

Queensland



ANNO VICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

No. 18 of 1974

An Act to amend the Traffic Act 1949–1971 in certain particulars

[ASSENTED TO 24TH APRIL, 1974]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Traffic Act Amendment Act 1974*.

(2) The *Traffic Act 1949–1971* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Traffic Act 1949–1974*.

2. Commencement. (1) Except as herein otherwise provided, this Act shall commence on a day to be fixed by Proclamation.

(2) Different days may be fixed upon which the several provisions of this Act shall respectively commence, either in respect of the whole of the State or in respect of particular areas thereof, and, in that event, any such provision shall commence on the day fixed by Proclamation in relation to it and in relation to the whole of the State or the area or areas particularized in the Proclamation, as the case may be.

(3) Any reference to the commencement of this Act in a provision of the Principal Act inserted by this Act means the day on which the provision in which that reference occurs commences.

(4) Any reference to the commencement of this Act—

(a) in subsection (1) of section 31 of this Act means the day of commencement of section 6 of this Act amending section 14 of the Principal Act in relation to the whole of the State or the area or areas particularized in the Proclamation by which the day is fixed;

(b) in subsection (2) of section 31 of this Act means the day of the commencement of section 8 of this Act repealing section 16 of the Principal Act and substituting a new section 16.

3. New s. 7B. The Principal Act is amended by inserting after section 7A the following section:—

“7B. Delegation by Commissioner for Transport. (1) The Commissioner for Transport may from time to time, in relation to any matters or class of matters, or in relation to a particular part of the State, by writing under his hand, delegate all or any of his powers, functions, authorities and duties under this Act as may be specified in the writing (other than this power of delegation) so that any delegated power, function, authority or duty may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(2) Any delegation under this section may, if the Commissioner for Transport considers it so desirable, be made by the delegation of all or any of his powers, functions, authorities and duties under this Act as may be specified in the delegation to the holder of an office specifying the office but without naming the holder; and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while he holds or occupies or performs the duties of that office every delegated power, function, authority or duty with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(3) The Commissioner for Transport may make any such delegation subject to such terms, conditions and limitations as he shall specify in the writing.

(4) Where under this Act the exercise of a power, function or authority or performance of a duty of the Commissioner for Transport is dependent upon the opinion, belief or state of mind of the Commissioner for Transport in relation to any matter, that power, function, authority or duty may be exercised or performed upon the opinion, belief or state of mind of the person to whom it is delegated under this section.

(5) The Commissioner for Transport may, at his will, revoke a delegation made by him under this section, and a delegation shall not prevent the exercise of any power, function, authority or duty by the Commissioner for Transport.

(6) The Commissioner for Transport may make such and so many delegations under this section and to such number of persons and either at any one and the same time or from time to time as he may consider necessary or desirable.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done or suffered had been done or suffered by the Commissioner for Transport.

(8) Any delegation may be published in the Gazette and upon such publication shall be judicially noticed and presumed in force until the contrary is proved.”.

4. New s. 7C. The Principal Act is amended by inserting after section 7B as inserted by this Act the following section:—

“**7C. Authorized officers.** (1) The Commissioner for Transport may by writing under his hand appoint any person to be an authorized officer to do and perform such acts and things as are specified in the writing.

(2) The Commissioner for Transport may appoint the holder of an office to be an authorized officer to do and perform the acts and things specified and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may do and perform without further or other authority and while he holds or occupies or performs the duties of that office the acts and things specified.

(3) The Commissioner for Transport may, at his will, revoke any appointment made by him under this section.”.

5. Amendment of s. 9. Section 9 of the Principal Act is amended by, in subsection (1),—

(a) omitting the term “Authorised Officer” and its meaning and substituting the following term and meaning:—

“ “Authorized Officer”—The Commissioner for Transport, the Deputy Commissioner for Transport, the Secretary to the Commissioner for Transport, and any person or holder of an office appointed as such in writing by the Commissioner for Transport;”;

(b) inserting in the meaning of the term “Driver’s license” after the word “including” the words “an interim license and”;

(c) omitting the words “as a provisional license pursuant to section 14 of this Act” occurring in the meaning of the term “Provisional license” and substituting the words “pursuant to section 14 that has effect provisionally for the time stated therein”;

(d) inserting after the term “Road” and its meaning the following term and meaning:—

“ “Secretary to the Commissioner for Transport”—The Secretary within the meaning of subsection (1) of section 5 of *The State Transport Acts 1960 to 1965*;”.

6. Amendment of s. 14. Section 14 of the Principal Act is amended by—

(a) in subsection (1), omitting the words “A Superintendent” and substituting the words “An authorized officer”;

(b) in subsection (6), omitting the words “one pound” and substituting the words “\$2 or of such other amount as the Governor in Council may prescribe by regulation (he being hereby thereunto authorized)”;

(c) omitting subsection (7) and substituting the following subsection:—

“(7) Any licensing fee paid by an applicant for or in respect of a driver’s license shall be paid by the authorized officer or other person prescribed into Consolidated Revenue.”.

7. Amendment of s. 15. Section 15 of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:—

“(4) A person who is guilty of an offence against subsection (1) and who at the time of the commission of such offence is disqualified—

(a) by this Act; or

(b) by an order made under this or any other Act,

from holding or obtaining a driver’s license is liable to a penalty not exceeding \$400 or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment:

Provided, however, that where the person is so disqualified pursuant to an order of any court or pursuant to the provisions of section 20 (whether as inserted by the *Traffic Act Amendment Act 1974* or as it stood prior to the commencement of that Act), the justices before whom he is convicted shall impose, as the whole or part of the punishment, imprisonment for a minimum term of six months.

In this subsection, the term “court” is not limited in its meaning to the meaning it has under section 9.

(5) (a) It is not mandatory for justices to impose imprisonment in accordance with the proviso to subsection (4) in the case of a person in respect of whom the proviso would otherwise apply who proves to the justices that he drove the motor vehicle in circumstances that were circumstances of extraordinary emergency, and where it is so proved to the justices they shall deal with that person in accordance with the provisions of subsection (4) without reference to its proviso.

(b) The operation of section 25 of *The Criminal Code* is excluded in respect of an offence where the proviso to subsection (4) is applicable.

(6) Notwithstanding that, at the time of the commission of an offence against subsection (1), the person who committed the offence is disqualified—

(a) by this Act; or

(b) by an order made under this or any other Act,

from holding or obtaining a driver’s license, the justices before whom he is convicted of the offence, in addition to any punishment they may impose upon him on his conviction, may order that he

shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a driver's license or be so disqualified for such period longer than the period during which he is already so disqualified at the time of the commission of the offence as the justices shall specify in the order."

8. Repeal of and new s. 16. Section 16 of the Principal Act is repealed and the following section is substituted:—

"16. Driving, etc., whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood. (1) (a) Any person who whilst he is under the influence of liquor or a drug—

(i) drives a motor vehicle, tram, train or vessel;

(ii) attempts to put in motion a motor vehicle, tram, train or vessel; or

(iii) is in charge of a motor vehicle, tram, train or vessel,

is guilty of an offence and liable to a penalty not exceeding \$800 or to imprisonment for a term not exceeding nine months or to both such penalty and imprisonment.

(b) If within the period of five years prior to conviction for an offence under this subsection the offender has been previously convicted under this subsection or under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he is liable in respect of that offence to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding eighteen months or to both such penalty and imprisonment.

(c) If within the period of five years prior to conviction for an offence under this subsection the offender has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or has been summarily convicted of an offence against any provision of section 328A of *The Criminal Code*, he is liable in respect of the firstmentioned offence to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding eighteen months or to both such penalty and imprisonment.

(d) If within the period of five years prior to conviction for an offence under this subsection the offender has been twice previously convicted—

(i) under this subsection;

(ii) under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*;

(iii) upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him; or

(iv) summarily of an offence against any provision of section 328A of *The Criminal Code*,

or has been previously convicted—

(v) under this subsection and under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*;

(vi) under this subsection and upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him;

- (vii) under this subsection and summarily of an offence against any provision of section 328A of *The Criminal Code*;
- (viii) under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* and upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him;
- (ix) under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* and summarily of an offence against any provision of section 328A of *The Criminal Code*; or
- (x) upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him and summarily of an offence against any provision of section 328A of *The Criminal Code*,

the justices shall in respect of that offence impose, as the whole or part of the punishment, imprisonment.

(e) If within the period of five years prior to conviction for an offence under this subsection the offender has been previously convicted of an offence under subsection (2) of this section or under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he is liable in respect of the firstmentioned offence to a penalty not exceeding \$900 or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(f) If within the period of five years prior to conviction for an offence under this subsection the offender has been twice previously convicted of an offence under subsection (2) of this section or under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted of an offence under subsection (2) of this section and an offence under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he is liable in respect of the firstmentioned offence to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding eighteen months or to both such penalty and imprisonment.

(2) (a) Any person who whilst the concentration of alcohol in his blood equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood but is less than 150 milligrams of alcohol to 100 millilitres of blood—

- (i) drives a motor vehicle, tram, train or vessel;
 - (ii) attempts to put in motion a motor vehicle, tram, train or vessel; or
 - (iii) is in charge of a motor vehicle, tram, train or vessel,
- is guilty of an offence and liable to a penalty not exceeding \$400 or to imprisonment for a term not exceeding three months or to both such penalty and imprisonment.

(b) If within the period of five years prior to conviction for an offence under this subsection the offender has been previously convicted under this subsection or under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he is liable in respect of that offence to a penalty not exceeding \$600 or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

(c) If within the period of five years prior to conviction for an offence under this subsection the offender has been twice previously convicted under this subsection or under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted under this subsection and under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he is liable in respect of that offence to a penalty not exceeding \$800 or to imprisonment for a term not exceeding nine months or to both such penalty and imprisonment.

(d) If within the period of five years prior to conviction for an offence under this subsection the offender has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or has been summarily convicted of an offence against any provision of section 328A of *The Criminal Code* or has been previously convicted under subsection (1) or under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he is liable in respect of the firstmentioned offence to a penalty not exceeding \$900 or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(e) If within the period of five years prior to conviction for an offence under this subsection the offender has been previously convicted under this subsection or under subsection (1a) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* and—

- (i) has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him; or
- (ii) has been summarily convicted of an offence against any provision of section 328A of *The Criminal Code*; or
- (iii) has been previously convicted under subsection (1) or under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*,

he is liable in respect of the firstmentioned offence to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding eighteen months or to both such penalty and imprisonment.

(3) Where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied that at the material time the concentration of alcohol in the blood of the defendant equalled or exceeded 150 milligrams of alcohol to 100 millilitres of blood, the defendant shall be conclusively presumed to have been at that time under the influence of liquor.

(4) Subject to subsection (3), where upon the hearing of a complaint of an offence against subsection (1) the court is satisfied—

(a) as to all the elements of the offence charged other than the element of the defendant's being under the influence of liquor or a drug at the material time;

(b) that at the material time the concentration of alcohol in the defendant's blood equalled or exceeded 80 milligrams of alcohol to 100 millilitres of blood,

the court shall convict the defendant of the offence under subsection (2) which is established by the evidence.

(5) In this section the term "previously convicted" means in relation to a conviction (hereinafter referred to as "the subsequent conviction"), convicted prior to the subsequent conviction whether the offence the subject of the subsequent conviction was committed before the prior conviction or after it.

(6) Where upon the hearing of a complaint of an offence against subparagraph (iii) of paragraph (a) of subsection (1) or subparagraph (iii) of paragraph (a) of subsection (2) in respect of a motor vehicle the court is satisfied beyond reasonable doubt by evidence on oath that at the material time—

(a) the defendant—

(i) by occupying a compartment of the motor vehicle in respect of which the offence is charged other than the compartment containing the driving seat of that motor vehicle; or

(ii) not being in that motor vehicle, by some action, had manifested an intention of refraining from driving that motor vehicle whilst he was under the influence of liquor or a drug or whilst the concentration of alcohol in his blood equalled or exceeded 80 milligrams of alcohol to 100 millilitres of blood but was less than 150 milligrams of alcohol to 100 millilitres of blood, as the case may be;

(b) the defendant—

(i) was not under the influence of liquor or a drug to such an extent; or, as the case may be,

(ii) was not, by virtue of the concentration of alcohol in his blood, being equal to or exceeding 80 milligrams of alcohol to 100 millilitres of blood but being less than 150 milligrams of alcohol to 100 millilitres of blood, influenced thereby to such an extent,

as to be incapable of understanding what he was doing or as to be incapable of forming the intention referred to in paragraph (a);

(c) the motor vehicle in respect of which the offence is charged was parked in such a manner as not to constitute a source of danger to other persons or other traffic; and

(d) the defendant had not previously been convicted of an offence under subsection (1) or under subsection (1) of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or under subsection (2) or under subsection (1a)

of this section as this section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, within a period of one year prior to the date in respect of which he is charged,
the court shall not convict the defendant of the offence charged.

(7) Any person who whilst he is under the influence of liquor or a drug drives or is in charge of any horse or other animal on a road, or drive, or is in charge of any vehicle (other than a motor vehicle) on a road, or attempts to put in motion any vehicle (other than a motor vehicle) on a road, is guilty of an offence.

(8) A complaint for an offence against any provision of subsection (1) or subsection (7) shall not be bad for uncertainty or duplicity by reason that it charges the alleged offender with being under the influence of "liquor or a drug".

If upon the hearing of such a complaint the evidence led and admitted (including evidence, if any, for the defence) establishes—

(a) that the person so charged was under an influence which was that of liquor or a drug, or both liquor and a drug; and

(b) all other elements of the offence,

he shall be convicted of the offence notwithstanding that the particular such influence is not established by the evidence.

(9) (a) When any person charged with or arrested for an offence against any provision of subsection (1) or subsection (2) in relation to a motor vehicle does not appear personally before the justices constituting the court at any time and place when and where the complaint of the said offence is to be heard or to which such hearing has been adjourned, the justices shall—

(i) if that person has been released on bail by recognizance or on deposit of money by way of bail, order the recognizance to be estreated or the deposit by way of bail to be forfeited; and

(ii) in every such case require evidence on oath to be given before them of the matter of the said complaint (unless, in the case of any such adjournment, the matter of the complaint is already substantiated to their satisfaction by evidence on oath given prior to that adjournment), and shall, if the evidence on oath required as aforesaid or, in the case of any such adjournment, given prior to that adjournment substantiates the matter of the said complaint to their satisfaction, issue their warrant to apprehend that person and to bring him before justices to answer the complaint and to be further dealt with according to law; and

(iii) in every such case, unless that person appears by counsel or solicitor and shows sufficient cause why any and every driver's license held by that person should not be suspended until the complaint has been heard and determined, upon the hearing of evidence substantiating the matter of the complaint to their satisfaction, order that any and every driver's license

held by that person shall from the date of such order be suspended until the complaint has been heard and determined.

(b) The provisions of section 143 of the *Justices Act 1886-1973* shall thereupon apply to and be observed in such proceedings.

(c) Every other provision of the *Justices Act 1886-1973* and of any other relevant Act or law shall be read, construed and applied so as not to limit the operation and effect of this subsection.

(d) This subsection applies subject to subsection (10).

(10) Notwithstanding the provisions of subsection (9), justices have and may exercise a discretion not to—

(a) make an order pursuant to subparagraph (i) of paragraph (a) of that subsection;

(b) require evidence to be given on oath and to issue their warrant pursuant to subparagraph (ii) of paragraph (a) of that subsection; and

(c) make an order pursuant to subparagraph (iii) of paragraph (a) of that subsection,

or not to do any one or more of those things, where they are satisfied on medical evidence placed before them that the person's failure to appear personally before them has been occasioned by his hospitalization or by some other medical circumstance rendering him physically incapable of so appearing personally before them.

In this subsection "medical evidence placed before them" means—

(i) the oral testimony of at least one medical practitioner adduced before the justices;

(ii) at least one certificate placed before the justices purporting to be a medical certificate by a medical practitioner; or

(iii) both such testimony and certificate.

(11) Subsections (1) and (2) apply to and with respect to any person—

(a) who is in charge of a motor vehicle on a road or elsewhere;

(b) who drives a motor vehicle on a road or elsewhere;

(c) who on a road or elsewhere attempts to put a motor vehicle in motion;

(d) who drives or is in charge of or attempts to put in motion a tram or train on a road or elsewhere;

(e) who drives or is in charge of or attempts to put in motion a vessel that is being used, or is apparently about to be used, in navigation."

9. Repeal of and new s. 16A. Section 16A of the Principal Act is repealed and the following section is substituted:—

"16A. Provisions with respect to breath tests and laboratory tests. (1) In this section—

(a) "authorized member of the Police Force" means any member of the Police Force authorized by the Commissioner pursuant to subsection (8) to operate a breath analysing instrument;

- (b) "breath analysing instrument" means any instrument of a type approved for the purposes of this section by the Governor in Council (who is hereby thereunto empowered) by notice published in the Gazette for ascertaining by analysis of a specimen of a person's breath what concentration of alcohol is present in his blood;
- (c) "breath test" means a test for the purpose of an indication of the concentration of alcohol in a person's blood carried out, by means of a device of a type approved for the purpose of such a test by the Minister (who is hereby thereunto empowered) by notification published in the Gazette, on a specimen of breath provided by that person.

(2) (a) A member of the Police Force may request any person found by him, or who he suspects on reasonable grounds was during the last two preceding hours,—

- (i) driving a motor vehicle, tram or train on a road or elsewhere;
- (ii) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere;
- (iii) in charge of a motor vehicle, tram or train on a road or elsewhere; or
- (iv) driving or in charge of or attempting to put in motion a vessel being used, or apparently about to be used, in navigation

to provide a specimen of breath for a breath test by him if he suspects on reasonable grounds—

- (A) that, having regard to the behaviour of such person in relation to the motor vehicle, tram, train or vessel in question or to the behaviour of the motor vehicle, tram, train or vessel in question, such person has alcohol or any drug in his body; or
- (B) that in relation to the motor vehicle, tram, train or vessel in question such person has committed an offence against this Act during the aforesaid period.

(b) The member of the Police Force may request such person to provide the specimen of breath for a breath test by him—

- (i) at the time when and the place where he makes the request (including at any police station where the person may then be); or
- (ii) at the police station nearest to that place or some other conveniently located police station as soon as practicable after he makes the request in any case where the member of the Police Force believes, on reasonable grounds, that it is reasonable for such person to be taken to such police station for the purpose, having regard to the circumstances of the case.

(3) (a) Where a motor vehicle, tram, train or vessel is involved in an incident resulting in injury to or death of any person or damage to any property, a member of the Police Force may request any person who he suspects on reasonable grounds—

- (i) was driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere;

- (ii) was driving or in charge of or attempting to drive the vessel; or
- (iii) in the case of a motor vehicle, tram or train, was in charge of the motor vehicle, tram or train on a road or elsewhere

at the time of the incident to provide a specimen of breath for a breath test by him.

(b) The provisions of paragraph (b) of subsection (2) apply to this subsection as though such provisions were provisions of this subsection.

(4) A request shall not be made under subsection (2) or subsection (3) unless it is made as soon as reasonably practicable and within two hours after the event to which it relates.

(5) If a person requested by a member of the Police Force under subsection (2) or subsection (3) to provide a specimen of breath for a breath test by the member at a police station elects not or refuses or fails to go to the police station for the purpose, any member of the Police Force may, using such force as is necessary, take such person to the police station for the purpose.

This subsection shall be construed so as not to prejudice or affect in any way the provisions of section 42.

(6) If—

(a) it appears to a member of the Police Force in consequence of a breath test carried out by him on any person under subsection (2) or subsection (3) that the device by means of which the test is carried out indicates that the concentration of alcohol in that person's blood equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood; or

(b) a person requested by a member of the Police Force under subsection (2) or subsection (3) to provide a specimen of his breath for a breath test—

(i) elects not to provide the specimen; or

(ii) fails to provide the specimen in the manner directed by the member of the Police Force making the request; or

(iii) declines to wait until the device by means of which the test is to be carried out is assembled or for such time or such further time as is reasonable in the circumstances to enable the test to be carried out satisfactorily,

any member of the Police Force may, using such force as is necessary,—

(c) take such person to a police station, hospital or other place authorized under this section; or

(d) where the person is at a police station, detain him there or take him to such other police station as is convenient and reasonable in the circumstances,

for the purposes of subsection (8).

This subsection shall be construed so as not to prejudice or affect in any way the provisions of section 42.

(7) (a) Where a person goes to or is at a police station otherwise than pursuant to a request by a member of the Police Force under subsection (2) or subsection (3) and a member of the Police Force suspects on reasonable grounds that the person was during the last two preceding hours—

- (i) driving a motor vehicle, tram or train on a road or elsewhere;
- (ii) attempting to put in motion a motor vehicle, tram or train on a road or elsewhere;
- (iii) in charge of a motor vehicle, tram or train on a road or elsewhere; or
- (iv) driving or in charge of or attempting to put in motion a vessel being used, or apparently about to be used, in navigation,

that member of the Police Force may request the person to provide a specimen of breath for a breath test by him if he suspects on reasonable grounds—

- (A) that, having regard to the behaviour of such person in relation to the motor vehicle, tram, train or vessel in question or to the behaviour of the motor vehicle, tram, train or vessel in question, such person has alcohol or any drug in his body; or
- (B) that in relation to the motor vehicle, tram, train or vessel in question such person has committed an offence against this Act during the aforesaid period.

(b) Where—

- (i) a motor vehicle, tram, train or vessel is involved in any incident resulting in injury to or death of any person or damage to any property; and
- (ii) a person goes to or is at a police station otherwise than pursuant to a request by a member of the Police Force under subsection (2) or subsection (3),

a member of the Police Force may request that person if he suspects on reasonable grounds that the person—

- (A) was driving or attempting to drive the motor vehicle, tram or train on a road or elsewhere;
- (B) was driving or in charge of or attempting to drive the vessel; or
- (C) in the case of a motor vehicle, tram or train, was in charge of the motor vehicle, tram or train on a road or elsewhere

at the time of the incident to provide a specimen of breath for a breath test by him.

(c) A request shall not be made under paragraph (a) or paragraph (b) unless it is made as soon as reasonably practicable and within two hours after the event to which it relates.

(d) If—

- (i) it appears to a member of the Police Force in consequence of a breath test carried out by him on any person under paragraph (a) or paragraph (b) that the device by means of which the test is carried out indicates that the

concentration of alcohol in that person's blood equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood; or

- (ii) a person requested by a member of the Police Force under paragraph (a) or paragraph (b) to provide a specimen of his breath for a breath test—
 - (A) elects not to provide the specimen; or
 - (B) fails to provide the specimen in the manner directed by the member of the Police Force making the request; or
 - (C) declines to wait until the device by means of which the test is to be carried out is assembled or for such time or such further time as is reasonable in the circumstances to enable the test to be carried out satisfactorily,

any member of the Police Force may, using such force as is necessary,—

- (iii) detain that person at the police station;
- (iv) take him to a hospital or other place authorized under this section;
- (v) take him to such other police station as is convenient and reasonable in the circumstances,

for the purposes of subsection (8).

(e) This subsection shall be construed so as not to prejudice or affect in any way the provisions of section 42.

(8) (a) Any person who—

- (i) is arrested for an offence against section 16 or section 17;
- (ii) is arrested for any indictable offence in connexion with or arising out of the driving of a motor vehicle by him (including any offence against any provision of section 328A of *The Criminal Code*);
- (iii) is, for the purposes of this subsection, detained at or taken to a police station, or taken to a hospital or other place authorized under this section

may, while at a or, as the case may be, the police station or hospital or other place as aforesaid, be required by any member of the Police Force to provide a specimen of his breath for analysis by a breath analysing instrument or, according as such member requires, a specimen of his blood for a laboratory test.

A person to whom this paragraph applies may be detained at a police station or hospital or other place as aforesaid for the purposes of this subsection by a member of the Police Force.

(b) Any person who has been arrested for any offence referred to in paragraph (a) may, for the purposes of this subsection, be taken—

- (i) to a police station;
- (ii) to a police station where facilities are available for the analysis by a breath analysing instrument of a specimen of breath;
- (iii) to a hospital;

- (iv) where there are reasonable grounds for believing that a medical practitioner is available at any other place, to that place,

and such person may be taken to more than one of such places if the purposes of this subsection cannot be carried out or effected at a place to which he has been first taken.

(c) Where any person whom a member of the Police Force may request under subsection (2) or subsection (3) to provide a specimen of breath for a breath test by him is at a hospital for treatment, that person may, subject to the approval of a medical practitioner who is familiar with the person's injuries and apparent state of health at the time, be required by any member of the Police Force to provide at the hospital a specimen of his breath for analysis by a breath analysing instrument or, according as such member requires, a specimen of his blood for a laboratory test.

A requirement shall not be made under this paragraph unless it is made as soon as reasonably practicable and within two hours after the event in relation to which the person may otherwise have been requested to provide a specimen of breath for a breath test pursuant to subsection (2) or subsection (3).

(d) If a person who is required pursuant to this subsection to provide a specimen of his breath for analysis forthwith upon being so required produces to the member of the Police Force who made the requisition his driver's license endorsed by an authorized officer or a District Superintendent or Superintendent that the medical practitioner named in the endorsement has certified in writing that by reason of a stated illness or disability such person is incapable of providing a specimen of his breath or the provision of such a specimen by him could adversely affect his health, such member of the Police Force shall not require a specimen of breath of such person but shall require a specimen of his blood.

(e) (i) A person who is required pursuant to this subsection to provide a specimen of his breath for analysis shall do so when and in the manner directed by the medical practitioner or authorized member of the Police Force operating or who is to operate the breath analysing instrument.

(ii) The Commissioner may, by writing under his hand, authorize any member of the Police Force to be an authorized member of the Police Force to operate a breath analysing instrument on being satisfied that such member is competent to operate a breath analysing instrument.

(iii) A certificate purporting to be signed by the Commissioner that the member of the Police Force named therein is authorized by him to operate a breath analysing instrument shall, in the absence of proof to the contrary, be proof that the member named therein is so authorized.

(iv) The authorized member of the Police Force operating or who is to operate a breath analysing instrument in any particular case shall not be the member of the Police Force—

- (A) who has arrested the person concerned for an offence referred to in paragraph (a);

- (B) who has detained the person concerned at or taken him to a police station or other place pursuant to this section;
- (C) making the requisition for the provision of the specimen in that case.

(f) A person who is required pursuant to this subsection to provide a specimen of his blood for a laboratory test shall do so by permitting such specimen to be taken by a medical practitioner, indicated by the member of the Police Force who made the requisition, when and in the manner directed by such medical practitioner (any medical practitioner being hereby authorized to take such a specimen, whether or not the person concerned consents to the taking).

(g) A person may, notwithstanding that he is required pursuant to this subsection to provide a specimen of his breath for analysis, be required pursuant to this subsection to provide a specimen of his blood for a laboratory test where the breath analysing instrument is or becomes defective precluding its satisfactory operation for the purpose of analysing the breath specimen, and where any requirement is made in respect of a specimen of blood pursuant to this paragraph it shall have effect as though it is such a requirement made in the first instance under paragraph (a) or paragraph (c) as the case may be and shall be deemed to be a requirement so made accordingly.

(9) (a) Where a person—

- (i) is arrested for any offence referred to in paragraph (a) of subsection (8); or
- (ii) is, for the purposes of subsection (8), detained at or taken to a police station, or taken to a hospital or other place authorized under this section,

and whilst at a or, as the case may be, the police station or hospital or other place as aforesaid is required by a member of the Police Force to provide a specimen of his breath for analysis by a breath analysing instrument, the member of the Police Force making the requisition may—

- (iii) if the member of the Police Force who arrested, detained or took as aforesaid the person believes on reasonable grounds that at the time of the arrest, detaining or taking the person exhibited external signs indicating that he was affected by liquor or a drug; and
- (iv) if the analysis by the breath analysing instrument of the specimen of breath provided in accordance with the requisition indicates either that there is no alcohol in the person's blood or that the concentration of alcohol in the person's blood is such that it does not reasonably explain the external signs exhibited and observed,

require the person to provide a specimen of his blood for a laboratory test and, subject to the direction of a medical practitioner, a specimen of his urine for a laboratory test.

(b) The member of the Police Force making the requisition may detain the person at a police station, hospital or other place authorized under this section for a period of time that is reasonable in the circumstances to enable a medical practitioner to attend there in connexion with the provision by the person of a specimen of his blood or urine or, as the case requires, such member of the Police Force may take the person to another police station, hospital or other place authorized under this section where, in the reasonable belief of such member, a medical practitioner is available for the purposes of the provision by the person of a specimen of his blood.

(c) A person who is required pursuant to this subsection to provide a specimen of his blood for a laboratory test shall do so by permitting such specimen to be taken by a medical practitioner, indicated by the member of the Police Force who made the requisition, when and in the manner directed by such medical practitioner (any medical practitioner being hereby authorized to take such a specimen, whether or not the person concerned consents to the taking), and a person who is required pursuant to this subsection to provide a specimen of his urine for a laboratory test shall do so when and in the manner directed by a medical practitioner (any medical practitioner being hereby authorized to give such a direction).

(10) (a) Where a motor vehicle is involved in any accident and within eight hours after the accident a person apparently of or above the age of fourteen years who suffered injury in the accident attends at a hospital or at such other place as may be prescribed or is admitted to a hospital for the purpose of receiving treatment for such injury, it shall, subject to this subsection, be the duty of any medical practitioner by whom the patient is attended to take as soon as practicable a specimen of the patient's blood (whether the patient is conscious or unconscious) for a laboratory test.

(b) A medical practitioner shall not take a specimen of blood under this subsection where, in his opinion, it would be injurious to the medical condition of the patient to do so.

(c) A medical practitioner shall not be obliged to take a specimen of blood under this subsection where the patient objects to the taking of it and persists in that objection after the medical practitioner has informed him (it being his duty so to do) that unless his objection is made upon genuine medical grounds it may constitute an offence against this Act.

A person who under this paragraph objects to the taking of a specimen of his blood and persists in that objection after the medical practitioner has informed him as aforesaid shall be deemed to refuse to permit the taking of a specimen of his blood.

(d) Where a motor vehicle is involved in any accident and a person apparently of or above the age of fourteen years who suffered injury in the accident is dead on arrival at the hospital or dies before a specimen of blood has been taken in accordance with this subsection and within eight hours after admission to the hospital, it shall be the duty of a medical practitioner by whom the death is certified to take a specimen of blood from the body of the deceased for a laboratory test.

(e) A medical practitioner shall not be obliged to take a specimen of blood under this subsection—

- (i) where a specimen of blood has been taken in accordance with this subsection by any other medical practitioner; or
- (ii) where the patient has, since the time of the accident, provided a specimen of his breath for analysis by a breath analysing instrument or, otherwise than pursuant to this subsection, a specimen of his blood for a laboratory test.

(11) (a) A person who, upon a requisition duly made by a member of the Police Force under paragraph (a) or paragraph (c) of subsection (8), fails to provide as prescribed a specimen of his breath for analysis or, as the case may be, a specimen of his blood for a laboratory test or a person who, upon a requisition duly made by a member of the Police Force under subsection (9), fails to provide as prescribed a specimen of his blood for a laboratory test is guilty of an offence which shall be deemed to be an offence against subsection (1) of section 16 and the offender is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's license) as he would be in the case of the offence being actually one committed by him against the said subsection (1).

(b) A person referred to in paragraph (a) is not guilty of an offence pursuant to that paragraph if he satisfies the justices that the requisition to provide the specimen was not lawfully made or that he was, by reason of the events that occurred, incapable of providing the specimen or that there was some other reason of a substantial character for his failure to provide the specimen other than a desire to avoid providing information that might be used in evidence.

(12) (a) Where—

- (i) pursuant to paragraph (a) of subsection (10) a medical practitioner takes a specimen of a person's blood;
- (ii) the specimen is taken within two hours after the time of the accident;
- (iii) the person was the driver of a motor vehicle involved in the accident; and
- (iv) a laboratory test in respect of the specimen indicates that the concentration of alcohol in the person's blood equalled or exceeded 150 milligrams of alcohol to 100 millilitres of blood,

such person is guilty of an offence which shall be deemed to be an offence against subsection (1) of section 16 committed at the time of the accident and he is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's license) as he would be in the case of the offence being actually one committed by him against the said subsection (1).

(b) Where in respect of paragraph (a) the laboratory test indicates that the concentration of alcohol in the person's blood equalled or exceeded 80 milligrams of alcohol to 100 millilitres

of blood but was less than 150 milligrams of alcohol to 100 millilitres of blood and the provisions of paragraph (a) are applicable in all other respects, such person is guilty of an offence which shall be deemed to be an offence against subsection (2) of section 16 committed at the time of the accident and he is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's license) as he would be in the case of the offence being actually one committed by him against the said subsection (2).

(c) Nothing contained in paragraph (b) shall be construed as preventing a person from being charged with and found guilty of an offence against subsection (1) of section 16 in the circumstances referred to in that paragraph where the person is charged with such an offence and there is evidence available supporting such a charge.

(13) (a) A person who, pursuant to paragraph (c) of subsection (10), refuses to permit the taking of a specimen of his blood and who—

- (i) does not assign any reason based upon genuine medical grounds for that refusal; or
- (ii) assigns a reason for that refusal that is false or misleading is guilty of an offence and liable to a penalty not exceeding \$200.

(b) If the person was the driver of a motor vehicle involved in the accident and such refusal is within two hours after the time of the accident, he is guilty of an offence which shall be deemed to be an offence against subsection (1) of section 16 and is liable to the same punishment in all respects (including disqualification from holding or obtaining a driver's license) as he would be in the case of the offence being actually one committed by him against the said subsection (1).

(14) (a) Any medical practitioner who fails, without reasonable excuse, to comply with any provision of subsection (10) with which he has a duty to comply or to perform any duty arising under the said subsection that he has a duty to perform is guilty of an offence and liable to a penalty not exceeding \$100.

(b) No proceedings shall be commenced against a medical practitioner for an offence against this subsection unless those proceedings have been authorized by the Minister.

(c) Proceedings shall not lie against a medical practitioner in respect of anything done by him in good faith and in compliance, or purported compliance, with the provisions of subsection (10).

(15) (a) As soon as practicable after a specimen of breath provided pursuant to a requisition has been analysed by means of a breath analysing instrument, the medical practitioner or authorized member of the Police Force operating such instrument shall sign in duplicate a certificate in writing stating the concentration of alcohol indicated by the analysis to be present in the blood of the person whose breath has been analysed (which may be by way of indication on a scale), the date and time at which the analysis was made, and such other particulars as may be prescribed, and shall deliver—

- (i) one copy of such certificate to the member of the Police Force who made the requisition; and

- (ii) the other copy to the person whose breath has been analysed (or to another person on behalf of that person upon request by that other person).

If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

(b) Where a person who is required pursuant to subsection (8) to provide a specimen of his breath for analysis fails to do so, the medical practitioner or authorized member of the Police Force operating or to operate the breath analysing instrument shall, as soon as practicable thereafter, sign in duplicate a certificate in writing stating—

- (i) the full name of the person concerned;
 - (ii) the name of the member of the Police Force who made the requisition;
 - (iii) the name of the operator of the breath analysing instrument;
 - (iv) the name and patent number appearing on the breath analysing instrument;
 - (v) that the person concerned failed to provide a specimen of breath when required; and
 - (vi) such other particulars as may be prescribed,
- and shall deliver—

- (A) one copy of such certificate to the member of the Police Force who made the requisition; and
- (B) the other copy to the person who failed to provide the specimen of breath when required (or to another person on behalf of that person upon request by that other person).

If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

(c) Evidence by a medical practitioner or an authorized member of the Police Force or by a certificate purporting to be signed by a medical practitioner or an authorized member of the Police Force—

- (i) that an instrument operated by him for analysing the breath of any person named by him on any occasion stated by him was a breath analysing instrument;
- (ii) that such instrument was on the occasion in question in proper working order and properly operated by him;
- (iii) that in relation to such instrument all regulations made pursuant to this section with respect to any instrument which is a breath analysing instrument were complied with,

shall be evidence of the matters contained therein and until the contrary is proved shall be conclusive such evidence.

The matters referred to in this paragraph may be stated in the certificate referred to in paragraph (a) or in a separate certificate.

(d) The production in any proceeding of a certificate referred to in paragraph (b) shall be evidence—

- (i) that the signature is that of the medical practitioner or authorized member of the Police Force by whom it purports to have been signed;

- (ii) that a requirement to provide a specimen of his breath for analysis was made to the person concerned by the member of the Police Force named therein as the member of the Police Force making the requirement;
- (iii) that the person concerned failed to provide a specimen of his breath when required;
- (iv) that there was at the time an approved breath analysing instrument for the purposes of the provision of the specimen of breath,

and until the contrary is proved shall be conclusive such evidence.

(e) (i) Evidence by a medical practitioner or an authorized member of the Police Force or by a copy of a certificate referred to in paragraph (a) purporting to be signed by a medical practitioner or an authorized member of the Police Force of the concentration of alcohol indicated to be present in the blood of a person by a breath analysing instrument operated by such medical practitioner or authorized member of the Police Force shall, subject to subparagraph (ii), be conclusive evidence of the concentration of alcohol present in the blood of the person in question at the time (being in the case of such certificate the date and time stated therein) the breath of that person was analysed and at a material time in any proceedings if the analysis was made not more than two hours after such material time, and at all material times between those times.

(ii) The defendant may negative such evidence as aforesaid if he proves that at the time of the operation of the breath analysing instrument it was defective or was not properly operated.

(16) (a) (i) As soon as practicable after a specimen of blood has been provided for a laboratory test pursuant to subsection (8) or a specimen of blood or urine has been provided for a laboratory test pursuant to subsection (9), the member of the Police Force who required such specimen shall deliver the same to the laboratory of an analyst.

(ii) Such delivery may be effected either personally or by sending the specimen to the laboratory of the analyst by registered post or certified mail.

(b) A certificate purporting to be signed by an analyst and stating—

- (i) that he received from the member of the Police Force named in the certificate a specimen of the blood of the person named in the certificate provided by that person on the date and at the place and time stated in the certificate;
- (ii) that he made a laboratory test of such specimen on the date and at the place stated in the certificate; and
- (iii) the concentration of alcohol or drug in the blood of such person indicated by the laboratory test (which concentration shall be stated by reference to the number of milligrams of alcohol or drug in the blood to 100 millilitres of blood),

shall be evidence of the matters contained therein and until the contrary is proved shall be conclusive such evidence.

(c) Where a person who is required pursuant to subsection (8) or subsection (9) to provide a specimen of his blood for a laboratory test fails to do so, the medical practitioner by whom the specimen is to be taken shall, as soon as practicable thereafter, sign in duplicate a certificate in writing stating—

- (i) the full name of the person concerned;
- (ii) the name of the member of the Police Force who made the requisition;
- (iii) that the person concerned failed to provide a specimen of blood when required; and
- (iv) such other particulars as may be prescribed,

and shall deliver—

- (A) one copy of such certificate to the member of the Police Force who made the requisition; and
- (B) the other copy to the person who failed to provide the specimen of blood when required (or to another person on behalf of that person upon request by that other person).

If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

(d) The production in any proceeding of a certificate referred to in paragraph (c) shall be evidence—

- (i) that the signature is that of the medical practitioner by whom it purports to be signed;
- (ii) that a requirement to provide a specimen of his blood for a laboratory test was made to the person concerned by the member of the Police Force named therein as the member of the Police Force making the requirement;
- (iii) that the person concerned failed to provide a specimen of his blood when required,

and until the contrary is proved shall be conclusive such evidence.

(e) (i) Evidence by an analyst or by a certificate referred to in paragraph (b) of the concentration of alcohol or drug indicated to be present in the blood of a person by a laboratory test of a specimen of the blood of that person shall, subject to subparagraph (ii), be conclusive evidence of the concentration of alcohol or drug in the blood of that person at the time (being in the case of such certificate the date and time stated therein) when he provided the specimen and at a material time in any proceedings if the specimen was provided not more than two hours after such material time, and at all material times between those times.

(ii) The defendant may negative such evidence as aforesaid if he proves that the result of the laboratory test of that specimen of blood was not a correct result.

(f) (i) The court shall on the application of the complainant adjourn the hearing as necessary to enable the production in evidence of the certificate of the analyst and if within three days after providing the specimen the defendant has given to the member of the Police Force in charge of the police station at which or nearest to the hospital or other place where the specimen of blood for the laboratory test was provided a notice in writing that he

requires a copy of the certificate to be given to him at the address stated in the notice shall, at the request of the defendant, adjourn the hearing as necessary to ensure that such copy has been given to the defendant at such address not less than three days before the production of the certificate in evidence.

(ii) Such copy may be given either personally or by sending it by registered post or certified mail.

(iii) The person who gives the copy (whether personally or by sending it by registered post or certified mail) may attend before any justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth where he gives the copy and depose on oath and in writing endorsed on a copy of the certificate to the giving thereof.

(iv) Such deposition shall, upon production to the court, be evidence of the matters contained therein and, until the contrary is proved, shall be conclusive such evidence.

(v) Nothing contained in this paragraph precludes the court in its discretion from dealing with a charge of an offence against subsection (1) of section 16 on the application of the defendant notwithstanding that at that time the result of the laboratory test of the specimen of the blood of the defendant is not known if—

- (A) the defendant pleads guilty to the offence; and
- (B) the court is satisfied that the facts available to be put forward by the prosecution, and unchallenged by the defendant, are sufficient to enable it to deal properly with the matter.

(17) (a) (i) As soon as practicable after a medical practitioner has, pursuant to paragraph (a) or paragraph (d) of subsection (10), taken a specimen of the blood of a person referred to therein or from the body of a deceased person referred to therein, as the case may be, for a laboratory test, a member of the Police Force shall deliver the specimen to the laboratory of an analyst.

(ii) Such delivery may be effected either personally or by sending the specimen to the laboratory of the analyst by registered post or certified mail.

(b) A certificate purporting to be signed by an analyst and stating—

- (i) that he received from the member of the Police Force named in the certificate a specimen of blood of the person or from the body of the person named in the certificate obtained from that person or body on the date and at the place and time stated in the certificate;
- (ii) that he made a laboratory test of such specimen on the date and at the place stated in the certificate; and
- (iii) the concentration of alcohol or drug in the blood of such person or body indicated by the laboratory test (which concentration shall be stated by reference to the number of milligrams of alcohol or drug in the blood to 100 millilitres of blood),

shall be evidence of the matters contained therein and until the contrary is proved shall be conclusive such evidence.

(c) Where it is the duty of a medical practitioner to take a specimen of the blood of a person for a laboratory test pursuant to paragraph (a) of subsection (10) and such person refuses to permit the taking of a specimen of his blood, the medical practitioner shall, as soon as practicable thereafter, sign in duplicate a certificate in writing stating—

- (i) the full name of the person concerned;
- (ii) that the person concerned objected to the taking of a specimen of his blood and persisted in that objection after being informed by the medical practitioner that unless his objection was made upon genuine medical grounds it might constitute an offence against this Act;
- (iii) that in the opinion of the medical practitioner there was no genuine medical ground why the person concerned should not allow to be taken a specimen of his blood; and
- (iv) such other particulars as may be prescribed,

and shall deliver—

- (A) one copy of such certificate to a member of the Police Force; and
- (B) the other copy to the person concerned as aforesaid (or to another person on behalf of that person upon request by that other person).

If the form thereof is prescribed, such certificate shall be in or to the effect of the prescribed form.

(d) The production in any proceeding of a certificate referred to in paragraph (c) shall be evidence—

- (i) that the signature is that of the medical practitioner by whom it purports to be signed;
- (ii) that the person concerned objected to the taking of a specimen of his blood and persisted in that objection after being informed by the medical practitioner that unless his objection was made upon genuine medical grounds it might constitute an offence against this Act;
- (iii) that there was no genuine medical ground why the person concerned should not allow to be taken a specimen of his blood,

and, until the contrary is proved, shall be conclusive such evidence.

(e) Evidence by an analyst or by a certificate referred to in paragraph (b) of the concentration of alcohol or drug indicated to be present in the blood of a person by a laboratory test of a specimen of the blood of that person shall, where—

- (i) the person is a person referred to in paragraph (a) of subsection (10);
- (ii) he was the driver of a motor vehicle involved in the accident; and
- (iii) the specimen was taken within two hours after the time of the accident,

be conclusive evidence of the concentration of alcohol or drug in the blood of that person at the time (being in the case of such certificate the date and time stated therein) of the taking of the specimen and at the time of the accident, and at all material times between those times.

(18) The production in any proceeding of a certificate purporting to be signed by a medical practitioner that on a date and at a place and time stated therein he took a specimen of blood for a laboratory test of a person named therein shall be evidence that the signature is that of the medical practitioner by whom it purports to be signed and of the matters contained therein and, until the contrary is proved, shall be conclusive such evidence.

(19) Where a member of the Police Force forwards a specimen of blood to the laboratory of an analyst by certified mail, evidence by that member of the Police Force in any proceedings that he forwarded the specimen of blood to the laboratory of the analyst by certified mail and the production in evidence of a certificate purporting to be signed by the analyst certifying that he received the specimen of blood from the member of the Police Force shall constitute sufficient evidence of compliance with subparagraph (ii) of paragraph (a) of subsection (16) or subparagraph (ii) of paragraph (a) of subsection (17), as the case may be, and it shall be immaterial whether the specimen of blood is received by the analyst as certified mail or as ordinary mail.

(20) A person who, being thereunto required pursuant to subsection (8) or subsection (9) or subsection (10), has provided a specimen of blood for a laboratory test may when he provides the specimen or immediately after providing it and where he provides it (or another person on behalf of that person may when or immediately after he provides the specimen and where he provides it) request the member of the Police Force or the medical practitioner, as the case may be, who required the specimen in question to give to such person a specimen of blood.

Upon such request, subject to the person concerned then and there providing a second specimen of blood, the member of the Police Force or medical practitioner in question shall give such second specimen to such person or to the person requesting it on his behalf.

(21) (a) Any approval given pursuant to this section in respect of a breath analysing instrument or a device for carrying out breath tests by the Governor in Council or the Minister may be revoked at any time in the manner in which it was given and upon such revocation shall cease to have any effect.

(b) The power to make regulations under this Act includes power to make regulations for or in respect of the maintenance or use of breath analysing instruments and the methods to be employed for ensuring that such instruments give accurate results.

(22) (a) Where—

- (i) the analysis by means of a breath analysing instrument of a specimen of breath of a person required by a member of the Police Force to be provided pursuant to subsection (8) indicates that the concentration of alcohol in that person's blood equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood;
- (ii) a person so required fails to provide such specimen;
- (iii) a person who is required by a member of the Police Force pursuant to subsection (8) to provide a specimen of his blood for a laboratory test permits a specimen of his blood to be taken for the purpose and thereupon such member of the Police Force requires that person

to provide a specimen of breath for a breath test by him (he being hereby authorized to require such a specimen of breath for a breath test to be provided), and—

- (A) it appears to the member of the Police Force in consequence of the breath test carried out by him that the device by means of which the test is carried out indicates that the concentration of alcohol in that person's blood equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood; or
- (B) the person fails to provide such specimen of breath;
- (iv) a person who is required by a member of the Police Force pursuant to subsection (8) or subsection (9) to provide a specimen of his blood for a laboratory test fails to provide such specimen; or
- (v) the medical practitioner taking a specimen of a person's blood for a laboratory test pursuant to subsection (9) certifies in writing to the member of the Police Force who made the requisition for the provision of the specimen of blood that, in respect of the person concerned, the case is a proper one for the suspension of that person's driver's license for a period of twenty-four hours,

then by virtue of any of the foregoing provisions the driver's license of such person shall, save where it is cancelled under section 16B, be suspended for a period of twenty-four hours commencing at the time when the analysis is made or the requisition is made or the indication from the device is ascertained or the certificate in writing is given, as the case may be.

(b) The member of the Police Force who required the specimen shall sign and deliver to the person concerned (or to another person on behalf of that person at the request of that other person) a statement in writing that the driver's license of the person concerned is suspended as prescribed by this subsection for the period of twenty-four hours commencing at the time stated therein.

(c) It is immaterial, in any of the cases referred to in paragraph (a), whether the person concerned is arrested or not.

(d) Notwithstanding any other provision of this Act, an appeal shall not lie in respect of the suspension of a driver's license pursuant to this subsection.

(e) Any person who whilst his driver's license is suspended pursuant to this subsection drives a motor vehicle on a road or elsewhere is guilty of an offence and liable to a penalty not exceeding \$400 or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(23) Where pursuant to this section a member of the Police Force may in the performance, exercise or carrying out of his functions, powers or duties under this section take a person to a hospital or police station for the taking of a specimen and the member of the Police Force believes on reasonable grounds that a medical practitioner is not available at the hospital or to go to the police station, he may, whether the person concerned is under arrest or not, take such person to a place where to his knowledge or in his reasonable belief a medical practitioner is available for the taking of a specimen.

(24) (a) Evidence of the concentration of alcohol or drug in the blood of a person at a time material to the time of an offence as hereinafter mentioned obtained in accordance with any of the provisions of this section is admissible upon the trial upon indictment of that person of any offence in connexion with or arising out of the driving of a motor vehicle by him or upon any hearing of a charge summarily against him of an offence against any provision of section 328A of *The Criminal Code*, and shall not be excluded by reason only that such evidence was compulsorily obtained or otherwise obtained in accordance with this section.

(b) Where such evidence indicates a concentration of alcohol in that person's blood equal to or exceeding 150 milligrams of alcohol to 100 millilitres of blood it shall be conclusive evidence that he was adversely affected by alcohol.

(c) Subject to paragraph (b), evidence admissible pursuant to this subsection—

(i) may be given in the same manner whether by person or certificate as it may be given; and

(ii) is admissible with reference to the same period and for the same purposes and as conclusive evidence until the contrary is proved or as conclusive evidence in the first instance, as the case may be, in the same circumstances and in all other respects to the same extent as it is admissible

under this section in respect of this Act.

(25) Except at the instance or with the consent of the person who provided the specimen, evidence of the providing of a specimen of breath or blood provided pursuant to this section and of the result of the analysis of the specimen shall not be led or admitted in any civil proceedings; and the fact of that evidence not being led or that the necessary consent to its being led was withheld shall not be a matter for comment in any such proceedings.”

10. Amendment of s. 16B. Section 16B of the Principal Act is amended by—

(a) in the heading to the section, inserting after the word “license” the words “or learner's permit”;

(b) in subsection (1)—

(i) omitting paragraph (a) and substituting the following paragraph:—

“(a) a certificate given under paragraph (a) of subsection (15) of section 16A setting out also the matters specified in paragraph (c) of that subsection of the analysis by means of a breath analysing instrument of a specimen of breath of a person required by a member of the Police Force to be provided pursuant to subsection (8) of that section indicates that the concentration of alcohol in that person's blood equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood;”;

(ii) inserting after the words “provisional license” where three times occurring the words “or learner's permit” in each case;

(c) in subsection (2)—

(i) omitting paragraph (a) and substituting the following paragraph:—

“(a) a certificate given under subsection (16) of section 16A setting out the matters specified in paragraph (b) of that subsection of a laboratory test of a specimen of blood of a person required

by a member of the Police Force to be provided pursuant to subsection (8) of that section indicates that the concentration of alcohol in that person's blood at the time when he provided the specimen equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood;";

(ii) inserting after the words "provisional license" where four times occurring the words "or learner's permit" in each case;

(d) inserting after subsection (2) the following subsection:—

"(3) Where—

(a) a certificate given under subsection (17) of section 16A setting out the matters specified in paragraph (b) of that subsection of a laboratory test of a specimen of blood of a person taken by a medical practitioner pursuant to paragraph (a) of subsection (10) of section 16A within two hours after the time of an accident involving a motor vehicle of which such person was the driver indicates that the concentration of alcohol in that person's blood at the time when the specimen was taken equals or exceeds 80 milligrams of alcohol to 100 millilitres of blood; or

(b) a person, contrary to law, refuses, pursuant to paragraph (c) of subsection (10) of section 16A, to permit the taking of a specimen of his blood by a medical practitioner whose duty it is to do so under paragraph (a) of the said subsection in the circumstances therein set out, such refusal being within two hours after the time of an accident involving a motor vehicle of which such person was the driver,

then by virtue of that fact, where the driver's license of that person is a provisional license or learner's permit, the provisional license or learner's permit is cancelled as from the time:—

(c) in a case to which paragraph (a) applies, when a copy of the certificate is served on that person;

(d) in a case to which paragraph (b) applies, of the refusal to permit the taking of the specimen of blood.

In a case to which paragraph (a) applies, there shall be served with a copy of the certificate a statement in writing that the provisional license or learner's permit of the person concerned is cancelled under this subsection.

In a case to which paragraph (b) applies, a member of the Police Force shall, on receipt of a certificate referred to in paragraph (c) of subsection (17) of section 16A, sign and deliver to the person concerned, or to another person on behalf of that person at the request of that other person, a statement in writing that the provisional license or learner's permit of the person concerned is cancelled under this subsection.";

(e) renumbering the existing subsections (3), (4) and (5) as subsections (4), (5) and (6) respectively;

(f) in subsection (4) as so renumbered, inserting after the words "provisional license" where twice occurring, the words "or learner's permit" in each case;

(g) in subsection (5) as so renumbered, inserting after the words "provisional license" the words "or learner's permit".

11. Amendment of s. 17. Section 17 of the Principal Act is amended by—

- (a) inserting after the words “ a road ” the words “ or elsewhere ”;
- (b) inserting after the words “ the road ” the words “ or place ”.

12. Repeal of and new s. 20. Section 20 of the Principal Act is repealed and the following section is substituted:—

“ 20. Disqualification of drivers of motor vehicles for certain offences. (1) (a) A person who is convicted of an offence in relation to a motor vehicle against subsection (1) of section 16 shall, if during the period of five years prior to conviction he has not been previously convicted—

- (i) under that subsection;
- (ii) under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*;
- (iii) under subsection (2) of that section;
- (iv) under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*;
- (v) upon indictment, of any offence in connexion with or arising out of the driving of a motor vehicle by him; or
- (vi) summarily of an offence against any provision of section 328A of *The Criminal Code*,

be disqualified by such conviction and without any specific order for a period of six months from the date of such conviction from holding or obtaining a driver's license.

(b) If within the period of five years prior to such conviction he has been previously convicted of an offence under subsection (1) of section 16 or under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of twelve months from the date of such conviction from holding or obtaining a driver's license.

(c) If within the period of five years prior to such conviction he has been previously convicted more than once of an offence under subsection (1) of section 16 or more than once of an offence under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted of an offence under subsection (1) of section 16 and an offence under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of two years from the date of such conviction from holding or obtaining a driver's license.

(d) If within the period of five years prior to such conviction he has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or summarily of an offence against any provision of section 328A of *The Criminal Code*, he shall be disqualified by such conviction and without any specific order for a period of twelve months from the date of such conviction from holding or obtaining a driver's license.

(e) If within the period of five years prior to such conviction he has been previously convicted more than once upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or more than once summarily of an offence against any provision of section 328A of *The Criminal Code* or has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him and summarily of an offence against any provision of section 328A of *The Criminal Code*, he shall be disqualified by such conviction and without any specific order for a period of two years from the date of such conviction from holding or obtaining a driver's license.

(f) If within the period of five years prior to such conviction he has been previously convicted of an offence under subsection (1) of section 16 or under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* and has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or summarily of an offence against any provision of section 328A of *The Criminal Code*, he shall be disqualified by such conviction and without any specific order for a period of two years from the date of such conviction from holding or obtaining a driver's license.

(g) If within the period of five years prior to such conviction he has been previously convicted of an offence under subsection (2) of section 16 or under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of nine months from the date of such conviction from holding or obtaining a driver's license.

(h) If within the period of five years prior to such conviction he has been previously convicted more than once of an offence under subsection (2) of section 16 or more than once of an offence under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted of an offence under subsection (2) of section 16 and of an offence under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of twelve months from the date of such conviction from holding or obtaining a driver's license.

(2) (a) A person who is convicted of an offence in relation to a motor vehicle against subsection (2) of section 16 shall, if during the period of five years prior to conviction he has not been previously convicted—

- (i) under that subsection;
- (ii) under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*;
- (iii) under subsection (1) of that section;

- (iv) under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*;
- (v) upon indictment, of any offence in connexion with or arising out of the driving of a motor vehicle by him; or
- (vi) summarily of an offence against any provision of section 328A of *The Criminal Code*,

be disqualified by such conviction for a period of not less than one month and not more than nine months from the date of such conviction from holding or obtaining a driver's license.

The period of disqualification shall be determined by the court which, in making its determination, shall have regard to the concentration of alcohol in the blood of the defendant and the danger, real or potential, to the public in the circumstances of the case.

(b) If within the period of five years prior to such conviction he has been previously convicted of an offence under the said subsection (2) or under subsection (1a) of section 16 as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction for a period of not less than three months and not more than eighteen months from the date of such conviction from holding or obtaining a driver's license.

The period of disqualification shall be determined by the court which, in making its determination, shall have regard to the concentration of alcohol in the blood of the defendant and the danger, real or potential, to the public in the circumstances of the case.

(c) If within the period of five years prior to such conviction he has been previously convicted more than once of an offence under the said subsection (2) or more than once of an offence under subsection (1a) of section 16 as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted of an offence under the said subsection (2) and of an offence under the said subsection (1a) of section 16 as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of six months from the date of such conviction from holding or obtaining a driver's license.

(d) If within the period of five years prior to such conviction he has been previously convicted of an offence under subsection (1) of section 16 or under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or summarily of an offence against any provision of section 328A of *The Criminal Code*, he shall be disqualified by such conviction and without any specific order for a period of nine months from the date of such conviction from holding or obtaining a driver's license.

(e) If within the period of five years prior to such conviction he has been previously convicted of an offence under the said subsection (2) or under subsection (1a) of section 16 as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* and—

- (i) has been previously convicted of an offence under subsection (1) of section 16 or under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*; or
- (ii) has been previously convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or summarily of an offence against any provision of section 328A of *The Criminal Code*,

he shall be disqualified by such conviction and without any specific order for a period of twelve months from the date of such conviction from holding or obtaining a driver's license.

(3) (a) A person who is convicted upon indictment of any offence in connexion with or arising out of the driving of a motor vehicle by him or summarily of an offence against any provision of section 328A of *The Criminal Code* shall, subject to the provisions of this subsection, be disqualified by such conviction and without any specific order for a period of six months from the date of such conviction from holding or obtaining a driver's license.

(b) If within the period of five years prior to such conviction he has been previously convicted—

- (i) of an offence (whether of the same or of a different kind) of either of the classes referred to in paragraph (a);
- (ii) under subsection (1) of section 16; or
- (iii) under subsection (1) of section 16 as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*,

he shall be disqualified by such conviction and without any specific order for a period of twelve months from the date of such conviction from holding or obtaining a driver's license.

(c) If within the period of five years prior to such conviction he has been previously convicted more than once of an offence (whether of the same or of a different kind) of either of the classes referred to in paragraph (a) or has been previously convicted of an offence (whether of the same or of a different kind) of each of the classes referred to in paragraph (a), he shall be disqualified by such conviction and without any specific order for a period of two years from the date of such conviction from holding or obtaining a driver's license.

(d) If within the period of five years prior to such conviction he has been previously convicted more than once of an offence under subsection (1) of section 16 or more than once of an offence under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted of an offence under subsection (1) of section 16 and an offence under subsection (1) of that section as that section stood immediately

prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of two years from the date of such conviction from holding or obtaining a driver's license.

(e) If within the period of five years prior to such conviction he has been previously convicted of an offence (whether of the same or of a different kind) of either of the classes referred to in paragraph (a) and has been previously convicted of an offence under subsection (1) of section 16 or under subsection (1) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of two years from the date of such conviction from holding or obtaining a driver's license.

(f) If within the period of five years prior to such conviction he has been previously convicted—

- (i) under subsection (2) of section 16; or
- (ii) under subsection (1a) of section 16 as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*,

he shall be disqualified by such conviction and without any specific order for a period of nine months from the date of such conviction from holding or obtaining a driver's license.

(g) If within the period of five years prior to such conviction he has been previously convicted more than once of an offence under subsection (2) of section 16 or more than once of an offence under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974* or has been previously convicted of an offence under subsection (2) of section 16 and an offence under subsection (1a) of that section as that section stood immediately prior to the commencement of the *Traffic Act Amendment Act 1974*, he shall be disqualified by such conviction and without any specific order for a period of twelve months from the date of such conviction from holding or obtaining a driver's license.

(4) A person who is convicted of an offence under paragraph (e) of subsection (22) of section 16A shall be disqualified by such conviction and without any specific order for a period of six months from the date of such conviction from holding or obtaining a driver's license.

(5) In the case of any conviction referred to in this section in respect of which a person is disqualified by such conviction and without any specific order for a period of time specified from holding or obtaining a driver's license, the Judge before whom such person is so convicted upon indictment or the justices by whom such person is so convicted may order that from the date of conviction such person shall be disqualified absolutely or for a longer period than the period specified in his case from holding or obtaining a driver's license, and he shall thereupon be so disqualified under and in accordance with that order.

(6) Any disqualification pursuant to this section shall be in addition to any punishment to which the person convicted may be liable upon his conviction.

(7) In this section the term "previously convicted" has the same meaning that it has in section 16.

(8) The provisions of this section apply notwithstanding anything contained in any other Act."

13. Amendment of s. 30. Section 30 of the Principal Act is amended by, in subsection (1),—

(a) omitting the words "an authorised officer" where three times occurring and substituting the words "a member of the Police Force" in each case;

(b) omitting the words "authorised officer", being the last two words in the subsection, and substituting the words "member of the Police Force".

14. Amendment of s. 39. Section 39 of the Principal Act is amended by, in subsection (3), inserting after the words "provisional license" and within the bracket the words "or a learner's permit".

15. Amendment of s. 45. Section 45 of the Principal Act is amended by, in subsection (3), inserting after the words "under the hand of" the words "an authorized officer or".

16. Amendment of s. 49. Section 49 of the Principal Act is amended by, in subsection (1),—

(a) inserting in paragraph (a) after the words "prove the appointment of" the words "the Commissioner for Transport or of an authorized officer or of";

(b) inserting in paragraph (b) after the words "purporting to be that of" the words "the Commissioner for Transport, or of an authorized officer, or of";

(c) inserting in paragraph (c) after the words "or the authority of" the words "the Commissioner for Transport, an authorized officer,";

(d) inserting after paragraph (t) the following paragraph:—

“;

(u) Evidence of the condition of a breath analysing instrument, as defined in section 16A, or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.”.

17. Amendment of s. 52. Section 52 of the Principal Act is amended by inserting, after the words "on demand made by", the words "the Commissioner for Transport,".

18. Amendment of s. 53. Section 53 of the Principal Act is amended by, in subsection (1),—

(a) inserting in paragraph (a), after the words "made or given to", the words "an authorized officer,";

(b) inserting in paragraph (f), after the words "under the direction of", the words "the Commissioner for Transport or".

19. Amendment of s. 54. Section 54 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) The provisions of this section have effect notwithstanding that a probation order under the *Offenders Probation and Parole Act 1959-1971* is made in respect of the offender and section 19 of that Act shall have application subject hereto accordingly.”.

20. Amendment of s. 55. Section 55 of the Principal Act is amended by, in subsection (6), inserting at the end of paragraph (a) the following subparagraphs:—

“Where the license applied for or obtained in contravention of this paragraph is a driver’s license, the offender shall be liable to a penalty not exceeding \$400 or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment:

Provided, however, that where such offender is disqualified pursuant to an order of any court (which term is not limited in its meaning to the meaning it has under section 9) or pursuant to the provisions of section 20 (whether as inserted by the *Traffic Act Amendment Act 1974* or as it stood prior to the commencement of that Act), the justices before whom he is convicted shall impose, as the whole or part of the punishment, imprisonment for a minimum term of six months.

The provisions of subsection (6) of section 15 apply with all necessary adaptations in the case of a person who is convicted of applying for or obtaining a driver’s license in contravention of this paragraph.”.

21. Amendment of s. 55A. Section 55A of the Principal Act is amended by omitting the word “Superintendent” and substituting the words “authorized officer”.

22. Amendment of s. 56. Section 56 of the Principal Act is amended by—

(a) in subsection (3), inserting after the words “transmit such license” the words “, in the case of a driver’s license, to the Commissioner for Transport and, in the case of a license of any other kind, class or description,”;

(b) in subsection (4), inserting after the word “Commissioner” the words “for Transport, in the case of a driver’s license, and the Commissioner, in the case of a license of any other kind, class or description,”;

(c) inserting after subsection (7) the following subsection:—

“(8) Where a period of not less than five years has elapsed since an endorsement has been made on a person’s driver’s license containing particulars relating to its cancellation or suspension or has been made thereon in respect of any offence committed by him or any act or omission by him rendering him liable under this Act to have such endorsement made thereon or as a result of which such endorsement is required to be made thereon, then, provided he has not in the meantime committed any offence or done any act or made any omission rendering him liable to have any endorsement as aforesaid made on his driver’s license or as a result of which any endorsement as aforesaid is required to be made thereon, whether in respect of cancellation,

suspension or otherwise, he may apply for and have issued to him a new driver's license free from any such endorsements, and subsections (6) and (7) apply subject to this subsection."

23. Amendment of s. 57. Section 57 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the first paragraph and substituting the following paragraph:—

"Any person aggrieved by the refusal of the Commissioner for Transport or other authorized officer to issue or renew a driver's license or by the refusal of a District Superintendent or of a Superintendent to issue or renew a license of any other kind, class or description, or by the suspension or cancellation of a driver's license by the Commissioner for Transport or the suspension or cancellation of a license of any other kind, class or description by a District Superintendent, or by the imposition of a condition in respect of a driver's license by or by direction of the Commissioner for Transport or other authorized officer or the imposition of a condition in respect of a license of any other kind, class or description by or by direction of a District Superintendent or a Superintendent may appeal against such refusal, suspension, cancellation or imposition to the Court.";

(ii) inserting after the second paragraph the following paragraph:—

"Without limiting the power to make regulations conferred by section 70, regulations may be made under that section providing for the manner of initiating an appeal to the Court, the service of notice of such appeal and on whom such notice is to be served and the time for such service, the procedure of or in respect of an appeal, the parties, the persons allowed to appear, the nature of evidence that may be adduced, matters relating to the carriage of the appeal, the amount and application of any fees prescribed in relation to the appeal, and providing in all other respects for the conduct of the appeal and all matters incidental thereto.";

(b) in subsection (2)—

(i) inserting in the second paragraph, after the words "Notice of any such application", the words "in the case of a driver's license, shall be given to the Commissioner for Transport or to any authorized officer authorized by the Commissioner for Transport to receive such notices and, in the case of a license of any other kind, class or description,";

(ii) inserting after the third paragraph (being the paragraph commencing with the words "Upon hearing") the following paragraph:—

"The Judge or justices shall not order the removal of the disqualification unless, in addition to having regard to the foregoing, the applicant satisfies him or them that such removal will not be detrimental to the public interest, and he or they shall require the placing of evidence before him or them in such form as is considered by him or them to be satisfactory, before an order for the removal of the disqualification is made, of a review of the driving, medical and other history of the applicant by a Medical Board of Review where, pursuant to the regulations, such a Board has been constituted for the purpose, and where a Board has not been so constituted, by such person or person of a class or persons as may be prescribed by the regulations, and where a person or class has not been so prescribed, by a person determined by the Judge or justices to be qualified to conduct the review having

regard to the circumstances of the case. The review shall be of such a nature as may be prescribed and, where not prescribed, shall be of such a nature as the Judge or justices think fit.”;

(iii) inserting at the end of the last paragraph, after the word “Commissioner” the words “for Transport or the Commissioner, as the case may be”;

(c) in subsection (3), inserting after the word “Commissioner” the words “for Transport in the case of a driver’s license and to the Commissioner in the case of a license of any other kind, class or description”.

24. Amendment of s. 60. Section 60 of the Principal Act is amended by, in subsection (1), inserting after the words “on any road” where they occur on the second occasion the words “or elsewhere”.

25. Amendment of s. 64. Section 64 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) In this section the term “Commissioner” includes the Commissioner for Transport where appropriate having regard to the functions, powers and duties of the Commissioner for Transport with respect to drivers’ licenses.”.

26. Amendment of s. 65. Section 65 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) In this section the term “Commissioner” includes the Commissioner for Transport where appropriate having regard to the functions, powers and duties of the Commissioner for Transport with respect to drivers’ licenses.”.

27. Amendment of s. 66. Section 66 of the Principal Act is amended by inserting after the words “made or given by” the words “the Commissioner for Transport, an authorized officer,”.

28. Amendment of s. 67. Section 67 of the Principal Act is amended by—

(a) in subsection (1), inserting after the words “Police Force” where twice occurring the words “or authorized officer” in each case;

(b) in subsection (2), omitting the words “section sixteen” and substituting the words “sections 16 and 16A”.

29. Amendment of s. 68. Section 68 of the Principal Act is amended by omitting the words “an authorised officer” and substituting the words “a member of the Police Force”.

30. Amendment of Schedule. The Schedule to the Principal Act is amended by—

(a) in clause 5, omitting the words “authorised officers.” and substituting the words “authorized officers and members of the Police Force.”;

(b) in clause 7, inserting at the end of the third paragraph, after the word “hereunder”, the words “and for the prohibiting of a person in respect of whom such privilege is withdrawn, and any other persons prescribed, from holding or obtaining drivers’ licenses”;

(c) inserting after clause 21 the following clause:—

“ 22. Qualifications concerning breath analysing instruments. Prescribing qualifications in respect of the operation of, and authorized members of the Police Force operating, breath analysing instruments.”;

(d) in clause 23—

(i) omitting the words “ authorised officers ” where three times occurring and substituting the words “ members of the Police Force ” in each case;

(ii) omitting the word “ officers ” occurring after the words “ required by such ” and substituting the word “ members ”;

(iii) omitting the words “ an authorised officer ” where twice occurring and substituting the words “ a member of the Police Force ” in each case;

(e) omitting clause 24 and substituting the following clause:—

“ 24. Authorized officers. Regulating and controlling the appointment by the Commissioner for Transport of persons and holders of offices as authorized officers.

Defining the functions, powers, authorities, duties, obligations and responsibilities of authorized officers, and providing for any other matter or thing incidental thereto.”;

(f) inserting after clause 26 the following clause:—

“ 27. Medical Board of Review. Providing for the constitution of a Medical Board of Review for the purposes of this Act, the composition of the Board and the qualifications of its members, and for all matters and things in relation to the procedures, functions, powers and duties of such Board.”;

(g) in clause 32—

(i) inserting, after the words “ reports or copies of reports ”, the words “ by the Commissioner for Transport and other authorized officers and ”;

(ii) inserting after the word “ indemnifying ” the words “ the Commissioner for Transport and other authorized officers and ”;

(h) in clause 34, omitting the proviso to that clause.

31. Savings and transitional. (1) The commencement of this Act shall not prejudice or affect the continuation in force for the period for which it was issued or renewed of any driver's license or any renewal of a driver's license issued before the commencement of this Act and which, on the commencement of this Act, shall not have expired by effluxion of time, and every such driver's license or renewal of a driver's license shall, subject to any cancellation or suspension thereof under the Principal Act or any other Act or law in force at the commencement of this Act or incurred at any time thereafter, continue in force under, subject to and in accordance with the provisions of the Principal Act as amended by this Act until it expires by effluxion of time or is sooner surrendered and shall be deemed to have been issued or renewed, as the case may be, by an authorized officer.

(2) On the commencement of this Act, every proceeding initiated, pending or part heard under the Principal Act shall be heard or continue according to the provisions of the Principal Act which shall for that purpose be deemed to continue in force as though this Act had not commenced.

(3) Any breath analysing instrument of a type approved by the Governor in Council by notice published in the Gazette under the provisions of subsection (1) of section 16A of the Principal Act and any device of a type approved by the Minister by notification published in the Gazette under the provisions of that subsection shall, on the commencement of section 9 of this Act repealing the said section 16A and substituting a new section 16A, be deemed to be a breath analysing instrument of a type approved by the Governor in Council by notice published in the Gazette under the provisions of subsection (1) of such substituted section 16A and a device of a type approved by the Minister by notification published in the Gazette under the provisions of subsection (1) of such substituted section 16A respectively.

(4) This section applies without limiting the operation of the *Acts Interpretation Act 1954-1971*.