



No. 16 of 1997.

*National Road Safety Council Act 1997.*

Certified on : 25.11.97



INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1997.

*National Road Safety Council Act 1997.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1997

AN ACT

entitled

*National Road Safety Council Act 1997,*

Being an Act -

- (a) to make provision for the establishment of the National Road Safety Council; and
- (b) to define its functions and powers; and
- (c) for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART 1. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) the right to privacy conferred from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public welfare.

(2) For the purposes of Section 29 of the *Organic Law on Provincial Government*, it is declared that this law relates to a matter of national interest.

(3) For the purposes of Section 41(2) of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.

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**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

- "Chairman" means the Chairman of the Council appointed under Section 8;
- "Committee" means a Committee of the Council established under Section 14;
- "Council" means the National Road Safety Council established by Section 3;
- "Deputy Chairman" means the Deputy Chairman of the Council appointed under Section 8;
- "Executive Director" means the Executive Director appointed under Section 21;
- "levy" means the third party insurance premium levy fixed under section 32;
- "member" means a member of the Council appointed under Section 6;
- "Operational Instructions" means the Operational Instructions used under Section 45;
- "Service" means the National Road Safety Council Service established by Section 20;
- "this Act" includes the Regulations.

**PART II. - ADMINISTRATION.**

*Division 1. - Establishment of the National Road Safety Council.*

**3. ESTABLISHMENT OF THE NATIONAL ROAD SAFETY COUNCIL.**

(1) The National Road Safety Council is hereby established.

(2) The Council -

- (a) is a body corporate with perpetual succession; and
- (b) shall have a common seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its corporate name and style.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to a document and shall presume that it was duly affixed.

**4. FUNCTIONS OF THE COUNCIL.**

The functions of the Council are -

- (a) to determine the goals and objectives in the promotion of road safety in Papua New Guinea; and
- (b) to advise the National Government on all matters relating to road safety which the Council may from time to time consider desirable or which the National Government may refer to the Council; and
- (c) to recommend to appropriate authorities the adoption of precautionary measures of all kinds calculated to prevent accidents involving the use of motor vehicles; and

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- (d) to foster, promote and conduct educational campaigns designed to stimulate compliance with acceptable and proven principles of road safety; and
- (e) to enlist the aid of all agencies and individuals who in the opinion of the Council are able to promote any acceptable and proven principles of road safety; and
- (f) to procure sufficient personnel and finance for purposes of the Council and to co-ordinate and control their use; and
- (g) to foster and promote road safety research; and
- (h) to determine measures which will lead to the improvement of road safety in Papua New Guinea and to control and co-ordinate the planning and implementation of such measures; and
- (i) to monitor and evaluate the effectiveness of programs and strategies of organizations involved in the promotion of road safety; and
- (j) to formulate, monitor and update an appropriate long term national programme for the improvement of road safety in Papua New Guinea and to supervise its implementation; and
- (k) to consider and implement any other aspects of road safety as may be referred to it from time to time; and
- (l) to perform such other functions as are given to it under this Act or any other law; and
- (m) to advise the Minister and the National Executive Council on all or any of its functions specified in this section; and
- (n) generally, to do all such things as may be incidental or consequential upon the exercise of its powers and the performance of its functions.

### **5. POWERS OF THE COUNCIL.**

The Council has power to do, in the country or elsewhere, all things necessary or convenient to be done for or in connection with the attainment of its objectives and the performance of its functions in accordance with the policies set by the Minister or the National Executive Council.

### **6. MEMBERSHIP OF THE COUNCIL.**

- (1) The Council shall consist of -
  - (a) the following *ex officio* members -
    - (i) the Departmental Head of the Department of Transport and Works or his nominee; and
    - (ii) the Departmental Head of the Department of Finance and Planning, or his nominee; and
    - (iii) the Departmental Head of the Department of Health, or his nominee; and

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- (iv) the Departmental Head of the Department of Education, or his nominee; and
  - (v) the Departmental Head of the Department of Provincial and Local Government Affairs, or his nominee; and
  - (vi) the Departmental Head of the Department of Lands and Physical Planning, or his nominee; and
  - (vii) the Commissioner for Police, or his nominee; and
  - (xiii) the Executive Director; and
- (b) six other members of whom -
- (i) one shall represent the National Capital District Commission, nominated by that Commission; and
  - (ii) one shall represent the Motor Vehicles Insurance Trust, nominated by that Trust; and
  - (iii) one shall represent the Papua New Guinea Chamber of Commerce and Industry, nominated by that Chamber or its equivalent; and
  - (iv) one shall represent the National Broadcasting Commission, nominated by that Commission; and
  - (v) one shall represent the University of Papua New Guinea, nominated by that University; and
  - (vi) one shall represent the Papua New Guinea University of Technology, nominated by that University.
- (2) The members referred to in Subsection (1)(b) -
- (a) shall be appointed by the Minister by notice in the National Gazette; and
  - (b) shall be appointed for a term not exceeding three years; and
  - (c) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299); and
  - (d) are eligible for reappointment; and
  - (e) shall be ordinarily resident in the country.

#### **7. ALTERNATE MEMBERS.**

(1) For each of the members appointed under Section 6(1)(b), there shall be an alternate member appointed in the same way and subject to the same terms and conditions as the member for whom he is the alternate.

(2) In the event of the inability of a member to act in relating to a matter, the alternate member has and may exercise all his powers, functions and duties in relation to that matter and this Act applies accordingly.

(3) An alternate member may attend all meetings of the Council but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debates or be counted towards a quorum.



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(4) An alternate member may resign his office as an alternate member by giving notice in writing signed by him and addressed to the Minister.

### **8. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister may appoint a member of the Council (other than the Executive Director) to be the Chairman of the Council and one other member to be the Deputy Chairman of the Council.

(2) The Chairman and Deputy Chairman hold office as Chairman and Deputy Chairman respectively until the expiration of the period of their respective appointments or until they cease to be members, whichever first occurs.

### **9. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

### **10. VACATION OF OFFICE.**

(1) A member, other than an *ex officio* member, may resign his office by writing signed by him and delivered to the Minister.

(2) If a member, other than an *ex officio* member -

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) is absent, except with the written consent of the Minister, from three consecutive meetings of the Council; or
- (d) fails to comply with Section 13; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes and assignment for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment of one year or longer; or
- (g) ceases to be ordinarily resident in the country,

the Minister shall terminate his appointment.

(3) The Minister may, at any time, by written notice, advise a member, other than an *ex officio* member, that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister who shall consider the reply, and where appropriate, terminate the appointment.

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(5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), his appointment is terminated.

### **11. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.**

The exercise of a power or the performance of a function of the Council is not invalidated by reason only of a vacancy in the membership in the Council.

### **12. MEETINGS OF THE COUNCIL.**

(1) The Council shall meet as often as the business of the Council requires, and at such times and places as the Chairman directs, but in any event not less frequently than once in every three months.

(2) At a meeting of the Council -

- (a) seven members constitute a quorum; and
- (b) the Chairman or in his absence the Deputy Chairman, shall preside, and if both the Chairman and Deputy Chairman are absent, the members present shall appoint, from their own number, a Chairman for that meeting; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the Chairman presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(3) The Council shall cause minutes of its meetings to be recorded and kept.

(4) Subject to this Act, the procedures of the meetings of the Council are as determined by the Council.

### **13. DISCLOSURE OF INTEREST.**

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under Subsection (1), shall be recorded in the minutes of the meeting of the Council and the member -

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Council in relation to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

### **14. COMMITTEES OF THE COUNCIL.**

(1) The Council may, from time to time, establish Committees to advise the Council on such matters as the Council considers necessary.

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- (2) In establishing a Committee under Subsection (1), the Council may -
- (a) appoint such persons (including members) as it considers necessary; and
  - (b) specify the functions and procedures of the Committee.

(3) A member of a Committee, who is not a member of the Council, is subject to the same terms and conditions as a member of the Council, but not both as a member of the Council and a member of the Committee.

### **15. DIRECTIONS BY MINISTER.**

(1) The Minister may, after consultation with the Council or otherwise, give to the Council such directions consistent with Government policies and programmes and not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Council of its powers, duties and functions under this Act, and the Council shall give effect to all such directions.

(2) The Council shall furnish the Minister with such information with respect to its activities as he may from time to time require.

### **16. DELEGATION OF POWERS.**

The Council may, by written instrument, delegate all or any of its powers and functions, other than -

- (a) the power to borrow money or to raise loans or give loans or advances to or subscribe to or underwrite the issue of stocks, bonds or debentures of business enterprises; and
- (b) this power of delegation.

### **17. PROTECTION FROM PERSONAL LIABILITY.**

(1) A member of the Council or of a Committee or an officer, employee or agent of the Council, is not personally liable for any act or default of himself done or omitted to be done in good faith in the operations of the Council or the Committee, or for the purposes of the Council or the Committee.

(2) Any expense incurred by the Council or any member, employee or other person so acting under the direction of the Council shall be borne by and paid out of the funds of the Council.

### **18. CORPORATE PLAN, ETC.,**

(1) The Council shall, in respect of each calendar year, prepare a corporate plan including a work programme for the Council.

(2) The Council shall, by 28 February in each year, submit to the Minister for his approval the corporate plan including the work programme and budget of the Council for that year.

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**19. REPORTS.**

- (1) The Council shall furnish to the Minister -
- (a) on or before 15 March in every year, a report on the progress and performance of the Council for the year ending 31 December previously; and
  - (b) such other reports in relation to the functions of the council as are requested by the Minister.

(2) As soon as practicable after he has received the report referred to in Subsection (1)(a), the Minister shall forward the report to the Speaker for presentation to the Parliament.

*Division 2. - National Road Safety Council Service.*

**20. NATIONAL ROAD SAFETY COUNCIL SERVICE.**

- (1) There is established a National Road Safety Council Service consisting of -
- (a) the Executive Director; and
  - (b) other officers appointed in accordance with Section 23.

(2) The National Board Safety Council Service constitutes the staff of the Council.

**21. EXECUTIVE DIRECTOR.**

- (1) There shall be an Executive Director of the Service who -
- (a) shall be appointed by notice in the National Gazette by the Head of State, acting on advice, given after considering a recommendation from the Minister; and
  - (b) shall be the chief executive officer of the Service; and
  - (c) shall be the head of staff of the service; and
  - (d) shall be responsible to the Council for the efficient performance of the functions of the Service; and
  - (e) shall be appointed for a term of four years; and
  - (f) is eligible for reappointment.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of appointment and service of the Executive Director are as determined by the Council.

**22. FUNCTIONS OF THE EXECUTIVE DIRECTOR.**

- (1) The Executive Director shall -
- (a) manage the Service in accordance with the policy and direction of the Council; and
  - (b) advise the Council on any matters concerning the Council referred to him by the Council; and

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- (c) carry out and perform the duties required of him under this Act and his contract of employment.

(2) The Executive Director has such other duties as the Council may from time to time determine.

### **23. STAFF OF THE COUNCIL.**

The Executive Director may appoint to be employees of the Service such persons as he considers necessary for the purpose of giving effect to this Act.

### **24. PUBLIC SERVICE RIGHTS.**

Where -

- (a) an officer of the Public Service is appointed to be Executive Director, his service as Executive Director; and
- (b) an officer of the Service was immediately before his appointment, an officer of the Public Service, his service as an officer of the Service,

shall be counted as service in the Public Service for the purposes of determining his rights (if any) in respect of -

- (c) leave of absence on the grounds of illness; and
- (d) furlough, or pay in lieu of furlough (including pay to dependants on the death of the officer).

### **25. REGULATIONS FOR THE SERVICE.**

(1) The Regulations may make provision in relation to the Service, and, in particular -

- (a) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, prescribe the terms and conditions of employment of officers; and
- (b) make provision for a superannuation or other retirement benefits scheme to provide benefits for the staff; and
- (c) prescribe disciplinary procedures, creation and abolition of offices, promotion of officers and other matters for the regulation of the service.

(2) In the absence of Regulations under Subsection (1), any appropriate provisions of the *Public Services (Management) Act 1986* and the General Orders made thereunder shall, in so far for as relevant, apply.

### **26. TEMPORARY AND CASUAL EMPLOYEES.**

(1) The Executive Director may appoint such temporary and casual employees as are necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Council determines subject to the *Salaries and Conditions Monitoring Committee Act 1988*.

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**27. CONTRACT OF EMPLOYMENT.**

The Executive Director and every employee of the Council shall be employed under a contract of employment which -

- (a) in the case of the Executive Director, shall be executed by the Head of State acting on advice, given after considering a recommendation from the Minister, and by the Executive Director; and
- (b) in the case of an employee, shall be executed by the Executive Director on behalf of the Council and by the employee.

**28. CONSULTANTS.**

The Minister may, from time to time -

- (a) after consultation with the Council and the Executive Director; and
- (b) within the limits of funds available for the purpose; and
- (c) on such terms and conditions as are fixed by the Minister on advice of the Council,

appoint as employees of the Council such consultants as, in the opinion of the Minister after considering a recommendation from the Council, are necessary for the purposes of the Council.

**PART III. - FINANCES, ETC.,**

**29. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1986.***

(1) Part VIII of the *Public Finances (Management) Act 1986* applies to and in relation to the Council.

(2) For the purposes of Section 58 of the *Public Finances (Management) Act 1986*, tenders shall be publicly invited and contracts taken by the Council for all works, supplies and services, the estimated cost of which exceeds K20,000.00 for such other figure declared by the Minister responsible for finance matters.

**30. APPLICATION OF *AUDIT ACT 1989.***

The accounts of the Council shall be audited in accordance with Part III of the *Audit Act 1989*.

**31. CAPITAL.**

The capital of the Council consists of -

- (a) monies levied by the Council under Section 32; and
- (b) such monies as are appropriated for the purposes of carrying out and giving effect to this Act; and
- (c) such monies as may be appropriated annually by Parliament for the purposes of this Act; and
- (d) monies received by the Council by way of grants and subscriptions; and

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- (e) monies received by the Council for services provided by the Council; and
- (f) monies earned or arising from any investments; and
- (g) all other monies received by the Council in accordance with this Act and in the exercise and performance of its powers, functions and duties.

### **32. THIRD PARTY INSURANCE PREMIUM LEVY.**

- (1) Subject to Subsection (3), the Minister may, after consultation with -
  - (a) the Minister responsible for finance and planning matters; and
  - (b) the Insurance Commissioner,

by a notice in the National Gazette, fix a levy, to be known as the third party insurance premium levy, on all third party insurance cover for motor vehicles issued under the *Motor Vehicles (Third Party Insurance) Act* (Chapter 295).

(2) A person providing third party insurance shall deduct the amount of levy fixed under Subsection (1) from every motor vehicle third party insurance premium paid and shall remit that amount to the Council at least monthly or at such other intervals as the Council may direct.

(3) Different types of rate of levy may be fixed for different types of motor vehicle issued with third party insurance cover as the Minister shall determine from time to time, but in any event the levy shall not be less than 5% of every third party insurance premium paid.

(4) Whether or not a person pays the levy, no person is entitled to receive any payment or benefit from the levy payable to the Council under this section.

### **33. FUNDS OF THE COUNCIL.**

(1) The funds of the Council shall be the monies available to the Council under Section 31.

- (2) The monies of the Council may be expended only -
  - (a) in payment or discharge of expenses, obligations and liabilities of the Council; and
  - (b) in payment of remuneration of members of the Council and staff of the Council; and
  - (c) for such other purposes that are consistent with the functions of the Council and are approved by the Council.

### **34. BANK ACCOUNTS.**

(1) The Council shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions and shall pay into them all monies referred to in Section 31.

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(2) The Council may, with the approval of the Minister responsible for financial matters, open and maintain accounts outside the country with such banks as the Minister responsible for financial matters approves.

### **35. EXEMPTION FROM TAXATION.**

The income, property and operations of the Council are exempt from income tax under the *Income Tax Act 1959*.

## **PART IV. - MISCELLANEOUS.**

### **36. PROOF OF CERTAIN MATTERS.**

In any proceedings by or against the Council, proof is not required, unless evidence is given to the contrary, of -

- (a) the constitution of the Council or of a Committee; and
- (b) a resolution of the Council or of a Committee; or
- (c) the appointment of a member or a member of a Committee, the Executive Director or an employee, servant or agent of the Council; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Council or by a Committee.

### **37. HEAD OFFICE.**

(1) The head office of the Council shall be at such place in the country as the Council from time to time determines.

(2) Until the Council makes a determination under Subsection (1), the head office shall be located in the National Capital District.

### **38. SERVICE OF PROCESS.**

Any notice, summons, writ or other process requiring to be served on the Council may be served by being left at the head office of the Council or, in the case of a notice, by post.

### **39. SEAL.**

(1) The Council shall have the right to the use of any such seal or representation as it may select or devise and thereafter display or exhibit in connection with its activities or affairs.

(2) A person, who uses a seal or representation identical with that of the Council or which so resembles the seal or representation of the Council so as to deceive or cause confusion, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding six months, or both.

### **40. AUTHENTICATION OF DOCUMENTS.**

A document requiring authentication by the Council is sufficiently authenticated without the seal of the Council if signed by the Chairman.



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### **41. RETURNS AND INFORMATION.**

(1) The Council, or any person authorized on behalf of the Council, may by written notice, require a person to furnish to the Council or to the person so authorized, within such period as may be specified in the notice, all such returns or information relating to all such matters specified in the notice as may be necessary for the Council in relation to the performance of its functions under this or any other Act and as are within the knowledge of that person or in his custody or under his control.

(2) A person who, on being required under Subsection (1) to furnish any return or information, fails to comply with a notice under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months, or both.

(3) All monies received by way of fines for offences against Subsection (1) shall be paid into the funds of the Council.

(4) It is a defence to a charge of an offence under Subsection (2), if a person charged proves that the return or information was not relevant to the exercise of the powers and functions of the Council under this or any other Act or was not in the possession or under the control of such person at the time of the receipt of the notice.

### **42. CONFIDENTIALITY.**

(1) Information disclosed under this Act to the Minister, to a member of the Council or to an employee of the Council shall not be disclosed to any person who is not a member of the Council or an employee of the Council without the prior written approval of the person who provided that information, except -

- (a) to the extent that disclosure is authorized or required under this Act or any other law; or
- (b) to the extent that the person providing the information authorized its disclosure at the time of providing the information; or
- (c) to the extent necessary to enable the Executive Director to publish statistical information concerning the subject matter of the functions of the Council; and
- (d) to the extent necessary to enable the Council or the Minister to give advice to the National Executive Council, Departments or the Central Bank.

(2) A member of the Council or an employee of the Council who uses, for the purpose of his personal gain, any information disclosed under this Act that comes to his knowledge in the course of, or by reason of his membership of the Council or his employment as an employee of the Council, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

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**43. CONFLICT OF LAWS.**

Where, in respect of any of the functions and powers of the Council relating to road safety activities, there is conflict, inconsistency or a discrepancy between this Act and any other law, the provisions of this Act shall apply.

**44. ATTORNEY.**

The Council may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney and, subject to the instrument, a person so appointed may do any act or exercise or perform any power or function which he is authorized by the instrument to do, exercise or perform.

**45. OPERATIONAL INSTRUCTIONS.**

(1) The Council may, by instrument under the hand of the Chairman, issue Operational Instructions, not inconsistent with this Act, as to any matter prescribed by this Act to be so provided for or that are necessary or desirable for the carrying out or giving effect to this Act.

(2) Operational Instructions issued under Subsection (1) shall be published by the Council in the National Gazette.

**46. REGULATIONS.**

The Head of State, acting on advice, may make Regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing -

- (a) fees and charges payable in respect of services rendered or goods supplied by the Board; and
- (b) penalties of fines not exceeding K2,000.00 for offences against the Regulations.

I hereby certify that the above is a fair print of the *National Road Safety Council Act 1997* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *National Road Safety Council Act 1997* was made by the National Parliament on 1 October 1997 by an absolute majority in accordance with the *Constitution*.

Speaker of the National Parliament.