

TRANSPORTATION ACT 6/2007
ROAD TRAFFIC ACT, 2007
Date of commencement: 29th February, 2008

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An Act to provide for the registration and licensing of motor vehicles and drivers to regulate, control traffic and transport on public roads and other matters incidental thereto.

PART I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Road Traffic Act, 2007, and shall come into operation on a day to be fixed by the Minister by notice published in the Gazette.
- (2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act, and dates so fixed may differ in respect of different —

- (a) persons or goods or categories of persons or goods transported by means of a motor vehicle;
- (b) kinds or classes of motor vehicles used in the transport of persons or goods;
- (c) persons or categories of persons.

Definitions.

2. In this Act, unless the context otherwise indicates —

“accident report certificate” means a certificate issued by a police officer after the assessment of an accident;

“ambulance” means a motor vehicle specially constructed or adapted for the purpose of conveying sick or injured persons for medical treatment and which is registered in terms of section 13 as an ambulance;

“animal” means any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich and includes a dog;

“articulated motor vehicle” means a combination of motor vehicles consisting of a truck-tractor and a semi-trailer;

“authorised officer” means an examiner for driver’s licences, examiner of vehicles inspector of licences, a traffic officer, a traffic warden or an inspector for Government vehicles, and includes any other person whom the Minister may, by notice in the Gazette, declare to be an authorised officer;

“breakdown vehicle” means a motor vehicle designed or adapted solely for the purpose of recovering salvaging motor vehicles and which is registered as a breakdown vehicle;

“bridge” includes a culvert and a causeway;

“builder” means a person who, for the purpose of his business of selling motor vehicles, manufactures or assembles motor vehicles in whole or in part from used components;

“bus” means a motor vehicle designed or adopted solely for the conveyance of more than 30 persons, including the driver but does not exceed 22 metres in length;

“bus-train” means a motor vehicle designed or adopted for the conveyance of more than 30 persons, including the driver and is more than 22 metres long;

“by-law” means a by-law contemplated in section 104;

“clearance certificate” means a certificate indicating that a vehicle has been licensed;

“combination of motor vehicles” means two or more motor vehicles coupled together;

“Convention” means —

- (a) the International Convention relative to Motor Traffic (Paris, 1926);

(b) the United Nations Convention on Road Traffic (Geneva, 1949); or

(c) the United Nations Convention on Road Traffic (Vienna, 1968);

“convoy of motor vehicles” means six or more vehicles which are operated in a group on a public road;

“cross” means to move on a public road in a direction which intersects the normal course of travel of traffic on such road;

“dangerous goods” means any prescribed article or substance which is capable of posing a significant risk to health, safety, property or the environment when transported by road;

“driver” means a person who drives or attempts to drive a vehicle or who rides or attempts to ride a pedal cycle or who guides a draught, pack or saddle animal or herd or flock of animals, and “drive” or any like word shall have a corresponding meaning;

“driver’s licence” means a driver’s licence issued to persons who have passed the driver’s test;

“driver’s licence testing centre” means an institution and place designated for testing;

“driving school” means an institution that instructs persons in driving lessons;

“edge of the roadway” means the boundary between the roadway and the shoulder, which is indicated by an appropriate road traffic sign, or in the absence of such sign —

(a) in the case of a road with a bituminous or concrete surface, the edge of such surface; or

(b) in the case of any other road, the edge of the improved part of the road intended for vehicular use;

“examiner for driver’s licences” means a person who examines licences held by drivers;

“examiner of vehicles” means a person appointed to examine vehicles;

“fire-fighting vehicle” means a motor vehicle designed or adapted solely or principally for fighting fires and which is registered as such;

“freeway” means a public road or a section of a public road which has been designated as a freeway by an appropriate road traffic sign;

“goods” means any movable property;

“goods vehicle” means a motor vehicle other than a motor cycle, motor tricycle, motor quadrucycle, motor car, minibus or bus, designed or adapted for the conveyance of goods on a public road and includes a truck-tractor, an adaptor dolly, a converter dolly and a breakdown vehicle;

“gross combination mass”, in relation to a motor vehicle which is used to draw any other motor vehicle, means the maximum mass of any combination of

motor vehicles, including the drawing vehicle, and load as specified by the manufacturer thereof or, in the absence of such specification, as determined by an examiner of vehicles;

“gross vehicle mass”, in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by an examiner of vehicles;

“importer” means a person who, for the purposes of his business of selling motor vehicles, imports new or used motor vehicles into Swaziland;

“inspector for Government vehicles” means a person appointed to inspect Government vehicles;

“inspector of licences” means a person appointed to inspect licences;

“instructor” means a person who for direct or indirect reward —

(a) instructs a person in the driving of a motor vehicle,

(b) teaches a person the rules of the road or road traffic signs,

in order to obtain a learner’s or driver’s licence;

“instructor’s certificate” means a certificate issued to an instructor;

“international driver’s permit” means an international driver’s permit issued in terms of a Convention or recognized thereunder;

“intersection” means the area embraced within the prolongation of the lateral boundary lines of two or more public roads, open to vehicular traffic, that join one another at any angle, whether or not one such public road crosses the other;

“kerb line” means the boundary between the shoulder and the verge;

“learner’s licence” means a licence issued to persons who intend receiving instruction on the driving of motor vehicles;

“left” means left reckoned by reference to the direction in or towards which the vehicle, animal or person is facing at the material time;

“local authority” means —

(a) an authority appointed by law; or

(b) failing that, such other person or body as the Minister may appoint to exercise control over roads and traffic in a specified area;

“manufacturer” means a person who, for the purposes of his business of selling motor vehicles, manufactures or assembles new motor vehicles;

“medical practitioner” means a person registered as a medical practitioner in accordance with the Medical and Dental Practitioners Act, No. 3 of 1970;

“midibus means a motor vehicle designed or adapted solely or principally for the conveyance of more than 17, but not more than 30 persons, including the driver;

“minibus” means a motor vehicle designed or adapted solely or principally for the conveyance of more than nine, but not more than 16 persons, including the driver;

“Minister” means the Minister responsible for Transport;

“motor car” means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle, designed or adapted solely or principally for the conveyance of not more than nine persons, including the driver;

“motor cycle” means a motor vehicle which has two wheels and includes any such vehicle having a side-car attached;

“motor dealer” means a person who —

- (a) is engaged in the business of buying, selling or exchanging motor vehicles required to be registered and licensed under this Act; and
- (b) in addition, holds a licence under the Trading Licences Order, No. 20 of 1975, where under that Act a licence is necessary for a business referred to in paragraph (a);

“motor quadrucycle” means a motor vehicle, other than a tractor, which has four wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

“motor trade number” means a number to be used by dealers for vehicles in their possession;

“motor tricycle” means a motor vehicle, other than a motor cycle with a side-car or a tractor, which has three wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

“motor vehicle” means any self-propelled vehicle and includes —

- (a) a trailer;
- (b) a vehicle with a tare exceeding 30 kilograms and having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include —
 - (i) a vehicle propelled by electrical power derived from storage batteries and which is pedestrian controlled;
 - (ii) a vehicle with a tare not exceeding 230 kilograms and which is specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and which is used solely by such person;

“operate on a public road”, in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a road, or to have or to permit to be on a public road, whether or not a person operating the vehicle is present;

“operator” shall have the meaning assigned thereto in the Road Transportation Act;

“owner”, in relation to a vehicle, subject to section 124, means —

- (a) a person who has the right to the use and enjoyment of a vehicle whether in terms of a contract, or otherwise, with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in that paragraph; or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale,

and who is registered as such and “owned” or any like word shall have a corresponding meaning;

“park” means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle, and “parking” or any like word shall have a corresponding meaning;

“pedal cycle” means any bicycle or tricycle designed for propulsion solely by means of human power;

“pedestrian crossing” means —

- (a) that portion of a public road at an intersection included within the prolongation or connection of the kerb line and adjacent boundary line of such road, whether such portion is marked or not;
- (b) any other portion of a public road designated as a pedestrian crossing by appropriate road traffic signs;

“police clearance”, in relation to a motor vehicle, means a document attesting to the fact that such motor vehicle and the engine thereof are not reported stolen;

“police officer” means a member of —

- (a) the Royal Swaziland Police Force;
- (b) the police force reserve established under the Police Reserve Act, No. 62 of 1962;

“prescribe” means prescribed by regulation;

“prescribed territory” means —

- (a) the United Kingdom, the Republic of Ireland, the Republic of South Africa, Zimbabwe, Mozambique, the Republic of Namibia, Botswana, Lesotho, the Republic of Zambia, the Republic of Malawi, Angola or Tanzania; or
- (b) such other territory as the Minister may by notice published in the Gazette declare to be a prescribed territory;

“professional driver’s permit” means a professional driver’s permit issued under section 40 or a public driver’s permit deemed in terms of section 26 to be a professional driver’s permit;

“public officer” means a person in the service of or holding office under the Government;

“public road” means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is commonly used by the public or to which the public has a right of access and includes —

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry, ford or drift traversed by any such road, street or thoroughfare;
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“Registrar” means a person appointed to be Registrar;

“registration mark” means the combination of letters and numbers allotted to a motor vehicle for purposes of registration and identification and shall be as prescribed;

“repealed Act” means the Road Traffic Act, No. 6 of 1965;

“rescue vehicle” means a motor vehicle designed or adapted solely for the purpose of rescuing persons, and which is owned or controlled by the State, a local authority or a body of persons approved by the Minister and is registered as a rescue vehicle;

“road authority”, in relation to a public road, means the Minister responsible for Construction and Maintenance of Roads or local authority responsible for the maintenance of a public road;

“Road Fund Account” means the account referred to in section 126(4);

“road traffic sign” means a sign placed on the road to regulate traffic;

“roadway” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic, which is between the edges of the roadway;

“roadworthy”, in relation to a vehicle, means a vehicle which complies with the relevant provisions of this Act and is otherwise in a fit condition to be operated on a public road;

“roadworthy certificate” in relation to a motor vehicle, means a certificate issued attesting to the fitness of the vehicle;

“semi-trailer” means a trailer having no front axle and so designed that at least 15 percent of its tare is superimposed on and borne by a vehicle drawing such trailer;

“shoulder” means that portion of a road, street or thoroughfare, between the edge of the roadway and the kerb line;

“sidewalk” means that portion of a verge intended for the exclusive use of pedestrians;

“special permit” means a special permit referred to in section 22;

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

- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;
- (b) anything which is a permanent part of the structure of such vehicle;
- (c) anything affixed to such vehicle so as to form a structural alteration of a permanent nature; and
- (d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of —
 - (i) fuel;
 - (ii) anything affixed to such vehicle which is not of the nature referred to in paragraph (b) or (c);

“temporary permit” means a permit issued for a short specific time;

“testing station” means a place designated for testing purposes;

“this Act” includes any Regulations made under this Act;

“title holder”, in relation to a vehicle and subject to section 124, means —

- (a) the person to give permission for the alienation of that vehicle in terms of a contractual agreement with the owner of such vehicle; or
- (b) the person who has the right to alienate that vehicle in terms of the common law, and who is registered as such by virtue of this Act;

“tractor” means a motor vehicle designed or adapted mainly for drawing other vehicles and not for carrying any load thereon, but does not include a truck-tractor;

“traffic lane” means a longitudinal division of a public road of sufficient width to accommodate the passage of a single line of vehicles;

“traffic officer” means any member of the Swaziland Royal Police officer or a traffic officer appointed under section 5(1);

“traffic signal” means a road traffic sign which, by means of automatic light signals, alternately directs traffic to stop and permits it to proceed;

“traffic warden” means a traffic warden appointed under section 5(1);

“trailer” means a vehicle which is not self-propelled and which is designed or adapted to be drawn by a motor vehicle, but does not include a side-car attached to a motor cycle;

“truck-tractor” means a motor vehicle designed or adapted —

- (a) for drawing other vehicles; and

- (b) not to carry any load other than that imposed by the semi-trailer or by ballast,

but does not include a tractor;

“urban area” means that portion of gazetted area of jurisdiction under a local authority;

“vehicle” means a device designed or adapted principally to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged, other than such a device which moves exclusively on rails;

“verge” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder.

PART II

REGISTRAR AND OFFICERS

Registrar of Road Traffic.

3. (1) The Minister may, by notice published in the Gazette, designate, for the purposes of this Act, a public officer to be the Registrar of Road Traffic, in accordance with the conditions prescribed.

(2) The Registrar may, in accordance with the prescribed conditions —

- (a) appoint, for the purposes of this Act, one or more persons to be agents; and
- (b) authorise a person under the Registrar’s control or an agent referred to in paragraph (a), to act at any time on Registrar’s behalf.

Functions of Registrar.

4. The Registrar shall have the following functions —

- (a) the appointment of agents in terms of section 3(2)(a);
- (b) the keeping of records;
- (c) the issue of duplicate certificates, licences or other documents or tokens as provided for in section 114; and
- (d) such other functions as may be assigned to him or her by or under this Act.

Appointment of officers.

5. (1) The Minister or a local authority may, in accordance with the prescribed conditions, appoint persons as —

- (a) examiners for driver’s licences;
- (b) examiners of vehicles;
- (c) inspectors of licences;
- (d) inspectors of Government vehicles;

- (e) police officers/traffic officers;
- (f) traffic wardens,

as the Minister or the authority may consider expedient for the performance of the functions assigned to such officers under the provisions of this Act.

(2) Nothing shall prevent the exercise or performance, in the area of a local authority by an authorised officer appointed by the Minister, of a function which that authorised officer is authorised or required to exercise in accordance with this Act.

(3) An examiner of vehicles or an examiner for driver's licences shall, upon appointment be graded in the prescribed manner, according to his qualifications, in respect of the prescribed categories of vehicles.

(4) A person appointed under subsection (1) as an authorised officer, shall upon his appointment be issued with a certificate of appointment and an identity card by the Minister or the local authority appointing him.

(5) (a) An authorised officer shall not exercise any power or perform any duty unless he is in possession of his identity card.

(b) An authorised officer shall produce his identity card at the request of any person having a material interest in the matter concerned.

Functions of inspector of licences.

6. In addition to the functions assigned to an inspector of licences by this Act, he may —

- (a) by notice in the prescribed manner direct the owner, operator, driver or person in charge of any vehicle, wherever found, which in his opinion does not comply with the requirements for a roadworthy certificate provided for in this Act, to produce such vehicle for inspection, examination or testing to an examiner of vehicles or a testing station for such class of vehicle at a time and place specified in such notice;
- (b) demand from the owner, title holder, operator or driver thereof the production of any document required from such person in respect of that motor vehicle in terms of this Act or any like document issued by a competent authority outside Swaziland;
- (c) require from an instructor —
 - (i) where such instructor is engaged in teaching or instructing another person, immediately; or
 - (ii) where such instructor is not so engaged, within seven days, to produce his instructor's certificate and evidence of the registration of the relevant driving school;
- (d) examine any motor vehicle in order to satisfy himself whether it is in fact the motor vehicle in respect of which a document referred to in paragraph (b) was issued;
- (e) impound any document referred to in paragraph (b) which appears to be or which he suspects to be invalid or which has been or appears to have been unlawfully altered or defaced or which is being put to unlawful use, and where any document is so impounded, the inspector shall issue a receipt therefor to the person concerned;

- (f) require the owner, title holder, operator, driver or person in charge of any vehicle forthwith to furnish his name and address, and give any other particulars required as to his identification;
- (g) demand from any person immediately to produce a licence or any other prescribed authorization authorizing him drive that motor vehicle;
- (h) impound any licence or document produced to him in terms of paragraph (g) which in his opinion may afford evidence of a contravention of or failure to comply with any provision of this Act, and where any licence or document is so impounded, the inspector shall issue a receipt thereof to the person concerned;
- (i) require a person to furnish him with any information as is within the power of such person to furnish and which may lead to the identification of the driver, owner, operator or person in charge of a vehicle at any time or during a certain period;
- (j) at any reasonable time, having regard to the circumstances of the case, without prior notice, and in the exercise of any power or performance of any duty which in terms of this Act he has, may enter any premises on which he has reason to believe that a vehicle is kept.

Functions of a police officer/traffic officer.

7. (1) In addition to the functions assigned to a police officer/traffic officer under this Act and any other law a police officer/traffic officer may —
- (a) perform any of the functions assigned to an inspector of licences;
 - (b) when in uniform, require the driver of a vehicle to stop such vehicle;
 - (c) inspect, test or cause to be inspected and tested by a person whom he considers competent to do so, any part and the functioning of any vehicle, and the equipment thereof, with a view to ascertaining whether such vehicle or the functioning thereof and the equipment comply with the provisions of this Act, but subject that no such officer or person instructed by such officer to inspect or test such vehicle shall, in the exercise of the authority hereby conferred upon him, dismantle the mechanism or any working parts of any motor vehicle unless he is also a qualified motor mechanic or has passed an examination for examiners of vehicles as prescribed and, if he has passed an examination for examiners of vehicle as prescribed and, if he has so dismantled such vehicle, he shall reassemble the dismantled mechanism or parts unless requested by the person in charge of the vehicle not to do so;
 - (d) ascertain the dimensions of the load, the mass, axle mass load or axle unit mass load of, a vehicle, or the mass of any combination of vehicles, laden or unladen, and if necessary for the purpose of ascertaining such mass, require any vehicle or combination of vehicles to proceed to a massmeter or mass-measuring device, and if the mass of any vehicle or combination of vehicles exceeds the mass allowed in terms of the Act, prohibit the operation of such vehicle or combination of vehicles on a public road until such mass has been reduced or adjusted to comply with the provisions of this Act, but subject thereto that where the load on a vehicle includes any dangerous goods, the reduction and handling of the load shall be undertaken in accordance with the

provisions of any relevant law regulating the packaging and conveyance of such goods and in the manner provided for in such law;

- (e) drive any vehicle when necessary in the performance of his duties if, in the case of the motor vehicle, he is licensed to drive a motor vehicle of the class concerned;
- (f) temporarily forbid a driver who is incompetent and make such arrangements for the safe keeping or placing of the vehicle as in his opinion may be necessary or desirable in the circumstances and require such person to be examined by a medical practitioner at the expense of such person;
- (g) regulate and control traffic upon any public road, and give such directions as may, in his opinion, be necessary for the safe and efficient regulation of such traffic and, where he is of the opinion that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from such road and to follow another route with the vehicle;
- (h) require any person to furnish his name and address and give any other particulars which are required for his identification or for any process if such officer reasonably suspects such person of having committed an offence under this Act or if, in the opinion of such officer, he is able to give evidence in regard to the commission or suspected commission of any such offence;
- (i) impound any document produced to him in terms of section 6(b) read with paragraph (a) of this section which in his opinion may afford evidence of a contravention of or failure to comply with any provision of this Act, and where any document is so impounded, the traffic officer shall issue a receipt thereof to the person concerned;
- (j) inspect a motor vehicle or part thereof and impound any document issued in connection with the registration and licensing of such motor vehicle which relates to such motor vehicle, where it reasonably appears that section 93(4) has been contravened in respect of such motor vehicle or it is found that the engine or chassis number of such motor vehicle differs from the engine or chassis number as specified on the document, may direct that such motor vehicle be taken, there and then, to the nearest police station specified by such traffic officer for police clearance, and may, after such clearance has been obtained, return the impounded document to any person who is entitled thereto, or notify the owner of the motor vehicle concerned that such vehicle must be registered, as the case may be;
- (k) subject to subsection (2), require from the owner, operator or driver of a motor vehicle registered in Swaziland or in any other country, to produce a police clearance in respect of such motor vehicle before allowing that motor vehicle to enter or leave Swaziland.

(2) The Minister may in the prescribed manner exempt an owner, operator or driver from having to produce a police clearance.

Functions of examiner of vehicles.

8. (1) An examiner of vehicles may inspect, examine or test any vehicle in the category of vehicle for which he is graded in terms of section 5(3), and give such orders as he may

deem appropriate, in order to determine whether it is roadworthy and for that purpose may dismantle the vehicle or any part thereof or its equipment or accessories, but he shall reassemble any vehicle so dismantled unless he is requested by the person in charge of the vehicle not to do so.

(2) An examiner of vehicles may drive any vehicle when necessary in the performance of his duties, if, in the case of a motor vehicle, he is licensed to drive a motor vehicle of the class concerned.

Functions of examiner for driver's licences.

9. (1) An examiner for driver's licences shall test any applicant for a learner's licence or driver's licence for the category of vehicles for which he is graded in terms of section 5(3) in the manner and in regard to the matters as prescribed, in order to determine whether such applicant is fit and competent to obtain a learner's or driver's licence for the class of vehicle for which he applies.

(2) An examiner shall only test an applicant for the class of vehicle for which the examiner is licenced.

Functions of inspector for Government vehicles.

10. (1) An inspector for Government vehicles shall investigate the misuse of Government vehicles and in particular shall inspect any Government vehicle and any official document relating to the vehicle and driver thereof to determine whether —

- (a) such driver has lawful authority to drive the vehicle concerned;
- (b) such driver is on a lawfully authorised journey;
- (c) a valid authority has been issued to the driver; and
- (d) any passenger in the vehicle is lawfully authorised to be conveyed as a passenger in such vehicle.

(2) An inspector shall examine any Government vehicle to determine whether —

- (a) the vehicle is roadworthy in terms of this Act; or
- (b) any other offence in terms of this Act had been committed.

(3) An inspector shall, in carrying out his functions under this Act, liaise with the police whenever necessary.

(4) An inspector may in carrying out his functions under subsections (1) and (2), at any time and place, stop any Government vehicle.

(5) Where an inspector has reason to suspect —

- (a) that a Government vehicle is on an unauthorised journey or is carrying unauthorised passengers, luggage, goods or cargo;
- (b) that the driver of a Government vehicle is under the influence of narcotic drugs or intoxicating liquor; or
- (c) that the vehicle is unroadworthy or that any other offence has been committed in terms of this Act'

he shall impound such motor vehicle for any period of time he may deem necessary.

Failure to comply with instruction or direction of inspector of licences, traffic officer, examiner of vehicles or inspector for Government vehicles.

11. (1) A person shall —
- (a) comply with any instruction or direction given to him by an authorised officer or a police officer;
 - (b) not obstruct, hinder or interfere with an authorized officer or police officer in the performance of any function under this Act;
 - (c) not use violence or threaten an examiner or any member of the examiner's family where the examiner is carrying out duties in terms of the Act.
- (2) All documents not required to be kept in the car shall be produced within 7 days after the request.
- (3) Once a document has been produced the receiver shall forthwith notify the person who requested the documents.

Impersonating an authorized officer or inducing any such officer to forsake his duty.

12. (1) A person not being an authorized officer or inspector for Government vehicles shall not by word, conduct or demeanour, pretend that he is an authorized officer or inspector for Government vehicles.
- (2) A person shall not connive with or induce or attempt to induce any authorised officer to omit to carry out his duty or to perform any act in conflict with his duty.

PART III

REGISTRATION AND LICENSING OF MOTOR VEHICLES

Registration of motor vehicles.

13. (1) Every motor vehicle in Swaziland shall, subject to the provisions of sections 14 and 15, whether or not it is operated on a public road, be registered by the title holder thereof in the manner prescribed and on payment of the prescribed fee.
- (2) A person shall not operate a motor vehicle on a public road, which is not registered under this Act.

Motor vehicle deemed to be registered.

14. (1) A motor vehicle which is registered and licensed under any law repealed by section 126 or in terms of any law of a prescribed territory and which was not permanently or ordinarily kept in Swaziland when it was registered and licensed in terms of such law shall, subject to subsection (3), be deemed to be registered in terms of this Part while being operated in Swaziland by or on behalf of the person in whose name such motor vehicle is registered and licensed.
- (2) A motor vehicle which is registered in accordance with a law of a contracting State to the Convention and in accordance with the terms of the Convention shall, subject to the provisions of subsection (3), be deemed to be registered in terms of this Part while in Swaziland —

- (a) during a continuous period of 12 months calculated from the date on which such motor vehicle is brought into Swaziland; or
- (b) until the registration ceases to be of force and effect in terms of the Convention,

whichever event is the earlier, and such vehicle may, notwithstanding anything to the contrary contained in this Part, be operated on a public road while it complies with the provisions of the Convention.

(3) A motor vehicle referred to in subsection (1) or (2) shall no longer be deemed to be registered if such motor vehicle does not comply with the provisions of the said subsections while in Swaziland.

Exemption from registration.

15. The Minister may by regulation exempt any class of vehicles, subject to the prescribed conditions, from the provisions of this Part relating to registration.

Licensing of motor vehicles.

16. (1) Every motor vehicle in Swaziland shall, subject to the provisions of sections 17 and 18, whether or not it is operated on a public road, be licensed by the owner of such motor vehicle in the manner prescribed and on payment of the prescribed fee.

(2) A person shall not operate on a public road any motor vehicle which is not licensed in terms of the regulations under subsection (1).

Motor vehicle deemed to be licensed.

17. (1) A motor vehicle which is deemed to be registered in terms of section 14 shall be deemed, notwithstanding anything to the contrary contained in this Part, to be licensed in accordance with the provisions of this Part.

(2) A motor vehicle owned by a motor dealer for the purposes of sale or exchange in the course of his business as a motor dealer and if such motor vehicle is not operated on a public road, except under a motor trade number, shall be deemed, notwithstanding anything to the contrary contained in this Part, to be licensed in accordance with the provisions of this Part.

(3) A motor vehicle referred to in subsection (1) shall no longer be deemed to be licensed, with effect from the date from which such motor vehicle shall no longer be deemed to be registered as contemplated in section 14(3), and the owner of such motor vehicle shall be liable to license such motor vehicle in terms of this Part.

Exemption of motor vehicles from licensing.

18. The Minister may by regulation exempt any class of vehicles, on the prescribed conditions, from the provisions of this Part relating to licensing.

Motor trade number.

19. (1) A person who is a manufacturer, builder, importer, motor transport contractor or motor dealer may operate a motor vehicle which may not otherwise be operated on a public road, under a motor trade number issued in terms of this Part for the purposes of —

- (a) delivery of such motor vehicle by a motor transport contractor, in the course of his business;
- (b) delivery, sale, exchange, repair or building of a permanent structure on such motor vehicle by a motor dealer;
- (c) delivery or testing by the manufacturer or builder of such motor vehicle; or
- (d) delivery of such motor vehicle by an importer.

(2) A person who is a deposit-taking institution and who is a credit grantor in respect of a motor vehicle which is subject to an instalment sale transaction, or a leasing transaction; and he desires to operate on a public road for the purpose of repossession such motor vehicle.

(3) An application for a motor trade number and the issuing of such number shall be made in the prescribed manner and be accompanied by the prescribed fee.

(4) A person shall not operate a motor vehicle under a motor trade number, except for the purposes referred to in this section.

Motor trade number to be licensed.

20. Every motor trade number issued under this Act shall be licensed by the holder of such motor trade number in the prescribed manner and against payment of the prescribed fee.

Number issued in prescribed territory.

21. A number which has a similar purpose to that of a motor trade number, and which is issued in a prescribed territory in accordance with the laws of such territory, shall be deemed to be a motor trade number for the purposes of this Part when such number is displayed on a motor vehicle which is operated on a public road in Swaziland.

Temporary and special permits.

22. (1) A person who desires to operate a motor vehicle on a public road which has not been registered and licensed, which may not otherwise be so operated, may —

- (a) if such person is the owner of the motor vehicle, obtain, in the manner prescribed and on payment of the prescribed fee, a temporary permit in respect of such motor vehicle in order to operate such motor vehicle on a public road as if it is registered and licensed, if such motor vehicle is to be —
 - (i) delivered by or to such owner, who is a motor dealer; or
 - (ii) registered and licensed in accordance with this Part, but only during the period permitted for such registration and licensing;
- (b) obtain, in the manner prescribed and against payment of the prescribed fee, a special permit in respect of such motor vehicle in order to operate such motor vehicle on a public road as if it is registered and licensed, for purposes of —
 - (i) testing such motor vehicle;

- (ii) proceeding to or returning from a place where repairs are to be made; or/and
- (iii) reaching an examiner of vehicles or mass measuring apparatus; or
- (iv) repossessing such motor vehicle, as contemplated in section 19(2).

(2) A temporary permit —

(a) shall not be issued in respect of —

- (i) a motor vehicle imported by a person other than an importer;
- (ii) a used motor vehicle which is required to be registered and licensed by reason of a change in ownership thereof;
- (iii) a motor vehicle which has been built up from parts of other motor vehicles;
- (iv) a motor vehicle which has been reconstructed or altered; or
- (v) a motor vehicle which has been manufactured, built or imported by a manufacturer, builder or importer,

unless a roadworthy certificate in respect of such motor vehicle is submitted;

(b) shall not be issued in respect of a motor vehicle, of which the owner changes, unless the new owner of such motor vehicle submits an application for the licensing thereof in terms of section 16;

(c) that is blank, may only be issued to a motor dealer.

(3) The owner of a motor vehicle which is licensed who cannot forthwith display the registration mark or vehicle licence disc of such vehicle may obtain a special permit in order to operate the motor vehicle on a public road.

(4) A special permit shall not authorise the holder of such permit to convey persons or goods in the motor vehicle concerned.

PART IV

FITNESS OF DRIVERS

Driver of motor vehicle to be licensed.

23. (1) A person shall not drive a motor vehicle on public road except under the authority and in accordance with the conditions of a licence issued to him under this Act or of any document deemed to be a licence for the purposes of this Part and unless he keeps such licence or document or any other prescribed authorisation with him in the vehicle.

(2) A person who is the operator or owner or has the charge or control of a motor vehicle shall not employ or permit any other person to drive such motor vehicle upon a public road unless such other person is licensed to drive a motor vehicle of the class concerned.

Issue of learner's and driver's licences.

24. A licence authorising the driving of a motor vehicle shall be issued in the prescribed manner and in accordance with the provisions of this Act and shall be either —

- (a) a provisional licence, to be known as a learner's licence; or
- (b) a licence, to be known as a driver's licence,

and, except as otherwise provided in this Act, no person shall be examined or tested for the purpose of the issue to him of a driver's licence unless the person is the holder of a learner's licence of that particular category.

Prescribing classification of and other matters relating to learner's and driver's licences.

25. Subject to the provisions of this Part, the Minister may make Regulations relating to —
- (a) the category of a learner's or driver's licence;
 - (b) the class of motor vehicle to which each category of such licence relates;
 - (c) the authority conveyed by such licence;
 - (d) the period of validity of such licence;
 - (e) the limitations to which the authority conveyed by such licence shall be subject and the cancellation and amendment of such limitations;
 - (f) the form and content of such licence;
 - (g) the issue of international driving permits.

Validity of licence to drive a motor vehicle issued under repealed Act or any prior legislation.

26. (1) A licence authorising the driving of a motor vehicle which —
- (a) was issued in terms of the provisions of the repealed Act;
 - (b) was deemed to be a licence in terms of the repealed Act,

shall, subject to subsection (2), be deemed to be a licence issued in terms of this Act.

(2) The Minister may, by notice in the Gazette, determine the period of validity of a licence referred to in subsection (1) and different periods of validity may be determined with regard to different categories of licences.

- (3) Notwithstanding the provisions of this Act —
- (a) a public driver's permit referred to in section 62 of the repealed Act;
 - (b) any document or endorsement issued or made by a competent authority in any prescribed territory and serving a similar purpose to that of a public driver's permit;

shall, subject to the conditions thereof, be deemed to be a professional driver's permit.

Disqualification from obtaining or holding learner's or driver's licence.

27. (1) A person is disqualified from obtaining or holding a learner's or driver's licence —
- (a) if in the case of a licence for a motor cycle, motor tricycle or motor quadracycle having an engine with a cylinder capacity not exceeding 125 cubic centimetres or which is propelled by electrical power or which is a vehicle as contemplated in paragraph (b) of the definition of "motor vehicle", he is under the age of 16 years;
 - (b) if in the case of a learner's licence for a light motor vehicle, being a motor vehicle not of a class as referred to in subparagraph (a) and the tare of which does not exceed 3 500 kilograms or, where such motor vehicle is —

- (i) a bus or goods vehicle, the gross vehicle mass of which does not exceed 3 500 kilograms;
- (ii) an articulated motor vehicle, the gross combination mass of which does not exceed 3 500 kilograms,

he is under the age of 20 years;

- (c) if in the case of any other licence, including the public service vehicle, he is under the age of 25 years;
- (d) during any period in respect of which he has been declared by a competent authority to be disqualified from obtaining or holding a licence to drive a motor vehicle, while such disqualification remains in force;
- (e) where a licence to drive a motor vehicle held by him has been suspended by a competent authority, while such suspension remains in force;
- (f) where a licence to drive a motor vehicle held by him has been cancelled by a competent authority, while such cancellation remains in force;
- (g) if such licence relates to a class of motor vehicle which he may already drive under a licence held by him;
- (h) if he is suffering from one or other of the following diseases or disabilities —
 - (i) uncontrolled epilepsy;
 - (ii) sudden attacks of disabling giddiness or fainting due to hypertension or any other cause;
 - (iii) any form of mental illness to such an extent that it is necessary that he be detained, supervised, controlled and treated as a patient in terms of any applicable Act;
 - (iv) any condition causing muscular incoordination;
 - (v) uncontrolled diabetes mellitus;
 - (vi) defective vision as ascertained in accordance with the prescribed standard;
 - (vii) any other disease or physical or mental disability which is likely to render him incapable of effectively driving and controlling a motor vehicle of the class to which such licence relates without endangering the safety of the public, but deafness shall not of itself be deemed to be such a disability;
- (i) if he is addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor;
- (i) with effect from a date determined by the Minister in the Gazette, if his offences record indicates, in accordance with the prescribed criteria, that he fails to comply with the provisions of this Act;
- (k) in such other circumstances as may be prescribed, either generally or in respect of a particular class of learner's or driving licence.

(2) The Minister may, on such conditions as he may deem fit, declare on such conclusion as he may determine, that a person shall no longer be subject to any disqualification, suspension or cancellation referred to subsection (1)(d), (e) or (f), respectively.

Failure to disclose disqualification in respect of licence authorising the driving of motor vehicle.

28. (1) A person shall not, when applying for a learner's or driver's licence, wilfully fail to disclose any disqualification to which he is subject in terms of section 27.

(2) A person who —

(a) is the holder of a licence authorising the driving of a motor vehicle in terms of this Act; and

(b) becomes aware of the fact that he is disqualified from holding such licence,

shall, within a period of 21 days after having so become aware of the disqualification, submit such licence to the Minister or any other person designated by the Minister.

(3) When a licence is submitted in terms of subsection (2) the Minister shall cancel it and notify the office where record of such licence is kept, of the cancellation, provided that the licence shall not be cancelled if the Minister is satisfied that the holder thereof is competent to drive the class of motor vehicle concerned with the aid of glasses or contact lenses, an artificial limb or any other physical aid, in which case the Minister shall —

(a) endorse the licence accordingly and such endorsement shall be a condition subject to which the licence is held;

(b) return the licence to the holder thereof; and

(c) notify the said office accordingly.

Minister may appoint driver's licence testing centre.

29. (1) The Minister may appoint a person or department of Government as a driver's licence testing centre and such driver's licence testing centre shall be registered and graded in the prescribed manner upon compliance with the prescribed requirements.

(2) Where the Minister has appointed a driver's licence testing centre in terms of subsection (1), that driver's licence testing centre may perform the functions assigned to it by the Minister.

Suspension or cancellation of registration of driver's licence testing centre.

30. The Minister may, if in his opinion a driver's licence testing centre operated by any person or a department of Government no longer complies with the requirements referred to in section 29, suspend, for a period not exceeding three months, or cancel the registration of that driver's licence testing centre in the prescribed manner.

Application for and issue of learner's licence.

31. (1) A person desiring to obtain a learner's licence shall apply in person in the prescribed manner for the issue of such licence.

(2) An application made in terms of subsection (1) shall be accompanied by the prescribed fees.

(3) A learner's licence shall not be issued to an applicant, unless such applicant complies with the prescribed requirements and is not disqualified in terms of section 27.

(4) A person shall not issue or authorise the issue of a learner's licence contrary to the provisions of this Act.

Application for and issue of driver's licence.

32. (1) The holder of a learner's licence who desires to obtain a driver's licence shall apply in the prescribed manner for a licence to drive a motor vehicle of a class the driving of which is authorised by his learner's licence.

(2) An application made in terms of subsection (1) shall be accompanied by the prescribed fees.

(3) A driver's licence shall not be issued to an applicant, unless such applicant complies with the prescribed requirements and is not disqualified in terms of section 27.

(4) An examiner for driver's licences shall test an applicant for a driver's licence in the manner and in respect of the matters, as prescribed.

(5) If an examiner for driver's licences has satisfied himself in terms of subsection (4) that an applicant for a driver's licence is competent to drive a motor vehicle of the class to which such applicant's application relates, such examiner shall authorise the issue of a driver's licence in the prescribed manner to such applicant in respect of such class of motor vehicle and such driver's licence shall —

(a) in the case where the licence relates to a motor vehicle equipped with an automatic transmission or which is propelled by electrical power, be endorsed to the effect that authorisation is granted only for the driving of a motor vehicle equipped with an automatic transmission or which is propelled by electrical power, as the case may be;

(b) in the case where the applicant is found to be competent to drive with the aid of glasses or contact lenses, an artificial limb or other physical aid, be endorsed accordingly;

(c) in the case where the applicant is a physically disabled person and the licence relates to a motor vehicle which is specially adapted, constructed or equipped for the use of a person who is disabled, be endorsed accordingly.

(6) A driver's licence shall be issued upon payment of the prescribed fee.

(7) The holder of a driver's licence may apply for the renewal of such licence prior to the expiry of the period of validity of such licence.

(8) An application made in terms of subsection (7) shall be made in the prescribed manner and accompanied by the prescribed fees.

(9) A person shall not issue a driver's licence or authorise the issue of a driver's licence contrary to the provisions of this Act.

Substitution of certain driver's licences.

33. (1) From a date fixed by the Minister by notice in the Gazette, a person who is the holder of a driver's licence referred to in section 26 may apply in the prescribed manner for a driver's licence to be issued to him in substitution of such first-mentioned licence.

(2) An application made in terms of subsection (1) shall be accompanied by the prescribed fees.

(3) A licence referred to in subsection (1) shall be issued upon payment of the prescribed fee.

Power of Minister in respect of examination and testing of applicant for learner's or driver's licence.

34. Notwithstanding anything to the contrary contained in this Act, the Minister may, whenever he deems it expedient, direct where and by which examiner of driver's licences an applicant for a learner's or driver's licence shall be examined and tested and at which testing centre such applicant may apply for a driver's licence or the renewal of such licence.

When licence not issued in terms of this Act deemed to be a driver's licence.

35. (1) Subject to section 27 and subsection (2) of this section and the prescribed conditions —

- (a) a licence authorising the driver of a motor vehicle and which is issued in any country other than Swaziland or another territory; and
- (b) an international driver's permit which is issued in any other country or other territory while the holder thereof was not permanently or ordinarily resident in Swaziland,

shall, in respect if the class of motor vehicle to which such licence or permit relates and subject to the conditions thereof, be deemed to be a licence for the purposes of this Act, but if that licence is a provisional licence or an international driver's permit, it shall not authorise the driving of a motor vehicle carrying passengers for which an operator must be registered, in terms of the Road Transportation Act.

(2) (a) The period for which a licence or a permit referred to in subsection (1) shall be deemed to be a licence for the purposes of this Act, shall be as prescribed and different periods may be so prescribed in respect of licences or permits issued by different countries.

(b) The holder of such licence or driving permit may, subject to the prescribed conditions, apply for a driver's licence in substitution of such licence or permit and for that purpose section 33 shall apply *mutatis mutandis*.

Suspension or cancellation by the Minister of licence authorising the driving of a motor vehicle.

36. (1) The Minister may, upon proof to his satisfaction that the holder —

- (a) of a learner's driver's licence is disqualified in terms of section 27 from holding such licence, cancel such licence;
- (b) of such licence would constitute a source of danger to the public by driving a motor vehicle on a public road, cancel or suspend such licence; or
- (c) of such licence, has a record of convictions which exceeds the limit of type and number prescribed, cancel or suspend such licence.

(2) For the purposes of subsection (1) —

- (a) the Minister may request the holder of a licence to submit himself within such period as the Minister may determine to an examination and a test by one or more examiners of driver's licences nominated by the Minister, to determine his competency to drive a motor vehicle of the class to which his licence re-

lates, and for the purpose of such examination and test the holder of the licence shall provide a motor vehicle of the relevant class;

- (b) the holder of the licence concerned may request that he be submitted to such examination and test to determine his competency to drive a motor vehicle —
 - (i) of any other class of which the driving is authorised by his licence; or
 - (ii) of a specified class,

and for the purpose of such examination and test the driver shall provide a motor vehicle of the class concerned;

- (c) the Minister may request the holder of the licence to submit himself within such period as the Minister may determine to an examination by a medical practitioner nominated by the Minister to determine his physical and mental fitness to drive a motor vehicle.

(3) If the holder of a licence is after the examination and test in terms of subsection (2)(a) or (b) found to be competent to drive a motor vehicle of the class provided by the driver and is not disqualified in terms of section 27, the Minister may direct —

- (a) that every licence authorising the driving of a motor vehicle and of which the driver is the holder shall be cancelled; and
- (b) that a driver's licence in respect of a motor vehicle of the class provided by him shall be issued to the driver free of charge, and for that purpose section 32(5)(a) and (b) shall apply *mutatis mutandis*.

(4) The cost of an examination referred to in subsection (2)(c), shall be at the expense of the State.

(5) If a person fails to comply with a request in terms of subsection (2), the Minister may forthwith suspend or cancel, as the case may be, the licence concerned unless such person is able to satisfy the Minister within a period determined by the Minister that such failure was due to a reason beyond his control and that such licence should not be so suspended or cancelled.

(6) The suspension or cancellation of a licence in terms of this section shall apply to any other learner's or driver's licence held by the holder of such suspended or cancelled licence as the Minister may determine.

(7) When a licence is cancelled or suspended in terms of subsection (1) or is cancelled in terms of subsection (3)(a), the holder thereof shall forthwith submit the licence to the Minister or an inspector of licences authorised thereto by the Minister and where the licence has been suspended, the Minister or inspector of licences, as the case may be, shall retain the licence until the period of suspension expires.

(8) The Minister may, where he deems it expedient and upon such conditions as the Minister may determine, reinstate a licence suspended in terms of this section in the prescribed manner.

(9) The Minister may, where he deems it expedient and upon such conditions as he may determine, authorise a person whose licence has been cancelled in terms of this section to apply for a learner's and a driver's licence.

(10) A person whose licence has been cancelled in terms of this Act or the repealed Act shall be deemed to be unlicensed, and a person whose licence as aforesaid has been suspended

in terms of this Act or the repealed Act shall, during the period of such suspension, be deemed to be unlicensed.

Void of learner's licence or driver's licence issued contrary to the provisions of this Act.

37. A learner's licence or driver's licence issued contrary to the provisions of this Act shall be void, and the holder of such licence shall, upon the request of the Minister or the authority which issued such licence or a traffic officer, as the case may be, forthwith submit it to the Minister or such authority or officer, as the case may be, who shall cancel the licence, but subject thereto that —

- (a) a traffic officer may cancel such licence only with the prior approval of the Minister; and
- (b) the said authority or traffic officer, as the case may be, shall forthwith notify the Minister of the cancellation.

Use of learner's or driver's licence by another person prohibited.

38. A person who is the holder of a learner's or driver's licence shall not allow such licence to be used by any other person.

Permitting or assisting unlicensed driver to drive motor vehicle.

39. A person who is the owner or operator or is in charge or control of a motor vehicle shall not employ or permit any other person to drive such vehicle on a public road unless such other person is licensed under this Act to drive such vehicle.

Professional driver's permit.

40. (1) A person shall not drive a motor vehicle of a prescribed class on a public road unless he is the holder of a valid professional driving permit entitling him to drive that class of motor vehicle and he keeps such permit with him on the motor vehicle concerned.

(2) No person who is the owner, operator or is in charge or control of a motor vehicle of a prescribed class shall employ or permit any other person to drive that class of motor vehicle on a public road, unless such other person is the holder of a valid professional driver's permit entitling him to drive that class of motor vehicle.

(3) The categories of nature and extent of the authority granted by period of validity of form and content of application for and issue of fees payable in respect of suspension and cancellation of incorporation in any other document of, and other necessary or expedient matter in relation to professional driver's permits, shall be as prescribed.

Production of licence to court.

41. (1) If a person is charged with an offence under this Act relating to the driving of a motor vehicle or failure to stop after an accident or report an accident, or appeals against a conviction on such charge or any sentence imposed or order made pursuant to such conviction, he shall produce every licence of which he is the holder or a duplicate, if he is not in possession of the original, to the court at the time of the hearing of the charge or appeal, as the case may be.

(2) A person who pays an admission of guilt fine relating to an offence under this Act, shall upon payment of such fine, produce his licence or a duplicate to the person to whom he is paying such fine.

(3) A person referred to in subsection (1) or (2), shall produce every licence, of which he is the holder, in terms of that subsection.

(4) For the purposes of —

(a) sections 41 to 44, inclusive, “licence” means a learner’s or driver’s licence or a professional driver’s permit;

(b) in this section, “duplicate” means a duplicate of a licence issued under section 114.

Suspension of licence upon conviction of certain offences.

42. (1) The licence of person convicted by a court of an offence referred to in Part IX shall, in the case of —

(i) a first offence, be suspended for a period of at least three months;

(ii) a second offence, be suspended for a period of at least one year;

(iii) a third or subsequent offence, be suspended for a period of at least five years, calculated from the date of sentence.

(2) A person who is not the holder of a licence shall, on conviction of an offence be disqualified from obtaining a learner’s or driver’s licence for the relevant period referred to in paragraph (i), (ii) or (iii) of subsection (1) calculated from the date of sentence.

Court may issue order for endorsement, suspension or cancellation of licence or disqualify person from obtaining licence.

43. (1) A court convicting a person of an offence under this Act, or of an offence at common law, relating to the driving of a motor vehicle or a failure to stop or report an accident, may, in addition to imposing a sentence, issue an order, if the person convicted is —

(a) the holder of a licence, that particulars of the conviction, sentence and any other order of the court consequent thereon be endorsed on such licence, and the registrar or clerk of such court concerned shall endorse such licence accordingly;

(b) the holder of a licence, that such licence be suspended for such period as the court may consider appropriate or that such licence be cancelled, and any such order shall be endorsed on such licence as provided for in paragraph (a);

(c) not the holder of a licence, declare him to be disqualified from obtaining a licence, either indefinitely or for such period as the court may consider appropriate;

(d) the holder of a licence, that such licence be cancelled and that the person convicted be disqualified from obtaining a licence for any class of motor vehicle for such period of time as the court may consider appropriate.

(2) The making of any endorsement in terms of subsection (1) may be postponed by the court issuing the order until an appeal against the conviction or sentence or both has been disposed of.

Procedure subsequent to endorsement, suspension or cancellation of licence or permit.

44. (1) If a court has issued an order that a licence be endorsed, suspended or cancelled, the registrar or clerk of such court shall advise the office where record of such licence is kept, of the conviction and sentence of the person concerned.

(2) Where the court has issued an order that a licence be cancelled, the registrar or clerk of such court shall transmit such licence to the office referred to in subsection (1) and that office shall notify the Minister of such cancellation.

(3) A licence which has been suspended as a result of an order of court shall, after it has been endorsed accordingly by the registrar or clerk of the court concerned, be returned to the person entitled thereto after the period of suspension has expired.

(4) Whenever a licence is endorsed, suspended or cancelled in terms of an order of court, the endorsement, suspension or cancellation shall apply to every other licence held by the person concerned, and every such other licence shall be endorsed accordingly by the registrar or clerk of such court and thereafter returned to the person entitled thereto, but subject that if such other licence —

- (a) is suspended, that licence shall be kept by the registrar or clerk of the court until the period of suspension has expired; or
- (b) is cancelled, that licence shall be transmitted by the registrar or clerk of the court to the office referred to in subsection (1) and that office shall notify the Minister of such cancellation.

Lapsing of endorsement on licence, reinstatement of suspended licence and authority to apply for licence.

45. (1) An endorsement pursuant to any order of a court effected upon a licence authorising the driving of a motor vehicle under this Act, shall lapse after the expiry of a period of three years from the date on which such endorsement was made, if during such period no further endorsement has been made on that licence and no other period of suspension of such licence shall be included in the calculation of the period of three years.

(2) Where, in relation to a driver's licence, all endorsements have lapsed in terms of subsection (1), a driver's licence free from any endorsements may upon application by the holder thereof in the prescribed manner and upon payment of the prescribed fee be issued to such holder.

(3) Notwithstanding subsections (1) and (2), a court may, on good cause shown and subject to such conditions as it may deem fit —

- (a) reinstate a licence suspended by the court; or
- (b) authorise a person whose driver's licence was cancelled by it, or whom it declared to be disqualified from obtaining a driver's licence, to apply for and obtain a learner's and driver's licence in accordance with the provisions of this Act.

(4) An application for the reinstatement of a driver's licence, or authority to apply for and obtain a driver's licence shall be made in the prescribed manner and shall be accompanied by the prescribed fee.

Instructor to obtain a certificate.

46. (1) A person shall not act as an instructor unless that person holds an instructor's certificate issued to him by the Minister.

(2) A person shall not employ, or make use of the services of, any other person as an instructor unless such other person is the holder of an instructor's certificate.

(3) The manner in which an application for an instructor's certificate shall be made, the fees which shall accompany such application, the manner in which such certificate shall be issued, the conditions applicable to, and fees payable for issuing, such certificate, shall be as prescribed.

(4) The Minister may, in the prescribed manner, suspend for such period as the Minister may deem fit, or cancel, the certificate of an instructor who fails to comply with the conditions applicable to an instructor in terms of this section.

Registration of driving school.

47. (1) A person shall not, from a date determined by the Minister by notice in the Gazette, operate a driving school unless such driving school is registered in terms of this Act.

(2) (i) A person desiring to register a driving school shall apply in person to the Minister in the manner prescribed and such application shall be accompanied by the appropriate fee.

(ii) Prior to registering, a motor vehicle to be used at a driving school the motor vehicle must obtain a roadworthy certificate from a testing station and thereafter within every subsequent six (6) months.

(3) The documents required for, the form thereof and the information relating to an application referred to in subsection (2) and the information to be furnished in such documents for such driving school, procedure for the issue of a registration certificate for a driving school, including the fee for such issue and the period of validity of a registration certificate shall be as prescribed.

(4) The Minister shall, when satisfied that the driving school referred to in subsection (2) complies with the prescribed requirements, register the driving school in the manner prescribed.

(5) A person referred to in subsection (2) shall on the change of any of the information submitted thereunder notify the Minister in the manner prescribed of such change.

PART V

FITNESS OF VEHICLES

Minister may appoint testing station and an agent.

48. (1) The Minister may appoint a juristic person or department of State as a testing station and such testing station shall be registered and graded in the prescribed manner upon compliance with the prescribed requirements.

(2) Where the Minister has appointed a testing station in terms of subsection (1), that testing station may perform the function assigned to it by the Minister.

(3) The Minister may appoint an agent to investigate and authorise the registration of all imported second-hand vehicle to establish their history and value, and the availability of their spare parts.

(4) For the purpose of subsection (3) an imported second-hand vehicle for use as public transport to convey passengers shall not be older than five years at the date of purchase.

Suspension or cancellation of registration of testing station.

49. The Minister may, if in his opinion a testing station no longer complies with the requirements referred to in section 48, suspend, for such period as the Minister may consider appropriate, or cancel the registration of that testing station in the prescribed manner.

Roadworthy certificate required in respect of motor vehicle.

50. (1) A person shall not operate a motor vehicle on a public road if such motor vehicle is not in a roadworthy condition.

(2) A person shall not operate a motor vehicle of a prescribed class on a public road unless there is in force in respect of such vehicle a roadworthy certificate attesting to its fitness, and except in accordance with the conditions of such certificate.

(3) Subject to the provisions of this Part —

- (a) the classes in which motor vehicles are classified for the purposes of prescribing the requirements relating to roadworthiness and the requirements for roadworthiness certification applicable to each class of motor vehicle;
- (b) the categories of roadworthy certificates;
- (c) the period of validity of such certificates;
- (d) the examination of motor vehicles;
- (e) the application for such roadworthy certificates;
- (f) requirements for the issue or renewal of roadworthy certificates;
- (g) the manner in which such certificates shall be issued or renewed;
- (h) the suspension or cancellation of such certificates;
- (i) the fees in relation to the application for, issue or renewal of such roadworthy certificates;
- (j) any other matter regarding roadworthy certificates which the Minister may consider necessary or expedient,

shall be as prescribed.

(4) A valid certificate of fitness or roadworthiness issued under the repealed Act shall, in accordance with the conditions thereof but subject to the provisions of this Act, be deemed to be a roadworthy certificate for the purposes of subsection (2).

(5) Any document issued by a competent authority in any prescribed territory and serving a similar purpose to that of a roadworthy certificate shall, in accordance with the conditions thereof but subject to the provisions of this Act, be deemed to be a roadworthy certificate for the purposes of subsection (2).

PART VI

ROAD TRAFFIC SIGNS, GENERAL SPEED LIMIT AND PARKING METERS

Minister may prescribe road traffic signs.

51. (1) The Minister may, subject to the provisions of this Act and for the purpose of prohibiting, limiting, regulating or controlling traffic in general or any particular class of traffic on a public road or a section of such a road or for the purpose of designating a public road or section thereof as a public road of a particular class, prescribe such signs, signals, markings or other devices (to be known as road traffic signs), as he may deem expedient, as well as their significance and the conditions and circumstances under which such road traffic signs may be displayed on a public road.

(2) The Minister may, subject to such conditions as he may deem expedient, authorise a person or body to display on a public road any sign, signal, marking or other device for the purpose of ascertaining the suitability of such sign, signal or device as a road traffic sign.

Authority to display road traffic sign.

52. (1) The Minister responsible for Construction and Maintenance of Roads, or any person authorised thereto by the Minister may in respect of a public road cause or permit to be displayed in the prescribed manner such road traffic signs as he may deem expedient.

(2) The Minister responsible for the Construction and Maintenance of Roads, or any person authorised thereto by him either generally or specifically may, in respect of a public road not situated within a local authority area, cause or permit to be displayed in the prescribed manner such road traffic signs as he may deem expedient.

(3) A local authority, or a person authorised thereto by it in writing, either generally or specifically, may in respect of a public road within its local authority area, display or cause to be displayed in the prescribed manner such road traffic signs as such authority or person may deem expedient.

(4) In the circumstances and subject to such conditions as may be determined by the Minister responsible for Construction and Maintenance of Roads, scholars and students may be organised into patrols (to be known as scholars' patrols) for the purpose of displaying, in the prescribed manner, an appropriate road traffic sign so as to ensure the safety of scholars and students crossing a public road.

(5) The Minister responsible for Construction and Maintenance of Roads may authorise any association or club to display such road traffic signs, subject to such conditions as the Minister may deem expedient, on any public road referred to in subsection (2) or (3), and any such association or club may thereupon, in the prescribed manner, display a badge or other token of the association or club in conjunction with any such road traffic sign.

(6) Any road traffic sign displayed, at the commencement of this Act, in terms of the repealed Act and which complies with a road traffic sign referred to in section 51, shall be deemed to be displayed in terms of this Part.

(7) A person shall not display a road traffic sign on a public road unless that person is authorised thereto in terms of this Act.

(8) The Minister responsible for Construction and Maintenance of Roads or, within a local authority area, the local authority concerned, may by notice in writing direct the owner or occupier of land on which any road traffic sign or other object resembling a road traffic sign is displayed, or on which any object is displayed which obscures or interferes with the

effectiveness of a road traffic sign, to remove such sign or object within a period stated in the notice, and if the owner or occupier concerned fails to comply with such notice, the Minister responsible for Construction and Maintenance of Roads or local authority, as the case may be, may cause such sign or other object to be removed.

(9) A person shall not damage a road traffic sign, or any other sign, signal, marking or other device displayed in terms of this Act, or without proper authority remove it or alter the position thereof or the inscription, lettering, colour or design thereof or thereon.

Failure to obey road traffic signs.

53. (1) Subject to subsection (3), a person shall comply with all direction conveyed by a road traffic sign displayed on the roads, unless otherwise directed by a traffic officer or traffic warder.

(2) In any prosecution for a contravention of or a failure to comply with subsection (1), it shall be presumed, until the contrary is proved, that the road traffic sign concerned was displayed by the proper authority pursuant to the powers granted by this Act and in accordance with the provisions of this Act.

(3) The driver of a fire-fighting vehicle, rescue vehicle or an ambulance, who drives such vehicle in the performance of his duties, a traffic officer who drives a vehicle in the performance of his duties, or any person who drives a vehicle while engaged in civil defence, may disregard the directions of a road traffic sign which is displayed in the prescribed manner, but subject thereto that —

- (a) such driver shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of a fire-fighting vehicle, a rescue vehicle, an ambulance or a vehicle driven by a person while that person is engaged in civil defence, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, and such device shall be constantly sounded and such lamp shall be in operation while the vehicle is driven in disregard of the road traffic sign.

Speed limit.

54. (1) The general speed limit —

- (a) in respect of every public road or section thereof, other than a freeway, situated within an urban area;
- (b) in respect of every public road or section thereof, other than a freeway, situated outside an urban area;
- (c) in respect of every freeway,

shall be as prescribed.

(2) An appropriate road traffic sign may be displayed in terms of section 52 on any public road indicating a speed limit other than the general speed limit which in terms of subsection (1) applies in respect of that road and that other speed limit shall not be higher than the speed limit prescribed in terms of subsection (1)(c).

(3) The Minister may in respect of any particular class of vehicle prescribe a speed limit which is lower or higher than the general speed limit prescribed in terms of subsec-

tion (1)(b) or (c) and that speed limit so prescribed shall not supersede a lower speed limit indicated in terms of subsection (2) by an appropriate road traffic sign.

- (4) No person shall drive a vehicle on a public road at a speed in excess of —
 - (a) the general speed limit which in terms of subsection (1) applies in respect of that road;
 - (b) the speed limit indicated in terms of subsection (2) by an appropriate road traffic sign in respect of that road;
 - (c) the speed limit prescribed by the Minister in terms of subsection (3) in respect of the class of vehicle concerned.

Certain drivers may exceed general speed limit.

55. Notwithstanding section 54, a driver of a fire-fighting vehicle, a rescue vehicle, an ambulance or a traffic officer who drives such a vehicle in the performance of his duties, while engaged in civil defence, may exceed the applicable general speed limit, but subject thereto that —

- (a) he shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of vehicles driven in terms of paragraph (a) such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, and such device shall be constantly sounded and such lamp shall be in operation while the vehicle is driven in excess of the applicable general speed limit.

Power of local authority to collect parking fees.

56. (1) A local authority may, by resolution, charge fees in respect of the parking of vehicles on any public road or section thereof within its local authority area.

(2) The fees referred to in subsection (1) may differ in respect of different public roads or different sections of the same public road.

(3) If a parking meter is installed for the purpose of collecting fees referred to in subsection (1), it shall be installed in conjunction with a demarcated parking bay or bays and shall bear thereon a legend indicating the days and hours when payment shall be made for parking and the amount payable for a specific period of parking.

(4) A local authority may establish upon a public road within its local authority area, ranks or stands (to be known as special parking places) for the parking of passenger-carrying motor vehicles or any class of such vehicles.

(5) If a method other than a parking meter is used to collect the fees referred to in subsection (1), provision shall be made for a sign to be displayed at the parking area concerned indicating the days and hours when payment shall be made for parking, the amount payable for a specific period of parking and the manner of payment.

(6) The period of time for which a vehicle may be lawfully parked in a parking bay referred to in subsection (3), shall, unless the contrary is proved, be as measured by the parking meter for such bay.

(7) If any method other than a parking meter is used to collect the fees referred to in subsection (1), the period of time for which a vehicle may be lawfully parked in a parking area

referred to in subsection (5), shall, unless the contrary is proved, be as measured by means of the method concerned in respect of the vehicle concerned.

(8) All fees collected by a local authority by means of a parking meter, or in respect of a parking area or special parking place as contemplated in this section, shall, except with the written approval of the Minister, be used only to defray the cost of, and incidental to any, scheme, work or undertaking for the improvement or regulation of traffic conditions within the local authority area, including the cost of installing and maintaining such parking meter, parking area or special parking place.

(9) The exercise by a local authority of its powers under this section shall not render that local authority subject to any liability in respect of the loss of or damage to any vehicle or the contents of fittings of any such vehicle while such vehicle is in a parking bay, parking area or special parking place.

Prohibition of erection of certain lamps.

57. Except where the lamps are, in accordance with this Act or any other law, required to be displayed a person shall not erect, maintain or have in operation on or alongside a public road, any lamps exhibiting the colours red, amber or green within a distance of 15 metres of a traffic signal.

PART VII
RULES OF THE ROAD

Vehicle to be driven on left side of roadway.

58. (1) A person driving a vehicle on a public road shall do so by driving on the left side of the roadway and, where such roadway is of sufficient width, in such manner as not to encroach on that half of the roadway to his right, but subject thereto that such encroachment shall be permissible —

(a) where it can be done without obstructing or endangering other traffic or property which is or may be on such roadway and for a period and distance not longer than is necessary and prudent and provided that it is not prohibited by a road traffic sign; or

(b) in compliance with a direction of a traffic officer or a road traffic sign.

(2) The provisions of subsection (1) shall not apply in the case of a public road which is restricted to traffic moving thereon in one direction only.

Driving on divided public road.

59. (1) Whenever a public road has been divided into two or more roadways by means of an intervening space or by a physical barrier or dividing section so constructed as to impede vehicular traffic, a person shall not drive a vehicle upon such public road except upon the left-hand roadway, unless directed or permitted by an appropriate road traffic sign or a traffic officer to use another roadway.

(2) A person shall not drive a vehicle on, over, across or within any dividing space, barrier line whose length is at least 15m or section referred to in subsection (1), except

through an opening in such space, barrier or section or at a cross-over or intersection, but subject thereto that —

- (a) a person shall not so drive through any such opening or at any such cross-over or intersection where such driving is prohibited by an appropriate road traffic sign or by a traffic officer;
- (b) the provisions of this subsection shall not apply to a traffic officer in the performance of his duties.

Passing of vehicle.

60. (1) The driver of a vehicle intending to pass any other vehicle proceeding in the same direction on a public road shall pass to the right thereof at a safe distance and shall not again move to the left until safely clear of the vehicle so passed, provided that, in the circumstances as aforesaid, passing to the left of such vehicle shall be permissible if the person driving the passing vehicle can do so with safety to himself and other traffic or property which is or may be on such road and —

- (a) the vehicle being passed is turning to its right or the driver thereof has signalled his intention of turning right;
- (b) such road is a public road in an urban area and —
 - (i) is restricted to vehicles moving in one direction; and
 - (ii) the roadway is of sufficient width for two or more lines of moving vehicles;
- (c) such road is a public road in an urban area and the roadway is of sufficient width for two or more lines of moving vehicles moving in each direction;
- (d) the roadway of such road is restricted to vehicles moving in one direction and is divided into traffic lanes by appropriate road traffic signs;
- (e) he is driving in compliance with the directions of a traffic officer or in traffic which is under the general direction of such officer, and in accordance with such direction;

and in no event shall any passing referred to in paragraph (a), (b), (c) or (d) be done by driving on the shoulders of the roadway or on the verge of the public road concerned.

(2) The driver of a vehicle shall not pass other traffic proceeding in the same direction on a public road when approaching —

- (a) the summit of a rise;
- (b) a curve; or
- (c) any other place,

where the driver's view is so restricted that any such passing could create a hazard in relation to other traffic that might approach from the opposite direction, unless —

- (i) he can do so without encroaching on the right-hand side of the roadway; or
- (ii) the roadway of such road is restricted to vehicles moving in one direction.

(3) The driver of a vehicle on a public road shall, except in the circumstances referred to in the proviso to subsection (1), upon becoming aware that other traffic proceeding in the same direction intends to pass his vehicle, cause his vehicle to travel as near to the left edge of

the roadway as is possible, without endangering himself or other traffic or property on the roadway, and shall not accelerate his vehicle until the other vehicle has passed.

(4) When about to pass oncoming traffic, the driver of a vehicle on a public road shall ensure that the vehicle driven by him does not encroach on the roadway to his right in such manner as may obstruct or endanger such oncoming traffic.

(5) The driver of a vehicle intending to pass a stationary bus or minibus on a public road shall do so with due care for the safety of persons who are approaching or leaving or may approach or leave such bus or minibus.

Driving on shoulder of public road.

61. (1) Subject to subsection (2) and section 60(1)(e), a person shall not drive a motor vehicle on the shoulder of a public road.

(2) Notwithstanding the provisions of subsection (1), the driver of a motor vehicle may, during the period between sunrise and sunset, drive such motor vehicle on the shoulder of a public road which is designed for one lane of traffic in each direction —

- (a) while such motor vehicle is being overtaken by another vehicle; and
- (b) if he can do so without endangering himself, other traffic, pedestrians or property on such public road; and
- (c) if persons and vehicles upon the public road are clearly discernible at a distance of at least 150 metres.

Crossing or entering a public road or traffic lane.

62. (1) The driver of a vehicle shall not cross a public road unless the road is clear of moving traffic for a sufficient distance to allow him to cross the road without obstructing or endangering any such traffic.

(2) The driver of a vehicle shall not enter a public road unless he can do so with safety to himself and other traffic.

(3) The driver of a vehicle on a public road divided into traffic lanes by appropriate road traffic signs shall not turn from one lane into or across another lane unless the driver can do so without obstructing or endangering other traffic.

Driving signals.

63. The driver of a vehicle on a public road who intends to stop such vehicle or suddenly reduce the speed thereof, or to turn such vehicle to the left or right, or to move such vehicle to the left or right on the roadway, shall give a conspicuous signal of his intention, visible to any person approaching him from the front or from the rear or from the side, and of a duration sufficient to warn any such person of his intention.

Right of way at certain road junctions.

64. The driver of a vehicle on a public road shall, when he intends entering any portion of a public road which constitutes a junction of two or more public roads where vehicular traffic is required to move around a traffic island within such junction, yield the right of way to all vehicular traffic approaching from his right within such junction, unless his entry into such

junction is controlled by an instruction given by a traffic officer or a direction conveyed by a road traffic sign requiring him to act differently.

Procedure when turning.

65. (1) The driver of a vehicle on a public road who desires to turn to the left shall, having due regard to section 64, before reaching the point at which he intends to turn, indicate, in the prescribed manner, his intention to turn and shall steer his vehicle as near to the left edge of the roadway on which he is travelling as circumstances may permit and shall make such turn with due care and merge into such traffic stream as may at the time be proceeding along, towards or into the public road into which he desires to turn.

(2) The driver of a vehicle on a public road who desires to turn to the right shall, having due regard to section 64, before reaching the point at which he desires to turn, indicate, his intention to turn and shall not effect such turning unless he can do so without obstructing or endangering other traffic and —

(a) if he is driving a vehicle on the roadway of a public road which roadway is intended for traffic in both directions —

(i) he shall steer such vehicle as near as circumstances may permit to the immediate left of the middle of the roadway on which he is travelling; and

(ii) where the turn is at an intersection, he shall not encroach on the right half of the roadway into or out of which he or intends to turn, except in the intersection itself, but shall in any event pass to the left of any traffic island in such intersection or comply with the direction conveyed by any appropriate road traffic sign; or

(b) if he is driving a vehicle on a roadway of a public road where such roadway is intended for traffic in only one direction —

(i) he shall steer such vehicle as near as circumstances may permit to the right edge of such roadway; and

(ii) where the turn is at an intersection the driver shall not encroach on the right half of the roadway into which he intends to turn, except in the intersection itself but shall in any event pass to the left of any traffic island in such intersection or comply with the direction conveyed by an appropriate road traffic sign, but subject thereto that where such turn is to be made into a roadway intended for traffic is only one direction, he may encroach on the right half of that roadway.

Towing of vehicles.

66. A person shall not operate a vehicle on a public road while towing or drawing another vehicle, otherwise than in accordance with the manner prescribed for the towing or drawing of any vehicle by another vehicle on a public road.

Stopping of vehicles.

67. (1) A person shall not stop a vehicle on the roadway of a public road except in order to avoid an accident, or in compliance with a road traffic sign or with a direction given by a traffic officer or for any cause beyond the control of the driver.

(2) A person shall not stop a vehicle on the roadway of a public road —

- (a) alongside or opposite an excavation or obstruction on the public road if other traffic would be obstructed or endangered by such stopping;
- (b) within a tunnel or subway or on any bridge or within six metres of a tunnel, subway or bridge;
- (c) on or within six metres of the beginning or end of any part of such roadway where the normal width thereof has for any reason been constricted;
- (d) in contravention of a road traffic sign;
- (e) on the right-hand side of such roadway facing oncoming traffic;
- (f) alongside or opposite any other vehicle on such roadway, where such roadway is less than nine metres wide;
- (g) within the railway reserve at a level crossing;
- (h) within nine metres of his approaching side of a pedestrian crossing demarcated by appropriate road traffic signs;
- (i) within four metres of an intersection;
- (j) at a bend in the road;
- (k) within 180 metres of the summit of a blind rise;
- (l) in any other place where the stopping of a vehicle would be likely to constitute a danger or an obstruction to other traffic.

Parking of vehicles.

68. (1) A person shall not park a vehicle on a public road —

- (a) in contravention of any road traffic sign;
- (b) in any place specified in section 67;
- (c) on the same side as a fire hydrant within an area one and a half metres on either side of the hydrant, if such hydrant is clearly visible to and recognisable as such by drivers of moving vehicles, or if it is indicated by an appropriate road traffic sign;
- (d) in any place where the vehicle would obscure a road traffic sign;
- (e) in such manner as to encroach upon the sidewalk, if any;
- (f) in such manner as to obstruct any private or public vehicular entrance to such road.

(2) A person shall not park a vehicle on any portion of the roadway or the shoulders of a public road outside an urban area or with any part of such vehicle within one metre of the edge of such roadway except in a parking place demarcated by an appropriate road traffic sign, but subject thereto that where it is impossible or dangerous to move the vehicle completely off that roadway, it shall be moved as far as possible off such roadway.

(3) A person shall not park a vehicle within an urban area on the roadway of a public road —

- (a) within nine metres of the side from which he approaches a pedestrian crossing demarcated by appropriate road traffic signs, unless such parking is permitted by appropriate road traffic signs;
- (b) within five metres of any intersection unless such parking is permitted by a road traffic sign;
- (c) upon or over the actuating mechanism of a robot;
- (d)
 - (i) with the outside of any left-hand wheel thereof more than 450 millimetres within the roadway; or
 - (ii) where the public road concerned is restricted to vehicles moving in one direction and the vehicle is parked on the right-hand side of the roadway, with the outside of any right-hand wheel thereof more than 450 millimetres within the roadway,unless such parking is permitted by an appropriate road traffic sign;
- (e) which is less than five and a half metres wide unless the public road concerned is restricted to vehicles moving in one direction and such parking is permitted by appropriate road traffic signs.

(4) A person shall not park a motor vehicle on a traffic island or sidewalk or in a pedestrian mall or pedestrian lane.

(5) Whenever a vehicle has been parked in contravention of any provision of this Act or any regulation made under section 103, or in contravention of or in disregard of the directions of any road traffic sign or notice board, such vehicle may be removed or caused to be removed and impounded by a traffic officer and unless the vehicle has been so marked in the course of the theft thereof, the owner shall bear the costs of such removal and impoundment.

Certain drivers may stop or park certain motor vehicles in any place where necessary.

69. (1) Notwithstanding the provisions 67 and 68, the driver of a rescue vehicle, fire-fighting vehicle or an ambulance who drives such vehicle in the performance of his duties, a traffic officer who drives a vehicle in the performance of his duties, a person who drives a vehicle while he is engaged in civil defence or a person who drives a vehicle while it is used in connection with the construction or maintenance of a public road or the rendering of an essential public service, may stop or park the vehicle concerned at any place where it may be necessary to do so.

(2) A vehicle stopped or parked in terms of subsection (1) shall, while such vehicle is so stopped or parked, display the prescribed identification lamps or marks or both such lamps and marks.

Compulsory stops.

70. The driver of a vehicle on a public road shall stop such vehicle —

- (a) in compliance with a direction conveyed by a road traffic sign or given by a traffic officer in uniform; or
- (b) at the request or on the signal of a person leading or driving any animal, on such road;

- (c) when the traffic light is red.

General duties of driver or passenger of vehicle on public road.

71. (1) A driver driving or having a vehicle on a public road shall not —
- (a) cause such vehicle to travel backwards unless it can be done in safety or cause it to run backwards for a distance greater or time longer than may be necessary for the safety or reasonable convenience of any occupant of such vehicle or of other traffic on such road;
 - (b) follow another vehicle more closely than is reasonable and prudent having regard to the speed of such other vehicle and the traffic on and the condition of the roadway, or more closely than is prescribed;
 - (c) permit a person, animal or object to occupy a position in or on such vehicle which may prevent the driver thereof from exercising complete control over the movements of the vehicle or signalling his intention of stopping, slowing down or changing direction;
 - (d) when driving such vehicle, permit any person to take hold of or interfere with the steering or operating mechanism of the vehicle;
 - (e) when driving such vehicle, occupy such position that he does not have complete control over such vehicle or does not have full view of the roadway and the traffic ahead of such vehicle;
 - (f) allow such vehicle to remain unattended on a road without so setting its brake or adopting such other method as will effectively prevent the vehicle from moving from the position in which it is left;
 - (g) if such vehicle is parked or is stationary at the side of the drive, the vehicle from that position unless he is able to do so without interfering with moving traffic approaching from any direction and with safety to himself and others;
 - (h) fail to give an immediate and absolute right of way to a vehicle sounding a device in terms of section 53(3) or 55;
 - (i) allow a portion of his body to protrude beyond such vehicle while it is in motion on such road except for the purpose of giving a hand signal which he is required or authorised to give in terms of this Act or unless he is engaged in examining or testing or parking such vehicle;
 - (j) permit a person or animal to occupy the roof, any step or running board or any other place on top of a vehicle while such vehicle is in motion;
 - (k) cause or allow the engine thereof to run in such manner that it emits smoke or fumes which would not be emitted if the engine were in good condition or run in an efficient manner;
 - (l) cause or allow the engine thereof to run while such motor vehicle is stationary and unattended;
 - (m) deposit or cause or permit to be deposited petrol or other liquid fuel or oil or grease or other flammable or offensive matter, ashes or other refuse of whatever nature from such vehicle upon or alongside such road;
 - (n) cause or allow the engine thereof to run while petrol or other flammable fuel is being delivered into the fuel tank of such vehicle or cause or allow such

engine to be started up before the delivery of the petrol or other inflammable fuel into the fuel tank of such vehicle has been completed and the cover of such fuel tank has been replaced;

(o) use a mobile phone or any other communication device, unless is affixed to a hands free gadget.

(2) A person, other than the driver, shall not take hold of or interfere with the steering or operating mechanism of a vehicle while it is in motion on a public road, unless it may reasonably be inferred that the driver is no longer capable of steering or controlling such vehicle.

(3) A passenger in a vehicle on a public road shall not permit any part of his or her body to protrude beyond such vehicle.

(4) A person shall not enter or alight from a vehicle on a public road unless such vehicle is stationary and unless he can do so with safety to himself and other users of the road.

(5) A person shall not drive, pull or push a vehicle upon a sidewalk, provided that the provisions of this subsection shall not apply to a perambulator, baby cart, child's play vehicle, chair for disabled or physically handicapped persons, or any other vehicle designed to be operated by an invalid or person of old age.

Duties relating to a motor cycle, motor tricycle or motor quadrucycle.

72. (1) A person shall not drive a motor cycle, motor tricycle or motor quadrucycle on a public road unless his feet are resting on the front foot-rests suitable for the purpose where the design of such motor cycle, motor tricycle or motor quadrucycle makes it possible to do so, he is seated astride on the saddle of such motor cycle, motor tricycle or motor quadrucycle.

(2) A person shall not carry a passenger on a motor cycle on a public road unless such cycle has an engine with a cylinder capacity exceeding 50 cubic centimetres and unless such passenger is seated in a side-car or astride on a pillion attached to such cycle and, in such latter event, his feet are resting on foot-rests suitable for the purpose.

(3) Not more than two persons shall ride upon a motor cycle on a public road, excluding a person riding in a side-car attached to such motor cycle.

(4) Not more than two adult persons shall be carried in a sidecar attached to a motor cycle on a public road.

(5) A person, animal or object shall not be carried on a motor cycle, motor tricycle or motor quadrucycle on a public road in front of the driver thereof and an object of a non bulky nature may be so carried if securely attached thereto or placed in a suitable carrier fitted thereon for that purpose and carried in such a way as not to obstruct the driver's view or prevent him from exercising complete control over such motor cycle, motor tricycle or motor quadrucycle.

(6) Persons, other than traffic officers in the execution of their duties, driving motor cycles, motor tricycles or motor quadrucycles on a public road, shall drive in single file except in the course of overtaking another motor cycle, motor tricycle or motor quadrucycle and two or more persons driving motor cycles, motor tricycles or motor quadrucycles shall not overtake another vehicle at the same time, but subject thereto that where a public road is divided into traffic lanes, each such lane shall, for the purposes of this paragraph, be regarded as a public road.

(7) A person driving a motor cycle, motor tricycle or motor quadrucycle shall not take hold of any other vehicle in motion on a public road.

(8) A person driving a motor cycle, motor tricycle or motor quadrucycle on a public road shall do so with at least one hand on the handle-bars of such motor cycle, motor tricycle or motor quadrucycle.

(9) A person driving a motor cycle, motor tricycle or motor quadrucycle on a public road shall do so in such manner that all the wheels of such motor cycle, motor tricycle or motor quadrucycle are in contact with the surface of the road at all times.

Vehicle causing excessive noise, smoke or fumes.

73. (1) A person shall not operate a vehicle on a public road if the vehicle causes excessive noise, either directly or indirectly, as a result of —

- (a) a defect in the vehicle, including a defect in design or construction, lack of repair to, or faulty adjustment of the vehicle or a part of or accessory to it;
- (b) the faulty packing, loading or adjustment of the load of the vehicle;
- (c) the use, except the use of a sounding device in accordance with section 53(3) or 55, of a fitting or device which produces excessive noise; or
- (d) the use of a radio/musical sound system beyond ninety-two (92) decibels;
- (e) installation of loud and unoriginal hooter; or
- (f) any act or commission by such person.

(2) A person shall not operate a motor vehicle on a public road the engine of which emits excessive smoke or fumes.

(3) In a prosecution under subsection (1) or (2) it shall be a good defence if the person charged proves, to the satisfaction of the court, that the noise, smoke or fumes in respect of which he is charged, was due to some recent accidental cause and could not have been prevented by the exercise of due care and diligence on his part.

Use of hooter.

74. A person shall not use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this Act or on the grounds of safety.

Riding of pedal cycles.

75. (1) A person shall not ride a pedal cycle on a public road in such a manner that he does not exercise complete control over such cycle.

(2) Persons riding pedal cycles on a public road shall ride in single file except in the course of overtaking another pedal cycle, and two or more persons riding pedal cycles shall not overtake another vehicle at the same time.

(3) A person riding or seated on a pedal cycle on a public road shall not take hold of any other vehicle in motion.

(4) A person riding a pedal cycle on a public road shall not deliberately cause such pedal cycle to swerve from side to side.

(5) A person riding a pedal cycle on a public road shall not carry thereon any person, animal or object which obstructs his view or which prevents him from exercising complete control over the movements of such pedal cycle.

(6) A person riding a pedal cycle on a public road shall do so with at least one hand on the handle-bars of such pedal cycle.

(7) Whenever a portion of a public road has been set aside for use by persons riding pedal cycles, a person shall not ride a pedal cycle on any other portion of such road.

(8) A person riding a pedal cycle on a public road or a portion of a public road set aside for use by persons riding pedal cycles, shall do so in such manner that all the wheels of such pedal cycle are in contact with the surface of the road at all times.

Device running on rails.

76. (1) Whenever rails laid across any public road are used for the purposes of any locomotive or other device running on rails, whether drawn or propelled, a person driving or in charge of such locomotive or device shall not cause or allow such locomotive to cross a public road unless he has given sufficient warning to users of such road of the intention to drive, draw or propel the locomotive or device across such road.

(2) A person driving or in charge of a locomotive or device referred to in subsection (1), shall not cause or allow it to be stopped on a public road in such a manner as to obstruct or hinder traffic on such road.

Animal on public road.

77. (1) A person shall not leave or allow an animal to be on a section of a public road and/or leave such animal in a place from where it may stray onto a public road.

(2) The provisions of subsection (1) shall not apply to —

(a) an animal which is ridden or is used to draw a vehicle along a public road;

(b) an animal which is driven from one place to another in such manner as not to constitute a source of danger or injury to any person or vehicle using such road;

(c) an animal, on a public outspan, in the possession of a traveller who has outspanned there for a period not greater than 24 hours, or during which he may be detained there by stress of weather or other unforeseen circumstances.

(3) In any prosecution for a contravention of subsection (1), it shall be presumed, until the contrary is proved, that an animal referred to in subsection (1) was left or allowed to be on the section of the public road or place concerned by the owner of such animal, whether the road was fenced or not.

(4) A person shall not drive an animal along a public road during the period from sunset to sunrise, unless a person carrying a white or red light visible in clear weather for a distance of at least 150 metres tends such an animal or, on the case of a flock or herd of more than 10 animals, a person tending such animals and carrying a light as aforesaid precedes and another person carrying a light as aforesaid follows such animals; or along a public road during any other period, unless a person displaying in a conspicuous manner a red cloth, not smaller than 300 millimetres by 300 millimetres, tends such animal or, in the case of a flock

or herd of more than 10 animals, a person tending such animals and displaying a cloth as aforesaid precedes and another person displaying a cloth as aforesaid follows animals.

(5) A person in charge of an animal shall tend it in such a manner as not to constitute an obstruction or danger to other traffic on a public road.

(6) A traffic officer may take charge of or dispose of an animal referred to in subsection (1) on a public road or in the event the owner claims repossession of such animal(s), he shall fulfil the set conditions.

(7) In the event an accident has occurred because of the stray animal, the owner of that animal(s) shall be held liable for causing the accident.

Animal-drawn vehicles.

78. (1) A person shall not operate an animal-drawn vehicle on a public road unless the name and address of the owner thereof is affixed or painted in a conspicuous position on the left side of such vehicle in letters not less than 25 millimetres in height, but subject thereto that nothing herein shall apply to a vehicle used solely for the conveyance of persons other than for hire or reward.

(2) A person shall not operate an animal-drawn vehicle on a public road unless the vehicle and the harness and other equipment thereof are in a working and safe condition and do not cause pain to the animals.

(3) A person shall not operate an animal-drawn vehicle on a public road unless there is attached to such vehicle the prescribed equipment and warning devices.

(4) The owner of an animal-drawn vehicle shall not cause or permit such vehicle to be used on a public road by a person who is not competent whether by reason of his age or otherwise to drive and control such vehicle.

(5) The driver of an animal-drawn vehicle on a public road shall at all times give his undivided attention to the driving of the vehicle under his control, and if the vehicle is stationary on a public road, the driver shall not cease to retain control over every animal which is still harnessed to the vehicle unless some other person competent to do so takes charge of every such animal, or every such animal is so fastened that no such animal can move from the place where it has been left.

(6) A person shall not operate on a public road a vehicle drawn by a team of animals not controlled by reins, unless there is a person leading the team and exercising control over such team.

(7) The driver or other person in charge of a vehicle drawn by animals shall not, on a public road outside an urban area, permit such vehicle to follow any other vehicle similarly drawn at a distance of less than 150 metres reckoned from the foremost animal of such first-mentioned vehicle, except for the purpose of overtaking a vehicle travelling at a slower speed or when a vehicle travelling at a higher speed, having overtaken such vehicle, is drawing away from it.

Pedestrian's right of way in pedestrian crossing.

79. (1) Where a pedestrian crossing is situated in conjunction with a traffic signal, a pedestrian shall not enter the crossing except in accordance with the indications of a robot.

(2) In the case of a pedestrian crossing referred to in subsection (1), the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield to a pedestrian who crosses the roadway within a pedestrian crossing when the pedestrian is upon that half of the roadway upon which the vehicle is travelling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(3) A pedestrian shall not suddenly enter a pedestrian crossing and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield as contemplated to subsection (2).

(4) Whenever a vehicle is stopped at a pedestrian crossing to permit pedestrians to cross the roadway, the driver of another vehicle approaching from the rear shall not pass such stopped vehicle.

(5) A pedestrian shall only cross the road when such road is green for pedestrians.

Duties of pedestrians.

80. (1) Whenever a sidewalk or footpath abuts on the roadway of a public road, a pedestrian shall not walk on such roadway except for the purpose of crossing from one side of such roadway to the other or for some other sufficient reason.

(2) A pedestrian on a public road which has no sidewalk or footpath abutting on the roadway, shall walk as near as is practicable to the edge of the roadway on his right-hand side so as to face oncoming traffic on such roadway, except where the presence of pedestrians on the roadway is prohibited by a road traffic sign.

(3) A pedestrian shall not cross a public road without satisfying himself that the roadway is sufficiently free of oncoming traffic to permit him to cross such road in safety.

(4) A pedestrian, when crossing a public road by means of a pedestrian crossing or in any other manner, shall not linger on such road but shall proceed immediately.

(5) A pedestrian on a public road shall not conduct himself in such a manner as to or as is likely to constitute a source of danger to himself or to other traffic which is or may be on such road.

(6) A pedestrian may cross a public road only at a pedestrian crossing, or an intersection or at a distance further than 50 metres from such an intersection or pedestrian crossing.

(7) A pedestrian shall not cross a public road within 50 metres of a bridge, which provides safe passage for the pedestrian across the road concerned, except by means of such bridge.

Racing and sports on public roads.

81. (1) (a) A person shall not organise or take part in a race or sport on a public road, unless a prior written consent of the Minister has been obtained; or where the race or sport will take place only wholly within a local authority area, a prior written consent of the local authority.

(b) For the purposes of paragraph (a) a public road situated within the area of jurisdiction of a local authority and maintained by the Government shall be deemed to be situated outside the area of jurisdiction of a local authority.

(2) Subject to subsection (3)(d), an application to organise or take part in a race or sport on a public road shall be made at least one month prior to the date on which such race or sport is intended to take place.

(3) In granting consent in terms of subsection (1), the Minister or the local authority —

- (a) may in addition to any prescribed requirements, impose such further conditions as the Minister or local authority may deem expedient;
- (b) may exempt any person concerned with the race or sport for the duration thereof —
 - (i) from any provision of this Act regarding speed limit or determine another speed limit for the road concerned;
 - (ii) from any other provision of this Act or from any regulation made under section 103;
- (c) may levy fees for defraying the expenses incurred by the Ministry or local authority in connection with the race or sport;
- (d) may condone the late submission of an application in terms of subsection (2), if the application is, due to circumstances beyond the control of the applicant.

(4) A consent granted in terms of subsection (1) may at any time be withdrawn.

(5) For the purposes of this section, “race or sport” includes any race, speed trial, reliability trial, hill-climbing competition or sports meeting and any other activity whatsoever which may constitute a source of danger to traffic which may hamper, impede or disrupt the normal flow of traffic, on a public road.

Convoy on public road.

82. (1) A person shall not operate a motor vehicle forming part of a convoy of motor vehicles which are being delivered to a motor dealer or other person on a public road —

- (a) between the hours of 18h00 on a Friday or, in the case where such Friday is a public holiday, the Thursday immediately preceding such Friday, and 06h00 on a Monday, or in the case where such Monday is a public holiday, the Tuesday immediately succeeding such Monday;
- (b) between the hours of 18h00 on the day immediately preceding Christmas Day, and 06h00 on a day immediately succeeding Family Day to the extent to which such hours do not already fall within a period contemplated in paragraph (a).

(2) In a prosecution for a contravention of subsection (1), it shall upon proof that the accused operated a motor vehicle forming part of a convoy of motor vehicles, on a public road, be presumed, until the contrary is proved that the motor vehicle concerned was being delivered to a motor dealer or other person.

Hindering or obstructing traffic on public road.

83. (1) A person shall not place or cause to be placed a barrier, gate, rope, wire or other obstruction across a public road.

(2) Subsection (1) shall not apply to —

- (a) a traffic officer or a person acting under a power conferred by law, if such an obstruction is clearly marked, and the appropriate warning traffic signs are erected and displayed in the prescribed manner; or
- (b) a person who erects or has erected a gate in accordance with any other law.

(3) A person shall not place or abandon an object on a public road which is capable of causing danger, obstruction or damage to traffic on the road.

(4) Subsection (3) shall not apply in respect of an object placed on a public road by a road authority acting under any other law, if the object is clearly marked or indicated, and the appropriate warning traffic signs are erected and displayed in the prescribed manner.

(5) A person shall not unnecessarily prevent or hinder the free and proper passage of traffic on a public road.

Vehicle left or abandoned on public road.

84. (1) A vehicle standing on a public road in a position or in circumstances which in the opinion of a traffic officer, are likely to cause danger or an obstruction to other traffic on such road, may be removed forthwith to a safer place by such traffic officer or person or authority instructed by such officer to remove such vehicle, but subject thereto that such traffic officer or person or authority shall, in removing the vehicle, use a device or devices as may be necessary having regard to public safety.

(2) A vehicle —

(a) parked at a place where —

- (i) the stopping of a vehicle is prohibited in terms of section 67; or
- (ii) a vehicle of a class to which such vehicle belongs may not be parked in terms of this Act or any regulation made under section 103;

(b) left for a continuous period of more than —

- (i) four hours in the same place on a public road outside an urban area;
 - (ii) seven days in the same place on a public road within an urban area;
- or
- (iii) seven days on the site of a testing station, or

(c) found on a public road and to which —

- (i) no registration mark is affixed or, in the opinion of a traffic officer, a false registration mark is affixed; or
- (ii) no other mark or anything else is affixed which may, in the opinion of a traffic officer, serve to identify the owner,

shall be deemed to have been abandoned by the owner and the vehicle may be removed by or on behalf of the authority having jurisdiction over the place or road concerned and such authority shall take all reasonable steps to trace the owner, and the owner shall, except in the case of a stolen vehicle, be liable to such authority for the expenses incurred —

- (a) in the removal of the vehicle;
- (b) in keeping the vehicle in custody for a period not exceeding four months; and
- (c) in connection with the endeavour to trace him,

and the authority may, subject to subsection (3), retain possession of such vehicle until the expenses have been paid.

(3) Notwithstanding subsection (2), if the wreck of any vehicle is found on a public road in such a condition, however caused, that it is of no value, the wreck shall be deemed to have been abandoned by the owner and may summarily be removed to a rubbish dump by or on behalf of the authority having jurisdiction over the place or road concerned.

(4) If —

- (a) the owner of a vehicle referred to in subsection (2) is traced by the authority and fails to recover the vehicle and pay the expenses referred to in subsection (3) within 14 days of being requested to do so; or
- (b) the owner cannot be traced after a lapse of one month from the date of removal referred to in subsection (2).

such vehicle or anything contained therein may be sold in the manner prescribed by any law governing the sale of movable property by an authority and, whenever possible, the authority which registered such vehicle shall be advised of such sale.

(5) The proceeds of a sale referred to in subsection (4) shall be applied firstly to the cost of the removal, custody and sale of the vehicle concerned and all the endeavours made to trace the owner of such vehicle, and any balance shall be paid to the owner thereof upon his establishing his claim thereto and if no claim can be established within three years of the date of such sale, the balance shall be forfeited to the authority concerned.

(6) If an authority referred to in subsection (2) is unable to sell a vehicle as contemplated in subsection (4), it may dispose of that vehicle in any manner it deems fit, and any moneys received as a result of such disposal shall be forfeited to such authority.

(7) An authority referred to in subsection (2) may delegate, either generally or specifically, any power conferred upon it in terms of that subsection to any person in its employ.

(8) The reasonable exercise by any person or authority of the powers conferred by this section shall not render such person or authority subject to any liability in respect of the loss or theft of or damage to a vehicle or part thereof or of anything therein or thereon.

(9) Subject to the provisions of any other law, a person shall not leave a vehicle in the same place on a public road for a continuous period of more than seven days.

Damage to public road.

85. (1) A person shall not —

- (a) cause any wheel of any vehicle to drag or spin upon the surface of the roadway, except in the case of an emergency;
- (b) make use of chocks or shoes between any wheel of a vehicle moving along the roadway and the surface of such roadway;
- (c) use or draw a sledge on the roadway of a public road, except to cross that roadway in the shortest possible distance or to negotiate a bridge or causeway where the bridge or causeway cannot be by-passed;
- (d) cause damage to a bridge or drain or any other part of a road;
- (e) make an excavation in or remove sand, gravel or other material from a public road, except in the course of his employment by or with the approval of the road authority concerned; or

(f) use a vehicle or object or move a vehicle or object on the roadway in a manner causing or likely to cause damage thereto on a public road.

(2) A person shall not damage, or without proper authority remove any —

- (a) part of the road or road structure;
- (b) bridge or part thereof;
- (c) road traffic sign, other sign, signal or marking; or
- (d) other item of road side furniture.

(3) A person who contravenes subsection (2) shall, in addition to any fine or other penalty which may be imposed under this Act, be liable to the authority having jurisdiction over the road concerned, for the prescribed amount of the item concerned.

(4) In a prosecution under subsection (1)(f) it shall be a good defence if the person charged proves that the damage done was essential in order to extricate or safeguard a vehicle, and was repaired to the satisfaction of the road authority concerned.

Trading on a public road.

86. (1) A person shall not sell or keep, display or offer for sale, goods outside an urban area at a place other than on or in licensed premises, such place being —

- (a) within the reserve of a public road where such reserve is fenced in or demarcated; or
- (b) if that reserve is not fenced in or demarcated, within 25 metres of the centre-line of the roadway of a main road or trunk road as respectively defined in section 2 of the Roads and Outspans Act, No. 40 of 1931; or
- (c) within 180 metres of an intersection, a blind corner or rise or a railway level crossing in a road referred to in paragraph (b).

(2) A person shall not, display or offer for sale goods on a public road within 10 metres of an intersection in an urban area other than on or in licensed premises.

Special provisions relating to freeways.

87. (1) A person shall not operate a vehicle drawn by an animal, a pedal cycle, a motor cycle having an engine with a cylinder capacity not exceeding 50 cubic centimetres or which is propelled by electrical power or which is a vehicle as contemplated in paragraph (b) of the definition of “motor vehicle”, a motor tricycle or motor quadrucylce, a vehicle with a tare not exceeding 230 kilograms and specially designed, constructed or adapted for the use of a person suffering from a physical defect or disability a tractor on a freeway.

(2) A person shall not —

- (a) be on a freeway on foot except within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign a cause beyond his control.
- (b) leave or allow an animal to be on a freeway except in or on a motor vehicle or within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign, or leave an animal in a place from where it may stray onto a freeway;

(c) stop a vehicle on a freeway except in compliance with a road traffic sign or a direction given by a traffic officer within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign for a cause beyond his control;

(d) give a hand signal when driving a motor vehicle on a freeway except for a cause beyond his control.

(3) In a prosecution for the contravention of subsection (2)(b), it shall be presumed, until the contrary is proved, that an animal was left or allowed on the freeway or place concerned by the owner of such animal.

(4) The provisions of —

(a) subsection (1) shall not apply to a person who operates a tractor in connection with the construction or maintenance of a freeway;

(b) subsection (2)(a) shall not apply to —

(i) a traffic officer while he is engaged in the performance of his duties;

(ii) a person while he is engaged in rescue or salvage work;

(iii) a person while he is engaged in the construction or maintenance of a freeway or the rendering of an essential public service;

(iv) a person while he is engaged in civil defence;

(c) subsection (2)(c) shall not apply to —

(i) the driver of an ambulance, fire-fighting vehicle or breakdown vehicle in the performance of his duties;

(ii) a traffic officer or a medical practitioner who drives a vehicle in the performance of his duties;

(iii) a person who drives a vehicle while it is used in connection with the construction or maintenance of a freeway or the rendering of an essential public service;

(iv) a person who drives a vehicle while he is engaged in civil defence.

(5) Where the driver of a motor vehicle (hereinafter referred to as the “first vehicle”) which is being driven on the right-hand traffic lane or on the traffic lane furthest to the right on a freeway becomes aware that the driver of another motor vehicle (hereinafter referred to as the “second vehicle”) intends to overtake the first vehicle, the driver of the first vehicle shall steer that vehicle to a lane to the left of the one on which he is driving as soon as it is safe to do so, without endangering himself or other traffic or property on the freeway; and shall not accelerate the speed of his vehicle until the second vehicle has passed.

(6) For the purposes of subsection (5), the driver of the second vehicle may make the driver of the first vehicle aware that he intends to overtake the first vehicle by giving the driver thereof a visible signal by means of the flashing of the head lamps of his vehicle.

PART VIII

ACCIDENTS AND ACCIDENT REPORTS

Duty of a driver in event of accident.

88. (1) The driver of a vehicle on a public road at the time when such vehicle is involved in or contributes to any accident in which another person is killed or injured or suffers damage in respect of any property shall —

- (a) immediately stop the vehicle;
- (b) ascertain the nature and extent of the injury sustained by the person;
- (c) if a person is injured, render such assistance to the injured person as he may be capable of rendering;
- (d) ascertain the nature and extent of any damage sustained;
- (e) if required to do so by a person having reasonable grounds for so requiring, give his name and address, the name and address of the owner of the vehicle driven by him and, in the case of a motor vehicle, the registration or similar mark thereof;
- (f) if he has not already furnished the information referred to in paragraph (e) to a traffic officer at the scene of the accident, and unless he is incapable of doing so by reason of injuries sustained by him in the accident, as soon as is reasonably practicable, and in any case within 24 hours after the occurrence of such accident, report the accident to a police officer at a police station or at any office set aside by a competent authority for use by a traffic officer and there produce his driver's licence and furnish such document of identification as prescribed and such information as is required; and
- (g) except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take drugs and the driver of a vehicle shall invite a police officer to inspect such motor vehicle if such motor vehicle is not covered by an accident report certificate.

PART IX

RECKLESS OR NEGLIGENT DRIVING, INCONSIDERATE DRIVING, DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOUR OR A DRUG HAVING A NARCOTIC EFFECT AND MISCELLANEOUS OFFENCES

Reckless or negligent driving.

89. (1) A person shall not drive a vehicle on a public road recklessly or negligently.

(2) Without restricting the ordinary meaning of the word "recklessly", a person who drives a vehicle in wilful or wanton disregard for the safety of persons or property shall be deemed to drive that vehicle recklessly.

(3) In considering whether an offence has been committed under subsection (1), the court shall have regard to all the circumstances of the case including, but without prejudice to the generality of the foregoing provisions in this section, the nature, condition and use of the public road upon which the offence is alleged to have been committed, the amount of traffic which existed at the time, or which could reasonably have been expected to be, on that road and the speed at and manner in which the vehicle was driven.

Inconsiderate driving.

90. A person shall not drive a vehicle on a public road without reasonable consideration for other persons using that road.

Driving while under the influence of intoxicating liquor or a drug having a narcotic effect, or with excessive amount of alcohol in blood or breath.

91. (1) A person shall not drive a vehicle on public road or occupy the driver's seat of a motor vehicle of which the engine is running or not, while under the influence of intoxicating liquor or a drug having a narcotic effect.

(2) A person shall not drive a vehicle on or occupy the driver's seat of a motor vehicle of which the engine is running or not, while the concentration of alcohol in any specimen of blood taken from any part of his body is 0,05 grams per 100 millilitres or more.

(3) If, in any prosecution for the contravention of subsection (2), it is proved that the concentration of alcohol in a specimen of blood taken from any part of the body of the person concerned was 0,05 grams per 100 millilitres or more at any time within two hours after the alleged offence, it shall be presumed, unless the contrary is proved, that such concentration was 0,05 grams per 100 millilitres or more at the time of the alleged offence.

(4) Where in a prosecution under this Act evidence is tendered of the analysis of a specimen of the blood of a person, it shall be presumed, until the contrary is proved, that a syringe used for obtaining such specimen and the receptacle in which such specimen was placed for despatch to analysts, were free of any substance or contamination which could have affected the result of such analysis.

(5) A person shall not drive a vehicle on a public road or occupy the driver's seat of a motor vehicle of which the engine is running or not while the concentration of alcohol in a specimen of breath exhaled by such person is 0,38 milligrams per 1000 millilitres more.

(6) If, in a prosecution for a contravention of subsection (5), it is proved that the concentration of alcohol in a specimen of breath of the person concerned was 0,38 milligrams per 1000 millilitres or more of breath taken at any time within two hours after the alleged offence, it shall be presumed, until the contrary is proved, that such concentration was 0,38 milligrams per 1000 millilitres or more at the time of the alleged offence.

(7) For the purpose of subsection (5), the concentration of alcohol in a breath specimen shall be ascertained by using the equipment prescribed by the Minister.

(8) A person detained for the contravention of this section shall not during his detention consume any substance that contains alcohol of any nature, except on the instruction of or when administered by a medical practitioner.

(9) A person shall provide a breath or blood specimen, as the case may be where a reasonable suspicion exists that such person is contravening this section and shall not be detained for longer than the time necessary to obtain the specimen.

Accident report certificate.

92. (1) After the investigation by a police officer of a report made under section 88(1)(f) the police officer shall issue to the driver or owner of a motor vehicle involved in accident, a report certificate in the prescribed form.

(2) A person shall not receive or repair a motor vehicle which he knows or reasonably suspects to have been involved in an accident unless such motor vehicle is covered by an accident report certificate issued by a police officer in terms of subsection (1) or unless the person satisfies himself that the motor vehicle has not been involved in an accident in which injury to a person or damage to property was caused.

(3) A person to whom a motor vehicle is delivered for repairs shall not in circumstances —

(a) drive a vehicle or

(b) occupy the driver's seat of a motor vehicle of which the engine is running,

while under the influence of intoxicating liquor or a drug having a narcotic effect.

(4) A person shall not drive a vehicle, or occupy the driver's seat of a motor vehicle of which the engine is running, while the concentration of alcohol in any specimen of breath exhaled by such person is 0,38 milligrams per 1 000 millilitres or more, or in the case of the holder of a professional driving permit, is 0,10 milligrams per 1 000 millilitres or more.

(5) If, in any prosecution for the contravention of subsection (5), it is proved that the concentration of alcohol in a specimen of breath of the person concerned was 0,38 milligrams per 1 000 millilitres or more, in the case of the holder of a professional driving permit, was 0,10 milligrams per 1 000 millilitres or more, of breath taken at any time within two hours after the alleged offence, it shall be presumed, until the contrary is proved, that such concentration was 0,38 milligrams per 1 000 millilitres or more, or in the case of the holder of a professional driving permit, was 0,10 grams per 1 000 millilitres or more, at the time of the alleged offence.

(6) For the purposes of subsection (5), the concentration of alcohol in any breath specimen shall be ascertained by using the equipment prescribed by the Minister.

(7) A person detained for a contravention of this section shall not during his detention consume any substance that contains alcohol of any nature, except on the instruction of or when administered by a medical practitioner.

(8) A person shall provide a breath or blood specimen, as the case may be, where a reasonable suspicion exists that such person is contravening this section.

Unauthorised acts in relation to a vehicle.

93. (1) A person shall not, without reasonable cause or without the consent of the owner of a vehicle —

(a) set the machinery thereof in motion;

(b) place such vehicle in gear;

(c) in any way tamper with the machinery, accessories or parts of such vehicle;

(d) enter or climb upon such vehicle.

(2) A person shall not ride in or drive a vehicle without the consent of the owner, operator or person in lawful charge thereof.

(3) A person shall not without lawful excuse tamper with a vehicle or with any part of the equipment or the accessories of a vehicle or damage it, or throw any object at a vehicle.

(4) A person shall not without the written consent of a registering authority alter, obliterate or mutilate the engine number or chassis number of a motor vehicle or allow it to be altered, obliterated or mutilated.

Misuse of Government vehicles.

94. (1) In this section “proper officer” means —

- (a) in relation to a Government Ministry, Department or Division thereof, the Principal Secretary, or in relation to the Prime Minister’s Office, the Secretary to Cabinet;
- (b) in relation to the Umutfo Swaziland Defence Force, the Commander;
- (c) in relation to the Royal Swaziland Police Force, the Commissioner of Police;
- (d) in relation to the Prisons Department, the Commissioner of Prisons;
- (e) any person to whom authority is delegated in writing by a proper officer.

(2) A person shall not —

- (a) drive a Government vehicle;
- (b) drive a Government vehicle without possessing of an official authority to drive a Government vehicle issued in terms of this Act;
- (c) procure the use or hire of a Government vehicle;
- (d) load or carry goods or passengers in a Government vehicle;
- (e) deviate a Government vehicle from its authorised route;
- (f) use a Government vehicle after working hours on any day or on a Saturday, Sunday or public holiday; or
- (g) use a Government vehicle for any purpose other than that authorised without the written authority of a proper officer.

(3) A proper officer shall not authorise the use of a Government vehicle contrary to the provisions of this Act.

(4) Where a person is convicted of an offence under subsection (2)(e), but without prejudice to any disciplinary action, which may be taken against him, such person shall be liable to pay to the Government the cost of such deviation at the rate applicable to the use of Government vehicles.

(5) Subsection (2) shall not apply to the use of a Government vehicle belonging to the Umutfo Swaziland Defence Force, the Royal Swaziland Police Force or the Prisons Department if such use is certified by the respective proper officer to have been in the interest of dealing with an emergency or of the performance of urgent official duties.

Furnishing false information.

95. Without derogating from any other provision of this Act, a person shall not —

- (a) in connection with any application under this Act;
- (b) in connection with the furnishing of any information which, to his knowledge, is to be used or may be used for any purpose under this Act,

make a declaration or furnish information which to his knowledge is false or in any material respect misleading.

Unlawful acts in relation to a registration mark or certain documents.

96. (1) A person shall not —
- (a) falsify or counterfeit or, with intent to deceive, substitute, alter, deface or mutilate or add anything to a registration mark or a similar mark issued by a competent authority inside or outside Swaziland;
 - (b) be in possession of such mark which has been falsified or counterfeited or so substituted, altered, defaced or mutilated or to which anything has been so added.
- (2) A person shall not —
- (a) falsify or counterfeit or, with intent to deceive, substitute, alter, deface or mutilate or add anything to a certificate, licence or other document issued or recognised in terms of the provisions of this Act;
 - (b) be in possession of such certificate, licence or other document which has been falsified or counterfeited or substituted, altered, defaced or mutilated or to which anything has been so added.
- (3) A person shall not —
- (a) use a certificate, licence or other document issued or recognised in terms of the provisions of this Act of which he is not the holder;
 - (b) permit a certificate, licence or other document of which he is the holder to be used by any other person.
- (4) Where in a prosecution for a contravention of subsection (1)(b) or (2)(b) it is proved that a person was found in possession of a registration mark or a similar mark or a document which has been falsified or counterfeited or substituted, altered, defaced or mutilated or to which anything has been added, it shall be *prima facie* evidence that such mark or document was falsified or counterfeited, or substituted, altered, defaced or mutilated with intent to deceive; whatever was added it shall be *prima facie* evidence that —
- (a) such mark or document was —
 - (i) falsified or counterfeited; or
 - (ii) substituted, altered, defaced or mutilated with intent to deceive;
 - (b) whatever was added to such mark or document was added thereto with intent to deceive.
- (5) A person shall not —
- (a) with intent to deceive, tamper with the engine or chassis number of a motor vehicle;
 - (b) without lawful cause be in possession of a motor vehicle of which the engine or chassis number has been tampered with.
- (6) Where in a prosecution for a contravention of subsection (5) it is proved that a person was found in possession of a motor vehicle the engine or chassis number which has been tampered with, it shall be *prima facie* evidence that such person knew that such number had been tampered with, with the intent to deceive.

PART X

PRESUMPTIONS AND LEGAL PROCEDURE

Presumption in regard to public road, freeway and public road in an urban area.

97. If in a prosecution under this Act —

- (a) it is alleged that an offence was committed on a public road, the road shall, unless the contrary is proved, be presumed to be a public road;
- (b) it is alleged that an offence was committed on a public road in an urban area the road shall be presumed to be a public road in an urban area, unless the contrary is proved;
- (c) it is alleged that an offence was committed on a freeway, the road concerned shall be presumed to be a freeway, unless the contrary is proved.

Presumption in regard to mass ascertained by means of massmeter or other mass-measuring instrument.

98. Where in any criminal proceedings arising out of an alleged contravention of this Act, evidence to prove such contravention is given of a mass as ascertained by means of a mass-meter or other mass-measuring instrument, it shall be *prima facie* evidence that such mass is correct.

Presumption in regard to gross vehicle mass of motor vehicle.

99. Where in any criminal proceedings arising out of an alleged contravention of this Act the gross vehicle mass of a motor vehicle is or may become relevant to the issue, a document purporting to be an affidavit made by an authorised officer who in that affidavit alleges that he is an authorised officer and that the gross vehicle mass of such vehicle is as specified in that affidavit, shall, upon its mere production at such proceedings, be *prima facie* proof that the gross vehicle mass of such vehicle is as so specified.

Proof of gross vehicle mass of motor vehicle.

100. Any document purporting to have been issued by a manufacturer and stating the gross vehicle mass of a particular model of motor vehicle manufactured by the manufacturer, shall be *prima facie* evidence as to the gross vehicle mass of such model.

Presumption that owner drove or parked vehicle.

101. Where in any criminal proceedings under —

- (a) the common law relating to the driving of a vehicle on a public road;
- (b) this Act; or
- (c) any by-law made under section 104,

the identity of the driver of a vehicle on a public road or of the person who parked a vehicle is or may become relevant to the issue, an extract from or copy of any register of record contemplated in section 105 in which particulars are contained of the identity of the person in whose name that vehicle is registered in terms of section 13, shall, upon its mere production at such proceedings, be *prima facie* proof that the vehicle was, in the case of —

- (i) a natural person, driven or parked by that person;

- (ii) a corporate body, driven or parked by a director or employee of the corporate body in the exercise of his powers or in the performance of his duties as such furthering or endeavouring to further the interests of the corporate body.

Presumption in regard to officers.

102. In any prosecution under any of the provisions of this Act, the fact that a person purports to act or has purported to act as a traffic officer or an inspector of licences, examiner of vehicles, examiner for driving licences or inspector for Government vehicles, shall be *prima facie* evidence of his appointment and authority so to act, but subject thereto that the provisions of this section shall not apply with regard to a prosecution on a charge relating to impersonation.

PART XI REGULATIONS

Power of Minister to make regulations.

103. The Minister may make regulations with respect to —

- (a) the safety of traffic on a public road, including —
 - (i) the restriction of the use of any such road or part thereof by such traffic and the duties of the users of any such road;
 - (ii) the transport of dangerous goods;
- (b) the identification of vehicles and, in relation to a motor vehicle, the size, shape, colour and character of the registration mark and number plate to be displayed under this Act and the means to be adopted to render any such mark easily distinguishable, whether by night or by day, when any such vehicle is operated on a public road;
- (c) the width, height and length of any vehicle, and the diameter of the wheels and the width, nature and condition of the tyres of any vehicle when operated on a public road;
- (d) the maximum mass, laden or unladen, of any vehicle, the height and width of any load which may be carried by any vehicle, the manner in which any vehicle may be loaded, the extent to which any load may project in any direction and the maximum mass of any vehicle or any part thereof supported by the road or any specified area thereof, when any vehicle referred to in this paragraph is operated on a public road;
- (e) the emission of exhaust gas, smoke, fuel, oil, visible vapours, sparks, ash or grit from any vehicle operated on a public road;
- (f) excessive noise owing to the design or condition of any vehicle or the loading thereof, or to the design, condition or misuse of silencer, or of a hooter or other warning device, when any such vehicle is operated on a public road;
- (g) the particulars to be marked on any vehicle;
- (h) the towing, pushing or drawing of any vehicle by another vehicle on a public road;

- (i) the conditions under which any motor vehicle fitted with steering apparatus on the left side may be operated on a public road;
- (j) the number, nature and kind of lamps, including reflectors, to be fitted to any vehicle operated on a public road, the position in which they shall be carried, the manner, conditions and times of their use and the use of any lamp or lighting device which may endanger public safety;
- (k) the number and nature of brakes and for ensuring that brakes, silencers and steering gear shall be efficient and in proper working order, in respect of any vehicle operated on a public road;
- (l) the regulation of the use and control of any vehicle on a public road, its construction, equipment (including measuring equipment), width of tracks, dimensions, mass and use in respect of either chassis and body or chassis, body and load and the conditions under which it may be used;
- (m) in relation to a vehicle operated on a public road, the devices to be fitted for signalling the approach thereof, for enabling the driver thereof to become aware of the approach of another vehicle from the rear, and for intimating any intended movement thereof and the use of any such devices and for ensuring that they shall be efficient and kept in proper working order;
- (n) the protection of any public road, the mass, tyres and load of any vehicle in relation to any specified bridge or ferry, the time when and speed at which any vehicle of a specified mass may be allowed to cross any bridge or ferry, and furnishing of security by any person against damage to any public road by reason of heavy traffic, and making good the cost of repairing such damage;
- (o) the stopping and parking of vehicles on public roads, including the provision of special parking places for persons referred to in section 108;
- (p) the furnishing of accident reports and statistics of any nature whatsoever;
- (q) the determination of the number of passengers for the transport of which a certain class of motor vehicle is adapted and the number which may be transported, the general safety, comfort and convenience of passengers carried on or by such a motor vehicle and the conduct of the driver, conductor and passengers on such a vehicle;
- (r) the specifications for the examination of any vehicle;
- (s) any light which, in the opinion of the Minister, is likely to interfere with the proper view of any road traffic sign or to be confused with any sign;
- (t) the method of determining any fact which is required for the purposes of this Act;
- (u) any form, process or token which the Minister may deem expedient for the purposes of this Act and the nature and extent of any information to be furnished for the purpose of any such form, process or token;
- (v) the dress, including insignia, of authorised officers;
- (w) the fees to be charged for any purpose under this Act;

- (x) the carriage of persons as passengers on any vehicle which has been constructed or designed solely or mainly for the carriage of goods and not for the carriage of passengers and their effects;
 - (y) additional duties for operators of specific classes of motor vehicles or operators engaged in activities which require additional safety measures for the protection of the public;
 - (z) the carrying out of, and giving effect to, the provisions of any agreement contemplated in section 125;
 - (za) the determination of the maximum fine which may be paid without appearance in court with regard to an offence committed under this Act, notwithstanding section 312 of the Criminal Procedure and Evidence Act, 1938;
 - (zb) responsibility for accidents caused by stray cattle owned by orphaned and vulnerable children.
- (2) Regulations made by the Minister under subsection (1) with regard to —
- (a) specific categories —
 - (i) of road transport undertakings;
 - (ii) of industries or trades or occupations concerned with road transport;
 - (iii) of persons by whom any undertaking or occupation referred to in subparagraphs (i) and (ii) is carried out or exercised;
 - (iv) of operators of vehicles concerned with, or new entrants to, any undertaking or occupation referred to in subparagraph (iii);
 - (b) specific circumstances in which any undertaking or occupation referred to in subparagraph (iii) of paragraph (a) is carried out or exercised;
 - (c) specific areas in which any undertaking or occupation referred to in subparagraph (iii) of paragraph (a) is carried out or exercised,

shall be so made by the Minister with due regard to the specific requirements of the category, circumstances or area concerned.

(3) The Minister may, for the purpose of prescribing any fee which is payable to any person or local authority in respect of the exercise or performance of any power, duty or function by virtue of the provisions of this Act or any agreement contemplated in section 125, determine —

- (a) that the amount of such fee shall be as may be fixed by the person or local authority concerned;
- (b) a maximum or minimum level in respect of any amount so fixed;
- (c) the manner in which such fee shall be collected.

(4) For the purpose of this section, in formulating these regulations, the Minister may in matters relating to local authorities, consult with such authorities.

Power of local authority to make by-laws.

104. (1) A local authority may, in accordance with the law regulating local authorities make by-laws consistent with the provisions of this Act in respect of —

- (a) the stopping and parking of a vehicles on any public road or portion thereof, including by-laws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places;
- (b) the appointment and licensing of parking attendants and the withdrawal of any such licence;
- (c) the driver or conductor of, or other person employed in connection with, a vehicle for hire or accepting passengers for hire;
- (d) the relative position on a public road of traffic of differing speeds and classes;
- (e) the place where and time when a vehicle may not turn so as to face in the opposite direction to that in which it was proceeding or where it may only so turn under specified conditions;
- (f) the loading and off-loading of any vehicle on a public road;
- (g) the rules as to priority of entry of certain motor vehicles into a main thoroughfare;
- (h) the appointment of an advisory traffic control board consisting of not less than three members to advise the local authority on all questions of traffic control;
- (i) any form, process or token which a local authority may deem expedient for the purposes of any by-law and the nature and extent of any information to be furnished for the purpose of any such form, process or token;
- (j) the fees to be charged for any purpose contemplated under this section;
- (k) the enabling of any local authority in the event of any person failing to do anything required of him under any by-law, to do such act and to recover the expenses thereof from the person so in default;
- (l) the regulation, restriction, prohibition or control of the parking upon public roads of vehicles owned, kept or used by dealers or which have been placed in their custody or under their control in the course of any dealer's business carried on by them;
- (m) the regulation, control and use in the local authority area of passenger-carrying vehicles;
- (n) bus ranks;
- (o) any other matter in regard to which a local authority may make by-laws under this Act.

(2) The power to make by-laws for any purpose referred to in subsection (1), shall include the power to restrict or prohibit any matter or thing in relation to that purpose, either absolutely or conditionally.

(3) In so far as any by-law of a local authority, whether made under this Act or any other law, may be inconsistent with any regulation made by the Minister under this Act, the last-mentioned regulation shall prevail.

(4) A by-law made under subsection (1) may provide for penalties for a contravention thereof and also for different penalties in case of successive or continuous contraventions, but no penalty shall exceed a fine of E800 or imprisonment for a period of six months or both.

PART XII

REGISTERS AND RECORDS

Registers or records to be kept.

105. (1) Registers or records in such form as may be prescribed shall be kept by —

- (a) the Registrar;
- (b) a driver's licence testing centre or a testing station, if any;
- (c) a local authority;
- (d) the State, including a court of law;
- (e) any person appointed by the Minister by notice in the Gazette.

(2) Any authority or person referred to in subsection (1) shall in the manner and at such intervals as the Minister may determine, furnish the Minister or any person or body designated by the Minister, with information recorded in a register or record of such authority or person, and the Minister shall from the information so furnished compile or cause to be compiled such register as he may determine.

Copy of entry in register to be evidence.

106. (1) A document purporting to be an extract from, or copy of, any register or record kept in terms of this Act and purporting to be certified as such by the person in control of such register, shall in any court be admissible as evidence and shall be *prima facie* evidence of the truth of the matters stated in such document without the production of the original register or record or certificate, licence, other document, microfiche, microfilm or computerised record from or of which such extract or copy was made.

(2) The information contained in a register or record kept for the purposes of this Act shall be furnished to —

- (a) a traffic officer or inspector of licences who requires it for the performance of his duties;
- (b) a person authorised thereto by the Minister to demand such furnishing;
- (c) the State, including a court of law;
- (d) a competent authority of another country;
- (e) a local authority,

but subject thereto that the consent of the Minister or any person authorised thereto by him shall be obtained before such information is furnished to an authority referred to in paragraph (d).

(3) An authority keeping a register or record in terms of section 105 shall, upon payment of the prescribed fees, furnish in information contained in such register or record, to any other person who, in the opinion of such authority, on reasonable grounds requires such information.

Cognisance may be taken of information contained in register or record.

107. The Minister may, in exercising a discretion or taking a decision in terms of this Act, take cognisance of the information contained in a register or record contemplated in section 105.

PART XIII
GENERAL

Exemptions with regard to fees and parking.

108. (1) Notwithstanding anything to the contrary, the iNgwenyama and the Government of Swaziland shall be exempted from the payment of any fees relating to —

- (a) the registration and licensing of motor vehicle belonging to the iNgwenyama or the Government of Swaziland;
- (b) the issue of a learner's or driver's licence;
- (c) the issue of a roadworthy certificate, which would otherwise have been payable by the iNgwenyama or the Government of Swaziland, as the case may be.

(2) Notwithstanding anything to the contrary contained in any other law, a local authority shall, in the prescribed manner, exempt —

- (a) a medical practitioner, subject thereto that such exemption shall only pertain to cases of emergency;
- (b) a nurse or midwife recognised as such under any law, subject thereto that such exemption shall only pertain to cases of emergency; or
- (c)
 - (i) a person who, in the opinion of such local authority suffers from a prescribed physical disability; or
 - (ii) any person who is conveying or assisting a person who suffers from such disability,

from the provision of any law relating to the parking of motor vehicles.

(3) A disabled person or a person who is conveying or assisting a person who suffers from a disability who has been exempted from the laws relating to parking in terms of subsection (2)(c), and to whom the prescribed proof of such exemption has been issued, shall be deemed to be so exempted from the laws applicable in the area of jurisdiction of all local authorities in Swaziland.

Imposition of toll, levies, charges or fees.

109. (1) The Minister may, for the purposes of the improvement and maintenance of the roads infrastructure of Swaziland, road safety programmes, or any other purpose relating to the objectives of this Act, from time to time in consultation with the Minister responsible for Finance by notice in the Gazette impose —

- (a) a toll based on the mass of and the distance travelled on any public road by any motor vehicle registered and licensed in Swaziland or in any other country;
- (b) a toll on any other motor vehicle registered and licensed in any other country;
- (c) any other general or special levy, charge or fee on any motor vehicle,

but subject thereto that no toll, levy, charge or fee shall be payable under this section in respect of —

- (i) a vehicle which is the property of the iNgcwimi or the Government of Swaziland;
- (ii) a vehicle belonging to diplomatic mission, the head of a diplomatic mission or a diplomatic agent assigned to Swaziland and bearing —
 - (aa) in the case of a diplomatic mission situated in Swaziland or the head or diplomatic agent of such mission, a Swaziland registration mark identifying it as such; or
 - (bb) in the case of a diplomatic mission accredited to but situated in a country other than Swaziland, or the head or diplomatic agent of such mission, a registration mark of that other country identifying it as registered in connection with a diplomatic mission.

(2) A different roll, levy, charge or fee may be determined for different classes of vehicle or in relation to the use of any class of vehicle or the country in which it is registered and licensed.

(3) The Minister may, on such grounds as he may determine, exempt the operator or driver of a vehicle from the payment of any toll, levy charge or fee proposed in terms of this section.

(4) Any toll, levy, charge or fee collected under this section shall be paid into the Road Fund Account.

(5) The Minister may prescribe any matter with regard to the imposition or payment of any toll, levy, charge or fee under this section as may be necessary.

Doubt concerning use or classification of motor vehicle.

110. If, for the purposes of this Act, any doubt arises as to the use to which any vehicle is put or the classification of any vehicle, such matter shall be referred to the Minister for a decision.

Vehicle and load may be exempted from the provisions of this Act.

111. The Minister may, subject to such conditions and upon payment of such fees or charges as he may determine, authorise in writing, either generally or specifically, the use on a public road of a vehicle which does not comply with the provisions of this Act or the conveyance on a public road of passengers or any load otherwise than in accordance with the provisions of this Act.

Minister to authorise certain refunds.

112. (1) The Minister shall, if he is satisfied that an amount paid by a person was in excess of the amount properly chargeable under this Act, authorise a refund of such amount or of any part thereof to such person.

(2) The Minister shall not authorise a refund under this section unless the claim thereof is received by the authority to which the payment was made within three years after the date of the payment concerned.

Inspectorate and inspections.

113. (1) The Minister may —

- (a) authorised a person to carry out any inspection which the Minister considers necessary;
- (b) appoint an inspectorate to carry out an inspection and to perform such other functions as the Minister may determine,

in order to ensure that the provisions of this Act are being complied with.

(2) A person shall not obstruct or hinder another person in the carrying out of an inspection referred to in subsection (1).

(3) The Minister may authorise the payment of a fee —

- (a) to the person appointed under subsection (1)(a), if such person is not a public officer; and
- (b) to an inspectorate appointed under subsection (1)(b), if such inspectorate is not constituted from public officers.

(4) The Minister may prescribe the manner in which an expenditure incurred under this section with regard to the inspection of a driver's licence testing centre or a testing station shall be defrayed and the fee to defray such expenditure.

Duplicate of document or token.

114. (1) Subject to subsection (3), if the Minister or the Registrar is satisfied that a certificate, licence or other document or token issued in terms of this Act has been lost, destroyed or defaced or that the figures or particulars thereon have become illegible the Minister or Registrar shall, upon receipt of an application in the form determined by the Minister and upon payment of the prescribed fees, issue a duplicate of such certificate, licence or other document or token to the person who, in the opinion of such authority, is entitled thereto, with either the word "DUPLICATE" written thereon or the issue number printed thereon, but a duplicate of —

- (a) a clearance certificate as prescribed shall not be issued, and where such clearance certificate has been lost, destroyed or defaced or the figures or particulars thereon have become illegible, the person to whom such clearance certificate was issued, shall —
 - (i) in the case of a motor vehicle licence, apply for the issue of such licence; or
 - (ii) in the case of a motor trade number, apply for the cancellation of the motor trade number concerned and the issue of a new motor trade number in the prescribed manner;
- (b) a learner's licence or a driver's licence which was issued in accordance with section 31 or 32(6), shall only be issued to the person to whom the original licence was issued.

(2) An application for a duplicate of a licence referred to in subsection (1)(b), shall be made as prescribed and such duplicate shall be issued as prescribed.

(3) If, after the issue of a duplicate in terms of subsection (1) or (2), the original certificate, licence or other document or token is found, the person to whom the duplicate was

issued shall take all reasonable steps to obtain possession thereof and return it forthwith to the authority who issued the duplicate.

Certified copies.

115. (1) Except for a learner's and driver's licence that a person is required to be in possession of under this Act, a person who in terms of this Act is required to produce any other certificate, document, licence or token may, subject to subsection (2), produce a copy of that certificate, licence, document or token, subject thereto that such copy is certified as a true copy of such certificate, document, licence or token by a Commissioner of Oaths declared as such in terms of the Commissioners of Oaths Act, No. 23 of 1942.

(2) A person authorised in terms of this Act to require from any person to produce a certificate, licence, document or token, may require from that person to produce within a reasonable period (not being more than 14 days) to produce at a time and place specified by him the production of the original of such certificate, licence, document or token.

Thumb print.

116. A person who is unable to sign his name shall, whenever his signature is required on a document in terms of this Act, impress in place thereof his left thumb print upon the space within which he would otherwise have been required to sign his name and if it is not possible to obtain the left thumb print of such person, the imprint of any other finger may be required, in which case the finger thus used shall be identified in writing under each imprint of such finger by the officer in whose presence the imprint was made.

Service of notice and notice of intent to prosecute.

117. (1) Whenever in terms of this Act a notice is authorised or required to be served upon or issued to a person, such notice shall either be served personally on the person to whom it is addressed or be sent to him by registered post to his last known address, but subject thereto that the address furnished by the holder of a driver's licence or recorded against his name in a register of driver's licences, or the address recorded against the registration of a vehicle register of motor vehicles as the address of the owner of such vehicle, shall serve as his domicile of summons and execution for all purposes arising from or for the purposes of this Act, for the service of notices, post or processes on such person.

(2) Service by registered post in terms of subsection (1) shall be deemed to have been effected on the tenth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice.

(3) A certificate by the officer who issued the notice referred to in subsection (1), or by a person authorised by such officer, stating the time, place and manner of issuing of such notice, shall be evidence that such notice was duly issued unless and until the contrary is proved.

Appeal to Minister.

118. (1) A person who is aggrieved by the refusal of the authority responsible to issue to him of a learner's licence, driver's licence, professional driver's permit or roadworthy certificate, may within 21 days after such refusal, in writing appeal to the Minister and such person shall at the same time serve a copy of the appeal to the authority concerned.

(2) After receipt of the copy of the appeal referred to in subsection (1), the authority concerned shall within 14 days furnish the Minister with reasons for the refusal to which such appeal refers.

(3) For the purpose of deciding an appeal in terms of subsection (1), the Minister may appoint a person to examine —

- (a) and test the appellant as to his competency to drive the class of motor vehicle concerned;
- (b) and test the appellant as to his competency to obtain a professional driver's permit;
- (c) the motor vehicle to which the appeal relates in order to determine whether such motor vehicle is roadworthy,

and may, in addition, require each party to the appeal to furnish such information and evidence as he may deem expedient.

(4) The Minister may after considering the appeal give such decision as he may consider appropriate.

State bound.

119. The Act shall bind the State and any person in the service of the State, but the Minister may, by notice in the Gazette, exempt the State or any such person from any provision of this Act, subject to such conditions as the Minister may determine.

Seizure of vehicles.

120. (1) Subject to subsection (2), a traffic officer may seize a vehicle with its load, which is used in or is on reasonable grounds believed to be used in the commission or suspected commission of an offence in terms of the laws of the country.

(2) The manner and conditions in respect of seizure, safe keeping and disposal of a vehicle with its load referred to in subsection (1) shall be as prescribed.

Incorporation of standard by reference.

121. (1) The Minister may by notice in the Gazette incorporate in the regulations any standard without stating the text thereof, by mere reference to the number, title and year of issue of that standard or to any particulars by which that standard is sufficiently identified.

(2) A standard incorporated in the regulations under subsection (1) shall for the purposes of this Act, as far as it is not contrary to a provision of this Act, be deemed to be a regulation made as provided for in section 104.

(3) A notice under subsection (1) shall come into operation on a date specified in the notice, but not before the expiry of 30 days after the date of publication of the notice.

(4) If any standard is at any time after the incorporation thereof in the regulations amended or substituted, the notice incorporating that standard in the regulations shall, unless otherwise stated therein, be deemed to refer to that standard as so amended or substituted, as the case may be.

Offences and penalties.

122. (1) A person who contravenes or fails to comply with any provision of this Act or with any direction, term, condition, demand, determination, requirement, or request hereunder, shall be guilty of an offence.

(2) A person convicted of an offence in terms of subsection (1) read with section 71(1), 91(1) and (2) or shall be liable to a fine not exceeding E5 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

(3) A person convicted of an offence in terms of subsection (1) read with section 60(2), or 94(2) or, shall be liable to a fine not exceeding E4 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(4) A person convicted of an offence in terms of subsection (1) read with section 11(1), 31(4), 32(9), 50(1), 54(4), 77, 93(2), (3) or (4) or 96, shall be liable to a fine not exceeding E2 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(5) A person convicted of an offence in terms of subsection (1) read with section 88(1) shall be liable —

(a) in the case of the death of or injury to a person where it is proved that the person convicted has failed to comply with paragraph (a), (b), (c) or (e) of section 88(1), to a fine not exceeding E5 000 or to imprisonment for a period not exceeding three years or to both such fine and imprisonment;

(b) in the case of damage in respect of a property or animal of another person where it is proved that the person convicted has failed to comply with paragraph (a), (d) or (f) of section 88(1), to a fine not exceeding E3 000 or imprisonment for a period not exceeding one year or both such fine and such imprisonment;

(c) where it is proved that he has failed to comply with paragraph (e) or (g) of section 88(1), to a fine not exceeding E800 or to imprisonment for a period not exceeding six months or to both such fine imprisonment.

(6) A person convicted of an offence in terms of subsection (1) read with section 90(1) shall be liable —

(a) in the case where the court finds that the offence was committed by driving recklessly, to a fine not exceeding E3 200 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;

(b) in case where the court finds that the offence was committed by driving negligently, to a fine not exceeding E1 600 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(7) A person convicted of an offence in terms of any other provision of this Act shall be liable to a fine not exceeding E800 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Apportionment of fines.

123. (1) All fines imposed or bail money in respect of any offence in terms of this Act shall be paid into the Consolidated Fund.

(2) A fine and bail money imposed in respect of any offence under any by-law made by a local authority in terms of section 104 shall be paid to that local authority.

Transitional provision relating to owner and title holder.

124. (1) Notwithstanding the definitions of “owner” and “title holder” in section 2 but subject to subsection (2) of this section, in this Act, unless the context otherwise indicates —

(a) “owner”, in relation to a motor vehicle, means a joint or part owner of that vehicle or a person having possession of the vehicle by virtue of a hire-purchase or suspensive-sale agreement, but does not include a seller under such an agreement;

(b) “title holder” shall have the same meaning; and

(c) “owned” or any like word shall have a corresponding meaning.

(2) The Minister may determine a date by Notice in the Gazette where after “owner” and “title holder” shall have the meaning assigned to it, respectively, in section 2.

Agreements relating to execution and performance of certain functions.

125. (1) The Minister may enter into an agreement with a person or local authority which provides conditions as the Minister may determine, for performance of any function assigned to the Minister, other than a function assigned to the Minister by sections 103 and 118, by or under the provisions of this Act.

(2) The Minister may in writing delegate function assigned to him by or under the provisions of this Act, other than a function assigned to the Minister by sections 103 and 118, to a person or local authority if the Minister deems it necessary for the efficient performance of any function which forms the subject of an agreement referred to in that subsection.

(3) The Minister shall, within 60 days of the date on which he enters into an agreement referred to the subsection (1), give notice in the Gazette that such agreement was so entered into.

(4) The Minister may, subject to such conditions as he may determine, permit any other functionary to enter into an agreement with any person or local authority which provides for the performance of any function assigned to such functionary by or under the provisions of this Act.

Repeal of laws and savings.

126. (1) Subject to the provisions of this section, the Road Traffic Act, No. 6 of 1965, and all laws which amended the Road Traffic Act, 1965, are hereby repealed.

(2) Subject to the provisions of this Act, any proclamation, regulation, notice, order, prohibition, authority, provision of a law repealed by subsection (1) shall, in so far as it is not inconsistent with any provision of this Act, be deemed to have been made, issued, imposed, granted, given, or taken under the corresponding or related provision (if any) of this Act.

(3) A person deemed under subsection (2) to be appointed in any capacity or post under this Act, but who does not comply with any requirement or possess any qualification demanded or required in terms of this Act for appointment in such capacity or post, shall within such period as the Minister may determine comply with such requirement or obtain such qualification.

(4) The Road Traffic Fund Account opened by the Accountant-General in terms of section 150(4) of the repealed Act, shall continue to exist as such.