

Version No. 043
Road Safety Act 1986

Act No. 127/1986

Version incorporating amendments as at 1 July 1998

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Road Safety Act 1986

Act No. 127/1986

Version incorporating amendments as at 1 July 1998

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The purposes of this Act are—

- (a) to provide for safe, efficient and equitable road use; and
- (b) to improve and simplify procedures for the registration of motor vehicles and the licensing of drivers; and
- (c) to provide for the safe use of recreation vehicles; and
- (d) to ensure the equitable distribution within the community of the costs of road use.

2. *Commencement*

This Act (including the items in Schedule 3 and the amendments in Schedule 4) comes into operation on a day or days to be proclaimed.

3. *Definitions*

- (1) In this Act—

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S. 3(1) def. of "accredited agency" inserted by No. 5/1990 s. 4(a), amended by No. 46/1998 s. 7(Sch. 1).

"accredited agency" means a person or body approved for the purposes of sections 50 and 50A by the Secretary to the Department of Human Services within the meaning of the **Health Act 1958**;

S. 3(1) def. of "accredited drink-driving education program" inserted by No. 5/1990 s. 4(a), amended by No. 46/1998 s. 7(Sch. 1).

"accredited drink-driving education program" means a program that is run by an accredited agency and that is approved for the purposes of section 50A by the Secretary to the Department of Human Services within the meaning of the **Health Act 1958**;

S. 3(1) def. of "articulated truck" inserted by No. 89/1991 s. 4(1)(a).

"articulated truck" means a truck comprising a prime mover and a semi-trailer;

"authorised officer" means a person who is referred to in section 77(2);

S. 3(1) def. of "Authority" repealed by No. 44/1989 s. 41(Sch. 2 item 34.1(a)).

* * * * *

"axle" means a bar or spindle which supports a motor vehicle or trailer and on or with which wheels of the motor vehicle or trailer which are in contact with the ground turn;

"bill of sale" means bill of sale within the meaning of Part VI of the **Instruments Act 1958**;

S. 3(1) def. of "breath analysing instrument" amended by No. 17/1994 s. 4(1).

"breath analysing instrument" means—
(a) the apparatus known as the Alcotest 7110 to which a plate is attached on which there is written, inscribed or impressed the numbers "3530791"

whether with or without other expressions or abbreviations of expressions, commas, full stops, hyphens or other punctuation marks and whether or not all or any of the numbers are boxed in; or

- (b) apparatus of a type approved for the purposes of section 55 by the Minister by notice published in the Government Gazette or for the purposes of any corresponding previous enactment by the Governor in Council by notice published in the Government Gazette for ascertainment by analysis of a person's breath what concentration of alcohol is present in his or her blood;

"bus" means a motor vehicle which (together with any trailer attached to it) seats more than 12 adults (including the driver);

S. 3(1) def. of "bus" inserted by No. 89/1991 s. 4(1)(b).

* * * * *

S. 3(1) def. of "Chief General Manager" inserted by No. 5/1990 s. 4(b), repealed by No. 46/1998 s. 7(Sch. 1).

"commercial motor vehicle" means a commercial goods vehicle or a commercial passenger vehicle within the meaning of Part VI of the **Transport Act 1983** but includes a tow truck within the meaning of that Part;

"Corporation" means the Roads Corporation;

S. 3(1) def. of "Corporation" inserted by No. 44/1989 s. 41(Sch. 2 item 34.1(b)).

"corresponding law" means a law of another

State or a Territory of the Commonwealth which the Minister by Order published in the Government Gazette declares to be a law that creates an offence substantially similar to any one of the offences created by section 49(1);

S. 3(1) def. of "drink-driving infringement" inserted by No. 53/1989 s. 4(a), amended by Nos 89/1991 s. 4(1)(c), 17/1994 s. 4(2).

"drink-driving infringement" means an offence under section 49(1)(b), (f) or (g) in circumstances where¹—

- (a) the concentration of alcohol in the blood of the person is less than 0.15 grams per 100 millilitres of blood; and
- (b) the offence is a first offence having regard to the provisions of section 48(2) or would, because of section 50AA, be treated as a first offence for the purposes of sub-sections (1), (1A), (1AB) and (1B) of section 50;

"driver licence" means a licence granted under Part 3;

S. 3(1) def. of "drug" amended by No. 78/1987 s. 4(1)(a).

"drug" means any substance or preparation for the time being declared by Order made by the Minister and published in the Government Gazette to be a drug for the purposes of this Act;

S. 3(1) def. of "excessive speed infringement" inserted by No. 53/1989 s. 4(b).

"excessive speed infringement" means an offence of a kind referred to in section 28(1)(a);

S. 3(1) def. of "full driver licence" inserted by No. 78/1987 s. 4(1)(b).

"full driver licence" means a driver licence other than a probationary driver licence;

"gross vehicle mass" means—

- (a) in the case of an articulated truck or heavy trailer combination, the maximum permissible mass (whether described as the gross train mass or otherwise) for the motor vehicle and the trailer attached to it, together with the load carried on both; and
- (b) in any other case, the maximum permissible mass (whether described as the gross vehicle mass or otherwise) for the motor vehicle and its load (but excluding any trailer and its load)—

as stated in a certificate of registration or other certificate that is issued in respect of the motor vehicle by the Corporation or by the corresponding authority of another State or Territory or that is required by law to be painted or displayed on the motor vehicle;

"heavy trailer combination" means a truck to which is attached a trailer which exceeds 750 kg tare mass;

"highway" means—

- (a) a street, road, lane, bridge, thoroughfare or other place open to or used by the public for passage with vehicles and includes every carriageway, footpath, traffic island, nature strip and any area provided to separate vehicular traffic on any such street, road, lane, bridge, thoroughfare or other place; and
- (b) any place that is a highway by virtue of a declaration under sub-section (2)(a);

S. 3(1) def. of "gross vehicle mass" inserted by No. 89/1991 s. 4(1)(d).

S. 3(1) def. of "heavy trailer combination" inserted by No. 89/1991 s. 4(1)(d).

"hire-purchase agreement" means hire-purchase agreement within the meaning of the **Hire-Purchase Act 1959**;

"infringement" means a parking infringement or a traffic infringement;

"interstate learner permit" means a permit or authority to learn to drive a motor vehicle issued under an Act of another State or Territory of the Commonwealth which corresponds with this Act;

S. 3(1) def. of "large vehicle" inserted by No. 89/1991 s. 4(1)(e).

"large vehicle" means—

- (a) a bus; or
- (b) a rigid or articulated truck which exceeds 15 tonnes gross vehicle mass;

S. 3(1) def. of "licence restoration report" inserted by No. 5/1990 s. 4(c).

"licence restoration report" means a report from an accredited agency on an applicant for an order under section 50(4);

"motor cycle" means a two-wheeled motor vehicle and includes a motor cycle with a trailer, forecar or sidecar attached;

"motor vehicle" means a vehicle which is used or intended to be used on a highway or in a public place and which has its own motive power (other than human or animal power), but does not include—

- (a) a vehicle intended to be used on a railway or tramway; or
- (b) a motorised wheel-chair capable of a speed of not more than 7 kilometres per hour which is used solely for the conveyance of an injured or disabled person; or

-
- (c) a vehicle that is not a motor vehicle by virtue of a declaration under subsection (2)(b);

"owner", in relation to a motor vehicle or trailer, includes a part owner and also—

- (a) includes a person who has the possession and use of it under or subject to a hire-purchase agreement or a bill of sale or like instrument or under or subject to a written hiring agreement (not being a hire-purchase agreement) which requires that person to register the motor vehicle or trailer in that person's name; but
- (b) does not include a person in whom the property in the motor vehicle or trailer or any absolute or conditional right or licence to take possession of the motor vehicle or trailer is vested under or subject to a hire-purchase agreement or a bill of sale or like instrument or written hiring agreement which requires another person to register the motor vehicle or trailer in the name of that other person but who has not for the time being the possession and use of the motor vehicle or trailer;

"parking infringement" means the parking of a vehicle, or leaving it standing, whether attended or not, in contravention of—

- (aa) section 90E; or
- (a) the regulations; or
- (b) any regulation or local law under the **Local Government Act 1989**; or

S. 3(1) def. of "parking infringement" amended by Nos 12/1989 s. 4(1)(Sch. 2 item 105.1), 25/1996 s. 7.

- (c) any other Act, rule, regulation or by-law;

"permit" means—

- (a) a learner permit granted under Part 3;
or
- (b) a tractor permit granted under Part 3;

"pre-registration certificate" means a certificate referred to in section 15(1);

"prescribed concentration of alcohol" means—

- (a) in the case of a person to whom section 52 applies, the concentration of alcohol specified in that section; and
- (b) in the case of any other person, a concentration of alcohol present in the blood of that person of 0.05 grams per 100 millilitres of blood;

S. 3(1) def. of "prescribed concentration of alcohol" amended by No. 5/1990 s. 4(d).

"prime mover" means a motor vehicle which is constructed, designed or adapted for connecting to a semi-trailer;

S. 3(1) def. of "prime mover" inserted by No. 89/1991 s. 4(1)(f).

"probationary driver infringement" means a prescribed offence within the meaning of section 21(3);

S. 3(1) def. of "probationary driver infringement" inserted by No. 5/1990 s. 4(e).

"probationary driver licence" means a licence referred to in section 21 during the period of probation of that licence;

S. 3(1) def. of "probationary driver licence" inserted by No. 78/1987 s. 4(1)(c).

"prosecution officer" means—

- (a) a person who is appointed by the Chief Commissioner of Police for the purposes of Part 7; or
- (b) an officer of the Corporation who is authorised in writing to take proceedings either generally or in any particular case by the Corporation; or
- (c) a person who is referred to in paragraph (c) or (e) of section 77(2);

S. 3(1) def. of "prosecution officer" amended by No. 44/1989 s. 41(Sch. 2 item 34.1(c)).

"public place" means—

- (a) any bridge, footpath, court, alley, passage or thoroughfare open to or used by the public; or
- (b) any park, garden, reserve or other place of public recreation or resort; or
- (c) any open place to which the public has or is permitted to have access, whether on or without payment for admittance; or
- (d) any wharf, pier or jetty open to or used by the public; or
- (e) any school or the land or premises in connection with it—

but does not include a highway;

"recreation vehicle" means a motor vehicle that is used or intended to be used in a public place, other than one that is not a recreation vehicle by virtue of a declaration under subsection (2)(e);

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s. 3

S. 3(1) def. of
"registered
owner"
repealed by
No. 30/1997
s. 7(a).

* * * * *

S. 3(1) def. of
"registered
medical
practitioner"
inserted by
No. 23/1994
s. 118(Sch. 1
item 50.1).

"registered medical practitioner" means a
registered medical practitioner within the
meaning of the **Medical Practice Act 1994**;

S. 3(1) new
def. of
"registered
owner"
inserted by
No. 30/1997
s. 7(b).

"registered owner", in relation to a motor
vehicle or trailer, means the person in whose
name it is registered;

S. 3(1) def. of
"rigid"
inserted by
No. 89/1991
s. 4(1)(g).

"rigid" means not articulated;

S. 3(1) def. of
"semi-trailer"
inserted by
No. 89/1991
s. 4(1)(g).

"semi-trailer" means a vehicle without its own
motive power which is capable of being
drawn by a prime mover in such a way that it
is attached to and pivoted on the prime
mover by imposition on it on or in front of
the rear axle of the prime mover so that the
semi-trailer is free to turn relative to the
prime mover when the prime mover is
rounding a curve and so that part of the mass
of the semi-trailer and of any load carried on
it is borne by the prime mover;

"serious injury" has the same meaning as in
section 15 of the **Crimes Act 1958**;

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"tailgating infringement" means an offence under section 87A;

S. 3(1) new def. of "tailgating infringement" inserted by No. 30/1997 s. 7(d).

"tare mass", in relation to a trailer, means its unladen mass when it is in ordinary running condition and not carrying persons or goods;

S. 3(1) def. of "tare mass" inserted by No. 89/1991 s. 4(1)(h).

* * * * *

S. 3(1) def. of "tailgating infringement" inserted by No. 5/1990 s. 4(f), repealed by No. 30/1997 s. 7(c).

"taxi-cab" has the same meaning as in Part VI of the **Transport Act 1983**;

S. 3(1) def. of "taxi-cab" inserted by No. 58/1995 s. 4.

"tractor" means a motor vehicle that is a tractor by virtue of a declaration under sub-section (2)(c);

"traffic infringement" means—

S. 3(1) def. of "traffic infringement" amended by Nos 54/1987 s. 16(4)(a), 53/1989 s. 4(c), 5/1990 s. 4(g), 89/1991 s. 17(1)(a), 84/1994 s. 56, 30/1997 s. 7(e).

- (a) an offence, other than a parking infringement, against this Act or the regulations which is a prescribed offence for the purposes of Part 7; or
- (b) an offence against section 5 or 6 of the **Litter Act 1987** relating to the deposit of litter into, onto, inside or from any vehicle; or
- (c) an offence against the **Transport Act 1983** or the regulations made under that Act which is a prescribed offence for the purposes of Part 7; or

-
- (d) a drink-driving infringement; or
 - (e) an excessive speed infringement; or
 - (f) a tailgating infringement; or
 - (g) a probationary driver infringement; or
 - (h) an offence against section 109 of the **Transport Accident Act 1986** which is a prescribed offence for the purposes of Part 7;

"trailer" means—

- (a) a vehicle, implement, machine or other structure without its own motive power which is capable of being drawn by a motor vehicle; and
- (b) a vehicle, implement, machine or other structure that is a trailer by virtue of a declaration under sub-section (2)(d);

S. 3(1) def. of
"Tribunal"
repealed by
No. 120/1993
s. 62.

* * * * *

S. 3(1) def. of
"truck"
inserted by
No. 89/1991
s. 4(1)(i).

"truck" means a motor vehicle which exceeds 4.5 tonnes gross vehicle mass but does not include a bus or a tractor;

"vehicle" means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes bicycle or other pedal-powered vehicle, trailer, tram-car and air-cushion vehicle but does not include railway locomotive or railway rolling stock.

- (2) The Governor in Council may by Order published in the Government Gazette—

-
- (a) declare any place or class of places, whether open to vehicles or not, to be a highway or highways for the purposes of this Act; and
 - (b) declare any motor vehicle or class of motor vehicles not to be a motor vehicle or motor vehicles for the purposes of this Act; and
 - (c) declare any motor vehicle or class of motor vehicles to be a tractor or tractors for the purposes of this Act; and
 - (d) declare any vehicle, implement, machine or other structure or class of vehicles, implements, machines or other structures to be a trailer or trailers for the purposes of this Act; and
 - (e) declare any motor vehicle or class of motor vehicles not to be a recreation vehicle or recreation vehicles for the purposes of this Act.

4. *Act to bind Crown*

This Act binds the Crown in right of Victoria and also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

PART 2—REGISTRATION

5. *Purposes of registration*

The purposes of registration are—

- (a) to ensure that the design, construction and equipment of motor vehicles and trailers which are used on a highway meet safety and environmental standards; and
- (b) to enable the use of motor vehicles and trailers on highways to be regulated for reasons of safety, protection of the environment and law enforcement; and
- (c) to provide a method of establishing the identity of each motor vehicle or trailer which is used on a highway and of the person who is responsible for it.

6. *Application of Part*

This Part applies only to motor vehicles and trailers which are used or intended for use on a highway.

7. *Offence if vehicle or trailer not registered*

- (1) A person must not—
 - (a) use on a highway a motor vehicle or a trailer;
or
 - (b) own a motor vehicle or a trailer which is used on a highway—

unless that motor vehicle or trailer is registered under this Part or exempted from registration under the regulations or is used as specified in a registration permit granted in accordance with the regulations.

- (2) A person must not—
- (a) use a motor vehicle or trailer in breach of any condition of its registration; or
 - (b) being the registered owner of a motor vehicle or a trailer, permit or allow it to be so used or employ a person to so use it.

- (3) A person who contravenes sub-section (1) or (2) is guilty of an offence and is liable to a penalty not exceeding that specified in the following table:

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Class of motor vehicle or trailer involved in offence</i>	<i>Penalty for first offence</i>	<i>Penalty for subsequent offence</i>
1. Motor cycle or trailer	5 penalty units	10 penalty units
2. Motor vehicle (other than motor cycle) with 2 axles	6 penalty units	11 penalty units
3. Motor vehicle with 3 axles	8 penalty units	12 penalty units
4. Motor vehicle with 4 axles	9 penalty units	14 penalty units
5. Motor vehicle with 5 or more axles	10 penalty units	15 penalty units

- (4) A person who is convicted of a subsequent offence against this section is liable to the penalty in column 3 of the table in sub-section (3) corresponding to the class of motor vehicle or trailer to which the subsequent offence relates, regardless of the class of motor vehicle or trailer to which any previous offence related.
- (5) A person may not be convicted of more than one offence under sub-section (1) or sub-section (2) in respect of the same circumstances.

(6) In determining for the purposes of sub-section (3) the number of axles of a motor vehicle (being a prime mover) involved in an offence, the axles of any semi-trailer which is, at the time of the offence, connected to the motor vehicle are to be treated as axles of that motor vehicle.

S. 7(7)
repealed by
No. 89/1991
s. 4(2).

* * * * *

(8) On any motor vehicle or trailer all wheels whose centres lie within the space enclosed by any two parallel transverse vertical planes extending across the full width of the vehicle one metre apart are, for the purposes of sub-section (3), to be taken to be on one axle.

8. Names in which vehicle or trailer may be registered

- (1) A motor vehicle (other than a motor cycle) or a trailer must not be registered in the name of a person who is under the age of 17 years and a motor cycle must not be registered in the name of a person who is under the age of 17 years and 9 months.
- (2) A motor vehicle or trailer must not be registered—
 - (a) in a business name; or
 - (b) in the names of more than one person; or
 - (c) in the name of an unincorporated group.

S. 9
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

9. Effecting registration, renewal or transfer

- (1) Registration, renewal of registration and transfer of registration may be applied for and granted or refused only in accordance with the regulations.

-
- (1A) The Corporation must ensure that an applicant for registration, renewal of registration or transfer of registration of a motor vehicle or trailer is informed at the time of making the application that any information given or document submitted in connection with the application, or a copy of such a document, may be disclosed or used for investigation, law enforcement and other purposes in accordance with section 92.
- (2) If the Corporation is satisfied that a motor vehicle or trailer in respect of which an application for registration is made meets the standards for registration, and if the applicant complies with the provisions of this Act and the regulations relating to registration, the Corporation must register that motor vehicle or trailer.
- (3) The Corporation may in its discretion, if it is not satisfied that those standards are met, grant registration subject to conditions that are notified in writing to the registered owner.

S. 9(1A)
inserted by
No. 120/1993
s. 56,
amended by
No. 30/1997
s. 5(1).

10. *Power to require compliance with standards*

- (1) The Minister may, by notice in the Government Gazette, require compliance with standards for registration relating to the construction, efficiency, performance, safety, design and equipment of, and the method of identifying, motor vehicles and trailers.
- (2) A standard may include a code of practice.
- (3) A notice under sub-section (1) must specify the class or classes of motor vehicles and trailers to which the standards apply.
- (4) The standards must be available for inspection on request at a place which is open to the public and is specified in the notice.

- (5) Unless the Minister otherwise specifies in the notice relating to a particular standard, a standard applies only to motor vehicles or trailers manufactured 12 months or more after the date of the notice.

S. 11
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

11. *Power to cancel or suspend registration*

The Corporation may, in accordance with the regulations, cancel or suspend the registration of a motor vehicle or trailer.

S. 12
amended by
Nos 44/1989
s. 41(Sch. 2
item 34.4),
57/1989
s. 3(Sch. item
173.1).

12. *Appeal to Magistrates' Court*

- (1) If the Corporation decides to—
- (a) refuse an application for registration of a motor vehicle or trailer; or
 - (b) refuse to register a motor vehicle or trailer unconditionally under this Part; or
 - (c) cancel or suspend the registration of a motor vehicle or trailer—
- the applicant or owner may, in accordance with the regulations, appeal against that decision to the Magistrates' Court.
- (2) On an appeal under sub-section (1) the court must—
- (a) re-determine the matter of the refusal, cancellation or suspension; and
 - (b) hear any relevant evidence tendered by the appellant or the Corporation; and
 - (c) without limiting its discretion, take into consideration anything that the Corporation ought to have considered.
- (3) Every decision of the Magistrates' Court on an appeal under this section is final and conclusive and must be given effect to by the Corporation.

13. Power to inspect motor vehicles and trailers

- (1) An authorised officer for the purposes of this section or a member of the police force may at any reasonable time inspect a motor vehicle or trailer which is being used on a highway and which the officer or member believes on reasonable grounds does not comply with this Act or the regulations.
- (2) An authorised officer for the purposes of this section or a member of the police force may, by notice in accordance with sub-section (3), require to be produced for inspection at a place specified in the notice a motor vehicle or trailer which the officer or member has reasonable grounds for suspecting has within the preceding 30 days been used or will be used on a highway and which the officer or member believes on reasonable grounds does not comply with this Act or the regulations.
- (3) A notice must be in writing and must be served on the registered owner or, if the motor vehicle or trailer is not registered, on the owner.
- (4) An inspection may include any tests which the inspecting officer or member of the police force decides to be appropriate.
- (5) A person who refuses or fails—
 - (a) to allow a motor vehicle or trailer to be inspected when required under this section; or
 - (b) to produce a motor vehicle or trailer for inspection at the place specified in a notice within 7 days after service of the notice on that person—

S. 13
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

S. 13(1)
amended by
No. 58/1995
s. 5(1).

S. 13(2)
amended by
No. 58/1995
s. 5(1).

Road Safety Act 1986
Act No. 127/1986

s. 14

is guilty of an offence.

Penalty: 5 penalty units.

S. 13(6)
inserted by
No. 58/1995
s. 5(2).

(6) In this section "**authorised officer for the purposes of this section**" means—

(a) an officer of the Corporation authorised in writing by the Corporation for the purposes of this section; or

S. 13(6)(ab)
inserted by
No. 37/1996
s. 3(1),
amended by
No. 46/1998
s. 7(Sch. 1).

(ab) a person employed under Part 3 of the **Public Sector Management and Employment Act 1998** in the police force of Victoria who is authorised in writing by the Chief Commissioner of Police for the purposes of this section; or

S. 13(6)(b)
amended by
No. 46/1998
s. 7(Sch. 1).

(b) an employee in the Department of Infrastructure authorised in writing by the Secretary to the Department of Infrastructure for the purposes of this section.

S. 14
amended by
Nos 44/1989
s. 41(Sch. 2
item 34.4),
58/1995 s. 6,
37/1996
s. 3(2),
46/1998
s. 7(Sch. 1).

14. Power to prohibit use

The Corporation, an employee of the Department of Infrastructure authorised in writing by the Secretary to the Department of Infrastructure for the purposes of this section, a person employed under Part 3 of the **Public Sector Management and Employment Act 1998** in the police force of Victoria who is authorised in writing by the Chief Commissioner of Police for the purposes of this section or a member of the police force may, in accordance with the regulations, prohibit the use on a highway of a particular motor vehicle or trailer (whether registered or not) either absolutely or on specified conditions and either indefinitely or for a specified period.

15. Pre-registration certificates

- (1) A person must not sell a motor vehicle or trailer which has not been previously registered in Victoria (whether under this Part or the **Motor Car Act 1958**), and which the purchaser intends for use on a highway in Victoria, unless that person delivers to the purchaser or to the Corporation a certificate in the prescribed form issued by a person who is authorised in writing by the Corporation to do so certifying as to whether or not the motor vehicle or trailer is capable of being registered unconditionally under this Part.

Penalty: 5 penalty units.

- (2) It is a defence to a charge under sub-section (1) for the person charged to prove that the person charged believed on reasonable grounds that the purchaser did not intend the motor vehicle or trailer to be used on a highway in Victoria.

- (3) A person must not knowingly make in a pre-registration certificate any statement which is not correct.

Penalty: 10 penalty units or imprisonment for 2 months.

S. 15 amended by No. 44/1989 s. 41(Sch. 2 item 34.4).

15A. Suspension or cancellation of vehicle tester authorisations²

- (1) The Corporation may, in accordance with the regulations, suspend for 30 days or more or cancel an authorisation granted to a person under regulations made under item 9 of Schedule 2 if it is of the opinion that—

- (a) the person has ceased to be a fit and proper person to hold the authorisation; or

S. 15A inserted by No. 120/1993 s. 57.

- (b) the person's premises are no longer suitably equipped to carry out examinations and tests; or
 - (c) none of the person's employees is qualified to carry out examinations and tests; or
 - (d) any provision of the regulations which applies in respect of authorised persons and the testing of vehicles has not been complied with.
- (2) The Corporation may, in accordance with the regulations, immediately suspend until the charge has been determined an authorisation granted to a person under regulations made under item 9 of Schedule 2 if the person is charged with—
- (a) an offence involving violence or the threat of violence; or
 - (b) theft or an offence involving deception or fraud; or
 - (c) an offence against paragraph (e) or (f) of section 61(1); or
 - (d) an offence involving the risk of injury to the public—
- and may, in accordance with the regulations, cancel the authorisation if the person is convicted of any such offence.
- (3) The Corporation may, in accordance with the regulations, suspend for 3 months an authorisation granted to a person under regulations made under item 9 of Schedule 2 if the person incurs 12 or more demerit points within any 3 year period.
- (4) The circumstances in which demerit points are incurred or cancelled and the number of points incurred are as prescribed.
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- (5) The holder of an authorisation granted under regulations made under item 9 of Schedule 2 may appeal to the Magistrates' Court against a decision of the Corporation to suspend or cancel that authorisation.
- (6) An appeal against a decision of the Corporation made under sub-section (3) may only be made on either or both of the following grounds:
- (a) That demerit points have been recorded against the appellant in error or because of wrongful or mistaken identity;
 - (b) That a miscalculation has been made in assessing the total number of demerit points incurred by the appellant.
- (7) The giving, in accordance with the regulations, of a notice of appeal against a decision of the Corporation made under sub-section (3) stays the suspension of the authorisation pending the determination of the appeal.
- (8) On an appeal under this section the Magistrates' Court must—
- (a) re-determine the matter of the suspension or cancellation; and
 - (b) hear any relevant evidence tendered by the appellant or the Corporation; and
 - (c) without limiting its discretion, take into consideration anything that the Corporation ought to have considered.
- (9) On an appeal against a decision of the Corporation made under sub-section (3) the Magistrates' Court may—
- (a) in allowing the appeal, give to the Corporation any directions it thinks proper

for the amendment of any demerits register kept by the Corporation; or

- (b) in dismissing the appeal, order that the suspension take effect from a date specified in the order.

- (10) Every decision of the Magistrates' Court on an appeal under this section is final and conclusive and must be given effect to by the Corporation.

S. 16 amended by Nos 44/1989 s. 41(Sch. 2 item 34.4), 84/1994 s. 57(1), 58/1995 s. 7(1).

16. *Seizure of number plates*

- (1) An authorised officer for the purposes of this section or a member of the police force may take possession of any number plate which the officer or member has reasonable grounds for suspecting—

- (a) is being used other than in accordance with this Act and the regulations; or
(b) was not issued in accordance with this Act and the regulations—

and may retain it until the Corporation is satisfied that it was not being so used and that it was issued in accordance with this Act and the regulations.

S. 16(2) inserted by No. 84/1994 s. 57(2), substituted by No. 58/1995 s. 7(2).

- (2) In this section "**authorised officer for the purposes of this section**" means—

- (a) an officer of the Corporation or an officer or agent of the Transport Accident Commission authorised in writing by the Corporation for the purposes of this section; or
(b) an employee in the Department of Infrastructure authorised in writing by the Secretary to the Department of Infrastructure for the purposes of this section.

S. 16(2)(b) amended by No. 46/1998 s. 7(Sch. 1).

PART 3—LICENSING OF DRIVERS

17. *Purposes of licensing*

The purposes of licensing are—

- (a) to ensure that people who drive motor vehicles on highways are competent drivers; and
- (b) to ensure that drivers are aware of safe driving practices and road law; and
- (c) to ensure that people who are, or who become, unsuited to drive are not permitted to drive on highways; and
- (d) to enable the identification of drivers for the purposes of law enforcement and accident investigation.

18. *Offence if driver not licensed*

(1) A person who drives a motor vehicle on a highway—

S. 18(1)
amended by
No. 58/1995
s. 8(a).

(a) without holding a driver licence or permit which authorises the holder to drive such a motor vehicle (unless exempted under the regulations); or

S. 18(1)(a)
amended by
No. 58/1995
s. 8(b).

(b) in breach of any condition of a driver licence or permit; or

S. 18(1)(b)
amended by
No. 58/1995
s. 8(c).

(c) being a person who is exempted under the regulations from the requirements of paragraph (a) because he or she holds an appropriate licence or permit issued in another State, Territory or country, or has an appropriate International Driving Permit, in

S. 18(1)(c)
inserted by
No. 58/1995
s. 8(c).

breach of any condition of that licence or permit—

is guilty of an offence and, unless sub-section (2) applies, is liable to a penalty not exceeding 25 penalty units or to imprisonment for not more than 3 months.

S. 18(2)
substituted by
No. 19/1991
s. 5.

- (2) If the court is satisfied—
- (a) that the person has held an appropriate licence (whether issued in Victoria or in another State or Territory) or an International Driving Permit at some time before the commission of an offence against sub-section (1); and
 - (b) that the licence was not cancelled for an offence relating to the driving of a motor vehicle committed by the person in Victoria or in another State or Territory—

that person is liable to a penalty not exceeding 10 penalty units or to imprisonment for not more than one month.

S. 19
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

19. *Driver licences*

- (1) The Corporation may, on the application of a person over the age of 18 years, grant a driver licence if it is satisfied that the applicant is qualified to hold such a licence.
- (2) The Corporation may, before granting a licence, require the applicant—
 - (a) to pass any appropriate tests; and
 - (b) to comply with any prescribed procedures and requirements; and
 - (c) to have any prescribed qualification.

(3) A licence authorises a person to drive on a highway any categories of motor vehicle indicated in the licence for the term, and subject to any conditions, specified in the licence.

(4) A licence may be applied for, granted, renewed or refused only in accordance with the regulations.

(5) Subject to sub-section (6), a person who holds a driver licence must have the licence in his or her possession at all times while driving or in charge of a large vehicle.

S. 19(5)
inserted by
No. 89/1991
s. 5(1).

Penalty applying to this sub-section: 5 penalty units.

(6) Sub-section (5) does not apply in respect of a large vehicle being used on a journey wholly within a radius of 80 kilometres from the place of business from which the large vehicle normally operates.

S. 19(6)
inserted by
No. 89/1991
s. 5(1).

(7) A person who holds a full driver licence issued only because of the order of the Magistrates' Court made on an application under section 50(4) must have the licence in his or her possession while driving or in charge of a motor vehicle at any time during the period of 3 years from the first issue of a licence on that order³.

S. 19(7)
inserted by
No. 17/1994
s. 5.

Penalty applying to this sub-section: 5 penalty units.

20. *Variation of driver licences*

(1) The holder of a driver licence who satisfies the Corporation that he or she is qualified to drive a category of motor vehicle in addition to any category indicated in his or her licence may on application to the Corporation have that licence varied to include that additional category.

S. 20
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

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- (2) An application for a licence variation may be made, granted or refused only in accordance with the regulations.
- (3) The Corporation may, before granting a licence variation, require the applicant—
- (a) to pass any appropriate tests and to undergo any appropriate training; and
 - (b) to comply with any prescribed procedures and requirements; and
 - (c) to satisfy it that he or she—
 - (i) has held a driver licence for the period determined by the Corporation; and
 - (ii) has had adequate driving experience; and
 - (iii) has attained the age specified by the Corporation.

S. 21
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

21. Probationary driver licences

S. 21(1)
substituted by
No. 5/1990
s. 5(1),
amended by
Nos 19/1991
s. 6(1),
89/1991 s. 6,
substituted by
No. 17/1994
s. 6(1).

- (1) If a driver licence is granted to a person who has not previously held one, that licence must, unless the regulations otherwise provide, be granted on probation until—
- (a) the date specified in the licence; or
 - (b) the date on which the person passes any appropriate tests that the Corporation requires him or her to pass to obtain a full driver licence—

whichever is later.

Road Safety Act 1986

Act No. 127/1986

s. 21

- (1A) A person who holds a probationary driver licence must have the licence in his or her possession at all times while driving or in charge of a motor vehicle.

S. 21(1A)
inserted by
No. 5/1990
s. 5(1).

Penalty: 5 penalty units.

- (2) If a driver licence which is granted to a person on probation expires or is cancelled by a court or the Corporation before the completion of the full cumulative probationary period applicable to the holder of the licence and subsequently a new driver licence is granted to that person, that new licence must, unless the regulations otherwise provide, be granted on probation until—

S. 21(2)
amended by
Nos 19/1991
s. 6(2),
17/1994
s. 6(2).

(a) the date specified in the licence; or

S. 21(2)(c)
inserted by
No. 19/1991
s. 6(2),
re-numbered
as s. 21(2)(a)
by No.
89/1991

(b) the date on which the person passes any appropriate tests that the Corporation requires him or her to pass to obtain a full driver licence—

S. 21(2)(d)
inserted by
No. 19/1991
s. 6(2),
re-numbered
as s. 21(2)(b)
by No.
89/1991
s. 17(3)(b).

whichever is later.

- (3) If a person who holds a probationary driver licence is convicted by a court of a prescribed offence, the court must, in addition to any other penalty it may impose, suspend that licence for at least one month.

- (4) In sub-section (3) "**prescribed offence**" means an offence under sub-section (1A) or an offence that is specified in the regulations to be a prescribed offence for the purposes of that sub-section.

S. 21(4)
amended by
No. 5/1990
s. 5(2).

(5) If a court makes an order suspending a probationary driver licence, whether under sub-section (3) or otherwise, the probationary period of the licence to which the order relates is, by force of that order, extended by the number of months that is equal to 6 more than the number of months of the suspension.

S. 21(6)
inserted by
No. 19/1991
s. 6(3).

(6) A reference in this Act or the regulations to the probationary period, or the period of probation, of a licence must be taken to be a reference to the period ending—

(a) on the date specified in the licence; or

(b) on the date on which the holder of the licence passes any appropriate tests that the Corporation requires him or her to pass to obtain a full driver licence—

whichever is later.

S. 21(7)
inserted by
No. 17/1994
s. 6(3).

(7) The Corporation may, on the application of the holder of a probationary driver licence issued before the commencement of section 6 of the **Road Safety (Amendment) Act 1994** on the order of the Magistrates' Court made on an application under section 50(4), vary that licence to convert it into a full driver licence.

S. 22
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

22. *Learner permits*

(1) The Corporation may, on the application of a person over the prescribed age, grant a learner permit if it is satisfied that the applicant is qualified to hold such a permit.

(2) In sub-section (1), "**prescribed age**" means—

(a) in the case of a learner permit to drive a motor cycle, 17 years and 9 months; and

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- (b) in any other case, 16 years.
 - (3) The Corporation may, before granting a permit, require the applicant—
 - (a) to pass any appropriate tests and undergo any appropriate training; and
 - (b) to comply with any prescribed procedures and requirements.
 - (4) A learner permit authorises the holder to drive on a highway any category of motor vehicle indicated in the permit for the term and subject to the conditions specified in the permit.
 - (5) A learner permit may be applied for, granted, renewed, extended or refused only in accordance with the regulations.

S. 22(2)(b)
amended by
No. 5/1990
s. 6.

23. *Tractor permits*

- (1) The Corporation may, on the application of a person over the age of 16 years, grant a tractor permit if it is satisfied that the applicant is qualified to hold such a permit.
- (2) The Corporation may, before granting a permit, require the applicant—
 - (a) to pass any appropriate tests; and
 - (b) to comply with any prescribed procedures and requirements.
- (3) A tractor permit authorises the holder to drive a tractor on a highway for the term, and subject to the conditions (if any), specified in the permit.
- (4) A tractor permit may be applied for, granted, renewed or refused only in accordance with the regulations.

S. 23
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

S. 23A
inserted by
No. 120/1993
s. 58,
amended by
No. 30/1997
s. 5(2).

23A. Information to be given to applicants for licences or permits

The Corporation must ensure that an applicant for a driver licence, a learner permit or a tractor permit is informed at the time of making the application that any information given or document submitted in connection with the application, or a copy of such a document, may be disclosed or used for investigation, law enforcement and other purposes in accordance with section 92.

S. 24
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

24. Cancellation, suspension or variation of licences and permits by Corporation

- (1) The Corporation must, if required by the regulations or section 25 to do so—
 - (a) suspend for the prescribed time the driver licence or permit of any person;
 - (b) cancel the driver licence or permit of any person;
 - (c) vary the driver licence or permit of any person by excluding or including a category of motor vehicle;
 - (d) vary the conditions to which the driver licence or permit of any person is subject by imposing, removing or amending a condition.
- (2) The Corporation may, in accordance with the regulations—
 - (a) suspend for any time that it thinks fit the driver licence or permit of any person;
 - (b) cancel the driver licence or permit of any person;

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- (c) vary the driver licence or permit of any person by excluding or including a category of motor vehicle;
 - (d) vary the conditions to which the driver licence or permit of any person is subject by imposing, removing or amending a condition.
- (3) In suspending, in accordance with the regulations, a driver licence or permit on the ground that it would be dangerous for the person to drive a motor vehicle because of illness or bodily infirmity, defect or incapacity or because of the effects of treatment for any of those things, the Corporation may do so on the basis of a report given by a registered medical practitioner and without conducting any other hearing or investigation into the matter before the suspension is imposed.

S. 24(3)
inserted by
No. 58/1995
s. 9.

25. Demerits Register

S. 25
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

- (1) The Corporation must keep a Demerits Register and must record against a person any demerit points that are incurred by that person.
- (2) The circumstances in which demerit points are incurred, the number of points incurred the determination of the date on which points are to be recorded as incurred and the circumstances in which, if points are incurred before a conviction or finding of guilt is recorded or made, the points may be cancelled are as prescribed.

S. 25(1)
amended by
No. 53/1989
s. 5(1).

S. 25(2)
amended by
No. 58/1995
s. 10.

Road Safety Act 1986

Act No. 127/1986

s. 25

S. 25(3)
substituted by
No. 53/1989
s. 5(2),
amended by
Nos 19/1991
s. 20(1),
37/1996
~~S. 25(3A)~~
inserted by
No. 53/1989
s. 5(2),
amended by
No. 19/1991
s. 20(1).

(3) The Corporation must serve a notice in the prescribed form on the holder of a driver licence or learner permit who incurs 12 or more demerit points within any 3 year period.

(3A) A person on whom that notice is served may, within 21 days after service of the notice, notify the Corporation that he or she elects to extend the demerit point period.

S. 25(3B)
inserted by
No. 53/1989
s. 5(2),
amended by
No. 19/1991
s. 20(1),
substituted by
No. 37/1996
s. 4(2).

(3B) If a person notifies the Corporation under sub-section (3A) that he or she elects to extend the demerit point period, the Corporation must, if the person incurs 1 or more additional demerit points in relation to any offence committed within the 12 month period after the date of the notice under sub-section (3)—

(a) by notice in the prescribed form served on the person, suspend his or her driver licence or learner permit for 6 months and an additional 2 months for each 4 demerit points in excess of 12 recorded against the person as at the date of the notice under sub-section (3); and

(b) when calculating demerit points recorded against that person at any time after the end of the period of suspension, disregard all demerit points recorded against the person as at the date of the notice under sub-section (3).

Road Safety Act 1986

Act No. 127/1986

- (3C) If a person notifies the Corporation under sub-section (3A) that he or she elects to extend the demerit point period, the Corporation must, if the person incurs no additional demerit points in relation to any offence committed within the 12 month period after the date of the notice under sub-section (3), when calculating demerit points recorded against that person at any time after the end of that 12 month period, disregard all demerit points recorded against that person as at the date of the notice under sub-section (3).
- (3D) If a person on whom a notice under sub-section (3) is served does not, in accordance with sub-section (3A), notify the Corporation that he or she elects to extend the demerit point period, the Corporation must—
- (a) by notice in the prescribed form served on the person, suspend his or her driver licence or learner permit for 3 months and an additional 1 month for each 4 demerit points in excess of 12 recorded against the person as at the date of the notice under sub-section (3); and
- (b) when calculating demerit points recorded against that person at any time after the end of the period of suspension, disregard all demerit points recorded against the person as at the date of the notice under sub-section (3).
- (4) The suspension of a driver licence or learner permit under this section takes effect on and from the day specified in the notice served under sub-section (3B)(a) or (3D)(a).
- (5) The circumstances in which demerit points are cancelled are as prescribed.

S. 25(3C)
inserted by
No. 53/1989
s. 5(2),
amended by
No. 19/1991
s. 20(1),
substituted by
No. 37/1996
s. 4(2).

S. 25(3D)
inserted by
No. 53/1989
s. 5(2),
amended by
No. 19/1991
s. 20(1),
substituted by
No. 37/1996
s. 4(2).

S. 25(4)
amended by
Nos 53/1989
s. 5(3),
37/1996 s.
4(1).

Road Safety Act 1986

Act No. 127/1986

s. 26

S. 25(6)
amended by
No. 37/1996
s. 4(1).

- (6) The fact that demerit points are recorded against the holder of a driver licence or learner permit is not admissible in evidence in any court proceedings other than proceedings on an appeal under section 26(1)(c).

S. 26
amended by
Nos 44/1989
s. 41(Sch. 2
item 34.4),
57/1989
s. 3(Sch. item
173.2).

26. Appeal to Magistrates' Court

- (1) If the Corporation decides to—
- (a) refuse an application for a driver licence, a driver licence variation or a permit; or
 - (b) in accordance with section 24, suspend, cancel or vary in any way a driver licence or permit; or
 - (c) in accordance with section 25(3B)(a) or (3D)(a), suspend a driver licence or learner permit—

the applicant or holder may, in accordance with the regulations and subject to sub-section (2), appeal against that decision to the Magistrates' Court.

S. 26(1)(c)
amended by
Nos 53/1989
s. 5(4),
37/1996 s.
4(3).

- (2) An appeal under sub-section (1)(c) may only be made on either or both of the following grounds:
- (a) That demerit points have been recorded against the appellant in error or because of wrongful or mistaken identity;
 - (b) That a miscalculation has been made in assessing the total number of demerit points incurred by the appellant.

S. 26(3)
amended by
No. 37/1996
s. 4(3).

- (3) The giving, in accordance with the regulations, of a notice of appeal under sub-section (1)(c) stays the suspension of the licence or learner permit pending the decision of the appeal.
- (4) On an appeal under sub-section (1) the court must—

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- (a) re-determine the matter of the refusal, suspension, cancellation or variation; and
 - (b) hear any relevant evidence tendered by the appellant or the Corporation; and
 - (c) without limiting its discretion, take into consideration anything that the Corporation ought to have considered.
- (5) If the court is satisfied that the refusal, suspension, cancellation or variation—
- (a) results from a driving disqualification of the appellant in another State or Territory of the Commonwealth; or
 - (b) was required by the regulations or section 25—
- the court must confirm the decision of the Corporation.
- (6) On an appeal under sub-section (1)(c) the court may—
- (a) in allowing the appeal, give to the Corporation any directions it thinks proper for the amendment of the Demerits Register; or
 - (b) in dismissing the appeal, order that the suspension take effect from a date specified in the order.
- (7) Every decision of the Magistrates' Court on an appeal under this section is final and conclusive and must be given effect to by the Corporation.

26A. *Appeal to Magistrates' Court against police decision*

- (1) If a member of the police force decides to forbid a person to drive a motor vehicle under section 62 or take any other action under that section, the person in respect of whom the action has been

**S. 26A
inserted by
No. 58/1995
s. 11.**

taken may, in accordance with the regulations, appeal against that decision to the Magistrates' Court.

- (2) On an appeal under sub-section (1) the court must—
- (a) re-determine the matter of the action taken; and
 - (b) hear any relevant evidence tendered by the appellant or the member of the police force; and
 - (c) without limiting its discretion, take into consideration anything that the member ought to have considered.

S. 27
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

27. Power of Corporation to require tests to be undergone

- (1) The Corporation may require the holder of a driver licence or a permit or an applicant for a driver licence, a driver licence variation or a permit to undergo a test or tests to find out if that person is unfit to drive, or if it is dangerous for that person to drive, motor vehicles or a category or categories of motor vehicles.
- (2) A person may be required under sub-section (1) to undergo a test of health or competence or any other appropriate test to be carried out by a person specified by the Corporation.
- (3) A test must be carried out by a person of the class prescribed in relation to that class of test.
- (4) No action may be taken against a person who carries out a test under this section and who expresses to the Corporation an opinion formed by that person as a result of the test.
- (5) No action may be taken against a person who, in good faith, reports to the Corporation any information which discloses or suggests that a

person is unfit to drive or that it may be dangerous to allow that person to hold or be granted a driver licence, a driver licence variation or a permit.

28. *Power of court to cancel, suspend or vary licences and permits*

S. 28 amended by No. 44/1989 s. 41(Sch. 2 item 34.4).

(1) If a court convicts a person of, or is satisfied that a person is guilty of, an offence against this Act or of any other offence in connection with the driving of a motor vehicle, the court—

S. 28(1) amended by No. 78/1987 s. 5(1).

(a) in the case of an offence of driving a motor vehicle at a speed—

S. 28(1)(a) substituted by No. 53/1989 s. 6.

(i) of 130 kilometres per hour or more; or

(ii) of 30 kilometres per hour or more in excess of that permitted, whether generally or in relation to the particular vehicle or circumstances—

must suspend for such time as the court thinks fit (not being less than the period specified in Column 2 of Schedule 5 ascertained by reference to the speed at which the vehicle was driven as specified in Column 1 of that Schedule), all driver licences and permits held by that person; and

(b) in any case but subject to paragraph (a), may suspend for such time as it thinks fit or cancel all driver licences and permits held by that person and, whether or not that person holds a driver licence, disqualify him or her from obtaining one for such time (if any) as the court thinks fit.

Road Safety Act 1986

Act No. 127/1986

s. 28

S. 28(1A)
inserted by
No. 78/1987
s. 5(2).

- (1A) Sub-section (1) does not affect the obligation of a court to cancel a licence or permit and disqualify the offender in any case in which cancellation and disqualification are mandatory under section 50(1), 60(2), 61(6) or 64(2).
- (2) If the court is satisfied that the circumstances of the case are so unusual as to warrant it, an order made under sub-section (1)(b) may be limited in its application to a category or categories of motor vehicles and such an order has effect according to its terms and this section applies to such an order with such modifications as are necessary.
- (3) A court must cause particulars of an order made under sub-section (1) to be sent immediately to the Corporation.
- (4) If under sub-section (1) a court disqualifies a person from obtaining a driver licence for any time without expressly cancelling any driver licence or permit held by that person, any driver licence or permit held by that person is, unless the order specifies otherwise, to be taken to have been cancelled by that order.
- (5) Sub-section (1) does not apply to an offence under section 56(7) unless the court is satisfied that the person convicted or found guilty of the offence had less than 3 hours before the time of the offence driven or been in charge of a motor vehicle.
- (6) Sub-section (1) does not apply to an offence to which section 66 applies unless the court is satisfied that the person convicted or found guilty of the offence was the actual driver of the motor vehicle at the time of the offence.
- (7) A driver licence or permit cancelled by a court is of no effect and a person whose licence or permit is cancelled is (without affecting the power of the

S. 28(4)
amended by
No. 78/1987
s. 5(3)(a)(b).

court to impose a longer period) disqualified from obtaining a further licence or permit for the period specified by the court or, if no period is specified, for 3 months.

* * * * *

S. 28(8)-(10)
repealed by
No. 89/1991
s. 7.

28A. Effect of suspension of licence or permit

A driver licence or permit suspended by a court or by the Corporation or by operation of this Act is, during the suspension, of no effect and a person whose licence or permit is suspended is, during the suspension, disqualified from obtaining a further licence or permit.

S. 28A
inserted by
No. 89/1991
s. 8.

28B. Disqualified person must not apply for licence or permit

(1) A person who is disqualified from obtaining a driver licence or permit must not apply for or obtain a licence or permit.

Penalty: 5 penalty units.

(2) A licence or permit so obtained is of no effect.

S. 28B
inserted by
No. 89/1991
s. 8.

29. Appeal to County Court

(1) A person who is disqualified from obtaining a licence or permit by order of the Magistrates' Court or whose licence is cancelled or suspended or varied by order of the Magistrates' Court may, under Division 4 of Part 4 of the **Magistrates' Court Act 1989**, appeal to the County Court against the order in the same manner as a person may appeal from summary conviction by the Magistrates' Court.

(2) The giving of notice of appeal to the County Court does not stay the operation of the order but the

S. 29(1)
amended by
No. 57/1989
s. 3(Sch. item
173.3(a)(b)).

court making the order may, in its discretion, stay the operation of the order pending the decision of the appeal.

S. 29(3)
amended by
No. 57/1989
s. 3(Sch. item
173.4).

- (3) This section does not apply to an order of the Magistrates' Court made on an appeal under section 26.

30. *Offence to drive while disqualified etc.*

S. 30(1)
amended by
No. 37/1996
s. 5.

- (1) A person must not drive a motor vehicle on a highway while the authorisation granted to him or her to do so under this Part is suspended or during a period of disqualification from obtaining such an authorisation.

Penalty: For a first offence, 30 penalty units or imprisonment for 4 months;
For a subsequent offence,
imprisonment for not less than 1 month
and not more than 2 years.

S. 30(2)
amended by
No. 49/1991
s. 119(7)(Sch.
4 item 17.1).

- (2) Section 49 of the **Sentencing Act 1991** does not apply with respect to proceedings for an offence against sub-section (1).

S. 31
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

31. *Cancellation of registration by court*

- (1) A court convicting a person of an offence against section 30(1) may, if the circumstances warrant it, order the cancellation of the registration of the motor vehicle in respect of which the offence was committed, if that motor vehicle is owned by that person, and order the Corporation not to register that vehicle again during such time (if any) as the court specifies.
- (2) If the court considers that another person who is not present in court may be substantially affected by such an order, the court must issue a summons to that other person to show cause why the order should not be made.

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- (3) On the return of the summons, the court may, after hearing the evidence brought before it—
- (a) refuse to order that the registration be cancelled; or
 - (b) order that the registration be cancelled, and order the Corporation not to register that vehicle again during such time (if any) as the court specifies.
- (4) A court must cause particulars of an order made under this section to be sent immediately to the Corporation and the Corporation must give effect to the order as soon as possible.

32. *Offence to employ unlicensed driver*

- (1) A person who employs, permits or allows a person to drive a motor vehicle on a highway is guilty of an offence if the driver does not hold a permit or licence which authorises him or her to drive such a motor vehicle.

Penalty: 15 penalty units or imprisonment for 3 months.

- (2) It is a defence to a charge under sub-section (1) for the person charged to prove that the person charged believed, after making all reasonable enquiries, that the driver held a permit or licence which authorised him or her to drive the motor vehicle concerned.
- (3) A person who is employed to drive a motor vehicle on a highway is guilty of an offence if he or she does not notify his or her employer if he or she does not hold or continue to hold a permit or licence which authorises him or her to drive such a motor vehicle.

Road Safety Act 1986
Act No. 127/1986

s. 33

S. 33
amended by
Nos 44/1989
s. 41(Sch. 2
item 34.4),
57/1989
s. 3(Sch.
items
173.5(a)(b),
173.6),
repealed by
No. 120/1993
s. 59.

* * * * *

PART 4—RECREATION VEHICLES

34. *Purposes of this Part*

The purposes of this Part are—

- (a) to ensure that the design, construction and equipment of recreation vehicles which are used in a public place meet safety and environmental standards; and
- (b) to enable the use of recreation vehicles to be regulated for reasons of safety, protection of the environment and law enforcement; and
- (c) to ensure that people who drive recreation vehicles in public places are old enough to do so; and
- (d) to provide a method of establishing the identity of each recreation vehicle and of the person who is responsible for it.

35. *Offence if recreation vehicle not registered*

(1) A person must not—

- (a) use in a public place a recreation vehicle; or
- (b) own a recreation vehicle which is used in a public place—

unless that recreation vehicle is registered under this Part or Part 2 or exempted from registration under the regulations.

Penalty: For a first offence, 2 penalty units.
For a subsequent offence, 5 penalty units.

(2) A person must not—

- (a) use a recreation vehicle in breach of any condition of its registration; or

- (b) being the registered owner of a recreation vehicle, permit or allow it to be so used or employ a person to so use it.

Penalty: For a first offence, 2 penalty units.
For a subsequent offence, 5 penalty units.

- (3) A person may not be convicted of more than one offence under sub-section (1) or sub-section (2) in respect of the same circumstances.

36. Recreation vehicle must not be registered in certain names

A recreation vehicle must not be registered—

- (a) in a business name; or
(b) in the names of more than one person; or
(c) in the name of an unincorporated group.

37. Effecting registration, renewal or transfer

- (1) Registration, renewal of registration and transfer of registration may be applied for and granted or refused only in accordance with the regulations.
- (2) If the Corporation is satisfied that a recreation vehicle in respect of which an application for registration is made meets the standards for registration, and if the applicant complies with the provisions of this Act and the regulations relating to registration, the Corporation must register that recreation vehicle.
- (3) The Corporation may in its discretion, if it is not satisfied that those standards are met, grant registration subject to conditions that are notified in writing to the registered owner.

S. 37
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

38. Power to require compliance with standards

- (1) The Minister may, by notice in the Government Gazette, require compliance with standards for registration relating to the construction, efficiency, performance, safety, design and equipment of, and the method of identifying, recreation vehicles.
- (2) A standard may include a code of practice.
- (3) A notice under sub-section (1) must specify the class or classes of recreation vehicles to which the standards apply.
- (4) The standards must be available for inspection on request at a place which is open to the public and is specified in the notice.
- (5) Unless the Minister otherwise specifies in the notice relating to a particular standard, a standard applies only to recreation vehicles manufactured 12 months or more after the date of the notice.

39. Power to cancel or suspend registration

The Corporation may, in accordance with the regulations, cancel or suspend the registration of a recreation vehicle.

S. 39
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

40. Power to inspect recreation vehicles

- (1) An officer of the Corporation who is authorised in writing by the Corporation for the purposes of this section or a member of the police force may at any reasonable time inspect a recreation vehicle which is being used in a public place and which the officer or member believes on reasonable grounds does not comply with this Act or the regulations.
- (2) An officer of the Corporation who is authorised in writing by the Corporation for the purposes of this section or a member of the police force may, by

S. 40
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

notice in accordance with sub-section (3), require to be produced for inspection at a place specified in the notice a recreation vehicle which the officer or member has reasonable grounds for suspecting has within the preceding 30 days been used in a public place and which the officer or member believes on reasonable grounds does not comply with this Act or the regulations.

- (3) A notice must be in writing and must be served on the registered owner or, if the recreation vehicle is not registered, on the owner.
- (4) An inspection may include any tests which the inspecting officer or member of the police force decides to be appropriate.
- (5) A person who refuses or fails—
 - (a) to allow a recreation vehicle to be inspected when required under this section; or
 - (b) to produce a recreation vehicle for inspection at the place specified in a notice within 7 days after service of the notice on that person—

is guilty of an offence.

Penalty: 5 penalty units.

S. 41
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

41. *Power to prohibit use*

The Corporation or a member of the police force may, in accordance with the regulations, prohibit the use in a public place of a particular recreation vehicle (whether registered or not) either absolutely or on specified conditions and either indefinitely or for a specified period.

42. *Driver must be at least 8 years old*

The owner of a recreation vehicle which is driven in a public place by a person under the age of 8 years is guilty of an offence unless the court is satisfied that the vehicle was driven without the knowledge or consent of the owner.

Penalty: For a first offence, 2 penalty units.
For a subsequent offence, 4 penalty units.

43. *Driver of certain vehicles must be at least 15 years old*

(1) The owner of a recreation vehicle which is driven in a public place by a person under the age of 15 years and which—

- (a) has 2 or 3 wheels and an engine capacity of more than 80 millilitres; or
- (b) has more than 3 wheels with tyres having an outer diameter of more than 305 millimetres; or
- (c) is driven faster than 30 kilometres per hour—

is guilty of an offence unless the court is satisfied that the vehicle was driven without the knowledge or consent of the owner.

Penalty: For a first offence, 2 penalty units.
For a subsequent offence, 4 penalty units.

(2) A person who is under the age of 15 years and who drives in a public place a recreation vehicle—

- (a) of a type referred to in sub-section (1)(a) or (b); or
- (b) faster than 30 kilometres per hour—

is guilty of an offence.

Penalty: For a first offence, 2 penalty units.
For a subsequent offence, 4 penalty units.

S. 44
repealed by
No. 13/1992
s. 4.

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45. *Duty of owner of recreation vehicle to give information about driver*

S. 45(1)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 105.2).

- (1) An owner of a recreation vehicle is guilty of an offence if, when required to do so by an officer of a municipal council who is authorised by the municipal council in that behalf, he or she fails to give any information which it is within the power of the owner to give and which may lead to the identification of any person (other than the owner) who was the driver of the recreation vehicle on any occasion or fails to make all reasonable enquiries in order to obtain that information.

Penalty: 3 penalty units.

- (2) For the purposes of this section "**owner**" means the owner or the person in whose name the recreation vehicle was registered at the time when the vehicle was being driven by the person about whom the information is sought.

46. *Duty of driver*

S. 46(1)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 105.3).

- (1) The driver of a recreation vehicle in a public place must, if requested or signalled to do so by a member of the police force in uniform or an officer of a municipal council in uniform (being an officer who is authorised by the municipal council in that behalf), stop the vehicle and state his or her name and address.
- (2) A person who fails to stop the vehicle when so requested or signalled is guilty of an offence.
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Act No. 127/1986

s. 46

Penalty: 8 penalty units.

- (3) A person who fails to state his or her name or address, or who states a false name or address, is guilty of an offence.

Penalty: 8 penalty units.

**PART 5—OFFENCES INVOLVING ALCOHOL OR OTHER
DRUGS**

47. *Purposes of this Part*

The purposes of this Part are to—

- (a) reduce the number of motor vehicle collisions of which alcohol or other drugs are a cause; and
- (b) reduce the number of drivers whose driving is impaired by alcohol or other drugs; and
- (c) provide a simple and effective means of establishing that there is present in the blood of a driver more than the legal limit of alcohol.

S. 48
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

48. *Interpretative provisions*

(1) For the purposes of this Part—

- (a) if it is established that at any time within 3 hours after an alleged offence against paragraph (a) or (b) of section 49(1), a certain concentration of alcohol was present in the blood of the person charged with the offence it must be presumed, until the contrary is proved, that not less than that concentration of alcohol was present in the person's blood at the time at which the offence is alleged to have been committed; and
- (b) a person is not to be taken to be in charge of a motor vehicle unless that person is attempting to start or drive the motor vehicle or unless there are reasonable grounds for the belief that that person intends to start or drive the motor vehicle.

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Act No. 127/1986

s. 48

(1A) For the purposes of an alleged offence against paragraph (f) or (g) of section 49(1) it must be presumed that the concentration of alcohol indicated by an analysis to be present in the blood of the person charged or found by an analyst to be present in the sample of blood taken from the person charged (as the case requires) was not due solely to the consumption of alcohol after driving or being in charge of a motor vehicle unless the contrary is proved by the person charged on the balance of probabilities by sworn evidence given by him or her which is corroborated by the material evidence of another person.

S. 48(1A)
inserted by
No. 53/1989
s. 7(1).

- (2) If a person who is convicted of an offence against⁴—
- (a) any one of the paragraphs of section 49(1);
or
 - (b) section 56(2) as in force from time to time after the commencement of section 11 of the **Road Safety (Drivers) Act 1991**; or
 - (c) section 56(7) as in force immediately prior to the commencement of section 11 of the **Road Safety (Drivers) Act 1991**—

S. 48(2)
substituted by
No. 89/1991
s. 9.

has at any time been found guilty or been convicted of—

- (d) an offence against the same or any other of those paragraphs or that section; or
- (e) an offence against any previous enactment corresponding to any of those paragraphs or that section or any corresponding law; or
- (f) an offence under section 318(1) of the **Crimes Act 1958** where the culpable driving is constituted by behaviour referred to in

paragraph (c) or (d) of section 318(2) of the Act—

the conviction for the offence against that paragraph or section is to be taken to be a conviction for a subsequent offence.

S. 48(3)
amended by
No. 78/1987
s. 6.

- (3) An approval or authority given under or for the purposes of section 55 by the Chief Commissioner of Police may be revoked at any time in the manner in which it was given and on revocation ceases to have any effect.
- (4) For the avoidance of doubt it is declared that nothing in this Part requires a person who is in a dwelling to allow a member of the police force or an officer of the Corporation to enter that dwelling without a warrant.

49. Offences involving alcohol or other drugs

- (1) A person is guilty of an offence if he or she—
 - (a) drives a motor vehicle or is in charge of a motor vehicle while under the influence of intoxicating liquor or of any drug to such an extent as to be incapable of having proper control of the motor vehicle; or
 - (b) drives a motor vehicle or is in charge of a motor vehicle while more than the prescribed concentration of alcohol is present in his or her blood; or
 - (c) refuses to undergo a preliminary breath test in accordance with section 53 when required under that section to do so; or
 - (d) refuses or fails to comply with a request or signal to stop a motor vehicle given under section 54(3); or

S. 49(1)(c)
amended by
No. 89/1991
s. 10.

Road Safety Act 1986

Act No. 127/1986

s. 49

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- (e) refuses to comply with a requirement made under section 55(1), (2), (2A) or (9A); or
- (f) within 3 hours after driving or being in charge of a motor vehicle furnishes a sample of breath for analysis by a breath analysing instrument under section 55(1) and—
- (i) the result of the analysis as recorded or shown by the breath analysing instrument indicates that more than the prescribed concentration of alcohol is present in his or her blood; and
 - (ii) the concentration of alcohol indicated by the analysis to be present in his or her blood was not due solely to the consumption of alcohol after driving or being in charge of the motor vehicle; or
- (g) has had a sample of blood taken from him or her in accordance with section 55 or 56 within 3 hours after driving or being in charge of a motor vehicle and—
- (i) the sample has been analysed within 12 months after it was taken by a properly qualified analyst within the meaning of section 57 and the analyst has found that at the time of analysis more than the prescribed concentration of alcohol was present in that sample; and
 - (ii) the concentration of alcohol found by the analyst to be present in that sample was not due solely to the consumption of alcohol after driving or being in charge of the motor vehicle.

- (2) A person who is guilty of an offence under paragraph (a) of sub-section (1) is liable—
- (a) in the case of a first offence, to a fine of not more than 25 penalty units or to imprisonment for a term of not more than 3 months; and
 - (b) in the case of a subsequent offence, to imprisonment for a term of not more than 12 months.
- (3) A person who is guilty of an offence under paragraph (b), (c), (d), (e), (f) or (g) of sub-section (1) is liable—
- (a) in the case of a first offence, to a fine of not more than 12 penalty units; and
 - (b) in the case of a subsequent offence, to a fine of not more than 25 penalty units or to imprisonment for a term of not more than 3 months.
- (4) It is a defence to a charge under paragraph (f) of sub-section (1) for the person charged to prove that the breath analysing instrument used was not on that occasion in proper working order or properly operated.
- (5) It is a defence to a charge under paragraph (g) of sub-section (1) for the person charged to prove that the result of the analysis was not a correct result.
- (6) In any proceedings for an offence under paragraph (f) or (g) of sub-section (1) evidence as to the effect of the consumption of alcohol on the defendant is admissible for the purpose of rebutting the presumption created by section 48(1A) but is otherwise inadmissible.

S. 49(6)
amended by
No. 53/1989
s. 7(3).

Road Safety Act 1986

Act No. 127/1986

s. 49A

(7) On convicting a person, or finding a person guilty,⁵ of an offence under sub-section (1) the court must cause to be entered in the records of the court—

S. 49(7)
amended by
No. 41/1992
s. 4(a).

- (a) in the case of an offence under paragraph (b) of sub-section (1), the level of concentration of alcohol found to be present in that person's blood; and
- (b) in the case of an offence under paragraph (f) of sub-section (1), the level of concentration of alcohol found to be recorded or shown by the breath analysing instrument; and
- (c) in the case of an offence under paragraph (g) of sub-section (1), the level of concentration of alcohol found to be present in the sample of blood.

49A. Accredited agencies

S. 49A
inserted by
No. 78/1994
s. 4.

(1) A person or body may apply to the Secretary to the Department of Human Services for—

S. 49A(1)
amended by
No. 46/1998
s. 7(Sch. 1).

- (a) approval for itself for the purposes of sections 50 and 50A;
- (b) approval for a program for the purposes of section 50A.

(2) A person or body applying under sub-section (1) must pay to the Secretary to the Department of Human Services, as required by the regulations, the fee prescribed in respect of—

S. 49A(2)
amended by
No. 46/1998
s. 7(Sch. 1).

- (a) the making of the application;
- (b) the processing of the application, including any visits made to the applicant;

(c) the granting, renewal or variation of an approval.

S. 49A(3)
amended by
No. 46/1998
s. 7(Sch. 1).

- (3) The Secretary to the Department of Human Services may grant an approval subject to any conditions, limitations or restrictions specified in the approval.
- (4) The regulations may specify the period during which an approval continues in force.

50. Provisions about cancellation and disqualification

S. 50(1)
amended by
No. 78/1987
s. 7(1)(a)(b),
substituted by
No. 53/1989
s. 8(1),
amended by
No. 41/1992
s. 4(b).

- (1) On convicting a person to whom section 52 applies, or finding such a person guilty, of an offence under section 49(1)(b), (f) or (g) the court may⁶ where—

(a) the concentration of alcohol in the blood of that person was 0.05 grams per 100 millilitres of blood or less; and

(b) the offence is a first offence—

if the offender holds a driver licence or permit, cancel that licence or permit and, whether or not the offender holds a driver licence or permit, disqualify the offender from obtaining one for such time as the court thinks fit, not being more than 6 months.

S. 50(1A)
inserted by
No. 53/1989
s. 8(1),
amended by
No. 41/1992
s. 4(c).

- (1A) Subject to sub-section (1AB), on convicting a person, or finding a person guilty⁷, of an offence under section 49(1)(b), (f) or (g) in circumstances in which sub-section (1) does not apply, the court must, if the offender holds a driver licence or permit, cancel that licence or permit and, whether or not the offender holds a driver licence or permit, disqualify the offender from obtaining one for such time as the court thinks fit, not being less than—

(a) in the case of a first offence, the period specified in Column 2 of Schedule 1

ascertained by reference to the concentration of alcohol in the blood of the offender as specified in Column 1 of that Schedule; and

- (b) in the case of a subsequent offence, the period specified in Column 3 of Schedule 1 ascertained by reference to the concentration of alcohol in the blood of the offender as specified in Column 1 of that Schedule.

(1AB) ⁸If a court finds a person guilty of an offence under section 49(1)(b), (f) or (g) but does not record a conviction, the court is not required to cancel a driver licence or permit or disqualify the offender from obtaining one in accordance with sub-section (1A) if it appears to the court that at the relevant time the concentration of alcohol in the blood of the offender—

S. 50(1AB)
inserted by
No. 41/1992
s. 4(d).

- (a) in the case of a person previously found guilty of an offence against any one of the paragraphs of section 49(1) or any previous enactment corresponding to any of those paragraphs or any corresponding law, was not more than 0.05 grams per 100 millilitres of blood; or
- (b) in any other case, was not more than 0.10 grams per 100 millilitres of blood.

(1B) On convicting a person, or finding a person guilty, of an offence under section 49(1)(a), (c), (d) or (e) the court must, if the offender holds a driver licence or permit, cancel that licence or permit and, whether or not the offender holds a driver licence or permit, disqualify the offender from obtaining one for such time as the court thinks fit, not being less than⁹—

S. 50(1B)
inserted by
No. 53/1989
s. 8(1),
amended by
No. 41/1992
s. 4(e).

- (a) in the case of a first offence, 2 years; and
- (b) in the case of a subsequent offence, 4 years.

Road Safety Act 1986

Act No. 127/1986

s. 50

S. 50(2)
substituted by
No. 78/1987
s. 7(2).

(2) Any period of suspension imposed on a person under section 51 must be deducted from the period of disqualification imposed on that person under this section.

S. 50(3)
amended by
Nos 78/1987
s. 7(3),
53/1989
s. 8(2),
57/1989
s. 3(Sch. item
173.7).

(3) Except on the order of the Magistrates' Court made on an application under sub-section (4), a driver licence or permit must not be issued to a person who has been disqualified from obtaining one under this section or section 89C unless—

- (a) the offence was under section 49(1)(b), 49(1)(f) or 49(1)(g); and
- (b) the concentration of alcohol in the blood of that person was less than 0.10 grams per 100 millilitres of blood; and
- (c) it was that person's first such offence.

S. 50(4)
amended by
Nos 78/1987
s. 7(3),
57/1989
s. 3(Sch. item
173.8(a)(b)),
5/1990 s. 7(1).

(4) A person to whom sub-section (3) applies may, at the end of the period of disqualification and on giving 28 days written notice of the application to the Chief Commissioner of Police and a registrar of the court, apply to the venue of the Magistrates' Court ascertained in accordance with the regulations for an order as to the issue of a driver licence or permit.

S. 50(4A)
inserted by
No. 5/1990
s. 7(2).

(4A) If a person applies under sub-section (4) for an order and the offence in respect of which the person was disqualified was—

- (a) an offence under section 49(1)(b), (f), or (g) which was—
 - (i) a first offence and the level of concentration of alcohol in that person's blood was 0.15 grams or more per 100 millilitres of blood; or
 - (ii) a subsequent offence; or

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(b) an offence under section 49(1)(a), (c), (d) or (e)—

S. 50(4A)(b)
amended by
No. 19/1991
s. 7(1).

the court must have regard to the reports referred to in sub-section (4B).

(4B) ¹⁰A person who applies for an order under sub-section (4) and to whom sub-section (4A)(a) or (4A)(b) applies must obtain from an accredited agency—

S. 50(4B)
inserted by
No. 5/1990
s. 7(2).

(a) at least 12 months before applying for the order, an assessment report about the person's usage of alcohol or drugs, as the case requires; and

S. 50(4B)(a)
amended by
No. 58/1995
s. 12.

(b) within 28 days before applying for the order, a licence restoration report.

(4C) If a person applies under sub-section (4) for an order and neither paragraph (a) nor (b) of sub-section (4A) applies, the court may request a licence restoration report from an accredited agency.

S. 50(4C)
inserted by
No. 5/1990
s. 7(2).

(4D) On an application under sub-section (4) the court may, in exceptional circumstances, reduce the period of 12 months referred to in sub-section (4B)(a).

S. 50(4D)
inserted by
No. 89/1991
s. 11.

(5) On an application under sub-section (4) the court may make or refuse to make the order sought, and for the purpose of determining whether or not the order should be made—

(a) the court must hear any relevant evidence tendered either by the applicant or by the Chief Commissioner of Police and any evidence of a registered medical practitioner required by the court; and

S. 50(5)(a)
amended by
No. 23/1994
s. 118(Sch. 1
item 50.2).

- (b) without limiting the generality of its discretion, the court must have regard to—
- (i) the conduct of the applicant with respect to intoxicating liquor or drugs (as the case may be) during the period of disqualification; and
 - (ii) the applicant's physical and mental condition at the time of the hearing of the application; and
 - (iii) the effect which the making of the order may have on the safety of the applicant or of the public; and
 - (iv) any licence restoration report obtained under sub-section (4B)(b) or (4C) and any report obtained under sub-section (4B)(a).

S. 50(5)(b)(iv) inserted by No. 5/1990 s. 7(3).

S. 50AA inserted by No. 17/1994 s. 8.

50AA. Previous convictions¹¹

In determining for the purpose of a provision specified in column 1 of the following table whether an offence (in this section referred to as "the relevant offence") is a first offence, any other offence in respect of which a conviction was recorded or a finding of guilt was made 10 years or more before the event specified in relation to that provision in column 2 is to be disregarded if not to do so would make the relevant offence a subsequent offence for the purpose of that provision.

TABLE

<i>Column 1</i>	<i>Column 2</i>
Sections 50(1), (1A), (1AB) and (1B) and 51(1)	The commission of the relevant offence
Sections 50(3) and 50A(1)	The making of the application for the driver licence or permit

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<i>Column 1</i>	<i>Column 2</i>
Section 50(4A)(a)	The making of the application under section 50(4)

50A. Drink-driving education programs

- (1) The Corporation must not issue a driver licence or permit to a person whose driver licence or permit is cancelled, or who is disqualified from obtaining a driver licence or permit, on conviction, or on being found guilty¹², of an offence under section 49(1)(b), (f) or (g) and who, at the time of the offence, was under 25 years old unless it is satisfied that the person has, if the offence is a first offence and the level of concentration of alcohol in that person's blood was less than 0.15 grams per 100 millilitres of blood, completed an accredited drink-driving education program.
- (2) The Corporation must cancel the driver licence or permit of a person who was convicted, or found guilty, of an offence under section 49(1)(b), (f) or (g) and whose driver licence or permit was not cancelled on the conviction or finding of guilt,¹³ unless it is satisfied that the person has completed an accredited drink-driving education program within 3 months after being required by the Corporation by notice in writing to do so.
- (3) If a person is charged with an offence under section 49(1), and on the hearing the court releases the person on him or her giving an undertaking under section 75(1) of the **Sentencing Act 1991**, the court must attach to the undertaking a condition that the person completes an accredited drink-driving education program.

S. 50A
inserted by
No. 5/1990
s. 8.

S. 50A(1)
amended by
Nos 19/1991
s. 7(2),
41/1992 s. 4(f).

S. 50A(2)
amended by
Nos 19/1991
s. 7(3),
41/1992
s. 4(g)(i)(ii).

S. 50A(3)
amended by
Nos 19/1991
s. 7(3),
49/1991
s. 119(7)(Sch.
4 item 17.2).

- (4) The Corporation may in its discretion exempt any person from the requirement to complete an accredited drink-driving education program.

51. Immediate suspension of driver licence or permit in certain circumstances

S. 51
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

S. 51(1)
amended by
No. 78/1987
s. 8(a)-(d).

- (1) If a person is charged by a member of the police force or an officer of the Corporation with an offence under—
- (a) paragraph (b), (f) or (g) of section 49(1) where it is alleged that the concentration of alcohol in the blood of that person was 0.15 grams per 100 millilitres of blood or more; or
 - (b) paragraph (c), (d) or (e) of section 49(1); or
 - (c) a subsequent offence within the meaning of section 48(2)—

S. 51(1)(b)
amended by
No. 19/1991
s. 8.

S. 51(1)(c)
inserted by
No. 19/1991
s. 8.

any member of the police force or, if the accused had been driving or in charge of a commercial motor vehicle, any officer of the Corporation may, at any time after the making of the charge until the charge has been determined, give to the accused a notice in the prescribed form informing the accused that his or her driver licence or permit is immediately suspended until the charge has been determined and requiring the accused to surrender immediately to the person who gave the notice the licence document or permit document.

- (2) For the purposes of this section a person is charged with an offence when a copy of the information that is signed by the member of the

police force or the officer of the Corporation is given to the person.

- (3) Immediately on the giving of a notice under sub-section (1) the driver licence or permit of the accused is suspended until the charge has been determined by a court.
- (4) A person who gives a notice under sub-section (1) must cause a copy of that notice to be sent immediately to the Corporation.
- (5) A person who, without just cause or excuse, refuses or fails to surrender a document as required by a notice under sub-section (1) is guilty of an offence.

Penalty: 5 penalty units.

- (6) The accused has the burden of proving just cause or excuse.
- (7) A licence or permit suspended under this section is, during the suspension, of no effect and a person whose licence or permit is so suspended is, during the suspension, disqualified from obtaining a further licence or permit.
- (8) A person must not while he or she is disqualified from obtaining a licence or permit apply for or obtain a licence or permit.

Penalty: 5 penalty units.

- (9) A licence or permit so obtained is of no effect.
- (10) A person to whom a notice is given under sub-section (1) may appeal against that notice to the Magistrates' Court.

S. 51(10)
amended by
No. 57/1989
s. 3(Sch. item
173.9).

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s. 52

S. 51(10A)
inserted by
No. 53/1989
s. 9, amended
by No.
57/1989
s. 5(5)(a).

S. 51(10B)
inserted by
No. 53/1989
s. 9, amended
by No.
23/1994
s. 118(Sch. 1
item 50.3).

S. 51(12)
amended by
No. 57/1989
s. 3(Sch. item
173.10).

S. 51(13)
amended by
No. 57/1989
s. 3(Sch. item
173.11).

S. 52
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

- (10A) A person who appeals under sub-section (10) must give 14 days' written notice of the appeal (including particulars of the alleged exceptional circumstances) to the Chief Commissioner of Police and a registrar of the Magistrates' Court.
- (10B) In determining the appeal the court must hear any relevant evidence tendered either by the applicant or by the Chief Commissioner of Police and any evidence of a registered medical practitioner required by the court.
- (11) On an appeal under sub-section (10) the court may make an order—
- (a) confirming the notice; or
 - (b) cancelling the notice.
- (12) The Magistrates' Court must not make an order under sub-section (11) cancelling a notice unless it is satisfied that exceptional circumstances exist which justify the making of such an order.
- (13) Every order of the Magistrates' Court under sub-section (11) is final and conclusive and must be given effect to by the Corporation.
- (14) If on the subsequent hearing of the charge the accused's driver licence or permit is cancelled and the accused is disqualified from obtaining one for a specified time, the court must take into account in fixing the period of disqualification the period of suspension under this section.

52. Zero blood alcohol

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s. 52

(1) This section applies to any person who is driving or in charge of a motor vehicle without holding a full driver licence which authorises the holder to drive such a motor vehicle, but does not apply to a person who—

S. 52(1)
substituted by
No. 78/1987
s. 9(1),
amended by
No. 37/1996
s. 6(1).

(a) is not the holder of a full driver licence merely because he or she has failed to renew his or her licence; or

(b) is—

(i) the holder of a licence to drive such a motor vehicle, which is issued under—

S. 52(1)(b)(i)
amended by
No. 37/1996
s. 6(2).

(A) an Act of another State or a Territory of the Commonwealth that corresponds with this Act; or

(B) a law of another country—

and which is not a provisional licence or a licence which is on probation; and

(ii) exempted under the regulations from the requirement to hold a driver licence or permit.

(1A) This section also applies to a person who is the holder of a full driver licence which authorises him or her to drive a large vehicle, while that person is driving or in charge of a large vehicle.

S. 52(1A)
inserted by
No. 89/1991
s. 12,
substituted by
No. 37/1996
s. 6(3).

(1B) This section also applies, during the period of 3 years from the first issue of a licence on that order, to a person who is driving or in charge of a motor vehicle while holding a full driver licence which authorises the holder to drive such a motor vehicle issued only because of the order of the Magistrates' Court made on an application under section 50(4)¹⁴.

S. 52(1B)
inserted by
No. 17/1994
s. 9,
substituted by
No. 37/1996
s. 6(4).

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s. 53

S. 52(1C)
inserted by
No. 58/1995
s. 13,
amended by
No. 37/1996
s. 6(5).

(1C) This section also applies to a person who is the holder of a full driver licence which authorises him or her to drive a taxi-cab, while that person is driving or in charge of a taxi-cab.

S. 52(2)
amended by
Nos 78/1987
s. 9(2),
53/1989
s. 21(1),
substituted by
No. 5/1990
s. 9(a).

(2) The prescribed concentration of alcohol in the case of a person to whom this section applies is a concentration of alcohol present in the blood of that person of 0.00 grams per 100 millilitres of blood.

S. 52(3)–52(7)
repealed.¹⁵

* * * * *

S. 53
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

53. Preliminary breath tests

- (1) A member of the police force may at any time require—
- (a) any person he or she finds driving a motor vehicle or in charge of a motor vehicle; or
 - (b) the driver of a motor vehicle that has been required to stop at a preliminary breath testing station under section 54(3); or
 - (c) any person who he or she believes on reasonable grounds has within the last 3 preceding hours driven or been in charge of a motor vehicle when it was involved in an accident; or
 - (d) any person who he or she believes on reasonable grounds was, within the last 3 preceding hours, an occupant of a motor vehicle when it was involved in an accident, if it has not been established to the

S. 53(1)(c)
amended by
No. 19/1991
s. 9(1).

S. 53(1)(d)
inserted by
No. 19/1991
s. 9(1).

satisfaction of the member of the police force which of the occupants was driving or in charge of the motor vehicle when it was involved in the accident—

to undergo a preliminary breath test by a prescribed device.

- (2) An officer of the Corporation or of the Department of Infrastructure who is authorised in writing by the Corporation or the Secretary of the Department of Infrastructure, as the case requires, for the purposes of this section may at any time require any person he or she finds driving a commercial motor vehicle or in charge of a commercial motor vehicle to undergo a preliminary breath test by a prescribed device.
- (3) A person required to undergo a preliminary breath test must do so by exhaling continuously into the device to the satisfaction of the member of the police force or the officer of the Corporation or of the Department of Infrastructure.
- (4) A person is not obliged to undergo a preliminary breath test if more than 3 hours have passed since the person last drove, was an occupant of or was in charge of a motor vehicle.
- S. 53(2) amended by Nos 60/1994 s. 29(1)(a)(b), 46/1998 s. 7(Sch. 1).
- S. 53(3) amended by Nos 60/1994 s. 29(2), 46/1998 s. 7(Sch. 1).
- S. 53(4) amended by No. 19/1991 s. 9(2).

54. Preliminary breath testing stations

- (1) A member of the police force may set up a preliminary breath testing station on or in the vicinity of any highway.
- (2) A preliminary breath testing station—
- (a) consists of such facilities as are necessary to enable the making of preliminary breath tests in quick succession; and
- (b) must be identified by suitable signs, lights or other devices.

(3) A member of the police force who is on duty and wearing uniform at a preliminary breath testing station may request or signal any person driving a motor vehicle to stop the motor vehicle.

(4) Members of the police force who are on duty at a preliminary breath testing station must ensure that no person is detained there any longer than is necessary.

55. *Breath analysis*

S. 55
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

S. 55(1)
amended by
Nos 53/1989
s. 21(2),
19/1991
s. 10(1)(b),
17/1994
s. 10(1)(2),
60/1994
s. 29(3)(a)(b),
46/1998
s. 7(Sch. 1).

S. 55(1)(a)
amended by
No. 19/1991
s. 10(1)(a).

(1) If a person undergoes a preliminary breath test when required by a member of the police force or an officer of the Corporation or of the Department of Infrastructure under section 53 to do so and—

- (a) the test in the opinion of the member or officer in whose presence it is made indicates that the person's blood contains alcohol; or
- (b) the person, in the opinion of the member or officer, refuses or fails to carry out the test in the manner specified in section 53(3)—

any member of the police force or, if the requirement for the preliminary breath test was made by an officer of the Corporation, any member of the police force or any officer of the Corporation or of the Department of Infrastructure may require the person to furnish a sample of breath for analysis by a breath analysing

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instrument and for that purpose may further require the person to accompany a member of the police force or an officer of the Corporation or of the Department of Infrastructure authorised in writing by the Corporation or the Secretary of the Department of Infrastructure, as the case requires, for the purposes of section 53 to a police station or other place where the sample of breath is to be furnished and to remain there until the person has furnished the sample of breath and been given the certificate referred to in sub-section (4) or until 3 hours after the driving, being an occupant of or being in charge of the motor vehicle, whichever is sooner.

- (2) A member of the police force may require any person whom that member reasonably believes to have offended against section 49(1)(a) or (b) to furnish a sample of breath for analysis by a breath analysing instrument (instead of undergoing a preliminary breath test in accordance with section 53) and for that purpose may further require the person to accompany a member of the police force to a police station or other place where the sample of breath is to be furnished and to remain there until the person has furnished the sample of breath and been given the certificate referred to in sub-section (4) or until 3 hours after the driving, being an occupant of or being in charge of the motor vehicle, whichever is sooner.

S. 55(2)
amended by
Nos 53/1989
s. 21(2),
19/1991
s. 10(2)(a)(b),
17/1994
s. 10(2).

- (2A) The person who required a sample of breath under sub-section (1) or (2) may require the person who furnished it to furnish one or more further samples if it appears to him or her that the breath analysing instrument is incapable of measuring the concentration of alcohol present in the sample, or each of the samples, previously furnished in grams per 100 millilitres of blood because the amount of sample furnished was insufficient or

S. 55(2A)
inserted by
No. 17/1994
s. 10(3),
amended by
No. 58/1995
s. 14(a)(b).

because of a power failure or malfunctioning of the instrument or for any other reason whatsoever.

(3) A breath analysing instrument must be operated by a person authorised to do so by the Chief Commissioner of Police.

S. 55(4) amended by No. 78/1987 s. 10, substituted by No. 17/1994 s. 10(4), amended by No. 100/1995 s. 51(1).

(4) As soon as practicable after a sample of a person's breath is analysed by means of a breath analysing instrument the person operating the instrument must sign and give to the person whose breath has been analysed a certificate in the prescribed form produced by the breath analysing instrument of the concentration of alcohol indicated by the analysis to be present in his or her blood.¹⁶

S. 55(4A) inserted by No. 19/1991 s. 22(1), repealed by No. 17/1994 s. 10(5).

* * * * *

(5) A person who furnishes a sample of breath under this section must do so by exhaling continuously into the instrument to the satisfaction of the person operating it.

S. 55(6) amended by No. 19/1991 s. 10(3).

(6) A person is not obliged to furnish a sample of breath under this section if more than 3 hours have passed since the person last drove, was an occupant of or was in charge of a motor vehicle.

S. 55(7)(8) repealed by No. 17/1994 s. 10(5).

* * * * *

S. 55(9) amended by No. 41/1992 s. 4(h).

(9) A person must not be convicted or found guilty¹⁷ of refusing to furnish under this section a sample of breath for analysis if he or she satisfies the court that there was some reason of a substantial character for the refusal, other than a desire to

avoid providing information which might be used against him or her.

(9A) The person who required a sample of breath under sub-section (1) or (2) from a person may require that person to allow a registered¹⁸ medical practitioner nominated by the person requiring the sample to take from him or her a sample of that person's blood for analysis if it appears to him or her that¹⁹—

S. 55(9A)
inserted by
No. 17/1994
s. 10(6),
amended by
No. 100/1995
s. 51(2).

- (a) that person is unable to furnish the required sample of breath on medical grounds or because of some physical disability; or
- (b) the breath analysing instrument is incapable of measuring in grams per 100 millilitres of blood the concentration of alcohol present in any sample of breath furnished by that person for any reason whatsoever.

(9B) ²⁰The registered²¹ medical practitioner who takes a sample of blood under sub-section (9A) must deliver a part of the sample to the person who required it to be taken and another part to the person from whom it was taken.

S. 55(9B)
inserted by
No. 17/1994
s. 10(6),
amended by
No. 100/1995
s. 51(2).

(9C) A person who allows the taking of a sample of his or her blood in accordance with sub-section (9A) must not be convicted or found guilty of refusing to furnish under this section a sample of breath for analysis.

S. 55(9C)
inserted by
No. 17/1994
s. 10(6).

(9D) ²²A person must not hinder or obstruct a registered²³ medical practitioner attempting to take a sample of the blood of any other person in accordance with sub-section (9A).

S. 55(9D)
inserted by
No. 17/1994
s. 10(6),
amended by
No. 100/1995
s. 51(2).

Penalty applying to this sub-section: 12 penalty units.

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S. 55(9E)
inserted by
No. 17/1994
s. 10(6),
amended by
No. 100/1995
s. 51(2).

(9E) ²⁴No action lies against a registered²⁵ medical practitioner in respect of anything properly and necessarily done by the practitioner in the course of taking any sample of blood which the practitioner believed on reasonable grounds was allowed to be taken under sub-section (9A).

S. 55(10)
amended by
Nos 17/1994
s. 10(7)(a)(b),
23/1994
s. 118(Sch. 1
item 50.4).

(10) A person who is required under this section to furnish a sample of breath for analysis may, immediately after being given the certificate referred to in sub-section (4), request the person making the requirement to arrange for the taking in the presence of a member of the police force of a sample of that person's blood for analysis at that person's own expense by a registered medical practitioner nominated by the member of the police force.

(11) A part of a sample of blood taken under sub-section (10) must be delivered to the person who required the sample of breath under this section.

S. 55(12)
amended by
No. 17/1994
s. 10(8).

(12) Nothing in sub-section (10) relieves a person from any penalty under section 49(1)(e) for refusing to furnish a sample of breath.

S. 55(13)
inserted by
No. 17/1994
s. 10(9).

(13) Evidence derived from a sample of breath furnished in accordance with a requirement made under this section is not rendered inadmissible by a failure to comply with a request under sub-section (10) if reasonable efforts were made to comply with the request.

S. 55(14)
inserted by
No. 17/1994
s. 10(9).

(14) If the question whether a breath analysing instrument was incapable of measuring in grams per 100 millilitres of blood the concentration of alcohol present in any sample of breath furnished by a person is relevant on a hearing for an offence against section 49(1) then, without affecting the admissibility of any evidence which might be

given apart from the provisions of this subsection, a document—

- (a) purporting to be a print-out produced by that instrument in respect of that sample; and
- (b) purporting to be signed by ²⁶the person who operated the instrument—

S. 55(14)(b) amended by No. 100/1995 s. 51(3).

is admissible in evidence and, in the absence of evidence to the contrary, is proof of the facts and matters contained in it.

56. Blood samples to be taken in certain cases²⁷

- (1) In this section—

S. 56 amended by No. 44/1989 s. 41(Sch. 2 item 34.4), substituted by No. 19/1991 s. 11(1).

* * * * *

S. 56(1) def. of "designated place" repealed by No. 7/1995 s. 3(1).

"doctor" means a registered medical practitioner and includes a police surgeon.

S. 56(1) def. of "doctor" amended by No. 23/1994 s. 118(Sch. 1 item 50.5).

- (2) If a person of or over the age of 15 years enters or is brought to a place for examination or treatment in consequence of an accident (whether within Victoria or not) involving a motor vehicle, the person must allow a doctor to take from that person at that place a sample of that person's blood for analysis.

S. 56(2) amended by Nos 78/1987 s. 11(1)(a)-(c), 53/1989 ss 10, 21(3), substituted by No. 19/1991 s. 11(1), amended by No. 7/1995 s. 3(2).

Penalty: For a first offence, 12 penalty units.
For a subsequent offence, 25 penalty units or imprisonment for 3 months.

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S. 56(3)
amended by
No. 53/1989
s. 10,
substituted by
No. 19/1991
s. 11(1),
amended by
No. 41/1992
s. 4(i).

(3) On convicting a person, or finding a person guilty, of²⁸ an offence under sub-section (2) the court must, if the offender holds a driver licence or permit, cancel that licence or permit and, whether or not the offender holds a driver licence or permit, disqualify the offender from obtaining one for the time that the court thinks fit, being not less than—

- (a) for a first offence, 2 years; and
- (b) for a subsequent offence, 4 years.

S. 56(4)
amended by
Nos 78/1987
s. 11(2)(a)(b),
53/1989 s. 10,
substituted by
No. 19/1991
s. 11(1).

(4) Sub-section (2) does not apply if—

- (a) in the opinion of the doctor first responsible for the examination or treatment of the person the taking of a blood sample from that person would be prejudicial to his or her proper care and treatment; or
- (b) a member of the police force has notified the doctor first responsible for the examination or treatment of the person, in writing, that the person has undergone a preliminary breath test which did not indicate that the prescribed concentration of alcohol was exceeded; or
- (c) a member of the police force or a member of an ambulance service has notified the doctor first responsible for the examination or treatment of the person, in writing, that the person was an occupant of and was not driving or in charge of any vehicle involved in the accident; or

S. 56(4)(d)
amended by
No. 7/1995
s. 3(3).

- (d) a member of the police force or a doctor has notified the doctor first responsible for the examination or treatment of the person, in writing, that a sample of the person's blood was taken by a doctor before the person

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entered or was brought to the place for examination or treatment.

- (5) A person to whom sub-section (2) applies and who is unconscious or otherwise unable to communicate must be taken to allow the taking of a sample of his or her blood by a doctor at a place which he or she enters or to which he or she is brought for examination or treatment.

S. 56(5) amended by Nos 78/1987 s. 11(3), 53/1989 s. 10, substituted by No. 19/1991 s. 11(1), amended by No. 7/1995 s. 3(4).

- (6) If a sample of a person's blood is taken in accordance with this section, evidence of the taking of it, the analysis of it or the results of the analysis must not be used in evidence in any legal proceedings except—

S. 56(6) amended by No. 78/1987 s. 11(4).

(a) for the purposes of section 57; or

S. 56(6)(a) inserted by No. 78/1987 s. 11(4).

(b) for the purposes of the **Transport Accident Act 1986**—

S. 56(6)(b) inserted by No. 78/1987 s. 11(4).

but may be given—

(c) to the Transport Accident Commission under the **Transport Accident Act 1986** and, for the purposes of appeals relating to that Act, to the Administrative Appeals Tribunal; and

S. 56(6)(c) inserted by No. 78/1987 s. 11(4).

(d) to the Corporation for the purposes of accident research.

S. 56(6)(d) inserted by No. 78/1987 s. 11(4).

- (7) A person must not hinder or obstruct a doctor attempting to take a sample of the blood of any other person in accordance with this section.

S. 56(7) amended by No. 19/1991 s. 11(2)(a)–(c).

Penalty: 12 penalty units.

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Act No. 127/1986

s. 57

S. 56(8)
amended by
No. 19/1991
s. 11(3)(a)–(c).

(8) No action lies against a doctor in respect of anything properly and necessarily done by the doctor in the course of taking any sample of blood which the doctor believes on reasonable grounds was required or allowed to be taken from any person under this section.

S. 56(9)
inserted by
No. 78/1987
s. 11(6),
amended by
Nos 53/1989
s. 21(4),
19/1991
s. 11(4).

(9) A blood sample that is, after 9 December 1987, taken from a person by a doctor who honestly and reasonably believes that he or she is required to take the sample, whether or not the person consents to the taking, is deemed to have been taken by the doctor who was first responsible for the examination or treatment of that person.

57. Evidentiary provisions—blood tests

(1) In this section—

(a) "**properly qualified analyst**" means—

(i) an approved analyst; or

(ii) a person who is considered by the presiding judge, a coroner, or the Magistrates' Court to have scientific qualifications, training and experience that qualifies him or her to carry out the analysis and to express the opinion to which this section relates; and

(b) "**approved analyst**" means a person who has been approved by Order of the Governor in Council published in the Government Gazette as a properly qualified analyst for the purposes of this section.

S. 57(1)(a)(ii)
amended by
No. 53/1989
s. 11(1).

S. 57(2)
amended by
Nos 53/1989
s. 11(2)(a)(b)
(d), 66/1990
s. 3(1),
23/1994
s. 118(Sch. 1
item 50.6).

(2) If the question whether any person was or was not at any time under the influence of intoxicating liquor or any other drug or if the question as to the presence of alcohol or any other drug or the concentration of alcohol in the blood of any

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person at any time or if a finding on the analysis of a blood sample is relevant²⁹—

(a) on a trial for murder or manslaughter or for negligently causing serious injury arising out of the driving of a motor vehicle; or

S. 57(2)(a)
amended by
No. 17/1994
s. 11(1)(a).

(ab) on a trial or hearing for an offence against Subdivision (4) of Division 1 of Part I of the **Crimes Act 1958** arising out of the driving of a motor vehicle; or

S. 57(2)(ab)
inserted by
No. 17/1994
s. 11(1)(b).

(b) on a trial or hearing for an offence against section 318(1) of the **Crimes Act 1958**; or

(c) on a hearing for an offence against section 49(1) of this Act; or

S. 57(2)(c)
amended by
No. 53/1989
s. 11(2)(c).

(d) in any proceedings conducted by a coroner—

S. 57(2)(d)
inserted by
No. 53/1989
s. 11(2)(c).

then, without affecting the admissibility of any evidence which might be given apart from the provisions of this section, evidence may be given of the taking, within 3 hours after that person drove or was in charge of a motor vehicle, of a sample of blood from that person by a registered medical practitioner, of the analysis of that sample of blood by a properly qualified analyst within twelve months after it was taken, of the presence of alcohol or any other drug and, if alcohol is present, of the concentration of alcohol expressed in grams per 100 millilitres of blood found by that analyst to be present in that sample of blood at the time of analysis.

(3) A certificate in the prescribed form purporting to be signed by a registered medical practitioner is admissible in evidence in any proceedings referred to in sub-section (2) and, in the absence

S. 57(3)
amended by
No. 23/1994
s. 118(Sch. 1
item 50.6).

of evidence to the contrary, is proof of the facts and matters contained in it.

- (4) A certificate in the prescribed form purporting to be signed by an approved analyst as to the concentration of alcohol expressed in grams per 100 millilitres of blood found in any sample of blood analysed by the analyst is admissible in evidence in any proceedings referred to in sub-section (2) and, in the absence of evidence to the contrary, is proof of the facts and matters contained in it.
- (5) A certificate given under this section must not be tendered in evidence at a trial or hearing referred to in sub-section (2)(a), (ab), (b) or (c) without the consent of the accused unless a copy of the certificate is proved to have been personally served on the accused more than 10 days before the day on which the certificate is tendered in evidence.
- (6) An affidavit or statutory declaration by the person who has personally served a copy of the certificate on the accused is admissible in evidence at a trial or hearing referred to in sub-section (2)(a), (ab), (b) or (c) and, as to the service of the copy, is proof, in the absence of evidence to the contrary, of the facts and matters deposed to in the affidavit or stated in the statutory declaration.³⁰
- (7) An accused who has been served with a copy of a certificate given under this section may, with the leave of the court and not otherwise, require the person who has given the certificate or any other person employed, or engaged to provide services at, the place at which the sample of blood was taken to attend at all subsequent proceedings for cross-examination and that person must attend accordingly.

S. 57(5)
amended by
Nos 53/1989
s. 11(3),
89/1991
s. 17(1)(b),
17/1994
s. 11(2)

S. 57(6)
amended by
Nos 53/1989
s. 11(3),
89/1991
s. 17(1)(b),
17/1994
s. 11(2),
100/1995
s. 51(4)(a)(b).

S. 57(7)
substituted by
No. 19/1991
s. 12,
amended by
No. 17/1994
s. 11(3).

(7A) The court must not grant leave under sub-section (7) unless it is satisfied—

S. 57(7A)
inserted by
No. 19/1991
s. 12.

(a) that the informant has been given at least 7 day's notice of the hearing of the application for leave and has been given an opportunity to make a submission to the court; and

(b) that—

(i) there is a reasonable possibility that the blood referred to in a certificate given by an analyst under sub-section (4) was not that of the accused; or

(ii) there is a reasonable possibility that the blood referred to in a certificate given by a registered medical practitioner had become contaminated in such a way that the blood alcohol concentration found on analysis was higher than it would have been had the blood not been contaminated in that way; or

S. 57(7A)(b)(ii)
amended by
No. 23/1994
s. 118(Sch. 1
item 50.6).

(iii) there is a reasonable possibility that the sample was not taken in accordance with the Code of Practice for Taking Blood Samples from Road Accident Victims; or

S. 57(7A)(b)(iii)
substituted by
No. 7/1995
s. 3(5).

(iv) for some other reason the giving of evidence by the person who gave the certificate would materially assist the court to ascertain relevant facts.

(7B) An accused who has been served with a copy of a certificate given under this section may not require the person who has given the certificate or any other person employed, or engaged to provide services at, the place at which the sample of blood

S. 57(7B)
inserted by
No. 17/1994
s. 11(4).

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was taken, to attend the court on the hearing of an application for leave under sub-section (7).

S. 57(8)
amended by
No. 23/1994
s. 118(Sch. 1
item 50.6).

- (8) If a registered medical practitioner is requested to make an examination or to collect a sample of blood for the purposes of this section and if the person to be examined or from whom a sample of blood is to be collected has expressed consent to that examination or collection, no action lies against the registered medical practitioner who acts in accordance with that consent even if it subsequently appears that the person was in fact incapable by reason of his or her mental condition from effectively giving consent to the examination or collection.

S. 57(9)
amended by
No. 17/1994
s. 11(5).

- (9) Except as provided in sections 55(9A) and 56, a blood sample must not be taken and evidence of the result of an analysis of a blood sample must not be tendered unless the person from whom the blood has been collected has expressed consent to the collection of the blood and the onus of proving that expression of consent is on the prosecution.
- (10) The mere failure or refusal of a person to express consent must not be used in evidence against that person or referred to in any way against that person's interests in any proceedings.

S. 57(11)
inserted by
No. 78/1987
s. 12.

- (11) A certificate purporting to be signed by a person—

- (a) who took a blood sample; or
(b) who analysed a blood sample—

in accordance with provisions of an Act of another State or a Territory that substantially corresponds to section 56 of this Act and in accordance with any regulations made under the corresponding Act is admissible in evidence in any proceeding referred to in sub-section (2) and, in the absence

of evidence to the contrary, is proof of the facts and matters contained in it.

- (12) Sub-sections (5), (6), and (7) apply in respect of a certificate referred to in sub-section (11) as if the certificate was given under this section.

S. 57(12)
inserted by
No. 78/1987
s. 12.

58. Evidentiary provisions—breath tests

- (1) If the question whether any person was or was not at any time under the influence of intoxicating liquor or if the question as to the presence or the concentration of alcohol in the blood of any person at any time or if a result of a breath analysis is relevant³¹—

S. 58(1)
amended by
No. 66/1990
s. 3(2).

- (a) on a trial for murder or manslaughter or for negligently causing serious injury arising out of the driving of a motor vehicle; or

S. 58(1)(a)
amended by
No. 17/1994
s. 12(1)(a).

- (ab) on a trial or hearing for an offence against Subdivision (4) of Division 1 of Part I of the **Crimes Act 1958** arising out of the driving of a motor vehicle; or

S. 58(1)(ab)
inserted by
No. 17/1994
s. 12(1)(b).

- (b) on a trial or hearing for an offence against section 318(1) of the **Crimes Act 1958**; or

- (c) on a hearing for an offence against section 49(1) of this Act—

then, without affecting the admissibility of any evidence which might be given apart from the provisions of this section, evidence may be given of the concentration of alcohol indicated to be present in the blood of that person by a breath analysing instrument operated by a person authorised to do so by the Chief Commissioner of Police under section 55 and the concentration of alcohol so indicated is, subject to compliance with section 55(4), evidence of the concentration of alcohol present in the blood of that person at the

time his or her breath is analysed by the instrument.

S. 58(2) amended by Nos 19/1991 s. 22(2), 89/1991 s. 13(a)(b), 17/1994 s. 12(2)(a)-(d), 100/1995 s. 51(5).

- (2) A document purporting to be a certificate in the prescribed form produced by a breath analysing instrument of the concentration of alcohol indicated by the analysis to be present in the blood of a person and purporting to be signed by the person who operated the instrument³² is admissible in evidence in any proceedings referred to in sub-section (1) and, subject to sub-section (2E), is conclusive proof of—

S. 58(2)(a) inserted by No. 17/1994 s. 12(2)(b).

- (a) the facts and matters contained in it; and

S. 58(2)(b) inserted by No. 17/1994 s. 12(2)(b).

- (b) the fact that the instrument used was a breath analysing instrument within the meaning of this Act; and

S. 58(2)(c) inserted by No. 17/1994 s. 12(2)(b).

- (c) the fact that the person who operated the instrument was authorised to do so by the Chief Commissioner of Police under section 55; and

S. 58(2)(d) inserted by No. 17/1994 s. 12(2)(b).

- (d) the fact that all relevant regulations relating to the operation of the instrument were complied with; and

S. 58(2)(e) inserted by No. 17/1994 s. 12(2)(b).

- (e) the fact that the instrument was in proper working order and properly operated; and

S. 58(2)(f) inserted by No. 17/1994 s. 12(2)(b), substituted by No. 100/1995 s. 51(6).

- (f) the fact that the certificate is identical in its terms to another certificate produced by the instrument in respect of the sample of breath and that it was signed by the person who operated the instrument and given to the accused person as soon as practicable after the sample of breath was analysed³³—

unless the accused person gives notice in writing to the informant not less than 28 days before the hearing, or any shorter period ordered by the court or agreed to by the informant, that he or she requires the person giving the certificate to be called as a witness or that he or she intends to adduce evidence in rebuttal of any such fact or matter³⁴.

- (2A) A notice under sub-section (2) must specify any fact or matter with which issue is taken and indicate the nature of any expert evidence which the accused person intends to have adduced at the hearing. **S. 58(2A) inserted by No. 17/1994 s. 12(3).**
- (2B) The accused person may not, except with the leave of the court, introduce expert evidence at the hearing if the nature of that evidence was not indicated in a notice under sub-section (2). **S. 58(2B) inserted by No. 17/1994 s. 12(3).**
- (2C) If an accused person gives notice to the informant in accordance with sub-section (2) that he or she requires the person giving a certificate to be called as a witness and the court is satisfied that that person—
- (a) is dead; or
 - (b) is unfit by reason of his or her bodily or mental condition to testify as a witness; or
 - (c) has ceased to be a member of the police force or is out of Victoria and it is not reasonably practicable to secure his or her attendance; or
 - (d) cannot with reasonable diligence be found—
- the court must order that sub-section (2) has effect as if the notice had not been given.
- (2D) A certificate referred to in sub-section (2) remains admissible in evidence even if the accused person gives a notice under that sub-section but, in that **S. 58(2D) inserted by No. 17/1994 s. 12(3).**

event, the certificate ceases to be conclusive proof of the facts and matters referred to in that sub-section.

S. 58(2E)
inserted by
No. 17/1994
s. 12(3),
amended by
No. 100/1995
s. 51(7).

(2E) Nothing in sub-section (2) prevents the informant adducing evidence to explain any fact or matter contained in a certificate referred to in sub-section (2)³⁵ and, if the informant does so, the certificate remains admissible in evidence but ceases to be conclusive proof of that fact or matter only.

(3) A certificate purporting to be signed by the Chief Commissioner of Police that a person named in it is authorised by the Chief Commissioner under section 55 to operate breath analysing instruments is admissible in evidence of the authority of that person.

(4) Evidence by a person authorised to operate a breath analysing instrument under section 55—

(a) that an apparatus used by him or her on any occasion under that section was a breath analysing instrument within the meaning of this Part;

(b) that the breath analysing instrument was on that occasion in proper working order and properly operated by him or her;

(c) that, in relation to the breath analysing instrument, all regulations made under this Part with respect to breath analysing instruments were complied with—

is, in the absence of evidence to the contrary, proof of those facts.

S. 58(5)
substituted by
No. 17/1994
s. 12(4).

(5) The statement on oath of a person authorised to operate a breath analysing instrument under section 55 when called as a witness that any apparatus used by him or her on any occasion under section 55 had written, inscribed or

impressed on some portion of it or on a plate attached to it the expressions "Alcotest 7110" and "3530791" whether with or without other expressions or abbreviations of expressions, commas, full stops, hyphens or other punctuation marks and whether or not all or any of the numbers are boxed in is, in the absence of evidence to the contrary, proof that the apparatus is a breath analysing instrument within the meaning of this Act.

58A. *Avoidance of certain provisions in contracts of insurance*

S. 58A
inserted by
No. 89/1991
s. 14.

- (1) Any covenant, term, condition, or other provision of a contract or other agreement is void to the extent that it purports to exclude or limit the liability of an insurer under a contract of insurance in the event of the driver or person in charge of a large vehicle having a concentration of alcohol present in his or her blood as indicated by an analysis of his or her breath or blood of not more than .05 grams per 100 millilitres of blood.
- (2) Sub-section (1) applies to a contract of insurance whether entered into before or after the commencement of section 14 of the **Road Safety (Further Amendment) Act 1991**.

PART 6—OFFENCES AND LEGAL PROCEEDINGS

59. *General duty of driver of motor vehicle*

S. 59
amended by
No. 57/1989
s. 41(Sch. 2
item 34.4).

(1) The driver of a motor vehicle on a highway has the following duties—

S. 59(1)(a)(i)
amended by
Nos 60/1994
s. 29(4)(a)(b),
46/1998
s. 7(Sch. 1).

(a) to stop the motor vehicle, produce for inspection his or her driver licence document or permit document and state his or her name and address if requested or signalled to do so by—

(i) a member of the police force or an officer of the Corporation or of the Department of Infrastructure (being an officer authorised in writing by the Corporation or the Secretary of the Department of Infrastructure, as the case requires, in that behalf); or

S. 59(1)(a)(ii)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 105.4).

(ii) an officer of or person authorised in writing in that behalf by any municipal council who has reasonable grounds for believing that any provision of the regulations relating to the mass or dimensions of a motor vehicle or trailer or to the number of hours during which a person may drive a motor vehicle or to the carrying of a log book on a motor vehicle is being contravened; and

(b) to obey any lawful direction given to him or her by a member of the police force under sub-section (5); and

(c) if requested or signalled to do so by a member of the police force or an officer of the Corporation (being an officer authorised in writing by the Corporation in that behalf), to stop the motor vehicle, produce for

inspection his or her log book, permit any entry in the log book to be copied and permit the person inspecting it to make any entry in it and to search the motor vehicle if that person has reasonable grounds for suspecting that more than one log book is carried on the vehicle; and

- (d) if requested or signalled to do so by a member of the police force or an officer of the Corporation (being an officer authorised in writing by the Corporation in that behalf) or by an officer of or person authorised in writing in that behalf by any municipal council, to stop the motor vehicle and allow it together with its load and any trailer attached to the motor vehicle and the load of the trailer (whether those loads are goods or passengers or both) to be weighed or to be taken to be weighed at a weighbridge or weighing machine that is agreed on by the driver and the person making the request or, if there is no agreement, at the weighbridge or weighing machine that is nominated by the person making the request.

S. 59(1)(d)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 105.5).

- (2) Subject to sub-sections (3) and (4), a person who fails to do anything that he or she is required to do under sub-section (1), or who when required to state his or her name and address states a false name or address, is guilty of an offence and liable—

- (a) if the offence consists of failing to obey any lawful direction given by a member of the police force or failing to produce for inspection his or her driver licence document or permit document, to a penalty of not more than 5 penalty units;

S. 59(2)(a)
amended by
No. 5/1990
s. 10(1)(a).

Road Safety Act 1986

Act No. 127/1986

s. 59

S. 59(2)(b)
amended by
No. 5/1990
s. 10(1)(b).

- (b) if the offence consists of failing to produce for inspection his or her log book or failing to state his or her name or address or stating a false name or address or failing to permit an entry in his or her log book to be copied or failing to permit an entry to be made in his or her log book or failing to permit his or her vehicle to be searched for another log book, to a penalty of not more than 5 penalty units or imprisonment for a term of not more than 1 month;
- (c) if the offence consists of failing to stop the motor vehicle or failing to allow it together with its load to be weighed, to a penalty, in the case of a first offence, of not more than 10 penalty units or, in the case of a subsequent offence, of not more than 20 penalty units or imprisonment for a term of not more than 4 months.

S. 59(3)
amended by
Nos 5/1990
s. 10(2),
89/1991
s. 5(2),
amended by
No. 58/1995
s. 15.

- (3) A person, other than a person who holds a probationary driver licence or who is driving or in charge of a large vehicle in respect of which section 19(5) applies or who has been issued with a driver licence under an order of the Magistrates' Court made on an application under section 50(4), who fails to produce for inspection his or her driver licence document or permit document is not guilty of an offence if that person—
 - (a) gives a reasonable excuse for the failure; and
 - (b) provides a specimen of his or her signature; and
 - (c) within 7 days produces his or her driver licence document or permit document at the police station (if any) specified by the member of the police force or other person who requested its production.

- (4) A driver who fails to stop when required to do so in accordance with sub-section (1)(a) is not guilty of an offence if—
- (a) the person making the request or signal is not in uniform; and
 - (b) the driver believed that that person was not—
 - (i) a member of the police force or an authorised officer of the Corporation or of the Department of Infrastructure, as the case requires; or
 - (ii) an officer of or person authorised in writing in that behalf by a municipal council.
- (5) A member of the police force may give such reasonable directions to a person driving a motor vehicle on a highway as are, in the opinion of that member, necessary—
- (a) for carrying into execution the provisions of this Act or the regulations; or
 - (b) for the purposes of any traffic survey being carried out in the vicinity of the highway.
- (6) If a driver who is requested under sub-section (1)(d) to allow his or her motor vehicle together with its load to be weighed fails to allow it to be so weighed, the person making the request may impound the vehicle and its load, together with any trailer attached to the vehicle and the load of the trailer, and may cause the vehicle to be driven or towed onto a weighing device or to a weighbridge or weighing machine that is agreed on by the driver and the person making the request or, if there is no agreement, to the weighbridge or weighing machine that is

S. 59(4)(b)(i) amended by Nos 60/1994 s. 29(5), 46/1998 s. 7(Sch. 1).

S. 59(4)(b)(ii) amended by No. 12/1989 s. 4(1)(Sch. 2 item 105.6).

S. 59(6) amended by No. 53/1989 s. 12(1).

nominated by the person making the request, to be weighed.

- (7) If a motor vehicle that is used on a highway and its load, together with any trailer attached to the motor vehicle and the load of the trailer, exceeds the prescribed maximum weight or any prescribed maximum dimension, a member of the police force or an officer of the Corporation (being an officer authorised in writing by the Corporation in that behalf) may require the driver to unload any part of the load that is necessary to bring the motor vehicle, trailer or load within the prescribed maximum weight or dimension.
- (8) If a driver fails to comply with a requirement under sub-section (7) to unload—
- (a) the driver is guilty of an offence and is liable for a first offence to a penalty of not more than 5 penalty units and for a subsequent offence to a penalty of not more than 10 penalty units; and
 - (b) the person making the requirement may drive the motor vehicle and the trailer, if any, to a police station or other convenient place and the vehicle, trailer and load may be impounded there by any member of the police force.
- (9) A reference in this section to a driver licence document or permit document includes a reference to any other document which evidences the authorisation of the driver to drive the motor vehicle.
- (10) Neither the Crown nor the person making a request under sub-section (1)(d) or a requirement under sub-section (7) nor any other person is liable for any loss or damage occasioned by or arising out of anything done in the exercise or

S. 59(8)(b)
amended by
No. 53/1989
s. 21(5).

S. 59(10)
inserted by
No. 53/1989
s. 12(2).

purported exercise in good faith of the powers conferred by this section.

60. Duty of owner of motor vehicle to give information about driver

(1) An owner of a motor vehicle is guilty of an offence if, when required to do so by a member of the police force who is acting in the execution of duty, he or she fails to give any information which it is within the power of the owner to give and which may lead to the identification of any person who was the driver of the motor vehicle on any occasion or fails to make all reasonable enquiries in order to obtain that information.

S. 60(1)
amended by
No. 78/1987
s. 13.

(2) A person guilty of an offence under this section is liable—

S. 60(2)
amended by
No. 19/1991
s. 13(1)(a)(b).

(a) if the requirement is made by a member of the police force who is investigating an accident involving a motor vehicle that resulted in a person being killed or suffering serious injury—to a penalty of not more than 20 penalty units or to imprisonment for a term of not more than 4 months or to both;

(b) in any other case—to a penalty of not more than 10 penalty units or to imprisonment for a term of not more than 2 months or to both—

and on conviction the court must cancel all driver licences and permits held by that person and, whether or not that person holds a driver licence, disqualify him or her from obtaining one for, in the case of a first offence, at least 2 years and, in the case of a subsequent offence, at least 4 years.

(3) For the purposes of this section "**owner**" means the owner or the person in whose name the motor vehicle was registered at the time when the

vehicle was being driven by the person about whom the information is sought or at the time when the requirement is made or any person who had possession or control of the vehicle at either of those times.

S. 60A
inserted by
No. 53/1989
s. 13.

60A. Duty of owner of trailer to give information

- (1) An owner of a trailer is guilty of an offence if, when required to do so by a member of the police force who is acting in the execution of duty, he or she fails to give any information which it is within the power of the owner to give and which may lead to the identification of any person who was the driver of the motor vehicle to which the trailer was attached on any occasion or fails to make all reasonable enquiries in order to obtain that information.
- (2) A person guilty of an offence under this section is liable—
 - (a) if the requirement is made by a member of the police force who is investigating an accident involving a motor vehicle or trailer that resulted in a person being killed or suffering serious injury—to a penalty of not more than 20 penalty units or to imprisonment for a term of not more than 4 months or to both;
 - (b) in any other case—to a penalty of not more than 10 penalty units or to imprisonment for a term of not more than 2 months or to both.
- (3) For the purposes of this section "**owner**" means the owner or the person in whose name the trailer was registered at the time when the trailer was attached to the motor vehicle that was being driven by the person about whom the information is sought or at the time when the requirement is

made or any person who had possession or control of the trailer at either of those times.

61. *Duty of driver etc. if accident occurs*

- (1) If owing to the presence of a motor vehicle an accident occurs whereby any person is injured or any property (including any animal) is damaged or destroyed, the driver of the motor vehicle—
 - (a) must immediately stop the motor vehicle; and
 - (b) must immediately render such assistance as he or she can; and
 - (c) must at the scene of the accident as soon as possible give his or her name and address and also the name and address of the owner of the motor vehicle and the identifying number of the motor vehicle—
 - (i) to any person who has been injured or to the owner of any property which has been damaged or destroyed; or
 - (ii) to a person representing the injured person or the owner of the property; and
 - (d) must at the scene of the accident as soon as possible give those names and addresses to any member of the police force who is present; and
 - (e) if any person is injured and no member of the police force is present at the scene of the accident, must as soon as possible report in person full particulars of the accident at the police station that is most accessible from the scene of the accident if that station is open and, if it is not open, at the next most accessible station; and

- (f) if any property is damaged or destroyed and neither the owner of the property nor any person representing the owner nor any member of the police force is present at the scene of the accident, must as soon as possible report in person full particulars of the accident at the police station that is most accessible from the scene of the accident if that station is open and, if it is not open, at the next most accessible station.
- (2) If a motor vehicle which has been left standing on a highway moves of its own accord from the position in which it was left and is involved in an accident whereby any person is injured or any property (including any animal) is damaged or destroyed, the person who left the motor vehicle so standing must as soon as possible after becoming aware of the accident comply as far as the circumstances permit with the requirements of sub-section (1).
- (3) If as a result of the accident a person is killed or suffers serious injury then a person who contravenes paragraph (a) or (b) of sub-section (1) is guilty of an indictable offence and liable to a penalty of not more than 80 penalty units or to imprisonment for a term of not more than 2 years.
- (4) If—
- (a) as a result of the accident a person is killed or suffers serious injury then a person who contravenes paragraph (c), (d), (e) or (f) of sub-section (1) is guilty of an offence; or
 - (b) as a result of the accident a person is otherwise injured then a person who contravenes any provision of this section is guilty of an offence—

and liable for a first offence to a penalty of not more than 20 penalty units or to imprisonment for a term of not more than 4 months and for a subsequent offence to a penalty of not more than 40 penalty units or to imprisonment for a term of not less than 4 months and not more than 12 months.

- (5) If no person is killed or suffers injury as a result of the accident then a person who contravenes any provision of this section is guilty of an offence and liable for a first offence to a penalty of not more than 5 penalty units or to imprisonment for a term of not more than 14 days and for a subsequent offence to a penalty of not more than 10 penalty units or to imprisonment for a term of not less than 14 days and not more than 1 month.
- (6) On conviction of a person for an offence against this section, if a person is killed or suffers serious injury as a result of the accident, the court must cancel all driver licences and permits held by the convicted person and, whether or not that person holds a driver licence, disqualify him or her from obtaining one for, in the case of a first offence, at least 2 years and, in the case of a subsequent offence, at least 4 years.
- (7) If a person who is convicted of an offence against any provision of this section has at any time been convicted of an offence against another provision of this section or any previous enactment corresponding to any of those provisions, the conviction for the offence against that provision is to be taken to be a conviction for a subsequent offence.

S. 61(6)
amended by
No. 19/1991
s. 13(2)(a)(b).

62. *Power to prevent driving by incapable persons*

- (1) A member of the police force who is of the opinion on reasonable grounds that a person,

driving or about to drive a motor vehicle, is by reason of his or her physical or mental condition incapable of having proper control of the motor vehicle may do all or any of the following things, namely:

- (a) Forbid that person to drive the motor vehicle while so incapable;
 - (b) Require that person to deliver up forthwith all ignition or other keys of the motor vehicle in his or her actual possession;
 - (c) Take such other steps as may in the opinion of the member of the police force be necessary to render the motor vehicle immobile or to remove it to a place of safety.
- (2) Nothing in sub-section (1) authorises the detention of any keys or the immobilization or detention of any motor vehicle for any longer period than is necessary in all the circumstances of the case in the interest of the person driving or about to drive it or of any other person or of the public.
- (3) Subject to sub-section (4), a person who contravenes any prohibition or requirement made by a member of the police force under sub-section (1) or in any manner attempts to obstruct any member of the police force in the exercise of any power conferred on that member by this section is guilty of an offence and liable for a first offence to a penalty of not more than 5 penalty units and for any subsequent offence to a penalty of not more than 8 penalty units or to imprisonment for a term of not more than 1 month.
- (4) A court may only find a person guilty of an offence under sub-section (3) if the court is satisfied that the member of the police force had reasonable grounds for believing that in all the circumstances of the case the action taken by him
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or her under sub-section (1) was necessary in the interest of that person or of any other person or of the public.

63. Power to enter motor vehicles

A member of the police force may, for the purpose of establishing the identity of the driver of a motor vehicle or arresting a person or carrying out the provisions of section 53, 54 or 55, enter the motor vehicle using, if necessary, reasonable force, if the driver refuses or fails to obey any lawful direction given to him or her by the member of the police force.

64. Dangerous driving

- (1) A person must not drive a motor vehicle³⁶ at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case.
- (2) A person who contravenes sub-section (1) is guilty of an offence and is liable to a fine of not more than 240 penalty units or to imprisonment for a term of not more than 2 years or both³⁷ and on conviction the court must, if the offender holds a driver licence or permit, cancel that licence or permit and must, whether or not the offender holds a driver licence or permit, disqualify the offender from obtaining one for such time (not being less than 6 months) as the court thinks fit.
- (3) If on a prosecution for an offence under this section the court is not satisfied that the defendant is guilty of that offence but is satisfied that the defendant is guilty of an offence against section 65, the court may convict the defendant of an offence against section 65 and punish the defendant accordingly.

S. 64(1)
amended by
No. 13/1992
s. 5(1)(a)(b).

S. 64(2)
amended by
Nos 78/1987
s. 14, 13/1992
s. 5(2).

65. Careless driving

A person who drives a motor vehicle on a highway carelessly is guilty of an offence and liable for a first offence to a penalty of not more than 12 penalty units and for a subsequent offence to a penalty of not more than 25 penalty units.

66. Offences detected by a photographic detection device

(1) If—

- (a) a prescribed offence occurs; and
- (b) the offence is detected by a prescribed detection device—

the person who at the time of the occurrence of the offence is the owner of the motor vehicle involved in the offence is guilty of an offence as if that person were the driver of the motor vehicle at the time of the offence unless the court is satisfied that the motor vehicle was a stolen motor vehicle.

(2) Nothing in sub-section (1) affects the liability of the actual driver, but if—

- (a) in the case of a monetary penalty, the full amount of the penalty is paid by the actual driver or owner in relation to the offence (whether under Part 7 or on the order of the Magistrates' Court) and has not been refunded under section 88(4); and
- (b) in the case of a penalty involving the imposition of demerit points, the demerit points are recorded against the actual driver or owner in relation to the offence; and
- (c) in the case of a penalty involving both a monetary penalty and the imposition of demerit points—

S. 66 amended by No. 44/1989 s. 41(Sch. 2 item 34.4).

S. 66(1)(b) amended by No. 5/1990 s. 11(1).

S. 66(2) amended by Nos 53/1989 s. 14(a)(b), 57/1989 s. 3(Sch. item 173.14).

S. 66(2)(a) inserted by No. 53/1989 s. 14(a), amended by No. 5/1990 s. 11(2)(a)(b).

S. 66(2)(b) inserted by No. 53/1989 s. 14(b).

S. 66(2)(c) inserted by No. 53/1989 s. 14(b).

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- (i) the full amount of the penalty is paid by the actual driver or owner in relation to the offence (whether under Part 7 or on the order of the Magistrates' Court) and has not been refunded under section 88 (4); and
- (ii) the demerit points are recorded against the actual driver or owner in relation to the offence—

S. 66(2)(c)(i)
amended by
No. 5/1990
s. 11(2)(a)(b).

no further penalty must be imposed on or recovered from the owner or actual driver in relation to the offence.

- (3) Notwithstanding anything in sub-section (1) or (2), an owner of a motor vehicle is not by virtue of sub-section (1) guilty of an offence if—

- (a) before or within 28 days after the service on the owner of—
 - (i) a summons; or
 - (ii) a charge under Schedule 3 to the **Magistrates' Court Act 1989**; or
 - (iii) a courtesy letter under Schedule 7 to that Act—

S. 66(3)(a)
amended by
No. 33/1994
s. 24(2)(a).

S. 66(3)(a)(ii)
substituted by
No. 57/1989
s. 3(Sch. item
173.15(a)).

S. 66(3)(a)(iii)
amended by
No. 57/1989
s. 3(Sch. item
173.15(b)).

(whichever is first served) in respect of the offence, the owner supplies to the informant in a sworn statement in writing or in a statutory declaration the name and address of the person who was driving the motor vehicle at the relevant time; or

- (b) the owner satisfies the informant by sworn statement in writing or by a statutory declaration that the owner did not know and could not with reasonable diligence have

S. 66(3)(b)
amended by
Nos 33/1994
s. 24(2)(b),
30/1997 s. 7(f).

ascertained the name and address of the person who was driving the motor vehicle at the relevant time.

S. 66(3)(c)
repealed by
No. 5/1990
s. 11(3).³⁸

* * * * *

S. 66(3A)
inserted by
No. 33/1994
s. 25(1).

(3A) A proceeding against the person named in a statement or declaration supplied under sub-section (3)(a) for an offence arising out of the driving of a motor vehicle at the relevant time may be commenced not later than 12 months after the date on which the statement or declaration was supplied³⁹.

S. 66(4)
amended by
No. 33/1994
s. 24(2)(c).

(4) A statement or declaration purporting to be made under sub-section (3)(a) if produced in any proceedings against the person named therein and in respect of the offence concerned is, in the absence of evidence to the contrary, proof that that person was driving the motor vehicle at all relevant times relating to the offence.

S. 66(5)
amended by
No. 5/1990
s. 11(5).

(5) In this section "**owner**" means—

- (a) the owner in whose name the motor vehicle is registered at the time of the offence under this Act or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth; or
- (b) if the Corporation has received notice of transfer of registration under the regulations, the person whose name is disclosed in the records kept by the Corporation as being entitled to possession of the motor vehicle at the time of the offence; or
- (c) if the motor vehicle is not registered under this Act or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth, the person

whose name is disclosed in the records kept by the Corporation or the corresponding body under a corresponding Act as being the owner of or entitled to possession of the motor vehicle at the time of the offence; or

- (d) if the motor vehicle displays a general identification mark by means of a special identification plate issued under the regulations, the person to whom the mark is assigned at the time of the offence.

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S. 66(6) amended by No. 78/1987 s. 15, repealed by No. 58/1988 s. 4(1).

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S. 67 amended by Nos 78/1987 s. 15, 58/1988 s. 4(2), 53/1989 s. 15, repealed by No. 5/1990 s. 11(6).

68. Speed trials

- (1) A person who on a highway drives or is in charge of a motor vehicle which is being used in a race or speed trial is guilty of an offence.

Penalty: For a first offence, 8 penalty units.
For a subsequent offence, 15 penalty units.

- (2) A person who, alone or with any other person, organizes or manages a race or speed trial held or to be held on a highway and carries out or causes to be carried out any preparations for the conduct of that race or speed trial is guilty of an offence.

Penalty: For a first offence, 8 penalty units.
For a subsequent offence, 15 penalty units.

- (3) The Minister may by notice published in the Government Gazette declare that the provisions of sub-sections (1) and (2) and of any regulations (except as specified in the notice) do not apply with respect to a race or speed trial held or to be held on a highway or part of a highway specified in the notice on a day and between the hours so specified.
- (4) The Minister may, on the application of a motoring organisation, by notice published in the Government Gazette declare that the provisions of sub-sections (1) and (2) and of any regulations (except as specified in the notice) do not apply with respect to any function or event that is organised and conducted by that motoring organisation.
- (5) The Minister may, by instrument, delegate to any person the power of the Minister under sub-section (3) or (4) to issue notices.
- (6) In this section, "**speed trial**" means an organised motor vehicle event, or any part of such an event, that is a competitive test of speed an object of which is, or requires for its attainment, the travelling over a distance in the shortest possible time, but does not include an event, or any part of an event, in which it is a condition of participation that participants comply with all applicable road laws.

S. 68(4)
amended by
No. 78/1987
s. 16.

69. Offence to procure use of motor vehicle by fraud

A person is guilty of an offence if that person—

- (a) procures the use or hire of a motor vehicle by fraud or misrepresentation; or

- (b) aids or abets a person in procuring the use or hire of a motor vehicle by fraud or misrepresentation.

Penalty: 10 penalty units or imprisonment for 2 months.

70. Tampering or interfering with motor vehicle without just cause or excuse

- (1) A person who, without just cause or excuse, tampers or interferes with a motor vehicle owned by any other person is guilty of an offence.

Penalty: 2 penalty units or imprisonment for 14 days.

- (1A) A person must not, without just cause or excuse, tamper or interfere with specified equipment fitted or attached to a motor vehicle.

S. 70(1A)
inserted by
No. 5/1990
s. 12.

Penalty: 25 penalty units.

- (1B) In sub-section (1A), "**specified equipment**" means equipment of a type specified for the purposes of this section by the Minister in a notice published in the Government Gazette.

S. 70(1B)
inserted by
No. 5/1990
s. 12.

- (1C) If a person is convicted of an offence against sub-section (1A), the Corporation must cancel for 4 years any driver licence or permit held by the person, and disqualify him or her for 4 years from holding or obtaining a driver licence or permit.

S. 70(1C)
inserted by
No. 5/1990
s. 12.

- (2) The accused has the burden of proving just cause or excuse.

71. Obtaining licence etc. by false statements

A person who—

- (a) by any false statement or any misrepresentation or other dishonest means obtains or attempts to obtain any licence,

S. 71
amended by
No. 53/1989
s. 16(1)(2).

S. 71(a)
amended by
No. 58/1995
s. 16.

permit, log book or registration, or the renewal of any licence, permit or registration, or any certificate under this Act or any information to which section 92 applies; or

- (b) without lawful authority or excuse possesses any licence, permit, log book or certificate so obtained—

is guilty of an offence and liable to a penalty of not more than 10 penalty units or to imprisonment for a term of not more than 2 months, and any licence, permit, log book or registration, or any certificate so obtained is void and of no effect.

72. Forgery etc. of documents and identification marks

- (1) A person is guilty of an offence if that person—
- (a) forges; or
 - (b) fraudulently alters or uses; or
 - (c) fraudulently lends or allows to be used by any other person—

any notice, registration label, certificate, licence, permit or other document or any identifying number or general identification mark that is authorised by or required by or under this Act.

Penalty: 10 penalty units or imprisonment for 2 months.

- (2) A person is guilty of an offence if that person makes, uses, knowingly has custody or possession of, sells or utters any paper or other material purporting to be a notice, registration label, certificate, licence, permit or other document or any identifying number or general identification mark that is authorised or required by or under this Act.

Penalty: 10 penalty units or imprisonment for 2 months.

- (3) A person is not guilty of an offence under this section by reason only that the person makes or uses an identifying number in such circumstances as are prescribed.

73. Offence to alter, deface or place number on engine of motor vehicle

S. 73
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

A person is guilty of an offence if that person—

- (a) without the permission in writing of the Corporation alters or defaces any number on the engine of a motor vehicle purporting to be the number of that engine; or
- (b) places on the engine of a motor vehicle any number purporting to be the number of that engine without previously forwarding to the Corporation a notice in writing stating that a number is to be placed on that engine and containing particulars of the number and the registered number of the motor vehicle.

Penalty: 10 penalty units or imprisonment for 2 months.

74. Offence to sell, use or possess anti-speed measuring devices

S. 74
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

- (1) A person must not own, sell, use or possess a device the sole or principal purpose of which is to prevent the effective use of a prescribed speed measuring device or to detect when a prescribed speed measuring device is being used.

Penalty: 20 penalty units.

- (2) A person must, if required to do so by a member of the police force or an officer of the Corporation or of the Department of Infrastructure (being an officer authorised in writing by the Corporation or

S. 74(2)
amended by
Nos 60/1994
s. 29(6)(a)(b),
46/1998
s. 7(Sch. 1).

the Secretary of the Department of Infrastructure, as the case requires, in that behalf), surrender to that member or officer any device referred to in sub-section (1).

Penalty: 5 penalty units.

- (3) A court that convicts a person of an offence against sub-section (1) or before which a person is charged with an offence against sub-section (1) of which the person is found guilty or to which the person pleads guilty and in respect of which a conviction is not recorded may order that the device by means of which the offence was committed be forfeited to the Government of Victoria.
- (4) All devices forfeited under sub-section (3) must be destroyed or otherwise disposed of as the Chief Commissioner of Police directs.

S. 74A
inserted by
No. 19/1991
s. 14.

74A. *Offence to sell certain breath analysing instruments*

A person must not sell a breath analysing instrument of a type which is specified in Australian Standard 3547-Breath Alcohol Testing Devices for Personal Use, published by the Standards Association of Australia, as amended from time to time, unless the instrument complies with that Standard.

Penalty: 20 penalty units.

75. *General penalty*

A person who is guilty of an offence against this Act for which a specific penalty is not prescribed by another provision of this Act is liable—

- (a) in the case of a person previously convicted of the offence, to a penalty of not more than 3 penalty units or to imprisonment for a term of not more than 1 month; and

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- (b) in any other case, to a penalty of not more than 1 penalty unit.

76. Arrest without warrant

- (1) A member of the police force may arrest without warrant any person who within his or her view commits an offence against any regulation made under clauses 42 to 49 in Schedule 2 and who on being requested to give his or her name and address refuses or fails to do so or gives a name or address which the member of the police force reasonably suspects to be false.
- (2) If a person who is arrested for an offence under this Act was in charge of a motor vehicle, any member of the police force may drive or convey the motor vehicle to a police station and keep it there pending the admission of the arrested person to bail or, if that person is not the owner of the motor vehicle, pending a demand for the vehicle by its owner.

77. Power to prosecute

- (1) In this section—
- (a) "**Corporation**" means the Roads Corporation or the Public Transport Corporation; and
- (b) "**Parliamentary Reserve**" means the land that is delineated and shown hatched on the plan in the Schedule to the **Parliamentary Committees Act 1968**.
- (2) The following people may prosecute for any offence against this Act or the regulations:
- (a) Any member of the police force;

S. 77(1)(a) substituted by No. 44/1989 s. 41(Sch. 2 item 34.2).

S. 77(2) amended by No. 44/1989 s. 41(Sch. 2 item 34.4).

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S. 77(2)(b) substituted by No. 12/1989 s. 4(1)(Sch. 2 item 105.7), amended by No. 60/1994 s. 29(7)(c) repealed by No. 12/1989 s. 4(1)(Sch. 2 item 105.8), new s. 77(2)(c) inserted by No. 60/1994 s. 29(8), amended by No. 46/1998 s. 7(Sch. 1).

(b) A municipal council or any member of staff of a municipal council who is authorised in writing to do so either generally or in any particular case by the municipal council;

(c) Any officer of the Department of Infrastructure who is authorised in writing to do so either generally or in any particular case by the Secretary to the Department of Infrastructure;

S. 77(2)(d) amended by No. 19/1991 s. 20(2).

(d) Any officer of a Corporation who is authorised in writing to do so either generally or in any particular case by that Corporation;

(e) Any officer who is authorised in writing to do so either generally or in any particular case by a public authority or other person prescribed for the purposes of this subsection, if the offence occurs on land or premises which are vested in, or under the control of, that public authority or person.

S. 77(3) amended by Nos 44/1989 s. 41(Sch. 2 item 34.4), 19/1991 s. 20(2), 60/1994 s. 29(9)(a)(b), 46/1998 s. 7(Sch. 1).

(3) If proceedings are taken by a member of the police force or an officer of a Corporation or of the Department of Infrastructure the proceedings may be conducted before the court by any other member of the police force or officer of that Corporation or of that Department, as the case requires.

(4) Proceedings for any offence which relates to the parking or leaving standing of a vehicle may be taken by any officer appointed either generally or

in any particular case by a public authority or other person prescribed for the purposes of this sub-section, if the offence occurs on land or premises which are vested in, or under the control of, that public authority or person.

- (5) Any money that is recovered by way of fine for a prescribed offence must be paid into the Consolidated Fund, unless the charge is filed by an officer who is appointed by a public authority or by any other person who is prescribed for the purposes of this sub-section, in which case the money that is recovered by way of fine must be paid into the prescribed fund in respect of that public authority or person.
- (6) If a prescribed offence occurs on land that is part of the Parliamentary Reserve, no prosecution may be taken in respect of it except on a direction in writing which is signed by an officer of the Parliament of Victoria who is authorised to do so either generally or in any particular case by resolution of the House Committee.
- (7) A resolution of the House Committee continues in force until it is revoked, whether during the same or a subsequent session of Parliament, and any direction that is signed pursuant to a resolution before its revocation—
- (a) continues in force despite the revocation; and
 - (b) continues in force during any period when the House Committee has ceased to be in office because of the expiry of the Legislative Assembly by effluxion of time or the dissolution of either House of Parliament.
- (8) In any prosecution for a prescribed offence—

S. 77(5)
amended by
No. 57/1989
s. 3(Sch. item
173.16).

- (a) a certificate which purports to be signed by the chairman or the secretary of the House Committee that any person is an officer who is authorised by resolution of the House Committee to institute prosecutions is evidence that the officer is so authorised, and it must be presumed until the contrary is proved that the resolution was passed at a properly convened and constituted meeting of the House Committee; and
- (b) the court must take judicial notice of the signature to a direction to institute prosecutions of any person who is or has been an officer who is authorised by resolution of the House Committee to sign the direction.

S. 78
 amended by
 Nos 57/1989
 s. 3(Sch. item
 173.17(a)-(c)),
 49/1991
 s. 119(7)(Sch.
 4 item 17.3),
 89/1991 s. 15,
 repealed by
 No. 41/1992
 s. 5.

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79. Evidence of speed

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

80. *Certain matters indicated by camera devices are sufficient evidence*

S. 80 amended by No. 58/1988 s. 4(3)(a).

If in proceedings for an offence to which section 66 applies the fact that the driver of the vehicle disobeyed a traffic control signal or drove the motor vehicle in a particular portion of a highway on any occasion is relevant, evidence of that fact as indicated or determined on that occasion by—

(a) a detection device prescribed for the purposes of section 66; or

S. 80(a) amended by No. 5/1990 s. 13(1).

(b) an image or message produced by a detection device prescribed for the purposes of section 66—

S. 80(b) amended by Nos 5/1990 s. 13(1), 19/1991 s. 15.

when used in the prescribed manner is, without prejudice to any other mode of proof and in the absence of evidence to the contrary, proof of the fact that the driver of the motor vehicle disobeyed a traffic control signal or drove the motor vehicle in that portion of the highway on that occasion.

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S. 80(2) amended by No. 78/1987 s. 15, repealed by No. 58/1988 s. 4(3)(b). S. 80A inserted by No. 84/1994 s. 58.

80A. *Certain matters indicated by camera devices are sufficient evidence*

If in proceedings for an offence to which section 66 applies the fact that the unregistered vehicle was being driven at a particular time and place or that number plates were or were not being displayed at a particular time is relevant, evidence of that fact as indicated or determined at that particular time by an image or message produced by a detection device prescribed for the purposes of section 66 when used in the prescribed manner

is, without prejudice to any other mode of proof and in the absence of evidence to the contrary, proof of the fact that an unregistered vehicle was being driven at a particular time and place or that number plates were or were not being displayed at a particular time.

S. 81 amended by No. 58/1988 s. 4(4)(a).

81. Certain matters indicated by speed camera devices are sufficient evidence

If in proceedings for an offence to which section 66 applies the speed at which a motor vehicle travelled on any occasion is relevant, evidence of the speed of the motor vehicle as indicated or determined on that occasion by—

S. 81(a) amended by No. 5/1990 s. 13(2)(a).

(a) a detection device prescribed for the purposes of section 66; or

S. 81(b) amended by No. 5/1990 s. 13(2)(a)(b).

(b) an image or message produced by a detection device prescribed for the purposes of section 66—

when tested, sealed and used in the prescribed manner is, without prejudice to any other mode of proof and in the absence of evidence to the contrary, proof of the speed of the motor vehicle on that occasion.

S. 81(2) amended by No. 78/1987 s. 15, repealed by No. 58/1988 s. 4(4)(b).

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82. Evidence of mass

(1) For the purposes of any prosecution under this Act or the regulations the mass carried on any axle of a motor vehicle or trailer as determined by a prescribed device when tested, sealed and used in

the prescribed manner is, after due allowance of the prescribed limits of error, proof, in the absence of evidence to the contrary, of the mass.

- (2) Without prejudice to any other method of determining the mass of a motor vehicle or of its load or of both, the mass of the load of any motor vehicle carrying passengers may, for the purposes of this Act or the regulations, be calculated on the basis that the mass of 16 adult passengers is 1 tonne.

83. Evidence of testing and sealing

A certificate in the prescribed form to the effect that any device referred to in section 79, 81 or 82 has been tested or sealed in the prescribed manner, signed or purporting to be signed by a person authorised to do so by the regulations is, without prejudice to any other mode of proof and in the absence of evidence to the contrary, proof that the device has been so tested or sealed.

84. General evidentiary provisions

- (1) A certificate in the prescribed form purporting to be issued by the Corporation or the Department of Infrastructure certifying as to any matter which appears in or can be calculated from the records kept by the Corporation or the Department of Infrastructure or a delegate of the Corporation or the Department of Infrastructure is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.
- (2) Without affecting the generality of any provision of the **Evidence Act 1958**, a certificate or document which purports to have been issued

S. 84
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

S. 84(1)
amended by
Nos 60/1994
s. 29(10),
46/1998
s. 7(Sch. 1).

under any Act of the Commonwealth or of another State or Territory of the Commonwealth corresponding to this Act and which purports to relate in any way to—

- (a) the registration or non-registration of a motor vehicle or trailer; or
- (b) the person who is the owner of a motor vehicle or trailer or in whose name a motor vehicle or trailer is registered; or
- (c) the fact that any person is or is not or was or was not permitted under a learner permit or licensed to drive a motor vehicle or a motor vehicle of any particular class; or
- (d) the suspension or cancellation of any registration or driver licence; or
- (e) the gross vehicle mass, load capacity or identification of any motor vehicle or trailer; or
- (f) any other matter relating to the use of motor vehicles or trailers on highways—

is, for the purposes of this Act, admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in it.

S. 84(3)
amended by
Nos 60/1994
s. 29(10),
46/1998
s. 7(Sch. 1).

- (3) A certificate in the prescribed form purporting to be issued by the Corporation or the Department of Infrastructure certifying that on a particular date a motor vehicle or trailer was registered in the name of a particular person is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that on that date that person was the owner of that motor vehicle or trailer.
 - (4) A certificate or document which purports to have been issued under any Act of the Commonwealth
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or of another State or Territory of the Commonwealth corresponding to this Act certifying that on a particular date a motor vehicle or trailer was registered under the corresponding Act in the name of a particular person is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that on that date that person was the owner of that motor vehicle or trailer.

- (5) In any proceedings for a contravention of section 7 (1) proof that a motor vehicle or a trailer attached to a motor vehicle was used on a highway without having affixed to it both the identifying number-plates and the appropriate registration label (if any) required by or under this Act is, in the absence of evidence to the contrary, proof that the motor vehicle or trailer was used in contravention of section 7(1).
- (6) In any proceedings for an offence against this Act or the regulations the statement of a member of the police force or an officer of the Corporation or of the Department of Infrastructure —
- (a) that writing or markings on a motor vehicle or trailer indicates or indicate the tare mass of the vehicle or trailer is admissible in evidence and, in the absence of evidence to the contrary, is proof of the unladen mass of the vehicle or trailer;
 - (b) as to the mass of a motor vehicle or trailer which he or she has examined is admissible in evidence and, in the absence of evidence to the contrary, is proof of the mass of the vehicle or trailer;
 - (c) that a name written on a motor vehicle or trailer indicates that the named person owns the vehicle or trailer is admissible in

S. 84(6)
amended by
Nos 60/1994
s. 29(11),
46/1998
s. 7(Sch. 1).

evidence and, in the absence of evidence to the contrary, is proof that the named person owns the vehicle or trailer;

- (d) that an address written on a motor vehicle or trailer indicates that the address is the place of business from which the vehicle or trailer normally operates is admissible in evidence and, in the absence of evidence to the contrary, is proof that the specified address is the place of business from which the vehicle or trailer normally operates.

(7) In any proceedings for an offence described in section 66(1)—

S. 84(7)(a)
amended by
No. 5/1990
s. 13(3)(a)(b).

- (a) an image or message produced by a detection device prescribed for the purposes of section 66 used to detect speeding offences when tested, sealed and used in the prescribed manner; or

S. 84(7)(b)
amended by
No. 5/1990
s. 13(3)(a)(b).

- (b) an image or message produced by a detection device prescribed for the purposes of section 66 used to detect traffic control signal offences when used in the prescribed manner—

showing or indicating—

- (c) the date, time or location of the alleged offence or the registration number or general identification mark of a motor vehicle involved in the offence is, in the absence of evidence to the contrary, proof that the offence took place on that date or at that time or at that location or in respect of the motor vehicle with that registration number or general identification mark (as the case may be); or

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- (d) that a plate marked with the letter P was displayed on a motor vehicle involved in the offence is, in the absence of evidence to the contrary, proof that the motor vehicle was being driven by the holder of a licence issued on probation under this Act during the prescribed period after the date of the issue of the licence; or
 - (e) that a plate marked with the letter L was displayed on a motor vehicle involved in the offence is, in the absence of evidence to the contrary, proof that the motor vehicle was being driven by the holder of a learner permit.

84A. *Unofficial breath analysing instruments*

Evidence of the taking of a test indicating the presence or concentration of alcohol in the blood of a person by a breath analysing instrument installed in any licensed premises under the **Liquor Control Act 1987**, or of the results of that test, is inadmissible in any court or tribunal in any proceedings, whether civil or criminal.

S. 84A
inserted by
No. 19/1991
s. 16.

PART 7—INFRINGEMENTS

S. 85
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

85. *Definitions*

In this Part—

"owner" means—

- (a) the owner in whose name the motor vehicle is registered at the time of the offence under this Act or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth; or
- (b) if the Corporation has received notice of transfer of registration under the regulations, the person whose name is disclosed in the records kept by the Corporation as being entitled to possession of the motor vehicle at the time of the offence; or
- (c) if the motor vehicle is not registered under this Act or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth, the person whose name is disclosed in the records kept by the Corporation or the corresponding body under a corresponding Act as being the owner of or entitled to possession of the motor vehicle at the time of the offence; or
- (d) if the motor vehicle displays a general identification mark by means of a special identification plate issued under the regulations, the person to whom the mark is assigned at the time of the offence;

"vehicle" includes a motor vehicle and a trailer.

86. Liability of owner for parking infringement

- (1) The owner of a vehicle in relation to which a parking infringement occurs is guilty of an offence against the Act, rule, regulation or by-law contravened, in all respects as if that person had been the actual offender who was guilty of the infringement, unless the court is satisfied that the vehicle was a stolen vehicle.
- (2) Sub-section (1) does not affect the liability of the actual offender, but where the full amount of any penalty has been paid by the actual offender or owner in relation to any parking infringement (whether pursuant to section 89 or on the order of the Magistrates' Court) no further penalty may be imposed on or recovered from the owner or actual offender in relation to that infringement.
- (3) Despite sub-sections (1) and (2), the owner of the vehicle is not by virtue of this section guilty of an offence if—
 - (a) before or within 28 days after the service on the owner of⁴⁰—
 - (i) a summons;
 - (ii) a charge under Schedule 3 to the **Magistrates' Court Act 1989**; or
 - (iii) a courtesy letter under Schedule 7 to that Act—

S. 86(2) amended by No. 57/1989 s. 3(Sch. item 173.18).

S. 86(3)(a) amended by Nos 33/1994 s. 24(3)(a), 78/1994 s. 5(1). S. 86(3)(a)(ii) substituted by No. 57/1989 s. 3(Sch. item 173.19(a)).

S. 86(3)(a)(iii) amended by No. 57/1989 s. 3(Sch. item 173.19(b)).

(whichever is first served) in respect of the parking infringement concerned the owner supplies to the informant in a sworn statement in writing or in a statutory declaration the name and address of the

person who was in charge of the vehicle at the relevant time; or

- (b) the owner satisfies the court that the owner did not know and could not with reasonable diligence have ascertained that name and address.

S. 86(4)
amended by
No. 57/1989
s. 3(Sch. item
173.20).

- (4) In sub-section (3) a reference to "the informant" in relation to a courtesy letter under Schedule 7 to the **Magistrates' Court Act 1989** is a reference to the appropriate officer under that Part.

S. 86(4A)
inserted by
No. 33/1994
s. 25(2).

- (4A) A proceeding against the person named in a statement or declaration supplied under sub-section (3)(a) in respect of the parking infringement concerned may be commenced not later than 12 months after the date on which the statement or declaration was supplied⁴¹.

S. 86(5)
amended by
No. 33/1994
s. 24(3)(b).

- (5) Any statement or declaration purporting to be made under sub-section (3)(a) if produced in any proceedings against the person named in it and in respect of the parking infringement concerned is evidence that that person was in charge of the vehicle at all relevant times relating to that parking infringement.

87. Service of parking infringement notices

S. 87(1)
amended by
Nos 17/1994
s. 13, 25/1996
s. 5(1).

- (1) If a member of the police force or an authorised officer or an officer who is referred to in section 77(4) has reason to believe that a parking infringement has been committed in respect of any vehicle on land or premises other than a council controlled area within the meaning of Part 7A, he or she may serve or cause to be served a parking infringement notice as provided in the regulations.

S. 87(1A)
inserted by
No. 25/1996
s. 5(2).

- (1A) Without limiting sub-section (1), if a person, not being a member of staff of the municipal council, who is authorised in writing to do so either

generally or in any particular case by a municipal council has reason to believe that a parking infringement has been committed in respect of any vehicle on land within the municipal district of the municipal council, he or she may serve or cause to be served a parking infringement notice as provided in the regulations.

(1B) If—

- (a) a member of the police force; or
- (b) a member of staff of the municipal council; or
- (c) a person, not being a member of staff of the municipal council, who is authorised in writing to do so either generally or in any particular case by the municipal council—

S. 87(1B)
inserted by
No. 25/1996
s. 5(2).

has reason to believe that a parking infringement has been committed in respect of any vehicle on land within the municipal district of a municipal council, being land that is a council controlled area within the meaning of Part 7A, he or she may serve or cause to be served a parking infringement notice as provided in the regulations.

(1C) A municipal council may only authorise under sub-section (1A) or (1B)(c) a person whom it is satisfied—

- (a) is competent to exercise the functions conferred on an authorised person by or under this Part; and
- (b) is of good repute, having regard to character, honesty and integrity; and
- (c) has agreed in writing to exercise the functions conferred on an authorised person by or under this Part according to performance criteria established from time to time by the municipal council.

S. 87(1C)
inserted by
No. 25/1996
s. 5(2).

S. 87(1D)
inserted by
No. 25/1996
s. 5(2).

(1D) A municipal council must issue an identity card to any person authorised by it under sub-section (1A) or (1B)(c).

S. 87(1E)
inserted by
No. 25/1996
s. 5(2).

(1E) An identity card under sub-section (1D) must—

- (a) contain a photograph of the authorised person; and
- (b) contain the signature of the authorised person; and
- (c) be signed by a member of staff of the municipal council authorised by the municipal council to do so either generally or in any particular case.

S. 87(1F)
inserted by
No. 25/1996
s. 5(2).

(1F) A person issued with an identity card under sub-section (1D) must produce it on being requested to do so.

Penalty: 5 penalty units.

S. 87(1G)
inserted by
No. 25/1996
s. 5(2).

(1G) Any action taken or thing done by a person authorised under sub-section (1A) or (1B)(c) is not invalidated by his or her failure to produce his or her identity card.

S. 87(1H)
inserted by
No. 25/1996
s. 5(2).

(1H) A person must not falsely represent himself or herself to be a person authorised under sub-section (1A) or (1B)(c).

Penalty: 10 penalty units.

(2) Every parking infringement notice must be in the prescribed form and must contain the prescribed particulars.

S. 87(3)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 105.9),
25/1996
s. 6(1).

(3) The penalty prescribed for the purposes of this section for any parking infringement, other than a penalty for a parking infringement referred to in sub-section (3A) or a penalty fixed by any municipal council pursuant to sub-section (4), is the amount prescribed by the regulations in respect of infringements of the kind in question.

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s. 88

- (3A) The penalty for a parking infringement constituted by a contravention of section 90E is \$100 or the higher amount prescribed by the regulations in respect of infringements of that kind.
- (4) Despite sub-section (3), a municipal council may by resolution fix a penalty of an amount not greater than \$50 for parking infringements under any regulation or local law made under the **Local Government Act 1989**, and a penalty so fixed is the penalty prescribed for the purposes of this section in respect of such parking infringements occurring within the municipal district of that municipal council.

S. 87(3A)
inserted by
No. 25/1996
s. 6(2).

S. 87(4)
amended by
No. 78/1987
s. 17,
substituted by
No. 12/1989
s. 4(1)(Sch. 2
item 105.10)
(as amended
by No.
13/1990
s. 32(2)(q)).

88. *Traffic infringements*

S. 88
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

- (1) A member of the police force or an officer of the Corporation or of the Department of Infrastructure (being an officer authorised in writing by the Corporation or the Secretary of the Department of Infrastructure, as the case requires, in that behalf) or, if the vehicle involved is a recreation vehicle, an officer who is authorised in writing by the mayor of any municipal council in that behalf, who has reason to believe that a person has committed a traffic infringement of a kind that is prescribed for the purposes of this Part may issue or cause to be issued and serve or cause to be served on that person a traffic infringement notice in accordance with the regulations.
- (1A) Despite sub-section (1), a traffic infringement notice in respect of a drink-driving infringement, or of an infringement detected by a detection device prescribed for the purposes of section 66, may only be issued or caused to be issued by a member of the police force.

S. 88(1)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 105.11),
53/1989
s. 17(a),
60/1994
s. 29(12)(a)(b),
44/1997
s. 34(1),
46/1998
s. 7(Sch. 1).

S. 88(1A)
inserted by
No. 53/1989
s. 17(b),
amended by
Nos 5/1990
s. 11(7),
44/1997
s. 34(2).

S. 88(2)(a)
inserted by
No. 53/1989
s. 17(c).

S. 88(2)(b)
inserted by
No. 53/1989
s. 17(c).

S. 88(3A)
inserted by
No. 5/1990
s. 11(8).

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- (2) Every traffic infringement notice must be in the prescribed form and must contain the prescribed particulars, including—
- (a) in the case of a traffic infringement notice in respect of a drink-driving infringement, the concentration of alcohol alleged to have been present in the person's blood; and
 - (b) in the case of a traffic infringement notice in respect of an excessive speed infringement, the speed at which the motor vehicle is alleged to have been driven and the permitted speed.
- (3) A traffic infringement notice may be withdrawn, whether the appropriate penalty has been paid or not, at any time within 28 days of the service of the notice, by serving on the alleged offender, in accordance with the regulations, a withdrawal notice which is in the prescribed form and is signed by a prosecution officer.
- (3A) Despite sub-section (3), a withdrawal notice in relation to a traffic infringement notice of a kind referred to in sub-section (1A) must be signed by a member of the police force.
- (4) If the appropriate amount specified in the notice as the penalty for the infringement has been paid before the notice is withdrawn the amount so paid must be refunded upon the notice of withdrawal being given.
- (5) The penalty for the purposes of this section in respect of any traffic infringement is the amount prescribed in respect of that infringement.
- (6) A member of the police force or an authorised officer who has reason to believe that a person (other than the driver of a motor vehicle) has
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committed a traffic infringement may require that person to state his or her name and address.

- (7) A person must not refuse or fail to state his or her name and address, or state a false name or address.

Penalty: 2 penalty units.

89. Payment of penalty

- (1) Subject to sub-section (4), if before the expiration of the period specified in the infringement notice for the payment of the penalty or, where the authorised officer giving the notice so allows, at any time before the service of a summons in respect of the infringement, the amount of the penalty shown on the notice is paid at the appropriate place—

- (a) the offender must be taken to have expiated the infringement by payment of the penalty; and
- (b) no further proceedings may be taken in respect of the infringement; and
- (c) no conviction for the infringement may be regarded as having been recorded.

- (2) Every penalty paid pursuant to this section must be applied in the same manner as if the offender had been convicted of the infringement in the Magistrates' Court on a charge filed by the member of the police force or authorised officer who served the infringement notice or caused it to be served.

S. 89(2)
amended by
No. 57/1989
s. 3(Sch. item
179.21).

- (3) Payment of any penalty under this section may be effected in accordance with the regulations.

- (4) If an infringement notice has been served and the amount of the penalty is not paid before the expiration of the period specified in the notice as

S. 89(4)
amended by
No. 57/1989
s. 3(Sch. item
173.22).

the time for payment or where, in the case of a traffic infringement notice, the notice has been withdrawn, nothing in this section in any way prejudices the institution or prosecution of proceedings for the infringement in question (whether pursuant to Schedule 3 to the **Magistrates' Court Act 1989** or otherwise) but in any case, where the court is satisfied that an infringement notice was served in respect of the infringement and has not been withdrawn, the conviction imposed by the court must not be taken to be a conviction for any purpose (including, without limiting the generality of the foregoing, the purposes of any enactment imposing, authorising or requiring the imposition of any disqualification, disability or higher penalty on convicted people or people convicted on more than one occasion) except in relation to—

- (a) the making of the conviction itself; and
 - (b) any subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal or order to review.
- (5) Despite anything to the contrary in this section, the regulations may provide that demerit points are incurred under section 25 in respect of a traffic infringement by a person to whom sub-section (1) or (4) of this section applies.

S. 89A
inserted by
No. 53/1989
s. 18.

89A. *Effect of drink-driving infringements and excessive speed infringements*

S. 89A(2)
amended by
No. 5/1990
s. 15(4).

- (1) Section 89 does not apply to drink-driving infringements or excessive speed infringements.
- (2) Subject to section 89B, a traffic infringement notice that is issued in respect of a drink-driving infringement or excessive speed infringement takes effect, 28 days after the date of the notice, as

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a conviction for the offence specified in the notice, unless the person to whom the notice was issued objects, within that time and in accordance with this section, to the infringement notice⁴².

(3) Despite sub-section (2), if an infringement notice is withdrawn under sub-section (7)(c) the person to whom the notice was issued must for all purposes be taken not to have been convicted of the offence specified in the notice.

(4) A person may object to the infringement notice by giving notice in writing of the objection to the person specified for that purpose in the infringement notice.

S. 89A(4)
amended by
No. 5/1990
s. 15(5).

(5) A notice of objection must state—

(a) that the person to whom the infringement notice was issued refuses to pay the penalty; and

(b) that the person requests that the matter be dealt with by a court; and

(c) whether or not the person intends to defend any charge arising out of the facts specified in the infringement notice.

S. 89A(5)(c)
amended by
No. 37/1996
s. 7.

(6) The giving of notice of objection to the infringement notice has the effect that—

(a) the infringement notice is cancelled; and

(b) the person to whom the infringement notice was issued may only be proceeded against by a charge filed for the alleged offence.

S. 89A(6)(b)
amended by
No. 57/1989
s. 5(5)(b).

(7) If an infringement notice is issued in respect of a drink-driving infringement and it subsequently appears that the offence in respect of which the notice was issued is not a traffic infringement of a kind that is prescribed for the purposes of this Part—

S. 89A(7)(d)
amended by
No. 57/1989
s. 5(5)(b).

S. 89A(8)
amended by
No. 41/1992
s. 6(1)(a)(b).

S. 89B
inserted by
No. 53/1989
s. 18.

S. 89B(1)
amended by
No. 57/1989
s. 5(5)(c)(i).

- (a) the infringement notice operates as if the infringement were so prescribed; and
- (b) any cancellation, disqualification or suspension, and any extension of probation, that results from the operation of the notice is valid; and
- (c) any member of the police force may, during the period of cancellation, disqualification or suspension, withdraw the infringement notice by serving on the alleged offender, in accordance with the regulations, a withdrawal notice which is in the prescribed form and is signed by a prosecution officer; and
- (d) the person may be proceeded against by a charge filed for the alleged offence.

- (8) A court which convicts a person or finds a person guilty after an infringement notice has been withdrawn in accordance with sub-section (7)(c) must take into account any period of cancellation, disqualification or suspension, and any extension of probation, of a driver licence or permit that resulted from the operation of the notice that had passed before the date of the conviction or finding⁴³.

89B. *Extension of time to object if no actual notice*

- (1) If a traffic infringement notice that is issued in respect of a drink-driving infringement or an excessive speed infringement is not delivered personally to the person to whom it was issued, and that person is not in fact aware, before the notice takes effect as a conviction, that it had been
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issued, the person may, within 7 days after becoming aware of it, apply in accordance with the regulations to the Magistrates' Court to have the time for objecting to the notice extended.

- (2) The court must not grant an extension of time unless it is satisfied that the person was not in fact aware, before the infringement notice took effect as a conviction, that it had been issued.
- (3) If the court grants an extension of time, and if a notice of objection is given, in accordance with section 89A(4) or with any order made by the court, before the expiry of the extended time, the giving of the notice has the effect that—
 - (a) the conviction is set aside; and
 - (b) any cancellation, disqualification or suspension, and any extension of probation, that resulted from the conviction is set aside; and
 - (c) anything done by the person before he or she became aware that the infringement notice had been issued that constituted an offence only because of any cancellation, disqualification or suspension, or any extension of probation, that resulted from the conviction must be taken not to constitute that offence; and
 - (d) any of the procedures set out in Schedule 7 to the **Magistrates' Court Act 1989** that are being used for the enforcement of the amount specified in the infringement notice as payable in respect of the offence for which the notice was issued must be discontinued and any warrant issued under that Schedule ceases to have effect; and
 - (e) the infringement notice is cancelled; and

S. 89B(3)(d)
amended by
No. 57/1989
s. 5(5)(c)(ii)
(A)(B).

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s. 89B

S. 89B(3)(f)
amended by
No. 57/1989
s. 5(5)(c)(iii).

(f) the person may only be proceeded against by a charge filed for the alleged offence; and

S. 89B(3)(g)
amended by
No. 41/1992
s. 6(2).

(g) any period of cancellation, disqualification or suspension, and any extension of probation, of a driver licence or permit that—

(a) resulted from the conviction; and

(b) occurred after the person became aware that the infringement notice had been issued—

must be taken into account by any court which subsequently convicts the person, or finds the person guilty,⁴⁴ of the offence in respect of which the infringement notice was issued.

S. 89B(4)
amended by
No. 57/1989
s. 5(5)(c)(iv).

(4) Despite anything to the contrary in any other Act, a charge referred to in sub-section (3)(f) may be filed not later than 12 months after the date of the notice of objection.

(5) Any reference in sections 89C or 89D to the 28 day period must, if a court has granted an extension of that period in a particular case, be read as a reference to the extended period.

S. 89C
inserted by
No. 53/1989
s. 18.

89C. *Cancellation of licence or permit for drink-driving infringements*

(1) Any driver licence or permit held by a person to whom a traffic infringement notice has been issued in respect of a drink-driving infringement is cancelled, and the person is disqualified from obtaining one, for a period ascertained in accordance with Column 2 of Schedule 1 by reference to the blood alcohol concentration specified in the notice if—

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- (a) the blood alcohol concentration specified in the notice is more than 0.05 grams per 100 millilitres of blood; and
 - (b) no notice of objection to the infringement notice has been given and the 28 day period has expired.
- (2) A probationary driver licence held by a person to whom a traffic infringement notice has been issued in respect of a drink-driving infringement is suspended for 1 month, and the period of probation is extended by 7 months, if—
- (a) the blood alcohol concentration specified in the notice is 0.05 grams or less per 100 millilitres of blood; and
 - (b) no notice of objection to the infringement notice has been given and the 28 day period has expired.
- (3) A permit held by a person to whom a traffic infringement notice has been issued in respect of a drink-driving infringement is suspended for 1 month and the person is disqualified from obtaining a further licence or permit for 1 month if—
- (a) the blood alcohol concentration specified in the notice is 0.05 grams or less per 100 millilitres of blood; and
 - (b) no notice of objection to the infringement notice has been given and the 28 day period has expired.
- (4) Any cancellation and disqualification under sub-section (1), suspension and extension of probation under sub-section (2) or suspension and disqualification under sub-section (3) takes effect on the expiry of the 28 day period.

**S. 89C(3)
amended by
No. 5/1990
s. 15(7).**

**S. 89C(4)
amended by
No. 5/1990
s. 15(8).**

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s. 89D

S. 89C(5)
amended by
No. 44/1989
s. 42(3).

- (5) When any cancellation or suspension has taken effect, the Corporation may, by notice in writing served on the person whose licence or permit is cancelled or suspended, require that person to surrender any licence or permit document to the Corporation.
- (6) A person on whom a notice is served under subsection (5) must comply with the notice within the time specified in it.

Penalty: 5 penalty units.
- (7) Payment of a penalty in respect of a drink-driving infringement may be made in accordance with the regulations.
- (8) A person who pays a penalty in respect of a drink-driving infringement must, on or before the expiry of the 28 day period, surrender his or her licence or permit document in accordance with the regulations, if the concentration of alcohol specified in the notice to have been present in the person's blood is more than 0.05 grams per 100 millilitres of blood.

S. 89D
inserted by
No. 53/1989
s. 18.

89D. *Suspension of licence or permit for excessive speed infringements*

S. 89D(1)
amended by
No. 5/1990
s. 15(9).

- (1) Any driver licence or permit held by a person to whom a traffic infringement notice has been issued in respect of an excessive speed infringement is suspended for a period ascertained in accordance with Column 2 of Schedule 5 by reference to the speed specified in the notice and the person is disqualified from obtaining a further licence or permit for that period if no notice of

objection to the infringement notice has been given and the 28 day period has expired.

- (2) If a probationary driver licence held by a person to whom a traffic infringement notice has been issued in respect of an excessive speed infringement is suspended, the period of probation is extended by the period of suspension plus 6 months.
- (3) Any suspension, disqualification or extension of probation under this section takes effect on the expiry of the 28 day period.
- (4) When any suspension has taken effect, the Corporation may, by notice in writing served on the person whose licence or permit is suspended, require that person to surrender any licence or permit document to the Corporation.
- (5) A person on whom a notice is served under subsection (4) must comply with the notice within the time specified in it.
Penalty: 5 penalty units.
- (6) Payment of a penalty in respect of an excessive speed infringement may be made in accordance with the regulations.
- (7) A person who pays a penalty in respect of an excessive speed infringement must, on or before the expiry of the 28 day period, surrender his or her licence or permit document in accordance with the regulations.

S. 89D(3)
amended by
No. 5/1990
s. 15(10).

S. 89D(4)
amended by
No. 44/1989
s. 42(3).

89E. Application and modification of certain provisions of Magistrates (Summary Proceedings) Act 1975

S. 89E
inserted by
No. 53/1989
s. 18.

- (1) The following provisions of Schedule 7 to the **Magistrates' Court Act 1989** do not apply to or in relation to a traffic infringement notice in

S. 89E(1)
amended by
No. 57/1989
s. 5(5)(d)(i).

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respect of a drink-driving infringement or an excessive speed infringement:

S. 89E(1)(a)
substituted by
No. 57/1989
s. 5(5)(d)(ii).

(a) Clause 3(6);

S. 89E(1)(b)
substituted by
No. 57/1989
s. 5(5)(d)(ii).

(b) Clause 4(2)(e) and (g);

S. 89E(1)(c)
substituted by
No. 57/1989
s. 5(5)(d)(ii).

(c) Clause 9(1)(a) and (b).

S. 89E(2)
amended by
No. 57/1989
s. 5(5)(e)(i)(ii).

(2) Sub-clause (3) of clause 8 of Schedule 7 to the **Magistrates' Court Act 1989** applies to and in relation to a traffic infringement notice in respect of a drink-driving infringement or an excessive speed infringement as if that sub-clause did not include "and with respect to applications for revocation of enforcement orders".

S. 89E(3)
amended by
No. 57/1989
s. 5(5)(f)(i)(ii).

(3) Clause 10 of Schedule 7 to the **Magistrates' Court Act 1989** applies to and in relation to a traffic infringement notice in respect of a drink-driving infringement or an excessive speed infringement as if sub-clause (1) of that clause did not include "or any person against whom an enforcement order has been made".

S. 89E(4)
amended by
No. 57/1989
s. 5(5)(g).

(4) Subject to sub-sections (1) to (3), and sections 89A to 89D of this Act, the procedures set out in Schedule 7 to the **Magistrates' Court Act 1989** may be used for the enforcement of the amount specified in a traffic infringement notice issued in respect of a drink-driving infringement or an excessive speed infringement as payable in respect of the offence for which the notice was issued.

90. Proof of prior convictions

Road Safety Act 1986

Act No. 127/1986

s. 90

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- (1) If a person is served with a summons for any infringement and it is alleged that he or she has been previously convicted or found guilty of any infringement or infringements there may be served with the summons a separate document in the prescribed form signed by the informant setting out particulars of the alleged prior convictions or findings of guilt⁴⁵.
- S. 90(1)
amended by
No. 41/1992
s. 6(3)(a)(b).**
- (2) The document setting out the alleged prior convictions or findings of guilt—⁴⁶
- (a) must be endorsed with a notice in the prescribed form; and
- (b) may be served in any manner in which the summons for the infringement may be served.
- S. 90(2)
amended by
No. 41/1992
s. 6(4).**
- (3) If the court by whom any person has been convicted or found guilty⁴⁷ is satisfied that a copy of any such document was served on that person at least 14 days before the hearing of the information the document is admissible and is evidence—
- (a) that the person was convicted or found guilty⁴⁸ of the offences alleged in the document; and
- (b) of the particulars relating to the convictions or findings of guilt⁴⁹ set out in the document.
- S. 90(3)
amended by
No. 41/1992
s. 6(5)(a).**
- S. 90(3)(b)
amended by
No. 41/1992
s. 6(5)(b).**
- (4) Any such document may not be tendered in evidence without the consent of the defendant if the defendant is present at the hearing of the information.

Road Safety Act 1986

Act No. 127/1986

S. 90(5)
amended by
Nos 57/1989
s. 3(Sch. item
173.23),
41/1992
s. 6(6)(a)-(c).

- (5) Without limiting the generality of the provisions of Division 5 of Part 4 of the **Magistrates' Court Act 1989**, where any evidence of prior convictions or findings of guilt has been tendered pursuant to the provisions of this section, the court may set aside, on any terms as to costs or otherwise that the court decides, any conviction, finding or order if it has reasonable grounds to believe that the document tendered in evidence was not in fact brought to the notice of the defendant or that the defendant was not in fact convicted, or found guilty, of the offences as alleged in the document⁵⁰.
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PART 7A—PRIVATE PARKING AREAS

Pt 7A
(Heading and
ss 90A–90H)
inserted by
No. 25/1996
s. 4.

90A. Definitions

S. 90A
inserted by
No. 25/1996
s. 4.

In this Part—

"council controlled area" means an area in respect of which there is in force an agreement under section 90D;

"driver", in relation to a motor vehicle that has been parked or left standing, means the person who was driving the motor vehicle when it was parked or left standing;

"owner", in relation to a motor vehicle, has the same meaning as in Part 7;

"parking services", in relation to land, means services in relation to the regulation or control of the parking of motor vehicles on the land including the issue of parking infringement notices;

"public parking area" means—

- (a) an area provided on land for the parking of motor vehicles by members of the public on payment of a charge; or
- (b) any area that is prescribed to be a public parking area, or is included in a class of areas that is prescribed to be public parking areas, for the purposes of this Part.

S. 90B
inserted by
No. 25/1996
s. 4.

90B. *Abolition of distress damage feasant in relation to motor vehicles*

- (1) The common law remedy of distress damage feasant is abolished to the extent to which it applies in relation to trespass on land by motor vehicles.
- (2) Nothing in this Part affects any right that a person may have, apart from this Part, to remove or cause to be removed from land a motor vehicle that has been parked or left standing on that land.
- (3) Sub-section (2) does not apply to a motor vehicle that has been detained or immobilised in contravention of section 90C.

S. 90C
inserted by
No. 25/1996
s. 4.

90C. *Detention or immobilisation of motor vehicles*

- (1) A person, not being—
 - (a) a member of the police force; or
 - (b) the sheriff or any other person authorised by law to execute a warrant against the motor vehicle; or
 - (c) a person authorised to do so by or on behalf of the owner or driver of the motor vehicle—

must not detain or immobilise (whether by wheel clamps or any other means) a motor vehicle that has been parked or left standing (whether attended or not) on land to which this section applies.

Penalty: 20 penalty units.

- (2) This section applies to land other than land that is—
 - (a) a public highway within the meaning of the **Local Government Act 1989**; or

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- (b) a declared road within the meaning of the **Transport Act 1983**; or
 - (c) a public parking area.
- (3) Nothing in this section affects the exercise of any power over a motor vehicle that a person may have as the holder of a security interest (within the meaning of the **Chattel Securities Act 1987**) in the motor vehicle or under a possessory lien or pledge over the motor vehicle.

90D. Agreements

S. 90D
inserted by
No. 25/1996
s. 4.

- (1) The owner or occupier of any land (other than land on which, apart from section 90E, a parking infringement could be committed in respect of a vehicle) may enter into an agreement with the municipal council in whose municipal district the land is situated for the provision by that council of parking services.
- (2) The agreement must provide for—
 - (a) compliance by the owner or occupier with specified requirements in relation to—
 - (i) restricting access to the land by motor vehicles;
 - (ii) signs to be placed, or markings to be made, on the land;
 - (iii) the siting, installation and maintenance of signs and markings;
 - (b) the kind of parking services to be provided by the municipal council and the times at which, or circumstances in which, those parking services are to be provided;
 - (c) the fees, costs and charges (if any) to be paid to the municipal council by the owner or occupier;

- (d) rights of access to the land by persons authorised by the municipal council in connection with the provision of parking services and the duties and obligations to be complied with by those persons while exercising those rights;
 - (e) any other matter that may be prescribed.
- (3) The agreement may contain—
- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
 - (b) a provision providing for the suspension of obligations under the agreement in specified circumstances;
 - (c) any other provisions that are not inconsistent with this Part or the regulations.
- (4) A provision of an agreement under this section that specifies requirements in relation to signs or their siting must—
- (a) where appropriate and subject to any standards notified under sub-section (5), provide for signs of the kind used for the regulation and control of vehicular traffic on highways;
 - (b) require signs installed on the land to be prominently displayed and clearly visible to users of the land;
 - (c) require the installation of a sign indicating the place to which a vehicle towed from the land under section 90F is to be taken and stored pending payment of the release fee or giving a telephone number from which information about that place may be obtained at any time of the day or night;
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- (d) comply with standards notified under subsection (5).
 - (5) The Minister may, by notice in the Government Gazette, require compliance with standards for signs in council controlled areas.
 - (6) A standard may apply, adopt or incorporate any matter contained in any document issued or published by any person or body whether—
 - (a) wholly or partially or as amended by the standard; or
 - (b) as issued or published at the time the notice is published or at any time before then; or
 - (c) as issued or published from time to time.
 - (7) The standards must be available for inspection on request at a place which is open to the public and is specified in the notice.

90E. *Parking in council controlled areas*

S. 90E
inserted by
No. 25/1996
s. 4.

A person must not park a motor vehicle, or leave a motor vehicle standing, in a council controlled area or part of a council controlled area—

- (a) contrary to the inscription on any sign associated with the area or part; or
- (b) except in the manner indicated by the inscription on any sign associated with the area or part; or
- (c) contrary to any limitation in respect of days, periods of the day, classes of persons or classes of vehicles indicated by the inscription on any sign associated with the area or part.

Penalty: 3 penalty units.

S. 90F
inserted by
No. 25/1996
s. 4.

90F. Removal of vehicles from council controlled areas

- (1) A member of the police force may, in accordance with this section, remove, or cause to be removed, from a council controlled area a motor vehicle that has been parked or left standing in that area and in respect of which a parking infringement has been committed.
- (2) A member of the police force may only act under sub-section (1) if a parking infringement notice has been served in respect of the parking infringement and—
 - (a) the member of the police force is satisfied that the owner or occupier of the council controlled area has requested the owner or driver of the vehicle to remove it and that person has refused to do so; or
 - (b) in the opinion of the member of the police force, the vehicle—
 - (i) is obstructing access to, or egress from, the council controlled area by vehicles or pedestrians; or
 - (ii) is obstructing the free passage of vehicles or pedestrians within the council controlled area; or
 - (iii) has been left unattended for more than 48 hours; or
 - (iv) is endangering life or property or otherwise causing concern about safety.
- (3) A vehicle removed in accordance with this section from a council controlled area must be towed from the area by a tow truck within the meaning of Part VI of the **Transport Act 1983** operating in

accordance with a licence granted under Division 8 of that Part.

- (4) The authority to tow within the meaning of Part VI of the **Transport Act 1983** must be signed by a member of the police force.
- (5) A vehicle that has been towed under this section must be taken to, and stored at, the place specified in the authority to tow and released to its owner or the owner's agent on payment by that person of a release fee.
- (6) The amount of a release fee must not exceed the prescribed amount or, if there is no prescribed amount, an amount that reasonably represents the cost of towing, storing and releasing the vehicle (including any relevant overhead and other indirect costs).

90G. Entry by police to council controlled areas

- (1) A member of the police force may, for the purpose only of issuing parking infringement notices or authorising the towing of motor vehicles, enter any place that is a council controlled area.
- (2) Nothing in this section limits any other power of entry to a council controlled area that a member of the police force has under any other law.

S. 90G
inserted by
No. 25/1996
s. 4.

90H. Wheel clamping agreements

- (1) An agreement, whether entered into before or after the commencement of section 4 of the **Road Safety (Wheel Clamping) Act 1996**, is void to the extent to which it authorises, or purports to authorise, a person to do an act in contravention of section 90C or to remove from any land a motor vehicle detained or immobilised in contravention of section 90C.

S. 90H
inserted by
No. 25/1996
s. 4.

- (2) A party to an agreement that is void wholly or partly by reason of sub-section (1) is not entitled to recover from the owner or occupier of any land to which the agreement relates or purports to relate or any other person any amount in respect of the provision of services under the void agreement or part agreement and must repay to the person from whom it was received—
- (a) any amount received before the commencement of section 4 of the **Road Safety (Wheel Clamping) Act 1996** in respect of those services, being services that were to be provided after that commencement; and
 - (b) any amount received after the commencement of section 4 of the **Road Safety (Wheel Clamping) Act 1996** in respect of those services.
- (3) If a party does not repay an amount required by sub-section (2) to be repaid, the person entitled to be repaid may recover the amount from the party as a debt in a court of competent jurisdiction.
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PART 8—GENERAL

91. *Delegation*

S. 91
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

- (1) The Corporation may, by instrument under its official seal, delegate to a person by name or to the holder of an office or position (including a person who is an officer of the Transport Accident Commission) any power of the Corporation under this Act or the regulations, other than this power of delegation.
- (2) Nothing in sub-section (1) limits the operation of section 32 of the **Transport Act 1983**.

S. 91(1)
amended by
Nos 44/1989
s. 41(Sch. 2
item 34.3),
84/1994 s. 59.

92. *Disclosure of information*

S. 92
amended by
Nos 44/1989
s. 41(Sch. 2
item 34.4),
120/1993
s. 60(a)(b)(i)(ii)
(c)(d), 84/1994
s. 60(1)(2),
substituted by
No. 30/1997
s. 4.

- (1) In this section—

"confidentiality agreement" means an agreement referred to in sub-section (4);

"relevant person" means a person who is or has been a delegate of or employed by or engaged to provide services for—

- (a) the Corporation; or
(b) another person or body engaged to provide services for the Corporation;

"Victorian law enforcement agency" means—

- (a) the police force of Victoria; or
(b) any other authority or person responsible for the investigation or prosecution of offences against the laws of Victoria or the delegates or employees of, or persons engaged to

provide services for, such authority or person; or

- (c) a person authorised by the laws of Victoria to execute a warrant.
- (2) Subject to this section, the Corporation or a relevant person must not—
- (a) disclose information gained by the Corporation or in the course of the delegation, employment or engagement of the relevant person that is information of a personal nature or that has commercial sensitivity for the person about whom it is kept; or
- (b) use the person's knowledge of any such information.

Penalty: 100 penalty units.

- (3) Sub-section (2) does not prevent the disclosure or use of information in accordance with the regulations, if any—
- (a) in connection with the administration of this Act or the regulations; or
- (b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings; or
- (c) to the Transport Accident Commission; or
- (d) for the purposes of the investigation or prosecution by a Victorian law enforcement agency of offences of any kind; or
- (e) for the purposes of the enforcement by a Victorian law enforcement agency of—
- (i) judgments and orders of courts in their criminal jurisdiction; or

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- (ii) infringement penalties by the procedure set out in Schedule 7 to the **Magistrates' Court Act 1989**; or
- (f) for the purposes of the enforcement by the sheriff of judgments and orders of courts in their civil jurisdiction; or
- (g) for the purposes of the **Crimes (Confiscation of Profits) Act 1986** or the **Confiscation Act 1997**; or
- (h) in accordance with an arrangement between a Minister of the Crown in right of Victoria and a Minister of the Crown in right of the Commonwealth or another State or a Territory, for the purposes of the investigation or prosecution of an offence against the laws of the Commonwealth or that other State or Territory or the enforcement of a judgment or order of a court in such a prosecution; or
- (i) about a person if the Corporation believes on reasonable grounds that the disclosure or use is necessary to prevent or lessen a serious and imminent threat to the life or health of the person or another person; or
- (j) to or by a court in compliance with a witness summons or a subpoena issued by it or an order made by it; or
- (k) to or by the person to whom the information relates; or
- (l) to or by a person who is expressly authorised in writing by the person to whom the information relates to obtain it; or
- (m) the disclosure or use of which is required or authorised by law for another purpose.

S. 92(3)(g) amended by No. 108/1997 s. 155 (as amended by No. 43/1998 s. 35).

- (4) Subject to sub-section (5), if—
- (a) a person (other than a relevant person or a person referred to in sub-section (3)(j), (k) or (l)) or an authority requests information from the Corporation; and
 - (b) the information may be disclosed or used under this section—
- the Corporation must first enter into a confidentiality agreement with the person or authority—
- (c) specifying the purposes for which the information is required; and
 - (d) specifying the means by which the information will be provided by the Corporation; and
 - (e) specifying the means by which the confidentiality of the information will be protected; and
 - (f) including an undertaking by the person or authority that the information will only be used for the purposes specified in the agreement.
- (5) Sub-section (4) does not apply if—
- (a) the Corporation has entered into a confidentiality agreement, which is in operation, with the delegator, employer, contractor or principal of the person or authority making the request; and
 - (b) the person or authority making the request is acting within the scope of their actual or apparent authority under the delegation, employment, contractual relationship or agency.
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- (6) A person who obtains information under a confidentiality agreement must not disclose or use the information other than for a purpose specified in the agreement (whether or not the person is a party to the agreement).

Penalty: 100 penalty units.

- (7) A person must not use information knowing it to be disclosed or used in contravention of this section or a confidentiality agreement.

Penalty: 100 penalty units.

93. *Service of notices*

If under this Act or the regulations a notice is required or permitted to be served on any person, the notice may, unless the contrary intention appears, be served in or out of Victoria—

- (a) by delivering it personally to the person; or
- (b) by leaving it at the usual or last known place of residence or business of the person with a person apparently over the age of sixteen years and apparently residing at that place or (in the case of a place of business) apparently in charge of or employed at that place; or
- (c) by sending it by post addressed to the person at the usual or last known place of residence or business of that person.

94. *Approvals by Chief Commissioner or Corporation*

Subject to this Act, if it is provided by or under this Act that the Chief Commissioner of Police or the Corporation may approve of any type or kind of equipment—

- (a) the approval must be given by notice published in the Government Gazette; and

S. 94
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

- (b) any withdrawal of approval must be made by notice published in the Government Gazette.

S. 94A
inserted by
No. 17/1994
s. 21.

94A. *Supreme Court—limitation of jurisdiction*

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the bringing before the Supreme Court of an action of a kind referred to in section 55(9E).

S. 95
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

95. *Regulations*

- (1) Subject to sub-section (8), the Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act including, but not limited to, the matters and things specified in Schedule 2.
- (2) A power conferred by this Act to make regulations may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.

S. 95(2)(b)(i)
amended by
No. 78/1987
s. 18(1).

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- (3) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State; or
 - (iii) as specified in both sub-paragraphs (i) and (ii); and
 - (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or body or a specified class of persons or bodies; or
 - (iii) as specified in both sub-paragraphs (i) and (ii); and
 - (c) so as to apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time; and
 - (d) so as to confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and
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S. 95(3)(f)
substituted by
No. 78/1987
s. 18(2).

(e) so as to provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and

(f) so as to impose—

(i) in the case of an offence constituted by the carrying on a motor vehicle or trailer of a load that is greater than the permitted maximum load, a penalty not exceeding 20 penalty units and an additional penalty not exceeding 2 penalty units for each tonne by which the permitted maximum load is exceeded; and

(ii) in any other case, a penalty not exceeding 20 penalty units—

for a contravention of the regulations.

S. 95(3A)
inserted by
No. 78/1987
s. 18(3).

(3A) In sub-section (3)(f)(i), "**permitted maximum load**", in relation to a motor vehicle or trailer, means the maximum load that may, under the regulations or by virtue of a permit issued under this Act, be carried by that motor vehicle or trailer.

(4) A power conferred by this Act to make regulations providing for the imposition of fees may be exercised by providing for all or any of the following matters:

- (a) Specific fees;
- (b) Maximum or minimum fees;
- (c) Maximum and minimum fees;
- (d) Ad valorem fees;

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- (e) The payment of fees either generally or under specified conditions or in specified circumstances;
 - (f) The reduction, waiver or refund, in whole or in part, of the fees.
- (5) If under sub-section (4)(f) regulations provide for a reduction, waiver or refund, in whole or in part, of a fee, the reduction, waiver or refund may be expressed to apply either generally or specifically—
- (a) in respect of certain matters or transactions or classes of matters or transactions;
 - (b) in respect of certain documents or classes of documents;
 - (c) when an event happens;
 - (d) in respect of certain persons or classes of persons; or
 - (e) in respect of any combination of such matters, transactions, documents, events or persons—
- and may be expressed to apply subject to specified conditions or in the discretion of any specified person or body.
- (6) A fee that may be imposed by regulation in relation to licences or permits under Part 3 or the registration of motor vehicles or trailers is not limited to an amount that is related to the cost of providing a service.
- (7) If under sub-section (3)(c)(iii) a regulation has applied, adopted or incorporated any matter contained in any document, code, standard, rule, specification or method as formulated, issued, prescribed or published from time to time and that document, code, standard, rule, specification or
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method is at any time amended, until the Corporation causes notice to be published in the Government Gazette of that amendment the document, code, standard, rule, specification or method is to be taken to have not been so amended.

- (8) Regulations made under this Act must not—
- (a) prohibit the fitting of bull-bars to motor vehicles; or
 - (b) require annual tests of roadworthiness of registered motor vehicles or trailers.

96. Disallowance of regulations, notices and orders

- (1) This section applies to the following instruments:
- (a) An Order in Council under section 3(2);
 - (b) A notice under section 10;
 - (c) A notice under section 38;
 - (d) An Order in Council under section 56;
 - (e) A notice under section 94.
- (2) A power that is conferred by this Act to make regulations or an instrument to which this section applies is subject to the regulations or instrument being disallowed by Parliament.
- (3) Sections 5, 6, and 6A of the **Subordinate Legislation Act 1962** apply to an instrument to which this section applies as if the instrument were a statutory rule within the meaning of that Act.
- (4) A reference in section 5(1) of the **Subordinate Legislation Act 1962** to the publication of notice of the making of a statutory rule must be read for the purposes of this section as a reference to the publication of the instrument to which this section applies.
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97. Application of fees

Notwithstanding anything to the contrary in this or any other Act—

- (a) except where the Treasurer otherwise directs or the regulations made under this Act otherwise provide, all fees received by the Corporation (otherwise than as the agent of any other person or body) under this or any other Act must be paid by the Corporation into the Consolidated Fund; and
- (b) all fees received by the Corporation (otherwise than as the agent of any other person or body) under this or any other Act which by virtue of paragraph (a) are not required to be paid into the Consolidated Fund must be paid by the Corporation into its general fund.

S. 97
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

98. Minister may extend application of Act

- (1) The Minister may by Order at the request of any public authority or other person prescribed for the purposes of this section extend the application of any provisions of this Act, or of the regulations, that are specified in the Order to any land or premises vested in, or under the control of, that authority or person, and those provisions then extend and apply to the land or premises, so far as applicable and with any modifications that are necessary, in all respects as if the land or premises were a highway and, in particular, with the modification that in those provisions any reference to a highway authority is to be taken to include the relevant public authority or other person.
- (2) The Minister may by Order at the request of the Minister administering Part 7B of the **Financial Management Act 1994** extend the application of

S. 98(2)
amended by
No. 101/1994
s. 68.

any provisions of this Act, or of the regulations, that are specified in the Order to any land or premises used for or in connection with any public offices of the Crown, and those provisions then extend and apply to the land or premises, so far as applicable and with any modifications that are necessary, in all respects as if the land or premises were a highway and, in particular, with the modification that in those provisions any reference to a highway authority is to be taken to include that Minister.

99. *Warning signs and other installations*

- (1) Any person or body corporate having authority pursuant to the regulations to do so may, without unduly obstructing the thoroughfare, install and maintain in or on any highway any standard warning or operative sign or safety device or mark, parking area, traffic island or other device or thing that is prescribed or authorised by the regulations for the regulation and control of vehicular, animal or pedestrian traffic.
- (2) The presence on any highway, or the operation or use by a person on any highway, of any installation referred to in sub-section (1) or of any pole, barrier, flag, stand or other device used in connection with it, or for the support of it, does not of itself make the installation or the pole, barrier, flag, stand or other device, or its operation or use in accordance with the regulations, an unlawful obstruction of, or interference with, the highway or the use of the highway.

S. 100
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 105.12),
19/1991 s. 18.

100. *Inconsistent regulations or by-laws*

If by a regulation made under any Act or by a local law made by a municipal council under any Act a provision is made that is inconsistent with a provision of this Act or the regulations made

under this Act, the provision made by the regulation or local law is, to the extent of the inconsistency, of no force or effect.

101. Repeal of Motor Car Act 1958

On the coming into operation of an item in Schedule 3, the **Motor Car Act 1958** is repealed to the extent set out in that item.

102. Consequential amendments of other Acts

On the coming into operation of an amendment to an Act set out in Schedule 4, that Act is amended as set out in that amendment.

103. Transitional provisions

(1) If immediately before the commencement of this sub-section a person holds a licence or permit issued under the **Motor Car Act 1958** and that licence or permit expires on or after that commencement, the Corporation may, in accordance with this Act and the regulations, grant a licence or permit to that person which, in the opinion of the Corporation, corresponds to the licence or permit previously held by that person.

S. 103(1)
amended by
No. 44/1989
s. 41(Sch. 2
item 34.4).

(1A) A driver's licence that was issued under the **Motor Car Act 1958** and was valid immediately before 1 May 1987 must, on and after that date, be taken to be a driver licence granted under Part 3 of this Act despite the definition of "driver licence" in section 3(1) of this Act.

S. 103(1A)
inserted by
No. 53/1989
s. 19.

(2) A motor car driver's licence which was issued, but not indorsed, under the **Motor Car Act 1958** and which was valid immediately before the commencement of this sub-section—

S. 103(2)
amended by
No. 53/1989
s. 21(6).

(a) authorises the holder to drive a motor vehicle of 3 tonnes tare or less, until 3 years after that commencement; and

- (b) does not authorise the holder to drive a motor vehicle of more than 4·5 tonnes gross vehicle mass, after the 3 years, and the holder is not authorised to drive such a vehicle after that time unless he or she obtains an appropriate authorisation under this Act.
- (3) If immediately before the commencement of this sub-section a police station was a registration office within the meaning of the **Motor Car Act 1958** then, on and from that commencement, the member of the police force for the time being in charge of that police station is to be taken to be, by force of this sub-section, a delegate of the Authority in relation to the registration of motor vehicles and trailers until the Authority by instrument under its common seal otherwise provides.
- (4) If immediately before the commencement of this sub-section an articulated motor car within the meaning of the **Motor Car Act 1958** is registered under that Act and on that commencement the semi-trailer component of the articulated motor car is exempt from registration, the registration of the articulated motor car is, on that commencement, to be taken to be the registration of the prime-mover component of the articulated motor car.
- (5) If immediately before the commencement of this sub-section an articulated motor car within the meaning of the **Motor Car Act 1958** is registered under that Act and on that commencement the semi-trailer component of the articulated motor car is not exempt from registration, the registration of the articulated motor car is, on that commencement, to be taken to be the separate

registration of the prime-mover and the semi-trailer components of the articulated motor car.

- (6) If immediately before the commencement of this sub-section demerit points are recorded against the holder of a licence under the **Motor Car Act 1958** in the Demerits Register kept under that Act, the Authority must, subject to this Act, on that commencement record those points against that person in the Demerits Register kept under this Act.
- (7) For the purposes of section 52, a person who is the holder of a probationary driver licence which was issued at least 12 months before the commencement of that section must be taken to be the holder of a full driver licence.
- (8) All fees which were received by the Authority under the **Motor Car Act 1958** or the **Transport Act 1983** or any other Act before the commencement of section 97 of this Act and which were paid by the Authority before that commencement into its general fund are, despite anything to the contrary in any Act, to be taken to have been properly paid by the Authority into that fund and not to have been required to be paid into the Consolidated Fund.
- (9) On and from the commencement of this sub-section until all the provisions of this Act have come into operation a reference in any Act or in any subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** to a motor vehicle within the meaning of this Act includes a reference to a motor car within the meaning of the **Motor Car Act 1958** and to a recreation vehicle within the meaning of this Act includes a reference to a recreation vehicle within the meaning of Part VI of the **Transport Act 1983**.

S. 103(7)
substituted by
No. 78/1987
s. 19.

- (10) A driver licence that was issued under the **Motor Car Act 1958** and that was in force on probation immediately before the commencement of this sub-section is to be taken, during the prescribed period only, to be a probationary driver licence for the purposes of this Act.
- (11) In sub-section (10) "**prescribed period**" means—
- (a) if the period for which the licence was issued on probation is 2 years or less, that period plus any extension of the probationary period under section 21; or
 - (b) if the period for which the licence was issued on probation is more than 2 years, the first 2 years of that period plus any extension of the probationary period under section 21.
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SCHEDULES

SCHEDULE 1

Section 50

Sch.1
substituted by
No. 78/1987
s. 20.

MINIMUM DISQUALIFICATION PERIODS

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Concentration of alcohol in blood in grams per 100 millilitres of blood</i>	<i>First offence</i>	<i>Subsequent offence</i>
less than ·07	6 months	12 months
·07 or more but less than ·08	6 months	14 months
·08 or more but less than ·09	6 months	16 months
·09 or more but less than ·10	6 months	18 months
·10 or more but less than ·11	10 months	20 months
·11 or more but less than ·12	11 months	22 months
·12 or more but less than ·13	12 months	24 months
·13 or more but less than ·14	13 months	26 months
·14 or more but less than ·15	14 months	28 months
·15 or more but less than ·16	15 months	30 months
·16 or more but less than ·17	16 months	32 months
·17 or more but less than ·18	17 months	34 months
·18 or more but less than ·19	18 months	36 months
·19 or more but less than ·20	19 months	38 months
·20 or more but less than ·21	20 months	40 months
·21 or more but less than ·22	21 months	42 months
·22 or more but less than ·23	22 months	44 months
·23 or more but less than ·24	23 months	46 months
·24 or more	24 months	48 months

SCHEDULE 2

Section 95(1)

SUBJECT-MATTER FOR REGULATIONS

Registration

1. The categories of motor vehicles and trailers for registration purposes.
2. The exemption of classes of motor vehicles from the requirement to be registered.
3. Applications for registration, renewal of registration or transfer of registration; the dates by which applications must be made and the information and evidence to accompany applications.
4. Requirements to be complied with before registration may be granted, renewed or transferred.
5. The conditions on which registration may be granted or renewed.
6. The date on which registration commences and the period for which it remains in force, including making special provision for shortening the period of registration without any reduction in fees where application for it is made outside the prescribed time.
7. Procedures for achieving a common registration expiry date for 2 or more motor vehicles or trailers registered in the same name.
8. The grounds on which registration may be cancelled or suspended and the procedures to be followed in those cases.
9. The circumstances in which a person is required to obtain or display a pre-registration certificate or a certificate that a motor vehicle or trailer is roadworthy; the authorisation of suitable people to issue those certificates; the fees payable to those people; the conditions on which those authorisations may be granted.⁵¹
10. The inspection, testing and weighing of motor vehicles and trailers.
11. The grounds on which, and the procedure by which, the use of a motor vehicle or trailer on a highway may be prohibited and the conditions on which a prohibition may be made or revoked.
12. Requiring the Corporation to be notified of alterations or damage to registered motor vehicles or trailers.

Sch. 2 item 9
amended by
No. 120/1993
s. 61(1).

Sch. 2 item 12
amended by
No. 44/1989
s. 41(Sch. 2
item 34.5).

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Sch. 2

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13. Requiring the Corporation to be notified of changes in the ownership or description of registered motor vehicles or trailers. **Sch. 2 item 13 amended by No. 44/1989 s. 41(Sch. 2 item 34.5).**
14. Applications for registration permits; the information and evidence to accompany applications; the grounds on which applications may be refused and the procedure to be followed where an application is refused; prescribing conditions on which registration permits may be granted.
15. The issue of identification numbers, number plates, registration labels and certificates of registration, including the issue of duplicates; the circumstances in which number plates must be returned and the procedures for doing this.
16. The issue of special plates or marks, the circumstances in which they may be issued and the conditions on which they may be used.
- 16A. The issue (which may include at auction or by inviting tenders) of number plates for the purposes of collection, the circumstances in which they may be issued, the manner in which they may be used and any conditions as to their use. **Sch. 2 item 16A inserted by No. 58/1995 s. 17, amended by No. 37/1996 s. 8(1).**
- 16B. The manner in which registration numbers may be assigned to motor vehicles and trailers and number plates bearing registration numbers issued, which may include at auction or by inviting tenders. **Sch. 2 item 16B inserted by No. 37/1996 s. 8(2).**

Licensing of drivers

17. The categories of motor vehicles and trailers for licensing purposes.
18. Applications for a driver licence or permit or for the variation, renewal or extension of a driver licence or permit; the dates by which applications must be made and the information and evidence to accompany applications.
19. Requirements to be complied with before a driver licence or permit may be granted, varied or renewed.
20. The conditions on which a driver licence or permit may be granted, varied or renewed.
21. The date on which a driver licence or permit commences, the period for which it remains in force and the probationary period of a driver licence.

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Sch. 2 item 22
amended by
Nos 120/1993
s. 61(2),
78/1994 s. 6.

22. The taking of photographs or making of digitised images for inclusion in driver licence documents.
23. Prohibiting the use of magnetic tape in driver licence documents.
24. The issue of duplicate driver licence documents and permit documents.
25. The exemption of persons or classes of persons from the requirement to obtain a driver licence or permit.
26. Tests and driver training.

Sch. 2 item 27
amended by
No. 44/1989
s. 41(Sch. 2
item 34.5).

27. The grounds on which a driver licence or permit may be cancelled, suspended or varied by the Corporation and the procedures to be followed in such cases.

Sch. 2 item 28
amended by
No. 44/1989
s. 41(Sch. 2
item 34.5).

28. The circumstances in which the Corporation is required to cancel, suspend or vary a driver licence or permit or refuse an application for a driver licence, driver licence variation or permit and the procedures to be followed in those cases.

Sch. 2
item 28A
inserted by
No. 78/1987
s. 18(4),
amended by
No. 44/1989
s. 41(Sch. 2
item 34.5).

- 28A. The surrender of licence or permit documents if the licence or permit has been cancelled or suspended by the Corporation or by a court.
29. The refund of fees paid in respect of driver licences issued under the **Motor Car Act 1958**.

Regulation of the use of vehicles

30. The carrying of lights on vehicles and trailers.
31. The affixing and use of horns, bells or other similar devices on vehicles and trailers.
32. The affixing of brakes on vehicles and trailers.
33. The carrying of fire extinguishers on specified classes of vehicles and trailers.
34. Requirements relating to the construction, efficiency, performance, safety, roadworthiness, design of and the equipment to be carried on and the identification of vehicles and trailers.

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35. The obtaining of a special permit before a motor vehicle or trailer of a specified mass and dimension may be used on highways and the conditions on which those permits may be granted.
 36. The number of hours during which a person may drive motor vehicles or a class or classes of motor vehicles.
 37. The carrying of a log book on specified classes of motor vehicles and trailers and the evidence that is sufficient to prove its existence.
 38. The carrying of loads on motor vehicles and trailers.
 39. The use of devices for determining the speed of motor vehicles.
 40. The keeping of records of specified matters and their production for inspection.
 41. Prohibiting the sale of equipment designed or intended to be used in, or in connection with, vehicles if the equipment has not been approved by the Corporation.

Sch. 2 item 41
amended by
No. 44/1989
s. 41(Sch. 2
item 34.5).

Traffic regulation

42. The regulation and control of vehicular, animal or pedestrian traffic on highways.
43. Rules to be observed by drivers, people in charge of animals, vehicles or trailers, and pedestrians.
44. Maximum speeds for vehicles.
45. Signs and safety devices, and their siting, installation and maintenance.
46. Marks to be used on the surface of highways.
47. The legal effects of signs, devices and marks, and the evidence that is sufficient to prove their existence.
48. The control and reduction of causes of danger or of traffic congestion.
49. Regulating racing (including footracing), speed trials and other competitive events on highways (including highways that are temporarily closed-off).
- 49A. Applications for approvals referred to in section 49A(1) and the period during which they continue in force.

Sch. 2
item 49A
inserted by
No. 78/1994
s. 7.

Alcohol

Sch. 2 item 52
amended by
No. 23/1994
s. 118(Sch. 1
item 50.7).

50. Devices for the purposes of section 53; the handling, storage, use and maintenance of those devices; the precautions to be taken and the procedures and methods to be employed in the use of those devices for ensuring that they give accurate and reliable results.
51. The handling, storage, use and maintenance of breath analysing instruments used for the purposes of section 55 and the procedures and methods to be employed in the use of those instruments for ensuring that they give accurate and reliable results.
52. The methods and conditions to be observed by registered medical practitioners in collecting blood samples.
53. The persons responsible for the safe-keeping of samples of blood taken under section 56 and the methods of storage to be used by them.
54. The delivering of portions of samples of blood taken under section 56 to the people from whom they are taken and to members of the police force.
55. The methods to be used by analysts in determining the concentration of alcohol in a blood sample.
56. The procedures to be adopted in transmitting samples of blood to an analyst for analysis.
57. The regulation and control of people concerned in the taking, safe-keeping, delivering and analysis of blood samples.

Fees

58. The matters for which fees are payable, the amount of those fees and the people by whom those fees are payable.
59. Prescribing the fee payable in respect of the performance of a function of a Regulatory Authority in respect of Victoria under the Interstate Road Transport Act 1985 of the Commonwealth (as amended and in force for the time being) by reference to the maximum fee specified in the regulations made under that Act (as amended and in force for the time being) in respect of the performance of that function.

Right of Appeal

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60. Conferring a right of appeal to a specified court or tribunal against any decision of the Corporation and prescribing the procedures to be followed in those cases.

Sch. 2 item 60 amended by No. 44/1989 s. 41(Sch. 2 item 34.5).

Forms

61. Forms.

Hazardous areas

62. The declaration of areas as hazardous areas.

Sch. 2 item 62 inserted by No. 58/1995 s. 18.

63. The approval of persons to drive vehicles seating more than 12 people (driver included) in hazardous areas.

Sch. 2 item 63 inserted by No. 58/1995 s. 18.

64. The approval of vehicles seating more than 12 people (driver included) for use in hazardous areas.

Sch. 2 item 64 inserted by No. 58/1995 s. 18.

65. Otherwise prohibiting or regulating the use of vehicles seating more than 12 people (driver included) in hazardous areas.

Sch. 2 item 65 inserted by No. 58/1995 s. 18.

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Sch. 3 repealed by No. 13/1992 s. 6.

SCHEDULE 4

Section 102

CONSEQUENTIAL AMENDMENTS

1. *Chattel Securities Act 1981*

1.1. In section 13(1)—

- (a) for "cars" (wherever occurring) **substitute** "vehicles";
and
- (b) for "**Motor Car Act 1958**" (wherever occurring)
substitute "Road Safety Act 1986"; and
- (c) **omit** paragraph (c).

1.2. Section 30 is **repealed**.

2. *Chinatown Historic Precinct Act 1984*

In section 15(15) for "**Motor Car Act 1958**" **substitute**
"Road Safety Act 1986".

3. *Consumer Affairs Act 1972*

In sections 33 (paragraph (h) of the definition of "Trade
description") and 36(2)(b) for "car within the meaning of the
Motor Car Act 1958" **substitute** "vehicle within the
meaning of the **Road Safety Act 1986**".

4. *Credit Act 1984*

In section 5(1) (definition of "Commercial vehicle")—

- (a) for "car" (wherever occurring) **substitute** "vehicle";
and
- (b) for "**Motor Car Act 1958**" **substitute** "**Road Safety**
Act 1986".

5. *Crimes Act 1958*

5.1. In section 2A(1) for the definition of "Motor car"
substitute—

' "**Motor vehicle**" has the same meaning as in the **Road**
Safety Act 1986.'

5.2. In section 73(14) for "car" (wherever occurring) **substitute**
"vehicle".

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5.3. In the heading to Division 9 of Part I for "CARS" substitute "VEHICLES".

5.4. In section 318—

(a) for "car" (wherever occurring) substitute "vehicle";
and

(b) for "**Motor Car Act 1958**" substitute "**Road Safety Act 1986**".

5.5. In section 520(1) for "car" substitute "vehicle".

6. Dandenong Valley Authority Act 1963

In section 31A(1N) for "car within the meaning of section 3 of the **Motor Car Act 1958**" substitute "vehicle within the meaning of the **Road Safety Act 1986**".

7. Disposal of Uncollected Goods Act 1961

In sections 6A and 10—

(a) for "car" (wherever occurring) substitute "vehicle";
and

(b) for "**Motor Car Act 1958**" substitute "**Road Safety Act 1986**".

8. Environment Protection Act 1970

8.1. In section 4(1)—

(a) in the definition of "Highway" for "cars" substitute "vehicles"; and

(b) for the definition of "Motor car" substitute—

' "**Motor vehicle**" has the same meaning as in the **Road Safety Act 1986**.'; and

(c) in the definition of "Registered owner" for paragraph (a) substitute—

"(a) in relation to a motor vehicle—the person who is registered under the **Road Safety Act 1986** as the registered owner of the motor vehicle; and".

8.2. In sections 43A and 48B for "car" (wherever occurring) substitute "vehicle".

8.3. In section 54A—

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- (a) for "car" **substitute** "vehicle"; and
- (b) for "cars" **substitute** "vehicles".

8.4. In section 55AA (definitions of "Owner" and "Vehicle") for "car" **substitute** "vehicle".

8.5. In sections 55AB and 55AC for "car" (wherever occurring) **substitute** "vehicle".

8.6. In section 55D (1)—

- (a) for "section 92 of the **Motor Car Act 1958**" **substitute** "section 84(3) of the **Road Safety Act 1986**"; and
- (b) for "car" **substitute** "vehicle".

9. Evidence Act 1958

In section 75A(3) for "sections 80D and 80F of the **Motor Car Act 1958**" **substitute** "sections 55, 57 and 58 of the **Road Safety Act 1986**".

10. Fruit and Vegetables Act 1958

In section 44(1)(g)—

- (a) for "to him his motor car driver's" **substitute** "a driver"; and
- (b) for "his identity" **substitute** "identity".

11. Health Act 1958

11.1. In section 3 (definition of "Public conveyance") for "car" **substitute** "vehicle".

11.2. In the Third Schedule for "car" **substitute** "vehicle".

12. Hospitals and Charities Act 1958

In section 92A after "**Motor Car Act 1958**," insert "the **Road Safety Act 1986**".

13. Housing Act 1983

In Schedule 5—

- (a) in clause 1 (definition of "Vehicle") for "car within the meaning of the **Motor Car Act 1958**" **substitute** "vehicle within the meaning of the **Road Safety Act 1986**"; and
 - (b) in clause 5(2)(c) for "car" (wherever occurring) **substitute** "vehicle"; and
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- (c) in clause 7—
 - (i) for "car" (wherever occurring) **substitute** "vehicle"; and
 - (ii) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**"; and
- (d) in clause 8 for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**".

14. Labour and Industry Act 1958

- 14.1. In section 80(1)(proviso), (2B) and (2E) for "cars" **substitute** "vehicles".
- 14.2. In section 80(3) for the definition of "Motor car" **substitute**—
' "**Motor vehicle**" means a motor vehicle within the meaning of the **Road Safety Act 1986**.'
- 14.3. In section 82—
 - (a) for "cars" (wherever occurring) **substitute** "vehicles"; and
 - (b) for "car" (wherever occurring) **substitute** "vehicle"; and
 - (c) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**".
- 14.4. In section 106B for the definition of "Owner" **substitute**—
' "**Owner**", in respect of a motor vehicle within the meaning of the **Road Safety Act 1986**, means the registered owner within the meaning of that Act, and "**ownership**" has a corresponding meaning.'

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Sch. 4 item 15
repealed by
No. 54/1987
s. 16(4)(b).

16. Local Government Act 1958

- 16.1. In section 64(1)(proviso) for "car" **substitute** "vehicle".
- 16.2. In section 197(1)(xxxiii)(h) and (xxxiv)(b) for "cars" **substitute** "vehicles".
- 16.3. In section 197(3A) for "has the same meaning as in section 3(1) of the **Motor Car Act 1958**" **substitute**—
"means a motor car which—

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- (a) weighs more than 3 tonnes unladen; or
- (b) is designed for carrying passengers and which has the capacity to seat the driver and more than 12 adults; or
- (c) has mounted on it or incorporated in it any machinery, plant or apparatus and which, together with that machinery, plant or apparatus, weighs more than 3 tonnes."

16.4. In section 539B(18B) for "**Motor Car Act 1958**" substitute "**Road Safety Act 1986**".

16.5. Section 543(5) is **repealed**.

16.6. In section 661(2) before paragraph (a) **insert**—

"(aa) the use on a public highway of a vehicle the weight of which and the load carried thereon exceeds 9·842 tonnes if that vehicle is authorised to be so used under the **Road Safety Act 1986**; or".

16.7. In section 672 for "cars or cycles" substitute "vehicles".

17. Magistrates' Courts Act 1971

In section 69(1) for "car" (wherever occurring) substitute "vehicle".

18. Magistrates (Summary Proceedings) Act 1975

18.1. In section 11(2)—

- (a) for "car" (wherever occurring) substitute "vehicle"; and
- (b) for "**Motor Car Act 1958**" substitute "**Road Safety Act 1986**".

18.2. In section 84(6)(c) for "paragraph (c) in sub-section (1) of section 92 of the **Motor Car Act 1958**" substitute "section 84(3) of the **Road Safety Act 1986**".

18.3. In section 84(9) for "car" substitute "vehicle".

18.4. In section 84(10)—

- (a) for "section 26(2A) of the **Motor Car Act 1958**" substitute "the **Road Safety Act 1986**"; and

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- (b) for "Part III of the **Motor Car Act 1958**" substitute "the **Road Safety Act 1986**".
- 18.5. In section 85(3) for "Part III of the **Motor Car Act 1958**" substitute "the **Road Safety Act 1986**".
- 18.6. In section 89A (paragraph (f) of the definition of "Infringement notice") for "section 82C of the **Motor Car Act 1958**" substitute "section 67 of the **Road Safety Act 1986**".
- 18.7. In sections 89E(1)(i) and 89R(2)(c)—
- (a) for "section 82C of the **Motor Car Act 1958**" substitute "section 67 of the **Road Safety Act 1986**";
and
- (b) for "car" (wherever occurring) substitute "vehicle";
and
- (c) for "section 82B" (wherever occurring) substitute "section 66".
- 18.8. In Schedule One after "**Motor Car Act 1958**" insert "**Road Safety Act 1986**".
- 18.9. In Schedule Two for paragraph (e) substitute—
- "(e) Offences against the **Road Safety Act 1986** (except offences against sections 30, 49, 61, 64, 69, 70, 71, 72 and 73);".

19. Motor Accidents Act 1973

- 19.1. In section 13(3)(e)(i) after "1958" insert ", the **Road Safety Act 1986**".
- 19.2. In section 13(4) after paragraph (a) insert—
- "(aa) a motor vehicle registered in accordance with the **Road Safety Act 1986**; or".
- 19.3. In section 16(1)(b) and (c) for "**Motor Car Act 1958**" (wherever occurring) substitute "**Road Safety Act 1986**".

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19.4. In section 16(2)—

- (a) **omit** "driver's"; and
- (b) for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**"; and
- (c) for "learner's" **substitute** "learner"; and
- (d) for paragraph (c) **substitute**—

"(c) a person who holds a driver licence under the **Road Safety Act 1986** and who drives, in accordance with that Act and the regulations made under it, a motor vehicle of a category not authorised by that licence for the purpose of gaining the necessary experience to obtain a variation of that licence shall not be deemed never to have held a licence to drive that motor vehicle."

20. Motor Boating Act 1961

- 20.1. In section 2(1) (definition of "Motor boat") for "special permit issued under the **Motor Car Act 1958**" **substitute** "registration permit issued under the **Road Safety Act 1986** or the regulations made under it".
- 20.2. In section 32A(1) for "section 211 of the **Transport Act 1983**" **substitute** "section 88 of the **Road Safety Act 1986**".
- 20.3. In section 32A(2)—
 - (a) for "The provisions of—"
 - (a) sub-sections (6) and (7) of section 210;
 - (b) sub-sections (4), (5), (6), (7), (8) and (9) of section 211; and
 - (c) section 213 of the **Transport Act 1983**" **substitute** "The provisions of sub-sections (1) to (5) of section 88 and sub-sections (1) to (4) of section 89 of the **Road Safety Act 1986**, and the regulations made under that Act,"; and
 - (b) for sub-section (2)(iii) **substitute**—
 - "(iii) a reference to a traffic infringement of a kind that is prescribed for the purposes of Part 7 of the **Road Safety Act 1986** must be read as a

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reference to a boating infringement of a kind that is specified in Schedule 3 to this Act;"; and

(c) sub-section (2)(iv) is **repealed**.

21. Motor Car Traders Act 1973

21.1. In section 2(1)—

(a) for the definition of "Motor Car" **substitute**—

' **"Motor car"** means a motor vehicle within the meaning of the **Road Safety Act 1986** except that—

(a) it includes a motor vehicle that is not in working condition or is incomplete; and

(b) it does not include—

(i) a tractor within the meaning of that Act; or

(ii) a motor vehicle so constructed that its engine is used to drive or operate an agricultural implement forming an integral part of the motor vehicle; or

(iii) an exempt vehicle.'; and

(b) in the definition of "Used motor car" for **"Motor Car Act 1958"** **substitute "Road Safety Act 1986"**.

21.2. In section 28 for "section 6(4) of the **Motor Car Act 1958"** **substitute "section 8(1) of the Road Safety Act 1986"**.

21.3. In section 30 for "any proprietor of the motor car within the meaning of the **Motor Car Act 1958"** **substitute "the registered owner of the motor car within the meaning of the Road Safety Act 1986"**.

21.4. In section 41 for **"Motor Car Act 1958"** **substitute "Road Safety Act 1986"**.

22. Pay-roll Tax Act 1971

22.1. In section 3(1) (definition of "motor vehicle")—

(a) for "car" (wherever occurring) **substitute "vehicle"**; and

(b) for **"Motor Car Act 1958"** **substitute "Road Safety Act 1986"**; and

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item 22.2
repealed by
No. 78/1987
s. 21(a).

(c) for "motor tractor" **substitute** "tractor".

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23. Penalties and Sentences Act 1985

23.1. In section 3, for the definition of "Motor car" **substitute**—
' "**Motor vehicle**" has the same meaning as in the **Road Safety Act 1986**.'

23.2. In section 39—

- (a) for "car" **substitute** "vehicle"; and
- (b) for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**"; and
- (c) for "driver's" (wherever occurring) **substitute** "driver"; and
- (d) for "section 80B, 80E, 80F(11) or 81A(1)" **substitute** "section 49(1)(a), (b) or (e) or section 53".

23.3. In section 93—

- (a) for "car" (wherever occurring) **substitute** "vehicle"; and
- (b) for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**"; and
- (c) for sub-section (6) **substitute**—
"(6) Subject to this Act, the provisions of sections 28 and 29 of the **Road Safety Act 1986** extend and apply to and in respect of convictions for stealing or attempting to steal a motor vehicle with all necessary modifications and, in particular, with the modifications that references to appeal to the County Court are to be taken to include references to appeal to the Full Court."

23.4. In section 95—

- (a) for "car" (wherever occurring) **substitute** "vehicle"; and

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- (b) for "section 26" **substitute** "section 24"; and
- (c) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**".

24. Sewerage Districts Act 1958

In section 36C(2) for "car" **substitute** "vehicle".

*	*	*	*	*	Sch. 4 item 25 repealed by No. 1/1993 s. 3(2).
*	*	*	*	*	Sch. 4 item 26 amended by No. 65/1987 s. 25(1), repealed by No. 65/1987 s. 25(2).

27. Summary Offences Act 1966

- 27.1. In section 16(b) for "car within the meaning of the **Motor Car Act 1958**" **substitute** "vehicle within the meaning of the **Road Safety Act 1986**".
- 27.2. In section 38(1) for "car within the meaning of section three of the **Motor Car Act 1958**" **substitute** "vehicle within the meaning of the **Road Safety Act 1986**".

28. Transport Act 1983

- 28.1. In section 20(2) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**".
- 28.2. In section 86(1)—
 - (a) in the definition of "Authority to tow" for "car" **substitute** "vehicle"; and
 - (b) in the definition of "Carrying capacity" for "has the same meaning as in the **Motor Car Act 1958**" **substitute** ", in relation to a motor vehicle, means the mass determined by the Authority to be the maximum permissible mass of any load which may be carried on that motor vehicle"; and
 - (c) in the definition of "Commercial goods vehicle" for "car" (wherever occurring) **substitute** "vehicle"; and
 - (d) in the definition of "Commercial passenger vehicle" for "car" **substitute** "vehicle"; and

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- (e) for the definition of "Damaged motor car" **substitute**—
' "**Damaged motor vehicle**" means a motor vehicle damaged in an accident.'; and
- (f) in the definition of "Highway" for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**"; and
- (g) in the definition of "Hire and drive omnibus" for "car" **substitute** "vehicle"; and
- (h) for the definition of "Motor car" **substitute**—
' "**Motor vehicle**" means a motor vehicle within the meaning of the **Road Safety Act 1986** and includes a trailer attached to the vehicle.'; and
- (i) in the definitions of "Owner" and "Primary producer" for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**"; and
- (j) in the definition of "Private omnibus" for "car" **substitute** "vehicle"; and
- (k) in the definition of "Recreation vehicle" for "motor tractor" **substitute** "tractor"; and
- (l) in the definition of "Tow" for "car" **substitute** "vehicle"; and
- (m) in the definition of "Tow truck"—
(i) for "car" (wherever occurring) **substitute** "vehicle"; and
(ii) for "cars" (wherever occurring) **substitute** "vehicles"; and
- (n) **omit** the definition of "Trailer".
- 28.3. In section 87 for "car" (wherever occurring) **substitute** "vehicle".
- 28.4. Divisions 2 and 3 of Part VI (other than section 99) are **repealed**.
- 28.5. In section 120(2) **omit** paragraph (b).
- 28.6. In section 138 for "car" **substitute** "vehicle".
- 28.7. In section 141(5)—
(a) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**"; and
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- (b) for "car" **substitute** "vehicle".
- 28.8. In section 155 for "car" (wherever occurring) **substitute** "vehicle".
- 28.9. In section 157(1) for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**".
- 28.10. In sections 171(2), 175, 176(1), 177 and 178 for "car" (wherever occurring) **substitute** "vehicle".
- 28.11. In section 185—
- (a) for "cars" (wherever occurring) **substitute** "vehicles"; and
 - (b) for "car" (wherever occurring) **substitute** "vehicle".
- 28.12. In sections 187 and 193 for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**".
- 28.13. In section 208—
- (a) for the definition of "Infringement" **substitute**—
' "**Infringement**" means an offence referred to in Schedule 10.';
 - (b) for the definition of "Motor car" **substitute**—
' "**Motor vehicle**" means a motor vehicle within the meaning of the **Road Safety Act 1986** and includes a trailer attached to the vehicle.'; and
 - (c) in the definition of "Owner"—
 - (i) for "car" (wherever occurring) **substitute** "vehicle"; and
 - (ii) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**"; and
 - (d) **omit** the definitions of "Parking infringement" and "Traffic infringement".
- Sch. 4 item
28.13(d)
amended by
No. 78/1987
s. 21(b).
- 28.13A. In section 208, **omit** the definition of "Authorized officer".
- Sch. 4 item
28.13A
inserted by
No. 78/1987
s. 21(c).
- 28.14. Sections 209, 210 and 211 are **repealed**.
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28.15. In section 212—

- (a) in sub-section (1) for "a transport" **substitute** "an";
and
- (b) in sub-section (3) for "A transport" **substitute** "An";
and
- (c) in sub-section (4) **omit** "transport" (wherever
occurring); and
- (d) in sub-section (5)—
 - (i) for "A transport" **substitute** "An"; and
 - (ii) **omit** "transport" (wherever occurring); and
- (e) in sub-section (6) **omit** "transport".

Sch. 4 item
28.15A
inserted by
No. 78/1987
s. 21(d).

28.15A. In section 212(2) after "section" (wherever occurring) **insert**
"and section 213".

28.16. In section 213—

- (a) in sub-section (1)—
 - (i) **omit** ", in the case of a transport infringement
notice"; and
 - (ii) for "notice," **substitute** "notice"; and
- (b) in sub-section (4) **omit** ", in the case of a traffic
infringement notice or a transport infringement
notice,"; and

Sch. 4 item
28.16(c)
substituted by
No. 53/1989
s. 21(7)(a).

(c) **omit** sub-section (5).

28.17. In section 216 for "car" (wherever occurring) **substitute**
"vehicle".

28.18. In section 217—

- (a) for "car" (wherever occurring) **substitute** "vehicle";
and
- (b) for "section 91B(a) of the **Motor Car Act 1958**"
substitute "the **Road Safety Act 1986**".

28.19. After section 249 **insert**—

"249A. Power of Governor in Council

- (1) The Governor in Council may by Order require the council of any municipality—
 - (a) to remove, establish, renovate, alter or improve any particular works and facilities for the purpose of traffic management and control, or to remove any parking area, obstruction or erection, in or on any street or road; or
 - (b) to take any particular action under the **Petrol Pumps Act 1958**; or
 - (c) to adopt any road accident prevention practices specified in the Order.
- (2) The Governor in Council may not make an Order unless the council has been given the opportunity to make any representation on the matter.
- (3) An Order must be given effect to by the council."

28.20. Schedule 9 is **repealed**.

29. Transport Accident Act 1986

29.1. In section 3(1)—

- (a) in the definition of "Highway" for "**Motor Car Act 1958**" **substitute "Road Safety Act 1986"**; and
- (b) after the definition of "Motor car" **insert**—
' "**Motor vehicle**" means a motor vehicle within the meaning of section 3(1) of the **Road Safety Act 1986**.';
- (c) in paragraph (b) of the definition of "Owner" after "(b)" **insert "for the purposes of Part 10"**;
- (d) after the definition of "Owner" **insert**—
' "**Owner**", in relation to a motor vehicle or a recreation vehicle, has the same meaning as in section 3(1) of the **Road Safety Act 1986**.'; and
- (e) for the definition of "Recreation vehicle" **substitute**—

' "Recreation vehicle"—

- (a) for the purposes of Part 10, has the same meaning as in section 86 of the **Transport Act 1983**; and
 - (b) otherwise has the same meaning as in the **Road Safety Act 1986**.'; and
- (f) for the definition of "Registered motor car" **substitute**—

' "Registered motor vehicle" means—

- (a) a motor vehicle that is registered in accordance with the **Road Safety Act 1986**; or
 - (b) a motor vehicle that is not so registered but is usually kept in Victoria and is not exempt from registration in accordance with Part 2 of the **Road Safety Act 1986** or the regulations made under that Act; or
 - (c) a motor vehicle in respect of which a registration permit granted in accordance with the regulations made under that Act is in force; or
 - (d) a recreation vehicle that is registered in accordance with the **Road Safety Act 1986**; or
 - (e) a motor vehicle registered with a Registration Authority in Victoria under the Interstate Road Transport Act 1985 of the Commonwealth or, if that Act is amended, that Act as amended and in force for the time being.'; and
- (g) in the definition of "Rehabilitation service", for "car" **substitute** "motor vehicle".

Sch. 4
item 29.2
amended by
No. 78/1987
s. 21(e)(i)(ii).

29.2. In sections 35(1)(b), 36, 39(1), (2), (3), (4) and (5), 40, 41(1), 64(1), 65(1), 94(1)(a), 94(2)(a), 94(13), 95, 96(1), 96(2)(a), 97(1) and (3), 98, 99(1) and (3), 100(1), 101(1), 102(1) and (2), 108(1), 109(1), (3), (4) and (5), 110(1) and (5), 111(1) and (2) and 112(1) and (2) for "motor car" (wherever occurring) **substitute** "motor vehicle".

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- 29.3. In sections 3(1) (definitions of "Driver" and "Transport accident") and 3(3)(c) after "motor car" (wherever occurring) **insert** "or motor vehicle".
- 29.4. In section 39(1) for "section 80 of the **Motor Car Act 1958**" **substitute** "section 61 of the **Road Safety Act 1986**".
- 29.5. In section 39(3)—
- (a) for the expression commencing "of driving a motor" and ending at the end of paragraph (b) **substitute**—
 - "(a) of an offence under section 49(1)(a) of the **Road Safety Act 1986**; or
 - (b) of an offence under paragraph (b), (f) or (g) of section 49(1) of the **Road Safety Act 1986** and the relevant level of concentration of alcohol was 0·15 grams or more per 100 millilitres of blood—"; and
 - (b) for "percentage" (wherever occurring) **substitute** "concentration".
- 29.6. In section 39(4)—
- (a) in paragraph (a) for "driving a motor car when under the influence of intoxicating liquor or of any drug to such an extent as to be incapable of having proper control of the motor car" **substitute** "an offence under section 49(1)(a) of the **Road Safety Act 1986**"; and
 - (b) in paragraph (c) for "**Motor Car Act 1958**" (wherever occurring) **substitute** "**Road Safety Act 1986**"; and
 - (c) in paragraph (e), for "section 80DA(6), 80E(3), 80EA(7) or 80F(11) of the **Motor Car Act 1958**" **substitute** "section 49(1)(c), (d) or (e) or section 56(7) of the **Road Safety Act 1986**".

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- 29.7. In section 39(5)—
- (a) **omit** "(a)"; and
 - (b) **omit** "other than a motorcycle" (where first occurring); and
 - (c) for "learner driver's permit" **substitute** "learner permit"; and
 - (d) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**"; and
 - (e) paragraph (b) and the word "and" immediately before that paragraph is **repealed**.
- 29.8. In section 39(8)—
- (a) for "percentage" **substitute** "concentration"; and
 - (b) for "the time of the accident" **substitute** "a particular time".
- 29.9. In section 39(9) for "percentage" (wherever occurring) **substitute** "concentration".
- 29.10. In section 40—
- (a) for "driving a motor car when the percentage of alcohol in the blood of the person expressed in grams per 100 millilitres of blood was more than 0.05 per centum" **substitute** "an offence under paragraph (b), (f) or (g) of section 49(1) of the **Road Safety Act 1986** and the relevant level of concentration of alcohol was more than 0.05 grams per 100 millilitres of blood"; and
 - (b) for "percentage" (wherever occurring) **substitute** "concentration"; and
 - (c) for "the time of the accident" **substitute** "a particular time".
- 29.11. In section 41(1), for "motor cars" **substitute** "motor vehicles".
- 29.12. In section 41(2), for "section 83A of the **Motor Car Act 1958**" **substitute** "section 68 of the **Road Safety Act 1986**".
- 29.13. In section 91(2)(b), for "referred to in section 80B(1) of the **Motor Car Act 1958**" **substitute** "under section 49(1)(a) of the **Road Safety Act 1986**".
- 29.14. In section 109(3)—
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- (a) for "permit under Part II of the **Motor Car Act 1958**" **substitute** "registration permit under the regulations made under Part 2 of the **Road Safety Act 1986**"; and
- (b) for "a special identification plate must not be issued under section 16 or 16A of that Act" **substitute** "a special plate or mark must not be issued under the regulations made under Part 2 of that Act".
- 29.15. In section 109(4) for "**Motor Car Act 1958**" **substitute** "**Road Safety Act 1986**".
- 29.16. In section 109(5)—
- (a) in the definition of "Prescribed period"—
- (i) in paragraph (a) for "cars" **substitute** "vehicles"; and
- (ii) in paragraph (b) for "permit under Part II of the **Motor Car Act 1958**" **substitute** "registration permit under the regulations made under Part 2 of the **Road Safety Act 1986**"; and
- (b) in the definition of "Prescribed times or intervals"—
- (i) in paragraph (a) for "cars" **substitute** "vehicles"; and
- (ii) in paragraph (b) for "permit under Part II of the **Motor Car Act 1958**" **substitute** "registration permit under the regulations made under Part 2 of the **Road Safety Act 1986**".
- 29.17. In section 102(2)(b) for "referred to in section 80B of the **Motor Car Act 1958**" **substitute** "under section 49(1)(a) of the **Road Safety Act 1986**".
- 29.18. In section 112(1)—
- (a) in paragraph (a) for "permit granted under Part II of the **Motor Car Act 1958**" **substitute** "registration permit granted under the regulations made under Part 2 of the **Road Safety Act 1986**";
- (b) in paragraph (b) for "general identification mark has been assigned under section 16 or 16A of the **Motor Car Act 1958**" **substitute** "special plate or mark has been assigned under the regulations made under Part 2 of the **Road Safety Act 1986**"; and
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- (c) for "special identification plate" **substitute** "special plate or mark".

29.19. For section 121(1) **substitute**—

"121. (1) Where a monetary penalty is imposed on or after the commencement of this section in respect of—

- (a) a traffic infringement that is prescribed for the purposes of Part 7 of the **Road Safety Act 1986** and that is prescribed for the purposes of this section; or
- (b) an offence in respect of which an infringement notice has been served under section 67 of the **Road Safety Act 1986** and that is prescribed for the purposes of this section; or
- (c) a provision of an Act specified in Schedule 1; or
- (d) a prescribed offence against regulations made under the **Transport Act 1983** or the **Road Safety Act 1986**—

then—

- (e) in the case of—
 - (i) a traffic infringement referred to in paragraph (a); and
 - (ii) an offence referred to in paragraph (b) if the penalty for the offence is paid under section 67 of the **Road Safety Act 1986**—

one-third of each payment of the penalty must be paid to the Commission; and

- (f) in the case of other such penalties—such amounts in respect of those penalties as are determined from time to time by the Treasurer and the Minister must be paid to the Commission each year or at such other times as are so determined."

29.20. For section 132(2) **substitute**—

"(2) The Governor in Council—

- (a) on the recommendation of the Minister after consultation with the Minister administering the
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Road Safety Act 1986, may make regulations prescribing—

- (i) traffic infringements that are prescribed for the purposes of Part 7 of that Act; or
- (ii) offences in respect of which infringement notices are served under section 67 of that Act; or
- (iii) offences against the regulations made under that Act—

as traffic infringements or offences to which section 121 applies; and

- (b) on the recommendation of the Minister after consultation with the Minister administering the **Transport Act 1983**, may make regulations prescribing offences against the regulations made under that Act as offences to which section 121 applies."

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Sch. 4 item
29.21
amended by
No. 53/1989
s. 21(7)(b)(c),
repealed by
No. 84/1994
s. 61.

30. *Weights and Measures Act 1958*

In section 91(3) for "signed or purporting to be signed pursuant to paragraph (c) of sub-section (1) of section 92 of the **Motor Car Act 1958**" substitute "referred to in section 84(3) of the **Road Safety Act 1986**".

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Sch. 5

Sch. 5
inserted by
No. 53/1989
s. 20.

SCHEDULE 5

Section 28
Section 89D

MINIMUM SUSPENSION PERIODS FOR EXCESSIVE SPEED

	<i>Column 1</i> <i>Speed of vehicle</i>	<i>Column 2</i> <i>Minimum period</i>
1.	30 kilometres per hour or more, but less than 40 kilometres per hour, in excess of that permitted.	1 month
2.	40 kilometres per hour or more, but less than 50 kilometres per hour, in excess of that permitted.	4 months
3.	50 kilometres per hour or more in excess of that permitted.	6 months
4.	Any speed of 130 kilometres per hour or more that is not covered in items 1, 2 or 3.	1 month

Sch. 6
inserted by
No. 19/1991
s. 22(3),
amended by
No. 89/1991
s. 17(2),
repealed by
No. 17/1994
s. 14.

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NOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 11 September 1986

Legislative Council: 18 November 1986

The long title for the Bill for this Act was "A Bill to re-enact, with amendments, the law relating to motor vehicles, to repeal the **Motor Car Act 1958**, to make consequential amendments to various Acts and for other purposes."

The **Road Safety Act 1986** was assented to on 23 December 1986 and came into operation as follows.

Sections 1–4, 101, Schedule 3 item 3 on 1 January 1987: Government Gazette 23 December 1986 page 4775.

Part 5, ss 59(1) (*except paras (a)(c)(d)*), 59(2) (*except paras (b)(c)*), 59(5), 62–73, 75, 76(2), 77–84, 91–96, 100, 102, 103(7)(9), Schs 1, 2, 3 item 10, Sch. 4 items 9, 12, 18.8, 29.1 (*except paras (a)(c)(d)–(f)*), 29.2 (in its application to ss 39(2)(3), 40, 41(1) of the **Transport Accident Act 1986**), 29.3, 29.5, 29.6 (*except para. (b)*), 29.8–29.13, 29.17 on 1.3.87: Government Gazette 25.2.87 p. 445.

Pt 3, ss 59(1)(a)(2)(b)(c)(3)(4)(9), 103(1)(2)(6)(10)(11), Sch. 3 item 7, Sch. 4 items 10, 18.3–18.5, 29.2 (in its application to s. 39(4)(5) of the **Transport Accident Act 1986**), 29.6(b), 29.7 on 1.5.87: Government Gazette 25.2.87 p. 445.

S. 74 on 9.3.87: Government Gazette 4.3.87 p. 463.

Ss 60, 61, Sch. 3 item 9 on 1.4.87: Government Gazette 1.4.87 p. 778.

Ss 97, 103(8) on 1.7.87: Government Gazette 25.2.87 p. 445.

Ss 5–14, 16, 103(3), Sch. 3 items 5, 6, Sch. 4 items 1–8, 11, 13–17, 18.1, 18.2, 18.6, 18.7, 18.9, 20.1, 21.1, 21.2, 21.4, 22.1, 23–25, 27.1, 27.2, 28.2, 28.3, 28.5–28.12, 28.13 (*except paras (a)(d)*), 28.17, 28.18, 29.1(f), 29.2 (in its application to ss 35(1)(b), 36, 39(1), 64(1), 65(1), 94(1)(a)(2)(a)(13), 95, 96(1)(2)(a), 97(1)(3), 98, 99(1)(3), 100(1), 101(1), 102(1)(2), 108(1), 109(1)(3)–(5), 110(1)(5), 111(1)(2), 112(1)(2) of the **Transport Accident Act 1986**), 29.4, 29.14–29.16, 29.18, 30) on 1.7.87: Special Gazette (No. 27) 25.6.87 p. 1.

Ss 34–46, 59(1)(c)(d)(6)–(8), 76(1), 85–90, 98, 99, 103(4)(5), Sch. 3 item 12, Sch. 4 items 20.2, 20.3, 28.1, 28.4, 28.13(a)(d), 28.13A, 28.14, 28.15,

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28.15A, 28.16(a)(b), 28.19, 28.20, 29.1(a)(c)–(e), 29.19, 29.20 on 1.3.88:
Government Gazette 30.12.87 p. 3540.

S. 15, Sch. 4 items 19, 21.3 and 28.16(c) not yet proclaimed.

The proposed amendments made by Sch. 4 items 19.1–19.4 are ineffective—the **Motor Accidents Act 1973** was repealed by No. 111/1986 s. 178(1).

The proposed amendment made by Sch. 4 item 21.3 is ineffective—the **Motor Car Traders Act 1973** was repealed by No. 104/1986 s. 121.

Sch. 4 item 22.2 was never proclaimed, repealed by No. 78/1987 s. 21(a).

Sch. 4 items 26.1–26.11 were never proclaimed, repealed by No. 65/1987 s. 25(2).

The proposed amendment made by Sch. 4 item 28.16(c) is ineffective because section 213 was substituted by No. 25/1989 s. 42.

Sch. 4 item 29.21 was never proclaimed, repealed by No. 84/1994 s. 61.

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2. Table of Amendments

This Version incorporates amendments made to the **Road Safety Act 1986** by Acts and subordinate instruments.

Litter Act 1987, No. 54/1987

Assent Date: 20.10.87
Commencement Date: 19.11.87: Government Gazette 18.11.87 p. 3084
Current State: All of Act in operation

Taxation Acts Amendment Act 1987, No. 65/1987

Assent Date: 12.11.87
Commencement Date: S. 25 on 23.12.86: s. 2(7); s. 26 on 12.11.87: s. 2(8)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Amendment) Act 1987, No. 78/1987

Assent Date: 24.11.87
Commencement Date: S. 10 on 1.3.87: s. 2(2); rest of Act on 9.12.87: Government Gazette 9.12.87 p. 3328
Current State: All of Act in operation

Road Safety (Photographic Detection Devices) Act 1988, No. 58/1988

Assent Date: 29.11.88
Commencement Date: 29.11.88
Current State: All of Act in operation

Local Government (Consequential Provisions) Act 1989, No. 12/1989

(as amended by No. 13/1990)

Assent Date: 9.5.89
Commencement Date: Sch. 2 items 105.1–105.12 (*except* item 105.10) on 1.11.89: Government Gazette 1.11.89 p. 2798; Sch. 2 item 105.10 on 1.10.92: Government Gazette 23.9.92 p. 2789
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Transport (Amendment) Act 1989, No. 44/1989

Assent Date: 6.6.89
Commencement Date: S. 41(Sch. 2 items 34.1–34.5) on 1.7.89: s. 2(1); s. 42(3) on 11.11.89: s. 2(6)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Miscellaneous Amendments) Act 1989, No. 53/1989

Assent Date: 14.6.89

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Commencement Date: S. 19 on 1.5.87: s. 2(2); s. 21(6) on 1.5.88: s. 2(3); ss 1–3, 6–8(1), 9, 10, 12, 13, 16, 20, 21(1)–(5)(7), 22 on 19.6.89: Special Gazette (No. 32) 15.6.89 p. 1; ss 4, 5, 8(2), 14, 15, 17, 18 on 11.11.89: Special Gazette (No. 61) 9.11.89 p. 1; s. 11 on 1.5.91: Government Gazette 1.5.91 p. 1130

Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89

Commencement Date: Ss 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217

Current State: All of Act in operation

Road Safety (Amendment) Act 1990, No. 5/1990 (as amended by No. 19/1991)

Assent Date: 3.4.90

Commencement Date: Ss 3, 11–13, 15(4)(5)(7)–(10) on 8.5.90: Special Gazette (No. 20) 8.5.90 p. 1; s. 6 on 1.7.90: Government Gazette 27.6.90 p. 1926; ss 5, 10 on 1.8.90: Government Gazette 25.7.90 p. 2218; ss 4, 7–9 on 1.10.90: Government Gazette 26.9.90 p. 2872

Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Certificates) Act 1990, No. 66/1990

Assent Date: 30.11.90

Commencement Date: S. 3 on 1.3.87: s. 2(2); rest of Act on 30.11.90: s. 2(1)

Current State: All of Act in operation

Road Safety (Drivers) Act 1991, No. 19/1991

Assent Date: 30.4.91

Commencement Date: S. 22 on 23.12.86: s. 2(3); s. 20(3) on 3.4.90: s. 2(2); ss 3, 5–10, 13–16, 18, 20(1)(2), 21 on 12.6.91: Government Gazette 5.6.91 p. 1450; ss 11, 12 on 1.9.91: Government Gazette 28.8.91 p. 2368

Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Sentencing Act 1991, No. 49/1991

Assent Date: 25.6.91

Commencement Date: 22.4.92: Government Gazette 15.4.92 p. 898

Current State: All of Act in operation

Road Safety (Further Amendment) Act 1991, No. 89/1991

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Assent Date: 10.12.91
Commencement Date: S. 17(2) on 23.12.86: s. 2(3); s. 17(3) on 30.4.91: s. 2(4); ss 5, 12, 14 on 1.1.92: s. 2(2); ss 1–4, 6–11, 13, 15, 17(1), 18 on 1.1.92: Government Gazette 18.12.91 p. 3489
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Crimes (Culpable Driving) Act 1992, No. 13/1992

Assent Date: 2.6.92
Commencement Date: 13.6.92: Government Gazette 10.6.92 p. 1418
Current State: All of Act in operation

Road Safety (Licence Cancellation) Act 1992, No. 41/1992

Assent Date: 23.6.92
Commencement Date: 23.6.92
Current State: All of Act in operation

Sheep Owners Protection (Repeal) Act 1993, No. 1/1993

Assent Date: 6.4.93
Commencement Date: 6.4.93
Current State: All of Act in operation

Transport (Amendment) Act 1993, No. 120/1993

Assent Date: 7.12.93
Commencement Date: Pt 1 (ss 1–3), ss 56, 58, 60, 61(2), 65–71, 73–79 on 7.12.93: s. 2(1); Pt 2 (ss 4–55), ss 57, 59, 61(1), 62, 63 on 19.12.93: s. 2(2); rest of Act on 30.5.94: s. 2(4)
Current State: All of Act in operation

Road Safety (Amendment) Act 1994, No. 17/1994

Assent Date: 10.5.94
Commencement Date: Ss 1, 2, 8 on 10.5.94: s. 2(1); rest of Act on 1.8.94: s. 2(3)
Current State: All of Act in operation

Medical Practice Act 1994, No. 23/1994

Assent Date: 17.5.94
Commencement Date: Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.7.94: Government Gazette 23.6.94 p. 1672
Current State: All of Act in operation

Magistrates' Court (Amendment) Act 1994, No. 33/1994

Assent Date: 31.5.94
Commencement Date: Ss 1, 2 on 31.5.94: s. 2(1); s. 27(5) on 14.12.93: s. 2(2); rest of Act on 24.10.94: Government Gazette 20.10.94 p. 2789
Current State: All of Act in operation

Transport (Further Amendment) Act 1994, No. 60/1994

*Road Safety Act 1986**Act No. 127/1986*

Assent Date: 15.6.94
Commencement Date: S. 29 on 15.6.94: s. 2(1)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Further Amendment) Act 1994, No. 78/1994

Assent Date: 22.11.94
Commencement Date: Ss 1, 2 on 22.11.94: s. 2(1); rest of Act on 22.5.95: s. 2(3)
Current State: All of Act in operation

Transport Accident (General Amendment) Act 1994, No. 84/1994

Assent Date: 29.11.94
Commencement Date: Ss 60(2), 61 on 18.12.94: Special Gazette (No. 96) 13.2.94 pp 1, 2; ss 56–59, 60(1) on 29.5.95: s. 2(6)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Project Development and Construction Management Act 1994, No. 101/1994

Assent Date: 13.12.94
Commencement Date: S. 68 on 22.5.95: Government Gazette 18.5.95 p. 1180
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Amendment) Act 1995, No. 7/1995

Assent Date: 19.4.95
Commencement Date: 19.4.95
Current State: All of Act in operation

Road Safety (Miscellaneous Amendments) Act 1995, No. 58/1995

Assent Date: 20.6.95
Commencement Date: Ss 14, 28 on 1.8.94: s. 2(2); s. 20 on 1.1.95: s. 2(3); ss 1, 2 on 20.6.95: s. 2(1); ss 3–9, 11–13, 15–17, 19, 21–25, 27 on 6.7.95; ss 18, 26 on 1.11.95: Government Gazette 6.7.95 p. 1698; s. 10 on 1.2.96: Government Gazette 25.1.96 p. 147
Current State: All of Act in operation

Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995

Assent Date: 5.12.95
Commencement Date: S. 51 on 1.8.94: s. 2(2); s. 52 on 5.12.95: s. 2(1)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Wheel Clamping) Act 1996, No. 25/1996

Assent Date: 2.7.96
Commencement Date: Ss 1, 2 on 2.7.96: s. 2(1); rest of Act on 1.8.96: Government Gazette 1.8.96 p. 1954
Current State: All of Act in operation

Road Safety (Amendment) Act 1996, No. 37/1996

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Assent Date: 6.11.96
Commencement Date: Ss 3, 5–8 on 21.11.96: Government Gazette 21.11.96 p. 2971; s. 4 on 1.7.97: s. 2(4)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Road Safety (Disclosure of Information) Act 1997, No. 30/1997

Assent Date: 27.5.97
Commencement Date: S. 7 on 27.5.97: s. 2(1); ss 4, 5 on 1.9.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Law and Justice Legislation Amendment Act 1997, No. 44/1997

Assent Date: 11.6.97
Commencement Date: S. 34 on 11.6.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Confiscation Act 1997, No. 108/1997 (as amended by No. 43/1998)

Assent Date: 23.12.97
Commencement Date: S. 155 on 1.7.98:
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Road Safety Act 1986**

3. Explanatory Details

¹ S. 3(1) def. of "drink-driving infringement": Section 23(1) of the **Road Safety (Amendment) Act 1994**, No. 17/1994 reads as follows:

23. Transitional provisions

- (1) The amendment of the Principal Act made by section 4(2) applies to any traffic infringement notice issued in respect of a drink-driving infringement after the commencement of that section, irrespective of when the infringement was committed.

² S. 15A: Section 63(1)–(3) of the **Transport (Amendment) Act 1993**, No. 120/1993 reads as follows:

63. Transitional provisions (Part 3)

- (1) The amendments of the **Road Safety Act 1986** made by sections 57 and 61(1) apply to an authorisation referred to in item 9 of Schedule 2 to that Act that was in force immediately before the commencement of those sections and any such authorisation may be cancelled or suspended in accordance with that Act as amended by those sections.
- (2) Any proceedings before the Road Transport Licensing Tribunal under that **Road Safety Act 1986** in relation to an authorisation referred to in item 9 of Schedule 2 to that Act that had not been finally determined by the Tribunal immediately before the commencement of sections 57 and 61(1) shall be determined by the Roads Corporation in accordance with that Act as amended by those sections.
- (3) If under sub-section (2) the Roads Corporation determines any proceedings, any thing done or any requirement complied with in relation to the proceedings before the commencement of sections 57 and 61(1) must, so far as consistent with the

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provisions of the **Road Safety Act 1986** as amended by those sections and the regulations made under that Act, be taken to have been done or complied with for the purposes of the determination by the Roads Corporation and the Roads Corporation may have regard to any record of the Road Transport Licensing Tribunal in relation to the proceedings.

³ S. 19(7): Section 23(2) of the **Road Safety (Amendment) Act 1994**, No. 17/1994 reads as follows:

23. Transitional provisions

- (2) The amendments of the Principal Act made by sections 5 and 9 have effect only with respect to full driver licences issued after the commencement of those sections and probationary driver licences converted after that commencement into full driver licences under section 21(7) of the Principal Act.

⁴ S. 48(2): Section 18(1) of the **Road Safety (Further Amendment) Act 1991**, No. 89/1991 reads as follows:

18. Transitional

- (1) The Principal Act as amended by section 9 of this Act applies only to offences committed on or after the commencement of section 9.

⁵ S. 49(7): Section 7 of the **Road Safety (Licence Cancellation) Act 1992**, No. 41/1992 reads as follows:

7. Transitional provision

The amendments made by this Act apply only to offences alleged to have been committed after its commencement.

⁶ S. 50(1): See note 5.

⁷ S. 50(1A): See note 5.

⁸ S. 50(1AB): See note 5.

⁹ S. 50(1B): See note 5.

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¹⁰ S. 50(4B): Section 7(4) of the **Road Safety (Amendment) Act 1990**, No. 5/1990 reads as follows:

7. Licence restoration reports

(4) Section 50(4B)(a) of the Principal Act does not apply to a person who applies for an order within 18 months after the commencement of this subsection.

¹¹ S. 50AA: Section 23(3) of the **Road Safety (Amendment) Act 1994**, No. 17/1994 reads as follows:

23. Transitional provisions

(3) The amendment of the Principal Act made by section 8 applies to any sentence imposed or application determined after the commencement of that section, irrespective of when the offence was committed.

¹² S. 50A(1): See note 5.

¹³ S. 50A(2): See note 5.

¹⁴ S. 52(1B): See note 3.

¹⁵ S. 52(3)–52(7):

S. 52(3) repealed by No. 5/1990 s. 9(b).

S. 52(4)(5) amended by No. 78/1987 s. 9(2), repealed by No. 5/1990 s. 9(b).

S. 52(6) amended by Nos 78/1987 s. 9(2), 57/1989 s. 3(Sch. item 173.12), repealed by No. 5/1990 s. 9(b).

S. 52(7) repealed by No. 5/1990 s. 9(b).

¹⁶ S. 55(4): Section 52 of the **Miscellaneous Acts (Omnibus Amendments) Act 1995**, No. 100/1995 reads as follows:

52. Savings

The amendments made to the **Road Safety Act 1986** by section 51 do not affect the rights of the parties—

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- (a) in the proceeding known as *Hill v Baird* heard and determined in the Magistrates' Court at Geelong on 31 May 1995; or
- (b) in the proceeding known as *Jones v Purcell* (Nos 4975 and 4978 of 1995) in the Supreme Court of Victoria.

¹⁷ S. 55(9): See note 5.

¹⁸ S. 55(9A): See note 16.

¹⁹ S. 55(9A): The amendments proposed by section 118(Sch. 1 item 50.4) of the **Medical Practice Act 1994**, No. 23/1994 are not included in this publication because the sub-sections inserted by section 10(6) of the **Road Safety (Amendment) Act 1994**, No. 17/1994 were proclaimed later.

²⁰ S. 55(9B): See note 18.

²¹ S. 55(9B): See note 16.

²² S. 55(9D): See note 18.

²³ S. 55(9D): See note 16.

²⁴ S. 55(9E): See note 18.

²⁵ S. 55(9E): See note 16.

²⁶ S. 55(14)(b): See note 16.

²⁷ S. 56: Sections 6, 7 of the **Road Safety (Amendment) Act 1995**, No. 7/1995 read as follows:

6. Designated places

For the purposes of section 56 of the **Road Safety Act 1986**, a place is deemed to have been specified as a designated place at a particular time (whether before or after the commencement of this Act) if at that time—

- (a) it was a public hospital within the meaning of the **Health Services Act 1988** as then in force; or
- (b) an Order made by the Governor in Council and published in the Government Gazette for the purposes of that section reasonably

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identified that place as the location of a hospital, clinic or other facility bearing a specified name, despite any inaccuracy in the name, spelling or description of that place or of the hospital, clinic or other facility and despite any change of name or relocation of the hospital, clinic or other facility since the making of the Order.

7. *Saving*

Section 6 does not affect the rights of the parties in the proceeding known as *Coleman v Hannigan* heard and determined in the Magistrates' Court at Frankston on 19 September 1994.

²⁸ S. 56(3): See note 5.

²⁹ S. 57(2): Section 4 of the **Road Safety (Certificates) Act 1990**, No. 66/1990 reads as follows:

4. *Saving*

The amendments made to the **Road Safety Act 1986** by section 3 do not affect the rights of the parties in the proceeding known as *Bracken v O'Sullivan* (No. 8248 of 1990) in the Supreme Court of Victoria.

³⁰ S. 57(6): See note 16.

³¹ S. 58(1): See note 29.

³² S. 58(2): See note 16.

³³ S. 58(2)(f): See note 16.

³⁴ S. 58(2): Section 18(2) of the **Road Safety (Further Amendment) Act 1991**, No. 89/1991 reads as follows:

18. *Transitional*

- (2) The Principal Act as amended by section 13 of this Act applies only to a hearing commencing more than 28 days after the commencement of section 13.

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³⁵ S. 58(2E): See note 16.

³⁶ S. 64(1): Section 7 of the **Crimes (Culpable Driving) Act 1992**, No. 13/1992 reads as follows:

7. Transitional

The amendments made by this Act apply only to offences alleged to have been committed after the commencement of this Act.

³⁷ S. 64(2): See note 36.

³⁸ S. 66(3)(c) (*repealed*): Section 11(4) of the **Road Safety (Amendment) Act 1990**, No. 5/1990 reads as follows:

11. Infringements

(4) The amendment made by sub-section (3) applies only in relation to offences committed after the commencement of sub-section (3).

³⁹ S. 66(3A): Section 28(10) of the **Magistrates' Court (Amendment) Act 1994**, No. 33/1994 reads as follows:

28. Transitional provisions

(10) The amendments made by section 25 (extension of time for commencing certain proceedings) apply only to offences alleged to have been committed after the commencement of that section.

⁴⁰ S. 86(3)(a): Section 5(2) of the **Road Safety (Further Amendment) Act 1994**, No. 78/1994 reads as follows:

5. Parking Infringements

(2) The amendment of the Principal Act made by sub-section (1) applies only to parking infringements alleged to have occurred after the commencement of that sub-section.

⁴¹ S. 86(4A): See note 39.

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⁴² S. 89A(2): Section 21 of the **Road Safety (Drivers) Act 1991**, No. 19/1991 reads as follows:

21. Transitional

The amendment made to the Principal Act by section 15(4) of the **Road Safety (Amendment) Act 1990** applies only with respect to infringement notices issued on or after 8 May 1990.

⁴³ S. 89A(8): See note 5.

⁴⁴ S. 89B(3)(g): See note 5.

⁴⁵ S. 90(1): See note 5.

⁴⁶ S. 90(2): See note 5.

⁴⁷ S. 90(3): See note 5.

⁴⁸ S. 90(3)(a): See note 5.

⁴⁹ S. 90(3)(b): See note 5.

⁵⁰ S. 90(5): See note 5.

⁵¹ Sch. 2 item 9: See note 2.