

CHAPTER 13:11

ROAD TRAFFIC ACT

Acts 48/1976, 37/1977 (s. 29), 41/1978 (s. 42), 24/1983, 31/1983, 4/1986, 8/1988 (s. 164), 18/1990, 11/1991, (s. 25), 20/1994 (s. 15), 9/1997 (s. 10), 20/1999 (s. 39), 3/2000; 6/2001 (s. 69), 22/2001 (s. 4); S.I.s 205/2006, 176/2007, 124/2009.

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AN ACT to provide for the licensing of drivers of motor vehicles; for the issue and recognition of international driving permits and foreign drivers licences; for compulsory insurance against third party risks arising out of the use of motor vehicles; for traffic signs and police directions; for the control of certain advertisements; for certain offences connected with road traffic; for prohibition from driving and endorsement of licences and for the powers and duties of various persons; and to provide for matters incidental to or connected with the foregoing.

PART I
PRELIMINARY

1 Short title and date of commencement

This Act may be cited as the Road Traffic Act [*Chapter 13:11*].

2 Interpretation

(1) In this Act—

“advertisement” includes any apparatus or structure erected or intended only for the display of advertisements, but does not include a traffic sign;

“appointed date” means the 1st July, 1977;

“articulated vehicle” means a motor vehicle with a trailer so attached to the motor vehicle that—

(a) part of the trailer is superimposed on the motor vehicle; and

(b) when the trailer is uniformly loaded, not less than twenty *per centum* of the mass of the load of the trailer is borne by the motor vehicle;

“axle load”, in relation to the axle of a vehicle, means the aggregate mass supported by the surface of the road or other base whereon the vehicle moves or rests measured at the point of contact between such surface and the several wheels attached to such axle;

“by-laws” means, save in subsection (8) of section *eighty-one*, by-laws made in terms of Part XVII of the Urban Councils Act [*Chapter 29:15*] or Part XI of the Rural District Councils Act [*Chapter 29:13*], as read with subsection (2) of section *eighty-one*;

“certificate of competency” means a certificate of competency issued in terms of paragraph (ii) of subsection (2) of section *ten*;

“certificate of insurance” means a certificate issued in terms of paragraph (b) of subsection (2) of section *twenty-three*;

“certificate of roadworthiness” means a certificate of roadworthiness issued by an inspecting officer in terms of subparagraph (i) of paragraph (b) of subsection (3) of section *seventy-three*;

“certificate of security” means a certificate given in terms of subsection (2) of section *twenty-four*;

“commuter omnibus” means a passenger public service vehicle which— (a)

has seating accommodation for more than seven passengers; and

(b) is used to provide a passenger transport service in accordance with a permit issued under □

(i) regulations made in terms of section 193 of the Urban Councils Act [*Chapter 29:15*]; or

(ii) Part V of the Road Motor Transportation Act [*Chapter 13:10*];

[Definition inserted by section 2 of Act 3 of 2000.]

“construction trailer” means any trailer—

(a) used in the construction or maintenance of boreholes, bridges, buildings, dams, electrical installations, roads, waterworks, wells and other civil engineering projects; and

(b) declared to be a construction trailer in terms of subsection (2);

“construction vehicle” means any motor vehicle—

(a) used in the construction or maintenance of civil engineering projects referred to in paragraph (a) of the definition of “construction trailer”; and

(b) declared to be a construction vehicle in terms of subsection (2);

“declared road” has the meaning given by section 3 of the Roads Act [*Chapter 13:12*];

“drive” includes cause or permit to be driven;

“driver” means the person having control of the steering apparatus of a vehicle and includes, in respect of—

(a) a motor cycle or pedal cycle, the rider thereof; and

(b) a trailer, the person driving the motor vehicle by which the trailer is being drawn; and

(c) an animal-drawn vehicle, the person in charge thereof;

“drivers licence” means a drivers licence issued in terms of subsection (6) of section *ten*, or subsection (1) of section *fourteen*;

“examiner” means an examiner appointed in terms of section *seventy-nine*;

“foreign drivers licence” means a licence bearing a photograph of the holder of the licence and endorsed with his signature and issued by the competent authority of any state, territory or province outside Zimbabwe for the purpose of enabling the holder of the licence to drive unaccompanied a motor vehicle on a road in such state, territory or province;

“goods” means goods, merchandise and wares of all kinds and includes livestock, sand, stone and water;

“gross mass” means the net mass of a motor vehicle or trailer, together with such mass of goods or passengers or both as the motor vehicle or trailer may be authorized in terms of this Act or any other enactment to carry or draw, as the case may be;

“heavy vehicle” means a motor vehicle exceeding two thousand three hundred kilograms net mass, but does not include a passenger motor vehicle having seating accommodation for less than eight passengers;

[Definition amended by section 2 of Act 3 of 2000.]

“inspecting officer” means an inspecting officer appointed in terms of paragraph (a) of subsection (1) of section *eighty*;

“internal licence” means a drivers licence, a learners licence, a tractor drivers permit or an international driving permit issued in terms of subsection (2) of section seventeen;

“international driving permit” means an international driving permit issued in terms of subsection (2) of section seventeen or referred to in subsection (1) of section *eighteen*;

“issuer of licences” means a registering officer appointed in terms of subsection (1) of section 4 of the Vehicle Registration and Licensing Act [*Chapter 13:14*];

“learners licence” means a learners licence issued in terms of subsection (3) of section *nine*;

“licence” means, save in section sixty-three, an internal licence or an international driving permit referred to in subsection (1) of section eighteen or a foreign drivers licence;

“light trailer” means a trailer fitted with pneumatic tyres, the factory rated load capacity of which does not exceed five hundred and fifty kilograms;

“local authority” means—

- (a) a municipal council, town council or, subject to subsection (2), a rural district council; or
- (b) a local board declared in terms of subsection (2) to be a local authority;

“Minister” means the Minister of Transport and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“motor cycle” means a motor vehicle which—

- (a) has fewer than four wheels; and
- (b) is designed to be steered by means of handlebars;

“motor vehicle” means any vehicle propelled by electrical or mechanical power and adapted or intended for use or capable of being used on roads, but does not include—

- (a) a vehicle running on rails or a vehicle which, though not running on rails—
 - (i) is the property of a local authority or is run under statutory authority; and
 - (ii) is adapted or intended for use on roads without rails and either derives motive power from an overhead wire or is moved by power transmitted thereto from some external source; or
- (b) a vehicle specially designed and constructed, as opposed to being merely adapted, for the use of persons suffering from some physical defect or disability and used solely by such persons; or (c) a vehicle which is—
 - (i) controlled by a pedestrian; and
 - (ii) not capable of being used or adapted for use otherwise than under the control of a pedestrian; or

- (d) any vehicle, other than a vehicle referred to in paragraph (a), (b) or (c), declared not to be a motor vehicle in terms of subsection (2);

“net mass”, in relation to a motor vehicle or trailer, means the mass of the motor vehicle or trailer ready to travel on a road and includes the mass of—

- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer of the motor vehicle or trailer as standard accessories or equipment for the particular model of motor vehicle or trailer concerned; and (b) anything which is—

- (i) a permanent part of the structure of the motor vehicle or trailer; or
- (ii) affixed to the motor vehicle or trailer so as to form a structural alteration of a permanent nature; and

- (c) in the case of a motor vehicle propelled by—

- (i) electrical power, the accumulators and water of such motor vehicle; and
- (ii) mechanical power, all water carried in the radiator of such motor vehicle, but does not include the mass of fuel required for the propulsion thereof;

“omnibus” means a heavy vehicle having—

- (a) a net mass exceeding two thousand three hundred kilograms; and
- (b) seating accommodation for seven or more passengers;

[Definition amended by section 2 of Act 3 of 2000.]

“owner”, in relation to a vehicle, means—

- (a) the owner, joint owner or part owner of the vehicle; and
- (b) any person who has the lawful use of the vehicle or who controls its use; and

[Paragraph amended by section 2 of Act 3 of 2000.]

- (c) in the case of a vehicle delivered under a hire-purchase or other agreement by virtue of which the property in such vehicle passes to the transferee only on the fulfilment of a suspensive condition, the transferee from and after the date of such delivery;

“parking” means the standing or waiting in any public place of any vehicle not actually engaged in setting down or taking up goods or passengers or both;

“parking place” means a place where all vehicles generally or vehicles of any particular class or description may park;

“passenger” does not include the driver of a vehicle;

“passenger public service vehicle” means a public service vehicle which is used to operate a passenger transport service as defined in the Road Motor Transportation Act [*Chapter 13:15*];

[Definition substituted by section 2 of Act 3 of 2000.]

“place”, when used as a verb in relation to a traffic sign, includes erect or mark;

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

“portion”, when used in relation to a road, includes any cycle track, lane or other portion of the width of a road;

“private road” means any road—

- (a) for the maintenance of which neither the State nor a local authority has assumed responsibility; and
- (b) which is not commonly used by the public or any section thereof; and excludes a declared road;

“prohibit from driving” means prohibit from driving a motor vehicle on a road;

“public service vehicle” means a motor vehicle in respect of whose operation an operator’s licence is required in terms of the Road Motor Transportation Act [*Chapter 13:15*];

[Definition inserted by section 2 of Act 3 of 2000.]

“Registrar” means the Registrar of Road Traffic Licences referred to in subsection (1) of section *four*;

“regulations” means regulations made in terms of subsection (2) of section *eighty-one*;

“resolution” means a resolution passed in terms of subsection (3) of section *eighty-two*;

“road” means any highway, street or other road to which the public or any section thereof has access and includes—

- (a) any bridge, ferry or pontoon over which a road passes; and
- (b) any drift in the line of a road; and
- (c) any approach, culvert, cutting, dam, ditch, drain, embankment, fence, grid, guard, kerb, parapet, subway or other work or thing belonging to or connected with or forming part of a road; and
- (d) any public place; and
- (e) for the purposes of sections *fifty-one* to *fifty-five*, *sixty-four*, *seventy*, *seventy-six* and *seventyseven*, any private car park or private road;

“road authority” bears the meaning assigned to that term in section 2 of the Roads Act [*Chapter 13:18*];

[Definition inserted by section 69 of Act 6 of 2001.]

“State road” means a road for the maintenance of which the Minister has assumed responsibility;

“statutory policy” means a policy of insurance referred to in subsection (1) of section *twenty-two*;

“statutory security” means a security referred to in subsection (1) of section *twenty-two*;

“taxi-cab” means a motor vehicle which has seating accommodation for not more than seven passengers and which is used to carry passengers for hire or reward;

[Definition inserted by section 2 of Act 3 of 2000.]

“this Act” includes any resolution;

“tractor” means a motor vehicle, other than a motor vehicle designed to form part of an articulated vehicle, which is used for the purpose of drawing one or more trailers but which is not itself designed to carry any load;

“tractor drivers permit” means a tractor drivers permit or a duplicate tractor drivers permit issued in terms of subsection (5) of section *eight*;

“traffic sign” includes any direction post, line, instruction, sign, signal, signpost, warning or other device or mark for the direction or guidance of persons using roads;

“trailer” means a vehicle which—

- (a) has no independent motive power of its own; and

(b) is adapted or constructed to be attached to and drawn by a motor vehicle; but does not include a side-car attached to a motor cycle or such other vehicle as may be declared not to be a trailer in terms of subsection (2);

“urban area under the jurisdiction of a local authority” means—

- (a) in the case of a municipal council, the municipal area concerned;
- (b) in the case of a town council, the town area concerned;
- (c) subject to subsection (2), in the case of a rural district council, any town ward of the council, and any area declared to be a specified area in terms of the Rural District Councils Act [*Chapter 29:13*];
- (d) in the case of a local board, the area specified in terms of subsection (2) in respect thereof; and includes the area of any local government area administered and controlled by any such local authority and “urban area under its jurisdiction” shall be construed accordingly; “use” includes cause or permit to be used.

(2) The Minister may, by statutory notice, declare—

- (a) a local board to be a local authority and specify the area which shall be the urban area under the jurisdiction of the local board:

Provided that he shall not make any such declaration or specification without the approval of the Minister responsible for the administration of the Urban Councils Act [*Chapter 29:15*];

- (b) that a rural district council shall be a local authority for the purposes of this Act in respect of any greater or lesser area than the council area for which it was established:

Provided that he shall not make any such declaration without the approval of the Minister responsible for the administration of the Rural District Councils Act [*Chapter 29:13*];

- (c) a trailer belonging to a particular class to be a construction trailer;
- (d) a motor vehicle belonging to a particular class to be a construction vehicle;
- (e) a vehicle belonging to a particular class, other than a vehicle referred to in paragraph (a), (b) or (c) of the definition of “motor vehicle” in subsection (1), not to be a motor vehicle;
- (f) a vehicle belonging to a particular class, other than a side-car attached to a motor cycle, not to be a trailer; for the purposes of this Act.

3 Application of this Act and certain by-laws to persons and vehicles in service of State

(1) Subject to subsection (2), this Act and of any by-law made for the purpose of—

- (a) the control or regulation of traffic; or
- (b) the parking of vehicles; or
- (c) ensuring the public safety; shall apply to persons and vehicles in the service of the

State in their capacity as such.

(2) This Act or any by-law which—

- (a) forbids a person to drive a motor vehicle on a road unless he is the holder of a licence; or
- (b) regulates the number of trailers which may be drawn by a motor vehicle; or
- (c) imposes a speed limit in respect of motor vehicles; shall not apply in the case of motor vehicles owned by the State and used for—
 - (i) the purposes of the Defence Forces or police purposes;
 - or (ii) enforcing the provisions of this Act or of any such by-law;

or in the case of motor vehicles so used while being driven by any person for the time being subject to the lawful orders of any member of the Defence Forces or any police officer.

PART II

LICENSING OF DRIVERS OF MOTOR VEHICLES

4 Appointment of Registrar of Road Traffic Licences

(1) There shall be a Registrar of Road Traffic Licences whose office shall be a public office and shall form part of the Public Service.

(2) The Registrar shall exercise the powers conferred, and perform the duties and functions imposed, upon him by or under this Act.

(3) The Registrar shall, in exercising the powers and performing the duties and functions referred to in subsection (2), be subject to the directions and orders of the Minister.

5 Register of licences

The Registrar shall keep—

- (a) in a form approved by the Minister a register of all persons to whom internal licences have been issued; and
- (b) such books, records and registers, other than the register referred to in paragraph (a), as may be directed by the Minister.

6 Drivers of motor vehicles to be licensed

- (1) Subject to this Act, no person shall drive a motor vehicle on a road unless he—
 - (a) is the holder of a valid licence issued to him in respect of motor vehicles of the class concerned; and

[Paragraph amended by section 3 of Act 3 of 2000.]

- (b) complies with the conditions, if any, subject to which the licence referred to in paragraph (a) was issued.

(2) The Minister may, by statutory instrument, direct the members of any class of persons referred to in paragraph (a) of subsection (1) or in subsection (5) of section *eighty-three* who were licensed or deemed to have been licensed to drive a motor vehicle on a road before a date specified in such notice to surrender their licences, together with such fees, photographs, medical certificates and other documents as may be prescribed, to the Registrar within a period specified in such notice.

(3) On receipt of a licence and the accompanying fees, photographs, medical certificates and other documents, if any, referred to in subsection (2), the Registrar shall—

- (a) cancel such licence; and

- (b) issue to the person whose licence he has cancelled a licence on the prescribed form in respect of motor vehicles of the class concerned.

(4) The licence of a person who fails to comply with a direction made in terms of subsection (2) shall be deemed to have been cancelled with effect from the date of expiry of the period specified in the notice concerned or such longer period as the Minister, on the application of such person, may allow.

(5) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment:

Provided that, if the motor vehicle he was driving in contravention of that subsection was a commuter omnibus or a heavy vehicle, he shall be liable to imprisonment for a period not exceeding five years and not less than six months, unless he satisfies the court that□

- (a) he possessed a licence issued to him in respect of commuter omnibuses or heavy vehicles, as the case may be; and
- (b) the licence referred to in paragraph (a) ceased to be valid on the expiry of the period referred to in subsection (1) of section *fourteen A*; and
- (c) he could lawfully have renewed the licence referred to in paragraph (a) and, had he done so, he would have been entitled to drive the commuter omnibus or heavy vehicle concerned; or unless he satisfies the court, in terms of section *eighty-eight A*, that there are special reasons in the case why that penalty should not be imposed upon him.

[Subsection substituted by section 3 of Act 3 of 2000 and amended by section 4 of Act 22 of 2001.]

(6) Subject to Part IX, a court convicting a person of an offence in terms of subsection (5) may prohibit him from driving for such period as the court thinks fit:

Provided that, if the motor vehicle he was driving in contravention of subsection (1) was a commuter omnibus or a heavy vehicle, the court shall prohibit him for life from driving motor vehicles of the class to which commuter omnibuses or heavy vehicles, as the case may be, belong, unless he satisfies the court that□

- (a) he possessed a licence issued to him in respect of commuter omnibuses or heavy vehicles, as the case may be; and
- (b) the licence referred to in paragraph (a) ceased to be valid on the expiry of the period referred to in subsection (1) of section *fourteen A*; and
- (c) he could lawfully have renewed the licence referred to in paragraph (a) and, had he done so, he would have been entitled to drive the commuter omnibus or heavy vehicle concerned; or unless he satisfies the court, in terms of section *eighty-eight A*, that there are special reasons in the case why such a prohibition should not be imposed upon him.

[Subsection substituted by section 3 of Act 3 of 2000.]

7 Minimum age limits for drivers of motor vehicles

- (1) Notwithstanding anything contained in this Act, no person under the age of—
 - (a) sixteen years shall drive on a road any motor vehicle; or
 - (b) eighteen years shall drive on a road a construction vehicle, heavy vehicle or passenger public service vehicle other than an omnibus or a commuter omnibus; or

[Paragraph amended by section 4 of Act 3 of 2000.]

- (c) twenty-five years shall drive an omnibus or a commuter omnibus on a road.

[Paragraph inserted by section 4 of Act 3 of 2000.]

- (2) A licence issued to a person under the age of—
(a) sixteen years in respect of any motor vehicle; or
(b) eighteen years in respect of a construction vehicle, heavy vehicle or passenger public service vehicle other than an omnibus or a commuter omnibus; or
- [Paragraph amended by section 4 of Act 3 of 2000.]
- (c) twenty-five years in respect of an omnibus or a commuter omnibus;
- [Paragraph inserted by section 4 of Act 3 of 2000.]

shall be invalid.

- (3) ...

[Subsection repealed by section 4 of Act 3 of 2000.]

- (4) A court convicting a person of an offence in terms of subsection (3) may, subject to Part IX, prohibit the person from driving for such period as the court thinks fit.

[Subsection amended by section 4 of Act 3 of 2000.]

7A Maximum age limit for drivers of certain motor vehicles

Any person who is over the age of seventy years and who drives on a road a commuter omnibus or a heavy vehicle that is a public service vehicle shall be guilty of an offence and liable to imprisonment for a period not exceeding two years and not less than six months.

[Section inserted by section 5 of Act 3 of 2000.]

8 Tractor drivers permits

- (1) In this section—

“farmer” means a person who is licensed in terms of the Farmers Licensing and Levy Act [*Chapter 18:10*];
“miner” means a person who is the holder of a registered mining location;
“prescribed officer” means a person whom the Minister has appointed by statutory instrument to be a prescribed officer for the purposes of this section;
“registered mining location” has the meaning given by the Mines and Minerals Act [*Chapter 21:05*].

- (2) Subject to this section—

- (a) a farmer or miner or his manager may authorize on the prescribed form the issue of a tractor drivers permit to a person who is employed by the farmer or miner entitling such person to drive a tractor owned or possessed by the farmer or miner; or
(b) a prescribed officer may, on the application of a self-employed farmer or miner, authorize on the prescribed form the issue of a tractor drivers permit to such farmer or miner entitling him to drive a tractor owned or possessed by him; on any road for farming or mining purposes, as the case may be, and such authority shall be deemed to be a tractor drivers permit for such period as may be prescribed.

- (3) A farmer or miner or his manager or a prescribed officer, as the case may be, may authorize on the prescribed form the issue of a duplicate tractor drivers permit to replace a tractor drivers permit—

(a) issued in respect of the farm or registered mining location concerned; and (b) which he is satisfied has been destroyed, lost or defaced in any essential particular.

- (4) No authority for the issue of a tractor drivers permit or duplicate tractor drivers permit, as the case may be, shall be given in terms of subsection (2) or (3)—

- (a) in respect of a person who is the holder of a drivers licence issued in respect of a class of motor vehicle to which tractors belong; or
(b) by a person who is not the holder of a drivers licence referred to in paragraph (a); or
(c) unless the person giving such authority has satisfied himself that the person in respect of whom such authority is given—
- (i) has a good practical knowledge of the rules of the road, road signals and road signs and is competent to drive and control a tractor; and
(ii) is not suffering from any disease or other disability which, in the opinion of the person giving such authority, would render the person in respect of whom such authority is given incapable of effectively driving and controlling a tractor without endangering the public safety; or

- (d) in respect of a person who is prohibited from driving motor vehicles of a class to which tractors belong.

- (5) A farmer or miner or his manager or a prescribed officer, as the case may be, who authorizes the issue of a tractor drivers permit or duplicate tractor drivers permit in terms of subsection (2) or (3) shall forthwith transmit to the Registrar—

- (a) a copy of such authority; and
(b) the prescribed fee; and
(c) such documents, other than the copy referred to in paragraph (a), and particulars as may be prescribed.
(6) As soon as possible after the receipt of a copy of the authority concerned, the prescribed fee and the documents and particulars referred to in subsection (5), the Registrar shall—

(a) if from his records it appears that the person in respect of whom such authority has been given is not—

- (i) prohibited from driving; or
- (ii) the holder of a drivers licence issued in

respect of a class of motor vehicle to which tractors belong;

and (b) if he is satisfied that—

- (i) the person who authorized the issue of a tractor drivers permit in terms of subsection (2) or (3) is the holder of a drivers licence issued in respect of a class of motor vehicle to which tractors belong; and

- (ii) such copy, fee and documents and particulars are in order;

issue a tractor drivers permit or duplicate tractor drivers permit on the prescribed form and transmit the same to the person who authorized such issue.

(7) On receipt of the tractor drivers permit or duplicate tractor drivers permit transmitted to him in terms of subsection (6), the person who authorized the issue of such tractor drivers permit or duplicate tractor drivers permit shall forthwith give the same to the person to whom it is issued.

(8) The holder of a tractor drivers permit shall—(a) not drive a tractor on a road—

- (i) unless he has the tractor drivers permit on his person; or
- (ii) outside the area of the farm or registered mining location specified in the tractor drivers permit as the farm or registered mining location— A. where he is employed; or
 - B. occupied by him; as the case may be, or a belt ten kilometres wide outside the boundaries of such farm or registered mining location and contiguous thereto; or
- (iii) within the urban area under the jurisdiction of a local authority or within such other area as may be prescribed;

(b) surrender the tractor drivers permit to the farmer or miner by whom he is employed or the manager of such farmer or miner or, in the case of such a holder who is a self-employed farmer or miner, to the prescribed officer concerned if he—

- (i) ceases to be employed on or to farm or mine, as the case may be, the farm or registered mining location in respect of which the tractor drivers permit was issued; or
- (ii) becomes the holder of a drivers licence in respect of a class of motor vehicle to which tractors belong; or
- (iii) is required to do so by such farmer or miner or manager or prescribed officer, as the case may be.

(9) A farmer or miner or his manager or a prescribed officer, as the case may be, to whom a tractor drivers permit has been surrendered in terms of subsection (8) shall forthwith transmit the tractor drivers permit, together with such particulars as may be prescribed, to the Registrar for cancellation.

(10) The tractor drivers permit of a person to whom a licence is issued in respect of a class of motor vehicle to which tractors belong shall be invalid with effect from the date on which the licence is issued.

(11) A person who, not being the holder of a drivers licence issued in respect of a class of motor vehicle to which tractors belong, authorizes the issue of a tractor drivers permit in terms of paragraph (a) of subsection (2) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(12) A person who contravenes the provisions of subsection (8) shall be—

- (a) guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; and
- (b) additionally liable, in the case of a contravention of paragraph (a) of that subsection and subject to Part IX, to be prohibited from driving by the court convicting him for such period as such court thinks fit.

[Subsection amended by section 4 of Act 22 of 2001.]

9 Issue of learners licences

(1) Subject to subsection (2) and of subsection (8) of section *ten*, a person who does not hold a drivers licence issued in respect of motor vehicles of a particular class may apply on the prescribed form to an examiner for a learners licence in respect of such class.

(2) No person shall apply in terms of subsection (1) for a learners licence in respect of a class of motor vehicle to which omnibuses belong unless he has held for such continuous period as may be prescribed a licence, other than a learners licence, in respect of such class of motor vehicle as may be prescribed.

(3) As soon as possible after receipt of an application referred to in subsection (1), together with such documents, fees and photographs as may be prescribed, an examiner shall— (a) test the applicant; and

(b) if satisfied that the applicant—

- (i) has orally or in writing displayed a good knowledge of the rules of the road, road signals and road signs; and
- (ii) is not suffering from any disease or other disability which, in the opinion of the examiner, would render him incapable of driving and controlling a motor vehicle without endangering the public safety;

issue to the applicant a learners licence on the prescribed form in respect of motor vehicles of the class to which his application relates:

Provided that the examiner shall—

- (a) not issue to the applicant a learners licence in respect of motor vehicles of a class which the applicant is prohibited from driving unless such prohibition is imposed in terms of paragraph (a) of subsection (1) of section *sixty-three*;
- (b) if he is not satisfied that the applicant is not suffering from any disease or other disability referred to in subparagraph (ii) of paragraph (b) of this subsection and therefore refuses to issue to the applicant such learners licence, refund to the applicant such fees.

(4) A person whose application has been refused because the examiner concerned is not satisfied that such person is not suffering from any disease or other disability referred to in subparagraph (ii) of paragraph (b) of subsection (3) may apply within such period as may be prescribed to a magistrate for the holding of an inquiry into the alleged disease or other disability concerned and subsections (4) to (9) of section *twelve* shall apply, *mutatis mutandis*.

(5) A learners licence shall—

- (a) be subject to such conditions as the examiner issuing the same thinks fit to impose; and
- (b) be valid for such period from the date of issue thereof as may be prescribed; and
- (c) subject to this section, entitle the holder thereof to drive on a road a motor vehicle of the class in respect of which the learners licence is issued.

(6) The holder of a learners licence shall not drive a motor vehicle of the class concerned on a road unless he is under the supervision of a person who is—

- (a) the holder of a licence, other than a learners licence, issued in respect of a motor vehicle of the same class as; and
- (b) within reach of the steering wheel of; the motor vehicle being driven by such holder:

Provided that this subsection shall not apply to the driving by the holder of a learners licence of—

- (a) a motor cycle; or
- (b) a motor vehicle, other than a motor cycle, which has only one seat which is provided for the driver thereof; or
- (c) a motor vehicle which he is entitled to drive in terms of this Act by virtue of being the holder of some other valid licence.

(7) The holder of a learners licence driving on a road a motor cycle or a motor vehicle referred to in paragraph (b) of the proviso to subsection (6) shall not carry a passenger thereon.

(8) The holder of a learners licence shall not drive on a road—(a) a public service vehicle carrying passengers for hire or reward; or

- (b) a motor vehicle of a class in respect of which his learners licence has been issued unless there are affixed to the front and rear of the motor vehicle discs or plates—
- (i) of the prescribed dimensions; and
 - (ii) composed of the prescribed materials; and
 - (iii) bearing the letter L in red on a white background:

Provided that the holder of a learners licence may drive a motor vehicle on a road without such plates being affixed thereto if he is entitled in terms of this Act to drive such motor vehicle on a road by virtue of being the holder of some other valid licence.

(9) The holder of a licence, other than a learners licence, shall not drive a motor vehicle on a road with the discs or plates referred to in paragraph (b) of subsection (8) affixed thereto unless the holder of a learners licence in respect of motor vehicles of the class concerned is—(a) in or on, as the case may be, the motor vehicle; and (b) under instruction by such first-mentioned holder.

(10) A person who—

- (a) fails to comply with the conditions, if any, subject to which a learners licence is issued to him; or
- (b) contravenes subsection (2), (6), (7), (8) or (9); shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

10 Issue of certificates of competency and drivers licences

- (1) The holder of a learners licence may apply on the prescribed form to an examiner for a certificate of competency to drive—
- (a) motor vehicles of any class, other than omnibuses; or
 - (b) omnibuses, if he has held for such continuous period as may be prescribed a licence, other than a learners licence, in respect of such class of motor vehicles as may be prescribed.
- (2) As soon as possible after the receipt of an application in terms of subsection (1), together with—
- (a) the prescribed fee; and
 - (b) such licences, including the learners licence, of the applicant and documents as may be prescribed; the examiner concerned shall—
- (i) test the applicant; and
 - (ii) if satisfied that the applicant—
 - A. has a good practical knowledge of the rules of the road, road signals and road signs and is competent to drive and control; and
 - B. is not suffering from any disease or other disability which, in the opinion of such examiner, would render the applicant incapable of effectively driving and controlling, without endangering the public safety;
- a motor vehicle of the class concerned, issue to the applicant a certificate of competency on the prescribed form and endorse the learners licence of the applicant in such manner as may be prescribed:
- Provided that such examiner shall, if he is not satisfied that the applicant is not suffering from any disease or other disability referred to in subparagraph B and therefore refuses to issue to the applicant such certificate of competency, refund to the applicant the fee referred to in paragraph (a).
- (3) A person whose application has been refused because the examiner concerned is not satisfied that such person is not suffering from any disease or other disability referred to in subparagraph B of subparagraph (ii) of subsection (2) may apply within such period as may be prescribed to a magistrate for the holding of an inquiry into the alleged disease or other disability concerned and subsections (4) to (9) of section *twelve* shall apply, *mutatis mutandis*.
- (4) A certificate of competency shall—
- (a) specify the class of motor vehicle to which it relates; and
 - (b) be deemed for such period as may be prescribed and for the purposes of this Act to be a drivers licence issued in respect of the class of motor vehicle specified in terms of paragraph (a); and
 - (c) be subject to such conditions as the examiner concerned thinks fit to impose.
- (5) If an examiner issues a certificate of competency, he shall transmit to the Registrar—
- (a) a copy of the certificate of competency; and
 - (b) such licences, including the learners licence of the applicant, and documents as may be prescribed.
- (6) Subject to section *nineteen*, as soon as possible after the receipt of the copy of the certificate of competency and of the licences and documents, if any, transmitted in terms of subsection (5), the Registrar shall—
- (a) if from his records it appears that the applicant is not prohibited from driving motor vehicles of the class to which his certificate of competency relates; and
 - (b) if he is satisfied that such licences and documents are in order; and
 - (c) in the case of an applicant for a drivers licence in respect of motor vehicles of a class to which omnibuses belong, if he is satisfied that the applicant has held for such continuous period as may be prescribed a licence, other than a learners licence, in respect of such class of motor vehicle as may be prescribed; issue a drivers licence on the prescribed form in respect of the class of motor vehicle to which the certificate of competency concerned relates and transmit the drivers licence to the applicant.
- (7) The Registrar—
- (a) shall endorse on each drivers licence issued by him a reference to any conditions subject to which the certificate of competency concerned was issued; and
 - (b) may, on the production to him by the holder of the drivers licence concerned of a medical or optical certificate or other satisfactory proof of recovery from any disease or other disability, amend or cancel any condition—
 - (i) referred to in paragraph (a); or
 - (ii) imposed in terms of subsection (2) of section *fifteen*; or
 - (iii) referred to in subsection (6) of section *sixty-two* or paragraph (b) of subsection (1) of section *sixty-three*.
- (8) Notwithstanding anything contained in this section, if—
- (a) the Registrar issues in terms of subsection (6) a drivers licence to the holder of a certificate of competency; and

(b) the holder referred to in paragraph (a) wishes to obtain a drivers licence in respect of a class of motor vehicle other than— (i) an omnibus; or
 (ii) motor vehicles of the class in respect of which his drivers licence is issued;
the holder referred to in paragraph (a) shall, for the purpose of obtaining the requisite additional certificate of competency and for such period from the date of issue to him of the drivers licence referred to in paragraph (a) as may be prescribed, be deemed to be the holder of a learners licence issued in respect of such class of motor vehicle as may be prescribed.

(9) A person who fails to comply with any condition subject to which a certificate of competency was issued to him or with any such condition as amended in terms of subsection (7) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

11 Persons whose licences have been cancelled to apply for learners licences

- (1) Notwithstanding anything contained in this Part, a person—
 (a) whose licence has been cancelled in terms of this Act; and
 (b) who wishes to obtain a drivers licence after the date of expiry of the period of prohibition from driving concerned, if any; shall, unless he is deemed in terms of subsection (8) of section *ten* to be the holder of the requisite learners licence, apply for a learners licence in terms of subsection (1) of section *nine*.

(2) A person who knowingly applies for a learners licence in terms of subsection (1) before the date of expiry of any period referred to in paragraph (b) of that subsection shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(3) A court convicting a person of an offence in terms of subsection (2) may, subject to Part IX, prohibit the person from driving for such period as the court thinks fit.

12 Medical examinations and medical certificates

(1) If an examiner, in considering an application in terms of section *nine* or *ten*, has any doubt whether or not the applicant is suffering from any disease or other disability which would render him incapable of effectively driving and controlling a motor vehicle of the class concerned without endangering the public safety, the examiner may require the applicant—

- (a) to undergo such examination or test as may be prescribed to assist the examiner in determining whether or not the applicant is so suffering; or
(b) to produce to the examiner a medical or optical certificate on the prescribed form; or to undergo such examination or test and to produce such medical or optical certificate.

(2) The examiner concerned shall, if—

- (a) an applicant referred to in subsection (1) fails to comply with a requirement made in terms of that subsection; or
(b) an examination or test referred to in paragraph (a) of subsection (1) or a medical or optical certificate referred to in paragraph (b) of that subsection shows that the applicant concerned is incapable of effectively driving and controlling a motor vehicle of the class concerned without endangering the public safety; refuse to grant the application concerned and refund to such applicant—

- (i) the fees referred to in subsection (3) of section *nine*; or
(ii) the fee referred to in paragraph (a) of subsection (2) of section *ten*;

as the case may be.

(3) A person whose application has been refused in terms of subsection (2) may apply within such period as may be prescribed to a magistrate for the holding of an inquiry into the alleged disease or other disability concerned.

(4) On receipt of an application in terms of subsection (3), the magistrate concerned shall hold the inquiry referred to in that subsection and section *sixty-two* shall apply, *mutatis mutandis*, in respect thereof.

(5) A magistrate holding an inquiry in terms of subsection (4)—

- (a) shall have all the powers conferred upon a magistrate by section *sixty-two*; and
(b) may confirm or set aside the decision of the examiner concerned in respect of the alleged disease or other disability concerned.

(6) If an applicant is aggrieved by the decision of a magistrate in terms of subsection (5), he may appeal to a judge of the High Court who may refer the matter to a court of the High Court for argument.

(7) On an appeal in terms of subsection (6)—

- (a) the judge or court concerned may confirm or set aside the decision of the magistrate concerned; and (b) the decision of the judge or court concerned shall be final.

(8) If the decision of an examiner or magistrate is set aside in terms of subsection (5) or (7), as the case may be, the applicant concerned may apply afresh in terms of section *nine* or *ten*.

(9) In considering a fresh application referred to in subsection (8), the examiner concerned shall abide by the decision of—

- (a) the magistrate in terms of subsection (5); or
- (b) the judge or court in terms of subsection (7); as the case may be.

13 Certain drivers to produce special medical certificates

(1) In this section—

“Government medical officer” means a medical practitioner in the employment of the State;

[Definition inserted by section 6 of Act 3 of 2000.]

“special medical certificate” means a certificate on the prescribed form referred to in subsection (5).

(2) This section shall not apply to—

- (a) the holder of a foreign drivers licence entitled to drive a motor vehicle in Zimbabwe by virtue of his foreign drivers licence and to whom a drivers licence has not been issued, merely by reason of the fact that he is over such age as may be prescribed; or
- (b) any police officer, member of the Defence Forces, inspecting officer or examiner who drives or supervises the driving of an omnibus or passenger public service vehicle in the normal course of his duties; or
- (c) any person who is licensed to drive any class of omnibus or passenger public service vehicle in any state, territory or province outside Zimbabwe while he is driving within Zimbabwe an omnibus or passenger public service vehicle of the same class which is registered in such state, territory or province.

(3) For the purposes of this section, the validity of a special medical certificate shall expire on such anniversary of the date on which the special medical certificate was issued as may be prescribed:

Provided that a further special medical certificate issued during the period of three months immediately preceding the date of expiry of a current special medical certificate held by the person to whom the further special medical certificate is issued shall expire on such anniversary of such date as may be prescribed.

(4) Notwithstanding anything contained in this Part, no person shall drive on a road—(a) an omnibus or passenger public service vehicle; or

(b) in the case of a person who is over such age as may be prescribed, a motor vehicle; unless his licence bears an endorsement—

- (i) made in terms of subsection (6); and
- (ii) showing that there is in force a special medical certificate relating to him; and
- (iii) where he is driving an omnibus or a commuter omnibus, showing that the special medical certificate was issued by a Government medical officer.

[Paragraph inserted by section 6 of Act 3 of 2000.]

(5) A person who wishes to obtain an endorsement referred to in subsection (4) shall produce—

(a) if he is the holder of a licence, to the Registrar or an issuer of licences; or

(b) if he is applying for the issue to him of a learners licence or certificate of competency, to an examiner; together with the licence or application, as the case may be, a certificate on the prescribed form showing that such person is not suffering from any disease or other disability which would render him incapable of effectively driving and controlling an omnibus, passenger public service vehicle or motor vehicle, as the case may be, without endangering the public safety and, in the case of a driver or intending driver of an omnibus or passenger public service vehicle, without endangering public health: Provided that a person who—

(a) is the holder of a learners licence bearing an endorsement made in terms of subsection (6); and

(b) during the period of validity of such certificate, applies for a certificate of competency; shall not be required to produce a fresh such certificate to the examiner and the endorsement referred to in paragraph (a) shall be transferred to any drivers licence issued to him in respect of such certificate of competency as may in turn have been issued to him as a result of the application referred to in paragraph (b).

(6) A licence—

(a) produced by the holder thereof in terms of; or

(b) issued to the applicant therefor and referred to in; subsection (5) shall be endorsed by the Registrar or the examiner concerned, as the case may be, with the date of expiry of the special medical certificate concerned and, where the certificate was issued by a Government medical officer, with a note to that effect.

[Subsection amended by s.6 of Act 3 of 2000.]

(7) A person who contravenes subsection (4) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(8) A court convicting a person of an offence in terms of subsection (7) may, subject to Part IX, prohibit the person from driving for such period as the court thinks fit.

14 Duplicate licences

(1) Subject to subsection (7) of section *sixty-six*, if a learners licence or drivers licence—

- (a) is lost or destroyed; or
 - (b) has been defaced in any essential particular; or
 - (c) is dilapidated; or
 - (d) lacks space for essential particulars; the Registrar shall, on application on the prescribed form by the holder of such licence and receipt of the prescribed fee, documents and photographs, issue a duplicate learners licence or drivers licence to such holder: Provided that
 - (i) if the learners licence or drivers licence lacks space for essential particulars or, in the opinion of the Registrar, is dilapidated through reasonable wear and tear, no such fee shall be payable;
 - (ii) the Registrar shall not issue a duplicate drivers licence to replace one that has expired in terms of section *fourteen A*.

[Section amended by section 7 of Act 3 of 2000.]

(2) If, in the opinion of the Registrar, a learners licence or a drivers licence—

- (a) has been defaced in any essential particular; or
 - (b) is dilapidated; or
 - (c) lacks space for essential particulars; he may serve on the holder of the learners licence or drivers licence a notice on the prescribed form calling on such holder to apply within the prescribed period for a duplicate learners licence or drivers licence in terms of subsection (1).

(3) A person who, without reasonable excuse, fails to comply with a notice served on him in terms of subsection (2) shall be guilty of an offence and liable to a fine not exceeding level four.

[Subsection amended by section 4 of Act 22 of 2001.]

(4) No duplicate learners licence or duplicate drivers licence may be issued to a person until the Registrar has endorsed thereon the particulars of each endorsement, if any, which was, or should have been, made on—

- (a) any previous duplicate; or

- (b) the original; learners licence or drivers licence, as the case may be.

(5) When a duplicate learners licence or duplicate drivers licence is issued, any previous or the original learners licence or drivers licence or both, as the case may be, shall be invalid.

(6) A person to whom a duplicate learners licence or drivers licence has been issued shall surrender any previous duplicate learners licence or drivers licence and the original learners licence or drivers licence—

- (a) if still in his possession, forthwith; or

- (b) if lost and subsequently found, not later than thirty days after the date of such finding; to the Registrar.

(7) A person who, without reasonable excuse, contravenes subsection (6) shall be guilty of an offence and liable to a fine not exceeding level five.

[Subsection amended by section 4 of Act 22 of 2001.]

(8) Notwithstanding anything contained in this section, if—

- (a) an application is made for the issue of a duplicate learners licence or drivers licence; and
 - (b) the Registrar is unable to trace the issue of the original learners licence or drivers licence to the person making the application referred to in paragraph (a); and
 - (c) the person referred to in paragraph (b) is unable to satisfy the Registrar that such person was the holder of the original learners licence or drivers licence;

the Registrar shall refuse to issue a duplicate learners licence or drivers licence.

14A Period of validity and renewal of drivers licences

(1) A drivers licence, whether issued before, on or after the appointed date, shall be valid for such period as may be prescribed and, upon the expiry of that period, shall not entitle the holder to drive any vehicle on any road unless it has been renewed in the form and manner prescribed.

(2) Regulations in terms of section *eighty-one* may provide for

- (a) the renewal of drivers licences and additionally, or alternatively, the issue of fresh drivers licences to replace those that have expired in terms of subsection (1);
- (b) the reports, documents and information to be provided by persons so that their drivers licences may be renewed or fresh drivers licences may be issued to them to replace those that have expired in terms of subsection (1);

(c) the fees and charges payable for the renewal of drivers licences or the issue of fresh drivers licences to replace those that have expired in terms of subsection (1).

(3) Regulations referred to in subsection (2) may be made to apply to drivers licences issued before the date of commencement of the regulations.

[Section inserted by section 8 of Act 3 of 2000.]

15 Voluntary surrender of licences for cancellation or imposition of conditions

- (1) The holder of an internal licence may voluntarily surrender the internal licence to the Registrar—
(a) for cancellation; or
(b) if such holder is suffering from a disease or other disability, for the imposition of conditions relating to the driving of motor vehicles during the continuance of the disease or other disability.
- (2) On receipt of an internal licence surrendered in terms of subsection (1), the Registrar shall—
(a) cancel such internal licence; or
(b) impose such conditions referred to in paragraph (b) of that subsection as he may consider necessary and endorse the same on such internal licence; and note such cancellation or endorsement, as the case may be, in the register kept in terms of paragraph (a) of section five.

PART III

INTERNATIONAL DRIVING PERMITS AND FOREIGN DRIVERS LICENCES

16 Interpretation in Part III

In this Part—

“Convention”, in relation to any state, territory or province outside Zimbabwe to which such convention applies, means—

- (a) the Convention on Road Traffic signed at Geneva on the 19th September, 1949;
or (b) the Convention on Road Traffic signed at Vienna on the 8th November 1968:

as may be appropriate.

17 Issue of international driving permits

- (1) If any person who is—
(a) ordinarily resident in Zimbabwe; and
(b) the holder of a drivers licence or foreign drivers licence;

wishes to drive a motor vehicle in any state, territory or province outside Zimbabwe to which the Convention applies, he may apply on the prescribed form to the Minister or a person authorized thereto in writing by the Minister for the issue to the applicant of an international driving permit.

(2) The Minister or an authorized person referred to in subsection (1) may, on receipt of an application made in terms of that subsection, issue to the applicant an international driving permit in accordance with the requirements of the Convention:

Provided that he shall not issue an international driving permit in respect of a motor vehicle, other than a motor cycle, to an applicant who is under the age of eighteen years.

18 Recognition of foreign international driving permits and foreign drivers licences

(1) Subject to subsection (2), a person who is not ordinarily resident in Zimbabwe and who is the holder of—
(a) a foreign drivers licence; or
(b) an international driving permit issued in accordance with the requirements of the Convention in any state, territory or province outside Zimbabwe to which the Convention applies; shall, during the period of validity of such foreign drivers licence or international driving permit, as the case may be, be deemed to be the holder of a drivers licence issued in respect of the class of motor vehicle to which his foreign drivers licence or international driving permit, as the case may be, relates.

(2) Where a holder referred to in subsection (1) is granted a certificate or permit, other than a visitors entry certificate, in terms of the Immigration Act [Chapter 4:02], or in terms of any enactment relating to refugees, permitting him to remain in Zimbabwe either temporarily or permanently, he shall, with effect from the date on which he entered Zimbabwe or was granted the certificate or permit, whichever date is the later, be deemed to be the holder of a drivers licence issued in respect of the class of motor vehicle to which his foreign drivers licence or international driving permit, as the case may be, relates until—

- (a) the expiry of the period of validity of his foreign drivers licence or international driving permit, as the case may be; or
(b) the expiry of such period as may be prescribed; whichever is the shorter period.

19 Issue of drivers licences to holders of foreign drivers licences and international driving permits

- (1) Subject to this section, a person who—

(a) has been granted a certificate or permit, other than a visitors entry certificate, in terms of the Immigration Act [Chapter 4:02], or in terms of any enactment relating to refugees, permitting him to remain in Zimbabwe either temporarily or permanently; and

(b) holds—

(i) a foreign drivers licence; or

(ii) an international driving permit; which has been issued in accordance with the requirements of the Convention in any state, territory or province outside Zimbabwe to which the Convention applies; may apply to the Registrar for the issue of a drivers licence in respect of the class of motor vehicle to which his foreign drivers licence or international driving permit relates.

(2) An application in terms of subsection (1) shall be made in the prescribed form and shall be accompanied by—

(a) the prescribed fee, documents and photographs; and

(b) the foreign drivers licence or international driving permit concerned and, if the Registrar so requires, a translation of its contents into the English language.

(3) On receipt of an application in terms of subsection (1), the Registrar may issue the applicant a drivers licence in respect of the class of motor vehicle concerned:

Provided that, unless the Minister otherwise directs, the Registrar shall not do so if the applicant was ordinarily resident in Zimbabwe when he obtained the foreign drivers licence or international driving permit to which his application relates.

(4) When he issues a drivers licence to the holder of a foreign drivers licence or international driving permit in terms of this section or subsection (6) of section *ten*, the Registrar shall endorse—

(a) on the drivers licence the particulars of any endorsement appearing on the foreign drivers licence or international driving permit concerned, if that endorsement—

(i) was made thereon within five years before the date on which the Registrar issues the drivers licence; and

(ii) relates to an offence the particulars of which could, if it had been committed in Zimbabwe, have been endorsed thereon in terms of Part IX;

and

(b) on the foreign drivers licence or international driving permit concerned the particulars of the drivers licence.

(5) For the purposes of subsections (1), (2) and (3), a foreign drivers licence or international driving permit which expired within six months before the Registrar's receipt of an application in terms of subsection (1) shall be deemed to be valid

[Section substituted by section 9 of Act 3 of 2000.]

PART IV

COMPULSORY INSURANCE AGAINST THIRD-PARTY RISKS ARISING OUT OF USE OF MOTOR VEHICLES

20 Certain references in sections 25 to 29

References in sections *twenty-five* to *twenty-nine* to a statutory policy, an insurer or an insured shall be deemed to include references to a statutory security, a giver of a statutory security or a person secured by a statutory security, as the case may be.

21 President may suspend or restrict operation of Part IV

The President may, by statutory instrument—

(a) suspend the operation of this Part or restrict such operation to any particular class of motor vehicle or trailer; or

(b) revoke or vary a suspension or restriction referred to in paragraph (a).

22 Users of motor vehicles and trailers to be insured against third-party risks

(1) Subject to this Part, no person shall use a motor vehicle or trailer on a road unless there is in force in relation to the use of the motor vehicle or trailer by the user—

(a) a policy of insurance; or

(b) a security; in respect of third-party risks which complies with the requirements of this Part.

(2) The State or the government of a country, other than Zimbabwe, designated by the President by statutory instrument may undertake the insurance in respect of third-party risks in relation to a motor vehicle or trailer owned by it in all respects as if it were an insurer for the purposes of this Part.

(3) The Minister shall publish in the *Gazette*—

(a) the terms and conditions of; and

(b) any amendment to or revocation of; an undertaking referred to in subsection (2).

(4) Subsection (1) shall not, while an undertaking referred to in subsection (2) is in force, apply to any motor vehicle or trailer owned by the State or a government designated in terms of subsection (2), as the case may be.

(5) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000.]

(6) A court convicting a person of an offence in terms of subsection (5) may, subject to Part VIII, prohibit the person from driving for such period as such court thinks fit.

23 Requirements in respect of statutory policies of insurance

(1) A statutory policy shall be issued by a person who is approved by the Minister as an insurer for the purposes of this Part.

(2) Subject to this section, a statutory policy shall insure such persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by them in respect of—

(a) the death of, or bodily injury to, any person; and

(b) the destruction of, or damage to, any property; caused by or arising out of the use of the motor vehicle or trailer concerned on a road.

(3) A statutory policy shall not be required to cover—

(a) any contractual liability; or

(b) liability in respect of the death of, or bodily injury to, persons who were being carried in or on or entering or getting on to or alighting from the vehicle or trailer concerned when the event out of which the claims arise occurred, to an amount exceeding—

(i) one thousand dollars (USD 1 000) in respect of any one such person killed or injured; or

(ii) five thousand dollars (USD 5 000) in respect of any one accident or series of accidents due to or arising out of the occurrence of any one such event, where the vehicle concerned is a vehicle other than an omnibus; or

(iii) ten thousand dollars (USD 10 000) in respect of any one accident or series of accidents due to or arising out of the occurrence of any one such event, where the motor vehicle concerned is an omnibus or a commuter omnibus;

or

(c) liability in respect of the destruction of, or damage to, any property to an amount exceeding—

(i) two thousand dollars (USD 2 000) in respect of any one accident or series of accidents due to or arising out of the occurrence of any one event, where the vehicle concerned is a vehicle other than a passenger public service vehicle; or

(iii) two thousand dollars (USD 2 000) in respect of any one accident or series of accidents due to or arising out of the occurrence of any one event, where the motor vehicle concerned is a passenger public service vehicle;

or

(d) any liability in respect of any one accident or series of accidents due to or arising out of the occurrence of any one event, to an amount exceeding—

(i) five thousand dollars (USD 5 000), where the vehicle concerned is a vehicle other than an omnibus or a commuter omnibus; or

(ii) twenty thousand dollars (USD 20 000), where the vehicle concerned is an omnibus or a commuter omnibus.

(4) Notwithstanding any other law, a person who issues a statutory policy shall be liable to indemnify the persons or classes of persons specified in the statutory policy in respect of any liability which the statutory policy purports to cover in the case of those persons or classes of persons.

[Section substituted by section 10 of Act 3 of 2000 and amended by s.i. 124 of 2009.]

23A Minister may amend amounts specified in section 23

The Minister may, by statutory instrument, amend any amount specified in subsection (3) of section twentythree:

Provided that no amendment increasing any such amount shall have effect in relation to any statutory policy issued before the date of commencement of the statutory instrument in which the amendment is contained, until the end of the current term of that policy.

[Section inserted by section 10 of Act 3 of 2000.]

24 Requirements in respect of statutory securities

- (1) A statutory security shall—
(a) consist of an undertaking by the giver of the statutory security to make good, subject to any conditions specified therein and up to an amount approved by the Minister, any failure by the owner of the motor vehicle or trailer concerned or such other persons or classes of persons as may be specified in the statutory security duly to discharge any such liability as—(i) is required to be covered by a statutory policy; and
(ii) may be incurred by him or them;
and (b) be approved by, and deposited with, the Minister.
- (2) ...

[Subsection repealed by section 11 of Act 3 of 2000.]

24A Certificate of insurance or security

(1) A person who issues a statutory policy shall issue in respect of the policy a certificate in the prescribed form.

(2) Where a statutory security is approved and deposited in terms of paragraph (b) of section *twenty-four*, the Minister shall give the owner of the motor vehicle or trailer concerned a certificate in the prescribed form which contains such particulars of any conditions subject to which the security is given as may be prescribed.

[Section inserted by section 12 of Act 3 of 2000.]

25 Right of injured parties to proceed against insurers

(1) A person who has a claim against a person insured or indemnified in respect of any liability in relation to which a statutory policy has been issued shall be entitled—

- (a) in his own name to recover from the insurer any amount, not exceeding the amount covered by the statutory policy, for which the person insured or indemnified is liable; and
(b) to claim and recover from a person insured or indemnified only so much of his claim as exceeds the amount recovered by him from the insurer:

Provided that—

- (i) the rights of any such person who claims directly from the insurer shall, subject to subsection (2), be no greater than the rights of the insured against the insurer;
(ii) the right of recovery directly from the insurer shall become prescribed upon the expiry of a period of two years from the date on which such claim arose.

(2) Any condition in a statutory policy purporting to restrict—

- (a) the insurance of the persons insured thereby; or
(b) the indemnification of the persons indemnified thereunder; shall not, subject to subsection (3) and (4), be of any force or effect.

(3) Nothing in this section contained shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of such liability.

(4) Any sum paid by an insurer in or towards the discharge of any liability of a person which is covered by the statutory policy by virtue only of this section shall be recoverable by the insurer from the person.

(5) Only one action shall be instituted against an insurer in respect of the claim of one or more persons claiming damages for the death of a person on whom they were dependent and any such action shall be instituted in the name of a person agreed on between all such dependants or, failing such agreement, in the name of a person appointed by the court.

(6) An action instituted in terms of subsection (5) shall be for the benefit of all the dependants referred to in that subsection and the amount recovered from the insurer in respect of any such action shall, after the deduction of any costs not recovered from the insurer, be divided between such dependants in such proportion as the court may direct.

(7) An action instituted by a person in terms of subsection (1) against a person insured or indemnified shall, unless the court otherwise directs, be heard at the same time as any action instituted by such person against the insurer.

26 Certain conditions in statutory policies to be of no effect

If, under a statutory policy, any liability in regard to which the statutory policy was issued arises, any condition in the statutory policy purporting to restrict such liability in any way and for any reason whatsoever shall not, in connection with any claim referred to in section *twenty-three*, be of any force or effect:

Provided that nothing in this section contained shall be construed so as to render void any provision in a statutory policy requiring the person insured or indemnified to repay to the insurer any sums which—(a) the insurer may have become liable to pay under the statutory policy; and (b) have been applied to the satisfaction of claims of third parties.

27 Insurance discs for certain motor vehicles and trailers

(1) Whenever a statutory policy is issued or renewed in respect of a motor vehicle or trailer which the insured states is not required to be—

(a) registered in terms of Part III; or

(b) licensed in terms of Part IV; of the Vehicle Registration and Licensing Act [Chapter 13:14], the insurer shall issue to the insured a disc on the prescribed form on which shall be specified such details as may be prescribed.

(2) A person shall not use on a road during the period of validity of a statutory policy referred to in subsection (1) a motor vehicle or trailer in respect of which a disc has been issued in terms of that subsection unless the disc is affixed to such motor vehicle or trailer in a conspicuous place.

(3) An insurer shall not cancel a statutory policy referred to in subsection (1) or amend such a statutory policy by the substitution of another motor vehicle or trailer to which such statutory policy relates unless and until the disc concerned is returned to him.

(4) If, during the period of validity of a statutory policy referred to in subsection (1), the motor vehicle or trailer to which the statutory policy relates is sold, broken up, destroyed, sent permanently out of Zimbabwe or removed permanently from the roads, the insured shall forthwith transmit the disc concerned to the insurer.

(5) A person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

28 Exemption from compliance of section 27

Notwithstanding anything contained in section *twenty-seven*, the Minister may, by statutory instrument—

(a) exempt, subject to such conditions as he thinks fit to impose—

(i) an insurer, in relation to an insured which is a local authority specified in such notice; and

(ii) the insured referred to in subparagraph (i); from compliance with the provisions of that section; and

(b) amend or withdraw an exemption referred to in paragraph (a).

29 Offences in relation to statutory policies

A person who—

(a) for the purpose of obtaining a statutory policy, knowingly makes any false statement; or

(b) wilfully does any act which disentitles him to claim under a statutory policy; shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001.]

PART V

YELLOW CARD THIRD PARTY INSURANCE

30 Interpretation in Part V

In this Part—

“designated Member State” means a Member State which has been declared to be a designated Member State in terms of section *thirty-two*;

“Member State” means a State which is a contracting party to the P.T.A. Treaty;

“National Bureau of Zimbabwe” means the National Bureau of Zimbabwe referred to in section *thirty-one*;

“Protocol” means the Protocol on Third Party Insurance which was signed on the 3rd December, 1986, by Member States and which forms part of the P.T.A. Treaty as Annexure XIV;

“P.T.A. Treaty” means the treaty for the establishment of the Preferential Trade Area concluded in Lusaka on the 21st December, 1981;

“yellow card” means a yellow card insurance policy issued in a designated Member State in connection with third party insurance cover envisaged by the Protocol.

31 Designation of National Bureau of Zimbabwe

The Insurance Council of Zimbabwe is hereby designated as the National Bureau of Zimbabwe for the purposes of the Protocol and for the purposes of this Part.

32 President may declare certain countries to be designated Member States

(1) Where the President is satisfied that a Member State has made satisfactory arrangements for giving effect to the Protocol in its territory, he may by statutory instrument declare such Member State to be a designated Member State.

(2) The President may, by statutory instrument, amend or revoke any declaration made in terms of subsection (1).

33 Use of motor vehicles or trailers covered by yellow card

(1) Subject to subsection (2), a person may use on a road a motor vehicle or trailer in respect of which no policy of insurance or security is in force as provided in section *twenty-two*, if a yellow card is in force in relation to the use of the motor vehicle or trailer in Zimbabwe.

(2) A person shall not use a motor vehicle or trailer on a road in accordance with subsection (1) unless the certificate issued in connection with the yellow card insurance cover concerned is being carried in the vehicle or trailer concerned at the time of such use.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

34 Cover provided by yellow card: liability of National Bureau of Zimbabwe to third parties

(1) Subject to this Part, the National Bureau of Zimbabwe shall be obliged to compensate any person for any loss or damage which that person has suffered as a result of—

- (a) any bodily injury to himself; or
- (b) the death of or bodily injury to any other person; caused by or arising out of the use of a motor vehicle or trailer on a road if—
 - (i) a yellow card is in force in relation to the use of the motor vehicle or trailer in Zimbabwe; and
 - (ii) the injury or death arises out of the negligence or other unlawful act of the person who used the motor vehicle or trailer concerned.

(2) The National Bureau of Zimbabwe shall not be liable in terms of subsection (1) in respect of the death of or bodily injury to a person in the employ of any person to whom the yellow card was issued if such death or bodily injury arises out of and in the course of his employment.

(3) In the case of a motor vehicle or trailer in which passengers are carried for hire or reward or by reason or in pursuance of a contract of employment, the liability of the National Bureau of Zimbabwe in terms of subsection (1), in respect of the death or bodily injury to persons being carried in or on or entering or getting on to or alighting from such motor vehicle or trailer at the time of the occurrence of the event out of which the claims arise, shall be limited to an amount not exceeding—

- (a) twenty thousand dollars in respect of any one such person killed or injured; or
 - (b) two hundred thousand dollars in respect of any one accident or series of accidents due to or arising out of the occurrence of any one such event.
- (4) The National Bureau of Zimbabwe shall not be liable in terms of subsection (1) in respect of the death of or injury to—
- (a) the driver of the vehicle concerned; or
 - (b) except in the case of a motor vehicle or tractor referred to in subsection (3), persons being carried in or on or entering or getting on to or alighting from the motor vehicle or tractor concerned; at the time of the occurrence of the event out of which the claim arises.

35 Right of recourse

Whenever the National Bureau of Zimbabwe has paid any compensation to any person in terms of section *thirty-four*, it shall have a right to recover the amount of the compensation it has paid from any person whose negligence or other unlawful act caused the death or injury in respect of which the compensation was paid:

Provided that the right of recovery provided for in this section shall not apply in relation to any person who is indemnified by the yellow card insurance cover, to the extent of such indemnification.

36 Claim for compensation

(1) A person who has a claim against the National Bureau of Zimbabwe in respect of any liability referred to in section *thirty-four* shall be entitled—

- (a) in his own name to recover from the National Bureau of Zimbabwe any amount for which the National Bureau of Zimbabwe is liable in terms of this Part; and
- (b) to claim and recover from the person whose negligence or other unlawful act gave rise to the claim only so much of his claim as exceeds the amount recovered from the National Bureau of Zimbabwe:

Provided that the right of recovery directly from the National Bureau of Zimbabwe shall become prescribed upon the expiry of a period of two years from the date on which such claim arose.

(2) Any condition relating to or applying to a yellow card or any provision of any law, including the common law, which purports to restrict the liability of the National Bureau of Zimbabwe in terms of this Part shall not be of any force or effect.

(3) Only one action shall be instituted against the National Bureau of Zimbabwe in respect of the claim of one or more persons claiming damages for the death of a person on whom they were dependent and any such action shall be instituted in the name of a person agreed on between all such dependants or, failing such agreement, in the name of a person appointed by the court.

(4) An action instituted in terms of subsection (3) shall be for the benefit of all the dependants referred to in that subsection and the amount recovered from the National Bureau of Zimbabwe in respect of any such action shall, after the deductions of any costs unrecovered from the National Bureau of Zimbabwe, be divided between such dependants in such proportions as the court may direct.

37 Obtaining of Part IV insurance cover

Nothing contained in this Part shall be construed as preventing the issue of a statutory policy in terms of Part III in relation to a motor vehicle or trailer to which this Part would otherwise apply if no yellow card insurance cover is in force in relation to the motor vehicle or trailer concerned.

38 Issue in Zimbabwe of yellow card for use outside Zimbabwe

(1) If a person who is—

(a) ordinarily resident in Zimbabwe; and

(b) the holder of a statutory policy issued in respect of a motor vehicle or trailer by an insurer in Zimbabwe who is a member of the Insurance Council of Zimbabwe; wishes to obtain a yellow card third party insurance cover in respect of the use of the motor vehicle or trailer in a designated Member State, he may apply therefor to the insurer concerned.

(2) An insurer to whom an application in terms of subsection (1) has been made shall issue the applicant with a yellow card third party insurance cover for use of the motor vehicle or trailer concerned in such designated Member State as may be specified in the yellow card.

(3) No yellow card insurance cover issued in Zimbabwe shall be valid in respect of the use of any motor vehicle or trailer in Zimbabwe.

PART VA

COMPULSORY NO-FAULT INSURANCE FOR PASSENGER PUBLIC SERVICE VEHICLES

38A Interpretation in Part VA

In this Part—

“owner”, in relation to a passenger public service vehicle, includes any person who operates the vehicle;

“passenger”, in relation to a passenger public service vehicle, means a person being carried in or on the vehicle but does not include a person employed or engaged by the owner of the vehicle to perform any duties which facilitate the operation or maintenance of the vehicle, including driving, conducting, loading or inspecting the vehicle.

38B Passenger public service vehicles to carry no-fault insurance cover

(1) Subject to this Part, no person shall drive a passenger public service vehicle carrying passengers on any road unless there is in force a policy of insurance, issued by a person who is approved by the Minister as an insurer for the purposes of this Part, which provides a benefit in accordance with a scale approved by the Minister, irrespective of fault on the part of the owner or any of his employees or agents, to every person who suffers loss or injury, up to an amount of—

- (a) two thousand dollars (USD 2 000), in respect of the death of or permanent disability suffered by any such passenger; and
- (b) three hundred and fifty dollars (USD 350), in respect of medical or funeral expenses incurred by or in respect of any such passenger who suffers bodily injury or dies; where such death, permanent disability or bodily injury is caused by or arises out of the use of the passenger public service vehicle on any road.

[Subsection amended by s.124 of 2009]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

38C Limits of liability in respect of children and small claims

A policy of insurance referred to in section *thirty-eight B* may provide that—

- (a) where a passenger is a child, the benefits payable in respect of his death or permanent disability shall be limited, notwithstanding anything contained in the Insurance Act [*Chapter 24:07*], to—
 - (i) two hundred dollars (USD 200), where, at the time of his death or permanent disablement, the child was six years of age or younger;
 - (ii) three hundred dollars (USD 300), where, at the time of his death or permanent disablement, the child was fourteen years of age or younger but over the age of six years;

[Paragraph amended by s.i 176 of 2007]

(b) no benefit shall be paid where the claim is for fifty dollars or less.

38D Display of proof of insurance

(1) Whenever a passenger public service vehicle is driven carrying passengers on any road, the owner shall ensure that proof of the insurance required in terms of this Part is displayed prominently on the vehicle's windscreen.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

38E Minister may amend amounts specified in section 38B or 38C

The Minister may, by statutory instrument, amend any amount specified in subsection (1) of section *thirty-eight B* or in section *thirty-eight C*:

Provided that no amendment increasing any such amount shall have effect in relation to any policy of insurance issued before the date of commencement of the statutory instrument in which the amendment is contained, until the end of the current term of that policy.

38F Application of provisions of Part IV to no-fault insurance

Subsections (2), (3) and (4) of section *twenty-two*, subsection (4) of section *twenty-three*, subsection (1) of section *twenty-four A* and sections *twenty-five* to *twenty-nine* shall apply, *mutatis mutandis*, in respect of a policy of insurance referred to in section *thirty-eight B*.

38G Provisions of this Part to be additional to those of Part IV

The requirements of this Part shall be additional to, and not in substitution for, the requirements of Part IV.

[Part VA inserted by section 13 of Act 3 of 2000.]

PART VI

TRAFFIC SIGNS AND POLICE DIRECTIONS

39 Traffic signs generally

(1) The Minister or any person authorized by him thereto in writing may cause or permit traffic signs to be placed on or near any road.

(2) Traffic signs shall be of the prescribed colour, size and type:

Provided that the Minister may authorize in writing the placing or retention of traffic signs of another colour, size or type.

(3) No traffic sign shall be placed on or near a road otherwise than in terms of this Part.

(4) The Minister or any person authorized by him thereto in writing may at any time by notice in writing require the occupier or owner of land on which there is—

- (a) a traffic sign which was placed there without authority; or
- (b) an object which so closely resembles a traffic sign that it may reasonably be mistaken therefor; or
- (c) a light which causes or is likely to cause confusion or danger to traffic using a road; to remove such traffic sign, object or light, as the case may be.

(5) If the occupier or owner referred to in subsection (4) fails to comply with a notice in terms of that subsection, the Minister or any person authorized by him thereto in writing may—(a) effect the removal concerned; and

(b) recover by action in a court of competent jurisdiction from such occupier or owner the expense incurred by reason of the removal referred to in paragraph (a).

(6) The Minister or any person authorized by him thereto in writing may enter on any land, other than a dwelling-house, and exercise such other powers as may be necessary for the purpose of the exercise and performance of the powers and duties conferred or imposed, as the case may be, by this section.

(7) Subject to subsection (9) of section *eighty-one*—

- (a) a municipal council may, in respect of any road within the urban area under its jurisdiction; or
- (b) a town council may, in respect of any road other than a State road within the urban area under its jurisdiction; or
- (c) a rural district council may, in respect of any road other than a State road within the area for which it is a local authority for the purposes of this Act; or
- (d) a local board may, in respect of any road other than a State road within the urban area under its jurisdiction; exercise the powers conferred on the Minister by subsections (1), (4), (5) and (6).

40 Minister or local authority may prohibit passage of traffic or impose conditions or restrictions relating to use of road by traffic or limit kind or mass of traffic

(1) Subject to subsections (2) and (3), the Minister or a local authority may, by placing notice boards or traffic signs on or near a road—

- (a) prohibit the passage of any animal, pedestrian or vehicular traffic or class thereof over the road or any portion thereof; or
- (b) impose any conditions or restrictions relating to the use of the road or any portion thereof by any animal, pedestrian or vehicular traffic or class thereof; or
- (c) limit the kind or mass of vehicular traffic using the road or any portion thereof; if he or it considers such prohibition, imposition or limitation to be necessary in the public interest or for the protection or safety of the animal, pedestrian or vehicular traffic or class thereof using the road or any portion thereof.

Provided that—

- (i) the Minister may exercise the powers conferred on him by this subsection only in relation to—
 - (a) a road outside; and
 - (b) a State road within; the area for which a local authority is established or of any local government area administered and controlled by a local authority;
- (ii) a local authority may exercise the powers conferred on it by this subsection only in relation to a road, other than a State road, within the area for which it is established and of any local government area administered and controlled by it.

(2) Any person who is aggrieved by a prohibition, condition, restriction or limitation made or imposed, as the case may be, by a local authority in terms of subsection (1) may, in addition to any other legal means of recourse which may be available to him, appeal against such prohibition, condition, restriction or limitation to the Minister.

(3) The Minister may on an appeal in terms of subsection (2) confirm, vary or reverse the prohibition, condition, restriction or limitation concerned and his decision shall be final.

(4) Any notice board or traffic sign—

- (a) referred to in subsection (1); and
- (b) purporting to be placed by authority; shall itself, unless the contrary is proved, be sufficient evidence that the prohibition, condition, restriction or limitation set forth thereon has been made or imposed, as the case may be, by the authority of the Minister or local authority.

(5) A person who fails to comply with a prohibition, condition, restriction or limitation made or imposed in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

[Subsection amended by section 4 of Act 22 of 2001.]

41 Speed limit traffic signs

(1) In this section—

“maximum speed” means the maximum speed—

- (a) provided for in terms of—
 - (i) subsection (1) of section *eighty-two*; or
 - (ii) Part XVII of the Urban Councils Act [*Chapter 29:15*] or Part XI of the Rural District Councils Act [*Chapter 29:13*], as read with subsection (2) or (3) of section *eighty-two*; or
- (b) fixed in terms of subsection

(3); as the case may be;

“minimum speed” means the minimum speed provided for in terms of—

- (a) subsection (1) of section *eighty-two*; or
- (b) Part XVII of the Urban Councils Act [*Chapter 29:15*] or Part XI of the Rural District Councils Act [*Chapter 29:13*], as read with subsection (2) of section *eighty-two*.

[Definition inserted by section 14 of Act 3 of 2000.]

(2) A local authority shall place and maintain on or near each road—

- (a) where such road enters the urban area under its jurisdiction or any specified part thereof in respect of which a general maximum speed has been provided for—
 - (i) a traffic sign indicating the general maximum speed provided for in respect of such urban area or such part thereof, as the case may be; and
 - (ii) if a maximum speed different from the maximum speed referred to in subparagraph (i) has been provided for in respect of such road or part thereof, a traffic sign indicating such different maximum speed; and

- (b) at each point on such road within the urban area under its jurisdiction at which a different maximum speed becomes applicable, a traffic sign indicating the maximum speed applicable beyond such point; and
 - (b1) at each point on such road where a minimum speed becomes applicable, and at each point where it ceases to be applicable, a traffic sign indicating the minimum speed or, as the case may be, the fact that the minimum speed has ceased to be applicable; and
- [Paragraph inserted by section 14 of Act 3 of 2000.]
- (c) at the point where such road leaves the urban area under its jurisdiction, a traffic sign indicating that the maximum speed applicable immediately before such point does not apply beyond such point: Provided that—
 - (i) this subsection shall not apply in respect of a State road which enters or leaves the urban area under the jurisdiction of a local authority;
 - (ii) if different maximum or minimum speeds have been provided for in respect of vehicles of different classes, it shall not be necessary for a traffic sign placed and maintained in terms of this subsection to indicate the different maximum or minimum speeds so provided for in respect of vehicles of each different class;

[Proviso amended by section 14 of Act 3 of 2000.]

- (iii) paragraph (c) shall not apply if, at or near the point where such road leaves the urban area under the jurisdiction of the local authority, there has been placed a traffic sign indicating the maximum speed provided for in respect of such road beyond such point.
- (3) If a road has been temporarily closed for the purpose of diverting traffic for any reasonable cause—
 - (a) in the case of a road within the urban area under the jurisdiction of a municipal council, the municipal council; or
 - (b) in the case of a road other than a State road within—
 - (i) the urban area under the jurisdiction of a town council, the town council; or
 - (ii) an area referred to in paragraph (c) of subsection (7) of section *thirty-nine*, the rural district council concerned; or
 - (c) in the case of a road other than a State road within the urban area under the jurisdiction of a local board, the local board; or
 - (d) in the case of a road other than a road referred to in paragraph (a), (b), or (c) the provincial road engineer for the province in which such road is situated;

may fix temporarily by means of traffic signs suitably placed for all vehicles or for vehicles of any particular class a maximum speed in relation to any deviation from, or portion of, such road which is less than the maximum speed which would otherwise be applicable to such deviation or portion.

- (4) If no traffic sign indicating the maximum speed provided for in respect of the road concerned is placed or maintained on a road, the maximum speed applicable to the road shall be deemed to be—
 - (a) in the case of a road outside the urban area under the jurisdiction of a local authority, the maximum speed provided for in terms of subsection (1) of section *eighty-two*; or
 - (b) in the case of a road or portion thereof within the urban area under the jurisdiction of a local authority, the maximum speed provided for in terms of subsection (2) or (3) of section *eighty-two* in respect of such urban area: Provided that if—
 - (i) the local authority has provided for a general maximum speed in respect of an area within which the road or portion thereof is situate; and
 - (ii) the traffic signs referred to in subparagraph (i) of paragraph (a) of subsection (2) have been placed and maintained; the maximum speed applicable to the road or portion thereof shall be deemed to be the maximum speed so provided for by the local authority.

42 Temporary control or diversion of traffic by police traffic signs

- (1) Notwithstanding anything contained in this Part, a police officer may, for the purpose of temporarily controlling or diverting traffic for any reasonable cause, place on or near a road a traffic sign: Provided that a traffic sign placed in terms of this subsection—
 - (a) shall, in addition to being of the prescribed colour, size and type, bear the inscription “Police Sign”; and
 - (b) shall not remain on display in the same place for a period exceeding seven days at any one time; and (c) may be supported by a portable stand which is not of the prescribed height.
- (2) The instructions conveyed by a traffic sign placed in terms of subsection (1) shall, while the traffic sign is so placed, override the instructions conveyed by a traffic sign placed in terms of section *thirty-nine* or *forty-one* or by any prohibition, condition, restriction or limitation made or imposed in terms of section *forty*.

43 Traffic signs and police directions to be obeyed

- (1) The driver of a vehicle shall obey—

- (a) subject to paragraph (b), all instructions conveyed by a traffic sign placed in terms of this Part; and
- (b) notwithstanding any instruction conveyed by a traffic sign placed in terms of this Part or by any prohibition, condition, restriction or limitation made or imposed in terms of section *forty*, all directions, whether verbal or by signal, given by a police officer in uniform.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(3) A court convicting a person of an offence in terms of subsection (2) may, if such offence was committed while the motor vehicle concerned was moving and subject to the provisions of Part IX, prohibit the person from driving for such period as such court thinks fit.

44 Admissibility of affidavits relating to efficiency of certain traffic signs

In any criminal proceedings for an offence in terms of this Act or at common law by or in connection with the driving of a vehicle on a road, in which proceedings it is relevant to prove any fact relating to the capability, condition, design, dimensions, efficiency or mode of operation of a traffic sign which is a robot or flashing light signal, a document purporting to be an affidavit made by a person who in such affidavit states that in the course of his employment he constructed, maintained, operated or repaired traffic signs of the class to which such traffic sign belongs and that in the performance of his official duties in that capacity he ascertained such fact by examining, measuring or testing such traffic sign shall, on its mere production by any person in such proceedings, be proof of such fact, unless the contrary is proved: Provided that—

- (i) such an affidavit shall not be admissible unless the prosecutor or the accused, as the case may be, has received notice thereof not less than three days before its production or consents to its production;
- (ii) the court in which such an affidavit is adduced in evidence may, of its own motion or at the request of the prosecutor or of the accused, cause such person to be summoned to give oral evidence in the proceedings concerned or may cause interrogatories in writing to be submitted to him for reply, such interrogatories and any reply thereto purporting to be a reply from such person being admissible in such proceedings.

PART VII

CONTROL OF ADVERTISEMENTS

45 Control of certain advertisements visible from roads

(1) Subject to section *forty-six*, no person shall display or place an advertisement which is visible from a road without the permission in writing of a road authority.

[Subsection amended by section 69 of Act 6 of 2001.]

(2) A road authority may grant, refuse, alter or revoke the permission referred to in subsection (1) and, if he grants such permission, he shall set out therein—

- (a) the period during which, the manner, place and circumstances in which and the conditions under which the advertisement concerned may be displayed or placed; and
- (b) the specifications to which the advertisement concerned shall conform.

[Subsection amended by section 69 of Act 6 of 2001.]

(3) If an advertisement referred to in subsection (1)—

- (a) is displayed or placed otherwise than in accordance with; or
- (b) does not conform to the specifications set out in; the permission referred to in that subsection, a road authority may cause the person displaying or placing such advertisement to be directed by notice in writing—
 - (i) to remove such advertisement; or
 - (ii) to effect such alterations in the nature of such advertisement or in the manner, place or circumstances in which such advertisement is displayed or placed as may be stipulated in such notice;

within the period stipulated in such notice.

(4) If a person referred to in subsection (3) fails within the period stipulated in the notice referred to in that subsection to comply with the directions given in such notice—

- (a) he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment; and

[Paragraph amended by section 4 of Act 22 of 2001.]

- (b) a road authority may—

- (i) cause the advertisement to which such notice relates to be removed; and

- (ii) recover by action in a court of competent jurisdiction from such person the expense incurred by reason of the removal referred to in subparagraph (i).

[Paragraph amended by section 69 of Act 6 of 2001.]

46 Application of section 45

- (1) Section *forty-five* shall not apply to the display of an advertisement—
- (a) on a vehicle which is being used on a road if it is proved that such display is not the main purpose for which such vehicle is being so used; or
 - (b) in the urban area under the jurisdiction of a municipal council; or
 - (c) which is visible from any road other than a State road within the urban area under the jurisdiction of a local authority other than a municipal council; or
 - (d) which is visible from such portion of such State road as may be prescribed; or
 - (e) on a building, which advertisement merely discloses the name of any business or undertaking carried on in the building; or
 - (f) within one hundred metres of a building referred to in paragraph (e), which advertisement merely discloses the name of the business or undertaking concerned and is placed off the road concerned and on the same side thereof as such building; or
 - (g) off the road concerned, if the advertisement—
 - (i) relates solely to—
 - A. a form of recreation which is or will be available on; or
 - B. an entertainment, meeting or sale which is being or will be held on; or
 - C. the lease or sale of; the land on which such advertisement is displayed; or
 - (ii) is placed at the entrance to a property and merely indicates—
 - A. the name of the property; or
 - B. that a particular path or road traversing the property is a private path or road or leads to a particular place; or
 - C. that a particular act is permitted or prohibited on the property; and such advertisement complies with such conditions as may be prescribed; or
 - (h) of a prescribed class if such advertisement conforms to prescribed specifications and is displayed in accordance with prescribed conditions.
- (2) Notwithstanding anything contained in subsection (1), if a business or undertaking is carried on a site and not in a building, the entrance to the land on which the site is located shall be deemed to be a building for the purposes of paragraphs (e) and (f) of subsection (1).

47 Minister may delegate powers

- (1) The Minister may—
 - (a) in respect of roads in the area for which a rural district council is a local authority for the purposes of this Act, delegate in writing to the rural district council the powers conferred on the Minister by section *forty-five*; and
 - (b) lay down such conditions as he thinks fit relating to the exercise of any powers delegated by him in terms of this subsection.
- (2) The Minister may at any time cancel or amend in writing a delegation made by him in terms of subsection (1).

PART VIII

OFFENCES

48 Offences in relation to licences

- (1) A person who—
 - (a) in applying for a licence, knowingly makes any false statement; or
 - (b) employs or permits to drive a motor vehicle on a road any other person who is not the holder of a licence issued to him in respect of motor vehicles of the class concerned; or
 - (c) being the holder of a licence, allows the licence to be used by any other person; shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.
- (2) A person who, being the holder of a licence which is required to be endorsed in terms of section *fiftyseven* and has not been so endorsed uses such licence after the expiry of a period of seven days from the date on which such requirement arose shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(3) A court convicting a person of an offence in terms of subsection (1) or (2) may, subject to Part IX, prohibit the person from driving for such period as such court thinks fit.

49 Offences in relation to prohibition from driving

(1) In subsection (4)—

“special circumstances” means special circumstances—

(a) surrounding the commission of the offence concerned; or (b) peculiar to the offender.

(2) A person who, whilst prohibited from driving, whether in terms of this Act or section 5 of the Road Motor Transportation Act [*Chapter 13:10*] or a law in force in a country outside Zimbabwe on grounds which would be a cause for prohibition from driving in terms of this Act or that section—

(a) obtains a licence to drive a motor vehicle of a class which he is prohibited from driving; or

(b) drives on a road a motor vehicle or, if the prohibition from driving is limited to the driving of motor vehicles of a particular class, a motor vehicle of such class; shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment—

- (i) in the case of a person prohibited from driving otherwise than during his lifetime, to a fine not exceeding level six or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.; or
- (ii) in the case of a person prohibited from driving during his lifetime, to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(3) A licence obtained in the circumstances described in subsection (2) shall be invalid.

(4) It shall not be necessary for a court to impose a sentence of imprisonment in terms of subsection (2) if the court—

(a) is of the opinion that there are special circumstances in the case which justify the imposition of a sentence of a fine not exceeding level four; and

[Paragraph amended by section 38 of Act 3 of 2000 and by section 4 of Act 22 of 2001.]

(b) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

(5) A court convicting a person of an offence in terms of subsection (1) may, subject to Part IX, prohibit the person from driving for such period as such court thinks fit.

50 Exceeding speed limits

(1) Subject to subsection (2), a person who drives a vehicle on a road at a speed in excess of the appropriate maximum speed which—

(a) has been provided for or fixed in terms of one or other of the provisions referred to in the definition of

“maximum speed” in subsection (1) of section *forty-one* in respect of the road; or

[Paragraph amended by section 15 of Act 3 of 2000.]

(b) is deemed in terms of subsection (4) of section *forty-one* to be applicable to the road; as the case may be, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 15 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(1a) Subject to subsection (2), any person who drives a vehicle on a road at a speed that is slower than the appropriate minimum speed provided for in respect of that road in terms of one or other of the provisions referred to in the definition of “minimum speed” in subsection (1) of section *forty-one* shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection inserted by section 15 of Act 3 of 2000 section 4 of Act 22 of 2001.]

(2) No person shall be convicted of an offence in terms of subsection (1) or (1a) unless—

[As mended by section 15 of Act 3 of 2000.]

(a) he was warned at the time the offence was committed that the question of prosecuting him for the offence would be considered; or

(b) within fourteen days of the commission of the offence— (i) a summons for the offence was served on him; or

(ii) a notice of the intended prosecution, specifying the nature of the offence alleged and the time when, the date on which and the place where the offence is alleged to have been committed, was served

on, or sent by registered post to, him or the person registered as the owner of the vehicle concerned at the time of the commission of the offence:

Provided that—

- (i) failure to comply with the requirements of this subsection shall not be a bar to the conviction of the accused in any case in which the court is satisfied that—
 - (a) neither the name and address of the accused nor the name and address of the registered owner of the vehicle concerned 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 the case may be, in terms of paragraph (b) of this subsection; or
 - (b) the accused by his own conduct contributed to such failure;
- (ii) the requirements of this subsection shall in every case be deemed to have been complied with unless and until the contrary is proved.

(3) No person shall be convicted of an offence in terms of subsection (1) or (1a) merely on the evidence of one witness solely to the effect that, in the opinion of such witness, the accused was driving a vehicle at a speed greater than the appropriate maximum speed or at a speed slower than the appropriate minimum speed, as the case may be, referred to in the subsection concerned in respect of vehicles of the same class as the vehicle driven by the accused.

[Subsection amended by section 15 of Act 3 of 2000.]

(4) A court convicting a person of an offence in terms of subsection (1) or (1a) involving the driving of a motor vehicle may, subject to Part IX, prohibit the person from driving for such period as such court thinks fit.

[Subsection amended by section 15 of Act 3 of 2000.]

51 Driving without due care and attention or reasonable consideration for others

(1) A person who drives a vehicle on a road without due care and attention or reasonable consideration for other persons using the road shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(2) A court convicting a person of an offence in terms of subsection (1) involving the driving of a motor vehicle may, subject to Part IX, prohibit the person from driving for such period as such court thinks fit.

52 Negligent or dangerous driving

(1) In subsection (4)—

“special circumstances” means special circumstances surrounding the commission of the offence concerned, but does not include special circumstances peculiar to the offender.

(2) A person who drives a vehicle on a road—

(a) negligently; or

(b) at a speed or in a manner dangerous to the public, regard being had to—

(i) all the circumstances of the case, including the condition, nature and use of the road; and

(ii) the amount of traffic which is actually, or which might reasonably be expected to be, at the time on the road;

shall be guilty of an offence and liable—

(i) where the vehicle concerned was a commuter omnibus or a heavy vehicle, to a fine not exceeding level ten or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; or

(ii) in any other case, to a fine not exceeding level seven or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

[Subsection amended by section 16 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(3) A person charged with an offence in terms of—

(a) subsection (1) may be found guilty of an offence in terms of section *fifty-one*; or

(b) paragraph (a) or (b) of subsection (1) may be found guilty of an offence in terms of paragraph (b) or (a), as the case may be, of that subsection;

if such are the facts proved.

(4) Subject to Part IX, a court convicting a person of an offence in terms of subsection (1) involving the driving of a motor vehicle—

(a) may, subject to paragraph (c), if the person has not previously been convicted of such an offence or of an offence, whether in terms of a law of Zimbabwe or any other law, of which the dangerous, negligent or reckless driving of a motor vehicle on a road is an element within a period of five years immediately preceding the date of such first-mentioned conviction, prohibit the person from driving for such period as such court thinks fit;

[Paragraph amended by section 16 of Act 3 of 2000.]

- (b) shall, subject to paragraph (c), if the person has previously been convicted of an offence referred to in paragraph (a) within the period referred to in that paragraph, prohibit the person from driving for such period as such court thinks fit and, if the person is the holder of a licence, cancel the licence in respect of motor vehicles of the class to which such prohibition from driving extends;

[Paragraph amended by section 16 of Act 3 of 2000.]

- (c) in the case of an offence involving the driving of a commuter omnibus or a heavy vehicle, shall prohibit the person from driving for a period of not less than two years:

Provided that the court may decline to prohibit the person from driving in terms of paragraph (b) or (c) if it—

- (a) considers that there are special circumstances in the case which justify the court in so declining; and
(b) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

[Subsection amended by section 16 of Act 3 of 2000.]

53 Reckless driving

- (1) In subsection (4)—

“similar offence” means an offence in terms of subsection (2) involving the driving of a motor vehicle or an offence, whether in terms of a law of Zimbabwe or any other law, of which the dangerous, negligent or reckless driving of a motor vehicle on a road is an element;

“special circumstances” means special circumstances surrounding the commission of the offence concerned, but does not include special circumstances peculiar to the offender.

- (2) A person who drives a vehicle on a road recklessly shall be guilty of an offence and liable—

(a) subject to section *eighty-eight A*, where the vehicle concerned was a commuter omnibus or a heavy vehicle, to imprisonment for a period not exceeding fifteen years and not less than two years; or

(b) in any other case, to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

[Subsection substituted by section 17 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(3) A person charged with an offence in terms of subsection (2) may be found guilty of an offence in terms of section *fifty-one* or *fifty-two*, if such are the facts proved.

(4) Subject to Part IX, a court which convicts a person of an offence in terms of subsection (1) involving the driving of a motor vehicle shall—

- (a) if the person has not previously been convicted of a similar offence within a period of ten years immediately preceding the date of such first-mentioned conviction—

(i) in the case of a first-mentioned conviction which does not relate to the driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving for a period of not less than six months; or

(ii) in the case of a first-mentioned conviction which does relate to the driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving—

A. a motor vehicle other than a commuter omnibus or a heavy vehicle for a period of not less than six months; and

B. a commuter omnibus or a heavy vehicle during his lifetime; or

- (b) if the person has previously been convicted of a similar offence within the period referred to in paragraph (a)—

(i) in the case of a second conviction—

A. which does not relate to the driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving for a period of not less than twelve months; or

B. which does relate to the driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving—

I. a motor vehicle other than a commuter omnibus or a heavy vehicle for a period of not less than twelve months; and

II. a commuter omnibus or a heavy vehicle during his lifetime; or

(ii) in the case of a third or subsequent conviction, prohibit the person from driving during his lifetime;

and shall, if the person is the holder of a licence, cancel the licence in respect of motor vehicles of the class to which such prohibition from driving extends:

Provided that such court may decline to prohibit the person from driving if it—

(a) considers that there are special circumstances in the case which justify the court in so declining; and

(b) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

54 Driving with prohibited concentration of alcohol in blood

(1) In subsection (4)—

“similar offence” means an offence in terms of subsection (2) or of subsection (2) of section *fifty-five* involving the driving or attempted driving of a motor vehicle or an offence, whether in terms of a law of Zimbabwe or any other law, of which the driving or attempted driving of a motor vehicle on a road while under the influence of alcohol or a drug or of alcohol and a drug or while the concentration of alcohol in his blood is not less than eighty milligrams per one hundred millilitres, as the case may be, is an element; “special circumstances” means special circumstances surrounding the commission of the offence concerned, but does not include special circumstances peculiar to the offender.

(2) A person who on a road drives or attempts to drive a vehicle while the concentration of alcohol in his blood is not less than eighty milligrams per one hundred millilitres shall be guilty of an offence and liable—
(a) subject to section *eighty-eight A*, where the vehicle concerned was a commuter omnibus or a heavy vehicle, to imprisonment for a period not exceeding ten years and not less than one year; or
(b) in any other case, to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Subsection substituted by section 18 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(3) If, in any prosecution for an offence in terms of subsection (2), it is proved that the concentration of alcohol in the blood of the accused was not less than a certain number of milligrams per one hundred millilitres at any time after the alleged offence, it shall be presumed, unless the contrary is proved, that such concentration was not less than such number of milligrams per one hundred millilitres at the time of the alleged offence.

[Subsection amended by section 18 of Act 3 of 2000.]

(4) Subject to Part IX, a court which convicts a person of an offence in terms of subsection (1) involving the driving or attempted driving of a motor vehicle—

- (a) if the person has not previously been convicted of a similar offence within a period of ten years immediately preceding the date of such first-mentioned conviction—
(i) in the case of a first-mentioned conviction which does not relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, may prohibit the person from driving for such period as such court thinks fit; or
(ii) in the case of a first-mentioned conviction which does relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle—
A. may prohibit the person from driving a motor vehicle other than a commuter omnibus or a heavy vehicle for such period as such court thinks fit; and
B. shall prohibit the person from driving a commuter omnibus or a heavy vehicle during his lifetime; or
- (b) if the person has previously been convicted of a similar offence within the period referred to in paragraph (a)—
(i) in the case of a second conviction—
A. which does not relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, shall prohibit the person from driving for such period as such court thinks fit; or
B. which does relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, shall prohibit the person from driving—
I. a motor vehicle other than a commuter omnibus or a heavy vehicle for such period as such court thinks fit; and
II. a commuter omnibus or a heavy vehicle during his lifetime; or
(ii) in the case of a third or subsequent conviction, shall prohibit the person from driving during his lifetime:

Provided that such court may decline to prohibit the person from driving if it—

- (a) considers that there are special circumstances in the case which justify the court in so declining; and
(b) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

[Subsection amended by section 18 of Act 3 of 2000.]

(5) Where a court in terms of—

- (a) subparagraph (ii) of paragraph (a) of subsection (4) prohibits a person from driving a commuter omnibus or a heavy vehicle; or

- (b) paragraph (b) of subsection (4) prohibits a person from driving; and that person is the holder of a licence, the court shall cancel the licence held by that person in respect of motor vehicles of the class to which such prohibition from driving extends.

[Subsection amended by section 18 of Act 3 of 2000.]

55 Driving while under influence of alcohol or drugs or both

(1) In subsection (5)—

“similar offence” means an offence in terms of subsection (2) or of subsection (2) of section *fifty-four* involving the driving or attempted driving of a motor vehicle or an offence, whether in terms of a law of Zimbabwe or any other law, of which the driving or attempted driving of a motor vehicle on a road while under the influence of alcohol or a drug or of alcohol and a drug or while the concentration of alcohol in his blood is not less than eighty milligrams per one hundred millilitres, as the case may be, is an element; “special circumstances” means special circumstances surrounding the commission of the offence concerned, but does not include special circumstances peculiar to the offender.

(2) A person who on a road drives or attempts to drive a vehicle while he is under the influence of alcohol or a drug, or of both alcohol and a drug, to such an extent as to be incapable of having proper control of the vehicle, shall be guilty of an offence and liable—

- (a) subject to section *eighty-eight A*, where the vehicle concerned was a commuter omnibus or a heavy vehicle, to imprisonment for a period not exceeding fifteen years and not less than two years; or
- (b) in any other case, to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment

[Subsection substituted by section 19 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(3) If, in any prosecution for an alleged offence in terms of subsection (2), it is proved that the concentration of alcohol in the blood of the accused was not less than—

- (a) one hundred and fifty milligrams per one hundred millilitres at the time of such offence, it shall be presumed, unless the contrary is proved, that the accused was at such time under the influence of alcohol or of alcohol and a drug, as the case may be, to such an extent as to be incapable of having proper control of the vehicle concerned; or
- (b) a certain number of milligrams per one hundred millilitres at any time within a period of two hours after such offence, it shall be presumed, unless the contrary is proved, that such concentration was not less than such number of milligrams per one hundred millilitres at the time of such offence.

(4) A person charged with an offence in terms of subsection (2) may be found guilty of an offence in terms of subsection (2) of section *fifty-four* if such are the facts proved.

(5) Subject to Part IX, a court which convicts a person of an offence in terms of subsection (1) involving the driving or attempted driving of a motor vehicle shall—

- (a) if the person has not previously been convicted of a similar offence within a period of ten years immediately preceding the date of such first-mentioned conviction—
 - (i) in the case of a first-mentioned conviction which does not relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving for a period of not less than six months; or
 - (ii) in the case of a first-mentioned conviction which does relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving—
 - A. a motor vehicle other than a commuter omnibus or a heavy vehicle for a period of not less than six months; and
 - B. a commuter omnibus or a heavy vehicle during his lifetime; or
- (b) if the person has previously been convicted of a similar offence within the period referred to in paragraph (a)—
 - (i) in the case of a second conviction—
 - A. which does not relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving for a period of not less than twelve months; or
 - B. which does relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving—
 - I. a motor vehicle other than a commuter omnibus or a heavy vehicle for a period of not less than twelve months; and
 - II. a commuter omnibus or a heavy vehicle during his lifetime; or
 - (ii) in the case of a third or subsequent conviction, prohibit the person from driving during his lifetime;

and shall, if the person is the holder of a licence, cancel the licence in respect of motor vehicles of the class to which such prohibition from driving extends:

Provided that such court may decline to prohibit the person from driving if it—

- (a) considers that there are special circumstances in the case which justify the court in so declining; and
- (b) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

56 Forgery of certain documents

- (1) In this section—
 - (a) the forgery of a document, mark or number shall be deemed to be the making of a false document, mark or number, knowing it to be false, with the intention that it shall in any way be acted upon or used as genuine;
 - (b) making a false document, mark or number includes making any material alteration in a genuine document, mark or number, whether by addition, erasure, insertion, obliteration, removal or otherwise.
- (2) A person who—
 - (a) forges a licence; or
 - (b) forges a certificate of insurance or a certificate of security or makes or has in his possession a document so closely resembling a certificate of insurance or certificate of security as to be likely to deceive; or
 - (c) knowing that a document referred to in paragraph (a) or (b) has been forged or is likely to deceive, as the case may be, uses or has in his possession such a document or lends it to, or allows it to be used by, another person; or
 - (d) with intent to deceive, impersonates the holder of a licence; or
 - (e) acts upon, produces or uses an invalid licence with intent that it shall be regarded as valid; shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

57 Unlawful contact with or use of vehicles

- (1) A person who—
 - (a) without reasonable excuse, gets on to a vehicle or interferes with or wilfully damages a vehicle or its accessories; or
 - (b) without the consent of the owner or person in lawful charge of a vehicle, drives or rides in the vehicle; or
 - (c) by fraud or misrepresentation procures the hire or use of a vehicle; or
 - (d) being an employee in lawful charge of a vehicle belonging to or in the lawful charge of his employer, drives such vehicle on a journey or for a purpose which was not authorized by his employer; or
 - (e) being in lawful charge of a vehicle belonging to or in the lawful charge of another person, drives such vehicle on a journey or for a purpose which was not authorized by the other person; shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(2) A person charged with stealing or attempting to steal a vehicle may be found guilty of an offence in terms of subsection (1), if such are the facts proved.

(3) Nothing in this section contained shall apply to any police officer, examiner or inspecting officer when exercising the powers or performing the duties conferred or imposed, as the case may be, on him by this Act or any other enactment.

58 Taking or retaining hold of or boarding motor vehicles or trailers in motion

A person who, without reasonable excuse, takes or retains hold of or boards a motor vehicle or trailer which is in motion on a road for the purpose of being carried or drawn shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001.]

59 Discharge of fire-arms on or near roads

A person who discharges a fire-arm on a road or within a distance of fifty metres on either side of a road shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment:

Providing that nothing in this section contained shall be deemed to prevent the discharge of a fire-arm in self-defence, for humane reasons or in circumstances in which such discharge is justified in terms of any other law.

[Section amended by section 4 of Act 22 of 2001.]

60 Throwing of articles at or from vehicles and interference with drivers thereof

(1) A person who—

- (a) throws an article at or from a vehicle which is on a road or at a person in such vehicle; or
- (b) without reasonable excuse, interferes with the driver of a vehicle; shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(2) A person who is convicted of an offence referred to in subsection (1), other than the offence of throwing an article from a vehicle which is on a road, shall be liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

60A Reporting of unlawful instructions

(1) Any person who is employed or engaged to drive a commuter omnibus or heavy vehicle and who is instructed by the vehicle's owner to drive it on a road in contravention of subsection (5) of section *six*, section *seven A*, subsection (7) of section *thirteen*, subsection (5) of section *twenty-two*, subsection (2) of section *thirty-eight B*, subsection (2) of section *forty-three*, paragraph (b) of subsection (2) of section *forty-nine*, subsection (1) or (1a) of section *fifty*, subsection (1) of section *fifty-one*, subsection (2) of section *fifty-two*, subsection (2) of section *fifty-three*, subsection (2) of section *fifty-four*, subsection (2) of section *fifty-five* or subsection (7) of section *seventy-three*, or in contravention of regulations fixing the axle load permitted on any road, shall forthwith report the instruction to a police officer.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section inserted by section 20 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

61

[Section repealed by section 69 of Act 6 of 2001.]

PART IX

PROHIBITION FROM DRIVING AND ENDORSEMENT OF LICENCES

62 Prohibition from driving on ground of disease or other disability

(1) Whenever it is alleged or appears to a magistrate that the holder of a licence may be suffering from any disease or other disability which may render such holder incapable of effectively driving and controlling on a road a motor vehicle without endangering the public safety, the magistrate may cause a notice in writing under his hand to be served on such holder requiring such holder—

(a) to appear at a time, on a date and at a place specified in such notice:

Provided that such date shall not be sooner than three days after the date of such notice; and

(b) to show cause why he should not be prohibited from driving.

(2) At the time, on the date and at the place specified in the notice referred to in subsection (1), the magistrate concerned—

(a) shall, if the person on whom such notice was served—

(i) appears, in the presence of such person; or

(ii) fails to appear, in the absence of such person; proceed to inquire into the alleged or apparent disease or other disability; and (b) may, for the purpose of an inquiry referred to in paragraph (a)— (i) take on oath any evidence which he thinks necessary; and

(ii) afford the person on whom such notice was served, if he is present, an opportunity to—

A. reply thereto on oath; and

B. show cause why he should not be prohibited from driving.

(3) A magistrate holding an inquiry referred to in subsection (2)—

(a) shall cause to be kept and filed a record in writing of the proceedings of such inquiry; and

(b) may, if he has any doubt whether or not the person concerned is suffering from any disease or other disability referred to in subsection (1), direct such person to be examined by such medical practitioner or optician as such magistrate may nominate and the costs, if any, of such examination shall be met out of moneys appropriated by Act of Parliament for the purpose.

(4) If a magistrate has directed a person to be examined in terms of paragraph (b) of subsection (3), he may, if he thinks it necessary for the purposes of the inquiry concerned, summon the medical practitioner or optician concerned to give evidence in such inquiry.

(5) Sections 7 to 13 of the Housing Standards Control Act [Chapter 29:08] shall apply, *mutatis mutandis*, to an inquiry referred to in subsection (2) as if the proceedings of such inquiry were proceedings before a housing court.

(6) A magistrate holding an inquiry referred to in subsection (2) may, if—

- (a) the person in connection with whom such inquiry is being held fails to submit himself to the medical or optical examination referred to in paragraph (b) of subsection (3); or
- (b) as a result of such inquiry, such magistrate thinks fit; prohibit such person from driving for such period as such magistrate thinks fit or permit such person to drive a motor vehicle on a road subject to such conditions as he thinks fit to endorse on the licence of such person.

(7) A person who fails to comply with any condition referred to in subsection (6) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(8) A person who is aggrieved by—

- (a) a prohibition from driving made in terms of; or
- (b) a condition referred to in; subsection (6) may appeal against such prohibition from driving or condition to a judge of the High Court, who may refer the matter to a court of the High Court for argument.

(9) On an appeal in terms of subsection (8)—

- (a) the judge or court concerned may confirm, vary or set aside the order of the magistrate concerned; and
- (b) the decision of the judge or court concerned shall be final.

(10) The registrar of the High Court shall, on the making of a decision by a judge or court of the High Court in terms of subsection (9), transmit particulars of such decision to the Registrar.

63 Prohibition from driving by courts of persons who are incompetent to drive or incapable of driving

(1) Subject to this Act, a court which acquits or convicts a person charged with an offence in terms of this Act or referred to in subsection (1) of section *sixty-four* may, if, having regard to the evidence adduced before verdict and to such further evidence as such court thinks fit to hear thereafter, such court is satisfied that such person is—

(a) incompetent to drive or control a motor vehicle, prohibit such person from driving and require such person—

- (i) to surrender any licence held by him; and
- (ii) within a period specified by such court, to produce the appropriate certificate of competency; to the clerk of court or the registrar of the High Court, as the case may be; or

(b) suffering from any disease or other disability which may render such holder incapable of effectively driving and controlling a motor vehicle without endangering the public safety, prohibit such person from driving for such period as such court thinks fit or permit such person to drive a motor vehicle on a road subject to such conditions as such court thinks fit to endorse on the licence of such person.

(2) The clerk of court or registrar of the High Court, as the case may be, shall—

- (a) transmit any licence surrendered to him in compliance with a requirement in terms of paragraph (a) of subsection (1) to the Registrar; and
- (b) notify the Registrar in writing of each prohibition from driving, requirement or condition made or imposed, as the case may be, by the court concerned in terms of subsection (1).

(3) Notwithstanding any prohibition from driving imposed on him in terms of paragraph (a) of subsection (1) and the existence of any licence held by him, the person so prohibited may apply for a learners licence in respect of motor vehicles of the class to which such prohibition from driving extends and section *nine* and of subsections (1) to (4) of section *ten* shall thereafter apply, *mutatis mutandis*.

(4) If a person—

(a) required in terms of paragraph (a) of subsection (1)—

- (i) to surrender a licence fails without reasonable excuse to do so within a period of seven days from the date of such requirement, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; or

[Subparagraph amended by section 4 of Act 22 of 2001.]

- (ii) to produce a certificate of competency, fails to do so within the period specified in terms of that paragraph, any licence surrendered by him shall be cancelled in respect of motor vehicles of the class to which the prohibition from driving concerned extends; or

- (b) fails to comply with any condition referred to in paragraph (b) of subsection (1), he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Paragraph amended by section 4 of Act 22 of 2001.]

(5) On the production of a certificate of competency in compliance with a requirement in terms of paragraph (a) of subsection (1)—

- (a) the clerk of court or the registrar of the High Court, as the case may be, shall notify the Registrar in writing accordingly; and
- (b) the Registrar shall, on receipt of a notification in terms of paragraph (a), return to the person concerned any licence surrendered by him; and
- (c) the prohibition from driving imposed in terms of paragraph (a) of subsection (1) shall cease to be of force and effect.

(6) A person who is aggrieved by a prohibition from driving, requirement or condition made or imposed, as the case may be, in terms of subsection (1) may appeal against the prohibition, requirement or condition—

- (a) to the Supreme Court, where the prohibition, requirement or condition was made or imposed, as the case may be, by the High Court; or
- (b) to the High Court, in any other case.

[Subsection as substituted by section 10 of Act 9 of 1997]

(7) On an appeal in terms of subsection (6), the Supreme Court or the High Court, as the case may be, may confirm, vary or set aside the prohibition from driving, requirement or condition concerned.

[Subsection as amended by section 10 of Act No. 9 of 1997]

(8) The registrar of the Supreme Court or the registrar of the High Court, as the case may be, shall notify the Registrar of any decision made the Supreme Court or the High Court on an appeal in terms of subsection (6).

[Subsection as substituted by section 10 of Act 9 of 1997]

64 Prohibition from driving on conviction of certain offences

(1) Subject to this Part, a court convicting a person of an offence in terms of any law other than this Act by or in connection with the driving of a motor vehicle on a road may, in addition to any other penalty which it may lawfully impose, prohibit the person from driving for such period as it thinks fit.

(2) Subject to subsection (3), on a second or subsequent conviction for an offence at common law, which offence involves killing or injuring or attempting to kill or injure a person by or in connection with the driving of a motor vehicle on a road, the court concerned shall prohibit the person convicted from driving for a period of not less than twelve months unless such court, having regard to the lapse of time since the date of the previous or last previous conviction for such offence, prohibits the person convicted from driving for a shorter period or declines to prohibit such person from driving and endorses its reasons for so prohibiting or declining on the record of the case when passing sentence.

(3) If, on convicting a person of murder, attempted murder, culpable homicide, assault or any similar offence by or in connection with the driving of a motor vehicle, the court considers—

- (a) that the convicted person would have been convicted of an offence in terms of this Act involving the driving or attempted driving of a motor vehicle if he had been charged with such an offence instead of the offence at common law; and
- (b) that, if the convicted person had been convicted of the offence in terms of this Act referred to in paragraph (a), the court would have been required to prohibit him from driving and additionally, or alternatively, would have been required to cancel his licence; the court shall, when sentencing him for the offence at common law—
 - (i) prohibit him from driving for a period that is no shorter than the period of prohibition that would have been ordered had he been convicted of the offence in terms of this Act referred to in paragraph (a); and
 - (ii) cancel his licence, if the court would have cancelled his licence on convicting him of the offence in terms of this Act referred to in paragraph (a).

64A Prohibition from driving and cancellation of licence upon accumulation of penalty points

(1) In this section—

“penalty point” means a penalty point provided for in regulations referred to in section *eighty-three A*.

(2) Where a court convicts a person of an offence relating to the driving of a motor vehicle and the court is satisfied that he has accumulated or, by virtue of the conviction, will accumulate the number of penalty points which, in terms of regulations referred to in section *eighty-three A*, requires him to be prohibited from driving and additionally, or alternatively, requires his licence to be cancelled, the court shall—

- (a) prohibit him from driving for the requisite period; and additionally, or alternatively

(b) cancel his licence in respect of all or any classes of motor vehicles, as required by the said regulations; in addition to any other penalty which the court may lawfully impose upon him.

(3) Where a court convicts a person in terms of section 356 of the Criminal Procedure and Evidence Act [Chapter 9:07] of an offence relating to the driving of a motor vehicle and the court is satisfied that he has accumulated or, by virtue of the conviction, will accumulate the number of penalty points which, in terms of regulations referred to in section *eighty-three A*, requires him to be prohibited from driving and additionally, or alternatively, requires his licence to be cancelled, the court shall cause a written notice to be served on the holder requiring him—

- (a) to appear before the court on a date, not sooner than three days after the date of the notice, and at a time and place specified in the notice; and
- (b) to show cause why he should not be prohibited from driving and additionally, or alternatively, why his licence should not be cancelled.

(4) Whenever it is alleged or appears to a magistrate that the holder of a licence has accumulated the number of penalty points which, in terms of regulations referred to in section *eighty-three A*, requires him to be prohibited from driving and additionally, or alternatively, requires his licence to be cancelled, the magistrate may cause a written notice to be served on the holder requiring the holder—

- (a) to appear before the magistrate on a date, not sooner than three days after the date of the notice, and at a time and place specified in the notice; and
- (b) to show cause why he should not be prohibited from driving and additionally, or alternatively, his licence should not be cancelled.

(5) On the date and at the time and place specified in the notice referred to in subsection (3) or (4), as the case may be, the magistrate concerned shall proceed to inquire into the accumulation of penalty points by the person concerned and whether or not the person should be prohibited from driving and additionally, or alternatively, his licence should be cancelled:

Provided that, if the person fails to appear, the inquiry may be conducted in his absence.

(6) For the purpose of an inquiry referred to in subsection (5), the magistrate—

- (a) may take evidence on oath; and

- (b) shall afford the person who is the subject of the inquiry a reasonable opportunity to reply to any evidence against him and to show cause why he should not be prohibited from driving and additionally, or alternatively, his licence should not be cancelled, as the case may be.

(7) A magistrate holding an inquiry referred to in subsection (5) shall cause a written record of the proceedings at the inquiry to be kept and filed.

(8) Sections 7 to 13 of the Housing Standards Control Act [Chapter 29:08] shall apply, *mutatis mutandis*, to an inquiry referred to in subsection (5) as if the proceedings of the inquiry were proceedings before a housing court.

(9) If, following an inquiry referred to in subsection (5), the magistrate is satisfied that the person who was the subject of the inquiry has accumulated the number of penalty points which, in terms of regulations referred to in section *eighty-three A*, requires him to be prohibited from driving and additionally, or alternatively, requires his licence to be cancelled, the magistrate shall forthwith prohibit him from driving for the requisite period and additionally, or alternatively, cancel his licence as required by the regulations.

(10) An appeal shall lie to the High Court against a decision of a magistrate following an inquiry referred to in subsection (5) in all respects as if the decision were a sentence imposed by the magistrate in a criminal case.

[Section inserted by section 21 of Act 3 of 2000.]

65 General provisions relating to prohibition from driving

(1) Subject to this section and of sections *fifty-three*, *fifty-four*, *fifty-five* and *seventy-eight*, a prohibition from driving shall extend to all classes of motor vehicle.

(2) Subject to subsection (4), where a magistrate in terms of section *sixty-two* or *sixty-three* prohibits a person from driving, he may order that such prohibition shall not extend—

- (a) to such class of motor vehicle; or
- (b) to any motor vehicle which is adapted, constructed or equipped in such manner; as he thinks fit.

(3) Where a court, having convicted a person of an offence in terms of this Act or any other law, prohibits that person from driving, it may order that such prohibition shall not extend to such class of motor vehicle, other than the class to which the motor vehicle driven or attempted to be driven by the person at the time of the commission of the offence belongs, as it thinks fit.

Provided that this subsection shall not apply to a prohibition from driving imposed in terms of subsection (2) of section *sixty-four A*.

[Proviso inserted by section 22 of Act 3 of 2000.]

(4) A person who has been prohibited from driving for a period less than his lifetime motor vehicles of a particular class or of all classes may, at any time whilst the prohibition remains in force, apply to a magistrate for an order that the prohibition from driving shall not extend to motor vehicles of a particular class, and the magistrate may, after hearing such evidence as may be adduced, make such order that the prohibition from driving shall not extend to motor vehicles of such particular class as he thinks fit:

Provided that, if the prohibition from driving was consequent on a conviction for an offence, the magistrate may not order that the prohibition from driving shall not extend to the class of motor vehicle to which the motor vehicle driven or attempted to be driven by the person at the time of the commission of the offence belonged.

(5) If a person who has been prohibited from driving—

- (a) for a period of twelve months or more or for consecutive periods which together amount to twelve months or more is the holder of a licence, the magistrate or court prohibiting such person from driving shall, subject to the provisions of sections *fifty-two, fifty-three, fifty-four, fifty-five and seventy-eight*, cancel the licence in respect of all classes of motor vehicle to which such prohibition extends; or
- (b) is under the appropriate age referred to in section *seven* at the time of such prohibition, such prohibition shall take effect from the date on which he attains such age.

(6) Subject to subsection (8), if a court convicts a person of an offence in respect of which—

- (a) prohibition from driving is required to be imposed in terms of this Act, and the court for any reason does not prohibit the convicted person from driving or prohibits him from driving for a shorter period than that required in terms of this Act; or
- (b) cancellation of a licence is required to be imposed in terms of this Act, and the court for any reason does not cancel the licence of the convicted person in respect of all or any of the classes of motor vehicles in respect of which it is required to be cancelled;

the court shall cause notice to be served on the convicted person directing him to appear before the court at the time and place specified in the notice to show cause why the prohibition or cancellation should not be imposed or the order should not be corrected, as the case may be.

(7) If a person who has received notice in terms of subsection (6) fails to appear before the court or to show cause in terms of the notice, the court shall impose the appropriate prohibition or cancellation which shall have effect from the date of such imposition.

(8) No notice in terms of subsection (6) may be given more than six months after the date of the conviction, unless the prohibition from driving or cancellation of a licence was required to be imposed in terms of subsection (2) of section *sixty-four A*:

Provided that, if an appeal has been noted against the conviction, a notice in terms of that subsection may be given at any time which is not later than six months after the date the appeal lapses for want of prosecution or is determined, withdrawn or abandoned.

[Subsection amended by section 22 of Act 3 of 2000.]

(9) A prohibition from driving and any consequent cancellation of a licence imposed in respect of an offence shall be deemed to be part of the sentence passed on the person convicted.

(10) If two or more periods of prohibition from driving are imposed in respect of the same person, whether at the same time or at different times, such periods shall, unless the magistrate or court concerned otherwise directs, commence in the order in which they were imposed, the one commencing after the expiry or setting aside of the other.

(11) The clerk of court or registrar of the High Court, as the case may be, shall notify the Registrar in writing forthwith of—

- (a) any prohibition from driving; and
- (b) any cancellation of a licence; imposed by the magistrate or court concerned.

(12) A person who has been prohibited from driving—

(a) in terms of section *sixty-two* or paragraph (b) of subsection (1) of section *sixty-three* and considers that he is no longer suffering from the disease or other disability concerned may; or (b) otherwise than—

- (i) during his lifetime; or
- (ii) in terms of section *sixty-two* or paragraph (b) of subsection (1) of section *sixty-three*;

may, after the expiry of a period of twelve months from the date of such prohibition; apply to a magistrate or to the court which prohibited him from driving, as the case may be, for such prohibition to be varied or set aside.

(13) On receipt of an application made in terms of subsection (12), the magistrate or court concerned may—

- (a) grant, subject to such conditions, if any, as he or it thinks fit; or
- (b) refuse; such

application.

(14) A person who has been prohibited from driving during his lifetime otherwise than in terms of section *sixty-two* or paragraph (b) of subsection (1) of section *sixty-three* may, after the expiry of a period of ten years from the date of the prohibition from driving concerned, apply to the High Court for such prohibition to be varied or set aside.

(15) On an application made in terms of subsection (14) the High Court may—

(a) after hearing such evidence as may be adduced; and

(b) having regard to the character of such applicant, his conduct since the date of the prohibition concerned and any other relevant circumstances; grant such application by varying or setting aside the prohibition concerned with effect from such date and in respect of such class of motor vehicles as the High Court may specify or refuse such application.

(16) If an application is refused in terms of subsection (15), no further application in terms of subsection (14) by the same applicant shall be entertained by the High Court until the expiry of a period of two years from the date of such refusal.

(17) A person whose application has been granted in terms of subsection (15) and who is convicted, after the date of such grant, of an offence in respect of which prohibition from driving is required to be imposed shall—
(a) be prohibited by the court which so convicts him from driving during his lifetime; and (b) not be entitled to make any further application in terms of subsection (14).

(18) If a magistrate or the High Court grants an application in terms of subsection (4), (12) or (14) wholly or in part, whether or not such grant is subject to conditions, the clerk of court or registrar of the High Court, as the case may be, shall forthwith notify the Registrar of that fact and of the effect of any order made by the magistrate or the High Court, as the case may be, in connection with the application.

66 Endorsement of licences

(1) Any licence held by a person who—

(a) is prohibited from driving in terms of section *sixty-two* or *sixty-three*; or

(b) is permitted in terms of section *sixty-two* or *sixty-three* to drive a motor vehicle on a road subject to conditions; shall be endorsed with the particulars of such prohibition or conditions in such manner as may be prescribed.

(2) An endorsement made in terms of subsection (1) shall, for the purposes of an appeal in terms of subsection (8) of section *sixty-two* or subsection (6) of section *sixty-three*, be deemed to be part of—

(a) a prohibition from driving in terms of subsection (6) of section *sixty-two* or subsection (1) of section *sixty-three*; or

(b) a condition imposed in terms of subsection (6) of section *sixty-two* or subsection (1) of section *sixtythree*; as the case may be.

(3) If a person is convicted of an offence in respect of which he is prohibited from driving, any licence which is—

(a) held by him at the time of the conviction, and which is not cancelled in respect of all classes of motor vehicle to which it relates, shall be endorsed with such particulars of such conviction and of such prohibition from driving in such manner as may be prescribed; or

(b) issued to him after his conviction and during the period that the prohibition from driving remains in force shall be endorsed with such particulars of such conviction and of such prohibition from driving in such manner as may be prescribed; or

(c) issued to him after the period of prohibition from driving and within five years of the expiration of that period shall be endorsed with such particulars of such conviction as may be prescribed.

(4) If a person is convicted of an offence—

(a) in terms of subsection (2) of section *fifty-two*, subsection (2) of section *fifty-three*, subsection (2) of section *fifty-four*, subsection (2) of section *fifty-five*, subsection (3) of section *seventy-six* or subsection (6) of section *seventy-seven*, in respect of which he is not prohibited from driving, any licence held by him at the time of such conviction or issued to him within a period of five years after such conviction shall be endorsed; or

(b) in terms of—

(i) a provision of this Act specified in the First Schedule; or

(ii) any enactment other than this Act or the common law by or in connection with the driving of a motor vehicle on a road; or

(iii) section 5 of the Road Motor Transportation Act [*Chapter 13:10*]; in respect of which he is not prohibited from driving, any licence held by him at the time of such conviction or issued to him within a period of five years after such conviction may be endorsed; with such particulars of such conviction in such manner as may be prescribed.

(4a) If a person is convicted of an offence in respect of which he accumulates any penalty points in terms of regulations referred to in section *eighty-three A*, any licence which is—

- (a) held by him at the time of his conviction and is not cancelled in respect of all classes of motor vehicles to which it relates; or
- (b) issued to him after his conviction and during the period that the penalty points may, in terms of the regulations, be counted for the purposes of determining whether or not he should be prohibited from driving or his licence should be cancelled; shall be endorsed with the penalty points in such manner as may be prescribed in the regulations.

[Subsection inserted by section 23 of Act 3 of 2000.]

(5) An endorsement made in terms of subsection (3) shall be deemed to be part of the sentence passed on the person convicted.

(6) An endorsement shall, subject to this section, be made in terms of subsection (1), (3), (4) or (4a) on every licence held by or issued to the person concerned.

[Subsection amended by section 23 of Act 3 of 2000.]

(7) After the expiry of the period—

- (a) referred to in subsection (3) or (4), as the case may be; or
- (b) during which the person concerned is permitted in terms of section *sixty-two* or *sixty-three* to drive a motor vehicle on a road subject to conditions:

the person concerned may, if he is the holder of an internal licence, apply to the Registrar in terms of section *fourteen* for a duplicate internal licence free from the endorsement concerned as if his internal licence had been lost or destroyed, and this section shall thereafter apply, *mutatis mutandis*, in regard to the application:

Provided that the Registrar shall not issue a duplicate internal licence to the person if his internal licence is still required to be endorsed by virtue of a later conviction or order of a court than that which gave rise to the endorsement in respect of which the application is made.

[Subsection substituted by section 23 of Act 3 of 2000.]

67 Surrender of licences for cancellation or endorsement

(1) A person who—

- (a) is the holder of a licence which is required to be, and has not yet been, cancelled or endorsed in terms of this Act shall, within a period of seven days from the date on which such requirement arose, surrender such licence to the clerk of court concerned or to the registrar of the High Court, as the case may be, for cancellation or endorsement; or
- (b) becomes the holder of a licence which is required to be, and has not yet been, endorsed in terms of section *sixty-six* shall, within a period of seven days from the date on which he became such holder, surrender such licence to the Registrar for endorsement.

[Paragraph amended by section 38 of Act 3 of 2000.]

(2) A person referred to in subsection (1) who fails, without reasonable excuse, to surrender his licence in accordance with that subsection shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

(3) A person who—

- (a) has been convicted of an offence in terms of subsection (2); and
- (b) persists, after the conviction referred to in paragraph (a), in the course of conduct which resulted in such conviction; shall be guilty of a continuing offence and liable to a fine not exceeding level one for every day or part thereof during which he persists in the course of conduct referred to in paragraph (b).

[Subsection amended by section 38 of Act 3 of 2000.]

(4) On receipt of a licence surrendered to him in terms of—

- (a) paragraph (a) of subsection (1), the clerk of court concerned or the registrar of the High Court, as the case may be, shall forthwith transmit such licence to the Registrar for cancellation or endorsement and the Registrar shall cancel or endorse such licence and return the same to the holder thereof with all convenient speed:

Provided that, if such licence is cancelled in respect of all classes of motor vehicle to which it relates, the Registrar shall not so return such licence; or

- (b) paragraph (b) of subsection (1), the Registrar shall endorse such licence and return the same to the holder thereof with all convenient speed.

PART X

POWERS AND DUTIES OF VARIOUS PERSONS

68 Power to demand documents in connection with motor vehicle insurance

(1) A police officer or inspecting officer may require the owner of a motor vehicle or trailer or a person using a motor vehicle or trailer on a road, as the case may be, to produce the motor vehicle certificate of insurance or certificate of security concerned to the police officer or inspecting officer for the purpose of determining whether or not the motor vehicle or trailer is being used in contravention of subsection (1) of section *twenty-two*.

(2) A person who, on being required to do so in terms of subsection (1), fails to produce the certificate of insurance or certificate of security concerned, shall be guilty of an offence, unless within seven days thereafter he—

- (a) produces such certificate of insurance or certificate of security at a police station; and
- (b) explains to the police officer in charge of the police station referred to in paragraph (a) that such certificate of insurance or certificate of security is produced in compliance with such requirement and names the place where and the date when, such requirement was made.

(2a) A person guilty of an offence in terms of subsection (2) shall be liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

[Subsection inserted by section 4 of Act 22 of 2001.]

(3) The police officer referred to in paragraph (b) of subsection (2) shall forthwith, on the production of the certificate of insurance or certificate of security concerned—

- (a) notify the police in the area or district where the requirement concerned was made that such requirement has been complied with; and
- (b) issue to the person producing such certificate of insurance or certificate of security a receipt in such form and containing such particulars as may be prescribed.

(4) In any prosecution for an offence in terms of subsection (2) it shall be presumed, unless the contrary is proved, that the accused did not produce the certificate of insurance or certificate of security concerned at a police station in accordance with that subsection.

(5) Any member or class of member of the Public Service designated by the Minister by statutory instruments shall have the powers conferred on an inspecting officer by this section.

69 Information to be given in case of driving offences

(1) If a person has reasonable grounds for believing that the driver of a vehicle has committed an offence in terms of section *fifty-two*, *fifty-three*, *fifty-four* or *fifty-five* he may, in the absence of a police officer and at the time of the occurrence of the event giving rise to such belief or within a reasonable time thereafter, require any person who is or was in any way connected with the vehicle at the time of such occurrence, including the driver of the vehicle, to furnish him with his name and address.

(2) A person who—

- (a) fails to comply with a requirement referred to in subsection (1); or
- (b) in response to a requirement referred to in subsection (1), furnishes a false name or address; shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

70 Duty of drivers in event of accidents

(1) In this section—

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

“special circumstances” means special circumstances surrounding the commission of the offence concerned, but does not include special circumstances peculiar to the offender.

(2) A person who is the driver of a vehicle on or near a road at the time when the vehicle is involved in or contributes to an accident in which—

- (a) injury or damage, as the case may be, is caused to any person, animal or property; or
- (b) any person or animal is killed; shall—
 - (i) immediately stop the vehicle; and
 - (ii) if a person is involved in such accident, ascertain whether the person has been injured or killed; and
 - (iii) if a person referred to in subparagraph (ii) has been injured, render such assistance to such person as—
 - A. he may be capable of rendering; and
 - B. such person may need; and
 - (iv) if a person referred to in subparagraph (ii) has been killed, take all reasonable steps to guard the corpse of such person; and

- (v) if required to do so by any person having reasonable grounds for so requiring, give to such person—
- A. his name and address; and
 - B. if he is not the owner of the vehicle, the name and address of the owner of the vehicle; and
 - C. the registration mark and number or other identifying particulars of the vehicle; and
 - D. the name of the insurer by whom the vehicle has been insured, whether in terms of a statutory policy or otherwise, or the name of the giver of a statutory security by whom the vehicle has been secured, as the case may be.

(3) Subject to subsection (5), a person who fails to carry out one or more of the duties referred to in subparagraphs (i) to (v) of subsection (2) shall be guilty of an offence and liable—

- (a) if it is proved that such person has failed only to carry out the duty referred to in subparagraph (i) or (v) of that subsection, to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (b) in any case other than the case referred to in paragraph (a), to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(4) A person charged with failing to carry out any duty referred to in subparagraphs (i) to (v) of subsection (2) may be convicted of failing to carry out any other duty referred to in those subparagraphs, if such are the facts proved.

(5) If the driver of a motor vehicle which is involved in or contributes to an accident referred to in subsection (2) does not give his name and address to any person requiring the same in terms of subparagraph (v) of subsection (2) and having reasonable grounds for so requiring or if no such requirement is made, he shall report such accident at a police station or to a police officer of or above the rank of sergeant or such other rank as may be prescribed as soon as is reasonably practicable and, in any event, within twenty-four hours of the occurrence of such accident:

Provided that this subsection shall not apply to the driver of a motor vehicle which is involved in an accident in which—

- (a) no injury is caused to any person or animal; and
- (b) no person or animal is killed; and
- (c) damage is caused solely to property of such driver.

(6) A person who makes a report in terms of subsection (5) shall be issued with an acknowledgement of the report in such form and containing such particulars as may be prescribed.

(7) A person who fails to comply with subsection (5) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(8) In any prosecution for a failure to comply with subsection (5), it shall be presumed, until the contrary is proved, that the accused did not report the accident concerned in accordance with those provisions.

(9) Subject to Part IX, a court convicting a person of an offence in terms of subsection (2)—

- (a) involving a failure only to carry out the duty referred to in subparagraph (i) or (v) of subsection (2) may prohibit the person from driving for such period as such court thinks fit; or
- (b) involving a failure to carry out any duty referred to in subparagraph (ii), (iii) or (iv) of subsection (2) shall prohibit the person from driving for such period as such court thinks fit:

Provided that such court may decline to prohibit the person from driving if it—

- (i) considers that there are special circumstances in the case which justify such court in so declining; and
- (ii) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

71 Duty to give information relating to identities of drivers

(1) If the driver of a vehicle is alleged to be guilty of an offence in terms of this Act, the Foreign Representatives Parking Privileges Act [Chapter 3:02] or the Reserved Parking Areas Act [Chapter 10:23], a police officer may require any person to give to the police officer such information as may lead to the identification of such driver as it is in the power of the person to give.

(2) A person who fails to comply with a requirement made in terms of subsection (1) shall be guilty of an offence unless he shows to the satisfaction of the court concerned that he did not know and could not with reasonable diligence have ascertained the identity of the driver concerned.

(3) A person guilty of an offence in terms of subsection (2) shall be liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

72 General powers of police officers and inspecting officers

- (1) Subject to subsection (2), a police officer or an inspecting officer may—
(a) require the driver of a vehicle—
(i) to stop the vehicle;
and
(ii) to furnish his name and address and to give any other particulars necessary for his identification; and
(b) require any person in a vehicle—
(i) to furnish his name and address and to give any other particulars necessary for his identification; and
(ii) to give such information as— A. is in his power to give;
and
B. may lead to the identification of the driver or owner of the vehicle; and
(c) inspect any part of a vehicle or the equipment thereof in order to ascertain whether or not such part or equipment complies with any law; and
(d) ascertain the dimensions of any vehicle or the load carried thereon and for this purpose require any persons or goods or both to be removed from the vehicle; and
(e) subject to subsection (2), drive a vehicle when necessary or desirable in the execution of his duties; and
(f) require a vehicle to be removed by its driver or any other person to any place to enable the vehicle to be inspected.
- (2) Subject to section *three*, no police officer or inspecting officer may drive a motor vehicle in the exercise of any of the powers and duties conferred or imposed, as the case may be, on him by or under this Act unless he is the holder of a drivers licence in respect of the class of motor vehicle concerned.
- (3) Subject to subsection (6), a police officer or inspecting officer may require—
(a) the person in charge of a vehicle to allow—
(i) the mass of the vehicle to be measured while the vehicle is laden or unladen; or
(ii) the axle loads of the vehicle to be determined; and for that purpose to proceed to a scale specified by the police officer or inspecting officer; and
(b) any persons or goods or both to be removed from a vehicle referred to in paragraph (a).
- (4) If at the time a requirement referred to—
(a) in paragraph (f) of subsection (1) is made the vehicle concerned is more than fifteen kilometres from the place of inspection and no serious defect is subsequently found in such vehicle; or
(b) in paragraph (a) of subsection (3) is made the vehicle concerned is more than fifteen kilometres from the scale referred to in that paragraph and the mass or axle loads of such vehicle are subsequently found to be within the limits authorized by law; the Minister shall pay, from moneys appropriated by Act of Parliament for the purpose, in respect of loss occasioned by compliance with such requirement such amount—
(i) as may be agreed on between the Minister and the person suffering such loss; or
(ii) failing agreement, as may be determined by arbitration in terms of the Arbitration Act [*Chapter 7:02*], for which purpose the parties to the dispute shall be deemed to have entered into an agreement in writing to submit the dispute to arbitration, the arbitrators to be one person appointed by each of such parties, together with a third person appointed by such arbitrators.
- (5) If the mass or axle loads of a vehicle are measured pursuant to a requirement made in terms of subsection (3) and such mass or axle loads are found to be within the limits authorized by law, the person measuring such mass or axle loads shall issue a certificate of mass or axle load to the person in charge of the vehicle.
- (6) A certificate referred to in subsection (5) shall—
(a) on its production to a police officer or inspecting officer; and
(b) while the vehicle concerned is, during the continuance of the journey during which such certificate was issued, carrying the same load as when its mass or axle loads were measured; exempt the person in charge of the vehicle concerned from compliance with any further requirement made in terms of subsection (3).
- (7) If the mass or axle loads of a vehicle are measured pursuant to a requirement made in terms of subsection (3) and such mass or axle loads are found to be outside the limits authorized by law, the police officer or inspecting officer concerned may—
(a) require the person in charge of the vehicle to remove such persons or goods or both as may be necessary to reduce such mass or axle loads to within the limits authorized by law; and
(b) if the person referred to in paragraph (a) is unwilling to comply with a requirement made in terms of that paragraph, detain the vehicle until such requirement is complied with.

(8) Any member or class of members of the Public Service designated by the Minister by statutory instruments shall have the powers and duties conferred or imposed, as the case may be, on an inspecting officer by this section:

Provided that no such member or class of members shall have the powers referred to in paragraphs (c) and (e) of subsection (1).

(9) A person who fails, without reasonable excuse, to comply with a requirement made in terms of subsection (1) or (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

73 Notice to discontinue use of vehicles

(1) In this section—

“certificate of fitness” has the meaning given by section 2 of the Road Motor Transportation Act [*Chapter 13:10*];

“licence” and “registration book” have the respective meanings given by section 2 of the Vehicle Registration and Licensing Act [*Chapter 13:14*].

(2) If, in the opinion of a police officer or inspecting officer, a vehicle does not comply with this Act, he may, by notice on the prescribed form given to the driver or owner of the vehicle, direct that the vehicle shall not be used on any road.

(3) A notice given in terms of subsection (2)—

(a) may contain conditions to the effect that the vehicle concerned may continue to be used on a road—(i) to reach any specified place or on a journey undertaken for the purpose of obtaining a certificate of roadworthiness; or

(ii) for a specified period or subject to limitations relating to speed or route or otherwise; and

(b) shall continue in force—

(i) in the case of such a notice given by an inspecting officer, until a certificate of roadworthiness has been issued by an inspecting officer in respect of the vehicle concerned; or

(ii) in the case of such a notice given by a police officer, until—

A. the vehicle concerned has been examined by an inspecting officer; or

B. the expiry of a period of forty-eight hours, excluding Saturdays, Sundays and public holidays, from the giving of such notice;

whichever is the sooner.

(4) An inspecting officer who has given a notice in terms of subsection (2) in respect of a motor vehicle or trailer may, by order in writing on the prescribed form given to the owner of the motor vehicle or trailer, require such owner to deliver to him within seven days of the date of such order the registration book, certificate of fitness and licence, if any, of the motor vehicle or trailer.

(5) An inspecting officer shall give to the owner of the motor vehicle or trailer concerned a receipt for the registration book, certificate of fitness or licence, if any, delivered to him pursuant to an order given in terms of subsection (4).

(6) An inspecting officer to whom a registration book, certificate of fitness or licence has been delivered pursuant to an order in terms of subsection (4) shall return the same to the owner of the motor vehicle or trailer concerned immediately after a certificate of roadworthiness has been issued in respect of such motor vehicle or trailer.

(7) A person who fails to comply with a notice or order given in terms of this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 24 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

74 Power to demand licences and detain motor vehicles

(1) A police officer or inspecting officer may require the driver of a motor vehicle—

(a) to produce his licence to drive such motor vehicle; and

(b) if his licence to drive such motor vehicle is a foreign drivers licence or an international driving permit referred to in subsection (1) of section *eighteen*, to produce any visitors entry certificate or other certificate or permit issued to him in terms of the Immigration Act [*Chapter 4:02*], or in terms of any enactment relating to refugees;

or, failing production of such licence, to produce proof of his identity.

(2) If, upon being required to do so by a police officer or inspecting officer in terms of subsection (1), a driver, having failed to produce his licence to drive the motor vehicle concerned, fails to produce proof of his

identity, the police officer or inspecting officer may detain the motor vehicle for a period not exceeding twentyfour hours.

(3) A person who, on being required to do so in terms of subsection (1), fails to produce any licence, certificate or permit shall be guilty of an offence unless, within seven days thereafter, he—

- (a) produces at a police station the licence concerned and, if the licence is a foreign drivers licence or an international driving permit referred to in subsection (1) of section *eighteen*, any visitors entry certificate or other certificate or permit issued to him in terms of the Immigration Act [*Chapter 4:02*], or in terms of any enactment relating to refugees; and
- (b) explains to the police officer in charge of the police station referred to in paragraph (a) that he is producing the licence and any such certificate or permit in compliance with such requirement and names the place where, and the date when, such requirement was made.

(3a) A person guilty of an offence in terms of subsection (3) shall be liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

[Subsection inserted by section 4 of Act 22 of 2001]

(4) The police officer referred to in paragraph (b) of subsection (3) shall forthwith, on the production of the licence and any certificate or permit concerned—

- (a) notify the police in the area or district where the requirement concerned was made that such requirement has been complied with; and
- (b) issue to the person producing such licence and any such certificate or permit a receipt in such form and containing such particulars as may be prescribed.

(5) In any prosecution for an offence in terms of subsection (3) it shall be presumed, unless the contrary is proved, that the accused did not produce his licence or any certificate or permit referred to in that subsection at a police station in accordance with that subsection.

(6) Any member or class of member of the Public Service designated by the Minister by statutory instruments shall have the powers conferred on an inspecting officer by this section.

75 Registrar, police officers, inspecting officers and examiners may require translation of certain licences

(1) The Registrar, a police officer, an inspecting officer or an examiner may, if an international driving permit or foreign drivers licence is issued in a language other than English, require the holder thereof to produce to him a translation thereof in the English language.

(2) A person who fails to comply with a requirement made in terms of subsection (1) shall be guilty of an offence, unless within seven days thereafter or such longer period as the person making such requirement may specify he—

- (a) produces the translation concerned at a police station; and
- (b) explains to the police officer in charge of the police station referred to in paragraph (a) that the translation referred to in that paragraph is produced in compliance with such requirement and names the place where, and the date when, such requirement was made.

(2a) A person guilty of an offence in terms of subsection (2) shall be liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

[Subsection inserted by section 4 of Act 22 of 2001.]

(3) The police officer referred to in paragraph (b) of subsection (2) shall forthwith on the production of the translation concerned—

- (a) notify the police in the area or district where the requirement concerned was made that such requirement has been complied with; and
- (b) issue to the person producing such translation a receipt in such form and containing such particulars as may be prescribed.

(4) In any prosecution for an offence in terms of subsection (2) it shall be presumed, unless the contrary is proved, that the accused did not produce the translation concerned at a police station in accordance with that subsection.

76 Powers of police officers and authorized persons in connection with breath tests

(1) In this section—

“authorized person” means a person authorized in terms of subsection (8);

“breath analysing instrument” means an apparatus approved in terms of subsection (9); “breath analysis” means an analysis of breath by a breath analysing instrument.

(2) A police officer who has reasonable cause to believe that a person—

(a) was the driver of a vehicle on or near a road at the time when the vehicle was involved in or contributed to an accident in which—

(i) injury was caused to any person or animal; or

- (ii) damage was caused to any property; or
 - (iii) any person or animal was killed; or
- (b) has committed an offence—
- (i) in terms of a provision of this Act specified in the Second Schedule; or
 - (ii) at common law by or in connection with the driving of a vehicle on a road; or
- (c) who is driving or attempting to drive a vehicle on a road is behaving in a manner which indicates that his ability to drive the vehicle is in some way impaired; may require the person to submit to a breath analysis.

[Subsection amended by section 25 of Act 3 of 2000.]

(3) A person who, without reasonable excuse, fails or refuses to comply with a requirement made in terms of subsection (2) shall be guilty of an offence and liable, subject to section *seventy-eight*, to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

(4) Evidence may be given on a charge of committing an offence in terms of subsection (2) of section *fifty-four* or subsection (2) of section *fifty-five* of the concentration of alcohol indicated as being present in the blood of the accused by a breath analysing instrument operated by an authorized person.

(5) As soon as practicable after the breath analysis concerned, the authorized person operating the breath analysing instrument concerned shall give to the person whose breath has been analysed a statement in writing specifying—

- (a) the concentration of alcohol indicated in terms of subsection (4) as being present in the blood of the second-mentioned person; and
- (b) the date and time of such breath analysis.

(6) If the provisions of subsection (5) have been complied with, it shall be presumed, unless the contrary is proved, that the concentration of alcohol indicated in terms of subsection (4) was present in the blood of the accused at the time of the breath analysis concerned.

(7) A certificate purporting to be signed by an authorized person and stating that—

- (a) the apparatus used by him for the purpose of the breath analysis concerned was a breath analysing instrument; and
- (b) the breath analysing instrument referred to in paragraph (a) was in proper order and was properly operated by him; and
- (c) the provisions of this Act relating to breath analysing instruments were complied with in respect of the breath analysing instrument referred to in paragraph (a); and
- (d) a sample of the breath of a person named therein was furnished for analysis in the breath analysing instrument referred to in paragraph (a); and
- (e) a concentration of alcohol expressed in milligrams per one hundred millilitres was indicated by the breath analysing instrument referred to in paragraph (d) as being present in the blood of the person referred to in that paragraph on a specified date and at a specified time; and
- (f) a statement in writing referred to in subsection (5) was given to the person whose breath was analysed as soon as was practicable after the breath analysis concerned; shall be proof of the facts so stated on its mere production by any person in proceedings for an offence in terms of subsection (2) of section *fifty-four* or subsection (2) of section *fifty-five*, unless the contrary is proved: Provided that—
 - (i) such certificate shall not be admissible unless the prosecutor or the accused, as the case may be, has received notice thereof not less than three days before its production or consents to its production;
 - (ii) the court in which such certificate is adduced in evidence may, of its own motion or at the request of the prosecutor or of the accused, cause the authorized person concerned to be summoned to give oral evidence in the proceedings concerned or may cause interrogatories in writing to be submitted to him for reply, such interrogatories and any reply thereto purporting to be a reply from such authorized person being admissible in such proceedings.

(8) The Commissioner of Police may, by notice published in the *Gazette*, authorize a person to operate a breath analysing instrument for the purpose of this section.

(9) The President may, by notice published in the *Gazette*, approve for the purpose of this section an apparatus by means of which the concentration of alcohol in the blood of a person is indicated from an analysis of his breath.

77 Powers of police officers, medical practitioners and designated persons in connection with taking specimens of blood

(1) A police officer of or above the rank of assistant inspector or such other rank as may be prescribed who has reasonable cause to believe that a person—

- (a) was the driver of a vehicle on or near a road at the time when the vehicle was involved in or contributed to an accident in which—
(i) injury was caused to any person or animal; or
(ii) damage was caused to any property; or
(iii) any person or animal was killed; or
- (b) has committed an offence—
(i) in terms of a provision of this Act specified in the Second Schedule; or
(ii) at common law by or in connection with the driving of a vehicle on a road;
- or
- (c) who is driving or attempting to drive a vehicle on a road is behaving in a manner which indicates that his ability to drive the vehicle is in some way impaired; may require the person to permit a specimen of blood to be taken from him in terms of subsection (2).
- (2) A medical practitioner or a member of a class of persons designated for the purposes of this section by the Secretary of the Ministry responsible for health, by notice published in the *Gazette*, hereinafter in this section called a designated person, may and, if so requested in writing by a police officer of or above the rank of assistant inspector, shall take for the purpose of analysis a specimen of blood from any person required in terms of subsection (1) to permit a specimen of blood to be taken from him, hereinafter in this section called the patient, and may use such force as may be reasonably necessary in order to take such specimen:

Provided that the medical practitioner or designated person may decline to take a specimen of blood in terms of this subsection when requested to do so by such police officer if he considers that such taking would be prejudicial to the health or proper care or treatment of the patient.

[Proviso amended by section 26 of Act 3 of 2000.]

(3) A specimen of blood taken in terms of subsection (2) shall be taken from a part of the body of the patient selected by the medical practitioner or designated person concerned in accordance with accepted medical practice.

(4) The patient may, within a period of seven days from the date on which the specimen of blood concerned was taken from him, obtain from the medical practitioner or designated person concerned a portion, not exceeding one-third, of such specimen for the purpose of analysis.

(5) Without prejudice to any defence or limitation which may be available in terms of any law, no claim shall lie and no set-off shall operate against—

- (a) the State;
(b) the Minister;
(c) any medical practitioner or designated person; in respect of any detention, injury or loss caused by or in connection with the taking of a specimen of blood in terms of subsection (2) unless such taking was unreasonable or in bad faith or culpably ignorant or negligent.

(6) A person who, without reasonable excuse, refuses to permit the taking of a specimen of blood in terms of subsection (2) or hinders or obstructs such taking shall be guilty of an offence and liable, subject to section *seventy-eight*, to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Subsection amended by section 38 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

78 Prohibition from driving if offences committed in terms of section 76 (3) or 77 (6)

(1) In subsection (2)—

“similar offence” means an offence in terms of subsection (2) of section *fifty-four*, subsection (2) of section *fifty-five*, subsection (3) of section *seventy-six* or subsection (6) of section *seventy-seven* or an offence, whether in terms of a law of Zimbabwe or any other law, of which the driving or attempted driving of a motor vehicle on a road while under the influence of alcohol or a drug or of alcohol and a drug or while the concentration of alcohol in his blood is not less than eighty milligrams per one hundred millilitres, as the case may be, is an element;

“special circumstances” means special circumstances surrounding the commission of the offence concerned, but does not include special circumstances peculiar to the offender.

(2) Subject to Part IX, a court convicting a person of an offence in terms of subsection (3) of section *seventysix* or subsection (6) of section *seventy-seven* shall—

(a) if the person has not previously been convicted of a similar offence within a period of ten years immediately preceding the date of such first-mentioned conviction—

- (i) in the case of a first-mentioned conviction which does not relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving for a period of not less than six months; or

- (ii) in the case of a first-mentioned conviction which does relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving—
 - A. a motor vehicle other than a commuter omnibus or a heavy vehicle for a period of not less than six months; and
 - B. a commuter omnibus or a heavy vehicle during his lifetime; or
- (b) if the person has previously been convicted of a similar offence within the period referred to in paragraph (a)—
 - (i) in the case of a second conviction—
 - A. which does not relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving for a period of not less than twelve months; or
 - B. which does relate to the driving or attempted driving of a commuter omnibus or a heavy vehicle, prohibit the person from driving
 - I. a motor vehicle other than a commuter omnibus or a heavy vehicle for a period of not less than twelve months; and
 - II. a commuter omnibus or a heavy vehicle during his lifetime; or
 - (ii) in the case of a third or subsequent conviction, prohibit the person from driving during his lifetime;

and shall, if the person is the holder of a licence, cancel the licence in respect of motor vehicles of the class to which such prohibition from driving extends:

Provided that such court may decline to prohibit the person from driving if it—

- (a) considers that there are special circumstances in the case which justify such court in so declining; and
- (b) endorses the special circumstances referred to in paragraph (a) on the record of the case when passing sentence.

[Subsection amended by section 27 of Act 3 of 2000.]

PART XI

GENERAL

79 Examiners

There shall be such number of examiners as may be necessary for the purposes of this Act to test and examine, at such places and at such times, the ability of applicants for licences whose offices shall be public offices and form part of the Public Service.

80 Appointment of inspecting officers

- (1) The Minister—
 - (a) may, for the purpose of examining and testing motor vehicles and trailers and issuing certificates of roadworthiness therefor, appoint such inspecting officers as he thinks fit; and
 - (b) shall issue to each inspecting officer appointed in terms of paragraph (a) such badge of office as may be prescribed.
- (2) Each inspecting officer shall, whilst on duty, wear the badge of office issued to him in terms of paragraph (b) of subsection (1).

81 Regulations

- (1) In subsection (5)—
“continuing offence” means the offence committed by a person who—
 - (a) has been convicted of an offence in terms of regulations; and
 - (b) persists, after a conviction referred to in paragraph (a), in the course of conduct which constituted the offence referred to in that paragraph.
- (2) The Minister may by regulation provide for all matters which—
 - (a) by this Act are required or permitted to be prescribed; or
 - (b) in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (3) In the exercise of the powers conferred upon him by subsection (2), the Minister may provide for all or any of the matters set out in the Third Schedule.
- (4) Regulations may delegate to the Minister, the Commissioner of Police or any member of the Public Service designated therein authority to exempt, subject to such conditions as he may impose for ensuring the safety of the public or the preservation of the roads, particular vehicles or classes of vehicles from the provisions of regulations.

(5) Regulations may create offences and prescribe penalties for such offences, including, without derogation from section 21 of the Interpretation Act [*Chapter 1:01*]□

- (a) different penalties in respect of successive or continuing offences; and
- (b) different penalties in respect of drivers and owners of vehicles who commit such offences:

Provided that□

- (i) subject to proviso (ii), no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment; or
- (ii) in the case of regulations fixing the axle load that is permitted on any road, no such penalty shall exceed a fine of level seven or imprisonment for a period of one year or both such fine and such imprisonment.

[Subsection substituted by section 28 of Act 3 of 2000 and amended by section 4 of Act 22 of 2001.] (6)

...

[Subsection repealed by section 4 of Act 22 of 2001.]

(7) ...

[Subsection repealed by section 28 of Act 3 of 2000.]

(8) Regulations may provide for repealing any by-laws dealing with the same subject matter as regulations.

(9) Regulations shall provide for—

- (a) traffic signs of a regulatory type or character which a local authority may, in the exercise of the powers referred to in subsection (7) of section *thirty-nine*, cause or permit to be placed
 - (i) in the case of a municipal council, on or near any road within the urban area under its jurisdiction; or
 - (ii) in the case of a town council, on or near any road other than a State road within the urban area under its jurisdiction; or
 - (iii) in the case of a rural district council, on or near any road, other than a State road, within the area for which the rural district council is a local authority for the purposes of this Act; or
 - (v) in the case of a local board, on or near any road other than a State road within the urban area under its jurisdiction;

and

- (b) the procedure to be followed and the conditions to be observed by the local authority referred to in paragraph (a) in connection with the placing of the traffic signs referred to in that paragraph.

82 Regulations, by-laws and resolutions relating to speed limits

(1) Regulations may provide for—

- (a) the maximum speed at which all vehicles or vehicles of a particular class may be driven on any road and, in so doing, may provide for different maximum speeds in respect of particular types of roads; and
- (b) the maximum speed at which all vehicles or vehicles of a particular class may be driven on any road within a specified area or on any particular portion of a road, which maximum speed shall not—(i) be greater than the appropriate maximum speed provided for in terms of paragraph (a); and
 - (ii) apply in relation to any road or portion of a road in respect of which a maximum speed has been provided for in terms of subsection (2) or (3);

and

- (c) the minimum speed at which all vehicles or vehicles of a particular class may be driven on any road within a specified area or on any particular portion of a road, other than a road or portion thereof in respect of which a minimum speed has been provided for in terms of subsection (2) or (3).

[Paragraph inserted by section 29 of Act 3 of 2000.]

(2) Subject to this section, a local authority other than a local board may make by-laws in terms of Part XVII of the Urban Councils Act [*Chapter 29:15*] or Part XI of the Rural District Councils Act [*Chapter 29:13*], as the case may be, providing for—

- (a) the general maximum speed at which all vehicles or vehicles of a particular class may be driven on any road within the whole of the urban area under its jurisdiction or any specified part of that area;
- (b) the maximum speed at which all vehicles or vehicles of a particular class may be driven on any particular road or portion of a road within the urban area under its jurisdiction;
- (c) the minimum speed at which all vehicles or vehicles of a particular class may be driven on any particular road or portion of a road within the urban area under its jurisdiction.

[Subsection substituted by section 29 of Act 3 of 2000.]

(2a) A maximum speed prescribed in by-laws referred to in subsection (2) shall not be greater than the appropriate maximum provided for in terms of paragraph (a) of subsection (1).

[Subsection inserted by section 29 of Act 3 of 2000.]

(2b) A local authority, other than a municipal council, shall not exercise the powers conferred by subsection (2) in respect of a State road.

[Subsection inserted by section 29 of Act 3 of 2000.]

(3) A municipal council may exercise the powers conferred by subsection (2) by a resolution duly passed by the municipal council instead of by making by-laws, in which case—

- (a) such resolution shall be published in the *Gazette* and in a newspaper circulating in the urban area under its jurisdiction; and
- (b) production in any court of a copy of the *Gazette* containing a notice of the passing of such resolution by the municipal council and of the terms of such resolution shall be sufficient evidence of the passing, and the terms, of such resolution.

83

[Section repealed by section 39 of Act 20 of 2000]

83A Penalty points system

(1) Subject to this section, regulations may provide for persons who are convicted of offences relating to the driving of motor vehicles to receive one or more penalty points for each such conviction and for them to be prohibited from driving and additionally, or alternatively, for their licences to be cancelled after they have accumulated a specified number of such penalty points.

(2) Regulations referred to in subsection (1)□

(a) may specify the number of penalty points to be imposed for a conviction of any particular offence:
Provided that the regulations may permit a court to impose more or fewer penalty points according to the circumstances of the offence;

(b) shall specify the number of penalty points which will result in a prohibition from driving or the cancellation of a licence:

Provided that the regulations—

- (i) may specify different numbers of penalty points for a prohibition from driving or for the cancellation of a licence;
- (ii) may provide that persons who accumulate penalty points within two years after obtaining a drivers licence shall be prohibited from driving or have their drivers licences cancelled upon accumulating a lesser number of penalty points than other persons;
- (iii) shall provide that penalty points cease to be counted for this purpose after a specified period;
- (c) shall specify the period, not exceeding five years, for which persons who have accumulated the specified number of penalty points shall be prohibited from driving;
- (d) shall specify the classes of motor vehicles to which any prohibition from driving relates;
- (e) may provide for the endorsement of penalty points on licences, and in that connection may provide for the surrender of licences for endorsement upon conviction of an offence in terms of section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*];
- (f) shall require any court that convicts a person under section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] of an offence for which penalty points are imposed to notify the Registrar in the form and manner prescribed in the regulations of the number of penalty points that have been imposed for the offence.

(3) Where a court convicts a person in terms of section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] of an offence for which penalty points are to be imposed in terms of regulations referred to in subsection (1), the court shall impose□

- (a) the number of penalty points that are required to be imposed in terms of the regulations, where the regulations prescribe a specific number of penalty points for that offence; or
- (b) the maximum number of penalty points that may be imposed in terms of the regulations for that offence, where the regulations prescribe a range of penalty points for that offence; unless the regulations permit the court to impose fewer penalty points upon such a conviction.

(4) Regulations referred to in subsection (1) shall not apply in regard to offences committed before the date of commencement of the regulations.

(5) Where regulations referred to in subsection (1) are amended so as to increase the number of penalty points receivable for a conviction of any offence, the amendment shall not have effect in relation to offences committed before the date of commencement of the amendment.

(6) Subject to section *sixty-four A*, the fact that, in terms of regulations referred to in subsection (1), a person has received any penalty points upon conviction of an offence shall not affect the court's power or duty to impose any punishment upon him or to make any order in regard to him in terms of this Act:

Provided that the court may take into consideration the fact that he has received the penalty points when the court determines the sentence to be imposed upon him.

84 Register and other documents to be accepted as evidence

(1) An extract from, or a statement in writing based on the contents of, the register referred to in paragraph (a) of section *five* shall, if it purports to be certified by the officer having control or custody of such register to be a true extract or correct statement, as the case may be, be received in evidence in any court on its mere production by any person as proof of the facts stated therein, unless the contrary is proved.

(2) A copy of, or extract from, an original document under the control or in the custody of the Registrar or any officer serving under the Registrar shall, if it purports to be certified by the Registrar or such officer to be a true copy or extract, be received in evidence in any court on its mere production by any person as proof of the facts stated therein, unless the contrary is proved.

(3) A document purporting to be a certificate signed by or on behalf of the Registrar stating whether or not, according to the records kept by the Registrar, any person has been convicted of any offence involving a motor vehicle and setting out the particulars of any such conviction shall be received in evidence in any court on its mere production by any person as proof of the facts stated therein, unless the contrary is proved.

85 Administrative charges for collection of fees

If any fees payable in terms of this Act are collected by an issuer of licences not employed by the State, there may be paid to such person as the Minister may determine in respect of such collection such administrative charges as may be fixed by the Minister and for that purpose such issuer of licences may—

- (a) before paying such fees into the Consolidated Revenue Fund, deduct therefrom the amount of such charges and pay them to a person determined by the Minister; and
- (b) pay such fees, less the deduction referred to in paragraph (a), into the Consolidated Revenue Fund.

86 Organization of or participation in races, rallies, tests or trials

(1) In this section—

“test or trial” means any race, rally, reliability trial, speed test or other test or trial.

(2) A person shall not on a road organize or participate in any test or trial unless the test or trial has been authorized in terms of subsection (3).

(3) The Commissioner of Police may, on the application of the organizer of a test or trial, give authority in writing for the test or trial to be held on such roads and under such conditions for ensuring public safety as he may fix in such authority.

(4) A person who—

- (a) contravenes subsection (2); or
- (b) organizes or participates in any test or trial on roads other than roads fixed in an authority referred to in subsection (3); or
- (c) fails to comply with any condition fixed in an authority referred to in subsection (3); shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001.]

87 Presumptions

(1) In any prosecution under this Act, the road on which the offence concerned is alleged to have occurred shall be presumed to be a road as defined in subsection (1) of section *two*, unless the contrary is proved.

(2) If in any prosecution for an offence in terms of this Act it is alleged in any indictment, summons or charge that a person was not, at a particular date, the holder of a licence entitling him to drive on a road a motor vehicle of any class, it shall be presumed, unless the contrary is proved, that such allegation is true.

(3) If, in any prosecution for an offence in terms of subsection (5) of section *six*, section *seven A*, subsection (7) of section *thirteen*, subsection (5) of section *twenty-two*, subsection (2) of section *thirty-eight B*, subsection (2) of section *forty-three*, paragraph (b) of subsection (2) of section *forty-nine*, subsection (1) or (1a) of section *fifty*, subsection (1) of section *fifty-one*, subsection (2) of section *fifty-two*, subsection (2) of section *fifty-three*, subsection (2) of section *fifty-four*, subsection (2) of section *fifty-five* or subsection (7) of section *seventy-three*, or for an offence in terms of regulations fixing the axle load permitted on any road, it is proved that□

- (a) a commuter omnibus or a heavy vehicle was driven on a road in contravention of the provision concerned; and
- (b) an owner of a commuter omnibus or a heavy vehicle could, by the exercise of reasonable care, have prevented it being driven in the manner referred to in that paragraph; the owner of the commuter omnibus or heavy vehicle concerned shall be presumed to have permitted it to be so driven unless he satisfies the court□
 - (i) that he did not know and could not reasonably have known of the contravention;
 - and (ii) that he took all reasonable precautions to prevent the contravention taking place.

[Subsection inserted by section 31 of Act 3 of 2000.]

88A When mandatory penalties need not be imposed

(1) Notwithstanding any other provision of this Act, if a person who has been convicted of an offence in terms of this Act for which a minimum penalty is prescribed satisfies the court that there are special reasons in the particular case why such a penalty should not be imposed upon him, the court may impose upon him any penalty within its jurisdiction:

Provided that the court shall record any factor or circumstance which it is satisfied is a special reason for the purpose of this section.

(2) Notwithstanding any other provision of this Act, where an owner is convicted of an offence in terms of this Act involving the driving of his motor vehicle and he was not physically driving it at the time the offence was committed, the court convicting him need not impose upon him any mandatory prohibition from driving that the court may be required to impose upon a driver convicted of the offence concerned.

[Section inserted by section 33 of Act 3 of 2000.]

89 Special jurisdiction of magistrates courts

(1) A magistrate shall have jurisdiction to impose any minimum penalty prescribed by this Act for any offence.

[Subsection substituted by section 34 of Act 3 of 2000.]

(2) If a person is convicted by a magistrates court of an offence at common law by or in connection with the driving of a motor vehicle and—

(a) was charged in the alternative with; or

(b) was liable on a charge of committing such offence to be found guilty of; an offence in terms of this Act, which offence is proved by the facts, the magistrates court shall have special jurisdiction to impose the same penalties as it could have imposed if it had convicted him of the offence in terms of this Act.

(3) Nothing in this section contained shall be construed as allowing a magistrates court to impose for any offence in terms of this Act a penalty greater than the maximum penalty provided by this Act for such offence.

(4) Nothing in subsection (1) or (2) contained shall be construed as limiting in any way the jurisdiction conferred on magistrates courts by the Magistrates Courts Act [Chapter 7:10].

90 Certificate of Registrar to be produced before sentence may be passed in certain cases

A court which has convicted any person on a charge of contravening section *fifty-two, fifty-three, fifty-four, fifty-five, seventy-six or seventy-seven* shall not pass sentence upon him until there has been produced to the court a certificate, signed by or on behalf of the Registrar, stating whether or not, according to the records kept by the Registrar, the convicted person has previously been convicted of any offence involving a motor vehicle and setting out the particulars of any such previous conviction recorded in the records:

Provided that the court may pass sentence upon the convicted person without such a certificate having been produced if the court is satisfied, from evidence before it, that—

(a) the person has previously been convicted of an offence involving a motor vehicle and accordingly the court is required, in the absence of special circumstances in the case, to prohibit the person from driving; and

(b) it would not be in the interests of justice to delay passing sentence upon the person pending the production of such a certificate;

and the court shall endorse on the record of the case its reasons for so passing sentence.

91 Previous convictions

A conviction of an offence in terms of a provision of the Roads and Road Traffic Act [Chapter 263 of 1974] may, for the purposes of this Act, be treated as a previous conviction of the equivalent offence, if any, in terms of this Act.

92 Savings

(1) Subject to this Act, any matter or thing lawfully made, done or commenced under a provision of the Roads and Road Traffic Act [Chapter 263 of 1974], which matter or thing, immediately before the appointed date, was of, or was capable of acquiring, force or effect, shall continue to have or acquire force or effect, as the case may be, and shall be deemed to have been made, done or commenced under this Act.

(2) Any—

(a) regulations or resolutions made or passed in terms of a provision of the Roads and Road Traffic Act [Chapter 263 of 1974] which were in force immediately before the appointed date shall continue in operation, *mutatis mutandis*, as though they were and shall be deemed to be, regulations or resolutions made or passed in terms of this Part until such time as they are repealed by the Minister or the municipal council concerned, as the case may be, in terms of this Part; or

(b) by-laws made in terms of Part XVII of the Urban Councils Act [*Chapter 29:15*] or Part XI of the Rural District Councils Act [*Chapter 29:13*], as read with subsection (2) of section 87 of the Roads and Road Traffic Act [*Chapter 263 of 1974*], which were in force immediately before the appointed date shall continue in operation, *mutatis mutandis*, as though they were and shall be deemed to be by-laws referred to in subsection (2) of section *eighty-two*, until such time as they are repealed by the local authority concerned in terms of that Part, as read with subsection (2) of section *eighty-two*; and until so repealed may be amended by the Minister, such municipal council or such local authority in terms of those respective provisions.

(3) The register kept in terms of section 62 of the Roads and Road Traffic Act [*Chapter 263 of 1974*] immediately before the appointed date shall, on and after the appointed date, be deemed to form part of the register referred to in paragraph (a) of section *five*.

(4) A person who, immediately before the appointed date, was licensed or deemed to have been licensed in terms of the Roads and Road Traffic Act [*Chapter 263 of 1974*] to drive a motor vehicle shall, subject to subsection (2) of section *six* and of section *eighteen*, be deemed to have been issued with the appropriate licence in respect of motor vehicles of the class concerned.

(5) A disqualification or prohibition from driving or from obtaining a licence to drive a motor vehicle in terms of the Roads and Road Traffic Act [*Chapter 263 of 1974*] or a suspension of such licence which—

- (a) subsisted immediately before the appointed date shall, subject to Part IX, be deemed to be a prohibition from driving for the unexpired period; or
- (b) is imposed on or after the appointed date shall, subject to Part IX, be deemed to be a prohibition from driving for the period; of such disqualification, prohibition or suspension.

(6) Until some other penalty is prescribed for the offence in regulations, any person who is convicted of contravening regulations fixing the axle load permitted on any road shall be liable—

- (a) on a first conviction, to a fine not exceeding level three;
- (b) on a second or subsequent conviction, to a fine not exceeding level four.

[Subsection inserted by section 35 of Act 3 of 2000 and section 4 of Act 22 of 2001.]

FIRST SCHEDULE (Section 66 (3) (b) (i))

OFFENCES IN RESPECT OF WHICH LICENCES MAY BE ENDORSED

Offences in terms of sections 6 (5), 7 (3), 7A, 8 (8) (a) as read with (12), 13 (7), 22 (5), 43 (2) (if such offence was committed while the vehicle concerned was moving), 48 (1) (c), 49 (2) (b), 50 (1), 51 (1), 57 (1), 70 (3), and 73 (7).

[List amended by section 36 of Act 3 of 2000.]

SECOND SCHEDULE (Sections 76 (2) (b) (i) and 77 (1) (b) (i))

OFFENCES IN RESPECT OF WHICH BREATH ANALYSES OR SPECIMENS OF BLOOD MAY BE REQUIRED

Offences in terms of sections 43 (2) (if such offence was committed while the vehicle concerned was moving), 50 (1), 51 (1), 52 (2), 53 (2), 54 (2), 55 (2) and 70 (3).

THIRD SCHEDULE (Section 81 (3))

MATTERS IN RESPECT OF WHICH MINISTER MAY MAKE REGULATIONS

1. The regulation of pedestrian traffic or vehicular traffic on a road, including the restriction of the use of any part of a road to pedestrian traffic or vehicular traffic.
2. (1) Subject to subparagraph (2), the fixing of the axle loads which shall be permitted on any roads, wherever, situated, within Zimbabwe.

[Subparagraph substituted by section 37 of Act 3 of 2000.]

- (2) The granting of exemption from criminal liability in respect of axle loads outside the limits permitted by this Act or any other enactment in respect of any roads, wherever situated, within Zimbabwe on the payment of such fees as may be prescribed.
- (3) The distribution of the whole or part of fees referred to in subparagraph (2) to local authorities.
3. The manner in which, and the person by whom, any animal or vehicle may be led, ridden or driven, as the case may be, along or over a road.
4. The prohibition of persons from permitting animals to graze or stray on a road.
5. The prohibition or regulation of the use of vehicles which, owing to defects of construction or to disrepair, are unsuitable for safe use or may cause undue damage to roads.

6. The prohibition of the use on roads of any motor vehicle which is fitted with a steering apparatus on the left (or near) side, unless such motor vehicle is provided with an apparatus to enable the driver thereof efficiently to signal his intention to change direction or stop.
7. (1) The minimizing of the noise and the issue of fumes or smoke from, and the prohibition of nuisances caused by the working of, motor vehicles.
(2) The permissible levels of noise and fumes that may issue from motor vehicles, the standards according to which such noise and fumes are to be measured, and the equipment or apparatus by which they are to be measured.

[Subparagraph inserted by section 37 of Act 3 of 2000.]
8. The prohibition of the use on roads of motor vehicles or trailers which cause excessive noise due to defect, faulty adjustment or lack of repair or faulty packing of loads on such motor vehicles or vehicles drawn thereby.
9. The methods to be used and the appliances to be fitted for—
 - (a) signalling the approach of a vehicle; and
 - (b) enabling the driver of a vehicle to become aware of the approach of another vehicle from the rear; and
 - (c) intimating the intended movement of a vehicle; and (d) securing safety.
- 9A. Without derogation from paragraph 9, compelling the fitting of speed-limitation devices, speed-monitoring devices and safety wheels to vehicles of any class.

[Paragraph inserted by section 37 of Act 3 of 2000.]
- 9B. Requiring motor vehicles to be equipped or supplied with devices to prevent or discourage theft or to facilitate identification of the vehicles or parts thereof if they are stolen.

[Paragraph inserted by section 37 of Act 3 of 2000.]
10. Ensuring that appliances or devices referred to in paragraph 9, 9A or 9B are efficient and kept in proper working order and providing for the inspection and testing thereof when on any road.

[Paragraph amended by section 37 of Act 3 of 2000.]
11. The manner in which—
 - (a) breath analyses as defined in subsection (1) of section *seventy-six* are to be carried out; or
 - (b) specimens of blood are to be taken for the purpose of analysis in terms of section *seventy-seven*.
12. The prohibition of the use on stationary motor vehicles of any instrument provided for the purposes of giving audible warning except when such use is necessary on grounds of safety.
13. The number and kinds of lamps which may be carried on vehicles and trailers requiring the carrying of such lamps, how and when such lamps shall be used, the restriction of the movement of lamps while the vehicles and trailers on which they are carried are in motion, the prohibition of the use of any lamp or lighting device which embodies such features as are in the opinion of the Minister inimical to public safety and the prohibition or regulation of the use of any searchlight known as a “spotlight”.
14. The conditions, either generally or in respect of specified areas or roads—
 - (a) subject to which lamps carried on motor vehicles may be used; and
 - (b) relating to the angles at which beams of light may be projected by lamps referred to in paragraph (a), the height, width and range of illumination of such beams and the manner in which such height, width and range shall be ascertained, the extent and method of obscuration of such beams and the position of any such lamp on a motor vehicle.
15. The number and nature of brakes, the affixing of efficient brakes, the efficiency and keeping in proper working order of brakes, silencers and steering apparatus and the prohibition of any cut-out, fitting or other apparatus or device rendering it possible to open the exhaust of a motor vehicle.
16. Compelling the provision of an efficient spark arrestor.
17. The diameter of wheels, and the condition, degree of inflation, nature and width of tyres, of vehicles.
18. The number of trailers which may be drawn by a motor vehicle, the towing of one motor vehicle by another motor vehicle and the prohibition of the operation of any motor vehicle which is being used to draw trailers, if the combined length of such motor vehicle and the trailers being drawn thereby exceeds a specified limit.
19. The regulation of pillion riding on motor cycles, the restriction of the number of persons in addition to the driver who may be carried on motor cycles, the manner in which such persons may be so carried and the provision of suitable foot-rests on motor cycles used or intended to be used for pillion riding.
20. The prohibition or regulation of the carriage of persons as passengers on motor vehicles and trailers of specified classes.
20A. The qualifications of drivers who convey persons as passengers in or on motor vehicles and trailers that are not designed or adapted for the carriage of passengers.

[Paragraph inserted by section 37 of Act 3 of 2000.]
21. The duties of drivers of motor vehicles when encountering animals.

22. The minimum number of persons who shall be employed in attending or driving motor vehicles.
- 22A. Limiting the period that any person may drive a public service vehicle without a break or rest, and prescribing the breaks or rest periods to be taken by drivers of such vehicles.
[Paragraph inserted by section 37 of Act 3 of 2000.]
23. The maximum gross and net masses of vehicles used on any road, the maximum loads and heights of loads which may be carried by vehicles, the manner in which vehicles may be loaded, the amount by which any load may project beyond the front, back and sides of any vehicle and the maximum mass to be transmitted to the road or any specified area thereof by any vehicle or by any part or parts of a vehicle in contact with the road.
24. The display on vehicles of information relating to such vehicles and to the owners of such vehicles.
25. The prohibition of the leaving of vehicles at rest in dangerous positions or in such positions as are likely to obstruct traffic and the abandoning of vehicles on roads or places set aside for the parking of motor vehicles by members of the public.
26. The removal and safe custody of vehicles or parts thereof left at rest in dangerous positions or in such positions as are likely to obstruct traffic or abandoned on roads or places set aside for the parking of motor vehicles by members of the public, the disposal by sale or otherwise of vehicles or parts thereof deemed to have been abandoned and the recovery of any costs reasonably incurred in carrying out or arranging for such removal, safe custody or disposal.
27. (1) In subparagraph (2)—
“reflective material” means material specially designed to reflect light back to the source of the light;
“reflex reflector” means a reflector of glass or other similar material specially designed to reflect light back to the source of the light.
(2) The regulation of the display on vehicles which are being used on roads of reflective material or reflex reflectors.
28. The measures to be taken to protect other users of the road by drivers or persons in charge of vehicles which are abandoned, left or stopped on roads.
29. The dimensions, nature, shape and other characteristics of flares, lamps, reflective signs and other devices for warning other users of the road to be carried on vehicles as part of their equipment in anticipation of their having to be abandoned, left or stopped on roads, and compelling the carrying and protection of such devices.
30. The circumstances and manner in which devices referred to in paragraph 29 shall be displayed or used by drivers or persons in charge of vehicles on roads.
31. The inspection of motor vehicles and trailers by inspecting officers from time to time for the purpose of ensuring that they are in such condition and of such construction as to comply with the requirements of this Act, and the production of a valid certificate of roadworthiness or other document relating to such inspection at such times as may be specified.
- 31A. (1) Without derogation from paragraph 31, the inspection, annually or at such intervals as may be specified in the regulations, of motor vehicles of such class as may be so specified, and the prohibition of the use of motor vehicles which are not so inspected or which, on such inspection, are found to be unsuitable for safe use or liable to cause undue damage to roads.
(2) The licensing of persons or premises where inspections referred to in subparagraph (1) may be conducted.
[Paragraph inserted by section 37 of Act 3 of 2000.]
32. The general regulation of the conduct and use of vehicles on roads, the construction, dimensions, mass, use and width of track in respect of either body and chassis or body, chassis and load, as the case may be, of vehicles on roads and the conditions under which vehicles may be used on roads.
33. The control of traffic by police officers on roads or at any places of public entertainment or at any other places where vehicular traffic is allowed to enter, whether on payment or otherwise.
34. The rules to be observed concerning procedure between vehicles proceeding in the same direction or in the opposite direction or when crossing.
35. The bells, brakes, lamps, reflectors and other equipment to be carried or used on any kind of vehicle.
36. Safety equipment of such description and quality as may be specified, including—
(a) safety belts to be fitted in motor vehicles and to be worn by persons driving or riding in or on motor vehicles; and
(b) crash helmets to be worn by persons driving or riding on motor cycles.
37. The prohibition of—
(a) the use of any kind of vehicle in a manner which is likely to be dangerous; and
(b) the affixing or displaying in or on a vehicle of emblems, labels, mascots or other devices which are likely to be—

- (i) a source of danger to any person on or in the vehicle or on a road;
- or (ii) a distraction to a driver of any vehicle or to other users of the road.

37A. The prohibition or regulation of the use in or on vehicles of mobile telephones, televisions, visual display units and similar devices.

[Paragraph inserted by section 37 of Act 3 of 2000.]

- 38. Requiring the owner of a motor vehicle to display on the motor vehicle in such manner and position as maybe prescribed the maximum speed applicable to such motor vehicle.
- 39. The prohibition or regulation in areas falling outside the urban area under the jurisdiction of a local authority, subject to such conditions, if any, as may be prescribed, of the use on any road surface constructed of bitumen, gravel or other like material of vehicles not equipped with pneumatic tyres or such other vehicles as may be specified.
- 40. Dividing vehicles into classes for the purposes of this Act or for different provisions thereof.
- 41. The fees and charges payable for applications made, permission given, services provided or any other thing done for the purposes of or in accordance with this Act.

[Paragraph substituted by section 37 of Act 3 of 2000.]

- 42. The keeping, by persons in charge of garages and other places where vehicles are altered, repainted or repaired, of records concerning every person requesting such alteration, repainting or repair, the nature of such alteration, repainting or repair and whether or not it was carried out in accordance with such request, and the identity of the vehicle concerned.
- 43. The exclusive use by vehicles of a particular class of demarcated portions of roads.

- 44. ...

[Paragraph repealed by section 39 of Act 20 of 2000.]

- 45. Requiring insurers who increase the premiums payable by drivers for policies of insurance as a result of the drivers accumulating penalty points in terms of regulations referred to in section *eighty-three A* to pay a portion of any such increase to the Traffic Safety Council of Zimbabwe established by section 3 of the Traffic Safety Council Act [*Chapter 13:17*].

[Paragraph inserted by section 37 of Act 3 of 2000.]

- 46. Requiring drivers of public service vehicles to complete defensive driving courses and other courses, tests and examinations to enhance their driving skills.

[Paragraph inserted by section 37 of Act 3 of 2000.]