prescribed penalty.

Special conditions relating to road permits

- 66.** (1) The Authority may issue a temporary road permit for a period of not more than 3 months and such permit authorises the carriage of persons on such routes or within such areas as may be specified in the permit and subject to such conditions as may be specified.
- (2) A temporary permit shall not be issued if, within the period of 12 months preceding the application, a similar temporary permit was issued in respect of the same route the subject of the new application.
- (3) A road permit or mini-bus permit may include conditions or restrictions relating to charter services which may be performed under the authority of the road permit mini-bus permit.

- (4) The Authority shall not issue a road permit if any road service included on the permit-
- (a) is to be conducted with the use of a motor vehicle which is licensed as a carrier; and
 - (b) in the opinion of the Authority, competes unduly with a road service included on another road permit and conducted with the use of a motor vehicle which is licensed as an omnibus.
- (5) In this section ‘charter service’ means the use of a public service vehicle for the transportation of passengers and goods on the basis of a contract for the hire of the vehicle as a whole between the holder of a road permit or a mini-bus permit and the hirer.

PART VII - USE OF MOTOR VEHICLES AND PUBLIC STREETS

Traffic management by Authority or by delegation

- 67.** (1) The Authority may, for the purpose of marking stands, safety zones or parking areas or for the purpose of guiding, directing or regulating traffic, place, erect or install in public streets, posts, signs, studs and other contrivances and may make markings on or in the surface of a public street.
- (2) The Authority may delegate to a highway authority, the power to place, erect or install in public streets within the boundaries of the appropriate city or town, any traffic sign or other device relating to the parking of vehicles or stopping of vehicles for the purpose of picking up or setting down passengers or goods.
- (3) The power exercised by a highway authority pursuant to subsection (2) is subject to the authority placing, erecting or installing traffic signs or other devices-
- (a) in accordance with any directions the Minister or the Authority may give relating to the exercise of the power;
 - (b) in the case in which a public street is maintained by an agency of Government, in consultation with that agency; and
 - (c) pursuant to an order published by the highway authority in the *Gazette*.
- (4) The Authority may delegate to a highway authority, taking into consideration the technical competence of such authority, any or all of the powers mentioned in subsection (1) and not included in subsection (2).
- (5) The Authority may make as a condition of any delegation made under subsection (4) a requirement that the highway authority -
- (a) adopts particular standards or codes of practice;
 - (b) consults with and generally follow the advice of another authority nominated by the Authority; or
 - (c) complies with any other conditions the Authority considers appropriate.
- (6) Any highway authority which exercises a delegated power under provisions of subsection (2) or (4) shall within a period of 1 month provide the Authority with details of its decision.
- (7) Evidence that a traffic sign has been placed erected or installed for a period of not less than 12 months shall be taken as *prima facie* evidence that the traffic sign was placed, erected or installed under the authority of this section.

Control of parking

- 68.** (1) Any highway authority to which the Authority has delegated power to erect signs to regulate the parking of motor vehicles pursuant to section 67 may-
- (a) designate parking places; and
 - (b) prescribe charges for the use of a parking place.
- (2) In the exercise of a delegated power under this section the highway authority shall satisfy itself that the parking of motor vehicles -
- (a) will not be unduly detrimental to the free flow of traffic; and

- (b) is not contrary to other provisions of this Act.
- (3) Notwithstanding subsections (1) and (2), the Authority may order that certain parking areas be removed if in its view the presence of the parking area is detrimental to the free flow of traffic.

Police to keep accident records

- 69.** (1) The Commissioner of Police shall -
- (a) establish and maintain procedures and systems which, as far as is practicable-
 - (i) record the occurrence of all traffic accidents reported to a police officer;
 - (ii) record details of all traffic accidents investigated by police officers on an appropriate database;
 - (iii) record the total number of deaths arising out of motor vehicle accidents; and
 - (b) keep such records for a period of not less than 10 years.
- (2) The following definitions shall apply to the classification of casualties arising from accidents-
- (a) 'fatal' if a person dies as a result of the injuries received in an accident within 30 days of the date of the accident;
 - (b) 'hospitalised' if a person is detained overnight at a hospital or other medical facility for the treatment of injuries received in an accident; or
 - (c) 'not hospitalised' if a person receives injuries as a result of an accident, but neither paragraphs (a) or (b) apply, even if such person receives treatment at a hospital or other medical facility.

Access to public streets

- 70.** No person shall provide vehicular access from private property to a public street without the approval of the Government agency or the highway authority responsible for the maintenance of the public street.

Other places designated as public streets

- 71.** (1) The Authority may, by notification in the *Gazette*, designate any place as a public street for the purpose of this Act.
- (2) The designation by the Authority of a place as a public street under subsection (1) may-
- (a) limit, restrict or exempt the application of the Act to particular sections or regulations; or
 - (b) declare that any provisions of this Act are subject to the provisions of any other Act which apply to such place or street.
- (3) In accordance with this Act, the Authority may delegate relevant powers, including those under sections 67 and 68, to the authority responsible for any place designated as a public street under subsection (1).

PART VIII - ENFORCEMENT, OFFENCES AND PENALTIES

DIVISION 1 - POWERS OF OFFICERS

Police powers of arrest

- 72.** For the purpose of this Act a police officer may arrest without warrant any person whom the police officer has reasonable cause to believe is-
- (a) driving or attempting to drive a motor vehicle without a driver's licence or has had his driver's licence cancelled or suspended;
 - (b) contravening the provisions of this Act dealing with driving under the influence of alcohol or drugs;

- (c) responsible for the death of a person due to dangerous driving;
- (d) contravening the provisions of this Act which prohibit the use of or tampering with a vehicle without the consent of the owner;
- (e) obstructing a police or authorised officer or any other person carrying out his duties pursuant to this Act; or
- (f) contravening the provisions of this Act dealing with the demand, offer or acceptance of inducements.

Powers to control traffic and parking

- 73.** (1) A police officer may, for the purposes of traffic control -
- (a) direct a driver to move his motor vehicle from the place where it is standing and-
 - (i) remove the motor vehicle from the vicinity; or
 - (ii) proceed to an adjacent portion of the street, or of a neighbouring street, indicated by the police officer;
 - (b) give directions to the driver of a motor vehicle as to the-
 - (i) manner of approaching or departing from a place;
 - (ii) manner of taking up or setting down passengers, or loading or unloading goods, at a place; or
 - (iii) parking of motor vehicles;
 - (c) seize and remove to a place of safe custody a motor vehicle or trailer-
 - (i) where the motor vehicle or trailer is involved in an accident, for the purpose of having it or any portion of it examined, or for production as an exhibit in any proceedings under this Act;
 - (ii) where it is parked contrary to a parking offence provision;
 - (iii) where it is left on the public street for a period exceeding 12 hours and is in the opinion of the police officer abandoned;
 - (iv) where the motor vehicle or trailer is in, or left in, a position that in the opinion of the police officer is hazardous or dangerous to other road users or the public;
 - (v) where, in the opinion of the police officer, the motor vehicle or trailer is in, or left in, a public street, in such a position as to obstruct or partially obstruct access to, or exit from, any property that is adjacent to a public street;
 - (vi) where the police officer has reasonable cause to suspect that the vehicle is not registered pursuant to this Act or the regulations;
 - (d) give to a person on a public street such directions as are necessary for regulating traffic, including the forming of a line;
 - (e) where the police officer finds a person loitering on a public street and the police officer is of the opinion that the presence of the person in the public street may interfere with the free flow of traffic, request or direct that person to move on.
 - (f) give directions, including a direction to stop, to the driver or person in charge or owner of a vehicle whom the police officer finds committing an offence under this Act or any regulation (relating to that vehicle or otherwise) or whom the police officer reasonably believes to have committed such an offence;
 - (g) for the purposes of sections 72 and this section, direct, the driver of a motor vehicle to cause the mass of the motor vehicle, including any trailer attached to the motor vehicle, to be ascertained by means of a weighing device. (in this paragraph "mass" means the weight of the vehicle and the load.)
- (2) A police officer or an authorised officer may require the driver of a motor vehicle to stop and remain stationary so that the officer may examine the vehicle.

- (3) An authorised officer under this Part may exercise the powers vested in a police officer under subsection (1), either in whole or in part, except for those powers provided for under subparagraph (c)(i) and paragraph (e) of subsection (1).
- (4) A person to whom a police officer or authorised officer gives a direction under this section shall comply with that direction.
- (5) Where a police or authorised officer gives-
- (a) a signal, order or direction to a driver of a motor vehicle; or
 - (b) an order or direction to a pedestrian to stop, the driver or pedestrian shall stop for so long, and then proceed in such a manner, as the police or authorised officer directs or orders.
- (6) A police or authorised officer may take all reasonable measures, including entering locked or secured vehicles, for the purpose of enforcing the provisions of this Act.
- (7) A police or authorised officer shall not be held liable for any damage to or loss of any item from a motor vehicle during its seizure and removal to a place of safety in accordance with paragraph (c) of subsection (1).
- (8) A person who disobeys a direction given under this section commits an offence and is liable on conviction to the prescribed penalty.

Recovery of cost of removing a motor vehicle

- 74.** (1) Where a motor vehicle or trailer is removed by a police officer or authorised officer under section 73 the owner thereof is liable to pay all reasonable expenses for its removal and storage.
- (2) Where a motor vehicle is removed by a police officer or an authorised officer under section 73 -
- (a) if the owner thereof does not claim the motor vehicle or trailer and does not pay the reasonable expenses of its removal and storage within one month after the date of removal thereof, the Authority may cause the motor vehicle or trailer to be sold by auction or by public tender and may use any money received from the sale to defray those expenses; or
 - (b) if-
 - (i) the owner of the vehicle or trailer cannot, after reasonable inquiry, be located; or
 - (ii) the Authority is of the opinion that the vehicle or trailer is of no value or that the amount that might be received from a sale thereof would not be sufficient to satisfy the expenses referred to in paragraph (a),

the Authority may direct that the motor vehicle or trailer be disposed of in such manner as the Authority thinks fit.

- (3) If a sale of a motor vehicle or trailer under this section provides a greater amount than is necessary to defray the expenses of the removal and storage of the vehicle or trailer, the balance shall be held for 3 months and if not claimed by the owner within that period shall be paid into the funds of the Authority.

Powers to enter property and inspect motor vehicles

- 75.** (1) A police officer or an authorised officer may, for a purpose connected with this Act, at any time examine a motor vehicle or trailer which the officer reasonably suspects is being or has been used in connection with an offence under this Act and may enter premises without a warrant if the officer has reason to believe that the vehicle is in the premises, and may remain in the premises for the purpose of inspecting the vehicle.
- (2) A police officer or an authorised officer may at all reasonable times enter any premises in which vehicles are being constructed, or repaired or are kept for sale for the purpose of making an examination of a motor vehicle or a trailer.

(3) A police officer or an authorised officer may at all reasonable times enter without a warrant any premises in which a weighbridge is used in connection with a trade or business for the purposes of obtaining records of the weighing of a motor vehicle.

(4) The owner or person in charge or control of a weighbridge shall produce the records required under subsection (3) to the officer who requires them.

(5) A person who contravenes this section, or: who obstructs an officer performing duties under it, commits an offence and is liable on conviction to the prescribed penalty.

Power to seize number plates

76. (1) A police officer or an authorised officer may seize the number plates and remove or destroy the registration label of a vehicle the registration of which has expired or has otherwise been cancelled.

(2) A police officer or authorised officer may seize a trader identification permit and any trade plates which it authorises if the trader identification permit in respect of the vehicle has expired and has not been renewed or has been cancelled.

(3) A police officer or an authorised officer may enter any property without a warrant for the purpose of seizing anything required to be seized or destroyed under subsection (1) or (2).

(4) A person who obstructs a police officer or an authorised officer in the exercise of his powers under this section commits an offence and is liable on conviction to the prescribed penalty.

Additional powers of police officers and authorised officers

77. (1) A police officer or an authorised officer may for the, purposes of this Act -

(a) inspect any vehicle in respect of which a licence is or has been in force or which the officer has reason to believe is being used as a public service vehicle, and the equipment thereof, or

(b) inspect any vehicle, or any equipment used in connection therewith, that is on or in any premises occupied by a licensee or used in connection with the operation of vehicles under the authority of a licence;

(c) if he has reason to believe that any vehicle in respect of which a licence is in force is not in a fit condition to be used for any of the purposes for which it is authorised to be used under that licence, require any mechanism or part of the vehicle to be dismantled for the purpose of ascertaining whether the vehicle is so fit.

(2) A police officer or an authorised officer may, for the purpose of exercising any power conferred on the officer by subsection (1), at any reasonable time, enter and remain on the premises referred to in subsection (1)(b).

(3) Where a police officer has reason to suspect that stolen property is on or in a vehicle in respect of which a licence is or has been in force, the officer may search that vehicle and any package, container, or load thereon or therein.

(4) If upon any search authorised by this section a police officer finds any goods which he has reason to believe to have been stolen, he may detain such goods.

(5) Any goods detained under subsection (5) shall be brought before a magistrate to, be disposed of as such magistrate after due inquiry shall direct.

(6) A person who obstructs a police officer or an authorised officer in the exercise of his duty under this section commits an offence and is liable on conviction to the prescribed penalty.

(7) In this section "licence" means a public service vehicle licence and "licensee" is to be construed accordingly.

Persons to provide information to officers

78. (1) A motor vehicle owner, when so required by a police officer or an authorised officer in the performance of a duty under this Act, shall give information and particulars relevant to the use of his or her motor vehicle.

(2) A person in or on a motor vehicle, who when required by a police officer or an authorised officer in the performance of a duty under this Act to do so refuses to give -

- (a) that person's name and age, and the address of his place of residence; and
- (b) if the person is not the owner of the vehicle, the name and address of the place of residence of the owner of the vehicle,

or gives particulars which he knows are false or likely to mislead the police officer or authorised officer,

commits an offence.

(3) If a request is made of a person by a police officer or an authorised officer under subsection (2)(b), that person is not liable to be convicted of an offence under this Act by reason of his failure to give the name and address of the place of residence of the owner of the vehicle if he proves to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained and given, the particulars requested.

(4) A police officer may arrest without warrant a person who, in response to a request made by the officer under subsection (2) (a) refuses to give his name, age and residential address or gives a name, age or address that the officer has reasonable grounds for believing is false or misleading.

(5) A person who, when required by a police officer or an authorised officer, in the performance of a duty under this Act, to sign his name for the purpose of identification, refuses to do so, commits an offence.

(6) A person who commits an offence under this section is liable on conviction to the prescribed penalty.

Use of equipment

79. A police officer or authorised officer, in the performance of a duty under this Act, may use any equipment prescribed by regulations for the enforcement of the provisions of this Act.

DIVISION 2 - OFFENCES, PENALTIES AND PROCEEDINGS

Other offences

80. (1) The Minister, after consultation with the Authority may, by regulation, prescribe offences for the purposes of this Act and may prescribe penalties for such offences not exceeding a fine of \$2,000, imprisonment for 12 months, 3 demerit points and disqualification for 6 months.

(2) Proceedings for an offence under this Act, other than an offence under Division 4 of Part IV, may be taken in a magistrate's court on the information of an authorised officer authorised in respect of the relevant provision.

Penalties

81. A person who commits an offence under this Act or under regulations made under section 113, where no other penalty is provided, is liable on conviction to a fine of \$500, to imprisonment for 6 months and to an award of up to 3 demerit points.

Destination of penalties

82. (1) Fixed penalties payable under this Act shall be paid to the Authority and become part of its funds.

(2) A fixed penalty payable under this Act is a debt due to Authority and action may be taken to enforce it accordingly, except that -

- (a) imprisonment for non-payment of a fine extinguishes the debt; and
- (b) payment of a fixed penalty ceases to be due if the case proceeds under section 92(2).

Proceedings for certain offences

- 83.** (1) A person who commits an offence under section 100, 101, 102 or 106 shall not be convicted unless -
- (a) the person was warned at the time the offence was committed that the question of prosecuting him for an offence under one of those sections would be considered.
 - (b) within 14 days from the date the commission of the offence a summons for the offence was served on the person; or
 - (c) within the 14 days, a notice of intention to prosecute, specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was served on or sent by registered post to him or to the person who was registered as the owner of the vehicle at the time of the commission of the offence.
- (2) A failure to comply with the requirements of subsection (1) shall not be a bar to the conviction of an offender if the court is satisfied that-
- (a) neither the name and address of the offender nor the name and address of the owner of the vehicle could, with reasonable diligence, have been ascertained in time for a summons to be served or for a notice to be served or sent as aforesaid; or
 - (b) the offender by his own conduct contributed to the failure.
- (3) The requirements of this section shall in every case be deemed to have been complied with unless the contrary is proved.

Proceedings by councils

- 84.** (1) A council may institute proceedings for an offence against this Act in connection with any offence which is the subject of a Traffic Infringement Notice or other notice issued by an authorised officer in the employ of the council.
- (2) Any fine or penalty recovered through proceedings taken pursuant to subsection (1) shall be paid into the general revenue of the council.

Owner onus for parking offences

- 85.** (1) If a parking offence occurs in relation to a motor vehicle, the person who at the time of the occurrence of the offence was the owner of the motor vehicle is deemed to have committed the offence as if the owner was the person driving or in charge of the vehicle at the time of the offence.
- (2) If more than one person owns a motor vehicle in relation to which a parking offence occurs, each such owner shall be jointly and severally liable under subsection (1).
- (3) It is a defence to proceedings in relation to an offence under subsection (1) for the offender to establish that he was not driving or in charge of the motor vehicle at the time of the offence.
- (4) A person is not entitled to rely on a defence under subsection-(3) unless he gives, within 21 days of the service on him of a summons relating to the parking offence, to the clerk of the court specified in the summons, written notice of his intention to rely on that defence, together with a statutory declaration by him stating that at the time of the occurrence of the offence -
- (a) the motor vehicle was being driven by some other person without his knowledge or consent;
 - (b) the motor vehicle was in the charge of another person and stating the name and address of that person; or
 - (c) the person did not own the motor vehicle.
- (5) Proceedings shall not be heard in relation to a parking offence under subsection (1) unless the accused referred to in the summons relating to the parking offence was, at the time of the service of the summons on him -
- (a) notified in writing of the provisions of this section; and
 - (b) notified of an address at which a notice under subsection (4) may be lodged.

- (6) Where –
- (a) a person on whom a complaint and summons relating to a parking offence has been served gives to the clerk of the court specified in the summons written notice of his intention to rely on the defence under subsection (3) together with a statutory declaration stating that the motor vehicle was in the charge of another person and stating the name and address of that person; and
 - (b) proceedings in respect of that parking offence are taken against the person named in the statutory declaration as being in charge of the motor vehicle, the statutory declaration may be used as evidence that the person named in the statutory declaration as being in charge of the motor vehicle was in charge of the motor vehicle at all relevant times relating to the parking offence.
- (7) Nothing in this section affects the liability of the actual offender but, subject to subsection (2), where a penalty has been imposed on or recovered from any person in relation to a parking offence, no further penalty shall be imposed on or recovered from any other person in relation to the offence.

DIVISION 3 - TRAFFIC INFRINGEMENT NOTICES AND DEMERIT POINTS

Traffic Infringement Notices

- 86.** (1) Subject to this Part, a police officer or an authorised officer may issue a Traffic Infringement Notice to a person who commits a prescribed offence .
- (2) In this-Division “prescribed offence” means an offence prescribed under section 87.

Demerit points

- 87.** The Minister, after consultation with the Authority, may make regulations -
- (a) prescribing the offences for which a Traffic Infringement Notice may be issued; and
 - (b) prescribing the fixed penalty and the demerit points to be specified in the notice.

Courts to award demerit points

- 88.** (1) If a person is convicted of an offence under this Act, the court shall award against the person the number of demerit points prescribed in respect of that offence.
- (2) If, on the conviction of a person for an offence, the court is satisfied that, having regard to the circumstances in which the offence was committed, no demerit points should be awarded against him in respect of that conviction or a number of points less than the number that would otherwise be awarded in respect of that convicted should be so awarded it may, as it considers just in the circumstances, refrain from awarding him any demerit points or award him a number of demerit points less than the number that would otherwise be awarded in respect of that conviction.
- (3) In a case where 2 or more offences are committed by the same person and, having regard to the nature of the offences and the circumstances in which they were committed, the court is of the opinion that they can fairly be regarded as having arisen out of the same occurrence or out of a course of conduct pursued by that person at the time at which the offences were committed it may, if it considers it just so to do, treat the fact that they can be so regarded as a special circumstance for the purposes of subsection (2).
- (4) If on conviction for an offence a person has been disqualified for obtaining or holding a driver's licence for any period, section 59(3) applies.
- (5) A court may award demerit points in respect of an offence under this Act to a person who-
- (a) is the holder of a learner's permit and is convicted of the offence; or
 - (b) was a passenger in the vehicle at the time of the offence and is convicted of aiding, abetting, counselling, procuring or inciting it.

Demerit points and Traffic Infringement Notices

- 89.** (1) Subject to subsection (2), where a Traffic Infringement Notice has been accepted by the person named in the notice and the fixed penalty has been paid in full, there shall be awarded against that person the number of demerit points prescribed in respect of the offence indicated in the notice.
- (2) A person who -
- (a) drives a motor vehicle but is not licensed;
 - (b) is disqualified from holding or obtaining a driving licence;
 - (c) is a holder of a learner's permit; or
 - (d) has not renewed his driver's licence,
- and has been issued with a Traffic Infringement Notice shall be awarded demerit points if the person accepts the notice by paying the fixed penalty.

Disqualification on demerit points

- 90.** (1) If, within 3 years, the total number of demerit points awarded against a person is 9 or more, the person is to be disqualified from obtaining or holding a driver's licence for 6 months.
- (2) If 4 or more demerit points are awarded against a holder of a provisional licence during the period prescribed in the provisional licence, the holder of the provisional licence is to be disqualified from holding a driver's licence for 6 months.
- (3) For the purpose of subsection (1) or (2), the period of disqualification commences-
- (a) in the case of a person convicted by the court, on the conviction date; or
 - (b) in the case of a Traffic Infringement Notice, on the date of payment in full of the fixed penalty.
- (4) If a person is disqualified under this section and the person was convicted or paid the fixed penalty in relation to an offence committed before the person was disqualified, any demerit points awarded in relation to that offence are to be disregarded.
- (5) If a person is liable to be disqualified under this section from obtaining or holding a driver's licence, the Authority shall, subject to subsection (6), serve on the person a notice (in this Act referred to as a "disqualification notice") informing him that he is so disqualified for the period of 6 months.
- (6) If a person is to be disqualified under this section from obtaining or holding a driver's licence, the person may, before being served with a disqualification notice, surrender his licence to a police officer or to the Authority and, the person becomes so disqualified from the date of surrender.
- (7) The period of disqualification referred to in subsection (5) shall commence -
- (a) on the date of the serving on the person of that notice; or
 - (b) where the person surrenders his licence to a police officer or to the Authority within the period referred to in paragraph (a), on the date on which the licence is surrendered.
- (8) A disqualification notice may be served on a person -
- (a) by delivering it personally to the person;
 - (b) by leaving it at the address of the person's place of residence last known to the Authority with someone who apparently resides there, being a person who has or apparently has attained the age of 16 years; or
 - (c) by sending it by registered mail to the address of the person's place of residence last known to the Authority.

Record of demerit points

- 91.** (1) A record of the particulars of the demerit points awarded against any person shall be kept by the Authority, and an extract or copy of that record shall be *prima facie* evidence of the contents so recorded.

(2) Any person who considered that the record made or kept under this section in respect of him is incorrect in any particular may apply to a Magistrate for an order for the correction of the record and on such an application the Magistrate, unless he is satisfied that the record is correct, shall order the record to be corrected in such manner as may be specified in the order.

(3) The Authority shall comply with any order made under subsection (2).

(4) A Magistrate who hears an application under subsection (2)-

(a) shall, if he is satisfied that the record in respect of which the application is made is incorrect; or

(b) may, if he is satisfied that record is correct and that the application was made frivolously or vexatiously,

make such order as he considers just in respect of the costs of the application.

Proceedings for Traffic Infringement Notices

92. (1) Notwithstanding the other requirements of this Part, but subject to the provisions of this section, a police officer or authorised officer may institute proceedings in respect of the alleged commission of a prescribed offence -

(a) by serving personally upon the person alleged by him to, have committed the offence a Traffic Infringement Notice; or

(b) where the presence, at any time or for any period of time, of a motor vehicle in a place is evidence of the commission of the offence, by affixing a Traffic Infringement Notice to the vehicle in a conspicuous position.

(2) A Traffic Infringement Notice shall comply with the following requirements -

(a) the notice shall require the person to whom it is addressed to attend court at the place, date and time (not being less than 28 days from the date of the notice) specified in the notice unless -

(i) not later than 21 days after the date of the notice-

(A) payment is made, as specified in the Notice, of the fixed penalty applicable in relation to the offence charged; or

(B) the current driver's licence is surrendered to the court for an offence involving a prescribed period of disqualification in which case the disqualification shall commence on the date of surrender; or

(ii) that person appears by a legal practitioner or enters a written plea of guilty as provided for by the Criminal Procedure Code;

(b) if the notice is affixed to a motor vehicle pursuant to subsection (1)(b), the notice shall be issued by reference to the registered number of the vehicle and served on the owner of the motor vehicle;

(c) the notice shall bear the date on which it was served on the person charged, or affixed to the motor vehicle to which the charge relates, as the case requires.

(3) A Traffic Infringement Notice shall not be served upon a person, or affixed to a motor vehicle, more than 14 days after the day on which the offence is alleged to have been committed.

(4) The police officer or authorised officer who issues a Traffic Infringement Notice shall cause a signed copy of the notice to be placed before the court specified in the notice not later than 7 days after the date of the notice.

(5) Nothing in this section shall be taken to prevent the institution of proceedings under any other provision of this Act.

Acceptance of a Traffic Infringement Notice

93. (1) If proceedings are instituted by means of serving upon a person or affixing to a motor vehicle of a Traffic Infringement Notice and the notice has been accepted by the payment of the fixed penalty

within 21 days of the date of the notice, that acceptance shall be deemed a conviction for the offence in respect of which the Traffic Infringement Notice was issued.

(2) On the acceptance of a Traffic Infringement Notice for an offence that does not attract any demerit points, the proceedings instituted shall be deemed not a conviction.

(3) If proceedings are instituted by means of serving upon a person or the affixing to a motor vehicle a Traffic Infringement Notice and the offence is a second or subsequent offence for which a penalty other than the fixed penalty applies, a summons shall be served on the person within 28 days from the date of the offence whereby the person shall be required to attend court and any penalty paid shall be held in credit against any subsequent penalty arising from the offence or refunded as the case may be.

(4) If a Traffic Infringement Notice served upon a person has not been accepted by payment of the fixed penalty within 21 days of the date of the Traffic Infringement Notice, the notice shall be regarded for all purposes as a summons issued under the provisions of the Criminal Procedure Code.

(5) A court shall not proceed with the hearing of proceedings instituted by the affixing of a Traffic Infringement Notice to a motor vehicle unless, before the date of the hearing, a signed copy of the notice has been served upon the owner of the motor vehicle.

Evidence of acceptance of a Traffic Infringement Notice

94. In any proceedings, a certificate signed by the Clerk of the court or an authorised officer of the Authority that the fixed penalty was or was not paid shall, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

Offence to remove a Traffic Infringement Notice

95. (1) Subject to subsection (2), a person who removes or interferes with a Traffic Infringement Notice affixed to a motor vehicle in accordance with paragraph (b) of section 92(1) is guilty of an offence and is liable on conviction to the prescribed penalty.
- (2) It is a defence to a prosecution of a person for an offence under subsection (1) that the person was acting on behalf of -
- (a) the person to whom the notice was addressed; or
 - (b) the person having immediate lawful charge of the motor vehicle.

Government vehicles

96. For the purposes of sections 92 and 93 a motor vehicle shall be taken to have been a Government vehicle at the time of the alleged commission of an offence if at that time registration plates (if any) affixed to the vehicle were of the kind required to be affixed to Government vehicles.

DIVISION 4 - PARTICULAR OFFENCES

Dangerous driving occasioning death or grievous bodily harm

97. (1) A person commits the offence of aggravated dangerous driving occasioning death if the person commits the offence under subsection (2) in circumstances of aggravation.
- (2) A person commits the offence of dangerous driving occasioning death if the vehicle driven by the person is involved in an impact occasioning the death of another person and the driver was, at the time of the impact, driving the vehicle-
- (a) under the influence of intoxicating liquor or of a drug;
 - (b) at a speed dangerous to another person or persons or persons; or
 - (c) in a manner dangerous to another person or persons or persons.
- (3) A person commits the offence of aggravated dangerous driving occasioning grievous bodily harm if the person commits the offence under subsection (4) in circumstances of aggravation.

- (4) A person commits the offence of dangerous driving occasioning grievous bodily harm if the vehicle driven by the person is involved in an impact occasioning grievous bodily harm to another person and the driver was, at the time of the impact, driving the vehicle -
- (a) under the influence of intoxicating liquor or of a drug;
 - (b) at a speed dangerous to another person or persons; or
 - (c) in a manner dangerous to another person or persons.
- (5) For the purposes of this section, the circumstances in which a vehicle is involved in an impact occasioning the death of, or grievous bodily harm to, a person include if the death or harm is occasioned through any of the following -
- (a) the vehicle overturning or leaving a public street while the person is being conveyed in or on that vehicle (whether as a passenger or otherwise);
 - (b) an impact between any object and the vehicle while the person is being conveyed in or on that vehicle (whether as a passenger or otherwise);
 - (c) an impact between the person and the vehicle;
 - (d) the impact of the vehicle with another vehicle or an object in, on or near which the person is at the time of the impact;
 - (e) an impact with anything on, or attached to, the vehicle;
 - (f) an impact with anything that is in motion through falling from the vehicle.
- (6) For the purposes of this section, a vehicle is also involved in an impact occasioning the death of, or grievous bodily harm to, a person if -
- (a) the death or harm is occasioned through the vehicle causing an impact between other vehicles or between another vehicle and any object or person or causing another vehicle to overturn or leave a public street; and
 - (b) the prosecution proves that the first-mentioned vehicle caused the impact.
- (7) In this section, “circumstances of aggravation” means any circumstances at the time of the impact occasioning death or grievous bodily harm in which -
- (a) more, than the prescribed concentration of alcohol was present in the accused's blood; or
 - (b) the accused was driving the vehicle concerned on a public street at a speed that exceeded, by more than 45 kilometres per hour, the prescribed speed limit (if any) applicable to that length of public street; or
 - (c) the accused was driving the vehicle to escape pursuit by a police or authorised officer.
- (8) A person who commits an offence under subsection (1), (2), (3) or (4) is liable on conviction to the prescribed penalty.

Reckless or dangerous driving

- 98.** (1) Any person who drives a motor vehicle on a public street recklessly, or at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case including the nature, condition and use of the public street and the amount of traffic which is actually at the time or which might reasonably be expected to be on the public street, commits an offence and, subject to subsections (2) and (3), is liable upon conviction to the prescribed penalty.
- (2) On a second or subsequent conviction for an offence against this section, the court shall disqualify the offender from holding or obtaining a driving licence for the period mentioned in the prescribed penalty unless the court, having regard to the lapse of time since the date of the previous or last previous conviction or for any other special reason, thinks fit to order otherwise.
- (3) If a person is convicted of aiding, abetting, counselling or procuring, or inciting the commission of an offence under this section, and it is proved that the person was present in the vehicle at the time of the commission of the offence, the court by which the person is convicted may order the person to be disqualified from holding or obtaining a driving licence for the period mentioned in the prescribed penalty.

Careless or inconsiderate driving

- 99.** (1) A person who drives a motor vehicle on a public street without due care and attention commits an offence and is liable on conviction to the prescribed penalty.
- (2) A person who drives a motor vehicle on a public street without due consideration for other persons using the public street (including but not limited to, driving at an unreasonably slow speed) commits an offence and is liable on conviction to the prescribed penalty.

Use of a motor vehicle without the owner's consent

- 100.** (1) Subject to subsection (2), a person who takes and drives away any motor vehicle without having either the consent of the owner or other lawful authority commits an offence and is liable on conviction to the prescribed penalty.
- (2) If the court is satisfied that the accused acted in a reasonable belief that he had lawful authority, or in the reasonable belief that the owner would have given his consent if he had been asked, the accused shall not be liable to be convicted under subsection:(1).
- (3) If on the trial of a person for stealing a motor vehicle the court is of the opinion that the accused is not guilty of stealing the motor vehicle but is guilty of another offence under this Part, the court may convict the accused of that other offence.
- (4) Any police officer may arrest without a warrant any person reasonably suspected by the police officer of having committed or of attempting to commit an offence under this section.

Tampering with motor vehicles

- 101.** (1) No person shall be in or on, tamper with, or damage, a motor unless the person is authorised in that behalf by the owner of the vehicle.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to the prescribed penalty.

Persons incapable of driving

- 102.** (1) A person who drives a motor vehicle or is in charge of a motor vehicle while under the influence of intoxicating liquor or any drug to such an extent as to be incapable of having proper control of the motor vehicle commits an offence and is liable on conviction to the prescribed penalty.
- (2) If a police officer is of the opinion that a person who is driving or attempting to drive or is for the time being in charge of a motor vehicle is, by reason of his physical or mental condition, however arising, incapable of having proper control of the motor vehicle, the police officer may -
- (a) forbid that person to drive the motor vehicle;
 - (b) direct that person to deliver up to the police officer forthwith all ignition keys and other keys of the motor vehicle that are in that person's possession; and
 - (c) take such steps as may be necessary to render the motor vehicle immobile or to remove it to a place of safety.
- (3) A person who fails to comply with a direction given to him under subsection (2) or does an act that is for the time being forbidden under that subsection is guilty of an offence against this Act, but no person shall be convicted of an offence under this subsection unless the court before which he is charged is satisfied that the police officer had reasonable grounds for believing that, in all the circumstances of the case, the direction or prohibition was necessary in the interests of the defendant, or of any other person, or of the public.
- (4) Subject to subsection (5), if a police officer exercises the powers conferred by subsection (2), the police officer shall retain the ignition keys and other keys of the motor vehicle and cause the motor vehicle to be kept immobile or in a place of safety until such time as, in the police officer's opinion, the person referred to in subsection (2) is capable of having proper control of the motor vehicle.

(5) A person who is directed or forbidden to do anything, pursuant to subsection (2), shall, at the time when the direction or prohibition is given or imposed or at any time thereafter, be informed by the police officer that -

- (a) he is entitled to have his capability to have proper control of the motor vehicle determined by a police officer (in this subsection referred to as "the senior police officer") of a higher rank than the police officer who gave the direction or imposed the prohibition, if the last-mentioned police officer is of a rank lower than inspector; or
- (b) he is entitled to request an examination by a qualified medical practitioner, and if it is reasonably practicable that the request be granted the police officer who gave the direction or imposed the prohibition shall make the necessary arrangements accordingly.

(6) If a police inspector or other senior police officer or medical practitioner, as the case may be, certifies that he is of the opinion that a person is capable of having proper control of a motor vehicle, the police officer who has possession of the ignition keys and other keys of the motor vehicle shall forthwith return them to the person and, if the motor vehicle has been rendered immobile, shall forthwith cause it to be returned to running order.

Exceeding prescribed limit

103. (1) A person who -

- (a) drives or attempts to drive a motor vehicle or is in charge of a motor vehicle while more than the prescribed concentration of alcohol is present in his blood; or
- (b) fails or refuses to undergo a breath test or breath analysis when required to do so by a police officer,

commits an offence.

(2) A person who is convicted of an offence under subsection (1) is liable to the prescribed penalty.

(3) A person convicted of an offence -

- (a) under section 102(1) is not liable to be convicted of an offence under subsection (1) of this section arising out of the same circumstances;
- (b) under subsection (1) of this section is not liable to be convicted of an offence under section 102(1) arising out of the same circumstances.

(4) A person may be charged jointly under subsection (1)(a) or (1)(b) of this section but the person shall not-

- (a) if convicted of an offence under subsection (1)(a), be convicted also for an offence under subsection (1)(b); or
- (b) if convicted for an offence under subsection (1)(b), be convicted also for an offence under subsection (1)(a).

Breath tests or analysis

104. (1) A police officer may require -

- (a) a person in respect of whom section 102(2) applies;
- (b) the driver of a motor vehicle that has been required to stop under subsection (2); or
- (c) a person the police officer believes on reasonable grounds has within the preceding 2 hours driven or been in charge of a motor vehicle when it was involved in an accident,

to undergo a breath test or breath analysis according to the procedures prescribed in the regulations:

Provided that -

- (a) no breath test or analysis shall be conducted after 2 hours have elapsed from the time the driver has been driving or in charge of the motor vehicle unless the breath test or analysis could not have been carried out earlier due to the condition of the driver;
 - (b) a person shall not be detained for the purposes of breath test or analysis for more than 30 minutes.
- (2) A police officer may stop any motor vehicle for the purpose of conducting random breath testing in accordance with operational instructions for such testing issued by the Commissioner of Police.

Zero alcohol limit

- 105.** (1) No person who is a holder of learner's permit, provisional licence, heavy goods vehicle driver's licence or public service vehicle driver's licence shall, whilst the concentration of alcohol in the blood of that person is more than 0.00 grams per 100 millilitres of blood, drive or attempt to drive -
- (a) in the case of a holder of a learner's permit or provisional licence, any motor vehicle; or
 - (b) in the case of a holder of a heavy goods vehicle licence or public service vehicle licence, a heavy goods vehicle or public service vehicle.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to the prescribed penalty.
- (3) Where a person is found guilty under this section and the person has no previous conviction for an offence under this section the court may, having regard to the circumstances of the case, discharge the person without conviction, or substitute any lesser penalty than that prescribed.

Obstruction

- 106.** (1) No person shall in any manner obstruct, hinder, or prevent the free passage of a person or motor vehicle on a public street, except in so far as the obstruction, hindrance, or prevention is the necessary consequence of the lawful use by that person of the street.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to the prescribed penalty.

Inducements

- 107.** (1) No police officer, authorised officer, authorised inspector, employee of the Authority or any other person shall demand or accept an inducement relating to any aspect of this Act.
- (2) No person shall offer or provide an inducement relating to any aspect of this Act to a police officer, authorised officer, authorised inspector, employee of the Authority or any other person.
- (3) Any person with knowledge thereof shall immediately report to the Commissioner of Police or the Chief Executive of the Authority any demand, acceptance, offer or provision of an inducement.
- (4) For the purpose of this section, "inducement" includes any money, goods, assistance, in kind or other means by which the recipient may benefit.
- (5) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to the prescribed penalty.

Interference with officers

- 108.** A person who interferes with a police officer, an authorised officer or any other person in the performance of his duties pursuant to this Act commits an offence and is liable on conviction to the prescribed penalty.

Fraud and misleading statements

- 109.** (1) Notwithstanding any other provisions of this Act, a person who -

- (a) by any misrepresentation or false statement, obtains or attempts to obtain a driver's licence under this Act;
 - (b) without lawful excuse, has in his possession a driver's licence, certificate of registration, registration label or number plate issued under this Act or any article resembling a driver's licence certificate of registration, registration label, or number plate, with intent to deceive;
 - (c) forges, or fraudulently alters or uses, or fraudulently lends or allows to be used by any other person, any driver's licence, certificate of registration, registration label, or any number plate;
 - (d) drives or uses upon a public street any unregistered motor vehicle or trailer, having upon it any number plate or registration label similar to the number plates and registration labels issued by the Authority to be fixed to registered motor vehicles or trailers, with intent to deceive.
- (2) A person who for, the purposes of securing the registration of, or the transfer or renewal of the registration of, or the issue or cancellation of a certificate of registration in respect of, a vehicle -
- (a) makes any representation which the person knows to be false or does not believe to be true, or
 - (b) produces a document which the person knows to be forged or which contains a representation which the person knows to be false or does not believe to be true,
- commits an offence.
- (3) Upon the conviction of a person for an offence under this section, and in addition to any other penalty the court may impose, any licence, certificate, permit, certificate of registration, or the renewal of any licence, permit, registration, or certificate under this Act, so obtained, is void.
- (4) A police officer or authorised officer who has reasonable grounds to believe that a licence or certificate produced to him pursuant to this Act by the driver of a motor vehicle is a document in relation to which an offence under this section has been committed, may seize the document and retain it for the purpose of conducting an investigation.
- (5) A person who makes a false or misleading representation contrary to section 56 of the Fair Trading Decree, 1992 in respect of any documents mentioned in this section commits an offence under this section in addition to any offence under the Decree.
- (6) A person who commits an offence under subsection (1), (2) or (5) is liable on conviction to the prescribed penalty.

Misconduct by authorised officers

- 110.** (1) An authorised officer, employee of or any person engaged by the Authority who misconducts himself in the performance of his duties commits an offence and is liable on conviction to the prescribed penalty.
- (2) Without affecting subsection (1), an authorised officer, employee of, or any person engaged by the Authority is deemed to have misconducted himself in the performance of his duties if he fails to comply with any instrument of delegation issued by the Authority pursuant to section 12.

Liability of employers

- 111.** If an offence under this Act is committed by an employee or agent of another person in the course of the employment or agency, the employer or principal, as the case may be, is also liable for the offence if it is shown that the act or omission constituting the offence -
- (a) was consented to or connived at by the employer or principal; or
 - (b) was attributable to gross neglect on his part.

PART IX - MISCELLANEOUS

Repeals and savings

112. (1) The Traffic Act is repealed.
- (2) All by-laws, regulations, codes, orders, notices, appointments, licences and permits made or issued under the provisions of the repealed Act shall be deemed to have been made or issued under the corresponding provisions of this Act and shall remain of full force and effect until such time as they are revoked, renewed, extended or amended under this Act.
- (3) Any regulations, codes or by-laws made under the provisions of the repealed Act in respect of which there are no corresponding provisions in this Act, shall remain of full force and effect as though they had been made under the authority of this Act until such time as they have been revoked or amended under the provisions of this section or any other Act and may be amended or revoked under this subsection.
- (4) Any appointment or delegation made under the repealed Act before the commencement of this Act continues until the appointment or delegation is revoked under this Act.
- (5) Any proceedings instituted or action begun under the repealed Act before the commencement of this Act which has not been determined before the commencement of this Act continues until determined under the repealed Act.
- (6) ~~Section 178 of the Criminal Procedure Code (Cap. 211)~~ Section 175 of the Criminal Procedure Code (Cap. 21) is amended -
- (a) ~~by deleting "section 32 or section 39" and substituting "section 97, 98, 99 or 102", and by deleting "section 38 or 39 of the Traffic Act" and substituting "section 97, 98, 99 or 102 of the Land Transport Act 1998"~~
 - (b) by deleting "section 42 of".
- (7) The Motor Vehicle (Third Party Insurance) Act (Cap.107) is amended-
- (a) in section 2(1) by deleting "any Traffic Act" in the definition of "driving licence" and substituting "the Land Transport Act 1998";
 - (b) in section 4(3) by deleting "the Traffic Act" and substituting "the Land Transport Act 1998".

Regulations

- 113 (1) The Minister, after consultation with the Authority, may make regulations necessary to give effect to the provisions of this Act, and in particular to prescribe -
- (a) matters required or permitted by this Act to be prescribed;
 - (b) matters necessary to regulate the use of a motor vehicle by persons with special disabilities, including old people;
 - (c) other matters necessary to regulate breath tests or breath analysis;
 - (d) fees required to be paid or levied under this Act or the regulations;
 - (e) documents and records to be kept in respect of drivers and vehicles.
 - (f) [quotas and conditions for the issue of licences for public service vehicles.](#)
- (2) In relation to Part IV, regulations may -
- (a) provide for the registration of vehicles and the issue of certificates, plates and labels, including the payment of any outstanding fees or penalties payable under this Act;
 - (b) provide for the fees to be paid for the registration of vehicles, for the renewal of registration, and for the transfer of registration;
 - (c) regulate the manner and duration of vehicle registration;
 - (d) regulate the affixing of number plates and registration labels to vehicles and prohibit other plates and labels;

- (e) provide for the seizure and surrender of number plates and registration certificates and labels;
- (f) provide for the use of unregistered vehicles on public streets;
- (g) provide for the cancellation of vehicle registrations for failure to pay prescribed fees and penalties, failure to comply with orders to correct defects, failure to have appropriate third party insurance or failure to effect a transfer of registration;
- (h) provide for the reservation, issue, use and transfer of number plates, either in a continuous series or of a unique nature;
- (i) provide for the owner to advise the Authority when certain changes are made to a motor vehicle or to its ownership;
- (j) provide for the owner to advise the Authority the Authority when a vehicle is scrapped or leaves the Fiji Islands;
- (k) provide for vehicles registered outside the Fiji Islands to be used in the Fiji Islands;
- (l) provide for minimum vehicle standards relative to road safety and the environment;
- (m) provide for inclusion in the design, construction and use of vehicles of features intended to improve the safety of the vehicle and its occupants and load and other road users or to protect the environment;
- (n) provide for the fitting and use of seat belts in motor vehicles;
- (o) provide for the inspection of vehicles, including by businesses and inspectors authorised by the Authority, and the for regulation of such businesses and inspectors;
- (p) prohibit or restrict the use of vehicles the construction or use of which is unsafe or annoying to other road users;
- (q) regulate or restrict the use of trailers;
- (r) prescribe the fees to be paid for inspections;
- (s) prescribe the maximum mass which may be transmitted as a load through a wheel, the wheels which comprise an axle, a group of axles or all the axles of a vehicle and the manner in which any such load or combinations of loads shall be determined;
- (t) prescribe standards for the construction, dimensions and weight of vehicles and the environmental and safety standards to be met by vehicles;
- (u) provide for exemption for certain vehicles or types of vehicles from the standards prescribed under paragraph (t);
- (v) regulate the fitting and use of warning devices;
- (w) prescribe or prohibit the use of particular lamps and warning or signalling devices;
- (x) prescribe the details, size and location of signs to be displayed on vehicles relating to mass, seating capacity, standing capacity, smoking, approved maximum speed and any other aspect of the vehicle or its load which in the view of the Authority needs to be displayed by a sign;
- (y) prescribe the manner in which a load shall be restrained on a vehicle, in general or in particular cases;
- (z) prescribe the type and standard of fuel and fuel systems to be used by motor vehicles and emission standards for motor vehicles;
- (aa) provide for the safety of hazardous materials, including petroleum products, gases, chemicals and explosives, being transported by road;
- (bb) provide for documents to be provided for vehicles going abroad;
- (cc) provide for the regulation of motor vehicle dealing and trading, including in relation to the standards of facilities, after sales service and warranties;
- (dd) regulate the categories and use of motor vehicles as goods vehicles;
- (ee) prescribe other categories or classes of motor vehicle;

- (ft) provide for the issue of trader identification permits authorising the use of trade plates on a vehicle.
- (3) In relation to Part V, regulations may -
- (a) provide for the issue of drivers' licences for particular classes of vehicles with appropriate conditions and restrictions, including being subject to the payment of any outstanding fees or penalties payable under this Act;
 - (b) prescribe qualifications as to the age at which a licence may be obtained, ability and physical fitness to drive and experience in one class before a licence may be issued for another class;
 - (c) regulate the issue, variation, duration, renewal, suspension, cancellation and return of drivers' licences;
 - (d) prescribe the requirements for drivers of vehicles carrying hazardous materials;
 - (e) prescribe the centres at which certain persons may be tested on their ability to drive, the driving standards to be met and the fees which may be charged;
 - (f) provide for the issue of driving instructors' permits and the registration of driving schools, and prescribe the fees to be paid;
 - (g) prescribe qualifications and standards to be met by driving instructors, driving schools and the vehicles used for tuition;
 - (h) authorise persons licensed to drive in other countries to drive in the Fiji Islands subject to such conditions as may be prescribed;
 - (i) prescribe the fees to be paid for the issue of drivers' licences, renewals of licences, and the issue of duplicate licences;
 - (j) regulate the issue of learners' permits or provisional licences including specifying of conditions;
 - (k) prescribe any class of driver's licence.
- (4) In relation to Part VI, regulations may -
- (a) provide for and regulate the variation, revocation, suspension or cancellation of a public service vehicle licence or public service permit;
 - (b) provide for and regulate the issue by the Authority of public service vehicle licences or public service permits and duplicate licences and permits, the duration, re-issue, transfer, cancellation, and return thereof, and the conditions affecting the same;
 - (c) prescribe the manner in which applications may be lodged and determined, including the conditions under which public notice of such applications may be required;
 - (d) prescribe the requirements to be fulfilled and the conditions to be observed by the owners of public service vehicles and holders of public service permits and persons employed in relation thereto and regulate the conduct of such persons in carrying out their duties;
 - (e) provide for the holders of public service permits to maintain certain records and to disclose agreements entered into with other persons relating to the provision of public transport services;
 - (f) prescribe requirements affecting the safety, serviceability and comfort of public service vehicles, including requirements relating to vehicle age, engine size, passenger and luggage capacity, type of meters and passenger access;
 - (g) provide for and regulate the inspection of all or any public service vehicles, the times at which and the persons by whom such inspection is to be made, and the fees to be paid for such inspection;
 - (h) prescribe the methods which may be adopted by persons using public service vehicles to ply for hire, the places in which they may and may not so ply, and the streets or portions of streets that may be used for that purpose, either generally or in respect of specified times or occasions; and prohibit any person from touting or calling out or otherwise importuning any person to use any such vehicle;

- (i) prescribe the fares or charges (whether maximum or minimum or both) which may be charged or made in respect of the use of public service vehicles of any class or in relation to any particular kind of service, either generally or in respect of different routes, places, or localities, and provide how, when and in what cases such fares or charges shall be published or exhibited for public information;
 - (j) provide for the custody, disposal, and return of lost property found in public service vehicles the cases in which and the manner in which the same may be sold, the disposal of the proceeds thereof, and the charges which may be made in relation thereto;
 - (k) prescribe the requirements to be fulfilled and observed in relation to the accommodation to be provided on public service vehicles and the number of persons that may be carried therein;
 - (l) require and regulate the use of meters on any public service vehicles, and provide for the testing thereof at prescribed intervals;
 - (m) prohibit the use of public service vehicles, or specified classes thereof, in specified places either generally or for specified times or occasions;
 - (n) prohibit or regulate smoking by persons in public service vehicles;
 - (o) regulate the conduct of persons using public service vehicles;
 - (p) prescribe the fees (not otherwise prescribed) and the charges and payments which shall be payable in respect of specified services rendered by public service vehicles and how, when and by whom the same shall be paid and recovered respectively, and provide for the application of any such charges and payments as aforesaid;
 - (q) prescribe routes, bases, and other local divisions of the Fiji Islands or any part of them to be serviced by public service vehicles;
 - (r) prescribe the issue of tickets and inspection of tickets on public service vehicles, and any such regulations may discriminate in respect of different classes of such vehicles, or of different routes, zones, or divisions, or of different times or occasions or of the persons or classes of persons using the same.
- (5) In relation to Part VII, regulations may -
- (a) prohibit or restrict the use of any vehicle, or any kind or class of vehicle, upon any specified public streets, or within the public streets in any specified area, either generally or within certain hours;
 - (b) regulate the number of seating positions and the number of passengers that may be carried, in or upon a motor vehicle;
 - (c) provide for the specification of standards for and the installation of traffic management devices, including any sign, marking, traffic control signal, . crossing or other device intended to regulate, control or give direction or guidance to persons using a public street;
 - (d) regulate the movement of traffic and the stopping and parking of vehicles in public streets, including the prescription of what routes shall be followed and restrictions as to times, type, dimensions, load or mass of vehicles, and the manner in which temporary arrangements for movement and stopping and parking may be made;
 - (e) prohibit or regulate the carrying or displaying of advertisements or placards on public streets by any person, or on any vehicles, or the carrying or using of noisy instruments on vehicles in public streets;
 - (f) prescribe and regulate the seizure and custody of vehicles, animals and goods in public streets, and provide for the recovery of the expenses of the custody and disposal of such vehicles, animals and goods;
 - (g) prohibit or regulate the setting up and use of stalls, stands, and vehicles for the sale of goods, or for the pursuit of any business, calling, or employment in any public street;
 - (h) prohibit loitering and the obstruction of traffic, either by vehicles or pedestrians, in public streets, and the projection of any goods into or over any footway beyond the

line of any building, and provide that any vehicle left unattended on a public street may be deemed an obstruction, whether in fact it interferes with other vehicles or persons or not;

- (i) regulate the driving and leading of any kind of animals in public streets, and prescribe routes therefor;
 - (j) regulate pedestrian traffic upon, or the standing of persons in, a public street;
 - (k) prescribe the time or period during which any vehicle may be left standing or unattended in a public street;
 - (l) regulate the speed at which vehicles, or any particular class of vehicles, of any specified weight, laden or unladen, may be driven in any public street, or within any specified area or part of a public street;
 - (m) provide for the wearing of seat belts by the occupants of motor vehicles and the wearing of helmets by riders of motor cycles or bicycles;
 - (n) regulate the standard of seat belts, child's restraining devices and helmets which may be sold or offered for sale;
 - (o) regulate the periods during which certain drivers may drive continuously and the rest periods which must be taken between such periods;
 - (p) regulate the towing of vehicles;
 - (q) regulate the use of equipment in or on a motor vehicle;
 - (r) prescribe equipment to be fitted to bicycles and regulate the use of bicycles;
 - (s) prescribe requirements to be followed in the event of an accident involving a motor vehicle;
 - (t) designate car parks, including associated access roadways, and other areas otherwise used by the public as public streets to which the provisions of this Act apply.
 - (u) regulate the speed at which motor vehicles of any class may be driven on any public street, including a minimum speed.
- (6) In relation to Part VIII, regulations may -
- (a) prescribe the equipment to be used for the enforcement of the provisions of this Act;
 - (b) prescribe the methods by which enforcement equipment is to be certified for use;
 - (c) provide for the analysis of breath and blood alcohol content and processing of such analysis;
 - (d) prescribe the permitted concentration for alcohol in the blood for the purpose of section 103;
 - (e) define vehicle overloading offences and the means of determining and recording such;
 - (f) provide for the unloading of some loads;
 - (g) prescribe the use of weighing devices other than on public streets;
- (7) A penalty prescribed for a breach of a regulation made under this section shall not -
- (a) in the case of a fine, exceed \$2,000;
 - (b) in the case of imprisonment, exceed 2 years;
 - (c) in the case of demerit points, exceed 3;
 - (d) in the case of disqualification from obtaining or holding a driving licence, exceed 6 months.

Prescribed penalties

- 114.** (1) The penalties prescribed in the third column of the Schedule are prescribed as the maximum penalties for offences against the sections of the Act respectively mentioned.

(2) Where the prescribed penalty is shown by “\$...../..... months” or similar, the court may impose a fine up to the maximum amount shown or a term of imprisonment up to the maximum period shown or both such fine and such imprisonment.

(3) Where the prescribed penalty includes disqualification, subsections (2) and (3) of section 59 apply.

SCHEDULE

Section	Offence	Prescribed Penalty
23(4)	Disclosing of information	\$1000/6months
37(2)	Using forms without authority	\$50
39(3)	Failure to notify change of address, etc.	\$100
49(3)	Driving, etc. unregistered vehicle	a) first offence - \$500/3months and 2 demerit points b) second and subsequent offence - \$1000/6 months and 3 demerit points and confiscation of vehicle
49(4)	False registration plates	a) first offence - \$1000/6months and 2 demerit points b) second and subsequent offence - \$2000/12 months and 3 demerit points
50(3)	Breach of construction and equipment regulations	\$1000/6 months and 2 demerit points
53(5)	Use of vehicle contrary to the licence conditions	a) any motor vehicle - \$200/30 days and 1 demerit points b) public service vehicle - \$500/3 months and disqualification for 12 months
54(5)	Unauthorised motor dealing	a) first offence - \$500/3months b) second - \$1000/6 months
55(4)	Unauthorised inspection of vehicles	\$1000/6 months
56(6)	Driving without a licence	a) first offence - \$200/30 days b) second offence - \$1000/6 months and disqualification for 12 months
60(4)	Unlicensed driving school or instructor	\$500/3 months
62(4)	Failing to display public service vehicle label or number	a) first offence - \$500/3months and 2 demerit points b) second offence - \$1000/6 months and 3 demerit points
65(4)	Operating a public service vehicle without a permit	a) first offence - \$500/3months and 2 demerit points b) second offence - \$1000/6 months and 3 demerit points
73(8)	Failure to obey traffic direction	\$200/30 days
75(5)	Failure to produce weighbridge records, or obstruction	\$500
76(4)	Obstructing police officer	\$500/3 months
77(7)	Obstructing police officer	\$500/3 months
78(6)	Failure to provide information	\$100
95(1)	Removal of Traffic Infringement Notice	\$500/3 months
97(1)	Aggravated dangerous driving occasioning death	a) minimum - \$2000 and disqualification for 12 months b) maximum - \$20000/10 years and disqualification for any period up to life
97(2)	Dangerous driving occasioning death	a) minimum - \$1000 and disqualification for 6 months b) maximum - \$10000/10 years and disqualification for any period up to life
97(3)	Aggravated dangerous driving occasioning bodily harm	\$5000/5 years and disqualification for 2 years
97(4)	Dangerous driving occasioning bodily harm	\$2000/2 years and disqualification for 12 months

<u>Section</u>	<u>Offence</u>	<u>Prescribed Penalty</u>
98(1)	Reckless or dangerous driving	a) first offence - \$1000/12 months and disqualification for 6 months b) second or subsequent offence - \$2000/2 years and disqualification for 12 months
99(1)	Careless driving	\$500/3 months and 3 demerit points
99(2)	Inconsiderate driving	\$500/3 months and 3 demerit points
100(1)	Use of vehicle without owner's permission	\$500/3 months and disqualification for 6 months
101(2)	Tampering with motor vehicle	\$200/30 days
102(1)	Driving vehicle while incapable through drink	\$5000/5 years and disqualification for 5 years
103(1)(a)	Driving or attempting to drive with excess alcohol in the blood	a) first offence - \$2000/2 years and mandatory disqualification for from 3 months to 2 years b) second offence - \$5000/5 years and mandatory disqualification for from 6 months to 4 years c) offence if 2 or more convictions for similar offence within the 5 years preceding the offence - \$10000/10 years and mandatory disqualification for from 12 months to 5 years
103(1)(b)	Failure or refusal to undergo breath test or analysis	Same penalties as under paragraph (a)
105(2)	Breach of zero alcohol limit	Same penalties as under section 103(1)(a)
106(2)	Obstruction of a public street	\$200/ 30 days
107(5)	Inducement	\$2000/12 months
108(1)	Interference with officer	\$1000/6 month
109(6)	Fraud and misleading statements	a) first offence - \$1000/6 months b) second or subsequent offence - \$2000/12 months
110(1)	Misconduct by officer	\$200/30 days