

Transport Amendment Act (No. 3) 1983

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An Act to amend the Transport Act 1962

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Transport Amendment Act (No. 3) 1983, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).
- (2) Except as provided in section 21(6) of this Act, this Act shall come into force on the 28th day after the date on which it receives the Governor-General’s assent.

2 Interpretation

Section 2(1) of the principal Act (as substituted by section 2(1) of the Transport Amendment Act 1972) is hereby amended by inserting, after the definition of the term “articulated vehicle”, the following definition:

“‘Assessment Centre’ means any establishment for the time being approved as an Assessment Centre for the purposes of this Act by the Director-General of Health:”.

Part I

Licensing of Drivers of Motor Vehicles

3 New Part substituted

- (1) The principal Act is hereby amended by repealing Part III, and substituting the following Part:

“PART III

“Licensing of Drivers of Motor Vehicles

“25 Unlicensed persons not to drive motor vehicles

- “(1) Except as otherwise provided in this section, no person shall drive a motor vehicle on any road, unless he is the holder of a driver’s licence for the time being in force which authorises him to drive a motor vehicle of that class on a road.

- “(2) Subject to subsection (3) of this section, where any person (in this section called ‘the learner’) is driving a motor vehicle and is—
- “(a) Accompanied by a person seated alongside him who is teaching the learner to drive and who is the holder of a driver’s licence for the time being in force which authorises him to drive a motor vehicle of that class on a road; or
 - “(b) Under the direction of a testing officer for the issue or extension of a motor driver’s licence—
- the learner, any person permitting the learner to drive the motor vehicle, and the testing officer shall be deemed not to be acting in contravention of subsection (1) of this section.
- “(3) Nothing in subsection (2) of this section applies in any case where—
- “(a) The learner has not attained the age that qualifies him to obtain a driver’s licence to drive the motor vehicle that he is driving; or
 - “(b) The learner is subject to an order that disqualifies him from holding or obtaining a driver’s licence and is not driving the vehicle in accordance with a limited licence authorised under section 38 of this Act.
- “(4) Every person commits an offence who acts in contravention of subsection (1) of this section.
- “(5) In any proceedings against any person for acting in contravention of subsection (1) of this section, a certificate purporting to be signed by an officer of the Department to the effect that he has checked the register of drivers’ licences kept by the Secretary under section 29c of this Act, and—
- “(a) Has found no record that, on or before the date of the alleged offence, the person had ever held a driver’s licence; or
 - “(b) Has found a record that the person has held a licence to drive a vehicle of the class referred to in the proceedings, and that, at the date of the alleged offence, the licence had expired; or
 - “(c) Has found a record that, at the date of the alleged offence, the person held a licence to drive a vehicle, but not a vehicle of the class referred to in the proceedings; or
 - “(d) Has found a record that the person held a licence to drive a vehicle, but not a vehicle of the class referred to in the proceedings, and that, at the date of the alleged offence, the licence had expired—
- shall, in the absence of proof to the contrary, be sufficient evidence of the matters contained in the certificate.
- “(6) Subsection (5) of this section shall apply only in respect of offences that are alleged to have been committed on or after the 1st day of September 1984.

Compare: 1962, No. 135, s. 25; 1964, No. 126, s. 4; 1971, No. 57, s. 3 (s. 25)

“26 Prohibitions relating to drivers’ licences

- “(1) The holder of a driver’s licence shall not apply for or obtain another driver’s licence while the licence held by him is in force; and any licence that is so obtained shall be of no effect.
- “(2) No person who is under the age of 15 years shall apply for or obtain a driver’s licence; and any licence that is obtained by any such person shall be of no effect.
- “(3) Any driver’s licence obtained by any person who is a committed patient or a special patient within the meaning of the Mental Health Act 1969 shall be of no effect.
- “(4) Every person commits an offence who, being a person to whom subsection (1) or subsection (2) of this section applies, applies for or obtains a driver’s licence.

Compare: 1962, No. 135, s. 26(3), (4); 1971, No. 57, s. 3 (s. 26(3), (4))

“27 Inspection of drivers’ licences

- “(1) The driver of any motor vehicle shall produce his driver’s licence for inspection whenever required to do so by a constable or traffic officer.
- “(2) The driver shall be deemed to have complied with subsection (1) of this section if, within 7 days after having been so required to produce his driver’s licence, he produces it at a place specified by the constable or traffic officer.
- “(3) Where a driver’s licence is produced for inspection under this section, the driver shall, if so required by the person to whom it is produced,—
- “(a) Sign his name with his ordinary signature to establish that he is the holder of the licence; or
- “(b) Establish his identity by some other means.

Compare: 1962, No. 135, s. 26(8); 1971, No. 57, s. 3 (s. 26(8), (8a)); 1972, No. 129, s. 4

*Issue of Licences***“28 Secretary may appoint local authority or other person as agent**

- “(1) The Secretary may appoint as his agent for the purposes of this Part of this Act—
- “(a) Any local authority; or
- “(b) Any other person approved for the purpose by the Minister.
- “(2) Any agent appointed under subsection (1) of this section shall have and may exercise all the functions, duties, and powers of the Secretary under this Part of this Act.
- “(3) The Secretary may enter into contracts with any local authority or other person setting out the conditions under which the local authority or other person may act as the agent of the Secretary for the purposes of this Act; including

conditions relating to retention by the agents of part of the fees payable for the issue of licences under this Part of this Act or other means of remuneration of agents, maintenance of records by agents, confidentiality, the forwarding to the Secretary of details of licences issued, matters that may result in the termination of agencies by the Secretary, and other conditions relating to the proper and efficient conduct of the agency.

“29 Licences issued by local authorities deemed to have been issued by Secretary

Every driver’s licence issued under this Act by any local authority before the commencement of this Part of this Act is hereby deemed to have been issued by the Secretary.

“29a Details of licences issued by issuing authorities to be forwarded to Secretary

Every local authority that was, at the commencement of this Part of this Act, an issuing authority within the meaning of this Act shall forward to the Secretary, not later than the 1st day of August 1984, such details concerning drivers’ licences issued by it as the Secretary may require for the purposes of compiling and maintaining the national register of drivers’ licences in accordance with section 29c of this Act.

“29b Issue of drivers’ licences and extensions of licences

- “(1) The Secretary shall, on receipt of the prescribed fee (if any) for each licensing year for which the licence is issued, issue a driver’s licence to any person who satisfies him that he is qualified in accordance with this Act and with any regulations made under this Act to be the holder of a driver’s licence to drive the class or classes of motor vehicles specified in the licence.
- “(2) The Secretary shall grant an extension of any driver’s licence, where the holder of that licence satisfies him that he is qualified in accordance with this Act and with any regulations made under this Act to be the holder of a driver’s licence to drive the class or classes of motor vehicles in respect of which the extension is applied for.
- “(3) Except as may be otherwise provided by this Part of this Act or by regulations made under this Act, every driver’s licence shall be operative throughout New Zealand, and shall remain in force until the end of the licensing year in which it takes effect or, at the option of the holder and on payment of the appropriate prescribed fee the end of the first or second or third or fourth licensing year after the licensing year in which the driver’s licence takes effect, and, unless renewed, shall then expire.
- “(4) Nothing in this section shall be construed so as to authorise the issue to any person of a driver’s licence having effect in any licensing year after the year in which it is issued, if, pursuant to regulations made under this Act, an

application by that person for a driver's licence for that licensing year would have to be accompanied by a medical certificate.

“(5) Where, during the currency of a driver's licence, the holder is granted an extension of the licence authorising him to drive the class or classes of motor vehicle specified in the extension, and the application for the extension is required by regulations made under this Act to be accompanied by a medical certificate, the driver's licence so extended shall expire at the end of the licensing year in which the extension was granted.

“(6) Unless otherwise provided by regulations under this Act, where any applicant for a driver's licence or an extension of a driver's licence is required to undergo any practical driving test on the ground that he has not previously or within a prescribed period been the holder of a driver's licence granted in New Zealand of the class applied for, there shall be payable by the applicant, in addition to the fee prescribed for the purposes of subsection (1) of this section, the prescribed testing fee (if any), and that testing fee shall be payable whether or not a driver's licence or extension of a driver's licence is granted to him.

Compare: 1962, No. 135, s. 26(1), (2), (5)–(7), (9)–(12); 1964, No. 126, s. 5; 1966, No. 107, s. 5; 1971, No. 57, s. 3 (s. 26(1), (2), (5)–(7), (9), (10)); 1980, No. 96, s. 6

“29c National register of driver's licences

“(1) The Secretary shall establish and maintain a national register of all driver's licences issued or deemed to have been issued by him under this Act, showing with respect to each driver's licence the following particulars:

- “(a) The full name, address, and date of birth of the holder of the licence:
- “(b) The number of the licence:
- “(c) The date of issue of the licence:
- “(d) The date of expiry of the licence:
- “(e) The class or classes of vehicles to which the licence applies:
- “(f) Any conditions subject to which the licence is issued:
- “(g) Particulars of any order of disqualification made against the holder of the licence under section 30 or section 30a or section 32 of this Act:
- “(h) Particulars of any order made under section 38 of this Act whereby a limited licence is issued to a person who has been disqualified by an order made under Part IV of this Act from holding or obtaining a driver's licence:
- “(i) Particulars of any order made under section 39 of this Act whereby the disqualification of a motor driver is removed.
- “(j) Particulars of any suspension of a licence or disqualification from holding a licence under section 47 or section 48 of this Act:
- “(k) Particulars of any order of disqualification made against the holder of the licence under section 44a of the Criminal Justice Act 1954:

- “(1) Particulars of any revocation or suspension of the licence under any regulations made under the authority of section 29f of this Act.
- “(2) Any person shall, on written application to the Secretary and on payment of the prescribed fee (if any), be entitled to a certificate containing the following particulars that are contained in the national register in respect of any person named in the written application:
- “(a) Any particulars specified in paragraph (d) or paragraph (e) of subsection (1) of this section:
- “(b) Any particulars specified in paragraphs (f) to (l) of subsection (1) of this section that are current at the date of the certificate.
- “(3) Every application under subsection (2) of this section shall describe the person named with sufficient particularity to enable the Secretary to identify the person and the licence concerned.

Compare: 1962, No. 135, s. 28a; 1971, No. 57, s. 3 (s. 27)

“29d Licences of mentally disordered persons to be suspended

- “(1) Where any person becomes a committed patient or a special patient within the meaning of the Mental Health Act 1969 and is at the date he becomes a committed patient or a special patient the holder of a driver’s licence, that licence shall be deemed to be suspended on and from that date until such time as he is neither a committed patient nor a special patient under that Act.
- “(2) Any person who has possession of a driver’s licence of any person who is a committed patient or a special patient within the meaning of the Mental Health Act 1969 shall, on the request of the Medical Superintendent of the hospital in which the holder of the licence is received or detained, deliver the licence to that Medical Superintendent, who shall retain the licence until the person ceases to be a committed patient or a special patient in that hospital.
- “(3) Where a person to whom this section applies ceases to be a committed patient, or, as the case may be, ceases to be a special patient without becoming a committed patient, under the Mental Health Act 1969 and the Medical Superintendent considers him to be unfit to hold a driver’s licence, the Medical Superintendent shall forward to the Secretary a certificate to that effect together with that person’s driver’s licence, which shall thereupon be deemed to be revoked.
- “(4) Where—
- “(a) Any person to whom subsection (1) of this section applies is, under section 66 of the Mental Health Act 1969, permitted to be absent on leave from a hospital under that Act; and

“(b) The Medical Superintendent of the hospital certifies in writing that in his opinion that person is fit to hold a driver’s licence—

the provisions of subsection (1) of this section shall not apply to that person while he is absent on leave from the hospital, and, if his driver’s licence is held by the Medical Superintendent pursuant to subsection (2) of this section, the Medical Superintendent shall return it to him.

Compare: 1962, No. 135, s. 28; 1971, No. 57, s. 3 (s. 28a)

“29e Professional driving instructors

No person shall engage for financial gain in the teaching of motor vehicle driving unless he is the holder of a certificate of approval for the time being in force issued by the Secretary under the authority of regulations made pursuant to section 29f of this Act.

Compare: 1962, No. 135, s. 28b; 1971, No. 57, s. 3 (s. 28b)

“29f Regulations as to motor drivers’ licences and driving instructors

Without limiting the general power to make regulations conferred by section 199 of this Act, regulations may be made under that section for all or any of the following purposes:

- “(a) Providing, either generally or with respect to any particular locality or localities, or with respect to any particular class or classes of motor vehicles, for the theoretical and practical examination and testing of applicants for drivers’ licences or alterations to or renewals or extensions of drivers’ licences or of any class of such applicants; prescribing the passing standards for such examinations and tests; prescribing the conditions upon or subject to which licences or alterations to or renewals or extensions of licences may be granted; and prescribing or authorising the Minister to prescribe the persons or classes of persons by whom the examinations and tests are to be conducted:
- “(b) Providing for the granting of different classes of drivers’ licences, and prescribing the effect of drivers’ licences of each class:
- “(c) Prescribing the matters to be included in any application for a driver’s licence, or for the alteration, renewal, or extension of a driver’s licence:
- “(d) Prescribing an age (being not greater than the age of 15 years in the case of a licence to drive a motorcar, motorcycle, or moped) that must have been attained by an applicant for any class of licence:
- “(e) Prescribing the circumstances in which medical certificates or tests of eyesight or hearing are required before any driver’s licence is issued, altered, renewed, or extended; prescribing the standards of eyesight and hearing required of an applicant for a licence of any class or the alteration to or renewal or extension of any licence; and empowering the Secretary to decline to issue, alter, renew, or extend any driver’s licence

in the absence of a medical certificate that the person is a fit person to hold a driver's licence:

- “(f) Prescribing or authorising the Minister to prescribe the persons who may grant medical certificates or conduct tests of eyesight or hearing in relation to driver's licences and applications for such licences:
- “(g) Prescribing conditions relating to the issue of duplicate and replacement licences:
- “(h) Providing for or prescribing conditions relating to the issue, alteration, renewal, and extension of licences:
- “(i) Prescribing the classes of licence authorising the holder to drive vehicles which may carry passengers for reward in respect of which an applicant must produce evidence of his good character:
- “(j) Providing that in the case of an alteration to or renewal or extension of any driver's licence, the alteration, renewal, or extension may be made by the issue of a new driver's licence or by endorsement on the existing licence, as the case may be; and providing for the issue of interim licences pending the issue of such new licences:
- “(k) Specifying the period within which a licence may be renewed after it has expired and the conditions relating to fees or otherwise subject to which licences may be renewed within or outside that period:
- “(l) Providing for the issue of various types of drivers' licences authorising the holders to drive motor vehicles subject to such conditions as to vehicle power and otherwise as are prescribed in the regulations; and prescribing the classes of drivers, whether by reference to age or driving experience or otherwise, to whom such conditions are to apply:
- “(m) Providing for the practical, theoretical, or medical examination and testing of the holders of drivers' licences in any case where it is considered by the Secretary to be necessary in the interest of public safety, and for the revocation of drivers' licences if the holders refuse or neglect to submit to the examination or testing, or if they are found as a result of the examination or testing to be for any reason unfit to continue to hold their drivers' licences; providing for a right of appeal against the revocation to a District Court Judge; and prescribing the time within which and the manner in which such appeals may be made:
- “(n) Providing for the revocation of any licence that authorises the holder to drive vehicles which may carry passengers for reward where it is considered by the Secretary to be necessary in the public interest having regard to the conduct of that person; providing for a right of appeal against the revocation to a District Court Judge; and prescribing the time within which and the manner in which appeals may be made:
- “(o) Prescribing, or authorising the Secretary to prescribe, forms of drivers' licences and limited licences, forms of applications for drivers' licences,

and other forms that may be required for the purposes of this Part of this Act or of any regulations relating to drivers' licences made under this Act:

- “(p) Prescribing the documentary evidence of identity and date of birth which must be submitted with any application for a driver's licence or for any alteration to or extension or renewal of a driver's licence and empowering the Secretary to grant exemptions from the requirements of any regulations made under this paragraph:
- “(q) Providing for the issue by the Secretary of certificates of approval to persons engaged for financial gain in teaching motor-vehicle driving, and prescribing the conditions (including conditions as to the character of applicants for or holders of such certificates and the examination and testing of such applicants) upon or subject to which those certificates may be issued or revoked; and providing for a right of appeal to a District Court Judge against any decision of the Secretary refusing to issue such a certificate or revoking such a certificate:
- “(r) Providing that any applicant for a driver's licence who satisfies the Secretary that he has held a driver's licence granted outside New Zealand may be exempted by the Secretary from some or all of the practical or theoretical examinations or tests or requirements for medical certificates or tests of eyesight or hearing that would otherwise be required of applicants for that class of licence:
- “(s) Providing for the exemption, either unconditionally or upon or subject to such conditions as may be prescribed in the regulations, of persons who are visitors to New Zealand from any of the requirements of this Act or of any regulations relating to drivers' licences made under this Act:
- “(t) To give effect to any international convention relating to the recognition of drivers' licences and permits issued in other jurisdictions and the recognition of international driving permits:
- “(u) Prescribing offences relating to—
 - “(i) Applications for drivers' licences or renewals or extensions of drivers' licences:
 - “(ii) Driving any motor vehicle contrary to the conditions of any driver's licence:
 - “(iii) The making of alterations to any driver's licence and the use of any licence that has been altered:
 - “(iv) The custody and use of drivers' licences:
 - “(v) The incorrect description by or of any person as the holder of a certificate of approval as a driving instructor, and the employment

as a driving instructor of any person who does not hold any such certificate—

and prescribing fines not exceeding \$200 for such offences.”

Compare: 1962, No. 135, s. 29; 1971, No. 57, s. 3 (s. 29); 1974, No. 61, s. 5; 1978, No. 46, s. 2

4 Consequential amendments and repeals

- (1) Section 2(1) of the principal Act (as substituted by section 2(1) of the Transport Amendment Act 1972) is hereby consequentially amended by repealing the definition of the term “issuing authority”, and substituting the following definition:

“‘Issue’, in relation to any motor driver’s licence, includes, where appropriate, the issue of a renewal notice for insertion in an existing licence and the extension of any existing licence to any class or classes of motor vehicle:”.

- (2) Section 2(1) of the principal Act (as so substituted) is hereby further amended by repealing the definition of the term “licensing year”, and substituting the following definition:

“‘Licensing year’ in relation to any driver’s licence means a period of 12 months ending with the 30th day of June in any year, and in relation to any such licence issued during that period means the period commencing with the date of issue of the licence and ending with the next 30th day of June:”.

- (3) Section 2(1) of the principal Act (as so substituted) is hereby further amended by omitting from the definition of the term “motor driver’s licence” the expression “section 29”, and substituting the expression “section 29f”.

- (4) Section 32(2)(a) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words, “whether or not the licence with respect to which the application is made has been issued by that authority”.

- (5) Section 33(3) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “local authority on behalf of which the tests were conducted”, and substituting the word “Secretary”.

- (6) Section 37 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) Every person who receives a licence under subsection (1) of this section shall forward it to the Secretary who shall retain it until the disqualification has expired or has been removed, and the person entitled to the licence has made a request in writing for it to be returned to him.”

- (7) Section 38(6) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “any local

authority or the Secretary, as the case may require,” and substituting the words “the Secretary”.

- (8) Section 38(7) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “the local authority or the Secretary, as the case may be,”, and substituting the words “the Secretary”.
- (9) Section 40 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “and to the local authority by which the licence (if any) of the defendant was issued”.
- (10) Section 41(5) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the words “and also to the local authority by which the licence (if any) of the defendant was issued”.
- (11) The following enactments are hereby consequentially repealed:
 - (a) Sections 4 to 6 of the Transport Amendment Act 1964:
 - (b) Section 4 of the Transport Amendment Act 1965:
 - (c) Sections 5 to 8 of the Transport Amendment Act 1966:
 - (d) Sections 3 and 4 of the Transport Amendment Act 1971:
 - (e) Section 5 of the Transport Amendment Act 1974.
- (12) The Transport Amendment Act Commencement Order 1976 (S.R. 1976/203) is hereby consequentially revoked.

5 Validation of motor drivers’ licences

For the avoidance of doubt it is hereby declared that every motor driver’s licence issued before the 1st day of July 1983 is as valid as it would have been if—

- (a) The tests administered to the applicant for that licence had been properly prescribed or authorised by regulations made under the principal Act; and
- (b) The passing standards used for the tests had been properly prescribed or authorised; and
- (c) The answers used as the correct answers to the tests in traffic law were correct in every case.

Part II Offences and Penalties

6 New sections inserted

The principal Act is hereby amended by inserting, after section 30, the following sections:

“30a Court orders relating to persons convicted twice or more of alcohol or drug related traffic offences

“(1) Where—

“(a) Any Court convicts any person of an offence against any of the following provisions of this Act, namely,—

“(i) Section 55(2); or

“(ii) Section 56(1a)(b); or

“(iii) Section 58(1); or

“(iv) Section 58a(5); or

“(v) Section 58b(13); or

“(vi) Section 58c(1); or

“(vii) Section 58c(2); and

“(b) The person has previously been convicted of an offence against the same provision or against any other provision specified in paragraph (a) of this subsection, being an offence committed within 5 years before the date of the commission of the offence to which that paragraph relates,—

the Court shall, subject to subsection (2) of this section, make an order requiring the person to attend an Assessment Centre and disqualifying him from holding or obtaining a driver’s licence until the Secretary makes an order under section 30c(1) of this Act removing that disqualification.

“(2) The Court shall not make an order under subsection (1) of this section unless both the offences referred to in that subsection were committed on or after the 1st day of December 1983, and at least one of those offences was an offence—

“(a) Against section 58(1)(a) of this Act and the proportion of alcohol in his breath, as ascertained by an evidential breath test undergone by him, exceeded 1000 micrograms of alcohol per litre of breath; or

“(b) Against section 58(1)(b) of this Act and the proportion of alcohol in his blood, as ascertained from an analysis of a blood specimen taken from him, exceeded 200 milligrams of alcohol per 100 millilitres of blood; or

“(c) Against section 58a(5), section 58b(13), section 58c(1), or section 58c(2) of this Act.

“(3) For the purposes of this section, any certificate given under section 58b(9) of this Act and admitted in evidence in any proceedings for an offence against section 58(1)(b) of this Act shall be sufficient evidence of the matters stated in the certificate, until the contrary is proved.

“(4) The duty imposed upon the Court by this section shall not in any way restrict any other duty or power of the Court to disqualify any person from holding or obtaining a driver’s licence, or to impose any other penalty.

“(5) For the avoidance of doubt it is hereby declared that sections 33 to 37 of this Act shall apply in respect of both any order made under subsection (1) of this section and any person in respect of whom such an order is made.

“30b Assessment Centre fee

“(1) Every person in respect of whom an order is made under section 30a(1) of this Act shall pay an Assessment Centre fee of \$150, which shall be payable whether or not that person attends an Assessment Centre.

“(2) Where any person is required to pay any fee under subsection (1) of this section, that fee shall be payable to the Court and shall be recoverable in the same manner as any fine imposed by the Court on the conviction of that person.

“(3) There shall be paid to every Assessment Centre by the Minister of Transport, out of money appropriated by Parliament for the purpose, the sum of \$150 for the first attendance of any person in respect of whom an order has been made under section 30a(1) of this Act, where that person has not previously attended an Assessment Centre following the making of that order.

“30c Removal of disqualification by Secretary

“(1) Where an order has been made under section 30a(1) of this Act in respect of any person (in this section called ‘the applicant’), the Secretary shall, if he is satisfied—

“(a) That, having regard to—

“(i) Any report which is from a registered medical practitioner attached to any Assessment Centre and which is made available to the Secretary by the applicant or the Assessment Centre; and

“(ii) Any other evidence submitted by the applicant or otherwise available to the Secretary relating to the medical condition of the applicant,—

the applicant is a fit person to hold a driver’s licence; and

“(b) That the applicant is not disqualified from holding or obtaining a driver’s licence other than by virtue of an order made under section 30a(1) of this Act—

make an order removing the disqualification of the applicant from holding or obtaining a driver’s licence.

“(2) On the making of an order by the Secretary under subsection (1) of this section in respect of any applicant, every order made under section 30a(1) of this Act in respect of that applicant shall be deemed to have expired.

“(3) No order shall be made under subsection (1) of this section in respect of any applicant within 2 years after the making of the latest order in respect of that applicant under section 30a(1) of this Act.

“30d Appeal against refusal of Secretary to remove disqualification

“(1) Where an order has been made under section 30a(1) of this section and the person in respect of whom the order was made—

“(a) Has unsuccessfully applied to the Secretary for an order under section 30c(1) of this Act; and—

“(b) Considers that the Secretary should have made an order under that section—

that person may appeal to a District Court against the refusal of the Secretary to make that order.

“(2) In determining the appeal the Court may—

“(a) Direct the Secretary to make an order under section 30c(1) of this Act; or

“(b) Dismiss the appeal.”

7 Application of disqualification provisions where offender already disqualified

The principal Act is hereby amended by repealing section 31 (as substituted by section 2 of the Transport Amendment Act 1970), and substituting the following section:

“31

(1) Where—

“(a) Any person who is disqualified from holding or obtaining a driver’s licence; or

“(b) Any person who holds a limited licence issued under section 38 of this Act—

is convicted of any offence that renders him liable to be disqualified from holding or obtaining a driver’s licence, the Court shall, subject to subsection (2) of this section, order him to be disqualified from holding or obtaining a driver’s licence for a period of 6 months, unless for special reasons relating to the offence it considers such disqualification would be inappropriate.

“(2) The penalty that shall be imposed by the Court under subsection (1) of this section shall be in addition to any other penalty that shall or may be imposed and without prejudice to any duty or power of the Court to order a longer period of disqualification.

“(3) Where any person in respect of whom an order is made under subsection (1) of this section is at the time when the order is made already disqualified from holding or obtaining a driver’s licence, the period of disqualification ordered under subsection (1) of this section shall commence on the date on which the order or the last of the orders to which he is already subject ceases to have effect, and in every other case shall commence in accordance with section 36 of this Act.”

8 Driving while disqualified or contrary to the terms of a limited licence

Section 35 of the principal Act (as enacted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting from subsection (2)(a) the words “may order him to be disqualified from holding or obtaining a driver’s licence for such period as the Court thinks fit”, and substituting the words “shall make an order under section 31 of this Act as if the offence for which the person is convicted is an offence that renders him liable to be disqualified from holding or obtaining a driver’s licence”.

9 Issue of limited licence to disqualified person

Section 38 of the principal Act (as enacted by section 2 of the Transport Amendment Act 1970) is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Except as provided in subsection (1a) of this section, this section applies in respect of any person who is disqualified by an order made under this Part of this Act from holding or obtaining a driver’s licence.

“(1a) Nothing in this section applies in respect of any person who is disqualified by an order made under section 30a(1) of this Act from holding or obtaining a driver’s licence.”

10 Removal of disqualification

(1) Section 39 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by inserting, after subsection (1), the following subsection:

“(1a) In having regard under subsection (1) of this section to the conduct of any person subsequent to an order disqualifying him from holding or obtaining a driver’s licence, the Court shall have regard to—

“(a) Whether or not any course operated by a traffic improvement school or defensive driving organisation approved under section 39a of this Act was reasonably available to that person; and

“(b) Whether or not that person attended that course; and

“(c) Any report of any person conducting such a course on the conduct of the person in respect of whom the order was made, and on his awareness of the responsibilities of drivers and suitability to hold a driver’s licence; and

“(d) Any report which relates to the medical condition of that person and which is from a registered medical practitioner attached to an Assessment Centre attended by the person other than under an order made under section 30a(1) of this Act.”

(2) Section 39 of the principal Act (as enacted by section 2 of the Transport Amendment Act 1970) is hereby amended by adding the following subsection:

“(5) No application or order may be made under this section in respect of any person who is disqualified by an order made under section 30a(1) of this Act from holding or obtaining a driver’s licence.”

11 Approval of traffic improvement schools and defensive driving courses

The principal Act is hereby amended by inserting, after section 39, the following section:

“39a

The Secretary may, by notice in the *Gazette*, approve any traffic improvement school conducted by the Department or any local authority, or any defensive driving organisation as a school or organisation that conducts courses available to persons in respect of whom orders disqualifying them from holding or obtaining a driver’s licence have been made by any Court.”

12 Retention of infringement fees by local authorities

Section (43)(2)(a)(ii) of the principal Act (as enacted by section 7 of the Transport Amendment Act 1980) is hereby amended by inserting, after the words “the bylaw”, the words “where the infringement notice in respect of the offence was issued by an officer or other person appointed by that authority”.

13 Notice of demerit points

- (1) The principal Act is hereby amended by repealing section 47 (as substituted by section 2 of the Transport Amendment Act 1970), and substituting the following section:

“47

The Secretary shall, where reasonably practicable, cause a notice in writing to be given to any person in respect of whom 60 or more demerit points have been recorded informing that person of the number of demerit points so recorded and the consequences of further demerit points being recorded against him.”

- (2) Section 11 of the Transport Amendment Act 1974 is hereby consequentially repealed.

Compare: 1962, No. 135, s. 47; 1974, No. 61, s. 11

Part III Road Traffic

14 Penalties for offences

Section 30 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by inserting, after subsection (2a)

(as inserted by section 6(2) of the Transport Amendment Act 1974), the following subsection:

“(2b) Every person who commits an offence against section 58a(5) of this Act (which relates to failure to accompany an enforcement officer for purposes relating to breath tests or blood tests and failure to remain at places for those purposes) is liable on summary conviction to a fine not exceeding \$1,500, and the Court may order him to be disqualified from holding or obtaining a driver’s licence for such period as the Court thinks fit.”

15 Error in evidential breath test not to vitiate proceedings for offence relating to blood alcohol concentration

Section 58 of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by adding the following subsections:

“(5) It shall not be a defence to a charge under subsection (1)(b) of this section—

“(a) That there was or may have been an error in the result of the evidential breath test; or

“(b) That the occurrence or likely occurrence of any such error did not entitle or empower any person to request or require a blood test.

“(6) Subsection (5) of this section shall not apply in respect of any offence that is alleged to have been committed before the 1st day of December 1983”.

16 Breath tests

Section 58a of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting from subsection (1)(c) the words “made under this Part of this Act”, and substituting the words “authorised by section 77 of this Act and made under section 199 of this Act”.

17 Analyst’s certificate relating to blood specimen analysis conclusive evidence in certain cases

Section 58b of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by inserting, after subsection (9), the following subsection:

“(9a) The Court shall not make an order under paragraph (e) or paragraph (f) of subsection (9) of this section unless the application made by the defendant is accompanied by an affidavit sworn by the private analyst specified by the defendant or his solicitor or counsel under subsection (7) of this section to the effect that—

“(a) Since the date given to him as the date on which application was made under subsection (7) of this section for the sending to him of a blood specimen relating to the defendant he has not received any such specimen; or

- “(b) The blood specimen received by him relating to the defendant—
- “(i) Was not suitable for analysis; or
 - “(ii) Was suitable for analysis but, for specified reasons, that analysis was not carried out; or
 - “(iii) Was suitable for analysis and that analysis was carried out but, for specified reasons, the results of the analysis are not available; or
- “(c) The blood specimen received by him relating to the defendant has been analysed and found to contain not more than 80 milligrams of alcohol per 100 millilitres of blood; or
- “(d) The blood specimen received by him relating to the defendant has been analysed and found to contain 20 or more milligrams of alcohol per 100 millilitres of blood more or less than the proportion of alcohol per 100 millilitres of blood specified in the certificate given under subsection (9)(a)(ii) of this section.”

18 Power of Court to order attendance at traffic improvement or defensive driving course

- (1) The principal Act is hereby amended by repealing section 68, and substituting the following section:

“68

- “(1) Where any person is convicted of an offence against this Part of this Act or of any other offence (whether against this Act or any other enactment or any bylaw) in connection with the driving of a motor vehicle, the Court may, whether or not it imposes any other penalty in respect of the offence, order that person to attend—
- “(a) A course of instruction at a traffic improvement school approved under section 39a of this Act; or
 - “(b) A course conducted by a defensive driving organisation approved under section 39a of this Act.
- “(2) Any person who has been ordered under subsection (1) of this section to attend a course shall, within 21 days after being required to do so, pay to the person in charge of the course the fee usually charged for that course.
- “(3) Every person commits an offence who, having been ordered to attend a course,—
- “(a) Fails to attend the course in accordance with the order; or
 - “(b) Fails to pay any fee that he is required to pay under subsection (2) of this section.”

- (2) The following enactments are hereby consequentially repealed:
- (a) Section 6 of the Transport Amendment Act (No. 2) 1971:

(b) Section 19 of the Transport Amendment Act 1974.

19 Jurisdiction of traffic officers

(1) The principal Act is hereby amended by repealing section 68d (as inserted by section 8(1) of the Transport Amendment Act (No. 2) 1967), and substituting the following section:

“68d

“(1) Any power or authority conferred by this or any other Act or by any regulations or bylaws for the time being in force under this or any other Act on any traffic officer who is an officer of the Department, or a traffic officer who is appointed as such by a territorial authority, may be exercised by that officer on any road.

“(2) Any power or authority conferred by this or any other Act or by any regulations or bylaws for the time being in force under this or any other Act on any traffic officer to whom subsection (1) of this section does not apply may be exercised by that traffic officer—

“(a) On any road that is under the control of the authority by which he has been appointed as a traffic officer:

“(b) On any other road—

“(i) Where he has good cause to suspect that an offence against section 58 of this Act has been committed by the driver or person in charge of a motor vehicle on a road that is under the control of the authority by which he has been appointed as a traffic officer:

“(ii) For the purpose of identifying or arresting, pursuant to section 62 of this Act, the driver or person in charge of the motor vehicle or of identifying the motor vehicle or of preventing the continuance of the offence, where he has good cause to suspect that any other offence against this Act or any offence against any regulations or bylaws in force under this Act has been committed by the driver or person in charge of any motor vehicle within the area under the control of that other authority, and it is necessary for him to proceed beyond that district or area for that purpose:

“(iii) In any case where he believes on reasonable grounds that it is necessary for him to exercise that power or authority in order to deal with any accident or emergency or to prevent the continuance of any danger to the public or to any person.”

(2) Section 10 of the Transport Amendment Act 1980 is hereby consequentially repealed.

20 Duty of traffic officer to order overloaded motor vehicle off road

Section 69a(2) of the principal Act (as substituted by section 21(1) of the Transport Amendment Act 1974) is hereby amended by omitting the words, “unless the load on the motor vehicle is indivisible,”.

Part IV**Miscellaneous Amendments to Principal Act****21 Definition of term “moped”**

- (1) Section 2(1) of the principal Act (as substituted by section 2(1) of the Transport Amendment Act 1972) is hereby amended by inserting, after the definition of the term “Minister”, the following definition:

“‘Moped’ means a motor vehicle running on 2 or 3 wheels that is fitted with a motor having a power output not exceeding 2 kilowatts and is designed to be ridden at a speed not exceeding 50 kilometres per hour under normal conditions of use.”.

- (2) Section 2(1) of the principal Act (as so substituted) is hereby amended by repealing the definition of the term “power cycle” (as substituted by section 2(2) of the Transport Amendment Act 1974).
- (3) Section 2(1) of the principal Act (as so substituted) is hereby amended by omitting from the definitions of the terms “driver”, “motorcar”, and “motor cycle”, the words “power cycle”, and substituting in each case the word “moped”.
- (4) The First Schedule to the principal Act (as substituted by section 2(1) of the Transport Amendment Act 1983) is hereby amended by omitting from clause 5 of Part I and from clauses 2 and 8 of Part II the words “power cycle”, and substituting in each case the word “moped”.
- (5) Section 2(2) of the Transport Amendment Act 1974 is hereby consequentially repealed.
- (6) This section shall come into force on the 1st day of March 1984.

22 Certain trailers exempted from registration and licensing provisions

Section 7 of the principal Act is hereby amended by inserting, after subsection (4a) (as inserted by section 6 of the Transport Amendment Act (No. 2) 1969), the following subsection:

“(4b) Nothing in subsection (1) of this section shall apply with respect to any trailer that is attached to or being drawn by any exempted vehicle within the meaning of section 188 of this Act.”

23 Details of register

- (1) Section 17 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

- “(2) Subject to subsection (3) of this section, any person shall, on making oral or written application to the Registrar or to a Deputy Registrar, be entitled to a certificate containing the name and address of the registered owner of a specified motor vehicle or, if he so wishes, shall be entitled to that information given orally or by other means.
- “(3) No person shall be entitled to a certificate or to be given information under subsection (2) of this section unless he has paid the appropriate prescribed fee, or the Registrar is satisfied that adequate arrangements have been made for the later payment of that fee.”
- (2) Section 4(b) of the Transport Amendment Act 1980 is hereby consequentially repealed.

24 Change of ownership of motor vehicle

Section 18 of the principal Act is hereby amended by inserting, after subsection (8), the following subsection:

- “(8a) Notwithstanding subsection (8) of this section, the Registrar may endorse particulars of a change of ownership on the certificate of registration or on a duplicate certificate issued for the purpose if—
- “(a) The endorsement fee has been paid; and
 - “(b) The Registrar is satisfied that ownership of the vehicle has changed; and
 - “(c) The Registrar is satisfied that the person selling or otherwise disposing of the vehicle has failed or refused to notify the change of ownership in accordance with subsection (1) of this section; and
 - “(d) The person seeking the endorsement has made a statutory declaration—
 - “(i) That he is the new owner of the vehicle; and
 - “(ii) Explaining the circumstances under which he became the new owner; and
 - “(iii) Detailing any efforts he has made to have the previous owner sign the notice of change of ownership.”

25 New sections inserted

- (1) The principal Act is hereby amended by inserting, after section 77, the following sections:

“77a Regulations relating to seat belts and child restraints

- “(1) Without limiting the general power to make regulations conferred by section 199 of this Act, regulations may be made under that section regulating and requiring the fitting and use of seat belts and child restraints in motor vehicles, and, without limiting the generality of the foregoing provisions, for all or any of the following purposes:

- “(a) Requiring the owners or operators of motor vehicles or specified classes or types of motor vehicles to ensure that the vehicles are fitted with approved seat belts or specified types of approved seat belts and specifying the sitting positions in vehicles where such seat belts shall be fitted:
 - “(b) Exempting owners or operators of specified vehicles or specified classes of vehicles or vehicles used solely for specified purposes from all or any of the requirements of regulations made under paragraph (a) of this subsection:
 - “(c) Requiring the drivers of motor vehicles or specified classes or types of motor vehicles to ensure that the vehicle is fitted with approved seat belts or approved child restraints in specified circumstances when a child or children are being carried in the vehicle:
 - “(d) Exempting any driver or class of driver from the requirements of any regulations made under paragraph (c) of this subsection in all circumstances or in circumstances specified in the regulations:
 - “(e) Requiring persons of, under, or over a specified age or of or over a specified weight in a vehicle for which a seat belt or child restraint appropriate for that person is provided and available for use to be properly restrained by that seat belt or child restraint while the vehicle is in motion; and imposing duties on drivers of motor vehicles to ensure that children are restrained in accordance with regulations made under this paragraph:
 - “(f) Exempting any person or class of persons from all or any of the requirements of regulations made under paragraph (e) of this subsection in all circumstances or in circumstances specified in the regulations.
- “(2) Any regulations made under subsection (1) of this section shall not apply to or in respect of any owner of, or driver or other person in, any motor vehicle that was first registered before the 1st day of January 1955.

“77b Power of Secretary to approve child restraints and seat belts

The Secretary may, by notice in the *Gazette*, approve seat belts and child restraints (including restraints to be used in conjunction with seat belts) for the purposes of regulations made under this Act, whether by reference to specified standards or otherwise, and subject to such conditions as to fitting, dates of manufacture or purchase, use by persons of, under, or over specified ages or weights, periods of use, and use generally, and otherwise as are specified in the notice.”

- (2) Section 77(1)(y) of the principal Act (as substituted by section 23(2) of the Transport Amendment Act 1974) is hereby repealed.

26 Manufacture or sale of devices, fittings, or equipment requiring approval

The principal Act is hereby amended by renumbering section 77a (as inserted by section 12 of the Transport Amendment Act 1972) as section 77c.

This Act is administered in the Ministry of Transport.