



Tonga

TRAFFIC ACT 2020

Act 9 of 2020



TRAFFIC ACT 2020

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Tonga

TRAFFIC ACT 2020

Act 9 of 2020

AN ACT TO MAKE FURTHER AND FRESH PROVISION FOR TRAFFIC, LAND TRANSPORT AND VEHICLE USE

I assent,
TUPOU VI,
27th August 2020.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART I – PRELIMINARY

1 Short title

This Act may be cited as the Traffic Act 2020.

2 Interpretation

In this Act, unless the context otherwise requires —

“**agricultural purpose**” means a purpose concerned directly with the management of a farm, but, except in the case of transport from one part of a farm to another part of the same farm or from one farm to another adjoining farm which is owned or managed by the same person, does not include the transport on a road of the produce of or requisites for a farm;

“**agricultural tractor**” means a tractor that is used exclusively for agricultural purposes and is not used on any road except when proceeding to or from a farm or when being inspected, serviced or repaired;

“**agricultural trailer**” means a trailer used exclusively for agricultural purposes;

“**boat trailer**” means a trailer used exclusively for the carriage of boats;

“**breath analysing instrument**” means apparatus of a type approved by the Minister responsible for Police by notice in the Gazette for analysis of concentration of alcohol in breath;

“**breath screening test**” means the initial taking of a sample of breath for analysis by a breath analysing instrument to establish the concentration of alcohol present in a person’s breath;

“**certificate of registration**” means a certificate issued under section 6(1) of this Act;

“**communication device**” means any hand held device which is designed or capable of being used for a communicative function;

“**dealer**” means a person who is carrying on business as a manufacturer of motor vehicles or as a dealer in motor vehicles;

“**district**” means each of the Administrative Districts of Tongatapu, Ha’apai, Vava’u, ‘Eua, Niuatoputapu and Niuafu’ou;

“**evidential breath test**” means taking a second sample of breath for analysis by a breath analysing instrument to establish the concentration of alcohol present in a person’s breath;

“**forward control vehicle**” means a passenger vehicle in which the centre of the steering wheel is in the forward quarter of the vehicle's total length;

“**goods vehicle**” “means a motor vehicle that is constructed primarily for the carriage of goods, or a motor vehicle constructed for both the carriage of goods and passengers, where the number of seating positions multiplied by 68 kilograms is less than 50 percent of the difference between the gross vehicle weight and the unladen weight”;

“**heavy goods vehicle**” “means a goods vehicle with a gross vehicle weight exceeding 3,500 kilograms”

“**heavy plant**” means any mechanically propelled vehicle, other than a goods vehicle, used in the construction and operation of roads, harbours, airports, buildings and other allied services and includes scrapers, excavators, bulldozers, mobile cranes, road rollers, forklifts and like vehicles;

“**heavy trailer**” means a trailer that has a gross vehicle weight exceeding 3,500 kilograms”;

“**invalid carriage**” means a motor vehicle specially designed and constructed for the use of persons suffering from some disability;

“**licence**” means a licence under this Act;

“**light goods vehicle**” means a goods vehicle with a gross vehicle weight not exceeding 3,500 kilograms;

“**light trailer**” means a trailer that has a gross vehicle weight not exceeding 3,500 kilograms;

“**mentally disabled**” means a person so declared by the Chief Executive Officer of the Ministry of Health to have a mental illness or mental disorder;

“**Minister**” means the Minister responsible for Transport unless otherwise specified to mean a different Minister, such as the Minister responsible for Police when applicable.

“**Ministry**” means the Ministry responsible for Transport;

“**motor cycle**” means a motor vehicle running on two wheels;

“**motor vehicle**” means a vehicle that is drawn or propelled by mechanical power, and includes a trailer, but does not include —

- (a) a trailer that is designed exclusively for agricultural purposes and is not used on any road except when proceeding to or from a farm; or
- (b) a vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power;

“**motorised tricycle**” means a motor vehicle that has three wheels symmetrically arranged in relation to the longitudinal median axis and has a gross vehicle weight not exceeding one tonne”;

“**unladen weight**” means the weight of any vehicle together with a full supply of fuel, water, tools, spare wheels or rims and tyres normally carried on the vehicle but excludes load carried;

“**Off-road vehicle**” means a passenger vehicle designed with special features for off-road operation and that has -

- (a) four-wheel drive;
- (b) a running clearance of not less than 200 mm; and
- (c) a front axle clearance, rear axle clearance, or suspension clearance of not less than 175 mm.

“**owner**” in relation to a motor vehicle, means the person lawfully entitled to possession thereof, except where the motor vehicle is subject to a bailment for a period not exceeding 28 days, in which case “**owner**” means the person who, but for the bailment, would be lawfully entitled to possession of the motor vehicle, and “**ownership**” has a corresponding meaning;

“**passenger**” means any person, other than the driver, carried by a vehicle, whether fare-paying or not;

“**passenger bus**” means a motor vehicle specially constructed for carrying more than 8 passengers”;

“**passenger lorry**” means a goods vehicle which has been adapted for carrying passengers;

“**passive breath testing device**” means a device which is held near a person's mouth for the purpose of ascertaining whether or not there is any alcohol in the person's breath;

“**Police Officer**” means any member of the Tonga Police appointed under section 42(2)(a) of the Tonga Police Act 2010;

“**Police Commissioner**” means the Police Commissioner appointed under section 10 and 11 of the Tonga Police Act 2010;

“**power cycle**” means a pedal bicycle or pedal tricycle that for alternative propulsion is fitted with a motor attachment (whether detachable or not) the total cylinder capacity of which does not exceed 60 cubic centimetres;

“**prescribed**” means prescribed by regulations made under this Act;

“**public service vehicle**” means a motor vehicle carrying passengers for hire or reward and includes a taxi (whether three wheeled or four wheeled), rental car, passenger bus and passenger lorry;

“**public road**” means any road that is prescribed to be a public road or any road which was known or reputed to be a public road. For the purposes of this Act, and until such time a new roads proclamation is made under the Public Roads Proclamation, the definition of public road includes all new roads which were built, maintained and accessible for public use since 1983;

“**registration plate**” means a registration plate for a motor vehicle issued under section 6(1) of this Act and includes a dealer's plate issued under section 12 of this Act;

“**rental car**” means a motor vehicle regularly let on hire or available to be let on hire, with or without a driver, not being a taxi;

“**road**” means any street, road, highway, market place, bridge, wharf or other way lawfully used by the public, regardless of whether it is defined by this Act as a public road or not;

“**taxi**” means a public service vehicle constructed or adapted for carrying eight or less passengers;

“**tractor**” means a motor vehicle (not being a traction engine) that is designed exclusively for the purposes of traction, and not for the carriage thereon of passengers (other than the driver) or of goods;

“**traffic**” means and includes bicycles, tricycles, motor vehicles, vehicles, all animals being ridden, driven or led and pedestrians on any road;

“**trailer**” means a vehicle without motive power that is drawn or propelled or is capable of being drawn or propelled by a motor vehicle from which it is readily detachable, but does not include a vehicle normally propelled by mechanical power while it is being temporarily towed without use of its own power; and

“**vehicle**” means a contrivance that is equipped with wheels or revolving runners upon which it moves or is moved but does not include a pushcart, wheel-barrow, trailer, perambulator moving machine or any other contrivance which is normally operated only by a person on foot.

PART II - ADMINISTRATION

3 Principal Licensing Authority

- (1) The Minister shall be the Principal Licensing Authority, who is charged with the administration of this Act.
- (2) The Principal Licensing Authority may designate, appoint or authorise such persons, licensing officers and examining officers and other officers as may be deemed necessary for the purpose of exercising or discharging the powers, authority or duties conferred or imposed on the Principal Licensing Authority or the Ministry to carry out the purposes of this Act, including but not limited to -
 - (a) providing licensing services;
 - (b) conduct driver licensing theory and practical testing;
 - (c) conduct vehicle inspections;
 - (d) check registration, licences, permits and warrants of fitness ;
 - (e) provide training for motor vehicle drivers and such other responsibilities as may be provided for under this Act.
- (3) The Principal Licensing Authority may delegate in writing such powers under this Act to such persons as may be necessary for the due carrying out of the provisions of this Act or any Regulations made hereunder.

PART III - REGISTRATION AND LICENSING OF MOTOR VEHICLES AND LICENSING OF MOTOR DRIVERS

4 Motor vehicle to be registered and licensed

- (1) Except as specially provided in this Part of this Act, no person shall use any motor vehicle on any road, or permit any motor vehicle to be so used, unless —
 - (a) the motor vehicle is registered in accordance with this Act; and
 - (b) registration plates for the motor vehicle and a current licence to use the motor vehicle have been issued in accordance with this Act and are affixed to the motor vehicle in the prescribed manner.
- (2) The fact that any motor vehicle is used on any road without having registration plates or a validly issued current vehicle licence affixed thereto in the

prescribed manner shall be sufficient evidence, until the contrary is proved, that the motor vehicle has not been registered or licensed as the case may be, in accordance with this Act.

- (3) The provisions of subsection (2) of this section shall not apply to any Examining Officer or to any person who uses a vehicle for the purposes of —
 - (a) taking the vehicle to an Examining Officer for examination;
 - (b) taking the vehicle to a Licensing Officer for licensing; or
 - (c) taking the vehicle to a garage for repair and subsequent testing (if necessary) by a licensed motor mechanic.
- (4) A motor vehicle shall only be registered and licensed for the purpose for which it was officially imported, unless permission to the contrary shall first have been obtained in writing from the Principal Licensing Authority.
- (5) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$500.

5 Application for vehicle registration and licence to be separate

- (1) Application for the registration of any motor vehicle shall be made by the owner of that motor vehicle to the Principal Licensing Authority.
- (2) Every application for the registration of a motor vehicle shall be also accompanied by with a separate application for a licence for the motor vehicle.
- (3) Agricultural tractors and trailers shall be registered and are subject to annual vehicle inspection, but are not subject to quarterly licencing.
- (4) Every application under this section shall be in accordance with the requirements of the regulations made under this Act, and shall accompanied by the prescribed fee.

6 Application for Vehicle Registration

- (1) Upon receipt of an application for the registration of any motor vehicle under this part the Principal Licensing Authority, if the application is in order and in accordance with the requirements of regulations made under this Act, shall assign a number to the motor vehicle and shall issue to the applicant registration plates bearing such vehicle number for the motor vehicle and a certificate of registration of the motor vehicle. Provided that each motor vehicle shall have affixed thereto such number of registration plates as may be prescribed, and the owner shall forthwith refund to the Principal Licensing Authority the cost of such plates.
- (2) The particulars of the registration of motor vehicles and the issue and transfer of licences under this Act shall be recorded in books kept for the purpose at the

Ministry's offices in the Districts of Tongatapu, Ha'apai, Vava'u, 'Eua, Niuatoputapu, and Niuafu'ou.

- (3) Any person shall on application to the Principal Licensing Authority in writing and upon payment of the prescribed fee be entitled to such particulars relating to vehicles owned by the applicant, as may be required from books kept in pursuance of subsection (2) hereof.
- (4) Unless the registration is cancelled by the Principal Licensing Authority, the registration of any motor vehicle shall continue in force without renewal although any new distinguishing mark may be assigned to the motor vehicle whenever new registration plates are issued for it.
- (5) No person shall be registered as the owner of any motor vehicle unless that person is 18 years of age or over.

7 Application for Vehicle Licence

- (1) The owner of every motor vehicle shall apply, in the manner prescribed by the regulations to this Act, to the Principal Licensing Authority at the Ministry's office in the District in which the owner resides, for a motor vehicle licence.
- (2) No licence shall be issued for any motor vehicle that is not for the time being duly registered under this part of this Act.
- (3) No licence shall be issued for any motor vehicle which has not been examined in the manner prescribed by regulations to this Act, provided that any licence issued without such examination may be suspended by the Principal Licensing Authority.

8 Issue of vehicle licence and affixing of plate

- (1) On receipt of an application for a licence of any motor vehicle, in the manner prescribed by the regulations to this Act, and of the prescribed fee, the Principal Licensing Authority if satisfied that the application is in order shall issue the appropriate licence for the motor vehicle.
- (2) While the licence and registration plates are affixed to the motor vehicle in the prescribed manner, it may be used on any road in Tonga during the period in and for which the licence was issued.

9 Use of motor vehicle with unauthorized or obscured registration plates or licence

- (1) Every person who affixes or causes to be affixed to any motor vehicle any registration plate or licence which is not authorized by this Act or any regulations hereunder or which is not issued for that motor vehicle for the current period commits an offence against this Act.

- (2) If any registration plate or licence affixed to a motor vehicle in accordance with this Part of this Act is in any way obscured, or is rendered or allowed to become not easily distinguishable, whether by night or by day, every person who uses the motor vehicle while any such condition continues commits an offence against this Act.
- (3) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$500.

10 Change of ownership

- (1) Within 7 days after the sale or other disposal of any registered motor vehicle the person selling or otherwise disposing of the same shall in writing notify a Licensing Officer of the sale or other disposal and of the name and address of the new owner.
- (2) Subsection (1) of this section shall apply to include, with the necessary modifications, in the case where —
 - (a) a vehicle subject to a hire purchase agreement is repossessed by the owner who shall give the required notice; or
 - (b) a vehicle is sold in pursuance of a lien, charge or distress warrant by the holder thereof or the bailiff who shall give the required notice.
- (3) Every notice pursuant to subsection (1) of this section shall be accompanied by the certificate of registration of the vehicle. Provided that the Principal Licensing Authority may dispense with production of a certificate of registration.
- (4) No person who becomes the owner of any motor vehicle pursuant to any sale or disposal as aforesaid shall use the motor vehicle on any road or permit it to be so used unless and until that person has received the certificate of registration duly endorsed with the transfer thereof.
- (5) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$200.

11 Cancellation of registration

- (1) If any registered motor vehicle is destroyed or becomes permanently useless or is removed permanently from Tonga the owner of the motor vehicle shall notify the Principal Licensing Authority and surrender to the Authority the vehicle's number plate or plates and certificate of registration.
- (2) Upon receipt of notice under subsection (1) the Principal Licensing Authority shall cancel the registration of the motor vehicle.

12 Dealers' plates and licences

- (1) Any dealer may make application in the prescribed form to the Principal Licensing Authority for one or more sets of special registration plates, and for the issue of a special licence in respect of the same.
- (2) Every application for a dealer's licence shall be accompanied by the prescribed fee and upon receipt of the application and the fee the Principal Licensing Authority may if satisfied that the application is in order issue to the applicant the plates and licences applied for.
- (3) Any dealer may in any year use any motor vehicle on any road if the motor vehicle is held by the dealer for the purpose of sale and if the plates and licence provided for in this section are duly affixed thereto.
- (4) Any licences issued herein are to be valid for 12 months only, from the date of issuance, and shall be renewed annually.

13 Visitors' motor vehicles

- (1) Any person who being a visitor, imports into the Tonga a motor vehicle of which that person is the owner, shall notify the Principal Licensing Authority within 48 hours of the importation and furnish at the same time particulars of the registration and registration plates of the vehicle in the country where it was last registered and unless some other registration plate is assigned by the Principal Licensing Authority, the registration plates of the country where the vehicle was last registered shall be used by such motor vehicle for the purposes of this Part of this Act.
- (2) Subject to subsection (1) hereof such visitor's motor vehicle shall be exempt from the requirements as to registration and licensing specified in this Part of this Act until —
 - (a) the expiration of 3 months from the date on which the vehicle was last brought into the Tonga thereby necessitating an immediate requirement to be registered and licenced in the Tonga; or
 - (b) the visitor's motor vehicle is sold or otherwise disposed of by the visitor to any other person, thereby necessitating an immediate requirement to be registered and licenced in Tonga,whichever first occurs.
- (3) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$500.

14 Unlicensed persons not to drive motor vehicle

- (1) It shall not be lawful for any person to drive a motor vehicle on any road unless that person is the holder of a valid motor driver's licence, or a valid learner's permit.

- (2) No person shall employ another person to drive a motor vehicle on any road unless the person so employed is the holder of a valid motor driver's licence.
- (3) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$500.

15 Driver's licences

- (1) The licensing officer may upon the payment of the prescribed fee issue a motor driver's licence to any person who satisfies him that he is qualified to be the holder of a motor driver's licence, and has met all the requirements for a driving licence in the regulations under this Act, entitling such person to drive any vehicle, including but not limited to the following classes of motor vehicles —
 - (a) Motor Cycle;
 - (b) Motorised Tricycle;
 - (c) Private Motor vehicle;
 - (d) Taxi;
 - (e) Passenger Bus or Passenger Lorry;
 - (f) Light Goods Vehicle;
 - (g) Tractor;
 - (h) Heavy Plant;
 - (i) Invalid Carriage;
 - (j) Heavy Goods Vehicle.
- (2) A motor driver's licence shall not be issued to any person who is under the age of 18 years.
- (3) A motor driver's licence shall remain in force as follows –
 - (a) the first driver's licence issued to a person in Tonga who has not previously held a valid driver's licence for a period of at least one year, shall remain in force for one year;
 - (b) subject to paragraph (a) a driver's licence may be issued to a person and remain in force for periods of 1 year, 3 years, 5 years or 10 years at their option,

and may be renewed upon payment of the prescribed fee, unless the holder is disqualified as hereinafter provided: provided that no person under the age of 21 years shall be issued with a public service vehicle driver's licence.
- (4) No person shall be granted a driver's licence for a public service vehicle of classes (b), (d) and (e) above unless he —
 - (a) had or has already held a driving licence for class (a), (c), (f) or (j) above for a period of not less than 6 months; and
 - (b) has passed a re-test by an Examining Officer.

- (5) No person shall be granted a driver's licence for a vehicle of classes (g), (h) and (j) above unless he —
 - (a) had or has already held a driving licence for class (c) or (f) above for a period of not less than 6 months; and
 - (b) has passed a re-test by an Examining Officer.
- (6) A person who has been granted a current driver's licence for a vehicle of any class shall only be entitled to drive a rental vehicle of that same class without further need for a separate licence.

16 Conditions for learner permit

- (1) A permit may be issued for any period not exceeding 12 months to any person who is 18 years and older, to learn to drive a motor vehicle other than a heavy goods vehicle, passenger bus, passenger lorry or heavy plant.
- (2) A person to whom a learner permit has been granted shall—
 - (a) be accompanied, whilst driving such motor vehicle, by a licensed driver in possession of a valid driving licence, occupying the front passenger seat (except in the case of a motor cycle);
 - (b) not carry on such motor vehicle any passengers other than the person specified in the preceding paragraph; and
 - (c) display clearly on the extreme front and rear of such motor vehicle the “L” plates prescribed by regulations to this Act.
- (3) A person driving under a learner's permit and the licensed driver accompanying that person shall each be liable for any offence committed against any of the provisions of this Act.
- (4) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$100.

17 Reciprocal recognition of foreign driving licences

Any person who holds a valid driving licence issued by another country which recognizes by reciprocation a valid Tongan driving licence to be used in that other country, may be entitled to drive the same class of motor vehicle and conditions as their foreign driving licence entitles them, in Tonga, for a period of not more than 12 months.

18 Non-reciprocal recognition of foreign driving licences

Any person who holds a valid driving licence issued by another country which does not recognize by reciprocation a valid Tonga driving licence to be used in that other country, on production of such driving licence to the Principal Licensing Authority, having satisfied the requirements for recognition of a foreign driving licence, and on

payment of the prescribed fee may be issued by the Principal Licensing Authority with a driver's licence entitling such person to drive the same class of motor vehicle as their foreign driving licence entitles them, in Tonga.

19 Court to endorse particulars

- (1) The court before whom any person is convicted of manslaughter arising out of the driving of a motor vehicle or of an offence against sections 27 or 33 of this Act shall —
 - (a) cause particulars of the conviction (including any cancellation of licence or disqualification made under section 33 (3) or 41 of this Act) to be endorsed on the defendant's driver's licence (if any); and
 - (b) forthwith upon endorsement, forward the accused's driver's licence to the Principal Licensing Authority who shall record the same in the register kept for this purpose.
- (2) Any person so convicted shall be guilty of a further offence against this Act if that person fails to produce his licence to the Court for endorsement within 7 days after having been requested to produce it.
- (3) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$100.

20 Power to refuse driver's licence

The Principal Licensing Authority shall have the power to refuse to issue a motor driver's licence to a person who is deemed unable to drive in a safe manner due to being —

- (a) is mentally defective;
- (b) is physically disabled;
- (c) has defective eyesight; or
- (d) is completely or partially deaf.

21 Duration of vehicle related licences other than driver's licences

Vehicle licences other than driver's licences shall be for one year, 9 months, 6 months or 3 months and licence fees shall be payable on or before the first day of January, the first day of April, the first day of July, or the first day of October in each year as in each case shall be required.

22 Duplicates

Any person having power to issue any certificate, licence or permit under this Act shall, on proof to that person's satisfaction that such certificate, licence or permit has

been lost, defaced or destroyed, and on payment of the prescribed fee, issue a duplicate thereof to the person entitled thereto.

PART IV- DRIVING AND OTHER OFFENCES

23 Speed limit

- (1) Subject to section 26 of this Act, the speed limit for motor vehicles in Tonga shall be designated in speed zones by the Minister responsible for Transport.
- (2) The speed zones set under subsection (1) may have a maximum speed limit of either:
 - (a) 30 kilometres per hour;
 - (b) 40 kilometres per hour;
 - (c) 50 kilometres per hour; or
 - (d) 70 kilometres per hour,

and it shall be lawful for the Minister responsible for Transport to designate for one speed zone two different speed limits at different times, for different classes of motor vehicles.

24 Permanent or Temporary road notices, road signs, speed reduction road devices, speed road humps, traffic marking, traffic lights, or traffic devices to regulate Traffic

- (1) The Principal Licensing Authority may cause to be exhibited or erected temporary or permanent notices, road signs, speed reduction road devices, speed road humps, traffic markings, traffic lights, or traffic devices in or near any road or public place for the purpose of regulating the movement of traffic. Public safety shall be the primary considerations in all these actions.
- (2) The Principal Licensing Authority may cause to be exhibited or erected temporary or permanent notices, road signs, speed reduction road devices, speed road humps, traffic markings, traffic lights, or traffic devices in or near any road or public place, for the purpose of regulating traffic, indicating the speed limits, indicating the route to be followed by traffic on a road or public place, or for the purposes of excluding persons, vehicles, or animals from any road or public place during any public procession or public function or ceremony or in the event of any road being impassable or unsafe for traffic.
- (3) Any person driving or riding or in charge of any vehicle or animal or walking on any road or public place who, unless otherwise directed by a police officer, fails to conform to the indication given by any such temporary or permanent notice, road sign, traffic marking, traffic light or traffic device, commits an offence against this Act.

- (4) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$300.

25 Unlawful erection or tampering with Permanent or Temporary road notices, road signs, speed reduction road devices, speed road humps, traffic markings, traffic lights, or traffic devices to regulate Traffic

- (1) Any person who —
- (a) without the permission of the Principal Licensing Authority, erects or causes to be erected any temporary or permanent notices, road signs, speed reduction road devices, speed road humps, traffic markings, traffic lights, or traffic devices on or near any road; or
 - (b) unlawfully damages, defaces, moves or in any manner interferes with any temporary or permanent notices, road signs, speed reduction road devices, speed road humps, traffic markings, traffic lights, or traffic devices lawfully placed in or near any road, commits an offence against this Act.
- (2) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$300.

26 Special defences

It shall be a defence to any person charged with driving a motor vehicle at a speed in excess of any speed limit fixed under this Act or any other Act or under any regulation if that person proves that at the time of the alleged offence he was driving a motor vehicle while —

- (a) used as an ambulance and being at the time used on urgent ambulance service;
- (b) conveying a police officer engaged on urgent public business or in the exercise of his duty;
- (c) used by a fire services for attendance at fires and at the time responding to the call of fire;
- (d) used by a medical officer to attend an urgent medical case; or
- (e) used by an employee of Tonga Power Limited to attend to emergencies involving public safety.

27 Reckless driving

- (1) Every person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for the persons using the road is guilty of the offence of driving without due care and attention, and is liable to

a fine not exceeding \$800 or to imprisonment for a term not exceeding 4 months or to both such fine and imprisonment, and the Court may order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 3 years.

- (2) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, commits the offence of reckless driving, and is liable on conviction to a fine not exceeding \$2,000 or to imprisonment for not more than 2 years or to both such fine and imprisonment, and the Court may order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 3 years.
- (3) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, and who causes bodily harm within the meaning of section 107(2) of the Criminal Offences Act to any person whilst so driving, commits the offence of reckless driving causing harm and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for not more than 3 years or to both such fine and imprisonment, and the Court may order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 5 years.
- (4) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, and who causes grievous harm within the meaning of section 106(2) of the Criminal Offences Act to any person whilst so driving, commits the offence of reckless driving causing grievous harm and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for not more than 7 years or to both such fine and imprisonment, and the Court may order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 5 years.
- (5) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, and who causes death to any person whilst so driving, commits the offence of reckless driving causing death and is liable on conviction to imprisonment for not more than 15 years, and the Court may order that the convicted person be permanently disqualified from holding or obtaining a driver's licence.

28 Breath screening test

- (1) Any of the following persons may be required by a police officer to undergo a breath screening test using a breath analysing instrument:
 - (a) a driver of, or a person attempting to drive, a motor vehicle on any road;

- (b) a person whom the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle;
 - (c) if an accident has occurred involving a motor vehicle, —
 - (i) the driver of any vehicle involved in the accident; or
 - (ii) if the driver of the motor vehicle at the time of the accident is unable to be ascertained, a person whom the officer has good cause to suspect was in the motor vehicle at the time of the accident; or
 - (d) any person who is in a hospital or doctor's surgery as a result of an accident involving a motor vehicle provided that the medical practitioner in attendance determines that the taking of the breath screening test would not be prejudicial to the person's health.
- (2) Every person who has been required to undergo a breath screening test under this section shall remain at the place where the person underwent the test until after the result of the test is ascertained, and any person who refuses or fails to remain at that place commits an offence and may be arrested without warrant.
- (3) Any person who has been required to undergo a breath screening test, may also be required to undergo a test using a passive breath testing device.
- (4) The use or non-use of a passive breath testing device does not in itself affect the validity of the breath screening test.

29 Evidential breath test

- (1) Any person who has undergone a breath screening test under section 28 may be required to accompany a police officer to a place where that person will undergo an evidential breath test using a separate breath analysing instrument, if –
- (a) the person has undergone a breath screening test under section 28 and it appears to the officer that the test indicates that the proportion of alcohol in the person's breath exceeds 250 micrograms of alcohol per litre of breath;
 - (b) the person fails or refuses to undergo a breath screening test without delay after having been required to do so by a police officer under section 28; or
 - (c) the person could be required to undergo a breath screening test without delay under section 28 but cannot be tested because either a breath screening test is not readily available or for any reason a breath screening test cannot then be carried out, and there is good cause to suspect that the person has consumed alcoholic drink.
- (2) A person who is in a hospital or doctor's surgery as a result of an accident involving a motor vehicle may be required to undergo a second breath screening test provided that the medical practitioner in attendance determines that the taking of the evidential breath test would not be prejudicial to the person's health.

30 Refusal to take breath screening or evidential breath test

Any person who, without lawful justification, refuses to undergo and complete a breath screening test or an evidential breath test under this Act, commits an offence, and shall be liable upon conviction to a fine not exceeding \$10,000, or to a term of imprisonment not exceeding 3 years, or to both, and the Court may order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 3 years.

31 Defence for taking breath and evidential screening test

It is a defence to proceedings for an offence against sections 28 and 29 if the Court is satisfied on the evidence of a medical practitioner, that the taking of the breath screening or evidential breath test would have been prejudicial to the health of the accused.

32 Notice of Breath analysing instrument

The Minister responsible for Police shall declare by notice in the Gazette the breath analysing instrument to be used for taking breath screening and evidential breath tests under this Act.

33 Charge of motor vehicle while under influence of drink

- (1) Any person who is in charge of a motor vehicle on any road, and after being subjected to a breath screening and evidential breath test under this Act, and the lowest result of such tests is equivalent to or more than 250 micrograms of alcohol per litre of breath, commits an offence.
- (2) Any person who commits an offence under subsection (1), and the lowest result of either the breath screening or evidential breath test result is -
 - (a) between 250 micrograms and 400 micrograms of alcohol per litre of breath, shall be issued a Notice of Infringement in the form set out in Form 1 of the Schedule, and shall pay a fine of \$500 within 21 days; or
 - (b) in excess of 400 micrograms of alcohol per litre, shall be prosecuted, and if convicted, shall be liable to be imprisoned for a period not exceeding 2 years or a fine not exceeding \$5,000, or both.
- (3) Subject to subsection (4), in addition to any penalty given under subsection (2)(b), the Court may also order that the accused person be disqualified from holding or obtaining a driver's licence for a period not exceeding 2 years.
- (4) Any person who is convicted for the third time for an offence under subsection (1), shall be liable to be imprisoned for a period not exceeding 3 years or a fine not exceeding \$10,000, or both, and in addition to such penalty, and the Court may order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 5 years.

- (5)
- (a) A driver issued with a Notice of Infringement under subsection (2)(a) may —
 - (i) pay the prescribed fine to the Magistrate's Court; or
 - (ii) contest the notice.
 - (b) Where the driver wishes to contest the notice a summons will be issued.
- (6) The police officer who issues a Notice of Infringement under subsection (2)(a) shall lodge the duplicate notice with the clerk of the Magistrate's Court for the district within 48 hours. If the police officer is unable to lodge the duplicate notice within 48 hours due to a public holiday, weekend, or Court closure, then the duplicate notice shall be lodged on the day the Magistrate's Court reopens.
- (7) The clerk of the Magistrate's Court shall —
- (a) where the fine is tendered by the driver, receive the payment, issue a receipt and file the notice;
 - (b) where no payment is tendered within 21 days of the date of issue of the notice, issue a summons to the driver together with a copy of the Notice of Infringement.
- (8) Any person who drives a motor vehicle without a driver's licence or who is currently on a learner's permit and has 1 to 250 micrograms of alcohol per litre of breath commits an offence and shall be liable upon conviction to pay a fine of \$500 or imprisonment for a period not exceeding 2 years and revocation of learner's permit.

34 Causing bodily injury or death while driving under influence of alcohol

- (1) Any person who drives a motor vehicle and causes bodily injury or death of a person while the proportion of alcohol in such person, as ascertained by breath test subsequently undergone by that person under section 29, exceeds 350 micrograms of alcohol per litre of breath, commits an offence and shall be liable upon conviction to a term of imprisonment not exceeding 15 years.
- (2) In addition to any penalty imposed under subsection (1), the Court may also order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 3 years.

35 Road races, etc

- (1) Any person who aids, abets, counsels, procures or takes part in a race or trial of speed between motor vehicles on a road shall be guilty of an offence and shall be liable to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

- (2) In addition to any penalty imposed under subsection (1), the Court may also order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 3 years.

36 Loud Noise from Vehicles

- (1) For the purposes of this section, "loud noise" means any sound or vibrations from any mechanism of a vehicle used to generate sound, such as voice, songs and other similar matters, which is heard by any person who is not in the vehicle making such sounds or vibrations, and such sound or vibration is at a level that is unreasonable or unjustified.
- (2) Any person who drives a vehicle on any road, and such vehicle generates loud noise without authority under any enactment, such person commits an offence and shall be liable upon conviction to pay a fine of \$500 for the first offence, in default of paying such fine, be imprisoned for a period not exceeding one month, and for any subsequent offence, pay a fine of \$1000 for each subsequent offence, or be imprisoned for a period not exceeding 3 months.
- (3) In addition to any penalty imposed under subsection (1), the Court may also order that the convicted person be disqualified from holding or obtaining a driver's licence for a period not exceeding 1 year.

37 Non-essential lights from Vehicles

- (1) For the purposes of this section, "non-essential lights" means lights emitted from any part of a vehicle, whether flashing or constant, regardless of colour, that is not required by the Regulations as a necessary part of a vehicle's lights, which is visible to other drivers or pedestrians.
- (2) Any person who drives a vehicle on any road, and such vehicle emits lights without authority under any enactment, such person commits an offence and shall be liable upon conviction to pay a fine of \$500 for the first offence, in default of paying such fine, be imprisoned for a period not exceeding one month, and for any subsequent offence, pay a fine of \$1000 for each subsequent offence, or be imprisoned for a period not exceeding 3 months.

38 Driving while using a mobile phone

- (1) Every person driving a motor vehicle whilst holding a mobile phone or communication device in at least one hand, commits an offence.
- (2) The Principal Licensing Authority may promulgate by Regulations additional regulations on the use of mobile phones by persons driving a motor vehicle.
- (3) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$500.

39 Requirement to wear adult seatbelts

- (1) Every person driving a motor vehicle or riding in the front seat of a motor vehicle (other than a motor cycle) who does not wear an adult seatbelt commits an offence.
- (2) This section does not apply to person riding in the front seat of a motor vehicle who is under the age of 12 years.
- (3) The Principal Licensing Authority may declare by notice in the Gazette additional mandatory requirements for motor vehicles to have working seatbelts before registration and licencing, and any additional requirements for rear seats and infant seats.
- (4) It shall not be a defence to any person charged with driving or riding in the front of a motor vehicle without wearing an adult seatbelt, if the motor vehicle does not have seatbelts, or has defective seatbelts.
- (5) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$500.

40 Speeding Offences

- (1) Notwithstanding the provisions in section 20A of the Magistrate's Courts Act, whenever a police officer detects a vehicle which is travelling above the maximum speed limit, he may issue to the driver a Notice of Infringement in the form set out in Form 2 of the Schedule and shall do so if the only offence to be charged is exceeding the speed limit.
- (2) There shall be a fine set out in the notice at the rate of –
 - (a) \$35 plus \$3 for every kilometre per hour over the maximum speed limit in a 70 kilometre per hour speed zone; and
 - (b) \$25 plus \$2 for every kilometre per hour over the maximum speed limit in all other zones.
- (3)
 - (a) A driver issued with such a notice may —
 - (i) pay the fine set out in the notice to a Magistrate's Court; or
 - (ii) contest the notice.
 - (b) Where the driver wishes to contest the notice a summons will be issued.
- (4) The police officer who issues a Notice of Infringement under subsection (1) shall lodge the duplicate notice with the clerk of the Magistrate's Court for the district within 48 hours. If the police officer is unable to lodge the duplicate notice within 48 hours due to a public holiday, weekend, or Court closure, then the duplicate notice shall be lodged on the day the Magistrate's Court reopens.
- (5)

- (a) The Clerk of the Magistrate's Court shall —
 - (i) where the fine is tendered by the driver, receive the payment, issue a receipt and file the notice;
 - (ii) where no payment is tendered within 21 days of the date of issue of the notice, issue a summons to the driver together with a copy of the Notice of Infringement.
- (6) The summons shall be heard and determined by a Magistrate.

41 Cancellation of licence

- (1) Where a person is convicted of any offence involving the driving of a motor vehicle, and the Court makes an order cancelling that person's driving licence (if any) and disqualifying him from obtaining any driving licence for any period of time. The Prosecution shall forthwith deliver a copy of such order to the Principal Licensing Authority who shall record the same in a register to be kept for that purpose.
- (2) Subject to subsection (1), a person whose motor driving licence has been cancelled by an order made under this section may, after not less than half the period of cancellation has expired, apply to the Court by which the order was made to revoke the order.
- (3) On any such application the Court shall consider the nature of the offence, the character of the offender, the offender's conduct since the order was made and any other relevant circumstances, and may either —
 - (a) revoke the order from such date as it thinks fit; or
 - (b) refuse the application.
- (4) Where an application has been refused a further application may not be made until after 3 months from such refusal.

42 Disqualified drivers

- (1) If any person who under the provisions of this Act is disqualified from holding or obtaining a driver's licence applies for or obtains a licence, while he is so disqualified, or if any such person while he is so disqualified drives a motor vehicle, or if the disqualification is limited to the driving of a motor vehicle of a particular class or description, a motor vehicle of that class or description, on a road, or if any person who has been refused a licence applies for or obtains a licence without disclosing such refusal, he shall be guilty of an offence and the licence obtained by such person shall be invalid.
- (2) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$200.

43 Taking liquor in vehicle

- (1) Every person commits an offence against this Act who, while he is in a motor vehicle used for the carriage of passengers for hire or reward, takes any intoxicant or offers any intoxicant to the driver of the vehicle or to any other person.
- (2) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$200.

44 Arrest without warrant

Any Police Officer who on reasonable and probable grounds believes that any person has committed an offence against this part of this Act may arrest that person without warrant.

45 Power of Police Officer

- (1) Where any Police Officer is of opinion that any person who is for the time being in charge of any motor vehicle is, by reason of physical or mental condition, however arising, incapable of having proper control of the motor vehicle, he may —
 - (a) forbid that person to drive the motor vehicle;
 - (b) require that person to deliver up forthwith all ignition or other keys of the motor vehicle in his possession; and
 - (c) take such steps as may be necessary to render the motor vehicle immobile or to remove it to a place of safety.
- (2) Every person commits an offence against this Act who fails to comply with any direction given to him under subsection (1) of this section or does any act that is for the time being forbidden under that subsection.
- (3) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$200.

46 Compensation may be ordered

- (1) Where any person is convicted of an offence under section 27 or section 33 of this Act, he may as part of the sentence be ordered to pay a sum not exceeding \$10,000 in any case, as compensation to any person who may have suffered injury by reason of the act or default of the person convicted, or to the dependants of any person who may have been killed by reason of that act or default.
- (2) Any amount so ordered to be paid shall be recoverable in the same manner as if it was a fine.

- (3) Such an order shall not prejudice or affect the rights of any person to any civil claim for damages and the amount so ordered to be paid shall where appropriate be set off against any damages recovered in a civil claim.

47 Obligations of driver where accident occurs

- (1) Where an accident arising directly or indirectly from the use of a motor vehicle occurs to any person or to any horse or vehicle in charge of any person, the driver of the motor vehicle shall stop, and shall ascertain whether he has injured any person, in which event it shall be his duty to render all practicable assistance to the injured person.
- (2) In the case of any such accident (whether any person has been injured or not) the driver of the motor vehicle shall, if required, give to any Police Officer or to any person concerned his name and address and also the name and address of the owner and the numbers assigned to the registration plates and annual licence of the motor vehicle.
- (3) If the accident involves injury to any person the driver shall report the accident in person at the nearest police station or to a Police Officer as soon as reasonably practicable, and in any case not later than one hour after the time of the accident, unless the driver is incapable of doing so by reason of injuries sustained by him in the accident.
- (4) Every driver who fails to comply with any obligation imposed on him by this section is guilty of an offence and shall be liable upon conviction to a fine not exceeding \$200.
- (5) Where an accident arises involving a motor vehicle on a road a Police Officer or an Examining Officer may inspect any vehicle in connection with which the accident arose and for that purpose may enter at any reasonable time any premises where the vehicle is and if any person obstructs such Police Officer or Examining Officer in the performance of his duty under this section he shall be guilty of an offence:

Provided that if the motor vehicle is on private property, no entry into such private property may be made without permission of the owner or his agent except under a warrant issued for such purpose.

48 Driver to stop at signal of Police Officer

- (1) The driver of a motor vehicle shall stop at the request or signal of any Police Officer in uniform and on demand shall give their name and address and shall produce their licence and the licence or certificate of registration applicable to the vehicle. If the driver is not the owner of the motor vehicle the driver, upon request, shall give the name and address of the owner. If the driver fails to produce their driver's licence when requested, the driver shall be guilty of an offence unless such driver's licence is produced to a police station within 48 hours of being so demanded.

- (2) Any driver who on demand fails to stop or refuses to give such name and address, commits an offence against this Act and may be arrested by any Police Officer without warrant.
- (3) Any driver who having stopped in compliance with this section gives any false information to a Police Officer shall be guilty of an offence.
- (4) A Police Officer may in his discretion detain any vehicle which is not registered or licensed in accordance with this Act.
- (5) A Police Officer may in his discretion require a driver of any vehicle to remove any tinting on the front windscreen of such vehicle if it prohibits the driver from being identified for law enforcement purposes. A driver who objects to this requirement may appeal in writing to the Police Commissioner providing the reasons he requires tinting. A driver's appeal shall be submitted to the Police Commissioner's office within 24 hours of being required to remove the tinting. Unless permitted by the Police Commissioner, the driver shall remove the tinting. The Police Commissioner's decision shall be final.
- (6) Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act for which he shall be liable to a fine not exceeding \$300 for the first offence and \$500 for subsequent offences.

49 General offences

If any person —

- (a) fraudulently imitates, alters, mutilates, destroys, or uses or fraudulently lends or allows to be used by any other person any registration plate, motor vehicle licence, certificate of registration, driving licence or learner's permit issued or deemed to have been issued under this Act;
- (b) without permission of the owner or person in charge thereof, climbs upon or into or swings upon any motor vehicle, whether the same is in motion or stationary, sounds any horn or other signalling device, or attempts to manipulate any of the levers, the starter, brakes or machinery thereof, or in any manner damages, interferes or tampers with a motor vehicle or puts in motion the engine thereof, while it is standing;
- (c) throws any object at a motor vehicle or trailer or at any person in or on such motor vehicle or trailer or places any object on any road whereby injury or damage to any motor vehicle or trailer may be occasioned;
- (d) wilfully loiters or remains on any road in such a manner or in such circumstances as to be likely to cause danger or obstruction to persons driving or propelling vehicles on the road;
- (e) uses or drives or permits to be used or driven any motor vehicle or trailer on a road in such defective condition as regards its mechanical fittings or otherwise as to be a source of danger to its occupants or the public or to other users of the road;

- (f) being the owner of a motor vehicle refuses on the request of any Police Officer —
 - (i) to give the name and address of the driver thereof, such driver having been authorised by such owner to drive the said motor vehicle; or
 - (ii) to give all such information in his possession as would assist in the discovery or identity of the driver;
- (g) being a passenger in any motor vehicle reasonably suspected to be a vehicle conveying passengers for hire or reward without being registered as a public service vehicle in its appropriate class, on being so required by a Police Officer refuses to give a statement as to his presence in such vehicle;
- (h) being the driver of a public service vehicle, stands for hire in any urban area at any road or place not appointed for the purpose;
- (i) being the owner or driver or person acting on behalf of the owner or driver of a public service vehicle plying for hire makes any noise or sounds any instrument in order to attract the attention of the public or of a possible passenger; or by troublesome and frequent demands or by persistent following holds out the vehicle for hire to the public in such manner as to constitute a nuisance, or acts in any way so as to cause annoyance or inconvenience to any person;
- (j) on a road rides on the running board or wings of a motor vehicle or on the outside of such motor vehicle except on a properly constructed seat or a tray;
- (k) being in a motor vehicle, in any way obstructs the driver of such motor vehicle whilst the same is in motion;
- (l) in or in connection with an application for a motor vehicle licence or the registration of a motor vehicle, or a driving licence or a learner's permit, or in connection with the endorsement of such a licence or permit, or any change or correction in a motor vehicle licence or the registration of a motor vehicle or in giving any information lawfully demanded or required under this Act or Regulations made under this Act, makes any statement which is to his knowledge false or in any material respect misleading;
- (m) rides, drives or propels or causes to be ridden, driven or propelled any animal or vehicle, not being a motor vehicle, on a road carelessly, negligently or recklessly or at a speed or in a manner which is dangerous to the public or to property having regard to all the circumstances of the case, including the amount and nature of the traffic which actually is at the time, or might reasonably be expected to be, on such road;
- (n) rides, drives or propels or is in charge of any animal or vehicle, not being a motor vehicle, on a road whilst drunk or while his efficiency for such purpose is impaired by drink or drugs;
- (o) whilst driving any vehicle omits to give the following signals —

- (i) when about to stop or slow down, holding the right forearm and hand vertical, outside the vehicle;
- (ii) when about to turn to the right, holding the right arm and hand horizontally straight out from the right side of the vehicle;
- (iii) when about to turn to the left, holding the right arm and hand horizontally straight out from the right side of the vehicle and revolving them in a anti-clockwise direction;
- (iv) when requesting a person driving any other vehicle to pass extending the right arm and hand below the level of the shoulder on the right side of the vehicle and moving them backwards and forwards:

Provided that if the motor vehicle is fitted with a mechanical signalling apparatus approved by the Principal Licensing Authority which is capable of carrying out as nearly as possible the signalling specified in paragraphs (i), (ii), (iii) and (iv) of this subsection, the driver may operate such mechanical apparatus for the purpose aforesaid; or

- (p) when riding any animal omits to keep as close as is practicable to the left of the roadway or omits to give the signals set out in paragraph (o) hereof;
- (q) leads or rides any animal or draws or drives any vehicle along any footpath or fastens any animal in such a manner that it can or does stand across or upon the footpath or roadway;
- (r) leaves in any public way any vehicle to which a horse is harnessed without leaving some competent person in charge thereof;
- (s) when riding any animal or driving any animal not being a motor vehicle on any road neglects or refuses to stop upon the request or signal of a Police Officer in uniform or neglects or refuses to proceed in such a manner and direction as such Police Officer shall deem necessary;
- (t) places or leaves or causes to be placed or left any obstruction whatsoever upon any road;
- (u) being in a motor vehicle, projects anything from inside the vehicle to the outside, causing any harm whatsoever, injury, damage or littering;
- (v) being inside a moving motor vehicle, climbs outside or causes to put any substantial part of their arms, legs or torso outside of the vehicle; or
- (w) when driving a motor vehicle carries on their lap a child or any other person;

shall be guilty of an offence.

50 Taking a motor vehicle without owner's consent

- (1) If any person takes and drives away any motor or other vehicle without the consent of the owner or other lawful authority, that driver shall be guilty of an offence -

Provided that if the court is satisfied that the accused acted in a reasonable belief that he had lawful authority, or in the reasonable belief that the owner would have given their consent if they had been asked, the accused shall not be liable to be convicted.

- (2) If any person is convicted under this section the Magistrate may, if he thinks fit, either in addition to or without inflicting any punishment, order that the person convicted pays to the owner of the vehicle either or both of the following sums, namely —
 - (a) such sum as, in the opinion of the Magistrate would have been charged if the vehicle had been hired by the person convicted; and
 - (b) such sum as, in the opinion of the Magistrate, represents fair compensation for any damage done to the vehicle.
- (3) If on the trial for stealing any motor or other vehicle, the court is of the opinion that the defendant was not guilty of stealing the vehicle, but was guilty of an offence under this Act, the court may find the defendant guilty of an offence under this section and thereupon the defendant shall be liable to be punished accordingly.

51 Removal of any object or vehicle from road

- (1) Where any object or vehicle has been left on any road or other public place in such circumstances as to make it appear that such vehicle has been abandoned or should be removed to a place of safety, or where any object or vehicle has been left on a road in a position which causes or is likely to cause danger to other road users and the owner or driver cannot be readily found, it shall be lawful for any Police Officer to take the object or vehicle or cause the object or vehicle to be taken, to a Police Station or other place of safety by such method, route and under such conditions as the Police Officer may consider necessary having regard to all the circumstances.
- (2) Where under the provisions of subsection (1) it is necessary to have an object or vehicle towed, transported, driven or otherwise removed, or where it is considered necessary to carry out emergency repairs or to adjust or off-load any part of the load of such object or vehicle, any expense incurred thereby shall be payable by the owner of the object or vehicle and no such object or vehicle shall be released from the Police Station or other place of safety until either —
 - (a) such expenses have been paid to the person to whom they are due; or
 - (b) such person certifies in writing that person is willing to allow the vehicle to be removed before he receives such expenses due to him or her.
- (3) A Police Officer who orders the removal of an object or vehicle under the provisions of this section shall not be held liable for any damage to or loss of any item from such vehicle during its removal to or detention at a police station or other place of safety.

PART V - MISCELLANEOUS

52 Principal Licensing Authority to make regulations

The Principal Licensing Authority with the consent of the Cabinet may make regulations for all or any of the following purposes —

- (a) registration of motor vehicles, issue of number plates and licences, and requiring production of information in connection with application for registration or licence;
- (b) providing for the granting of different classes of motor drivers' licences and prescribing the effect of licences of each class;
- (c) providing for the special examination and testing of holders of motor drivers' licences in any case where it appears to the Principal Licensing Authority to be necessary and for revocation of licences generally, and specifically for persons refusing or failing to submit to the examination or testing or if they are found for any reason to be unfit;
- (d) providing for the examination and testing of applicants for motor drivers' licences and prescribing the persons by whom the tests and examinations are to be carried out;
- (e) providing forms of documents that may be required for the purposes of this Act;
- (f) classifying vehicles, regulating the width and thickness of the tyres of vehicles, regulating the loads of vehicles and in particular the number of passengers and the quantity and weight of goods;
- (g) regulating, controlling or prohibiting exceptional traffic;
- (h) prohibiting or restricting, subject to the erection of prescribed signs, the stopping of vehicles on any specified road;
- (i) restricting or prohibiting the use of vehicles that, owing to defects of construction or disrepair, are unsuitable for safe use;
- (j) prescribing the provision of brakes, lamps, bells, alarms, reflectors, directors, direction indicators, and other instruments for giving notice of the approach position or course of vehicles; prescribing the kinds thereof to be used in different classes of vehicles;
- (k) prescribing the maximum weight and the maximum dimensions of any vehicle, and any load thereon, that may be used on any road, the maximum weight and the maximum air pressure of the tyres of any vehicle;
- (l) providing for the periodical examination of motor vehicles and prescribing fees, in respect of those examinations;
- (m) prescribing the duties and regulating the conduct of persons using roads for any purpose, and in particular of persons in charge of or riding in

- vehicles or bicycles on roads and of persons in charge of or riding or driving animals on roads;
- (n) generally regulating traffic of all classes, whether vehicular, pedestrian, animal, or otherwise, and prohibiting traffic or any class of traffic, either absolutely or conditionally, on any specified road;
 - (o) generally regulating the use of vehicles and prescribing the conditions upon or subject to which they may be used;
 - (p) prescribing areas to be declared built up or congested areas;
 - (q) prescribing penalties not in excess of a fine of or imprisonment for one year for breach of regulations;
 - (r) prescribing the fees payable in respect of registration and licences for different classes of motor vehicles and for driver's licences for such vehicles;
 - (s) prescribing the means for exemption from any of the provisions of this Act and Regulations;
 - (t) prescribing the means for a Police Officer to impound a vehicle as part of the enforcement of any of the provisions in this Act; or
 - (u) to provide for any other such matters as are required or contemplated by this Act which are necessary for giving full effect to the provisions and purpose of this Act.

53 Penalties

- (1) In every case to which section 54(2)(a)(i) does not apply a person who fails to comply with any of the provisions of this Act or who does any act in contravention thereof commits an offence against this Act.
- (2) In every case to which section 54(2)(a)(i) does not apply a person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to a fine not exceeding \$200 or to imprisonment for not more than one year, or to both such fine and imprisonment.
- (3) Jurisdiction to hear a charge of any offence against this Act shall be determined in accordance with the Magistrate's Court Act.

54 Infringement Notices

- (1) If a police officer considers that any person has committed an offence against any of the provisions specified in subsection (6) such police officer may issue to the person a Notice of Infringement in the form set out in Form 3 of the Schedule.
- (2)
 - (a) A person issued with such a notice may —

- (i) pay the fine set out in the notice, applicable to the offence alleged, to a Magistrate's Court; or
 - (ii) contest the notice.
- (b) Where the person wishes to contest the notice a summons will be issued for an offence against the relevant provision of this Act.
- (3) The police officer who issues a Notice of Infringement under subsection (1) shall lodge the duplicate notice within 48 hours with the clerk of the Magistrate's Court for the district.
- (4) The Clerk of the Magistrate's Court shall —
- (a) where the fine is tendered by the person, receive the payment, issue a receipt and file the notice;
 - (b) where no payment is tendered within 21 days of the date of issue of the notice, issue a summons to the person for the offence alleged.
- (5) The summons shall be heard and determined by a Magistrate.
- (6) The offences to which this section applies, and the fixed penalty attaching thereto are —

Traffic Act section	Offence	Fixed Penalty \$
4(5)	Driving unregistered vehicle	500
9	Using invalid registration plates	500
10(5)	Failure to notify sale of vehicle	200
13	Failure to register visitor vehicle	500
14	Unlicensed driving	500
16(2)	Failure to comply with "L" conditions	100
19	Failure to endorse manslaughter status	100
24	Permanent or Temporary road notices, road signs, speed reduction road devices, speed road humps, traffic marking, traffic lights, or traffic devices to regulate Traffic	300
25	Unlawful erection or tampering signs	300
36	Driver causing loud noise	500 (first offence) 1,000 (for each subsequent offence)

37	Driver emitting non-essential lights (first offence)	500
	Driver emitting non-essential lights (for each subsequent offence)	1,000
38	Driving while holding a mobile phone	500
39	Failure to wear adult seatbelts	500
40	Traveling above the maximum speed limit	500
40	70 kilometre per hour speed zone	\$35 plus \$3 for every kilometre per hour exceeded over the maximum speed limit
	All other speed zones	\$25 plus \$2 for every kilometre per hour exceeded over the maximum speed limit
42(1)	Disqualified driver continuing driving	200
43	Liquor in vehicles	200
45	Failure to obey police direction	200
47	Failure to report accident	200
48(1)	Failure to produce driver's licence (first time offence)	300(first time offence) 500 (for each subsequent offence)
48(3)	Provide false information to a Police Officer	300(first time offence) 500 (for each subsequent offence)

- (7) This section shall apply to the offences listed in subsection (6) notwithstanding anything in the relevant section or the specific penalty set out therein.
- (8) If an incident is disposed of under this section, section 40 or regulation 39A of the Traffic Regulations by the payment of the sum specified in a Notice of Infringement then this shall be deemed to be an administrative penalty with no offence committed.

55 Moneys received

All moneys received under this Act shall be paid into the Treasury for the benefit of the revenue of Tonga.

56 Repeals, revocation, amendments, and savings

- (1) The Traffic Act 1959 (Cap 156), as amended is hereby repealed.
- (2) Any regulations or notices made under the Traffic Act 1959 (Cap 156) shall continue in force until amended or revoked by the Minister with the approval of Cabinet under this Act. Saved Regulations include the Traffic (Alcohol Breath Tests) Notice, Traffic (Driving Test) Regulations, Traffic (Signs) Regulations, Traffic (Speed Limits) Notice 2011, and the Traffic Regulations.
- (3) Every delegation, authorisation, licence, certificate, permit, approval, or other document validly issued in accordance with the Traffic Act 1959 (Cap 156) and Regulations promulgated thereunder, and that is in force immediately before the commencement of this Act, shall be deemed to be a document issued under this Act, and shall have valid effect and be subject to the provisions of this Act accordingly.

Passed by the Legislative Assembly this 13th day of **July** 2020.

SCHEDULE

FORM 1

Notice of Infringement of Driving Under Influence of Alcohol

(Section 33)

Date:.....

To..... of Licence No.
(name) (address)

You have been detected to be in charge of the motor vehicle Registered Number whilst having in you micrograms of alcohol per litre of breath.

In accordance with section 33(2)(a) you have committed an offence, and are hereby required to pay a fine of \$500 within 21 days.

You may sign the declaration below and take this notice together with the sum of \$500 to pay the fine only to the Clerk of the Magistrate’s Court at district within 21 days of today's date;

OR

If you wish to contest this fine, a summons will be issued to you after 21 days and you will be required to attend a court and appear before a Magistrate.

DECLARATION:

I, (*insert your name*)..... understand that under clause 10 of the Constitution of Tonga I have a right to have this matter dealt with by a court. However instead of appearing in court I wish to pay the fine as set out in this notice.

I tender this Declaration and the fine of \$500 as required by this Notice of Infringement.

Signed.....

Dated.....

FORM 2

Notice of Infringement - Speeding

(Section 40)

Date:.....

To..... of Licence No.

(name)

(address)

The vehicle you are driving Registered Number has been detected travelling at kilometre per hour which is kilometre per hour above the speed limit.

In accordance with section 40 a fine of \$..... is imposed for this offence.

You may sign the declaration below and take this notice together with the sum of \$..... to pay the fine only to the Clerk of the Magistrate’s Court at district within 21 days of today's date;

OR

If you wish to contest this fine a summons will be issued to you after 21 days and you will be required to attend a court and appear before a Magistrate.

DECLARATION:

I, (insert your name)..... understand that under clause 10 of the Constitution of Tonga I have a right to have this matter dealt with by a court. However instead of appearing in court I wish to pay the fine as set out in this notice.

I tender this Declaration and the fine of \$..... set by this Notice of Infringement.

Signed.....

Dated.....

FORM 3

Notice of Infringement - General

(Section 54)

Date:.....

To..... of Licence No.

(name)

(address)

Vehicle Registered Number

The Police allege that you have committed an offence under the Traffic Act

If you choose to have this offence dealt with by way of payment of Infringement Notice in accordance with Section 54 you may pay the following fixed fine for this offence –

Section:

Offence:

Fixed Infringement Notice Fine:

To dispose of this matter in this way you may sign the declaration below and take this notice together with the sum of \$..... to pay the fine only to the Clerk of the Magistrate’s Court at district within 21 days of today's date;

OR

If you wish to contest this offence a summons will be issued to you after 21 days and you will be required to attend a court and appear before a Magistrate and if convicted the penalty will be decided by the Magistrate in accordance with the Traffic Act may be more than specified on the infringement notice.

DECLARATION:

I, (insert your name)..... understand that under clause 10 of the Constitution of Tonga I have a right to have this matter dealt with by a court. However instead of appearing in court I wish to pay the fine as set out in this notice.

I tender this Declaration and the fine of \$..... set by this Notice of Infringement.

Signed..... Dated.....”

FORM 4**TRAFFIC ACT INFRINGEMENT NOTICE****REVERSE SIDE**

Traffic Act section	Offence	Fixed Penalty \$
4(5)	Driving unregistered vehicle	500
9	Using invalid registration plates	500
10(5)	Failure to notify sale of vehicle	200
13	Failure to register visitor vehicle	500
14	Unlicensed driving	500
16(2)	Failure to comply with "L" conditions	100
19	Failure to endorse manslaughter status	100
24	Permanent or Temporary road notices, road signs, speed reduction road devices, speed road humps, traffic marking, traffic lights, or traffic devices to regulate Traffic	300
25	Unlawful erection or tampering signs	300
36	Driver causing loud noise	500 (first offence) 1,000 (for each subsequent offence)
37	Driver emitting non-essential lights (first offence)	500 (first offence) 1,000 (for each subsequent offence)
38	Driving while holding a mobile phone	500
39	Failure to wear adult seatbelts	500
40	Traveling above the maximum speed limit - 70 kilometre per hour speed zone	\$35 plus \$3 for every kilometre per hour exceeded over the maximum speed limit
	All other speed zones	\$25 plus \$2 for every kilometre per hour exceeded over the maximum speed limit

42(1)	Disqualified driver continuing driving	200
43	Liquor in vehicles	200
45	Failure to obey police direction	200
47	Failure to report accident	200
48(1)	Failure to produce driver's licence	300(first time offence) 500 (for each subsequent offence)
48(3)	Provide false information to a Police Officer	300(first time offence) 500 (for each subsequent offence)