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**ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL  
2016**

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**Explanatory Memorandum**

1. This Bill, which is promoted by the Department of Infrastructure ("the Department"), makes a series of amendments to the Road Traffic Act 1985, the Road Traffic Regulation Act 1985 and the Local Government (Miscellaneous Provisions) Act 1984.
2. **Part 1** (*clauses 1 and 2*) gives the Bill its short title and provides for it to come into operation on one or more days appointed by the Department by order.
3. **Part 2** (as introduced by *clause 3*) makes amendments to the Road Traffic Act 1985. *Clause 4* extends to the driving of animal-drawn vehicles a series of offences that apply at present only to the driving of mechanically propelled vehicles.
4. Consequent upon *clause 6*, *clause 5* amends section 3A.
5. *Clause 6* inserts a new section 5AA making it an offence to drive or be in charge of a mechanically propelled or animal-drawn vehicle with a concentration of a specified controlled drug above a specified limit, the drugs and limits being specified in subsection (8).
6. *Clause 7* substitutes "preliminary breath test" for "breath test" in section 5B, being a more accurate description of the test to which the section relates. The clause concludes by extending subsection (2) to serious driving offences as defined in *clause 33*.
7. *Clause 8* inserts a new section 5BA, which provides for the administering of a preliminary drug test by a constable in specified circumstances. The nature of the test is set out in subsection (8).
8. *Clause 9* amends section 6 by extending the locations where a requirement to provide a specimen of breath may be made by a constable in the course of investigating whether a specified offence is committed, being an offence which now includes that under new section 5AA. The clause continues by empowering a constable to arrest without warrant a suspected offender who fails to provide a specimen of breath, blood or urine when required to do so.
9. *Clause 10* repeals what is presently section 7(2) on the ground that devices now used to analyse specimens of breath provide exceedingly accurate readings.
10. *Clause 11* extends section 7B to an offence under new section 5AA and makes a consequential substitution of subsection (2).
11. *Clause 12* substitutes a new section 7C, which now extends to proceedings for an offence under new section 5AA.

12. Besides, *inter alia*, defining other expressions used in the preceding provisions, *clause 13* substitutes a new definition of "the prescribed limit", being the proportion of alcohol in a driver's breath, blood or urine beyond which an offence under section 3A or 5A is committed. At present the proportion is respectively 35 micrograms, 80 milligrams, or 107 milligrams of alcohol in 100 millilitres of breath, blood or urine, being now reduced to 22, 50, and 67.
13. *Clause 14* substitutes a new section 20, which is extended to vehicles that are not mechanically propelled and to ridden animals. Subsection (2) provides that where an accident specified in subsection (1) occurs, the driver or rider must not only stop the vehicle but also keep it stationary nearby for as long as is reasonably necessary to comply with the provision of information under subsection (3).
14. *Clause 15* substitutes a new section 24, which extends from motor cycles to vehicles generally the Department's power to make regulations about the wearing or sale of protective helmets. Vehicles which may become the subject of regulations include motorcycle sidecars and quadricycles, which at present fall outside the scope of the section.
15. *Clause 16* repeals the exemption from wearing seat belts presently conferred on taxi drivers.
16. *Clause 17* extends the offence under section 25A to interfering with an animal-drawn vehicle.
17. *Clause 18* extends to the parking of motor vehicles the offence under section 28, which presently applies to the driving of them off roads, etc.
18. *Clause 19* substitutes a new section 29, which authorises the Department or a local authority to use its vehicles or appliances on bridle-paths, cycle-paths or cycle tracks in addition, as at present, to their use on footpaths or footways. The section is extended to statutory undertakers.
19. *Clause 20* substitutes a new section 30 extending the prohibition on driving on footways to riding on them, but the Department is now empowered by order to exempt prescribed vehicles from that prohibition, etc.
20. *Clause 21* inserts a new section 31A, which provides for the drawing up and publication of a code of practice for horse-drawn vehicles. It will have the same purposes as the Manx Highway Code and be a companion to it.
21. *Clause 22* substitutes 3 new sections. Section 42 extends from constables to authorised examiners of the Department the power in specified circumstances to require the production of a driving licence. Those circumstances are extended to events taking place on public places besides roads. Section 43 is likewise extended but no longer exempts drivers of invalid carriages from the requirement to provide their names and addresses in specified circumstances. Section 44, which makes a like requirement applying to persons generally, is extended from 2 restricted offences to serious driving offences (as defined in clause 33) and to circumstances in which a constable reasonably suspects that such an offence has been committed. A constable's power of arrest without

- warrant is extended to circumstances in which he or she has reasonable grounds for believing that a person's stated name or address is false or that the stated address is not a satisfactory address for the service of a summons.
22. *Clause 23* substitutes a new section 46. It makes no substantive change, being redrafted in consequence of expressions now contained in clause 33.
  23. *Clause 24* inserts a new section 47AB, which makes provision for the enforcement of specified or prescribed fines and vehicle duty — provision that is in line with existing sections 47A and 47B. A constable or a person appointed by the Department or by a court is empowered to seize and remove a motor vehicle if he or she has reasonable grounds for believing that its owner owes a relevant fine or that a relevant fine is owed in respect of the vehicle, being a fine the payment of which has been outstanding for at least 35 days. A person appointed by the Department is given like power when he or she comes upon a motor vehicle on a road and has reasonable grounds for believing that a current vehicle licence has not been displayed on the vehicle for over a month. A motor vehicle may not be released until the fees, charges or costs incurred in its seizure and retention have been paid together with the relevant fine or vehicle duty, as the case may be. If no such payment is made in full within 35 days, the vehicle may be disposed of and the proceeds used to meet the payment. Section 47B is applied with modifications, giving the Department power to make further provision by regulations as to the removal, retention or storage of seized vehicles and for their release, forfeiture or disposal.
  24. *Clause 25* substitutes a new section 47B(3) placing a bar, except with the leave of the court, on civil claims arising in connection with the seizure, etc of vehicles. Consequent upon new sections 5AA and 47AB, *clause 26* substitutes a new section 47C while *clause 27* amends the interpretive provisions of section 47D.
  25. *Clause 28* extends section 48 to the forgery of a Professional Driver's Card (to which clause 34 in part relates).
  26. *Clause 29* substitutes a new section 47(4), which makes no substantive change, together with a new section 47(5) as respects a Professional Driver's Card.
  27. *Clause 30* substitutes a new section 50 in order to reflect the interpretive provisions of clause 33. No substantive change is made.
  28. *Clause 31* inserts a new section 53A, which provides for driving disqualification where a vehicle is used for the purposes of crime.
  29. *Clause 32* substitutes a new section 68(1), which is extended to enabling the Department to specify by regulations mechanically propelled vehicles that are not motor vehicles for the purposes of the Act.
  30. *Clause 33* substitutes a new section 72 defining general interpretive expressions. A definition of "authorised insurer" is inserted, requiring now that such a person must provide relevant information to the Motor Insurer's Database, which the Department and the police propose to use in connection with the detection of crime. Otherwise certain new definitions are inserted that arise in conjunction with amendments made elsewhere by this Bill.

31. *Clause 34* inserts 3 new sections. Section 73A enables the Department to make safety regulations under the Consumer Protection Act 1991 with respect to road traffic, road transport or related matters. Section 73B provides for the regulation of persons who drive vehicles of prescribed classes for professional purposes. Section 73C provides that where a body corporate is convicted of contravening construction and use regulations, its directors etc. are in certain specified circumstances guilty of the same offence and liable personally to the penalty prescribed for it.
32. *Clause 35* substitutes a new section 74(3)(b), which extends Tynwald approval to orders made under section 47AB and otherwise omits references to provisions that are either repealed by this Bill or confer no power to make orders.
33. *Clause 36* amends Schedule 2 in various ways. Regulations under paragraph 1(i) are empowered to provide that the testing and inspection of a vehicle may include its being driven or drawn and may take place on the premises where it is situated, but without the consent of the owner of the premises if it is reasonably suspected that the vehicle was involved in an accident. Paragraph 1 is further amended by enabling regulations to make provision as to the construction and equipment of vehicles for use, and the conditions under which they may be used, by disabled persons. Intentional obstruction of a person authorised to test or inspect a vehicle under the regulations is made an offence. Provisions of the ADR (as defined) that are applied by regulations but are subsequently amended or replaced in later editions of the ADR are to apply automatically in the Island with substantially the same modifications, if any, that were made to the original provisions by the regulations. Finally, the power in paragraph 6I to prohibit the driving of unfit vehicles is extended to those tested, inspected or examined under the Road Transport Act 2001.
34. *Clause 37* extensively amends Parts I and II of Schedule 3. As far as Part I is concerned, regulations under paragraph 2 are empowered to provide that a motorcyclist taking a driving test must wear prescribed clothing. Paragraph 4, which is substituted, makes certain substantive changes. A declaration accompanying an application for a driving licence must now state, in a case where an applicant is not suffering from a relevant disability, whether he or she is suffering from a prospective relevant disability (as defined). Provision is inserted requiring the Department to include in a licence the driving conditions to which the holder is subject in a case where the Department is satisfied that the person in question is suffering from a disability presenting a danger to the public if the conditions are not complied with. If the Department is satisfied that a person is suffering from a prospective relevant disability, it may grant a licence for a period determined in accordance with paragraph 7(1)(b). It is made an offence, firstly, to make a false declaration to obtain a licence; secondly, to drive a motor vehicle contrary to any limitation or condition included in a licence; and finally, to fail to return forthwith a licence to the Department when required to do so under paragraph 4. New paragraphs 4A and 4B are inserted: the first requires that an application to renew a licence to drive large passenger or heavy goods vehicles or combinations must be accompanied by a certificate

from a medical practitioner that the applicant is still fit to drive them; and the second requires that an applicant for a licence who is aged 75 or over must have passed a prescribed eyesight test. Paragraph 5 is amended to prescribe the fees payable to medical practitioners under the paragraph. It also requires such persons to have regard to medical advice issued by the Driver and Vehicle Licensing Agency in Great Britain when exercising their functions under it. Paragraph 6 is amended so that the prescribed restrictions to which a provisional licence holder is subject are extended to persons driving a vehicle by virtue of a provisional entitlement conferred by a full licence. It is made an offence to contravene any of the prescribed restrictions. Para 6 also empowers regulations to prescribe the clothing to be worn by motorcyclists taking a course of compulsory basic training. Provision is inserted in paragraph 6B to the effect that newly qualified drivers shall at an earlier date cease to be subject to the prescribed restrictions applying to them if they pass a prescribed course of driving instruction. Paragraph 9 is substituted, which on the one hand provides now for the revocation of a licence if an eyesight test is failed and on the other inserts an offence of not returning a revoked licence forthwith to the Department when required to do so.

35. Part II of Schedule 3 is also amended. Paragraph 11(1A)(b) and (3) is amended, and (3C) inserted, so as to cater for disqualification in connection with an offence under new section 5AA(1)(a) and (2). Provision is inserted in paragraph 12 reducing from 12 or over to 6 or over the number of penalty points leading to the disqualification of a provisional or newly qualified driver or to the revocation of his or her licence, as the case may be. The effects of the disqualification or the revocation are specified. Paragraph 20(4), which relates to the delivery of a licence to a court, is extended to persons prosecuted for an offence involving discretionary disqualification. Paragraph 20(8) is substituted so as to specify the period during which an endorsement on a licence remains effective on conviction of certain offences involving drink or drugs. Paragraph 22 is now modified and enables the Department to amend the complexity of Schedule 3 by regulations subject to Tynwald approval.
36. Other amendments to Schedule 3 are made, being amendments of an ancillary, consequential or incidental nature.
37. *Clause 38* makes drafting improvements to Schedule 4. No substantive change is made.
38. *Clause 39* enables the Department to make regulations as to the use of information obtained from the Motor Insurers' Database in furtherance of the detection of crime. It repeals provisions now considered redundant, substitutes interpretive provisions, and makes transitional arrangements consequent upon the definition of "authorised insurer" in clause 33.
39. *Clause 40* amends the table in Part I of Schedule 6 relating to the prosecution and punishment of offenders. New entries are inserted in consequence of provisions elsewhere in the Bill, and others are amended on the ground that they are mistakenly worded or otherwise. The penalties for certain offences are

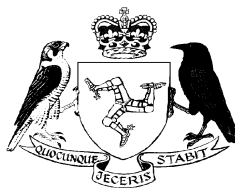
increased: contravention of seat belt offences will now carry a maximum penalty of £2,500 (presently £500), discretionary disqualification, obligatory endorsement, and 3 penalty points; the maximum fine for driving with defective eyesight is increased from £1,000 to £2,500; and conviction for driving while uninsured or unsecured against third-party risks — or while disqualified by order of a court — now carries obligatory disqualification.

40. Consequent upon clause 6, *clause 41* amends Part IV of Schedule 6.
41. *Clause 42* makes a consequential amendment of the Police Powers and Procedures Act 1998.
42. **Part 3** (as introduced by *clause 43*) makes amendments to the Road Traffic Regulation Act 1985. *Clause 44* amends section 1, firstly by repealing a redundant provision, secondly by enabling traffic regulation orders to provide for the charging of fees, and finally by exempting vehicles being used by the emergency services from complying with such orders in emergencies unless the orders specifically provide otherwise.
43. *Clause 45* amends section 2 by transposing from the section to orders made under it the prescribing of affected vehicles.
44. *Clause 46* inserts a new section 2B, the purpose of which is primarily to regulate the entry into the Island, and the use in it, of overseas caravans, their entry being at present dependent on a gentleman's agreement with the Isle of Man Steam Packet Company. The section enables orders subject to Tynwald approval to be made prohibiting or restricting the use of vehicles on or off roads either throughout the Island or in prescribed localities.
45. *Clause 47* repeals section 3(7), which limits, without the Council of Ministers' approval, the period during which temporary notices regulating traffic may continue in force.
46. *Clause 48* makes provision for alternative school crossings where prescribed locations cannot be used for a temporary period.
47. *Clause 49* substitutes new provision in section 14 with respect, firstly, to moving vehicles in an emergency from designated on-street parking places and, secondly, to civil claims relating to the exercise of the Department's or the Chief Constable's functions under the section.
48. *Clause 50* amends section 14A, enabling overstay charges to be prescribed.
49. *Clause 51* amends section 14C by making it an offence to leave a vehicle in a suspended designated parking place.
50. *Clause 52* amends section 17, enabling emergency traffic signs to be placed on roads in circumstances that include the use of explosives at a quarry or in other prescribed circumstances.
51. *Clause 53* inserts a new section 19A, which makes it an offence to deface traffic signs or other street furniture. On conviction a court may, in addition to imposing a penalty, order an offender to pay any cost incurred as a result of the

- defacement. If defaced property is owned or operated by a local authority or a statutory undertaker, the Department may order it to make good the defacement or replace the property.
52. *Clause 54* amends section 22 by imposing an increased maximum fine for speeding in a residential area, road works area, or school zone.
  53. *Clause 55* substitutes a new section 27 exempting affected motor vehicles from speed limits. Such vehicles are extended to those as may be prescribed. Drivers of all affected vehicles are required to have satisfactorily completed a course of training in the driving of vehicles at high speed.
  54. *Clause 56* amends section 28 by enabling regulations to provide for the recognition of disabled persons' badges issued by a jurisdiction outside the Island. The offence of failing to produce a badge for inspection now applies on or off roads and is extended to a requirement made by a traffic warden or a parking controller as well as by a constable.
  55. *Clause 57* inserts a new section 28A making it an offence to misuse a disabled person's badge.
  56. *Clause 58* substitutes a new section 33A, which now enables the Department to appoint parking controllers to exercise the functions of a constable under Schedule 5A in relation to offences specified by the Department by order. The Department is empowered to employ as parking controllers employees of an employer and to delegate its powers of appointment to local authorities.
  57. *Clause 59* makes the same provision for the purposes of this Act as section 68 of the Road Traffic Act 1985 makes for the purposes of that Act.
  58. *Clause 60* supplements the interpretive provisions in section 38.
  59. In view of the complexity of Schedules 5 and 5A *clause 61* enables regulations to be made amending them subject to Tynwald approval.
  60. *Clause 62* amends section 39 by supplementing the regulations and orders that require Tynwald approval.
  61. *Clause 63* substitutes a new Schedule 1, which alters the way in which temporary notices are to be publicised and enables the Department to substitute other provision for it in regulations requiring Tynwald approval.
  62. *Clause 64* substitutes a new Schedule 2 that transposes to regulations requiring Tynwald approval the procedure to be followed when making orders to which the Schedule applies.
  63. *Clause 65* prescribes the maximum fines for new offences inserted by the Bill and increases from £1,000 to £3,000 the maximum fine for speeding.
  64. *Clause 66* amends Schedule 5A in consequence of subsection (31) of clause 37 and also specifies a small number of new fixed penalty offences, the nature of which is in keeping with those presently specified.
  65. *Clause 67* makes consequential amendments to the Disabled Persons (Badges for Motor Vehicles) Regulations 2002.

66. **Part 4** (as introduced by *clause 68*) makes amendments to the Local Government (Miscellaneous Provisions) Act 1984.
67. *Clause 69* amends section 2 in consequence of the provision made by subsection (1)(b) and later in this Part.
68. *Clause 70* increases from £1,000 to £1,500 the maximum fine on conviction of the offence of failing to remove an illegally parked vehicle when required by a constable to do so.
69. *Clause 71* inserts a new section 3A enabling an appropriate authority (as defined) to remove a vehicle from a road or public place in specified circumstances if, having received a complaint, it is satisfied that the vehicle is in such a neglected condition that its presence makes it offensive to the public.
70. *Clause 72* amends section 4 consequent upon clause 71.
71. *Clause 73* substitutes 4 new sections for sections 5 to 8. They make analogous provision to that contained in clauses 24 and 25 and in section 47B as amended by them. Interpretive provision is also made.
72. *Clause 74* repeals Schedule 1, thereby enabling an appropriate authority to remove a parked vehicle, or a constable to require the moving of the vehicle by the person in charge of it, if any statutory prohibition or restriction is being contravened.
73. **Part 5** (*clause 75*) repeals 2 Acts that are now redundant.
74. By and large the provisions of the Bill are cost-neutral, being either self-financing through the recovery of costs or being administered by existing personnel as part of their ongoing responsibilities with no corresponding increase in budgetary provision. There will, however be some additional costs in purchasing drug-testing devices, whereas the ongoing costs of publicising road traffic orders and notices will be markedly reduced.
75. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.





## ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2016

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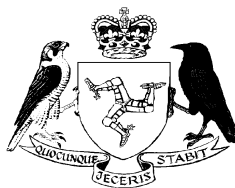
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## ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2016

A **BILL** to amend the Road Traffic Act 1985, the Road Traffic Regulation Act 1985 and the Local Government (Miscellaneous Provisions) Act 1984

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1 – INTRODUCTORY

#### 1 Short title

The short title of this Act is the Road Traffic Legislation (Amendment) Act 2016.

#### 2 Commencement

- (1) Except for Part 1, this Act comes into operation on a day or on days appointed by order of the Department of Infrastructure.
- (2) Different days may be appointed for different provisions and for different purposes.
- (3) An order under subsection (1) may include necessary or expedient transitional or saving provisions.

### PART 2 – AMENDMENTS TO THE ROAD TRAFFIC ACT 1985

#### 3 Road Traffic Act 1985 amended

- (1) This Part amends the *Road Traffic Act 1985*.
- (2) Accordingly, a section or Schedule referred to in this Part is a reference to a section of, or a Schedule to, that Act.

#### 4 Sections 1, 1A, 2, 2B, 2C, 3, 3A, 5, 5A, 5B and 7B amended

In sections 1, 1A, 2, 2B, 2C, 3, 3A, 5, 5A, 5B and 7B for “mechanically propelled vehicle”, wherever occurring, substitute **“mechanically propelled or animal-drawn vehicle”**.

#### 5 Section 3A amended – causing death by careless driving when under influence of drink or drugs

In section 3A (1), after paragraph (b) insert—

**“(ba) he has in his body a specified controlled drug and the proportion of it in his blood or urine at that time exceeds the limit for that drug specified in the table set out in section 5AA(8);”**.

#### 6 New section 5AA - driving or being in charge of a mechanically propelled or animal-drawn vehicle with concentration of specified controlled drug above specified limit

After section 5A insert —

##### **5AA Driving or being in charge of a mechanically propelled or animal-drawn vehicle with concentration of specified controlled drug above specified limit**

- (1) This section applies where a person (“driver”)—
- (a) drives or attempts to drive a mechanically propelled or animal-drawn vehicle on a road or other public place; or
  - (b) is in charge of a mechanically propelled or animal-drawn vehicle on a road or other public place,
- and there is in the driver’s body a specified controlled drug.
- (2) The driver is guilty of an offence if the proportion of the drug in the driver’s blood exceeds the limit specified in the table set out in subsection (8) for that drug.
- (3) It is a defence for a driver charged with an offence under this section to show that—
- (a) the specified controlled drug had been prescribed or supplied to the driver for medical or dental purposes;
  - (b) the driver took the drug in accordance with any directions given by the person by whom the drug was prescribed or supplied, and with any accompanying instructions (so far as consistent with any such directions) given by the manufacturer or distributor of the drug; and

- (c) the driver's possession of the drug immediately before taking it was not unlawful under section 5(1) of *the Misuse of Drugs Act 1976* (restriction of possession of controlled drugs) because of an exemption in regulations made under section 7 of that Act (authorisation of activities otherwise unlawful under foregoing provisions).
- (4) The defence in subsection (3) is not available if the driver's actions were—
- (a) contrary to any advice, given by the person by whom the drug was prescribed or supplied, about the amount of time that should elapse between taking the drug and driving a mechanically propelled or animal-drawn vehicle, or
- (b) contrary to any accompanying instructions about that matter (so far as consistent with any such advice) given by the manufacturer or distributor of the drug.
- (5) If evidence is adduced that is sufficient to raise an issue with respect to the defence in subsection (3), the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (6) It is a defence for a driver charged with an offence by virtue of subsection (1)(b) to prove that at the time the driver is alleged to have committed the offence the circumstances were such that there was no likelihood of the driver driving the vehicle whilst the proportion of the specified controlled drug in the driver's blood remained likely to exceed the limit specified in the table set out in subsection (8) for that drug.
- (7) The court may, in determining whether there was such a likelihood, disregard any injury to the driver and any damage to the vehicle.
- (8) The following table specifies the controlled drugs for the purposes of this section and, in each case, the limit in blood for the purposes of the offence under subsection (2).

Table	
Controlled drug	Limit (micrograms per litre of blood)
Benzoyllecgonine	50
Clonazepam	50
Cocaine	10
Delta-9-Tetrahydrocannabinol	2
Diazepam	550

Flunitrazepam	300
Ketamine	20
Lorazepam	100
Lysergic Acid Diethylamide	1
Methadone	500
Methylamphetamine	10
Methylenedioxymethamphetamine	10
6-Monoacetylmorphine	5
Morphine	80
Oxazepam	300
Temazepam	1000

- (9) The Department may, with the approval of Tynwald, make regulations amending the table in subsection (8).
- (10) The regulations may set the limit in respect of a controlled drug as zero. **22**.

## 7 Section 5B amended - preliminary breath test

- (1) For the head note to section 5B substitute **23** Preliminary breath test **22**.
- (2) In section 5B for “breath test”, wherever occurring, substitute **23** preliminary breath test **22**.
- (3) In section 5B(2) for “a specified offence” substitute **23** a serious driving offence **22**.
- (4) Omit section 5B(9).

## 8 New section 5BA – preliminary drug test

After section 5B insert —

### **23** 5BA Preliminary drug test

- (1) If any of subsections (2) to (5) applies a constable may require a person to undertake a preliminary drug test administered by that constable or another constable.
- (2) This subsection applies if a constable reasonably suspects that the person—
- (a) is driving, is attempting to drive or is in charge of a mechanically propelled or animal-drawn vehicle on a road or other public place; and
  - (b) has a drug in his body or is under the influence of a drug.



- (3) This subsection applies if a constable reasonably suspects that the person—
- (a) has been driving, attempting to drive or in charge of a mechanically propelled or animal-drawn vehicle on a road or other public place while having a drug in his body or while unfit to drive because of a drug; and
  - (b) still has a drug in his body or is still under the influence of a drug.
- (4) This subsection applies if a constable reasonably suspects that the person—
- (a) is or has been driving, attempting to drive or in charge of a mechanically propelled or animal-drawn vehicle on a road or other public place; and
  - (b) has committed a serious driving offence while the vehicle was in motion.
- (5) This subsection applies if—
- (a) an accident occurs owing to the presence of a mechanically propelled or animal-drawn vehicle on a road or other public place; and
  - (b) a constable reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.
- (6) A person commits an offence if without reasonable excuse he fails to undertake a preliminary drug test in pursuance of a requirement imposed under this section.
- (7) A constable may administer a preliminary drug test by virtue of any of subsections (2) to (4) only if he is in uniform.
- (8) A preliminary drug test is a procedure by which a specimen of sweat or saliva is—
- (a) obtained; and
  - (b) used for the purpose of obtaining, by means of a device of a type approved by the Department of Home Affairs, an indication whether the person to whom the test is administered has a drug in his body.
- (9) A preliminary drug test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed;
  - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him; or
  - (c) at a hospital.
- (10) A constable may arrest a person without warrant if —

- (a) the person fails to undertake a preliminary drug test; and
- (b) the constable reasonably suspects that the person has a drug in his body or is under the influence of a drug.

(11) A constable may, for the purpose of —

- (a) requiring a person to undertake a preliminary drug test under subsections (1) and (5) in a case where he has reasonable cause to suspect that the accident involved injury to another person, or
- (b) arresting him in such a case under subsection (10),

enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be. **22**.

## 9 Section 6 amended – provision of specimens for analysis

(1) In section 6(1) for section 3A, 5 or 5A” substitute **3A** section 3A, 5, 5A or 5AA **22**.

(2) For section 6(2) substitute —

**3A**(2) A requirement under this section to provide specimens of breath may only be made —

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

(2A) A constable may not impose a requirement under subsection (2)(c) unless the constable —

- (a) is in uniform: or
- (b) has imposed a requirement on the person concerned to co-operate with a preliminary breath test in circumstances where section 5B(1) applies. **22**.

(3) For subsection 6(3) substitute —

**3A**(3) A requirement under this section to provide a specimen of blood or urine can only be made —

- (a) at a police station; or
- (b) at a hospital. **22**.

(4) After section 6(7) insert —

**3A**(8) A constable may arrest a person without warrant if —

- (a) the person fails to provide a specimen when required to do so in pursuance of this section; and

- (b) the constable reasonably suspects that the person has alcohol or a drug in his body or is under the influence of a drug. **22**.

## 10 Section 7 amended – choice of specimens of breath

For subsections 7(1) and (2) substitute –

**23** Of any two specimens of breath provided by a person in pursuance of section 6 that with the lower proportion of alcohol in the breath must be used and the other must be disregarded. **22**.

## 11 Section 7B amended – detention of persons affected by alcohol or a drug

- (1) In subsection (1) for “section 5 or 5A” substitute **24**section 5, 5A or 5AA **22**

- (2) For section 7B(2) substitute –

**24**(2) A person shall not be detained in pursuance of this section if it appears to a constable that there is no likelihood of his driving or attempting to drive a mechanically propelled or animal-drawn vehicle whilst—

- (a) the person's ability to drive properly is impaired;
- (b) the proportion of alcohol in the person's breath, blood or urine exceeds the prescribed limit; or
- (c) the proportion of the specified controlled drug in the person's blood exceeds the limit specified in the table set out in section 5AA(8). for that drug. **22**.

## 12 Section 7C amended - use of specimens in proceedings for an offence under section 3A, 5, 5A or 5AA

- (1) For the head note to section 7C substitute –

**25** 7C Use of specimens in proceedings for an offence under section 3A, 5, 5A or 5AA”

- (2) For subsections (1), (2) and (3) substitute –

**25**(1) This section and section 7D apply in respect of proceedings for an offence under section 3A, 5, 5A or 5AA.

(2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by or taken from the accused shall, in all cases (including cases where the specimen was not provided or taken in connection with the alleged offence), be taken into account and –

- (a) it is to be assumed, subject to subsection (3), that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen;
  - (b) it is to be assumed, subject to subsection (3A), that the proportion of a drug in the accused's blood or urine at the time of the alleged offence was not less than in the specimen.
- (3) The assumption in subsection (2)(a) shall not be made if the accused proves —
- (a) that he consumed alcohol before he provided the specimen or before the specimen was taken and —
    - (i) in relation to an offence under section 3A, after the time of the alleged offence, and
    - (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place; and
  - (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to drive through drink, would not have been such as to impair his ability to drive properly.
- (3A) The assumption in subsection (2)(b) is not to be made if the accused proves—
- (a) that he took the drug before he provided the specimen or had the specimen taken from him and—
    - (i) in relation to an offence under section 3A, after the time of the alleged offence, and
    - (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place; and
  - (b) that had he not done so the proportion of the drug in his blood or urine—
    - (i) in the case of a specified controlled drug, would not have exceeded the limit specified in the table set out in subsection 5AA(8) for that drug, and
    - (ii) if it is alleged that he was unfit to drive through drugs, would not have been such as to impair his ability to drive properly. **22**.

### 13 Section 7E amended — interpretation of sections 3A and 5 to 7D

- (1) For section 7E(2) substitute —

20(2) In those sections —

“**controlled drug**” has the meaning given to that expression by section 2 of the *Misuse of Drugs Act 1976*;

“**drug**” includes any intoxicant other than alcohol;

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

“**prescribed limit**” means the proportion of alcohol prescribed in 100 millilitres of a person’s breath, blood or urine but, if no proportion is prescribed, it means the following proportion of alcohol in 100 millilitres —

- (a) of a person’s breath — 22 micrograms;
- (b) of a person’s blood — 50 milligrams; or
- (c) of a person’s urine — 67 milligrams;

“**preliminary breath test**” has the meaning given to that expression by section 5B(8);

“**preliminary drug test**” has the meaning given to that expression by section 5BA(8);

“**registered health care professional**” means a person (other than a medical practitioner) who is —

- (a) a registered nurse; or
- (b) a registered member of a health care profession this is designated for the purposes of this paragraph by an order made by the Department;

“**specified controlled drug**” means a controlled drug specified in the table set out in section 5AA(8). 21.

(2) Omit section 7E(5).

## 14 Section 20 repealed and replaced — duty of driver or rider of a vehicle on occurrence of an accident

For section 20 substitute —

### 20 Duty of driver or rider of a vehicle on occurrence of an accident

- (1) This section applies where, owing to the presence of a vehicle on a road or on any other public place, an accident occurs in which —
  - (a) a person other than the driver or rider of the vehicle sustains a personal injury;
  - (b) an animal is injured or killed, not being an animal that was in, on or attached to the vehicle or that comprised it; or
  - (c) any relevant property other than the vehicle is damaged.

- (2) The driver or rider of the vehicle must stop the vehicle and keep it stationary at or near the place where the accident occurred for as long as is reasonably necessary to comply with subsection (3).
- (3) The driver or rider must —
- (a) provide his name and address;
  - (b) provide the name and address of the owner of the vehicle; and
  - (c) in the case of a motor vehicle, provide its identification mark and (other than in the case of an invalid carriage) produce evidence of insurance or security for the vehicle,
- to any person who has reasonable grounds for requiring them.
- (4) If —
- (a) for any reason the driver or rider fails or is unable to comply with a requirement under subsection (3); or
  - (b) nobody requires the driver or rider to comply with that subsection,
- the driver or rider must report the accident, provide the information and produce the evidence required by the subsection at a police station or to a constable as soon as possible but in any case within 24 hours of the occurrence of the accident.
- (5) Despite the fact that the driver or rider may have complied with subsection (3), if the accident has directly or indirectly resulted in personal injury to another person, the driver or rider must —
- (a) report the accident; and
  - (b) provide the information and produce the evidence required by subsection (3),
- at a police station or to a constable as soon as possible but in any case within 24 hours of the occurrence of the accident.
- (6) Subject to subsection (7), a driver or rider is guilty of an offence if he fails —
- (a) to comply with subsection (2), (4) or (5); or
  - (b) to comply without reasonable excuse with subsection (3).
- (7) A driver or rider shall not be convicted of an offence under subsection (6)(a) for failing to comply with subsection (4) or (5) by reason only of failure to produce evidence of insurance or security for the vehicle if within 5 days after the occurrence of the accident the driver or rider produces the evidence at such police station as may be specified by him at the time when he reported the accident.
- (8) In this section —

“**animal**”, in respect of an animal that is injured or killed in an accident, means an ass or a horse, bovine animal, mule, sheep, pig, goat, dog or cat;

“**personal injury**” includes injury resulting in death;

“**relevant property**” means any other vehicle or any other property on, constructed on, fixed to, growing in or otherwise forming part of the land on which the road or place where the accident occurred is situated or land adjacent to that road or place;

“**rider**”, in respect of a vehicle, does not include a passenger carried on a vehicle;

“**vehicle**” includes a ridden animal or a trailer drawn by a vehicle. **22**.

## 15 Section 24 repealed and replaced — protective helmets

For section 24 substitute —

### **24 Protective helmets**

- (1) The Department may make regulations that require a person driving or riding in or on a vehicle of a specified class or riding on an animal of a specified class to wear a protective helmet of a specified description.
- (2) A person is guilty of an offence if he drives or rides in or on a vehicle or rides on an animal in contravention of regulations made under subsection (1).
- (3) The Department may make regulations prescribing, by reference to shape, construction or any other quality, types of helmet recommended as affording protection to a person on or in a vehicle or riding on an animal from injury in the event of an accident.
- (4) A person is guilty of an offence if he sells, or offers for sale, a helmet as a helmet for affording protection as mentioned in subsection (3) and the helmet is not of a type prescribed under that subsection.
- (5) However, a person shall not be convicted of an offence under subsection (4) in respect of the sale or the offer for sale of a helmet if he proves that it was sold or offered for sale for export from the British Islands.
- (6) Schedule 1 has effect in respect of a contravention of subsection (4).
- (7) If the Department is satisfied that safety regulations under Part II of the *Consumer Protection Act 1991* make appropriate provision for regulating the sale of helmets for use by persons in or on

vehicles or riding on animals, the Department may by order repeal any provision of this section (except subsections (1) and (2)) and Schedule 1, and any relevant provision of Part I of Schedule 6, appearing to the Department to be superseded by the said Part II and those regulations.

- (8) In subsection (1) “specified” means specified in the regulations.
- (9) A reference in this section to sell or to offer for sale includes to let on hire or to offer to let on hire.
- (10) In this section and in Schedule 1 “helmet” includes any headgear. **22**.

#### 16 Section 25 amended - seat belts

Section 25(2)(b)(iv) is repealed.

#### 17 Section 25A amended - causing danger to road-users

For section 25A(1)(b) substitute —

**23**(b) interferes with a motor vehicle, animal-drawn vehicle, trailer or cycle, or **22**.

#### 18 Section 28 amended — driving motor vehicles elsewhere than on roads

For section 28(1) substitute —

- 23**(1) Except as otherwise provided by this section and section 29, a person is guilty of an offence if without lawful authority he drives or parks a motor vehicle —
  - (a) on an area of common land, moorland or other land of whatsoever description (not being land forming part of a road or land designated by an order of the Department under subsection (4)); or
  - (b) on a road or part of a road that is a bridle-path, cycle-path, cycle track or footpath. **22**.

#### 19 Section 29 repealed and replaced — vehicles and appliances on footpaths, etc.

For section 29 substitute —

**23**29 Use by Department and others of vehicles and appliances on footpaths, etc.

- (1) Despite sections 28(1) and 30(1) —
  - (a) the Department;
  - (b) a local authority; or



(c) a statutory undertaker,  
may use an appliance or a vehicle, whether or not mechanically operated or propelled, on a footpath, footway, bridle-path, cycle-path or cycle track, or on its verges, to clean, maintain or improve it or its verges or to place, maintain or alter a structure or other work on or in it or on or in its verges.

(2) The Department may make regulations prescribing the conditions under which the right conferred by subsection (1) may be exercised.

(3) The regulations may in particular, in respect of an appliance or vehicle to be used in accordance with subsection (1), prescribe —

- (a) its construction;
- (b) its maximum weight;
- (c) the maximum weight to be borne by any of its wheels or axles;
- (d) its maximum speed; and
- (e) the hours during which it may be used. **22**.

## 20 Section 30 repealed and replaced - vehicles on footways and central reservations

For section 30 substitute —

### **30 Vehicles prohibited on footways and central reservations**

(1) Except as provided by an order made under subsection (5), a person who drives or rides a vehicle on a footway is guilty of an offence if the person does so otherwise than to gain access to or egress from land adjoining the footway.

(2) Except as provided by an order made under subsection (5), a person is guilty of an offence if the person parks a vehicle wholly or partly on a footway or on land situated between two carriageways of a road.

(3) It is a defence for a person charged with an offence under subsection (2) to show that the vehicle was parked —

- (a) in accordance with permission given by a constable in uniform;
- (b) to save a life, to extinguish a fire or to meet any other like emergency; or
- (c) in compliance with the conditions specified in subsection (4).

(4) Those conditions are —

- (a) that the vehicle was parked so that it could be loaded or unloaded;
  - (b) that the loading or unloading could not have been satisfactorily performed elsewhere; and
  - (c) that the vehicle was not left unattended at any time while it was parked.
- (5) The Department may by order prescribe vehicles —
- (a) that may be driven or ridden on footways; or
  - (b) that may be parked on footways or on land situated between two carriageways of a road,
- and the conditions under which they may be so driven, ridden or parked.
- (6) An order made under subsection (5) may apply —
- (a) to footways in general or to land situated between two carriageways of a road in general;
  - (b) to a prescribed footway or to a prescribed area of such land; or
  - (c) to footways, or areas of such land, of a prescribed character or description.
- (7) On the date on which an order mentioned in subsection (5) takes effect —
- (a) any footway to which the order relates shall, in so far as the order prescribes vehicles that may be driven or ridden on it, become a highway over which the public have a right of way on foot and a right of way for driving or riding vehicles of the type prescribed by the order; or
  - (b) any footway or land to which the order relates shall, in so far as the order prescribes vehicles that may be parked on it, become a footway or land on which vehicles of the type prescribed by the order may be parked.
- (8) A reference in this section to a footway includes a part of a footway.
- (9) Schedule 2 to the *Road Traffic Regulation Act 1985* has effect as to the procedure for making orders under this section. **22**.


## 21 New section 31A – the Code of Practice for Horse-Drawn Vehicles

After section 30 insert —

### **31A The Code of Practice for Horse-Drawn Vehicles**

- (1) The Department must prepare a code (in this section referred to as “the Horse-Drawn Vehicles Code”) comprising such advice as

appears to the Department to be proper for the guidance of persons using horse-drawn vehicles on roads.

- (2) The Horse-Drawn Vehicles Code may consist of The Code of Practice for Horse Drawn Vehicles published in 2000 by the then Department of the Environment, Transport and the Regions in Great Britain with such adaptations, exceptions or modifications as the Department thinks fit.
- (3) The Department may from time to time revise the Horse-Drawn Vehicles Code by revoking, varying, amending or adding to it in such manner as it thinks fit.
- (4) Subject to subsection (3), the Department must cause the Horse-Drawn Vehicles Code, in a form incorporating all current revisions and entitled “The Manx Horse-Drawn Vehicles Code”, to be printed and laid before Tynwald, and must cause copies of it to be available to the public either free of charge or at such price as the Department may determine.
- (5) A failure on the part of a person to observe a provision of the Horse-Drawn Vehicles Code does not of itself render the person liable to criminal proceedings but such a failure may be relied on in proceedings (whether civil or criminal, and including proceedings for an offence under this Act or the *Road Traffic Regulation Act 1985*) by a party to the proceedings as tending to establish or to negative any liability that is in question in those proceedings. .

## 22 Sections 42 to 44 repealed and replaced – production of licences and information-seeking powers

For sections 42 to 44 substitute –

### 42 Constables and authorised examiners: production of driving licences

- (1) Subsection (3) applies if –
  - (a) a constable or a person appointed by the Department for the purposes of this section and section 43 (in this section and section 43 referred to as an “**authorised examiner**”) finds a person driving a motor vehicle on a road or other public place; or
  - (b) an authorised examiner is inspecting a vehicle for certification, pursuant to regulations made under the *Licensing and Registration of Vehicles Act 1985*, at the Vehicle and Driving Test Centre operated by the Department.

- (2) It also applies if a constable or an authorised examiner reasonably believes —
- (a) that a person was driving a motor vehicle when an accident happened because of the vehicle's presence on a road or other public place;
  - (b) that a person committed an offence relating to the use of a motor vehicle on a road or other public place;
  - (c) that a person was supervising the holder of a provisional licence while the holder was driving a motor vehicle on a road or other public place; or
  - (d) that a person was supervising the holder of a provisional licence when an event mentioned in sub-paragraph (a) or (b) happened.
- (3) The constable or authorised examiner may require the person to produce the person's driving licence for examination.
- (4) If a driving licence has been revoked but not returned to the Department, a constable or an authorised examiner may require the person who held it immediately before its revocation to produce it to the constable or authorised examiner who, on its being so produced, must forward it to the Department.
- (5) If a constable or an authorised examiner reasonably believes that the holder of a driving licence or anyone else made a false statement for the purpose of obtaining the licence, the constable or authorised examiner may require the holder to produce the licence for examination.
- (6) If a person does not immediately comply with a requirement under subsection (3), (4) or (5), the constable or authorised examiner may require the person to produce the licence to a stated police station within 5 days.
- (7) A person who fails to comply with a requirement under subsection (6) is guilty of an offence.
- (8) If an authorised examiner makes a requirement of a person under this section and the person asks the examiner to produce evidence of his authority the examiner must do so.
- (9) A constable or an authorised examiner, when making a requirement under subsection (6), must warn the person to whom the requirement is addressed that it is an offence not to comply with the requirement.

#### **43 Constables and authorised examiners: other powers**

- (1) This section applies if a constable or authorised examiner —

- (a) finds a person driving a motor vehicle on a road or other public place;
  - (b) forms a belief mentioned in section 42(2)(a), (b), (c) or (d) in relation to a person; or
  - (c) reasonably believes a person has committed an offence relating to the use of a mechanically propelled vehicle on land to which the public has access (not being a road).
- (2) The constable or authorised examiner may require the person to state his name and address and that of the vehicle's owner.
  - (3) If subsection (1)(a) or (b) applies, the constable or authorised examiner may also require the person to produce for examination evidence of insurance or security for the vehicle unless the vehicle is an invalid carriage.
  - (4) If a person does not immediately comply with a requirement under subsection (3), the constable or authorised examiner may require the person to produce the evidence to a stated police station within 5 days.
  - (5) A person who fails to comply with a requirement under subsection (2) or (4) or who in purported compliance with subsection (2) gives a false name and address is guilty of an offence.
  - (6) If an authorised examiner makes a requirement of a person under this section and the person asks the examiner to produce evidence of his authority the examiner must do so.
  - (7) A constable or an authorised examiner, when making a requirement under subsection (2) or (4), must warn the person to whom the requirement is addressed that it is an offence not to comply with the requirement.

#### 44 **Constables: information-gathering and arrest powers for serious driving and riding offences**

- (1) This section applies to —
  - (a) the driver of a motor vehicle who is alleged to have committed a serious driving offence; or
  - (b) the rider of a cycle who is alleged to have committed an offence under section 11 or 12.
- (2) The driver or rider is guilty of an offence if, on being required to do so by a person having reasonable grounds for so requiring, the driver or rider fails to give his name or address or gives a false name or address.
- (3) If —

(a) an offence to which this section applies is committed within the view of a constable; or

(b) a constable reasonably suspects that an offence to which this section applies has been committed by a driver or rider,

the constable may arrest without warrant the driver or rider unless the driver or rider gives his name and address or, in the case of a driver, produces his licence for examination.

(4) The constable may also arrest the driver or rider without warrant if the constable has reasonable grounds to doubt that —

(a) a name given in response to the requirement is the person's real name; or

(b) an address given in response to the requirement is the person's real address or is a satisfactory address for service of a summons.

(5) In subsection (4) an address is a satisfactory address for service if the constable is satisfied that the person will be there for a sufficiently long period for it to be possible to serve a summons on the person at that address.

(6) Subsections (3) and (4) apply despite section 29 (repeal of statutory powers of arrest without warrant or order) of the *Police Powers and Procedures Act 1998*. **22**

### 23 Section 46 repealed and replaced – owners of motor vehicles to give information to verify compliance with requirement of compulsory insurance or security

For section 46 substitute —

#### **46 Owners of motor vehicles to give information to verify compliance with requirement of compulsory insurance or security**

If under section 43 the driver of a motor vehicle is required to produce evidence of insurance or security for the vehicle, its owner is guilty of an offence if he fails to give such information as he may be required by a constable to give so as to determine if the vehicle was being driven in compliance with the insurance or security requirement. **22**

### 24 New section 47AB – enforcement of fines and vehicle duty

After section 47A insert —

**47AB Enforcement of fines and vehicle duty**

- (1) This section applies if an authorised person or a constable, after making such lawful enquiries as he or she considers appropriate in the circumstances, has reasonable grounds for believing —
- (a) that the owner of a motor vehicle owes a relevant fine; or
  - (b) a relevant fine is owed in respect of the vehicle,
- being a fine the payment of which has been outstanding for at least 35 days.
- (2) This section also applies if an authorised person—
- (a) comes upon a motor vehicle on a road, being a vehicle on which no current vehicle licence is exhibited; or
  - (b) has reasonable grounds for believing that no such licence was exhibited on a motor vehicle when it was on a road,
- and, after making such lawful enquiries as he or she considers appropriate in the circumstances, has reasonable grounds for believing that no such licence has been displayed on the vehicle for a period exceeding one month.
- (3) The authorised person or constable may, in respect of the motor vehicle, exercise the functions given to a constable —
- (a) under section 47A(1) to seize and remove the vehicle and, where this section applies by virtue of subsection (1), to enter premises to do so using reasonable force if necessary; and
  - (b) under section 47A(5) to immobilise it, or before immobilisation to move it, or to authorise a contractor to do either of those things, if for any reason the authorised person or constable is unable to remove the vehicle immediately.
- (4) If a motor vehicle is seized, immobilised or removed by virtue of subsection (3) it is to be taken to have been seized, immobilised or removed under section 47A and accordingly section 47B shall apply.
- (5) However, section 47B shall apply as if —
- (a) subsection (1)(b) read —
    - "(b) the release, forfeiture or disposal of such motor vehicles in accordance with the regulations";
  - (b) subsection (2)(d)(i) read —
    - (i) of any fees, charges or costs or any fine or duty payable in accordance with the regulations; and
  - (c) subsection (2)(e)(iii) read —

"(iii) without limiting any civil claim, requiring such monies to be paid to or by the parties to the contract as are determined in accordance with the regulations;"

(6) Where this section applies, references in or under sections 47A and 47B to a constable are to be taken to include references to an authorised person.

(7) Except as otherwise provided by any regulations made under section 47B, a motor vehicle seized and removed by virtue of this section must not be released to its owner or any other person until the fees, charges or costs incurred in the seizure and retention of the vehicle have been paid together with —

- (a) the relevant fine mentioned in subsection (1); or
- (b) any vehicle duty payable in respect of the vehicle, or both.

(8) If the fees, charges or costs and any relevant fine or duty are not paid in full within 35 days of the motor vehicle being seized it may be disposed of in accordance with regulations made under section 47B and any proceeds used to pay the fees, charges or costs and the fine or duty in accordance with such regulations.

(9) If the proceeds are insufficient to pay the relevant fine or duty in full —


- (a) the relevant fine or any unpaid part of it remains a relevant fine; or
- (b) the duty or any unpaid part of it continues to be payable, as the case may be.

(10) In this section —

“**authorised person**” means a person appointed by the Department and in subsection (1) includes a person appointed by a court and subsections (3) and (6) are to be construed accordingly;

“**relevant fine**” means a fine in respect of —

- (a) an offence under the this Act, the *Road Traffic Regulation Act 1985*, the *Highways Act 1986*, the *Road Transport Act 2001* or the *Licensing and Registration of Vehicles Act 1985* or under Part 1 the *Local Government (Miscellaneous Provisions) Act 1984*; or
- (b) an offence prescribed for the purposes of this section by the Department by order;

“**vehicle duty**” and “**vehicle licence**” have the same respective meanings as in the *Licensing and Registration of Vehicles Act 1985*. .



## 25 Section 47B amended - Removal retention, disposal and release, etc. of seized vehicles

For section 47B(3) substitute —

- Ⓜ(3) Except with the leave of the court, a claim shall not lie to a civil court in respect of the seizure, storage, retention, disposal or forfeiture of a motor vehicle, or of any property found in it, in pursuance or in purported pursuance of section 47A or of regulations made under this section. Ⓜ.

## 26 Section 47C repealed and replaced – offences

For section 47C substitute —

### Ⓜ 47C Offences

| A person is guilty of an offence if the person —

- (a) contravenes section 47A(8);
- (b) intentionally obstructs a person in the exercise of his or her functions under section 47A or under regulations made under section 47B; or
- (c) provides evidence that the person knows to be false or misleading in a material particular in order to secure the release of a vehicle seized under section 47A. Ⓜ.

## 27 Section 47D amended - interpretation of sections 47A to 47C

- (1) In section 47D in the definition “**contractor**” for “appointed by the Chief Constable” substitute “appointed by the Chief Constable, the Chief Registrar or the Chief Executive of the Department”.
- (2) In section 47D in paragraph (a) of the definition “**serious driving offence connected with drink or drugs**” for “ or section 5A(1)(a) (driving etc with alcohol above the prescribed limit)” substitute Ⓜ, section 5A(1)(a) (driving etc with alcohol above the prescribed limit) or section 5AA(1)(a) (driving, etc, with specified controlled drug above the specified limit) Ⓜ.

## 28 Section 48 amended – forgery of documents, etc.

For section 48(2) substitute —

- Ⓜ(2) This section applies to —
- (a) a driving licence;
  - (b) a plating certificate within the meaning of paragraph 6E or 6FA of Schedule 2, or of section 49 of the *Road Traffic Act 1988* (of Parliament);

- (c) a plate required to be affixed to a vehicle by regulations made under paragraph 1 of Schedule 2;
- (d) a document issued as evidence of the result of a test of competence to drive;
- (e) a badge or certificate prescribed by regulations made under paragraph 2 of Schedule 4;
- (f) evidence of insurance or security for a vehicle;
- (g) a document produced as evidence of insurance pursuant to regulations made under paragraph 11 of Schedule 5;
- (h) a certificate to which section 25(2)(b)(iii) relates;
- (i) a Professional Driver's Card. **22**.

### 29 Section 49 amended – false statements and withholding material information

For section 49(4) substitute –

- 49**(4) A person is guilty of an offence if he makes a false statement or withholds any material information to obtain the issue of evidence of insurance or security for a vehicle.
- (5) A person is guilty of an offence if he makes a false statement or withholds any material information to obtain the issue of a Professional Driver's Card. **22**.

### 30 Section 50 repealed and replaced – issue of false documents

For section 50 substitute –

#### **50 Issue of false evidence of insurance or security**

A person is guilty of an offence if he issues evidence of insurance or security for a vehicle that he knows is false in a material particular. **22**.

### 31 New section 53A - driving disqualification where vehicle used for purposes of crime

After section 53 insert –

#### **53A Driving disqualification where vehicle used for purposes of crime**

- (1) This section applies if a person is convicted –
  - (a) of an offence punishable with imprisonment for a term of two years or more; or
  - (b) of an assault.

- (2) The court that convicts the person may on conviction order that the person be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence if the court is satisfied —
- (a) where subsection (1)(a) applies, that a motor vehicle was used, whether by the person convicted or by any other person, for the purpose of committing or facilitating the commission of the offence; or
- (b) where subsection (1)(b) applies, that the assault was committed by driving a motor vehicle.
- (3) Where an order is made by a court under subsection (2) in respect of an offence, the order shall have effect as if the offence were one to which paragraph 20(1) of Schedule 3 applied.
- (4) In this section —
- “assault” means common assault and any other offence involving an assault including an offence of aiding, abetting, counselling or procuring, or inciting the commission of, common assault or an offence involving an assault;
- “facilitating”, in respect of the commission of an offence, includes taking steps after the offence to dispose of property to which the offence relates or to avoid apprehension or detection. **22**.

### 32 Section 68 amended — certain vehicles not motor vehicles

For section 68(1) substitute —

- 68**(1) The following are not motor vehicles for the purposes of this Act —
- (a) a mechanically propelled vehicle that is controlled by a pedestrian and constructed to cut grass, being a vehicle that is incapable of being used or adapted for any other purpose;
- (b) any other mechanically propelled vehicle of such class as may be specified by regulations made by the Department for the purposes of this section or paragraph 1 of Schedule 2; and
- (c) an electrically assisted pedal cycle of such class as may be specified by regulations made by the Department for the purposes of this section or paragraph 1 of Schedule 2. **22**.

### 33 Section 72 repealed and replaced - general interpretation provisions

For section 72 substitute —

**72 General interpretation provisions**

(1) In this Act —

“**authorised insurer**” means a person who—

- (a) is authorised to carry on motor insurance business anywhere in the British Islands or in the territory of a member State of the Communities, and
- (b) is a member of the Motor Insurers’ Bureau who provides, in respect of each motor vehicle registered in the Island and insured by the insurer, relevant information to the Bureau or to the Motor Insurers’ Information Centre, where “relevant information” means, in respect of the vehicle, the same information as the insurer would provide to the Bureau or Centre were the motor vehicle registered in England;

“**bridle-path**” means a highway over which the public have the following rights of way (and, subject to section 91B of the *Highways Act 1986*, no other rights), namely a right of way on horseback or leading a horse and a right of way on foot;

“**carriage of goods**” includes the haulage of goods;

“**carriageway**” means a way comprised in a highway, being a way over which the public have a right of way for the passage of vehicles;

“**Communities**” has the meaning assigned to that expression by section 1(l) of the *European Communities (Isle of Man) Act 1973*;

“**Community rules**” means any rules from time to time created or arising by or under the Treaties;

“**cycle**” means a bicycle, tricycle, or cycle having 4 or more wheels, not being in any case a motor vehicle;

“**cycle-path**” means a highway over which the public have the following (and no other) rights of way, namely a right of way on cycles, with or without a right of way on foot;

“**cycle track**” means a way comprised in a highway, being a way constructed or adapted for the use of cycles only, or cycles and pedestrians;

“**current**” means —

- (a) in respect of a driving licence, not expired, cancelled, revoked or suspended; and
- (b) in respect of a vehicle licence, not expired or cancelled

“**Department**” means the Department of Infrastructure;

“**driver**”, except in section 1, includes, if a separate person acts as steersman of a motor vehicle, that person as well as any other

person engaged in driving the vehicle, and “drive” is to be construed accordingly;

“**driving licence**” means —

- (a) a licence granted under Schedule 3;
- (b) in relation to person who becomes resident in the Island, a permit of the description prescribed under paragraph 1(3) of Schedule 3 during the period so prescribed; and
- (c) in relation to a visitor to the Island, a permit mentioned in article 5 of the *Road Vehicles (International Circulation) Order 2006* during the period mentioned in the article;

“**drug**” includes an intoxicant other than alcohol;

“**evidence of his authority**”, in relation to a person authorised by the Department to carry out a function under this Act, means evidence provided by the Department of his appointment;

“**evidence of insurance or security**”, in respect of a provision about a vehicle, means —

- (a) the relevant certificate of insurance or certificate of security for the vehicle as defined in Schedule 5, paragraph 5; or
- (b) other prescribed evidence that may be produced in lieu of such a certificate;

“**fail**” includes refuse;

“**fire brigade**” includes the airport fire and rescue service;

“**footpath**” means a way over which the public have a right of way on foot only;

“**footway**” means a way comprised in a highway that also comprises a carriageway, being a way constructed or adapted for the use of pedestrians;

“**forges**” has the same meaning as in the *Forgery Act 1952*;

“**full licence**” means a driving licence other than a provisional licence;

“**goods**” includes goods or burden of any description;

“**goods vehicle**” means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted;

“**hours of darkness**” means the time between half an hour after sunset and half an hour before sunrise;

“**insurance or security requirement**” means the requirement in paragraph 1(1) of Schedule 5 (users of motor vehicles to be insured or secured against third-party risks);

“**Lighting Act**” means the *Road Transport Lighting Act 1963*;

- “**medical practitioner**” means a registered medical practitioner;
- “**Motor Insurers’ Bureau**” means the company of that name limited by guarantee and incorporated in England under the Companies Act 1929 (of Parliament) on 14 June 1946;
- “**Motor Insurers’ Information Centre**” means the company of that name limited by guarantee and incorporated in England under the Companies Act 1985 (of Parliament) on 8 December 1998;
- “**owner**”, in respect of a vehicle that is the subject of a lease, hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under the lease or agreement;
- “**prescribed**” means prescribed by regulations made by the Department;
- “**Professional Driver’s Card**” means a card issued to a person in accordance with regulations made under section 73A, being a card that permits the person to drive a vehicle of a class prescribed for the purpose of that section;
- “**provisional licence**” means a licence granted by virtue of paragraph 6(2) of Schedule 3;
- “**regulations**” means regulations made under any provision of this Act;
- “**road**” means a highway and any other road to which the public have access, and includes a footway or a verge forming part of a road, and a bridge over which a road passes;
- “**serious driving offence**” means an offence under —
- (a) section 1 - causing death by dangerous driving;
  - (b) section 1A - causing serious bodily harm by dangerous driving;
  - (c) section 2 - dangerous driving;
  - (d) section 2B - causing death by careless or inconsiderate driving;
  - (e) section 2C - causing serious bodily harm by careless or inconsiderate driving;
  - (f) section 3 - careless or inconsiderate driving;
  - (g) section 3A - causing death by careless driving when under the influence of drink or drugs;
  - (h) section 3B - causing death by driving and at the time unlicensed, disqualified or uninsured;
  - (i) section 4 - driving under age;
  - (j) section 5(1) - driving etc. under the influence of drink or drugs;
  - (k) section 5A(1)(a) - driving etc. with alcohol above the prescribed limit;

- (l) section 5AA(1)(a) and (2) - driving etc. with proportion of controlled drug in blood exceeding the limit specified in the table set out in subsection 5AA(8) for that drug;
- (m) section 6(6) - failing to provide a specimen if the offence involves obligatory disqualification;
- (n) section 7DA(6) - failing to allow laboratory test of specimen of blood if the offence involves obligatory disqualification;

“**statutory**”, in relation to a prohibition, restriction, requirement or provision, means contained in, or having effect under, an enactment;

“**statutory undertaker**” means a person authorised by a statutory provision —

- (a) to carry on a railway, tramway or lighthouse undertaking;
- (b) to undertake the supply of gas, water, electricity or heating;
- (c) to operate a sewerage and sewer system; or
- (d) to operate a telecommunications code system (within the meaning of the *Telecommunications Act 1984*),

and “**statutory undertaking**” shall be construed accordingly;.

“**traffic sign**” has the meaning assigned to that expression by section 15 of the *Road Traffic Regulation Act 1985*;

“**Treaties**” has the same meaning as in the *European Communities (Isle of Man) Act 1973*.

- (2) References in this Act to a class of vehicles shall be construed as references to a class defined or described by reference to any characteristics of the vehicles or to any other circumstances whatsoever. **22**.

### 34 New sections 73A, 73B and 73C

After section 73 insert —

#### **73A Safety regulations**

- (1) The Department has under Parts II and IV of, and Schedule 2 to, the *Consumer Protection Act 1991* the same functions as those of the Isle of Man Office of Fair Trading in respect of road traffic, road transport, or related matters.
- (2) Accordingly —

- (a) in Parts II and IV of, and Schedule 2 to, the *Consumer Protection Act 1991* a reference to the Isle of Man Office of Fair Trading includes the Department; and
- (b) a reference in a provision of Parts II and IV of, and Schedule 2 to, the *Consumer Protection Act 1991* to a duly authorised officer of the Isle of Man Office of Fair Trading includes a person authorised by the Department for the purposes of the provision.

### **73B Regulation of professional drivers**

- (1) Regulations may impose requirements (other than in respect of age) upon persons who drive, or who may drive, vehicles of prescribed classes for professional purposes.
- (2) The regulations may, in particular –
  - (a) specify what amounts to driving a vehicle for professional purposes;
  - (b) prescribe the persons to whom the regulations apply by reference to vehicles of a prescribed class;
  - (c) prohibit those persons from driving a vehicle of that class unless they have passed a theory test and a practical test;
  - (d) require those persons to provide a vehicle of that class for the conduct of a practical test;
  - (e) provide that persons who more than 5 years previously passed a theory test and a practical test in respect of vehicles of a prescribed class may not continue to drive vehicles of that class unless during the previous 5 years they have successfully completed a prescribed training course;
  - (f) make provision for the nature and conduct of theory tests, practical tests, and prescribed training courses;
  - (g) make provision generally with respect to theory tests, practical tests, and prescribed training courses, including evidence of results, appeals to the Department against results and the grounds on which appeals may be made;
  - (h) provide for the issue of a Professional Driver's Card to a person who has passed a theory test and a practical test in respect of vehicles of a prescribed class;
  - (i) prescribe the form of a Professional Driver's Card and the information it must contain, including the prescribed class of vehicles in respect of which it is issued;
  - (j) require that a person who has been issued with a Professional Driver's Card must carry the card when the



- person is driving vehicles of the prescribed class in respect of which it was issued and must produce it to a constable upon demand;
- (k) provide that Professional Driver's cards may be rescinded in prescribed circumstances and must be returned to the Department;
  - (l) provide that a Professional Driver's Card becomes invalid and must be returned to the Department upon the person to whom it was issued becoming prohibited from driving vehicles of the prescribed class in respect of which it was issued;
  - (m) provide for the fees that must be paid to take a theory test and a practical test, to take a prescribed training course and to obtain a Professional Driver's Card;
  - (n) make ancillary, consequential or incidental provision.
- (3) A Professional Driver's Card is only valid in respect of vehicles of the prescribed class specified in it.
  - (4) A person is guilty of an offence if the person —
    - (a) not being the holder of a valid Professional Driver's Card that permits the person to drive vehicles of a prescribed class for a professional purpose, drives on a road a vehicle of that class for such a purpose;
    - (b) causes or permits a person to drive a vehicle of a prescribed class on a road for a professional purpose, knowing the person is not the holder of a valid Professional Driver's Card that permits the person to drive vehicles of that class for such a purpose, or being negligent as to whether or not the person is the holder of a valid Professional Driver's Card that permits the person to drive vehicles of that class for such a purpose;
    - (c) when driving a vehicle of a prescribed class on a road for a professional purpose, fails to produce a valid Professional Driver's Card issued to the person when demanded by a constable.

### **73C Liability of directors, etc. of bodies corporate**

- (1) This section applies if a body corporate has been convicted of an offence under paragraph 1(5) of Schedule 2 in respect of a vehicle owned or operated by the body corporate.
- (2) If it is proven that the offence by the body corporate was committed with the consent or connivance or was attributable to the neglect of a director, manager, secretary or other similar

officer of the body corporate or a person who was purporting to act in any such capacity, he —

- (a) is guilty of the same offence; and
- (b) is liable to the penalty prescribed for that offence in the table in Part 1 of Schedule 6. **22**.

**35 Section 74 amended - power to make, and Tynwald control over, regulations, orders, etc.**

For section 74(3)(b) substitute —

- 23**(b) an order under section 24(7), section 47AB, section 53(6), section 58A(3), section 79A(1), paragraph 21A of Schedule 3 or paragraph 2(1A) of Schedule 5; **22**.

**36 Schedule 2 amended— construction and use of vehicles and equipment**

(1) In paragraph 1 of Schedule 2 —

- (a) in sub-paragraph (1)(i) omit “on any premises where they are, subject however to the consent of the owner of the premises”;

(b) after sub-paragraph (1)(k) add —

- 24**(l) the construction and equipment of vehicles for use, and the conditions under which they may be used, by a disabled person whether or not such a person is —

- (i) in a wheelchair;
- (ii) accompanied by an assistance dog; or
- (iii) driving the vehicle which the person is using. **22**.

(c) after sub-paragraph (1) insert —

**25**(1A) In subparagraph (1)(l) “assistance dog” means —

- (a) a dog which has been trained to guide a blind person;
- (b) a dog which has been trained to assist a deaf person;
- (c) a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;
- (d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind.

(1B) Without prejudice to the generality of subparagraph (1), the Department may make regulations to secure the safety of road users. **22**;

(d) for sub-paragraph (5) insert —

- 44(4A) Regulations to implement sub-paragraph (1)(i) may provide that the testing and inspection of a motor vehicle or trailer —
- (a) may include its being driven or drawn;
  - (b) may take place on any premises with the consent of the owner of the premises or, where the authorised person reasonably suspects that the motor vehicle or trailer was involved in an accident, on the premises where the motor vehicle or trailer is situated, without that consent.
- (5) Except as is otherwise provided by or under this paragraph, paragraph 2 or paragraph 3, a person is guilty of an offence if the person—
- (a) contravenes a regulation made under this paragraph;
  - (b) uses on a road a motor vehicle or trailer that does not comply with any such regulation or causes or permits a vehicle to be so used; or
  - (c) intentionally obstructs or hinders an authorised person testing or inspecting or intending or attempting to test or inspect a motor vehicle or trailer in accordance with any such regulation. 45; and
- (e) after sub-paragraph (6) add —
- 46(7) Sub-paragraph (8) applies if —
- (a) regulations made under this paragraph apply a provision of the ADR with or without modification; and
  - (b) the provision is subsequently amended or replaced whether on one or more occasions.
- (8) Despite section 74(3), the provision as amended or the replacement provision shall automatically apply with the same or substantially the same modification, if any, as that made to the original provision by the regulations.
- (9) In sub-paragraph (7) “ADR” means —
- (a) the European Agreement concerning the International Carriage of Dangerous Goods by Road done at Geneva under the auspices of the United Nations’ Economic Commission for Europe on either 1 January 2007 or 1 January 2011;
  - (b) any new edition or revision of the ADR; or
  - (c) a document whatever called and whether made by the same or a different body that is expressed or generally accepted to be a replacement of the ADR. 47.
- (2) In paragraph 6I(1) of Schedule 2, for “under this Part or under” substitute 48 under this Part or under the *Road Transport Act 2001*

(including inspections in conformity with prescribed conditions attached to a registration or an operator's licence under section 16(1) of that Act) or under **22**.

### 37 Schedule 3 amended – driving licences

- (1) This section amends Schedule 3.
- (2) Accordingly, a reference to a paragraph in this section is a reference to a paragraph of that Schedule.
- (3) In paragraphs 1(1) and (2), for “a licence” substitute **23**a driving licence **22**.
- (4) For paragraph 2(2A) substitute –
  - “(2A) Regulations may provide that a person may not submit himself for a test of competence authorising the granting of a licence to drive motor cycles, or motor cycles of a specified class, unless –
    - (a) he produces a prescribed certificate that he has successfully completed a course of training for drivers of motor cycles approved pursuant to regulations under paragraph 6(3A); and
    - (b) he is wearing prescribed clothing. **22**.
- (5) In paragraphs 2(2C) and 2(2D), for “theoretical test” substitute **24** theory test **22**.
- (6) For paragraph 4 substitute –
  - 24**4.(1) A person applying for the grant of a licence must include in his application a declaration, in such form as may be prescribed, stating –
    - (a) whether he is suffering from or has at any time or, if a period is prescribed for the purpose of this sub-paragraph, has during that period suffered from a prescribed disability or from any other disability likely to cause the driving of a vehicle by him in pursuance of the licence applied for to be a source of danger to the public (such prescribed or other disability being referred to as a “relevant disability”); or
    - (b) in a case where the applicant states that he is not suffering from a relevant disability, whether he is suffering from a disability that, by virtue of its intermittent or progressive nature or otherwise, may become a relevant disability in the course of time or, if a period is prescribed for the purpose of this sub-paragraph, during that period (such a disability being referred to as a “prospective relevant disability”);.

- (2) Except where otherwise provided by this paragraph, the Department must refuse to grant a licence if it is satisfied from the declaration or from other information that the applicant is suffering from a relevant disability
- (3) The Department shall not refuse to grant a licence—
- (a) on account of a relevant disability that is prescribed for the purposes of this head, if the applicant has at any time passed a relevant test and it does not appear to the Department that the disability has arisen or become more acute since that time or was for whatever reason not disclosed to the Department at that time;
  - (b) on account of any relevant disability that is prescribed for the purposes of this head, if the applicant satisfies such conditions as may be prescribed with a view to authorising the grant of a licence to a person whose disability is appropriately controlled; or
  - (c) on account of any relevant disability that is prescribed for the purposes of this head, if the application is for a provisional licence.
- (4) If on enquiry or as a result of a test of competence to drive taken by a person, the Department is satisfied that the person is suffering from a disability such that there is likely to be danger to the public —
- (a) if he drives a vehicle;
  - (b) if he drives a vehicle other than a vehicle of a particular construction or design; or
  - (c) if he drives a vehicle except in accordance with specified conditions, which may include conditions removing or limiting the provisional entitlement mentioned in paragraph 6(5),
- the Department must serve on the person a written notice to that effect and include in it a description of the disability.
- (5) If a notice is served under sub-paragraph (4) on a person —
- (a) any licence held by him becomes void; and
  - (b) the notice must contain a requirement that the licence be returned to the Department forthwith.
- (6) Where a notice is served on a person by virtue of sub-paragraph (4)(a) and the disability is not prescribed under sub-paragraph (1), the disability is to be taken to be so prescribed in relation to the person and the Department must not grant the person any new licence.

- (7) Where a notice is served on a person by virtue of sub-paragraph (4)(b) the Department must limit any new licence it grants to the person to driving vehicles of the construction or design specified in the notice.
- (8) Where a notice is served on a person by virtue of sub-paragraph (4)(c) the Department must include in any new licence it grants to the person the conditions provided for in that sub-paragraph.
- (9) If on enquiry or as a result of a test of competence to drive taken by a licence holder, the Department is satisfied that the licence holder is suffering from a prospective relevant disability, it may serve a written notice on the licence holder —
- (a) revoking his licence with effect from the date specified in the notice, being a date not earlier than the date of service of the notice; and
  - (b) requiring the licence holder to return his licence to the Department forthwith.
- (10) The Department may on receipt of —
- (a) a licence returned in accordance with sub-paragraph (9)(b); and
  - (b) an application made by the former licence holder for the purpose of this paragraph,
- grant to the former licence holder a new licence for a period determined in accordance with paragraph 7(1)(b).
- (11) A person is guilty of an offence if he —
- (a) makes a declaration mentioned in sub-paragraph (1) that he knows to be false;
  - (b) drives a motor vehicle on a road contrary to any limitation or condition included in his licence by virtue of sub-paragraph (7) or (8); or
  - (c) when required to return a licence to the Department forthwith by a notice served on him under this paragraph, fails to do so.
- (12) For the purposes of sub-paragraph (3)(a) a person to whom a licence was granted after the making of a declaration under paragraph (c) of the proviso to section 5(2) of the *Road Traffic Act 1933* (which contained transitional provisions with respect to certain disabilities) is to be treated as having passed, at the time of the declaration, a relevant test in respect of the vehicles of the classes or descriptions to which the licence related.
- (13) In this paragraph “**relevant test**”, in relation to an application for a licence, means —

- (a) a test of competence to drive;
- (b) a test of competence under section 50 of the *Road Traffic Act 1963*; or
- (c) a test of fitness or ability in pursuance of section 51 of the *Road Traffic Act 1963* as originally enacted,

being a test authorising the grant of a licence in respect of vehicles of the classes to which the application relates.

(14) Sub-paragraph (15) applies where an applicant for a licence has passed a test of competence to drive that, under a provision of any law of any part of the United Kingdom or of any of the Channel Islands corresponding to paragraph 2(2) or (4) —

- (a) is prescribed in relation to vehicles of the classes to which the application relates; or
- (b) is sufficient under that law for the granting of a licence authorising the driving of vehicles of those classes.

(15) For the purposes of sub-paragraph (3)(a) —

- (a) the applicant is to be treated as having passed a relevant test on the day he passed the test mentioned in sub-paragraph (14), and
- (b) any disclosure of a disability to the authority having power under the relevant law to grant a licence to drive a motor vehicle is to be treated as a disclosure to the Department.

4A (1) This paragraph applies to an application to renew a licence to drive —

- (a) a vehicle within category C or D;
- (b) a combination of vehicles within category C+E or D+E; or
- (c) a vehicle prescribed for the purpose of this paragraph.

(2) The application must be accompanied by a certificate issued by a medical practitioner stating that the applicant is still fit to drive the vehicle or combination of vehicles.

(3) In this paragraph a vehicle or a combination of vehicles is within a category if it is within that category for the purposes of the *Driving Licences and Tests Regulations 2007*.

4B (1) The Department must not grant a licence on an application made by a person aged 75 or over unless the Department is satisfied by evidence accompanying the application that the person has passed a test that shows that the person is not suffering from an eyesight disability.

(2) In this paragraph, “eyesight disability” means —

- (a) the disability prescribed in regulation 14(1)(g) of the *Driving Licences and Tests Regulations 2007*; but
  - (b) if some other disability is prescribed for the purpose of this paragraph, that disability. **22**.
- (7) In paragraphs 5(1) and (2)(b) and 5A(1) for “relevant disability” substitute **23**relevant disability or a prospective relevant disability **22**.
- (8) At the end of paragraph 5(1)(c) add **23**and for that purpose supply a dual-control motor vehicle **22**.
- (9) In paragraph 5(3)(a) for “under more than on head” substitute **23**under more than one head **22**.
- (10) For paragraph 5(4), (5) and (6) substitute —
- 23**(4) If a person on whom a notice is served under sub-paragraph (1) fails without reasonable excuse to comply with a requirement contained in the notice, the Department may exercise its powers under paragraph 4 as if the Department were satisfied that the applicant or licence holder concerned was suffering from a relevant disability which is not prescribed for the purpose of any head of sub-paragraph (3) of that paragraph.
  - (5) If a person on whom a notice is served under sub-paragraph (1) fails a test of competence that he is required to take under sub-para (1)(c), his licence shall be taken to be revoked on the day following the test, but without prejudice to an application for a provisional licence being made.
  - (6) When a medical practitioner carries out a function under this paragraph —
    - (a) the Department must pay the medical practitioner such fee or expenses as are prescribed in respect of the function; and
    - (b) the amount paid by the Department is a debt due to the Department from the person in respect of whom the function was carried out.
  - (7) A medical practitioner when carrying out a function for the purpose of this paragraph must have regard to any relevant provision of the document called “At a glance guide to the current medical standards of fitness to drive” from time to time published by the Driver and Vehicle Licensing Agency in Great Britain or to any similar document that it publishes. **22**.
- (11) Omit paragraph 5A(4).
- (12) For paragraph 6(2C) substitute —
- 23**(2C) Sub- paragraph (2CA) applies where —



- (a) pursuant to paragraph 2 a person is required to pass a test of competence to drive a motor vehicle of any class before he becomes entitled to hold or obtain a full licence authorising him to drive motor vehicles of that class; or
- (b) a person is driving a vehicle of any class by virtue of a provisional entitlement conferred by a full licence.
- (2CA) The person shall be subject to the prescribed restrictions —
- (a) while holding a provisional licence authorising the driving of a motor vehicle of that class; or
- (b) while driving a vehicle of any class by virtue of a provisional entitlement conferred by a full licence. **22**.
- (13) In paragraph (6)(2D) for “this sub-paragraph” substitute **23**this paragraph **22**.
- (14) For paragraph 6(3A)(a) substitute —
- 23**(a) the nature and content of such courses, including the nature and content of any examinations and tests to form part of them, and the clothing to be worn by those taking such courses; **22**.
- (15) For paragraph 6(9) substitute —
- 23**(9) In this paragraph “relevant test” has the meaning assigned to it by paragraph 4(13). **22**.
- (16) After paragraph 6(9) insert —
- 23**(10) Any person who contravenes any of the prescribed restrictions shall be guilty of an offence. **22**.
- (17) In paragraph 6A for “where he is not subject to” substitute **23**whether or not he is subject to **22**.
- (18) In 6B(1) for “required to pass a test of competence to drive motor vehicles of any class before he becomes” substitute “required to pass a test of competence to drive motor vehicles of any class or an extended test with respect to motor vehicles of any class before he becomes” and for “a licence” substitute “a full licence”
- (19) In paragraph 6B, after sub-paragraph (1A) insert —
- 23**(1B) Sub-paragraph (1C) applies where a person —
- (a) has passed a test referred in sub-paragraph (1) in respect of a class of motor vehicles and has consequently been granted a licence referred to in sub-paragraph (1)(a) to drive vehicles of that class or has had returned to him under sub-paragraph (1)(b) a licence to drive vehicles of that class; and

- (b) has subsequently passed a prescribed course of driving instruction.
- (1C) The person shall cease to be subject to the prescribed conditions while driving vehicles of that class —
- (a) one year after the grant of the licence mentioned in sub-paragraph (1)(a) or the return of the licence mentioned in sub-paragraph (1)(b); but
- (b) if that period of one year has elapsed, forthwith.
- (1D) When sub-paragraph (1C) applies to a person, the Department must accordingly amend or cancel the note or other indication entered or affixed to the person’s licence in accordance with sub-paragraph (2). ~~22~~.
- (20) For paragraph 6B(6)(b) substitute —
- ~~22~~(b) an offence under section 3, 5(2), 5A(1)(b), 5AA(1)(b) and (2), 5B(5), 5BA(6), 10 or 20, ~~22~~.
- (21) In paragraph 6C for “where that person is not subject to” substitute ~~22~~ whether or not he is subject to ~~22~~.
- (22) For paragraph 7(1)(b) substitute —
- ~~22~~(b) except in a case falling within head (c) or (d), in the case of a licence to be granted to a person over 75 years of age or (if the Department so determines) to a person appearing to the Department to be suffering from a relevant disability or a prospective relevant disability, for such period of not more than 3 years and not less than one year as the Department may determine; ~~22~~.
- (23) In paragraph 8(1) for “or by a notice served on him in pursuance of paragraph 4(4)” substitute ~~22~~ or by a notice served on him in pursuance of paragraph 4(4) or (9) ~~22~~.
- (24) For paragraph 9 substitute —
- ~~22~~ 9 (1) A person is guilty of an offence if he drives a motor vehicle on a road while his eyesight is such, whether through a defect which cannot be, or one which is not, for the time being sufficiently corrected, that he cannot comply with the requirement as to eyesight prescribed under this Schedule.
- (2) A constable having reason to suspect that a person driving a motor vehicle may be guilty of an offence under sub-paragraph (1) must report the circumstances to the Department.
- (3) The Department must require the person to submit to a test to ascertain if he can comply with the requirement as to eyesight prescribed under this Schedule.
- (4) If the person —

- (a) fails to agree to taking the test, or fails to take it, forthwith;  
or
- (b) fails the test,
- the Department must serve a written notice on him revoking his licence and requiring him to return it forthwith to the Department,
- (5) A person is guilty of an offence if, when required to return a licence to the Department forthwith by a notice served on him under sub-paragraph (4), he fails to do so. **22**.
- (25) For the cross heading before paragraph 10 substitute —
- 64** *Notification of a disability* **22**
- (26) In paragraph 10(1) omit “disease or physical” and for “licence” substitute “driving licence”.
- (27) Omit paragraph 10(2).
- (28) In paragraph 11(1A)(b) for “if neither of sub-paragraphs (3) or (3A) applies” substitute **64**if none of subparagraphs (3), (3A) or (3C) applies **22**.
- (29) In paragraph 11(3) for “section 3A, 5(1) or 5A(1)(a)” substitute **64**section 3A, 5(1), 5A(1)(a) or 5AA(1)(a) and (2) **22**.
- (30) After paragraph 11(3B) insert —
- 64**(3C) If a person is convicted of an offence under section 5AA(1)(a) and (2), sub-paragraph (1A)(b) is to apply to the person with the substitution of 2 years for 12 months. **22**.
- (31) After paragraph 12(2) insert —
- 64**(2A) Sub-paragraph (2B) applies to a person who —
- (a) is convicted of an offence involving obligatory or discretionary disqualification; and
- (b) when the offence was committed, was driving a vehicle while authorised to do so by —
- (i) a provisional licence, or
- (ii) a full licence being used as if it were a provisional licence, where the licence has been held by the person for less than 24 months but, if a shorter period is prescribed, for less than that shorter period.
- (2B) If, in the case of a person to whom this sub-paragraph applies, the penalty points to be taken into account under sub-paragraph (3) number 6 or more the court must order that he be disqualified for holding, as the case may be —

- (a) a provisional licence; or
- (b) despite paragraphs 6(5) and (6), a full licence conferring a provisional entitlement to drive vehicles of the same class, for not less than the minimum period defined in sub-paragraph (4) unless the court is satisfied, having regard to all the circumstances (subject to sub-paragraphs (5) and (6)) that there are grounds for mitigating the normal consequences of the conviction and thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(2C) Where a person —

- (a) by virtue of paragraph 6B(1)(a) (a newly qualified driver) was at the time in question subject to the prescribed restrictions (within the meaning of paragraph 6B(3)) while driving a vehicle of any class on a road; and
- (b) is convicted of an offence involving obligatory or discretionary disqualification, being an offence committed while driving any vehicle of that class on a road at that time,

a court must, if the penalty points to be taken into account under sub-paragraph (3) number 6 or more with respect to such offence or offences so committed, order that —

- (c) in a case where the person was subject to the prescribed restrictions while driving vehicles of whatever class he is authorised by his licence to drive, his licence be revoked, and
- (d) in a case where the person was so subject while driving vehicles of only certain classes, his licence be revoked to the extent that it authorises him to drive vehicles of those classes,

unless the court is satisfied, having regard to all the circumstances, that there are grounds not to do so.

(2D) Where a person's licence has been wholly or partially revoked under sub-paragraph (2C) with respect to vehicles of any class, the person must, if he wishes to drive vehicles of that class, obtain a provisional licence to do so and pass the theory test prescribed by regulations made under paragraph 2(2D) and the extended test.

(2E) Where a person who is subject to the prescribed restrictions (within the meaning of paragraph 6B(3)) by virtue of paragraph 6B(1)(b) (return of licence after being required to take a test) is convicted of an offence involving obligatory or discretionary disqualification and the penalty points to be taken into account under sub-paragraph (3) number 6 or more, the court shall order

- him to be disqualified until he has, since the date of the order, passed the theory test prescribed by regulations made under paragraph 2(2D) and the extended test unless the court is satisfied, having regard to all the circumstances (subject to sub-paragraphs (5) and (6)) that there are grounds for mitigating the normal consequences of the conviction and thinks fit not to order him to be disqualified.
- (2F) A disqualification by virtue of an order under sub-paragraph(2E) shall be taken to have expired on production to the Department of evidence, in such form as may be prescribed by regulations under paragraph 22, that the person disqualified has, since the order was made, passed the theory test and the extended test. **22**.
- (32) For paragraphs 12(5) and (6) substitute —
- 23**(5) Where an offender is convicted on the same occasion of more than one offence involving obligatory or discretionary disqualification—
- (a) not more than one disqualification shall be imposed on him under sub-paragraph (2), (2B) or (2E);
  - (b) in determining the period of the disqualification the court shall take into account all the offences; and
  - (c) for the purposes of any appeal, any disqualification imposed under sub-paragraph (2), (2B) or (2E) shall be treated as an order made on the conviction of each of the offences.
- (6) No account is to be taken under sub-paragraph (2), (2B) or (2E) of—
- (a) any circumstances that are alleged to make the offence or any of the offences not a serious one;
  - (b) hardship, other than exceptional hardship; or
  - (c) any circumstances which, within the 3 years immediately preceding the conviction, have been taken into account under sub-paragraph (2), (2B) or (2E) in ordering the offender to be disqualified for a shorter period or not ordering him to be disqualified. **22**.

(33) In paragraph 20(4) —

    - (a) for “obligatory endorsement” substitute **24**obligatory or discretionary endorsement **22**; and
    - (b) for “and the court makes an order under subparagraph (1),” substitute **24** and the court orders that his licence be endorsed, **22**.

(34) For paragraph 20(8) substitute —

- 66**(8) Except as provided by sub-paragraph (9), an endorsement ordered on a person's conviction remains effective until —
  - (a) 4 years have elapsed since the conviction if the court makes an order for the disqualification of the offender; or
  - (b) 4 years have elapsed since the commission of the offence if the court does not make such an order.
- (9) Despite sub-paragraph (8), an endorsement ordered on a person's conviction remains effective until 11 years have elapsed since the conviction if the offence was one mentioned in section 3A, 5(1), 5A(1)(a), 5AA(1)(a) and (2), 6(6) or 7DA. **67**
- (35) For paragraph 21(2) substitute —
  - 68**(2) Where a court orders that particulars be endorsed on a licence held by a person the court must send to the Department —
    - (a) notice of the order; and
    - (b) the licence if produced under paragraph 20(4).
  - (2A) Where a person has been disqualified the Department must keep the licence until —
    - (a) the disqualification has expired or been removed; and
    - (b) the person entitled to the licence has made a demand in writing for its return to him.
  - (2B) A licence ordered to be endorsed must not be returned to the person entitled to it until any prescribed fee has been paid. **69**.
- (36) For the cross reference immediately before paragraph 22 substitute —
 

**69** *Regulations for the purpose of Schedule 3* **70**.
- (37) In paragraph 22 —
  - (a) in sub-paragraph (1) for “make regulations for” substitute **69** make regulations amending any provision of this Schedule or for **70**; and
  - (b) after sub-paragraph (1) add —
    - 69**(2) In sub-paragraph (1) “amending” includes modifying, repealing and adding to. **70**.f
- (38) For paragraph 23 substitute —
  - 69** 23. In this Schedule —
    - “disability” includes —
      - (a) a disease; and
      - (b) the persistent misuse of drugs or alcohol, whether or not the misuse amounts to dependency;

“**disqualified**” means disqualified for holding or obtaining a licence, and  
“**disqualification**” is to be construed accordingly;

“**extended test**” means the test of competence to drive modified so that  
the time during which the person taking the test drives on roads  
is not less than 60 minutes;

“**licence**” means a licence to drive a motor vehicle granted under Part I;

“**offence involving obligatory disqualification**” has the meaning given  
to that expression by paragraph 11(1);

“**offence involving discretionary disqualification**” has the meaning  
given to that expression by paragraph 11(2);

“**prospective relevant disability**” has the meaning given to that  
expression by paragraph 4(1)(b);

“**regulations**” means regulations made under paragraph 22;

“**relevant disability**” has the meaning given to that expression by  
paragraph 4(1)(a);

“**test of competence to drive**” means such a test conducted under  
paragraph 2. **22**

### 38 Schedule 4 amended – driving instruction

- (1) In Schedule 4, for paragraph 3(2)(a) substitute –
  - (a) to a person who is not the holder of a full licence; and **22**.
- (2) In Schedule 4, paragraph 3, omit sub-paragraph (5).

### 39 Schedule 5 amended – third-party liabilities, etc.

- (1) In Schedule 5 –
  - (a) omit paragraph 3(5);
  - (b) in paragraph 5(1) for “(in this Schedule referred to as a “certificate of security”)” substitute **22**(in this Schedule referred to as a “certificate of insurance”) **22**;
  - (c) omit paragraph 5(3);
  - (d) after paragraph 11(e) add –
    - (f) as to the use of information made available to the Department or the Isle of Man Constabulary by or on behalf of the Motor Insurers’ Bureau or the Motor Insurers’ Information Centre. **22**; and
  - (e) for paragraph 12(1) substitute –
    - (1) In this Schedule –

“**certificate of insurance**” has the meaning assigned to it by paragraph 5(1);

“**certificate of security**” has the meaning assigned to it by paragraph 5(2);

“**motor insurance**” means insurance in respect of the liabilities specified in paragraph 3(3) (with or without other liabilities or risks);

“**motor insurance business**” means the business of effecting or carrying out contracts of motor insurance;

“**policy of insurance**” includes a covering note;

“**regulations**” means regulations made under paragraph 11;

“**salvage**” means the preservation of a vessel that is wrecked, stranded or in distress, or the lives of persons belonging to, or the cargo or apparel of, such a vessel;

“**under the owner’s control**”, in relation to a vehicle, means that the vehicle is being driven by the owner or by a servant of the owner in the course of his employment or is otherwise subject to the control of the owner. **22**.

- (2) A policy of insurance in respect of third-party risks in force immediately before the commencement of section 72(1), being a policy that complied with the requirements of Schedule 5, is to be taken to be a policy of insurance for the purpose of Schedule 5 whether or not it was issued by a person who, after that commencement, was an authorised insurer.

#### 40 Schedule 6 amended – prosecution and punishment of offences

- (1) This section amends the table in Part I of Schedule 6.
- (2) Accordingly, a reference in this section to an entry by section number or a paragraph number of a Schedule is a reference to the row of the table in which the section or paragraph number appears in the first column of the row.
- (3) In the entry for section 20(3), for the entry in the first column substitute **22** 20(6) **22**
- (4) In the entry for section 24(2), in the second column omit “motor cycles”.
- (5) In the entry for section 24(4), in the second column omit “as helmet for motor cyclists”.
- (6) For the entries for sections 25(3) and (5), substitute -

<b>22</b> 25(3)	Driving or riding in a motor vehicle in contravention of regulations requiring wearing of seat belts	summarily	£2,500	discretionary for the driver of the motor vehicle	obligatory for the driver of the motor vehicle	3	Sections 57 and 59 apply
25(5)	Driving motor vehicle with a child under the age of 14 years who is not wearing a seat belt in conformity with regulations	summarily	£2,500	discretionary	obligatory	3	Sections 57 and 59 apply <b>22</b> .

- (7) Omit the entry for section 25(5A).



- (8) In the entry for section 28(1), for the entry in the second column substitute **“Driving motor vehicle elsewhere than on roads, etc.”**.
- (9) Omit the entry for section 28(6).
- (10) In the entry for section 30(1), for the entry in the second column substitute **“Driving or riding of vehicle on footway”**.
- (11) In the entry for section 30(2), for the entry in the second column substitute **“Parking of vehicle on central reservation or footway”**.
- (12) In the entry for section 42(4), for the entry in the first column substitute **“42(7)”** and for the entry in the second column substitute **“Failure to produce driving licence at police station when required by constable or authorised examiner”**.
- (13) In the entry for section 43(1), for the entry in the first column substitute **“43(5)”** and for the entry in the second column substitute **“Failure to give name and address, or to produce evidence of insurance or security at police station, when required by constable or authorised examiner”**.
- (14) Omit the entry in respect of section 43(2A).
- (15) Omit the entry in respect of section 43(3).
- (16) In the entry for section 44(1), for the entry in the first column substitute **“44(2)”** and for the entry in the second column substitute **“Refusing to give, or giving false, name and address in case of serious driving offence”**.
- (17) In the entry for section 49(2), for the entry in the second column substitute **“Making, or making use of, false statements, etc.”**.
- (18) In the entry for section 49(4), for the entry in the second column substitute, **“Making false statement or withholding material information to obtain the issue of evidence of insurance or security for a vehicle, etc.”**.
- (19) In the entry for section 50, for the entry in the second column substitute, **“Issuing evidence of insurance or security for a vehicle that is false in a material particular”**,
- (20) In the entry for Schedule 2, paragraph 1(5), for the entry in the second column substitute **“Contravention of construction and use regulations, etc.”** and in the fourth column before the entry “£1,000 in any other case” insert **“£2,500 in the case of an offence of intentionally obstructing or hindering an authorised person testing or inspecting a motor vehicle or trailer, etc.”**.
- (21) In the entry for Schedule 2, paragraph 4(4), for the entry in the second column substitute **“Obstructing testing of vehicle by examiner on road or failing to comply with requirements of paragraph 4 of Schedule 2”**.

- (22) In the entry for Schedule 2, paragraph 6(4), for the entry in the second column substitute **33** Obstructing further testing of vehicle by examiner or failing to comply with requirement under paragraph 6**32**.
- (23) In the entry for Schedule 2, paragraph 7(4), for the entry in the second column substitute **33** Selling, etc, pedal cycle in contravention of regulations**32**.
- (24) In the entry for Schedule 3, paragraph 1(1), for the entry in the second column substitute **33** Driving otherwise than in accordance with a driving licence**32**.
- (25) In the entry for Schedule 3, paragraph 1(2), for the entry in the second column substitute **33** Causing or permitting a person to drive otherwise than in accordance with a driving licence**32**.
- (26) In the entry for Schedule 3, paragraph 5A(3), for the entry in the second column substitute **33** Failing to notify onset of disability, etc.**32**.

(27) For the entry in respect of Schedule 3, paragraph 6(10) substitute –

<b>33</b> Schedule 3, para 6(10)	Failing to comply with any conditions or restrictions prescribed for purposes of the paragraph	Summarily	£2,500	Discretionary	Obligatory	3	Section 57 and 58 apply <b>32</b>
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- (28) In the entry for Schedule 3, paragraph 6B(4), for the entry in the second column substitute **33** Failing to comply with prescribed restrictions relating to newly qualified drivers. etc.**32**.
- (29) In the entry for Schedule 3, paragraph 9(1), for the entry in the fourth column substitute **33** £2,500**32**.
- (30) Omit the entry in respect of Schedule 3, paragraph 9(2).
- (31) For the second entry in respect of Schedule 3, paragraph 18(b), substitute –

<b>33</b> Schedule 3 para 18(b)	Driving while disqualified by virtue of order of a court	(a) Summarily (b) On information	(a) 6 months or £5,000 or both (b) 12 months or a fine or both	Obligatory	Obligatory	6	Sections 56, 57 and 59 apply <b>32</b> .
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(32) For the entry in respect of Schedule 3, paragraph 20(4), substitute –

<b>33</b> Schedule 3 para 20(4)	Failing to produce licence to the court in accordance with the paragraph	Summarily	£1,000				<b>32</b> .
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- (33) In the entry for Schedule 4, paragraph 3(3), for the entry in the second column substitute **33** Giving of paid driving instruction by unregistered and unlicensed persons or their employees, etc.**32**.
- (34) In the entry for Schedule 5, paragraph 1, in the fifth column for “Discretionary” substitute **33** Obligatory**32**.
- (35) Omit the entry in respect of Schedule 5, paragraph 5(3).

(36) Insert the following entries numerically according to their section or Schedule and paragraph numbers —

5AA(1)(a) and (2)	Driving or attempting to drive with concentration of specified controlled drug above specified limit.	Summarily	6 months or £5,000 or both	Obligatory	Obligatory	10	Sections 57 and 59 and paragraphs 1 and 3 of Part IV apply
5AA(1)(b) and (2)	Being in charge of a vehicle with concentration of specified controlled drug above specified limit.	Summarily	3 months or £2,500 or both	Discretionary	Obligatory	10	Sections 57 and 59 apply
18A(1)	Parking near a junction, etc.	Summarily	£2,000				Sections 57, 58 and 59 apply
47C(a)	Contravening section 47A(8) (remove notice on, or release or remove, immobilised vehicle, etc.)	Summarily	£2,000				
47C(b)	Intentionally obstructing a person exercising a function under section 47A or under regulations made under section 47B	Summarily	£2,000				
47C(c)	Providing false or misleading evidence to secure release of vehicle	(a) Summarily (b) On information	£5,000 2 years or a fine or both				Section 56 applies
73B(4)(a)	Not being the holder of a valid Professional Driver's Card while driving on a road a vehicle of a prescribed class for a professional purpose	Summarily	£1,000				sections 57 and 58 apply
73B(4)(b)	Causing or permitting a person to drive a vehicle of a prescribed class on a road for a professional purpose knowing the person is not the holder of a valid Professional Driver's Card, etc.	Summarily	£2,500				Sections 57 and 58 apply
73B(4)(c)	Failing or refusing to produce a valid Professional Driver's Card when demanded by a constable	Summarily	£1,000				
Schedule 3, para 4(11)(a)	Making a false declaration for driving licence	(a) Summarily  (b) On information	£5,000  14 years or a fine or both	Discretionary	Obligatory	3	Sections 56 and 58 apply
Schedule 3, para 4(11)(b)	Driving a motor vehicle on a road contrary to any limitation or condition included in a driving licence	Summarily	£2,500	Discretionary	Obligatory	3	Section 57, 58 and 59 apply
Schedule 3, para	Failing to return a	Summarily	£1,000				

4(11)(c)	driving licence to the Department forthwith when required to do so						
Schedule 3, para 9(5)	Failing to return a driving licence to the Department forthwith when required to do so	Summarily	£1,000				☐

#### 41 Schedule 6 further amended – prosecution and punishment of offences

(1) In the table in paragraph 1 of Part IV of Schedule 6 –

(a) for the entry in respect of section 3A substitute the following entry –

☐ Section 3A (causing death by careless driving when under the influence of drink or drugs)	Section 2B (causing death by careless or inconsiderate driving) Section 3 (careless or inconsiderate driving) Section 5(1) (driving or attempting to drive when unfit to drive through drink or drugs) Section 5A(1)(a) (driving or attempting to drive with alcohol above prescribed limit) Section 5AA(1)(a) and (2)" (driving or attempting to drive with specified controlled drug above specified limit) Section 6(6) (failing to provide specimen)☐
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(b) after the entry in respect of section 5A(1)(a) insert –

☐ Section 5AA(1)(a) and (2) (driving or attempting to drive with concentration of specified controlled drug above specified limit)	Section 5AA(1)(b) and (2) (being in charge of a vehicle with concentration of specified controlled drug above specified limit)☐
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(2) In paragraph 3 of Part IV of Schedule 6 for “section 5(1) or 5A(1)(a)” substitute ☐ section 5(1), 5A(1)(a) or 5AA(1)(a) and (2)” ☐.

#### 42 Consequential amendment - Police Powers and Procedures Act 1998

In Schedule 2 to the *Police Powers and Procedures Act 1998*, in the entry for the *Road Traffic Act 1985*, for “Section 5(6)” substitute ☐ Sections 5(6) and 44☐.

### PART 3 – AMENDMENTS TO THE ROAD TRAFFIC REGULATION ACT 1985

#### 43 Road Traffic Regulation Act 1985 amended

- (1) This Part amends the Road Traffic Regulation Act 1985.
- (2) Accordingly, a reference to a section or Schedule in this Part is a reference to a section of, or a Schedule to, that Act.

#### 44 Section 1 amended - traffic regulation orders

- (1) In section 1(2) omit “but no prohibition or restriction on waiting imposed under this section shall apply to a stage carriage or express carriage”.

- (2) After section 1(9) insert —
- (10) A traffic regulation order may provide for the charging of a fee.
- (3) After section 1(13) add —
- (14) Unless a traffic regulation order specifically provides otherwise it shall not apply to a vehicle on an occasion when —
- (a) it is being used for fire brigade purposes, for ambulance purposes or for police purposes;
- (b) it is being used for other prescribed purposes in such circumstances as may be prescribed; or
- (c) it is being used for training persons to drive vehicles for use for any of the purposes mentioned in paragraph (a) or (b),
- if the observance of that provision would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.

#### 45 Section 2 amended — overnight and weekend waiting of certain vehicles

In section 2 —

- (a) for subsections (1) and (2) substitute —
- (1) A person is guilty of an offence if without reasonable excuse the person causes or permits a relevant vehicle to wait on a restricted road —
- (a) on a Saturday or a Sunday; or
- (b) before 7.00 a.m. or after 6.00 p.m. on any other day,
- otherwise than for the purpose of delivering goods or permitting passengers to enter or alight from the vehicle.
- (2) In subsection (1) “relevant vehicle” means a vehicle of such a type or class as may be specified by the Department by order;
- and
- (b) omit subsection (5).

#### 46 New section 2B – prohibition or restriction of use of vehicles on roads of certain classes

Immediately before section 3 insert —

### **2B Prohibition or restriction of use of vehicles on roads of certain classes**

- (1) The Department may by order prohibit or restrict the driving, drawing, riding or waiting of vehicles —
  - (a) on or off all roads throughout the Island, or
  - (b) on or off all or certain roads in such localities as may be prescribed by the order, being roads of any such class or description as may be so prescribed.
- (2) The prohibition or restriction may be made subject to such exceptions or conditions as to occasional use or access to premises or otherwise as may be specified in the order.
- (3) A prohibition or restriction under this section may be imposed either generally or in relation to any class of vehicle.
- (4) For the purposes of this section, the Department may classify roads in any manner it thinks fit, having regard to their character or situation or the nature of the traffic to which they are suited.
- (5) An order under this section may include such ancillary, consequential or incidental provision as the Department considers appropriate.
- (6) A person is guilty of an offence if the person —
  - (a) drives, draws, or rides a vehicle, or causes or permits a vehicle to be driven, drawn, or ridden or to wait, in contravention of an order under this section; or
  - (b) otherwise contravenes a provision of an order under this section. **22**.

### **47 Section 3 amended – temporary prohibition or restriction of traffic on roads**

Omit section 3(7).

### **48 New section 9A – temporary alternative school crossings**

After section 9 insert =

#### **9A Temporary alternative school crossings**

- (1) The section applies if for any reason the Department is satisfied that a prescribed place for the purposes of sections 8 and 9 cannot for a temporary period be used as a place where children cross a road on their way to or from school or on their way from one part of a school to another.

- (2) The Department may by notice displayed on or near the place provide that during the temporary period —
  - (a) the place shall cease to be a prescribed place for the purposes of sections 8 and 9; and
  - (b) some other place specified in the notice where those children may cross a road on their way to or from school or on their way from one part of a school to another shall be a prescribed place for the purposes of those sections.
- (3) The notice shall have effect accordingly. **22**.

#### 49 Section 14 amended - designation of on-street parking places

- (1) For section 14(6) substitute —
  - 23**(6) The Department or the Chief Constable may —
    - (a) provide for the moving, in an emergency, of a vehicle left in a parking place; or
    - (b) suspend the use of a parking place or part of a parking place on any occasion the Department or the Chief Constable may determine. **22**.
- (2) For section 14(8) substitute —
  - 23**(8) Except with the leave of the court, a claim shall not lie to a civil court in respect of the exercise by the Department or the Chief Constable of a function under this section. **22**.

#### 50 Section 14A amended - charges at, and regulations of, on-street parking places

In section 14A —

- (a) for subsection (2) - substitute —
  - 23**(2) Any such charge may be prescribed —
    - (a) as an amount (an “initial charge”) payable in respect of an initial period, and an amount (an “excess charge”) payable in addition to an initial charge in respect of any excess over an initial period;
    - (b) as an amount (an “overstay charge”) payable in respect of a period in excess of an initial period for which there is no charge; or
    - (c) as an amount payable regardless of the period for which the vehicle is left. **22**.
- (b) after subsection (7) insert —

- █(8) A reference in this Act (except in subsection (2)(a), this subsection and sections 14B(5) and 14C(1)) to an excess charge includes an overstay charge. █.

## 51 Section 14B amended – offences relating to designated parking places

In section 14B –

- (a) after subsection (1)(b) insert –
- █(ba) leaves the vehicle in a suspended designated parking place, or █;
- (b) in subsection (3) for “subsection (1)(b) or (c)” substitute █subsection (1)(b), (ba) or (c) █;
- (c) in subsection (6) for –
- “or
- (e) displays a parking device otherwise than in the manner prescribed under section 14A(5)(f),”
- substitute –
- █(e) displays a parking device otherwise than in the manner prescribed under section 14A(5)(f), or
- (f) interferes with or removes a sign or notice mentioned in subsection (7)(b), █;
- and
- (d) after subsection (6) add –
- █(7) In subsection (1)(ba) “**suspended designated parking place**” means a designated parking place –
- (a) the use of which has been suspended in accordance with this Act; and
- (b) the suspension of which is clearly indicated by a sign or notice placed on or adjacent to the parking place by or on behalf of the Department or the Chief Constable. █.

## 52 Section 17 amended - emergency traffic signs

- (1) In section 17(1) omit “vehicular”.
- (2) After section 17(1) insert –
- (1A) In subsection (1) “extraordinary circumstances” includes the use of explosives at a quarry and such other circumstances as may be prescribed.”.



### 53 New section 19A — unlawful defacement of traffic signs and street furniture

After section 19 insert —

#### **19A Unlawful defacement of traffic signs and street furniture**

- (1) A person is guilty of an offence if without lawful authority the person defaces a traffic sign or any apparatus, plant, object or structure in, over or on a road (whether fixed or portable).
- (2) A court that convicts a person of an offence under subsection (1) may, in addition to imposing any penalty, order the person to pay any cost incurred as a result of the defacement.
- (3) Subsection (4) applies if property owned or operated by —
  - (a) a local authority; or
  - (b) a statutory undertaker,
 is defaced by a person in the manner set out in subsection (1).
- (4) If the Department is of the opinion that the defacement is detrimental to the amenity of the area, is offensive or is a hazard to traffic, it may serve on the owner or operator of the property a notice requiring the owner or operator —
  - (a) to make good the defacement; or
  - (b) if the defacement cannot be satisfactorily or economically made good, to replace the property,
 by a date specified in the notice, being a date not earlier than 14 days after the service of the notice.
- (5) If the owner or operator fails to comply with the notice, the Department may carry out the work or replace the property as specified in the notice and may recover the cost of doing so from the owner or operator of the property as a debt. **22**.

### 54 Section 22 amended — speed limits general

(1) After section 22(1) insert —

**22**(1A) If an offence under subsection (1) is committed in a residential or road works area or in a school zone, a court must impose a penalty that, subject to a maximum fine of £5,000, is double the penalty it would otherwise have imposed under the subsection. **22**.

(2) After section 22(2) add —

**22**(3) If, in proceedings for an offence under subsection (1), it is alleged that the offence took place in a residential area or school zone, a certificate by a person authorised by the Department certifying —

- (a) what constituted the area or zone; and
- (b) in the case of a school zone, that, at the relevant time, traffic signs were displayed by or for the Department showing the zone,

is admissible as evidence of the matters certified in it.

- (4) If, in proceedings for an offence under subsection (1), it is alleged that the offence took place in a road works area a certificate by a person authorised by the Department or, if the works were being carried out by a statutory undertaker, the statutory undertaker certifying —

- (a) what constituted the zone; and
- (b) that, at the relevant time, traffic signs were displayed by or for the Department or statutory undertaker showing the area,

is admissible as evidence of the matters certified in it.

- (5) In this section —

“**residential area**” means a town district or village district;

“**road works area**” means an area of road shown as being subject to road works by traffic signs displayed by or for the Department or a statutory undertaker;

“**school zone**” means an area of road shown by traffic signs displayed by or for the Department to be in the vicinity of a school, being an area in which a speed limit applies. **22**.


## 55 Section 27 repealed and replaced —

For section 27 substitute —

### **27 Exemptions from speed limits**

- (1) No statutory provision imposing a speed limit on motor vehicles shall apply to any vehicle on an occasion when—

- (a) it is being used for fire brigade purposes, for ambulance purposes or for police purposes;
- (b) it is being used by a coastguard service provided by the Department for the purpose of giving aid to persons in danger or vessels in distress on or near the coast;
- (c) it is being used for civil defence or bomb disposal purposes;
- (d) it is being used for other prescribed purposes in such circumstances as may be prescribed; or

- (e) it is being used for training persons to drive vehicles for use for any of the purposes mentioned in the previous paragraphs,  
if the observance of that provision would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.
- (2) Subsection (1) does not apply unless the vehicle is being driven by a person who—
  - (a) has satisfactorily completed a course of training in the driving of vehicles at high speed provided in accordance with regulations under this section; or
  - (b) is driving the vehicle as part of such a course.
- (3) The Department may by regulations make provision about courses of training in the driving of vehicles at high speed.
- (4) The regulations may include—
  - (a) provision about the nature of courses;
  - (b) provision for the approval by the Department of persons providing courses or giving instruction on courses and the withdrawal of approvals (including provision for appeals against refusal and withdrawal of approvals);
  - (c) provision specifying the maximum fees that a person may be required to pay for a course;
  - (d) provision for the training or assessment, or the supervision of the training or assessment, of persons providing courses or giving instruction on courses;
  - (e) provision for the evidencing of the successful completion of courses;
  - (f) provision authorising the Department to make available information about persons providing courses or giving instruction on courses; and
  - (g) provision treating courses of training in the driving of vehicles at high speed which have been completed before the coming into operation of the regulations as if they had been provided in accordance with the regulations.
- (5) The regulations may include provision for the charging of reasonable fees in respect of any function conferred or imposed on the Department by the regulations.
- (6) The regulations may make different provision—
  - (a) for different classes of vehicle;
  - (b) for different descriptions of persons; or
  - (c) otherwise for different circumstances. .

## 56 Section 28 amended – badges for display on motor vehicles used by disabled drivers

- (1) After section 28 (4) insert –
- (5) Regulations made under this section may also provide that a badge issued by a jurisdiction outside the Island under provisions that are the same or substantially the same as the provision of this section shall have the same status and effect for the purposes of this Act as a badge issued under this section.
- (2) For section 28(6A) and (6B) substitute –
- (6A) A person driving or in charge of a vehicle on or off a road, being a vehicle that has displayed on it a badge issued or appearing to be issued under this section, is guilty of an offence if, on being required to produce the badge for inspection by a constable, traffic warden or parking controller, the person fails to do so.
- (3) In section 28(7)(c) for “any transitional matters” substitute any ancillary, consequential, incidental or transitional matters.
- (4) For section 28(8) substitute –
- (8) In this section “disabled person” means a person who is so prescribed.

## 57 New section 28A - wrongful use of disabled person’s badge

After section 28 insert –

### 28A Wrongful use of disabled person’s badge

- (1) A person who at any time acts in contravention of, or fails to comply with, a provision made by or under this Act or the *Road Traffic Act 1985* relating to the parking of motor vehicles is also guilty of an offence under this subsection if at that time –
- (a) there was displayed on the motor vehicle in question a badge purporting to be issued under section 28, and
  - (b) he was using the vehicle in circumstances where a disabled person’s concession would be available in respect of a disabled person’s vehicle,
- unless the badge was issued under section 28 and was being displayed and used in accordance with that section.
- (2) In this section “**disabled person’s concession**” means a concession in respect of disabled persons’ vehicles given by or under this Act or the *Road Traffic Act 1985*.

**58 Section 33A repealed and replaced — parking controllers**

For section 33A substitute —

**33A Parking controllers**

- (1) The Department may appoint persons (“parking controllers”) to exercise the functions conferred on constables by Schedule 5A in relation to such offences as the Department may by order specify.
- (2) The Department may not appoint a constable to be a parking controller.
- (3) The Department may appoint as parking controllers employees of an employer on such terms as may be agreed with the employer.
- (4) The Department must ensure that persons appointed to be parking controllers are suitably trained before undertaking their duties.
- (5) A parking controller may not exercise a function conferred on him by this section unless he is wearing a uniform approved or provided by the Department.
- (6) If an offence mentioned in section 57(1) of the *Road Traffic Act 1985* (giving of evidence by certificate) is also an offence specified under subsection (1), a reference in that section to a constable includes a parking controller.
- (7) The Department may delegate to a local authority its power under subsection (1) (including its power under subsection (3)) to appoint persons to be parking controllers.
- (8) A local authority to which the Department has delegated its power under subsection (1) must exercise the power subject to any conditions imposed by the Department.

**59 New section 35B - certain vehicles not to be treated as motor vehicles**

After section 35A insert —

**35B Certain vehicles not to be treated as motor vehicles**

- (1) The following are not motor vehicles for the purposes of this Act —
  - (a) a mechanically propelled vehicle that is controlled by a pedestrian and constructed to cut grass, being a vehicle that is incapable of being used or adapted for any other purpose;

- (b) any other mechanically propelled vehicle of such class as may be specified by regulations made by the Department for the purposes of this section; and
  - (c) any electrically assisted pedal cycle of such class as may be specified by regulations made by the Department for the purposes of this section.
- (2) In subsection (1) “**controlled by a pedestrian**” means that the vehicle either —
- (a) is constructed or adapted for use only under the control of a pedestrian; or,
  - (b) is constructed or adapted for use either under such control or under the control of a person carried on it but is not for the time being in use under, or proceeding under, the control of a person carried on it. **22**.

## 60 Section 38 amended — interpretation

In section 38(1) insert the following alphabetically —

“**fire brigade**” includes the airport fire and rescue service;

“**parking controller**” means a person appointed under section 33A(1) or (3);

“**statutory undertaker**” means a person authorised by a statutory provision —

- (a) to carry on a railway, tramway or lighthouse undertaking;
- (b) to undertake the supply of gas, water, electricity or heating;
- (c) to operate a sewerage and sewer system; or
- (d) to operate a telecommunications code system (within the meaning of the *Telecommunications Act 1984*);

and “**statutory undertaking**” is to be construed accordingly;

“**traffic regulation order**” has the meaning given to that expression by section 1(1);

“**traffic warden**” has the meaning given to that expression by section 33(1); **22**.

## 61 New section 38A – power to amend Schedules 5 and 5A

After section 38 insert —

### **38A Power to amend Schedules 5 and 5A**

- (1) The Department may make regulations amending any provision of Schedules 5 and 5A.
- (2) In subsection (1) “amending” includes modifying, repealing and adding to. **22**.

**62 Section 39 amended – power to make orders and regulations**

For section 39(2) substitute –

- ▣(2) The following do not take effect until they have been approved by Tynwald, namely –
- (a) regulations made by the Department under sections 7, 9, 15, 27, 28, 32, 35B(1) and 38A, paragraph 4 of Schedule 1 and paragraph 2 of Schedule 2;
  - (b) orders made under sections 2(2), 2B(1), 31(2), 33(3) and 33A(1) and paragraphs 3(2), (3) and (4) of Schedule 5A. ▣

**63 Schedule 1 repealed and replaced – temporary notices**

For Schedule 1 substitute –

**▣ Schedule 1**

**TEMPORARY NOTICES**

(Section 3(9))

- 1 The Department must publicise any proposal it has to issue a notice under section 3(1) in such a way as it considers will bring to public attention –
  - (a) the general effect of the proposed notice;
  - (b) any alternative route that will be available for traffic; and
  - (c) where the notice will be available for viewing, which may be a website.
- 2 In general, publicity under paragraph 1 must take place not less than 7 days before the notice issued under section 3(1) comes into force but if the Department is satisfied that the circumstances are such as to make it impractical to do so the Department may publicise the issue of the notice under paragraph 1 as soon as practical.
- 3 Where the Department has publicised a proposal to issue a notice under section 3(1) it may, before the expiration of the period for which the notice can continue in force, issue a further notice under that section with respect to the same road or part of a road without publicising its intention to do so.
- 4 The Department may make regulations –
  - (a) substituting a provision for a provision in paragraph 1, 2 or 3; or
  - (b) prescribing generally the notification to be given of the exercise or proposed exercise of the Department's powers

conferred by section 3 in lieu of the provisions in paragraph 1, 2 and 3. **22**.

#### 64 Schedule 2 repealed and replaced – procedure for making certain orders may be prescribed

For Schedule 2 substitute –

##### **Schedule 2**

##### **PROCEDURE FOR MAKING CERTAIN ORDERS MAY BE PRESCRIBED**

Sections 4A,14D and 23(3), *Road Traffic Act 1985*, section 30(9) and *Highways Act 1986*, section 91A(4)

#### **1 Application**

This Schedule applies to orders made under –

- (a) sections 4A,14D and 23(3) of this Act;
- (b) section 30(9) of the *Road Traffic Act 1985*; and
- (c) section 91A(4) of the *Highways Act 1986*.

#### **2 Department may prescribe procedure**

The Department may make regulations prescribing the procedure to be followed when making orders to which this Schedule applies. **22**.

#### 65 Schedule 4 amended – penalties

- (1) This section amends the table that forms Schedule 4.
- (2) Accordingly, a reference in this section to an entry by section number is a reference to the row of that table in which the section number appears in the first column of the row.
- (3) After the entry in respect of section 2(1) insert –
 

<b>22</b> Section 2B(6)	Driving, drawing or riding a vehicle or causing or permitting a vehicle to be driven, drawn or ridden or to wait in contravention of an order made under the section or otherwise contravening a provision of such an order	£2,000. . <b>22</b>
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- (4) After the entry in respect of section 15(5A) insert –
 

<b>22</b> Section 19A(1)	Unlawfully defacing traffic sign or street furniture	£2,000 <b>22</b> .
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- (5) In the third column of the entry in respect of section 22(1), for “£1,000” substitute **22** £3,000 **22**.
- (6) In the second column of the entry in respect of section 28(6A), for “to constable” substitute **22** to a constable, traffic warden or parking controller **22**.
- (7) After the entry in respect of section 28(6A) insert –



Section 28A(1)

Wrongfully using disabled person's badge

£2,000

## 66 Schedule 5A amended – fixed penalties

- (1) This section amends Schedule 5A.
- (2) Accordingly, a reference to a paragraph in this section is a reference to a paragraph of that Schedule.
- (3) For paragraph 1(3)(b) substitute –
  - (b) the constable is satisfied on inspecting the licence that the driver, if he were convicted of that offence, would not be liable to be disqualified under paragraph 12(2) of Schedule 3 to the *Road Traffic Act 1985* (disqualification for 12 or more penalty points) or under paragraph 12(2B) or (2E) of that Schedule (disqualification for 6 or more penalty points) or that his licence, if he were so convicted, would not be liable to revocation under paragraph 12(2C) of that Schedule (revocation for 6 or more penalty points); and
- (4) For paragraph 2(2)(a) substitute –
  - (a) the constable or authorised person is satisfied on inspecting the licence that the driver, if he were convicted of that offence, would not be liable to be disqualified under paragraph 12(2), (2B), or (2E) of Schedule 3 to the *Road Traffic Act 1985* or that his licence, if he were so convicted, would not be liable to revocation under paragraph 12(2C) of that Schedule; and
- (5) For paragraph 8(8)(a) substitute –
  - (a) in endorsing a licence under this paragraph the Chief Registrar has been deceived as to whether endorsement under this paragraph is excluded by paragraph 14(2) by virtue of the fact that the licence holder would be liable, if convicted of the offence, to be disqualified under paragraph 12(2), (2B) or (2E) of Schedule 3 to the *Road Traffic Act 1985* or that his licence, if he were so convicted, would be liable to revocation under paragraph 12(2C) of that Schedule; and
- (6) In paragraph 9(6) for “paragraph 4 or 7 of Schedule 3 to that Act (revocation on disability etc.)” substitute paragraph 4, 7 or 9 of Schedule 3.
- (7) For paragraphs 14(1) substitute –
  - (1) This paragraph applies where on inspection of a driving licence sent to the Chief Registrar under paragraph 8(3) it appears to him –

- (a) that the licence holder, if convicted of the offence in respect of which the relevant fixed penalty notice was given under paragraph 1(1) or 2(2), would be liable to be disqualified —
- (i) under paragraph 12(2) of Schedule 3 to the *Road Traffic Act 1985* (disqualification for 12 or more penalty points); or
- (ii) under paragraph 12(2B), or (2E) of that Schedule (disqualification for 6 or more penalty points); or
- (b) that if the licence holder were so convicted, his licence would be liable to revocation under paragraph 12(2C) of that Schedule (revocation for 6 or more penalty points). ~~22~~.
- (8) In table 1 at the end of the Schedule —

- (a) after the entry in respect of Section 1(12) of the *Road Traffic Regulation Act 1985* insert the following entries —

<del>22</del>	Section 2(1):wrongful overnight and weekend waiting of certain vehicles, etc.	-	-
	Section 2B(1): driving, drawing or riding a vehicle or causing a vehicle to wait in contravention of an order under the section, etc.	—	— <del>22</del> ;

- (b) after the entry in respect of Section 18(1) of the *Road Traffic Act 1985* insert the following entry —

<del>22</del>	Section 18A(1): parking near junction, etc.	-	- <del>22</del> ;
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and

- (c) for the entry in respect of the *Highways Act 1986* substitute —

<del>22</del> HA	Section 38: contravention of a requirement, prohibition or restriction imposed in accordance with the section where the offence is committed in respect of the parking of a vehicle	-	-
	Section 43: obstructing a highway if committed in respect of a vehicle	-	-
	Section 55A: vehicle parked for sale on highway	-	- <del>22</del>

## 67 Consequential amendment - Disabled Persons (Badges for Motor Vehicles) Regulations 2002

In the Disabled Persons (Badges for Motor Vehicles) Regulations 2002 —

- (a) in regulation 2 for the definition “disabled person’s badge” substitute —

“disabled person's badge” means a badge issued by the Department of Health and Social Care in accordance with section 28(1) of the *Road Traffic Regulations Act 1985*; ~~2~~;

- (b) omit regulation 3;
- (c) omit regulation 5(c);
- (d) omit the Schedule.

## PART 4 — AMENDMENTS TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1984

### 68 Local Government (Miscellaneous Provisions) Act 1984 amended

- (1) This Part amends the Local Government (Miscellaneous Provisions) Act 1984.
- (2) Accordingly, a reference to a section or Schedule in this Part is a reference to a section of, or a Schedule to, that Act.

### 69 Section 2 amended – power to remove vehicles

In section 2 —

- (a) in subsection (1)(a) omit “or broken down”;
- (b) in subsection (2) omit “, subject to subsection (3),” and
- (c) omit subsections (3), (3A) and (4).

### 70 Section 3 amended - power of constable to require removal of vehicles

In section 3(2) for “£1,000” substitute ~~2~~£2,000~~2~~.

### 71 New section 3A – power to remove vehicles causing offence

After section 3 insert —

#### ~~2~~ 3A Power to remove vehicles causing offence

- (1) This section applies if a complaint is made to an appropriate authority that —
  - (a) a vehicle is on a road or in a public place; and
  - (b) it is in such a neglected condition that its presence there makes it offensive to the public,
 and the appropriate authority is of the opinion that the vehicle has remained parked in its location in such a condition for at least 28 days.

- (2) The appropriate authority may remove the vehicle from the road or public place.
- (3) However, the appropriate authority may not do so unless —
  - (a) it has affixed to the vehicle a notice stating that if the vehicle is not removed by a date specified in the notice, being a date not less than 14 days after the notice is affixed to the vehicle, the authority intends to remove the vehicle; and
  - (b) by the date specified in the notice the vehicle has not been removed.
- (4) If —
  - (a) a notice has been affixed to a vehicle in accordance with subsection (3) and by the date specified in the notice the vehicle is removed; but
  - (b) subsequently the appropriate authority is of the opinion that its presence on a road or in a public place again makes it offensive to the public,
 the appropriate authority may at any time remove the vehicle in accordance with subsection (2) without complying with subsection (3). **22**.

## 72 Section 4 amended - custody of vehicles

In section 4(1) and (2) for “pursuant to section 2 or” substitute **23** pursuant to section 2 or 3A or **22**.

## 73 Sections 5, 6, 7, and 8 repealed and replaced – disposal of vehicles, etc.

For sections 5, 6, 7 and 8 substitute —

### **23** 5 Enforcement of fines and vehicle duty and the payment of fees, charges and costs

- (1) This section applies to vehicles —
  - (a) removed by an appropriate authority pursuant to section 2(1)(a) or (b) or 3A or an order under section 11(1) or 14A(4) of the *Road Traffic Regulation Act 1985* (regulation of parking places); or
  - (b) delivered to the Department under section 4(1) after having been so removed.
- (2) A vehicle to which this section applies must not be released to its owner or any other person until the fees, charges and costs mentioned in section 6(3)(c) have been paid together with —
  - (a) any relevant fine; and

- (b) any vehicle duty payable in respect of the vehicle.
- (3) If the fees, charges or costs and any relevant fine or duty are not paid in full within 35 days of a vehicle being removed it may be disposed of in accordance with regulations made under section 6 and any proceeds used to pay the fees, charges or costs and the fine or duty in accordance with such regulations.
- (4) If the proceeds are insufficient to pay the relevant fine or duty in full —
  - (a) the relevant fine or any unpaid part of it remains a relevant fine; or
  - (b) the duty or any unpaid part of it continues to be payable, as the case may be.

## 6 Retention, disposal and release etc. of vehicles

- (1) This section applies —
  - (a) to vehicles to which section 5 applies;
  - (b) vehicles removed by an appropriate authority pursuant to section 2(1)(c) or (2); and
  - (c) vehicles delivered to the Department under section 4(1) after having been so removed.
- (2) The Department may by regulations make provision for —
  - (a) the retention or storage of vehicles; and
  - (b) the release, forfeiture or disposal of vehicles in accordance with the regulations.
- (3) Regulations under subsection (2) may, in particular, make provision about —
  - (a) giving notice of the removal of a vehicle to prescribed persons;
  - (b) enabling any property found in a vehicle to be removed, delivered into custody, returned or disposed of in accordance with the regulations (including provision as to determining entitlement to such property);
  - (c) the payment of fees, charges or costs in relation to the removal, storage or disposal of a vehicle and any application for its release;
  - (d) the payment of any fine or duty;
  - (e) the destination —
    - (i) of any fees, charges or costs or any fine or duty payable in accordance with the regulations;

- (ii) of the proceeds (if any) arising from the disposal of the vehicle and any property found in it.

(4) Regulations under subsection (2) may provide that, where a vehicle has been supplied under a contract of lease or hire, including a hire-purchase agreement, and despite any term of that contract —

- (a) the vehicle may be released to any party to the contract;
- (b) the contract may be nullified or varied on release of the vehicle; and
- (c) without limiting any civil claim, such monies are to be paid to or by the parties to the contract as are determined in accordance with the regulations.

## 7 Indemnity

Except with the leave of the court, a claim shall not lie to a civil court in respect of the removal, storage, retention, forfeiture or disposal of a vehicle, or of any property found in a vehicle, in pursuance or purported pursuance of this Part or regulations made under this Part.

## 8 Interpretation

In this Part —

“**appropriate authority**” means —

- (a) the Department;
- (b) the local authority for the district in which the road or land in question is situated; and
- (c) in relation to a vehicle falling within section 2(1) or 3A, a constable;

“**parked**” means permitted to remain at rest;

“**relevant fine**” means a fine in respect of —

- (a) an offence under Part 1 of this Act or under the *Road Traffic Act 1985*, the *Road Traffic Regulation Act 1985*, the *Highways Act 1986*, the *Road Transport Act 2001* or the *Licensing and Registration of Vehicles Act 1985*; or
- (b) an offence prescribed for the purposes of this section by the Department by order approved by Tynwald;

“**road**” means any highway and any other road to which the public have access, and includes a bridge over which a road passes;

“**vehicle duty**” has the same respective meaning as in the *Licensing and Registration of Vehicles Act 1985*.

“**vehicle**” means a vehicle of any description, whether or not in a state for use on roads or designed for use on roads, and includes a chassis or body, with or without wheels, appearing to have formed part of a vehicle, and anything carried by, attached to, or forming part of a vehicle. **22**.

**74 Schedule 1 repealed**

Schedule 1 is repealed.

## **PART 5 – REPEALS**

**75 Repeals**

The following Acts are repealed –

- (a) *Road Traffic (Amendment) Act 2001*; and
- (b) *Road Traffic (Amendment) Act 2006*.