



ST. HELENA

GOVERNMENT OF SAINT HELENA

A BILL FOR AN ORDINANCE

THE ROAD TRAFFIC ORDINANCE, 2016

Laid upon the Table 9th December 2016



ST HELENA

A BILL

FOR

AN ORDINANCE

to consolidate and amend the law relating to road traffic.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

**PART I
PRELIMINARY**

Short title and commencement

1. This Ordinance may be cited as the Road Traffic Ordinance, 2016, and shall come into force on 1st April 2017.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“**Agricultural vehicle**” means any vehicle which is used for the internal operation of a farm;
“**Bus**” means a motor vehicle, which is constructed to carry over 8 passengers including the driver;
“**certificate of insurance**” means a certificate issued by an insurer in respect of a policy of insurance as required under the Motor Vehicle (Third Party Insurance) Ordinance, Cap. 103;
“**driver**”, where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and the expression “**drive**” shall be construed accordingly;
“**driver’s licence**” means a licence granted under section 16;
“**driving**”, where a person has control over the vehicle’s movement and direction;
“**drug**” includes any intoxicant other than alcohol;
“**examiner**” means a driving examiner appointed under section 3(2);
“**exempted vehicle**” means a vehicle as defined in section 10(3);
“**foreign driving licence**” means a licence referred to in section 18(1);

“Highway Authority” means the authority referred to in section 72 and includes any person authorised by the authority to act on its behalf;

“inspector” means a vehicle inspector appointed under section 3(2);

“large motor cycle” means a mechanically propelled vehicle with—

- (a) less than four wheels;
- (b) a power output more than 35kW; and
- (c) a power to weight ratio more than 0.2W/Kg.

“large vehicle” means a motor vehicle, which is constructed to carry a load or up to 8 passengers and with an authorised mass of over 16,534lb (7,500kg);

“Licensing Officer” means the Licensing Officer referred to in section 3;

“light motor cycle” means a mechanically propelled vehicle with—

- (a) less than four wheels;
- (b) an engine size no greater than 125cc;
- (c) a power output of up to 11kW; and
- (d) a power to weight ratio not more than 0.1W/kg;

“medium motor cycle” means a mechanically propelled vehicle with—

- (a) less than four wheels;
- (b) a power output of up to 35kW; and
- (c) a power to weight ratio not more than 0.2W/kg

but which is not a light motor cycle;

“motor car” means a motor vehicle, not being a motorcycle or a quadricycle, which is constructed to carry a load or up to 8 passengers including the driver and with a maximum authorised mass of up to 7,716lb (3,500kg);

“motor cycle” is a light motor cycle or medium motor cycle or large motor cycle;

“motor vehicle” means any mechanically propelled vehicle intended or adapted for use on roads;

“owner” in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement;

“prescribed” means prescribed by regulations made under this Ordinance;

“public service vehicle” means a motor vehicle used to carry goods for hire or reward that is not a taxi;

“quadricycle” means a motor vehicle with four wheels and having an unladen mass (excluding the mass of the batteries in the case of an electric vehicle) not exceeding 1,212lb (550kg);

“Registrar” means the Registrar referred to in section 3;

“road” means any highway and any other road to which the public has access, and includes bridges over which the road passes, the quay at Jamestown and any area to which a motor vehicle has public access at the St Helena Airport;

“sign” includes markings painted on the surfaces of roads, and references to the erection of signs must be construed accordingly;

“taxi” means a motor vehicle, designed for the carriage of no more than eight persons including the driver, standing or plying for hire;

“traffic sign” includes any warning sign-post, direction post, sign, road marking or other device for the guidance or direction of persons using roads;

“trailer” means any vehicle other than a side car attached to and drawn by a motor vehicle;

“vehicle” means and includes every type of machine or implement of any kind which is drawn or propelled along any road.

Appointment of officers

3. (1) The Director of Police shall be the Registrar and Licensing Officer for the purpose of this Ordinance.

(2) The Director of Police may appoint—

- (a)* inspectors and examiners; and
- (b)* persons to carry out any functions of the Registrar or Licensing Officer on his or her behalf.

(3) A person who obstructs a person acting under this section, or fails to comply with a requirement of this Ordinance, commits an offence.

Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(4) A person who, with intent to deceive, falsely represents himself to be, or to be employed by, a person appointed under section 3, commits an offence.

Penalty: A fine of £500 or imprisonment for three months or both.

PART II REGULATION OF MOTOR VEHICLES

Governor in Council may make regulations

4. The Governor in Council may make regulations generally as to the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be used, and in particular, but without affecting the generality of the foregoing provisions, may make regulations with respect to any of the following matters:

- (a)* The width, height and length of motor vehicles and trailers, the diameter of wheels, and the width, nature and condition of tyres of motor vehicles and trailers;
- (b)* the maximum weight unladen and laden of motor vehicles and trailers, and the conditions under which the weights may be required to be tested;
- (c)* the number and nature of brakes, and for securing that brakes, silencers and steering gear shall be efficient and kept in proper working order, and for empowering persons appointed by the Director of Police to test and inspect any such brakes, silencers or steering gear;
- (d)* the appliances to be fitted for signalling the approach of a motor vehicle, or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, and for securing that they shall be efficient and kept in proper working order;
- (e)* the plates to be affixed to or particulars to be marked on motor vehicles and trailers;
- (f)* the exclusion of any class of motor vehicle, or attachment;
- (g)* public service vehicles, taxis and buses;
- (h)* the maximum speed at which a motor vehicle may be driven on any section of a road or as to the gear to be employed for reducing and checking the speed of a motor vehicle when approaching and descending gradients or as to other safety measures;
- (i)* the training of drivers and qualifications of driver trainers;
- (j)* the wearing of helmets by persons on motor cycles and quadricycles for protection from injury in the event of accident, and the types of helmet to be so worn,
- (k)* the different classes or description of vehicles or as respects the same class or description of vehicles in different circumstances.
- (l)* prescribing the appliances to be fitted to bicycles or tricycles, not being motor vehicles;

- (m) for the removal from roads of vehicles which have broken down and of the loads carried thereby or of vehicles which have been left in a dangerous position on a road;
- (n) prescribing the fees payable for any matter under the Ordinance;
- (o) generally for carrying into effect the provisions of this Ordinance;
- (p) the level of emissions permitted from vehicles;
- (q) requirements for any vehicle being imported to St Helena and the number of such vehicles permitted;
- (r) prescribing the permitted appliances to be fitted to vehicles;
- (s) parking in Jamestown and other locations of St Helena and prescribing parking fees, fines and matters related thereto;
- (t) loading and unloading of vehicles;
- (u) relating to fitness to drive tests and related medical assessment.

Offences relating to construction and use regulations

5. (1) If a motor vehicle or trailer does not comply with any regulations applicable to the class or description of vehicles to which the vehicle belongs, as to the construction and equipment thereof, any person who so uses the vehicle on any road or causes or permits the vehicle to be so used commits an offence:

Penalty: A fine of £500 or imprisonment for three months, or both.

(2) If—

- (a) a motor vehicle or trailer carries on any road a load in excess of the maximum weight fixed by regulations for the class or description of vehicles to which the vehicle belongs; or
- (b) a motor vehicle carries on any road any passengers in excess of the number which it is permitted to carry by the regulations applicable to the class or description of vehicles to which the vehicle belongs,

the driver of the vehicle and any person who causes or permits the vehicle to be so used commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

PART III

REGISTRATION AND LICENSING OF MOTOR VEHICLES AND TRAILERS

Registration of motor vehicles and trailers

6. The owner of a motor vehicle or trailer must apply to the Registrar for registration of the motor vehicle or trailer and must furnish, in the prescribed form, the information respecting the motor vehicle or trailer as may be required.

Particulars entered in form of application

7. (1) Before registering any motor vehicle or trailer, the Registrar must verify all particulars entered in the application form and may, if the Registrar deems it necessary, cause the vehicle or trailer to be examined by an inspector to ensure that it conforms with the requirements of any regulation.

(2) The owner of the motor vehicle or trailer shall pay the prescribed fee for the inspection of the motor vehicle or trailer under subsection (1).

Notification of change of ownership

8. (1) In the event of any change in ownership of a motor vehicle or trailer, otherwise than by death of the owner or part owner, the existing owner or part owner must notify the Registrar of the change in ownership, whether in whole or in part, and the new owner must register the change of ownership in the prescribed form within 7 days of the change in ownership.

(2) On the death of the registered owner or part owner of a motor vehicle or trailer, the person entitled to the custody or use of the motor vehicle or trailer must within 7 days give notice thereof in writing to the Registrar, and the new owner or part owner must effect registration within 7 days of obtaining possession or of the right of exercising ownership.

(3) Any person who wilfully refuses or without lawful excuse neglects to notify the change in ownership of a motor vehicle or trailer within the prescribed period commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

Amendment of register and licence

9. On transfer of ownership of a motor vehicle or trailer, the Registrar and Licensing Officer must, on payment of the prescribed fee, amend the register and the licence, but is not required to issue a new licence.

Prohibition of use of motor vehicles or trailers without licences

10. (1) Subject to subsection (2), a motor vehicle or trailer may not be used, driven or remain on any road or public place unless it is licensed under this Ordinance.

(2) Where in the opinion of the Licensing Officer it is necessary for an unlicensed motor vehicle or trailer to be used, driven or remain on a road or public place for the purpose of being examined by an inspector in accordance with section 11(2) or for the purposes of being prepared for, or driven to or from such an inspection, the Licensing Officer may grant a permit authorising the motor vehicle or trailer to be used on a road for that purpose at such time and subject to such conditions as the Licensing Officer may determine.

(3) Where in the opinion of the Licensing Officer it is necessary to exempt certain type of motor vehicles such as cranes, crushers or any other type of specialised vehicle, the Licensing Officer may grant a certificate of exemption to the applicant as long as the applicant presents, at the time of the application for exemption, whenever it is relevant, a competency operator certificate in respect of the type of vehicle that is exempted. The Certificate of Exemption must contain a full description of the vehicle being exempted.

(4) If a motor vehicle or trailer is used, driven or remains on a road or public place in contravention of this section, the driver of the vehicle or trailer and any person who causes or permits the vehicle or trailer to be so used or driven, or to so remain, commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

Application for and issue of motor vehicle or trailer licence

11. (1) The owner, or any other person authorised by the owner, of a motor vehicle or trailer must apply to the Licensing Officer for a motor vehicle or trailer licence.

(2) The Licensing Officer must not grant a motor vehicle or trailer licence unless—

(a) the motor vehicle or trailer has been registered; and

- (b) subject to subsection (4), the motor vehicle or trailer has, within the preceding 3 months, been examined by an inspector and certified by him or her in the prescribed form that it complies with the regulations relating to the construction, equipment or use of motor vehicles or trailers and that its condition is not such as to cause danger to any person travelling in it or being upon any road; and
 - (c) on the date when the licence comes into operation there will be in force a policy of insurance as required under the Motor Vehicle (Third Party Insurance) Ordinance, Cap. 103, to the use of the vehicle or trailer by the applicant or by other persons on his or her order or with his or her permission.
- (3) The Licensing Officer may seek the following information from services providing motor vehicle third party insurance which such services may lawfully disclose —
- (a) details of motor vehicle third party insurance policies that have lapsed;
 - (b) details of motor vehicle third party insurance policies that have not been renewed;
- and
- (c) details of the persons registered to drive a particular vehicle under such vehicle's current motor vehicle third party insurance policy.
- (4) In the case of a new motor vehicle or trailer being licensed for the first time the examination and certificate under subsection (2)(b) may, at the discretion of the Licensing Officer, be dispensed with.
- (5) The prescribed fee for the examination of a motor vehicle or trailer under subsection (2) must be paid by the owner thereof.
- (6) Every motor vehicle or trailer licence must be issued in the prescribed form.
- (7) The owner of a motor vehicle or trailer for which the grant or renewal of a licence is refused under this section may appeal against the decision of the Licensing Officer to the Chief Magistrate in writing.

Duration of licence

12. A motor vehicle or trailer licence must be taken out annually and is valid for 12 calendar months from the date of issue.

Refund of licence fees

13. In the event of any motor vehicle or trailer being—

- (a) permanently condemned for further use under section 14;
- (b) exported from St. Helena;
- (c) disused in the absence of the owner from St Helena; or
- (d) disused for any reason approved by the Licensing Officer,

a refund of 1/12th of the annual licence may be made to the owner in respect of each full month of the unexpired period of the licence, subject to the prior surrender of the licence to the Licensing Officer.

Suspension of motor vehicle or trailer licences for defects

14. (1) The Licensing Officer must require an examination of a motor vehicle or trailer by an Inspector if the Licensing Officer has reason to believe that the motor vehicle or trailer is in such a condition as to be a source of danger to any person travelling in the vehicle or to other users of the road or to be injurious to the roads,.

(2) If in the opinion of an Inspector any defect is such as to be a source of danger to any person travelling in the vehicle or trailer or to other users of the road or to be injurious to the roads, the Licensing Officer must suspend the licence.

(3) If in the opinion of the Inspector the defect is such as can be remedied and the licensee furnishes evidence to the satisfaction of the Inspector that the defect has been remedied, the Licensing Officer must lift the suspension under subsection (2).

(4) The owner of a motor vehicle or trailer in respect of which the licence is suspended, may appeal against the decision of the Licensing Officer to the Chief Magistrate in writing.

Duplicate licences

15. If a motor vehicle or trailer licence is lost, destroyed or rendered illegible, the Licensing Officer must issue a duplicate licence on payment of the prescribed fee.

PART IV LICENSING OF DRIVERS OF MOTOR VEHICLES

Licensing of drivers of motor vehicles

16. (1) No person may—

- (a) drive on a road a motor vehicle of any class otherwise than in accordance with a driver's licence authorising him or her to drive a motor vehicle of that class; or
- (b) cause or permit another person to drive on a road a motor vehicle of any class otherwise than in accordance with a driver's licence authorising that other person to drive a motor vehicle of that class.

(2) A person who wishes to obtain a driver's licence must—

- (a) apply to the Licensing Officer in the prescribed manner and pay the prescribed fee; and
- (b) submit with such application a declaration in the prescribed form that he or she is not disqualified by reason of age or otherwise from obtaining the licence for which he or she is applying.

(3) The Governor in Council may make regulations dealing with classes of vehicles, corresponding licence type and relating requirements.

(4) The Licensing Officer may, subject to—

- (a) the requirements as to the fitness of applicants for licences; and
- (b) any disqualifications from obtaining or holding the licence for which the applicant is applying,

grant a driver's licence in the prescribed form, and if the applicant is subject to any restrictions with respect to the driving of any class of motor vehicle, the extent of the restriction shall be specified in the licence.

(5) A person who fails to comply with subsection (1) commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

Recognition of foreign licences

17. (1) Notwithstanding anything contained in section 16, a person may drive a motor vehicle in St Helena without being the holder of a driver's licence, if that person—

- (a) has been in St Helena for less than 3 months in the preceding 12 months; and
- (b) is the holder of a current valid foreign driving licence, and is between the ages of 17 and 70 years.

(2) A person producing a foreign driving licence (other than a licence referred to in section 18(1)(a)) to the Licensing Officer or to a Police Officer, must at the same time produce his or her passport for the purpose of verification of his or her signature.

Meaning of foreign driving licence

18. (1) A “foreign driving licence” means—

- (a) a driving licence issued in Ascension Island or in Tristan da Cunha; or
- (b) a driving licence issued in any other country or territory; or
- (c) an International Driving Permit referred to in subsection (4).

Provided that—

- (i) the licence or permit was issued to authorise the holder thereof to drive a vehicle or vehicles of a class including the vehicle driven by him or her in St Helena; and
- (ii) any conditions subject to which that licence or permit was issued have been and are complied with.

(2) A person who holds a foreign driving licence, must—

- (a) produce any document to the satisfaction of the licensing officer which provides details of any conditions subject to which any such licence or permit was issued; and
- (b) if so required, prove that the licence is valid or that the holder is not disqualified from driving, as provided in this Ordinance, in the country of issue.

(3) A foreign driving licence must not be recognised for the purposes of this Ordinance unless any writing or printing appearing thereon is in English or is accompanied (either within the document or as a separate document) by a translation into English and has been issued by a country listed in Schedule 1.

(4) For purposes of this section, an “International Driving Permit” means a driving permit or licence, issued pursuant to any international treaty or arrangement, being a treaty or arrangement designed or intended to enable the holder of such a permit or licence to drive motor vehicles in any of the countries or territories which are parties to the treaty or arrangement.

Duration of licence

19. (1) Subject to subsections (2) and (3), a driver’s licence is valid for up to 10 years from the date of issue.

(2) A driver’s licence expires on the day before a person becomes 70 years old.

(3) A driver’s licence issued to a person aged 70 years old or over is valid for up to 3 years from the date of issue.

Provisions as to physical fitness of applicants for licences

20. (1) On an application for the grant or renewal of a driver’s licence, the applicant must make a declaration in the prescribed form as to whether or not he or she is suffering from any illness, physical disability or the persistent misuse of drugs or alcohol (whether or not such misuse amounts to dependency), as may be specified in the form, or from any other illness or physical disability which would be likely to cause the driving by him or her of a motor vehicle to be a source of danger to the public.

(2) If the Licensing Officer is satisfied that any person who holds a licence, or applies for the grant or renewal of a licence, is suffering from an illness, physical disability or the

persistent misuse of drugs or alcohol (whether or not such misuse amounts to dependency), which is likely to cause driving by that person of a motor to be a source of danger to the public, the Licensing Officer must revoke the licence or refuse to issue that licence, as the case may be, and the licence holder must, on the request of the Licensing Officer, deliver the licence to him or her for cancellation.

(3) A holder of a St Helena or foreign licence who becomes aware of an illness, disability or the persistent misuse of drugs or alcohol (whether or not such misuse amounts to dependency) which may likely cause the driving by him or her of a motor vehicle to be a possible source of danger to the public, and who does not notify the licensing officer thereof as soon as practicable, commits an offence.

Penalty: A fine of £1,000 or imprisonment for 6 months, or both.

(4) Any person who is aggrieved by the refusal of the Licensing Officer to grant a licence or by the revocation of a licence under this section, may within 14 days of such decision appeal to the Chief Magistrate in writing.

Provisions as to competence to drive and control a motor vehicle

21. (1) Subject to subsection (2), a driver's licence may not be granted unless the applicant satisfies an examining officer of, and obtains from the examining officer a certificate of competence testifying to the applicant's knowledge of the Highway Code and his or her competence to drive and control a motor vehicle of the class in respect of which he or she desires to obtain a driver's licence.

(2) Subsection (1) does not apply to an application for the renewal of a licence previously granted, unless—

- (a) the Licensing Officer has reason to doubt the continued competence of the applicant to drive and control a motor vehicle of the class to which the application for renewal relates; or
- (b) the applicant has attained the age of 70 or is applying for a renewal of a class of licence to drive a bus or large vehicle, and has failed to satisfy the Licensing Officer by medical evidence of his or her competence to drive and control a motor vehicle of the class in respect of which he or she desires to obtain a driver's licence.

(3) For the purpose of enabling the applicant for the grant of a licence to learn to drive a motor vehicle with a view to passing a test under subsection (1), the Licensing Officer may, if so requested by the applicant and on payment of the prescribed fee, grant him or her a provisional licence in the prescribed form and subject to the prescribed conditions which remains in force for a period of 6 months.

(4) A person who fails to comply with any condition subject to which a provisional licence is granted under subsection (3) commits an offence, and the court may order the withdrawal of the provisional licence.

Penalty: A fine of £500 or imprisonment for three months, or both.

(5) A person who is aggrieved by the refusal of the Licensing Officer to renew a licence under this section may within 14 days of that decision appeal to the Chief Magistrate in writing.

Disqualification for offences

23. (1) Any court before which a person is convicted of any criminal offence—

- (a) in connection with the driving of a motor vehicle; or
- (b) where that person used a motor vehicle during the commission of the offence,

may, and shall when so required by this or any other Ordinance, order that he or she be disqualified from holding or obtaining a driving licence for such period as the court thinks fit.

(2) Any disqualification made under this section will start on the date on which the person is sentenced or, if sentenced to period of imprisonment, on the date of the persons release from prison.

(3)(a) Where the Magistrates' Court commits an offender to the Supreme Court or defers passing sentence on an offender under this Ordinance, it may order the offender to be disqualified until he or she has been dealt with in respect of the offence.

(b) Any period of disqualification ordered on conviction under subsection (1) is deemed to include a period during which the person was disqualified under paragraph (a) and may be reduced accordingly.

(4) A person against whom an order is made under this section may appeal against the order in the same manner as against any other sentence or order; and the court may, if it thinks fit, suspend the operation of the order pending determination of the appeal.

Provisions as to disqualifications and suspensions

24. (1) If a person who is disqualified by virtue of a conviction or order under this Ordinance is the holder of a licence, the licence is suspended for the period that the disqualification continues in force, and the licence so suspended is during the time of suspension of no effect.

(2) A person who, while disqualified from holding or obtaining a driving licence (whether by reason of an order of a court, or by age or other incapacity)—

(a) drives or attempts to drive a motor vehicle on a road or other public place; or

(b) obtains or attempts to obtains a diving licence,

commits an offence and the court must make an order under section 23(1).

Penalty: A fine of £2,500 or imprisonment for 18 months, or both.

(3) Notwithstanding any enactment prescribing the time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under subsection (2) may be brought within the later of—

(a) a period of 6 months from the date of the commission of the alleged offence; or

(b) a period of three months from the date on which it came to the knowledge of the prosecutor that the offence had been committed,

but not be later than one year from the date of the commission of the offence.

(4) A person who is disqualified by virtue of a conviction or order under any law within any country shall be deemed to be disqualified as if such a disqualification was under the provisions of this ordinance.

Surrender of licences

25. If a licence granted under section 16 is revoked by suspension, disqualification or otherwise, the holder thereof must, if so required by the Licensing Officer by notice in writing, surrender the licence to the Licensing Officer within the period of 7 days from the date on which the notice is given, and a person who fails to do so commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

Production of licences to police officers

26. (1) Any person—

(a) driving or being in charge of a motor vehicle on a road or other public place; or

(b) who is supervising the holder of a provisional licence while the provisional licence holder is driving a motor vehicle on a road or other public place, must have at all times he or she is in charge of the motor vehicle and on being so required by a police officer, produce for examination within 7 days—

- (i) his or her driver's licence or foreign driving licence;
- (ii) a valid certificate of insurance; and
- (iii) a motor vehicle licence issued under section 11 in respect of the vehicle.

(2) If a driver's licence expires or is revoked and the person fails to comply with the requirement in section 25, a police officer may require that person to produce the licence and may take possession of it and deliver it to the Licensing Officer.

(3) A person who is required under subsection (1) or (2) to produce a licence or certificate and fails to do so, commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

PART V

DRIVING OF MOTOR VEHICLES AND OFFENCES IN CONNECTION THEREWITH

Restriction on driving by young persons

27. (1) A person under 17 years of age may not drive a motor vehicle on a road.

(2) A person under 21 years of age may drive only the following classes of motor vehicle on a road:

- (a) motor car with a maximum authorised mass of up to 4,960lb (2,250kg) and maximum engine capacity of 1.4 litre petrol or 1.6 litre diesel;
- (b) light motor cycle; or
- (c) quadricycle.

(3) For purposes of subsection (2), an agricultural vehicle is deemed not to be driven on a road while it is being driven in the course of the internal operations of a farm.

(4) Any person who drives, or causes or permits any person to drive, a motor vehicle in contravention of this section, commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

(5) A person prohibited by this section from driving a motor vehicle or any class of motor vehicle by reason of his or her age, is disqualified from holding or obtaining a licence to drive such motor vehicle as he or she is, by virtue of this section, forbidden to drive.

Safety measures for control of speed

28. (1) Any person who drives a motor vehicle on a road in disregard of any regulation as to the maximum speed at which a motor vehicle may be driven on any section of a road, or as to any other safety measures to be observed when approaching and descending gradients, commits an offence.

Penalty: A fine of £100 or imprisonment for one month, or both.

(2) A person convicted of an offence under this section is, without affecting the power of the court to order a longer period of disqualification, liable to be disqualified from holding or obtaining a licence for a period of 2 years from the date of conviction.

(3) A person charged under this section with the offence of driving a motor vehicle of any class or description in excess of the maximum permitted speed is not liable to be convicted of the offence solely on the evidence of one witness to the effect that, in the opinion of the witness, the person charged was driving the vehicle at such greater speed.

(4) A person who keeps or carries in a vehicle any device or thing, not being part of the normal equipment of that vehicle, which is capable of—

(a) detecting the presence of any speed measuring device referred to in section 29(3); or

(b) impeding, balking or frustrating the purpose of any such speed measuring device or the mechanical or efficient running of any police equipment or vehicle,

commits an offence and, without affecting to the power of the courts to order a longer period of disqualification, is on conviction liable to be disqualified from holding or obtaining a licence for a period of 2 years from the date of conviction.

Penalty: A fine of £500 or imprisonment for three months, or both.

Evidence of speed

29. (1) If in any criminal proceedings the speed at which a vehicle travelled on any occasion is relevant, evidence of the speed of the vehicle as indicated or determined on that occasion by a prescribed measuring device when tested, sealed and used in the prescribed manner is, without affecting any other mode of proof and in the absence of evidence to the contrary, proof of speed of the vehicle on that occasion.

(2) A certificate to the effect that a device referred to in subsection (1) has been tested or sealed in the prescribed manner, signed or purporting to be signed by a person authorised to do so by regulations is, without affecting any other mode of proof and in the absence of evidence to the contrary, proof that the device has been so tested or sealed.

(3) The Governor may on application by the Director of Police prescribe speed measuring devices for the purpose of this section.

Causing death by driving

30. (1) A person commits an offence if he or she causes the death of another person by driving a vehicle—

(a) dangerously on a road or other public place, as referred to in section 31(2);

(b) without due care and attention as referred to in section 32(2);

(c) without reasonable consideration for other persons using the road or place as referred to in section 32(2);

(d) while the circumstances are such that he or she is committing an offence under this Ordinance relating to—

(i) driving of a vehicle otherwise than in accordance with a licence;

(ii) driving of a vehicle while disqualified; or

(iii) using a vehicle while uninsured against third party risks;

(e) while he or she is unfit to drive through alcohol or drugs;

(f) when he or she has consumed so much alcohol or drugs that the proportion of it in his or her breath, blood or urine at that time exceeds the limit prescribed in section 61;

Penalty: A fine of £10,000 or imprisonment for a life term, or both.

(2) A person convicted of an offence under this section is, without affecting to the power of the court to order a longer period of disqualification, liable to be disqualified from holding or obtaining a licence for a period of 10 years.

(3) A charge under this section is deemed to include a charge under section 31(1).

Dangerous driving

31. (1) A person who drives a vehicle dangerously on a road or other public place commits an offence.

Penalty: A fine of £8,000 or imprisonment for 5 years, or both.

(2) For the purposes of subsection (1) and section 30(a), a person is regarded as driving dangerously if—

- (a) the way he or she drives falls far below what would be expected of a competent and careful driver; and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

(3) A person is also regarded as driving dangerously for the purposes of subsection (1) and section 30 if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous, and for purposes of this subsection—

- (a) “dangerous” refers to danger either of injury to any person or of serious damage to property;
- (b) in determining the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried; and
- (c) in determining what would be expected of, or obvious to, a competent and careful driver in a particular case, regard must be had not only to the circumstances of which he or she could be expected to be aware but also to any circumstances shown to have been within the knowledge of the person.

(4) A person convicted of an offence under subsection (1) is, without affecting the power of the court to order a longer period of disqualification, liable to be disqualified from holding or obtaining a licence for a period of 5 years.

(5) A charge under subsection (1) is deemed to include a charge under section 32.

Careless and inconsiderate driving

32. (1) A person who drives a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or public place commits an offence.

Penalty: A fine of £5,000 or imprisonment for 3 years, or both.

(2) For the purposes of subsection (1) and section 30(b) and (c)—

- (a) a person is regarded as driving without due care and attention if the way he or she drives falls below what would be expected of a competent and careful driver; and in determining what would be expected of a careful and competent driver in a particular case, regard must be had not only to the circumstances of which he or she could be expected to be aware, but also to any circumstances shown to have been within the knowledge of the person; and
- (b) a person is regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

(3) A person convicted of an offence under this section is, without affecting the power of the court to order a longer period of disqualification, liable to be disqualified from holding or obtaining a licence for a period of 3 years.

Offence of aiding, abetting, counselling, procuring or inciting the commission of an offence

33. (1) If a person is convicted of aiding, abetting, counselling or procuring, or inciting the commission of an offence under sections 23, 30, 31 or 32, and it is proved that he or she was present in the vehicle at the time of the commission of the offence, the offence of which he or she is convicted is deemed, for the purpose of the provisions of this Ordinance relating to disqualifications for holding or obtaining licences, to be an offence in connection with the driving of a motor vehicle.

(2) If upon the trial of a person for an offence against section 31 the jury are not satisfied that such person's driving was the cause of the death but are satisfied that he or she is guilty of driving as mentioned in section 32, it shall be lawful for them to convict him of an offence under this section.

(3) Upon the trial of a person who is indicted for manslaughter in connection with the driving of a motor vehicle by him or her, it shall be lawful for the jury, if they are satisfied he or she is guilty of an offence under section 30, to find him guilty of that offence.

Racing

34. A person who without a licence for such an activity promotes or takes part in a race or trial of speed between vehicles on a road or in a public place commits an offence.
Penalty: A fine of £3,000 or imprisonment for 9 months, or both.

Causing danger to road-users

35. (1) A person commits an offence if he or she intentionally and without lawful authority or reasonable cause—

- (a) causes anything to be on, in or over a road;
- (b) interferes with a motor vehicle, trailer or cycle; or
- (c) interferes (directly or indirectly) with traffic equipment,

in such circumstances that it would be obvious to a reasonable person that to do so would be dangerous.

(2) For purposes of this section—

- (a) **“dangerous”** refers to danger either of injury to any person while on or near a road, or of serious damage to property on or near a road;
- (b) **“traffic equipment”** means—
 - (i) anything lawfully placed on or near a road by the highway authority;
 - (ii) a traffic sign lawfully placed on or near a road by a person other than the highway authority; or
 - (iii) any fence, barrier or light lawfully placed on or near a road by a police officer or a person acting under the instructions (whether general or specific) of the Director of Police,

and unless the contrary is proved, anything placed on or near a road is deemed to have been lawfully placed there;

- (c) in determining what would be obvious to a reasonable person in a particular case, regard must be had not only to the circumstances of which he or she could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

Penalty: A fine of £3,000 or imprisonment for nine months, or both.

Prohibition of driving motor vehicles elsewhere than on roads

36. (1) Subject to subsections (2) and (3), a person who without lawful authority drives a vehicle onto or upon any common land, crown land or land of any other description, not being land forming part of a road commits an offence.

Penalty: A fine of £1,000 or imprisonment for six months, or both.

(2) It is not an offence under this section—

- (a)** to drive a motor vehicle on any land within 30 yards (27 metres) of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land; or
- (b)** if the person proves to the satisfaction of the court that he or she was driving the vehicle in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency.

(3) Nothing in this section affects the operation of or affects the law of trespass to land or any right or remedy to which a person may by law be entitled in respect of any such trespass or in particular confers a right to park a vehicle on any land.

Persons to comply with traffic directions

37. (1) A person driving or propelling a vehicle or riding or propelling a pedal cycle commits an offence if he or she neglects or refuses—

- (a)** to stop the vehicle or pedal cycle;
- (b)** to make it proceed in, or keep to, a particular line of traffic; or
- (c)** to proceed to a particular point on or near the road on which the vehicle is being driven or propelled,

when directed to do so by a police officer in the execution of his or her duty and for the time being engaged in the regulation of traffic in a road.

Penalty: A fine of £500 or imprisonment for three months, or both.

(2) A person on foot who proceeds across or along the road in contravention of a direction to stop given by a police officer in the execution of his or her duty and for the time being engaged in the regulation of vehicular traffic in a road, either to persons on foot or to persons on foot and other traffic, commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

(3) A police officer may require a person committing an offence under this section to give his or her name and address, and if such person fails to do so, he or she commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

Mobile telephones, hand-held radios and any other hand-held communication devices

38. (1) Subject to subsection (2), a person who drives a vehicle on a road while holding a telephone, a hand-held radio or any other hand-held communication device in any way while the vehicle is in motion commits an offence.

Penalty: A fine of £1,000.

(2) A person does not contravene this section if, at the time of the alleged contravention, such person—

- (a)** is executing his or her duties as a member of the Police Service, the Fire Service or any other emergency service; or
- (b)** is acting in response to a genuine emergency and he or she is using the telephone, radio or other device to call the police, fire, ambulance or other emergency service

and it is unsafe or impracticable for him or her to cease driving in order to make the call.

Fitting and supply of defective or unsuitable vehicle parts

39. (1) A person commits an offence if such person fits a vehicle part to a vehicle or causes or permits a vehicle part to be fitted to a vehicle in such circumstances that the use of the vehicle on a road would, by reason of that part being fitted to the vehicle—

- (a) involve a danger of injury to any person; or
- (b) constitute a contravention of or failure to comply with any of the construction and use requirements.

Penalty: A fine of £1,000 or imprisonment for six months, or both.

(2) A person shall not be convicted of an offence under subsection (1) if he or she proves—

- (a) that he or she had reasonable cause to believe that that vehicle would not be used on a road in St Helena; or
- (b) that it would not be so used until it had been put into a condition in which its use on a road would not constitute a contravention of or a failure to comply with any of the construction and use requirements or would not involve a danger of injury to any person.

(3) Nothing in this section affects the validity of a contract or of any rights arising under a contract.

Driving with uncorrected defective eyesight

40. (1) A person commits an offence if he or she drives a motor vehicle on a road while his or her eyesight is such (whether through a defect which cannot be, or one which is not for the time being, sufficiently corrected) that he or she does not comply with the requirements as to eyesight as may be prescribed.—

Penalty: A fine of £100 or imprisonment for one month, or both.

(2) A police officer having reason to suspect that a person driving a motor vehicle may be guilty of an offence under subsection (1) may require that person to submit to a test for the purpose of ascertaining whether such person, using no other means of correction than he or she used at the time of driving, complies with the prescribed requirements.

(3) A person who refuses to submit to a test under subsection (2) commits an offence.
Penalty: A fine of £100 or imprisonment for one month, or both.

Pillion riding

41. (1) Subject to subsection (2), not more than one person, in addition to the driver, may be carried on any motor cycle or quadricycle.

(2) In the case of a motor cycle to which a sidecar is attached, one person may be carried in the sidecar in addition to any other person allowed to be carried on that motor cycle under subsection (1).

(3) A person who fails to comply with this section commits an offence.
Penalty: A fine of £500 or imprisonment for three months, or both.

Duty to give name and address and to stop, and power of arrest in certain cases

42. (1) If the driver or passenger of vehicle who is alleged to have committed an offence under this Ordinance, on being so required by any person having reasonable ground for so enquiring, fails to give his or her name and address, or gives a false name or address, he or she commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

(2) A police officer may arrest without warrant the driver or passenger of any vehicle who such police officer has reasonable ground to suspect has committed—

- (a)* an imprisonable offence under this Ordinance; or
- (b)* any other offence under this Ordinance, unless the driver or passenger is known to the police officer or gives his or her name and address or produces his or her licence to the police officer.

(3) A person driving a vehicle on a road or riding on a road a bicycle or tricycle, not being a vehicle, who fails to stop the vehicle, bicycle or tricycle on being required to do so by a police officer commits an offence.

Penalty: A fine of £500.

Restriction on prosecutions under the preceding sections

43. (1) If a person is prosecuted for an offence under any provision of this Ordinance relating to the maximum speed at which motor vehicles may be driven, the checking of speed and other safety measures to be taken, dangerous driving or to careless driving, such person may not be convicted unless either—

- (a)* such person was warned at the time the offence was committed that the question of prosecuting him or her for an offence under one or other of those provisions would be taken into consideration; or
- (b)* within 14 days of the commission of the offence—
 - (i)* a summons for the offence was served on him or her; or
 - (ii)* a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed was served on him or her or on the person who was registered as the owner of the vehicle at the time that the offence was committed.

(2) The requirement under subsection (1) does not apply if, at the time of the offence, or immediately afterwards, an accident occurred by reason of the offence.

(3) Failure to comply with the requirement of subsection (1) is not a bar to the conviction of an accused person where the court is satisfied—

- (a)* that neither the name and address of the accused nor the name and address of the registered owner, if any, could with reasonable diligence have been ascertained in time for a summons or a notice to be served or sent in compliance with the requirement; or
- (b)* that the accused by his or her own conduct caused or contributed to the failure.

(4) If a person is prosecuted—

- (a)* for an offence to which subsection (1) does not apply; or
- (b)* for an offence to which that subsection does apply, but as respects which the requirement of that subsection has been satisfied,

that subsection does not affect any power of a court on the charge for that offence, if that person is found not guilty of that offence, to find him or her guilty of an offence under section 30 or 32.

Duty to stop in case of accident

44. (1) This section applies where, owing to the presence of a vehicle on a road or other public place, an accident occurs by which—

- (a) personal injury is caused to a person other than the driver of that vehicle; or
- (b) damage is caused—
 - (i) to a vehicle other than that vehicle or a trailer drawn by that vehicle;
 - (ii) to an animal other than an animal in or on that vehicle or a trailer drawn by that vehicle; or
 - (iii) to any other property constructed on, fixed to, growing in or otherwise forming part of the land on which the road or place in question is situated or land adjacent to such land.

(2) The driver of the vehicle must stop and, if required to do so by any person having reasonable grounds for so requiring, give his or her name and address and also the name and address of the owner and the identification marks of the vehicle.

(3) The driver of the vehicle must report the accident to a police officer.

(4) A person who fails to comply with subsection (2) or (3) commits an offence.

Penalty: A fine of £1,000 or imprisonment for six months, or both.

(5) If subsection (1)(a) applies and the driver of a motor vehicle does not at the time of the accident produce a certificate of insurance, or other evidence, as is mentioned in the Motor Vehicles (Third Party Insurance) Ordinance, Cap. 103,—

- (a) to a police officer; or
- (b) to some person who, having reasonable grounds for so doing, has required him or her to produce it,

the driver must report the accident and produce such a certificate or other evidence

at a police station or to a police officer as soon as is reasonably practicable and, in any case, within 24 hours of the occurrence of the accident.

(6) A person who fails to comply with subsection (5) commits an offence, but he shall not be convicted by reason only of a failure to produce a certificate or other evidence if, within five days after the occurrence of the accident, the certificate or other evidence is produced at a police station.

Penalty: A fine of £1,000 or imprisonment for six months, or both.

(7) In this section, “animal” means horse, cattle, ass, mule, sheep, pig, goat, cat or dog.

PART VI ALCOHOL OFFENCES AND TESTING

Driving or being in charge of vehicle while under influence of alcohol or drugs

45. (1) A person who, while driving or attempting to drive a vehicle on a road or other public place, is unfit to drive through alcohol or drugs commits an offence.

(2) Without affecting subsection (1), a person who, while in charge of a vehicle which is on a road or other public place, is unfit to drive through alcohol or drugs commits an offence.
Penalty: A fine of £5,000 or imprisonment for 18 months, or both.

(3) For the purposes of subsection (2), a person is deemed not to have been in charge of a vehicle if such person proves that at the material time the circumstances were such that there was no likelihood of his or her driving the vehicle so long as he or she remained unfit to drive through alcohol or drugs.

(4) The court may, in determining whether there was a likelihood as mentioned in subsection (3), disregard any injury to the person and any damage to the vehicle.

(5) For the purposes of this section, a person is unfit to drive if his or her ability to drive properly is for the time being impaired.

(6) A police officer may arrest a person without warrant if the police officer has reasonable cause to suspect that the person is, or has been, committing an offence under this section.

(7) For the purpose of arresting a person under the power conferred by subsection (6), a police officer may enter (if need be by force) any place where that person is or where the police officer, with reasonable cause, suspects him or her to be.

Driving or being in charge of vehicle with alcohol concentration above prescribed limit

46. (1) A person who—

(a) drives or attempts to drive a vehicle on a road or other public place; or

(b) is in charge of a motor vehicle on a road or other public place,

after consuming so much alcohol that the proportion of it in his or her breath, blood or urine exceeds the prescribed limit commits an offence.

Penalty: A fine of £5,000 or imprisonment for 18 months, or both.

(2) It is a defence for a person charged with an offence under subsection (1)(b) to prove that at the time he or she is alleged to have committed the offence, the circumstances were such that there was no likelihood of his or her driving the vehicle whilst the proportion of alcohol in his or her breath, blood or urine remained likely to exceed the prescribed limit.

(3) The court may, in determining whether there was a likelihood as mentioned in subsection (2), disregard any injury to the person and any damage to the vehicle.

Driving or being in charge of vehicle with drug concentration above prescribed limit

47. (1) A person who—

(a) drives or attempts to drive a vehicle on a road or other public place; or

(b) is in charge of a motor vehicle on a road or other public place,

after consuming so much of any drug listed in section 61(2) that the proportion of it in his or her breath, blood or urine exceeds the prescribed limit commits an offence.

Penalty: A fine of £5,000 or imprisonment for 18 months, or both.

(2) It is a defence for a person charged with an offence under subsection (1)(b) to prove that at the time he or she is alleged to have committed the offence, the circumstances were such that there was no likelihood of his or her driving the vehicle whilst the proportion of the drug in his or her breath, blood or urine remained likely to exceed the prescribed limit.

(3) The court may, in determining whether there was a likelihood as mentioned in subsection (2), disregard any injury to the person and any damage to the vehicle.

Power to administer preliminary tests

48. (1) If any of subsections (2) to (5) applies, a police officer may require the person to co-operate with any one or more preliminary tests referred to in sections 49 to 52 administered to the person by that or any other police officer.

(2) This subsection applies if a police officer reasonably suspects that the person—

(a) is driving, is attempting to drive or is in charge of a vehicle on a road or other public place; and

(b) is under the influence of alcohol or a drug.

(3) This subsection applies if a police officer reasonably suspects that the person—

- (a) has been driving, attempting to drive or in charge of a vehicle on a road or other public place while unfit to drive because of alcohol or a drug;
 - (b) and is still under the influence of a drug.
 - (4) This subsection applies if a police officer reasonably suspects that the person—
 - (a) is or has been driving, attempting to drive or in charge of a vehicle on a road or other public place; and
 - (b) has committed an offence under any part of this ordinance while the vehicle was in motion.
 - (5) This subsection applies if—
 - (a) an accident occurs owing to the presence of a vehicle on a road or other public place; and
 - (b) a police officer reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.
 - (6) A person who without reasonable excuse fails to co-operate with a preliminary test required under this section commits an offence.
- Penalty: A fine of £5,000 or imprisonment for 18 months, or both.

Preliminary breath test

49. (1) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Governor, an indication whether the proportion of alcohol in the person's breath or blood is likely to exceed the prescribed limit.

(2) A preliminary breath test administered as required under section 48(2) to (4) may be administered only at or near the place where the requirement to co-operate with the test is imposed.

(3) A preliminary breath test administered as required under section 48(5) may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed; or
- (b) if the police officer who imposes the requirement thinks it expedient, at a police station specified by that police officer.

Preliminary impairment test

50. (1) A preliminary impairment test is a procedure whereby the police officer administering the test—

- (a) observes the person to whom the test is administered in his or her performance of tasks specified by the police officer; and
- (b) makes such other observations of the person's physical state as the police officer thinks expedient.

(2) A preliminary impairment test may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed; or
- (b) if the police officer who imposes the requirement thinks it expedient, at a police station specified by that police officer.

(3) A police officer administering a preliminary impairment test shall have regard to any code of practices issued by the United Kingdom's Secretary of State (as revised from time to time) about—

- (a) the kind of task that may be specified for the purpose of a preliminary impairment test;
 - (b) the kind of observation of physical state that may be made in the course of a preliminary impairment test;
 - (c) the manner in which a preliminary impairment test should be administered; and
 - (d) the inferences that may be drawn from observations made in the course of a preliminary impairment test.
- (4) A police officer must follow the code of practices referred to in subsection (3) so far as reasonably practical on St Helena, and only when that code of practices ensures that a preliminary impairment test is designed to indicate—
- (a) whether a person is unfit to drive; and
 - (b) if that person is unfit to drive, whether or not his or her unfitness is likely to be due to drugs or alcohol.
- (5) A police officer may administer a preliminary impairment test only if that police officer is approved for that purpose by the Director of Police.

Preliminary drug test

51. (1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is obtained and used for the purpose of obtaining, by means of a device of a type approved by the Governor, an indication on whether the person to whom the test is administered has a drug in his or her body.
- (2) A preliminary drug test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed; or
 - (b) if the police officer who imposes the requirement thinks it expedient, at a police station specified by that police officer.

Arrest

52. (1) A police officer may arrest a person without warrant if, as a result of a preliminary test, the police officer reasonably suspects that the proportion of alcohol or drug in the person's breath or blood exceeds the prescribed limit.
- (2) The fact that specimens of breath, sweat or saliva have been provided under section 58 by the person concerned does not prevent subsection (1) having effect if the police officer who imposed on that person the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the specimens has not produced a reliable indication of the proportion of alcohol or drugs in the breath, sweat or saliva of the person.
- (3) A police officer may arrest a person without warrant if the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under section 49 to 51.
- (4) A person arrested under this section may, instead of being taken to a police station, be detained at or near the place where the preliminary test was, or would have been, administered, with a view to imposing on that person a requirement under section 54.
- (5) A person may not be arrested under this section while at a hospital as a patient.

Power of entry

53. A police officer may, following an accident in a case where the police officer reasonably suspects that the accident involved injury of any person, enter any place (using reasonable force if necessary) for the purpose of—

- (a) imposing a requirement by virtue of section 48(5); or
- (b) arresting a person under section 52.

Provision of specimens for analysis

54. (1) In the course of an investigation into whether a person has committed an offence under this Ordinance, a police officer may, subject to this section and section 57, require that person—

- (a) to provide two specimens of breath for analysis by means of a device of a type approved by the Governor; or
- (b) to provide a specimen of blood or urine for a laboratory test.

(2) A requirement under this section to provide specimens of breath can only be imposed on that person where that person is—

- (a) at a police station;
- (b) at a hospital; or
- (c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for the person's failure to co-operate with it.

(3) For the purposes of this section “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his or her breath or blood is likely to exceed the prescribed limit.

(4) If a police officer has imposed a requirement on the person concerned to co-operate with a relevant breath test at any place, the police officer may remain at or near that place in order to impose on the person concerned a requirement under this section.

(5) If a police officer has imposed a requirement under subsection (1)(a) at a place other than at a police station, such a requirement may subsequently be made at a police station if—

- (a) a device or a reliable device of the type mentioned in subsection (1)(a) was not available at that place or it was for any other reason not practicable to use such a device there; or
- (b) the police officer who imposed the previous requirement has reasonable cause to believe that the device used there has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned.

(6) A police officer may impose a requirement under this section to provide a specimen of blood or urine only at a police station or at a hospital, but the police officer may not impose this requirement at a police station, unless—

- (a) the police officer imposing the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required; or
- (b) specimens of breath have not been provided elsewhere and at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a) is not available at the police station or it is for any other reason not practicable to use such a device there; or
- (c) a device of the type mentioned in subsection (1)(a) has been used at the police station or elsewhere but the police officer who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned; or
- (d) as a result of the administration of a preliminary drug test under section 51, the police officer imposing the requirement has reasonable cause to believe that the

person required to provide a specimen of blood or urine has a drug in his or her body; or

- (e) the suspected offence is one under section 30 or 45 and the police officer imposing the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug,

and may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide two specimens of breath.

(7) If the provision of a specimen other than a specimen of breath may be required in pursuance of this section, the police officer imposing the requirement may, subject to subsection (8), decide—

- (a) whether it is to be a specimen of blood or a specimen of urine; and
- (b) in the case of a specimen of blood, who is to be asked to obtain the specimen from the person.

(8) Where a police officer requires the provision of a specimen of blood under subsection (7), such a specimen need not be provided if the public officer who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; the police officer may then require a specimen of urine instead.

(9) A specimen of urine shall be provided within one hour of the requirement for its provision being made.

(10) A person who, without reasonable excuse, fails to provide a specimen when required to do so under this section commits an offence.

Penalty: A fine of £1,000 or imprisonment for six months, or both.

(11) A police officer must, on requiring any person to provide a specimen under this section, warn him or her that a failure to provide it may render that person liable to prosecution.

Specimens of blood taken from persons incapable of consenting

55. (1) A police officer may make a request to a public officer, who is trained to take blood samples or someone under his or her direct supervision, to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the police officer would (in the absence of any incapacity of that person and of any objection under section 57) be entitled under section 54 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that police officer that the person has been involved in an accident that constitutes, or is comprised in, the matter that is under investigation or the circumstances of that matter;
- (c) it appears to that police officer that the person is or may be incapable (whether or not he or she has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
- (d) it appears to that police officer that the person’s incapacity is attributable to medical reasons.

(2) A medical practitioner to whom a request is made under this section, may, if he or she thinks fit,—

- (a) take a specimen of blood from the person concerned irrespective of whether that person consents; and
- (b) provide the sample to a police officer.

(3) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—

- (a) has been informed that it was taken; and

- (b) has been required by a police officer to give his or her permission for a laboratory test of the specimen; and
- (c) has given his or her permission.
- (4) A police officer must, on requiring a person to give permission for a laboratory test of a specimen under this section, warn that person that a failure to give the permission may render him or her liable to prosecution.
- (5) A person who, without reasonable excuse, fails to give permission for a laboratory test of a specimen of blood taken from him or her under this section commits an offence.
Penalty: A fine of £1,000 or imprisonment for six months, or both.

Choice of specimens of breath

56. If two specimens of breath are provided by a person in pursuance of section 54, the specimen with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

Protection for hospital patients

57. (1) While a person is at a hospital as a patient, he or she is not required to co-operate with a preliminary test or to provide a specimen under section 54 unless the medical practitioner who has immediate charge of that person at the relevant time has been notified of the proposal to impose the requirement and, subject to subsection (2), such requirement is made for co-operation with a test administered, or for the provision of a specimen, at the hospital.

(2) A requirement under subsection (1) may not be made if the medical practitioner objects on the ground that—

- (a) the requirement or the provision of the specimen or the warning (if required by section 54(11)) would be prejudicial to the proper care and treatment of the patient; or
- (b) in a case falling within paragraph (a), that the taking of the specimen, the requirement or the warning required by section 59(4) would be so prejudicial.

Detention of persons affected by alcohol or drugs

58. (1) Subject to subsections (2) and (3), a person required to provide a specimen of breath, blood or urine under section 54 or 55, may afterwards—

- (a) be detained at a police station; or
- (b) if the specimen was provided otherwise than at a police station, arrested and taken to and detained at a police station,

if a police officer has reasonable grounds for believing that, were that person then driving or attempting to drive a vehicle on a road, he or she would commit an offence under section 45, 46 or 47.

(2) Subsection (1) does not apply to a person if it ought reasonably to appear to the police officer that there is no likelihood of that person driving or attempting to drive a vehicle whilst his or her ability to drive properly is impaired or whilst the proportion of alcohol or drugs in his or her breath, blood or urine exceeds the prescribed limit.

(3) A person who is at a hospital as a patient may not be arrested and taken from the hospital to a police station in pursuance of this section if it would be prejudicial to his or her proper care and treatment as a patient.

Interpretation of Part VI

59. (1) The following provisions apply for the interpretation of Part VI of this ordinance.

(2) In the sections of Part VI—

“**fail**” includes refuse or failure to provide sufficient specimen;

“**hospital**” means an institution which provides medical or surgical treatment for in-patients or out-patients,

“**public officer**” means an officer of the Crown who is trained to take blood samples or someone under the direct supervision of the same;

“**approved analyst**” means a person appointed by the Governor by notice in the *Gazette* to be an approved analyst for the purposes of section 63.

(3) A person does not co-operate with a preliminary test or provide a specimen of breath for analysis unless his or her co-operation or the specimen—

(a) is sufficient to enable the test or the analysis to be carried out; and

(b) is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved.

(4) A person provides a specimen of blood only if—

(a) that person consents to the taking of such a specimen from him or her; and

(b) the specimen is taken from him or her by or under supervision of a public officer.

Approved devices

60. (1) The Governor in Council may make regulations for the purpose of declaring any device to be an approved device for the purposes of this Ordinance.

(2) No court shall entertain any argument relating to the suitability or reliability of any approved device.

(3) A device shall be sufficiently described, in any regulations made under this section, if it is described by a trade or other name by which it is known or marketed.

(4) Regulations made under this section may contain provisions prescribing the manner in which any approved device is to be operated.

Prescribed limits for alcohol and drugs

61. (1) The Governor in Council may make regulations prescribing the limit for alcohol referred to in section 46 and the limit for drugs referred to in section 47.

Evidence

62. (1) In every case of an offence alleged to have been committed against section 30, 46 or 47, evidence of the result of any analysis of any specimen of breath, blood or urine shall be admissible in evidence and, subject to subsection (2), the court shall presume that the proportion of alcohol in the defendants breath, blood or urine at the time of the alleged offence was not less than the proportion revealed by such analysis.

(2) The presumption in subsection (1) shall not be made if the court is satisfied (by evidence on oath) that the defendant consumed such an amount of alcohol, after he or she ceased to drive or be in charge of the vehicle, as would be likely to account for the amount by which the result of such analysis exceeded the prescribed limit.

(3) Evidence of the proportion of alcohol in a specimen of breath may be given by the police officer who operated the approved device by which the specimen was analysed or by the production of a certificate of the kind described in subsection (4)(a).

(4) Evidence of the proportion of alcohol or drug in a specimen of breath, blood or urine may, subject to subsection (6), be given by the production of a document or documents purporting to be whichever of the following:

- (a) A statement automatically produced by the approved measuring device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement; or
- (b) a certificate signed by an approved analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

(5) Subject to subsection (6), evidence that a specimen of blood was taken from the accused by a public officer referred to in section 54 and 55 may be given by the production of a document purporting to certify that fact and to be signed by such public officer.

(6) (a) A document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsection (4)(a) is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing.

(b) Any other document is so admissible only if a copy of it has been served on the accused not later than 7 days before the hearing.

Further provisions as to specimens

63. Every specimen of blood or urine provided by a person under this Part shall be divided into two approximately equal parts, and—

- (a) subject to paragraph (b), only one part thereof shall be analysed, and the other part (“the retained part”) shall be preserved until the conclusion of all proceedings for any offence in connection with which the specimen was provided;
- (b) the court which tries any alleged offence upon the trial of which the prosecutor relies upon evidence of the result of the analysis of a specimen of blood or urine provided under this Part, may (if it appears to be in the interest of justice so to do) order that the retained part shall be analysed, and adjourn the hearing to enable such analysis to be carried out;
- (c) a court which makes an order under paragraph (b) may order that the analysis be carried out by or under the supervision of such medical officer as the court may think fit, and a medical officer to whom such an order is addressed shall comply therewith and send a report of the result of the analysis, as soon as practicable, to the clerk of the court.

Penalty

64. (1) If a person is convicted of an offence under section 45, 46 or 47, the court shall make an order of disqualification referred to in section 23 for a period of at least 12 months, but the period of disqualification shall be at least 3 years if the offender has either—

- (a) within the period of 5 years preceding the date of the offence, been convicted for any offence under 45, 46, 47, 55 to 56 and 59; or
- (b) the proportion of alcohol or drug in a specimen used to convict was at least 3 times the prescribed limit.

(2) If for special reasons established by evidence upon oath in any particular case, the court considers that it would be appropriate to order disqualification for a shorter period or to

refrain from making an order of disqualification, it may do so (but no fact or circumstance shall be held to be a 'special reason' unless such fact or circumstance relates to the commission of the offence, as distinct from a fact or circumstance concerning the offender).

PART VII RIDING OF PEDAL CYCLES AND OFFENCES CONNECTED THEREWITH

Reckless and dangerous cycling

65. A person commits an offence if he or she rides a bicycle or tricycle, not being a motor vehicle, on a road or public place recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road.

Penalty: A fine of £500 or, in case of a second or subsequent conviction, a fine of £1,000 or imprisonment for 3 months, or both.

Careless or inconsiderate cycling

66. A person who rides a bicycle or tricycle, not being a motor vehicle, on a road or public place without due care and attention or without reasonable consideration for other persons using the road commits an offence.

Penalty: A fine of £200 or, in the case of a second or subsequent conviction, a fine of £500.

Cycling when under the influence of alcohol or drugs

67. (1) A person who rides a bicycle or tricycle, not being a motor vehicle, on a road or other public place while his or her ability to ride properly is impaired through alcohol or drugs commits an offence.

Penalty: A fine of £500 or, in the case of a second or subsequent conviction, a fine of £1,000 or imprisonment for 3 months, or both.

(2) A police officer may arrest without warrant a person committing an offence under this section.

Restriction on carriage of persons on bicycles or tricycles

68. (1) Not more than one person may be carried on a road or public place on a bicycle or tricycle not propelled by mechanical power unless it is constructed or adapted for the carriage of more than one person.

(2) If a person is carried on a bicycle or tricycle in contravention of subsection (1), each of the persons carried commits an offence.

Penalty: A fine of £100 or, in the case of a second or subsequent conviction, a fine of £200.

PART VIII MISCELLANEOUS OFFENCES

Motor cycle and pedal cycle helmets

69(1) Every person driving, riding or being carried as a passenger on a motor cycle, a quadricycle or a pedal cycle on a road shall at all times whilst in motion wear a properly fitting protective helmet of a type approved by the Licensing Officer.

(2) A person in contravention of subsection (1) commits an offence.

Penalty: A fine of £100 or, in the case of a second or subsequent conviction, a fine of £200.

Restrictions on towing and tampering with motor vehicles

70. (1) A person who, otherwise than with lawful authority or reasonable cause, takes or retains hold of or gets on to a motor vehicle while in motion on any road, for the purpose of being drawn or carried commits an offence.

Penalty: A fine of £500 or, in the case of a second or subsequent conviction, a fine of £1,000.

(2) A person commits an offence if while a motor vehicle is on a road or public place, he or she, otherwise than with lawful authority or reasonable cause tampers with the brake or other part of its mechanism.

(3) A person may use a vehicle to tow another vehicle in motion on any road.

(4) The Governor in Council may make regulations in relation to the safe towing of a vehicle referred to in 70(3). Failure to tow safely in accordance with such regulations is an offence

Penalty: A fine of £5,000 or imprisonment for 18 months, or both.

Taking motor vehicle without owner's consent

71. (1) Subject to subsection (2), every person who takes, drives away or allows him- or herself to be carried in any motor vehicle without having either the consent of the owner thereof or other lawful authority commits an offence.

Penalty: A fine of £5,000 or imprisonment for 18 months, or both.

(2) Save for those offences within this Ordinance a person does not commit an offence under subsection (1), if that person acted in the reasonable belief that he or she had lawful authority, or in the reasonable belief that the owner would, in the circumstances of the case have given consent, if he or she had been asked therefor.

PART IX HIGHWAY AUTHORITY

Highway Authority

72. (1) There shall be a Highway Authority for the purposes of this Ordinance.

(2) The Authority shall consist of—

- (a) the Director of Police;
- (b) the Director of the Government department having responsibility for highways and roads;
- (c) the Chair of the Legislative Council Committee for the time being having responsibility for highways or roads; and
- (d) such other two persons appointed by the Governor as the Governor sees fit.

- (3) The Directors referred to in subsection (2) may appoint persons to act on their behalf.
- (4) The Highway Authority shall have quorum where three members are present.

Powers and duties of Highway Authority

73. (1) The Highway Authority may at any time by notice restrict or prohibit the use of any road or any part of any road by pedestrians, vehicles or by vehicles of any particular class or description where, owing to the likelihood of danger to the public, it appears necessary that such restriction or prohibition should come into force without delay. Such restriction or prohibition shall not initially exceed 7 days and thereafter shall be reviewed every 7 days as to the need for the ongoing restriction or prohibition.

(2) (a) So long as any restriction or prohibition under subsection (1) is in force, a notice must be kept posted in a conspicuous manner at each end of the part of the road to which the notice relates, and at the points at which it will be necessary for pedestrians or vehicles to diverge from the road.

(b) Any person who uses or permits the use of a vehicle or uses the highway in contravention of any restriction or prohibition imposed under this section shall be liable in the case of a first conviction to a fine not exceeding £1,000 and in the case of a second or subsequent conviction to a fine not exceeding £2,000.

(c) Any person aggrieved by any restriction or prohibition imposed under this section may appeal to the Chief Magistrate in writing.

(3) The Highway Authority may cause traffic signs to be placed on or near any road. The Highway Authority must issue by way of either the Highway Code or other means the indication or meaning of any traffic sign.

(4) The Highway Authority may enter any land and exercise such other powers as may be necessary for the purpose of the exercise and performance of its powers and duties under this section and section 78(2).

(5) The Highway Authority must regulate licences for public service vehicles and taxis and may make by-laws with regard to the licencing of public service vehicles and taxis and drivers thereof, and such by-laws may, without affecting the generality of this subsection, include provisions to regulate—

- (a)** equipment to be carried on such vehicles;
- (b)** signage to be displayed;
- (c)** requirements and restrictions on vehicles or drivers;
- (d)** fares and tariffs to be charged.

(6) Where policy is in existence, the Highway Authority shall act in compliance with the relevant policy.

(7) A person who uses or permits the use of a vehicle in contravention of any restriction or prohibition imposed under subsection (1) commits an offence.

Penalty: A fine of £1,000 or, in the case of a second or subsequent conviction, a fine of £2,000.

(8) Any person aggrieved by any restriction or prohibition imposed under subsection (1) may appeal to the Chief Magistrate in writing.

(9) The Highway Authority may have such powers and duties in relation to parking and loading/unloading and enforcement and penalties in relation to the aforesaid as the Governor in Council may set down in regulations.

Highway Code

74. (1) The Highway Authority must prepare a code (referred to as the “Highway Code”) that must be approved by the Governor in Council for the guidance of persons using roads.

(2) A failure on the part of any person to observe any provision of the Highway Code does not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under this Ordinance) be relied upon by any party to the proceedings as tending to establish or negate any liability which is in question in those proceedings.

PART X REGULATIONS

Penalties for neglect of traffic signs

75. Where a police officer is for the time being engaged in the regulation of traffic on a road, or where a traffic sign has been lawfully placed on or near any road in accordance with section 73(3), a person driving or propelling a vehicle commits an offence if he or she—

- (a) fails to comply with any direction of the police officer when directed so to do by the police officer in the execution of his duty; or
- (b) fails to comply with the indications of the sign.

Penalty: A fine of £100 or imprisonment for one month, or both.

Leaving vehicle in dangerous position

76. A person who is in charge of a vehicle and who causes or permits the vehicle or any trailer drawn thereby to remain at rest on any road in such a position or in such condition or circumstances as to be likely to cause danger to other persons using the road, commits an offence.

Penalty: A fine of £500 or imprisonment for three months, or both.

Provisions with respect to stretching of ropes, wire or other apparatus across highway

77. (1) A person who for any purpose places or causes to be placed any rope, wire or other apparatus across a highway or road or any part thereof in such a manner as to be likely to cause danger to persons using the highway or road commits an offence.

Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(2) A person does not commit an offence under subsection (1) if he or she proves that he or she had taken all necessary steps to give adequate warning of the danger.

Regulation of traffic by signs

78. (1) The Highway Authority may make by-laws prescribing the traffic signs which may be used for purposes of this Ordinance and the meaning of each sign so prescribed.

(2) The Highway Authority may cause the signs prescribed under subsection (1) to be erected on or near any road, for the purpose of regulating the use of roads by vehicles, and, without affecting to the generality of this subsection, such signs may prescribe—

- (a) the maximum speed at which vehicles may be driven;
- (b) the direction in which vehicles may or may not travel;
- (c) the classes of vehicle which may or may not use the road or part of the road;
- (d) the priority or precedence of vehicles at road junctions or on a road;
- (e) the parts of roads or other areas on which vehicles may or may not be parked or allowed to stand, or the maximum period of time for which vehicles may be parked or allowed to stand generally and for the purpose of loading and unloading.

(3) Any person who drives or uses any vehicle in contravention of any instruction, prohibition, or restriction conveyed by means of a sign erected under this section commits an offence:

Penalty: A fine of £100.

Forgery of licences and certificates

79. (1) Any person who—

- (a) for the purpose of obtaining any document or other thing to which this section applies, knowingly makes any false statement or withholds any material information;
- (b) lends to, or allows to be used by, any other person a document or other thing to which this section applies;
- (c) makes, amends or has in his or her possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive; or
- (d) issues or authorises any document or other thing to which this section applies, which he or she has knowledge is false in a material particular,

commits an offence.

Penalty: A fine of £1,000 or imprisonment for 6 months, or both.

(2) This section applies to the following documents and other things—

- (a) appointments made under section 3;
- (b) registration of vehicles made under section 6;
- (c) notification of change of ownership made under section 8;
- (d) motor vehicle licence made under Section 11 of this ordinance;
- (e) driving licence made under Section 16 of this ordinance;
- (f) foreign driving licence made under Section 18 of this ordinance;
- (g) any declarations under made under Section 21 of this ordinance;
- (h) certificate of competence made under Section 22 of this ordinance;
- (i) notice issued by the Highway Authority made under Section 78 of this ordinance;
- (j) any policy of insurance under the terms of motor vehicles third party insurance ordinance;
- (k) certificate exempting a person from wearing a seat belt issued under section 93 (3)(d);
- (l) any licence, issued to a vehicle or driver of a public service vehicle or taxi; and

- (m) any licence, registration, certificate, notice of other document to which this Ordinance applies.

Prosecution and penalties for offences

80. (1) Save as otherwise expressly provided, all offences under this Ordinance must be prosecuted in the Magistrates' Court.

(2) A person guilty of an offence under this Ordinance for which no specific penalty is prescribed is liable in the case of a first conviction to a fine of £200, and in the case of a second or subsequent conviction, to a fine of £500, or imprisonment for a term of six months, or both.

(3) Where the driver of a vehicle is alleged to have committed an offence under this Ordinance—

- (a)** the owner of the vehicle must give such information as that owner may be required, by or on behalf of the Director of Police, to give as to the identity of the driver, and, if that owner fails to do so, he or she commits an offence unless he or she shows to the satisfaction of the court that he or she did not know and could not with reasonable diligence have ascertained who the driver was; and
- (b)** any other person must, if required as in the manner referred to in paragraph (a), give any information which he or she is able to give and which may lead to the identification of the driver, and, if that person fails to do so, he or she commits an offence.

Penalty: A fine of £500 or imprisonment for 12 months, or both.

Provisions applicable to vehicles and persons in Crown service

81. (1) Subject to subsection (2), this Ordinance applies to vehicles and persons in the public service, and for the purpose of proceedings for an offence in connection with any such vehicle against any person other than the driver of the vehicle, the person nominated by the department in whose service the vehicle is used is deemed to be the person responsible unless it is shown to the satisfaction of the court that the driver only was responsible.

(2) The Governor may by order direct that this Ordinance does not apply to members of the armed forces of the Crown or to vehicles used for naval military, air force, police, fire, sea rescue or ambulance purposes or to any class of such members or vehicles.

Forfeiture of vehicles

82. (1) If a person commits an offence under this Ordinance or any other law (including any common law offences) involving a vehicle which is punishable with imprisonment, the court may, on application by the crown make an order forfeiting the vehicle concerned and any vehicle so forfeited must be disposed of as the court directs.

(2) A person who fails to surrender, or obstructs the surrender of, such a vehicle forfeited in subsection (1), commits an offence.

Penalty: A fine of £1,000 or imprisonment for 6 months, or both.

Restrictions on use of road or public place

83 (1) A police officer may at any time restrict or prohibit the use of any road or public place, or any part of any road or public place, by person or vehicles or by vehicles of any particular class or description where, owing to the likelihood of—

- (a) danger to the public;
- (b) damage to any road or adjoining property;
- (c) the obstruction of a police officer in the course of an investigation,

it appears necessary that such restriction or prohibition should come into force without delay or application to the Highway Authority.

(2) The police officer whilst acting in accordance with 83(1) shall notify the Highway Authority immediately or as soon as is reasonably practicable thereafter

(3) A person who contravenes any restriction or prohibition imposed under subsection (1) commits an offence.

Penalty: A fine of £1,000 or, in the case of a second or subsequent conviction, a fine of £2,000.

Exceptions for emergency services

84. (1) The sections listed in subsection (2) do not apply to vehicles being used for police, fire, sea rescue or ambulance purposes whilst being driven by a person who is a member of the Police or Health Directorate—

- (a) in response, or for practice in responding, to an emergency; or
- (b) for the purpose of training a person in driving such vehicles.

(2) Subsection (1) applies to—

- (a) speed section 29;
- (b) penalties for neglect of traffic signs section 78;
- (c) Regulation of traffic by signs section 82;
- (d) Restriction on holding telephones section 87;
- (e) Motor vehicles to keep to left of white line regulation 76.

(3) The exceptions in this section do not apply if the manner of driving was such as is likely to endanger any person or to cause the driver of any other vehicle to change its speed or course in order to avoid an accident.

Power to seize vehicles driven without licence, insurance or failing to stop

85. (1) This section applies if a police officer capable of being identified as such by the public—

- (a) has reasonable grounds for believing that a vehicle is or was being driven by the person in contravention of section 16, 24 or 27;
- (b) has reasonable grounds for believing that a vehicle is or was being driven without a policy of motor vehicle insurance, contrary to the Motor Vehicles (Third Party Insurance) Ordinance, Cap. 103;
- (c) requires a driver of a vehicle to stop the vehicle under section 74 and— the driver fails to stop the vehicle, or to stop the vehicle long enough, for the police officer to make such lawful enquiries as he or she considers appropriate; and
- (d) has reasonable grounds for believing that a vehicle, including the use of any appliances on or in the vehicle, has been used or is being used in a manner which is causing, or is likely to cause, alarm, distress or annoyance to members of the public and, subject to subsection (2),—

- (i) the police officer has warned the person appearing to him or her to be the person who used the vehicle in this manner that the vehicle will be seized, if it continues to be used in that manner; and
 - (ii) it appears to that police officer that the use in that manner has continued or been repeated after the warning.
- (2) Subsection (1)(d) does not require a warning if—
 - (a) the circumstances make it impracticable for the police officer to give the warning;
 - (b) the police officer has already given a warning under that subsection—
 - (i) to that person or to any other person in respect of the use of that vehicle in that manner;
 - (ii) to that person in respect of use by that person of that vehicle or any other vehicle in that manner; or
 - (c) the police officer has reasonable grounds for believing that such a previous warning referred to in paragraph (b) has been given by another police officer; or
 - (d) the police officer has reasonable grounds for believing that the person whose use of that vehicle on that occasion would justify the seizure is a person to whom a warning under that subsection has been given (whether or not by that police officer or in respect of the same vehicle or the same or a similar use) on a previous occasion in the previous twelve months.
- (3) Where this section applies, a police officer may—
 - (a) seize the vehicle and remove it;
 - (b) for the purpose of exercising the power in paragraph (a), enter any premises (other than a private dwelling house) on which the police officer has reasonable grounds for believing the vehicle to be;
 - (c) use reasonable force, if necessary, in the exercise of any power conferred by paragraph (a) to (b).

(4) If the police officer is unable to seize the vehicle immediately because the person driving the vehicle has failed to stop as requested or has driven off, the police officer may seize the vehicle at any time within the period of 24 hours from the time the police officer directed the person to stop the vehicle.

(5) A person who fails to comply with an order under subsection (3)(a) commits an offence.
Penalty: A fine of £500.

(6) For purposes of this section “**private dwelling house**” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

Removal of vehicles from road

86. (1) Any vehicle which remains at rest on a road or causes obstruction in contravention of any prohibition or restriction under this Ordinance or any other law, or in such a position or in such conditions or circumstances as to be likely to cause danger or obstruction to other persons, or as appear to have been abandoned, and of the loads carried by that vehicle, may be removed from a road into the custody of the Highway Authority or from one position on a road to another position on that or another road by—

- (a) a police officer;
- (b) an employee of the St Helena Government authorised in writing by the Highway Authority; or
- (c) a person acting with the permission of a police officer.

- (2) Any person who prevents, obstructs or attempts to prevent or obstruct a vehicle being moved or removed in accordance with 86(1) is guilty of an offence

Regulations

- 87. (1)** The Governor in Council may by regulations make provision as to—
- (a) the removal and retention of motor vehicles seized under this section; and
 - (b) the release or disposal of such motor vehicles.
- (2)** Regulations under subsection (1) may, in particular, make provision—
- (a) for the giving of notice of the seizure of a motor vehicle under this section to a person who is the owner of that vehicle or who, in accordance with the regulations, appears to be its owner;
 - (b) for the procedure by which a person who claims to be the owner of a motor vehicle seized under this section may seek to have it released;
 - (c) for requiring the payment of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;
 - (d) as to the circumstances in which a motor vehicle seized under this section may be disposed of;
 - (e) as to the destination—
 - (i) of any fees or charges payable in accordance with the regulations; and
 - (ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under this section;
 - (f) for the delivery to any public body, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under this section.
- (3)** Regulations under subsection (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations shall not be liable to pay it if—
- (a) the use by reference to which the motor vehicle in question was seized was not a use by that person; and
 - (b) that person did not know of the use of the vehicle in the manner which led to its seizure, had not consented to its use in that manner and could not, by the taking of reasonable steps, have prevented its use in that manner.

Seat Belts

- 88. (1)** The Governor in Council may make regulations prescribing the descriptions of seat belts to be worn and the manner in which such seat belts are to be fixed and used, and these regulations may—
- (a) make different provision in relation to different classes of vehicles, different descriptions of persons and different circumstances;
 - (b) make provision for exceptions subject to such conditions as may be prescribed;
 - (c) prescribe the circumstances under which a seat is regarded as provided with a seat belt;
 - (d) prescribe what constitutes a front and rear seat of a vehicle; and
 - (e) prescribe a fee to be charged on an application for a certificate required under subsection.
- (2)** In this section, “**seat belt**” means a belt intended to be worn by a person in a vehicle and designed to prevent or lessen injury to its wearer in the event of an accident to the vehicle

and includes any description of restraining device for a child; and any reference to wearing a seat belt is to be construed accordingly.

Penalty notices

89. (1) This section applies insofar as the Criminal Justice and Police Act 2001 (in this section referred to as “the Act”), applies in St Helena under the provisions of the English law Application Ordinance, 2005.

(2) For the purpose of this section, “**penalty offence**” means an offence committed under any of the provisions mentioned in the first column of the following table and described, in general terms, in the second column:

First Column	Second Column
Section 12 of the Licensing Act 1872	Being drunk in a highway, other public place or licensed premises
Section 80 of the Explosives Act 1875	Throwing fireworks in a thoroughfare
Section 169A of the Licensing Act 1964	Sale of alcohol to a person under 18
Section 169C(1) of the Licensing Act 1964	Buying or attempting to buy alcohol by a person under 18
Section 169C(2) of the Licensing Act 1964	Buying or attempting to buy alcohol for a person under 18
Section 169E of the Licensing Act 1964	Consumption of alcohol by a person under 18 or allowing such consumption
Section 169F of the Licensing Act 1964	Delivery of alcohol to a person under 18 or allowing such delivery
Section 172(3) of the Licensing Act 1964	Selling alcohol to a drunken person
Section 91 of the Criminal Justice Act 1967	Disorderly behaviour while drunk in a public place
Section 5(2) of the Criminal Law Act 1967	Wasting Police time or giving false report
Section 1 of the Theft Act 1968	Theft
Section 1(1) of the Criminal Damage Act 1971	Destroying or damaging property
Section 43(1)(b) of the Telecommunications Act 1984	Using public telecommunications system for sending message known to be false in order to cause annoyance
Section 5 of the Public Order Act 1986	Behaviour likely to cause harassment, alarm or distress
Section 87 of the Environmental Protection Act 1990	Depositing and leaving litter
Section 12 of the Criminal Justice and Police Act 2001	Consumption of alcohol in designated public place
Section 127(2) of the Communications Act 2003	Using public electronic communications network in order to cause annoyance, inconvenience or needless anxiety
Section 11 of the Fireworks Act 2003	Contravention of a prohibition or failure to comply with a requirement imposed by or

	under fireworks regulations or making false statements
Section 49 of the Fire and Rescue Services Act 2004	Knowingly giving a false alarm of fire
Section 149(4) of the Licensing Act 2003	Buying or attempting to buy alcohol for consumption on licensed premises, etc. by child

(3) In the context of St Helena, any references in the Act to Secretary of State and House of Parliament, must be construed to mean the Director of Police and Governor in Council.

(4) The Director of Police may appoint persons with the powers of an authorised constable as described in the Act, who are not members of the police service or a police officer and the Director of Police may limit the penalty offences to which that person may issue penalty notices.

(5) If the amount of a permitted fine for any person who in the preceding 3 years is found guilty at court following the issuing of a penalty notice or has paid a penalty notice, when combined exceeds £100 for drivers who are under 25 years old or held the licence for less than 2 years, or £200 for all other drivers, the licensing officer shall revoke the person's licence to drive for 6 weeks and the licence holder shall, on the request of the Licensing Officer, deliver the licence to him for cancellation.

(6) Any further conviction at court following the issuing of a penalty notice or the payment of a penalty notice, will result in the licence being revoked for a further 6 weeks.

(7) A person with a revoked licence shall be considered to be a disqualification under section 24 of this Ordinance.

Public service vehicles and taxis

90. (1) Any person who operates a vehicle as public service vehicle or taxi without the vehicle and driver being licensed to do so by the Highway Authority commits an offence. Penalty: A fine of £5,000.

(2) Any person who falsely represents that either a vehicle or person is licensed to serve as a public service vehicle or taxi or a driver of any such vehicle commits an offence. Penalty: A fine of £5,000.

Repeal and amendment of legislation

91. (1) The Road Traffic Ordinance, Cap. 102, is repealed with effect from 31st December 2016.

(2) The Motor Vehicles (Third Party Insurance) Ordinance, Cap. 103, is amended—

- (a) by repealing sections 7, 8 and 11; and
- (b) by repealing subsection (2) of section 10.

Transitional provisions

92. (1) Any appointments made under the existing Ordinance continue as if they had been made under this Ordinance.

(2) The Highway Code remains in effect as it had been made under this Ordinance.

(3) For purpose of section 64(1), any offence of which a person was previously convicted under a corresponding provision of the Road Traffic Ordinance, Cap. 101, prior to its repeal, is deemed to be an offence of which he or she was previously convicted under this Ordinance.

Schedule 1

Foreign Driving Licence

A foreign driving licence must not be recognised for the purposes of the Road Traffic Ordinance unless any writing or printing appearing thereon is in English or is accompanied (either within the document or as a separate document) by a translation into English done by an accredited translator certified by a professional body and the foreign driving licence has been issued by a country listed below:

1. British Overseas Territory grouping:

Ascension,
Tristan da Cunha.

2. European Community/ European Economic Area (EC/EEA licences)

Austria,	Hungary,	Norway,
Belgium,	Iceland,	Poland,
Bulgaria,	Ireland,	Portugal,
Czech Republic,	Italy,	Republic of Cyprus,
Denmark,	Latvia,	Romania,
Estonia,	Liechtenstein,	Slovakia,
Finland,	Lithuania,	Slovenia,
France,	Luxembourg,	Spain,
Germany,	Malta,	Sweden
Greece,	Netherlands,	United Kingdom.

3. Other Countries

Australia,	Gibraltar,	Singapore,
Barbados,	Hong Kong,	South Africa,
British Virgin Islands,	Japan,	Switzerland,
Canada,	Monaco,	Zimbabwe.
Falkland Islands,	New Zealand,	
Faroe Islands,	Republic of Korea,	

Note:

Motorcycle and moped driver's licence from the Republic of Korea and the Faroe Islands are not considered equivalent of the St Helena licence for motorcycle and moped.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

This Ordinance makes new provision for Road Traffic in St Helena and repeals the Road Traffic Ordinance, Cap. 101.

