



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE
BRITISH INDIAN OCEAN TERRITORY**

THE ROAD TRAFFIC ORDINANCE 1998

CHAPTER H.1

Revised Edition

Showing the law as at 1 September 2020

Published by Authority

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Showing the law as at 1 September 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Road Traffic Ordinance 1998 - Ordinance No.2 of 1998

As amended by:

Ordinance No.1 of 2001
Ordinance No.2 of 2004
Ordinance No.5 of 2006
Ordinance No.3 of 2008
Ordinance No.3 of 2010
Ordinance No.8 of 2011
Ordinance No.1 of 2012
Ordinance No.4 of 2016
Ordinance No.1 of 2017
Ordinance No.3 of 2018
Ordinance No.5 of 2019
Ordinance No.5 of 2020
Ordinance No.8 of 2020

The following revised approvals and notices have been issued in pursuance of this Ordinance:

The Speed of Motor Vehicles Measuring Devices Approval 2010 RRBIOT, c.H.2
The Alcohol in Breath Measuring Devices Approval 2011 RRBIOT, c.H.3
The Authorisation of Driving Licences (Philippines) Notice 2015 RRBIOT, c.H.4

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BRITISH INDIAN OCEAN TERRITORY**

THE ROAD TRAFFIC ORDINANCE 1998

CHAPTER H.1

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**REVISED ORDINANCES OF THE
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THE ROAD TRAFFIC ORDINANCE 1998

CHAPTER H.1

An Ordinance to consolidate, with amendments, existing provisions relating to motor and other vehicles, to road traffic generally and to activities likely to affect such traffic, and to make provision connected therewith or incidental thereto.

PART I

GENERAL

Citation.

1. This Ordinance may be cited as the Road Traffic Ordinance 1998, ROBIOT c.H.1.

Definitions.

2. (1) In this Ordinance unless the contrary intention appears –

the Commanding Officer means the United States Navy Officer in command of the facility, and the **facility** means the facility described in paragraph (1)(a) of the Exchange of Notes of 25 February 1976 between the Government of the United Kingdom and the Government of the United States of America concerning a United States Navy Support Facility on Diego Garcia;

cycle means a bicycle or tricycle, not being a motor vehicle;

to drive, in relation to a motor vehicle, means to have control of the steering apparatus of that vehicle and, in relation to a trailer, means to have control of the steering apparatus of the motor vehicle drawing that trailer, and **driver** is to be construed accordingly;

motor cycle means a motor vehicle which has less than four wheels and the weight of which, when it is unladen, does not exceed eight hundredweight;

motor vehicle means a mechanically propelled vehicle intended or adapted for use on roads, whether or not that is its primary purpose;

Police Officer means a police officer appointed as such by or on behalf of the Commissioner pursuant to section 52 of the Courts Ordinance 1983;

Services policeman means a provost officer within the meaning of the Armed Forces Act 2006 or a member of the armed forces of the United States of America who is performing duties similar to those performed by such a provost officer or who is performing the duties of a roadmaster;

trailer means a vehicle drawn behind a motor vehicle;

vehicle includes a cycle.

(2) If the question arises in any proceedings whether a person was, at any material time, a Services policeman as defined in subsection (1), a certificate signed by the Commissioner's Representative that that person was or was not, at that time, such a provost officer as is there referred to, or a certificate signed by the Commanding Officer that that person was or was not, at that time, a member of the armed forces of the United States of America performing the duties there referred to, shall be conclusive of that matter in those proceedings, and a certificate purporting to be so signed shall be received in evidence as such without proof of signature unless credible evidence to the contrary is adduced.

Deleted on revision.

3. *Deleted on revision.*

PART II

QUALIFICATION TO DRIVE MOTOR VEHICLE

Driving licence required.

4. (1) No person may drive a motor vehicle of any class or description at any place in the Territory unless he is the holder of a driving licence, complying with subsection (4), which authorises him to drive a vehicle of that class or description.

(2) No person shall permit or employ any other person to drive a motor vehicle of any class or description at any place in the Territory unless that other person is the holder of a driving licence, complying with subsection (4), which authorises him to drive a vehicle of that class or description.

(3) Any person who contravenes subsection (1) or subsection (2) is guilty of an offence and is liable, on conviction, to a fine of £1,000.

(4) To comply with this subsection, a driving licence must be current and must have been issued –

(a) by a competent authority in –

(i) the United Kingdom;

- (ii) the United States of America;
- (iii) any country that is a member of the Commonwealth;
- (iv) any country that is a member of the European Union, or the European Economic Area;
- (v) Switzerland, or
- (vi) any country as is for the time being specified by a notice issued by the Commissioner, which shall be published in the *Gazette*;

(b) in accordance with an international convention to which the United Kingdom or the United States of America is a party; or

(c) in respect only of the driving of vehicles belonging to the Government of the United States of America, by a competent authority of the armed forces of the United States of America in the Territory.

(5) For the purposes of any proceedings for an offence under this section –

(a) a certificate signed by the Commanding Officer that a driving licence had or had not been issued by a competent authority in the United States of America or in accordance with an international convention to which the United States of America was a party or by such a competent authority as is referred to in subsection (4)(c); or

(b) a certificate signed by the Administrator or by the Commissioner's Representative that a driving licence had or had not been issued as otherwise set out in subsection (4),

shall be conclusive of that matter.

(6) Any certificate purporting to be signed as mentioned in subsection (5) shall be received in evidence as such without proof of signature unless credible evidence to the contrary is adduced, and a facsimile or electronic copy of a certificate signed by the Administrator shall be received in evidence as if it were the original certificate.

Production of driving licence.

5. (1) Any person driving a motor vehicle shall, on being requested by a Police Officer to do so, produce his driving licence to that officer there and then for examination:

Provided that it shall be a sufficient compliance with this subsection if the driver of the vehicle, when so requested, undertakes to the officer to produce the licence in person to that officer or to another Police Officer within five days of the request and does so.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable, on conviction, to a fine of £1,000.

Disqualification.

6. (1) In this section **disqualified** means disqualified from driving a motor vehicle at any place in the Territory.

(2) A court by which a person is convicted of an offence under section 6(8), 7(2), 23(3), 23(5), 27, 28, 29(2), 30(2), 37(6), 38(4) or 40 may order that person to be disqualified either indefinitely or for such period as the court thinks fit.

(3) A court by which a person is convicted of an offence under section 26, 29(1), 30(1), 31(9) or 32(3) shall order him to be disqualified for such period, not less than 12 months, as it thinks fit, but if it considers that there are special reasons to do so, it may instead order him to be disqualified for a shorter period or not order him to be disqualified.

(4) An order of disqualification made by a court under this section in consequence of a conviction may be in addition to or instead of any other penalty imposed or other order made by the court in consequence of that conviction.

(5) A person who is ordered by a court under this section to be disqualified may appeal against that order in the same manner and subject to the same conditions as apply to an appeal against a sentence imposed on conviction of an offence (and the provisions of the Criminal Procedure Code 2019 relating to appeals against sentence shall have effect accordingly) and, where such an appeal is brought, the court which made the order may, if it thinks fit, suspend its operation pending the hearing and determination of the appeal.

(6) A person who is ordered by a court under this section to be disqualified may, at any time not earlier than six months from the date of the order and from time to time thereafter (but not earlier than three months from the previous application under this subsection) apply to that court to remove the disqualification, and the court shall then, having regard to the character of the applicant, to his conduct subsequent to the order of disqualification, to the nature of the offence by reason of which he was disqualified and to any other circumstances of the case, either order the disqualification to be removed as from such date as that order specifies or refuse the application.

(7) *Repealed.*

(8) A person who, while disqualified under this section, drives a motor vehicle at any place in the Territory is guilty of an offence and is liable, on conviction, to imprisonment for six months or a fine of £5,000.

PART III

COMPULSORY THIRD PARTY INSURANCE

Users of motor vehicles to be insured against third party risks.

7. (1) Subject to the provisions of this Part, no person may use, or cause or permit any other person to use, a motor vehicle unless there is in force in relation to the use of that vehicle by that person, or by that other person, as the case may require, a policy of insurance in respect of third party risks which complies with the requirements of this Part.

(2) A person who contravenes this section shall be guilty of an offence and is liable, on conviction, to a fine of £5,000 or to imprisonment for 12 months.

(3) It is a defence (the onus of proof of which lies on the accused person) to a charge under this section that the vehicle did not belong to the accused person and was not in his possession under a contract of hire or of loan, that he was using the vehicle in the course of his employment, and that he neither knew nor had reason to believe that there was not in force in relation to the vehicle a policy of insurance which complies with the requirements of this Part.

(4) This section does not apply to the use, for the purposes of the Government of the United States of America, of a motor vehicle owned by that Government.

Requirements in respect of policies of insurance.

8. (1) To comply with the requirements of this Part, a policy of insurance must be a policy which –

(a) is issued by an insurer qualified to carry on, and carrying on, the business of motor vehicle third party insurance in, and in accordance with the laws of, any part of the United Kingdom or of the United States of America or of any other country designated by the Commissioner for the purposes of this Part by notice published in the *Gazette*;

(b) insures such person or persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of, or bodily injury to, any person caused by, or arising out of, the use of the motor vehicle:

Provided that any such policy shall not be required to cover –

(i) any liability in respect of the death of, or bodily injury to, a person in the employment of any person insured by the policy, if the death or bodily injury arises out of and in the course of his employment; or

(ii) any contractual liability.

(2) A person issuing a policy of insurance for the purposes of this Part shall be liable to indemnify the person or persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those persons or those classes of persons.

(3) A policy shall be of no effect for the purposes of this Part unless and until there is delivered by the insurer to the person by whom the policy is effected a certificate (in this Ordinance referred to as a **certificate of insurance**) signed by the insurer or his authorised representative.

(4) In this Part the expression **policy of insurance** includes a covering note.

Certain conditions in policies to be of no effect.

9. (1) Any condition in a policy issued for the purposes of this Part providing that no liability shall arise under the policy, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy shall be of no effect in connection with such liabilities as are required to be covered by a policy under section 8.

(2) Where a person uses a motor vehicle in circumstances such that under section 6 there is required to be in force in relation to his use of it such a policy of insurance as is mentioned in section 6(1), then, if any other person is carried in or upon the vehicle while the user is so using it, any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect so far as it purports or might be held –

(a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vehicle as is required by section 8 to be covered by a policy of insurance; or

(b) to impose any conditions with respect to the enforcement of any such liability of the user,

and the fact that a person so carried has willingly accepted as his, the risk of negligence on the part of the user shall not be treated as negating any such liability of the user.

For the purposes of this subsection references to a person being carried in or upon a vehicle include references to a person entering or getting on to, or alighting from, the vehicle, and the reference to an antecedent agreement is to one made at any time before the liability arose.

(3) Nothing in this section shall be taken to render void any provision in a policy requiring the person insured to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

Avoidance of restrictions on scope of policies covering third party risks.

10. Where a certificate of insurance has been delivered under section 8(3) to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any of the following matters –

- (a) the age or physical or mental condition of persons driving the vehicle;
- (b) the condition of the vehicle;
- (c) the number of persons that the vehicle carries;
- (d) the weight or physical characteristics of the goods that the vehicle carries;
- (e) the time at which or the areas within which the vehicle is used;
- (f) the horse power or cubic capacity or value of the vehicle;
- (g) the carrying on the vehicle of any particular apparatus; or
- (h) the carrying on the vehicle of any particular means of identification,

shall, as respects such liabilities as are required to be covered by a policy under section 8, be of no effect:

Provided that nothing in this section shall require the insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this section shall be recoverable by the insurer from that person.

Liability of insurers in respect of third party risks.

11. (1) If, after a certificate of insurance has been delivered under section 8(3) to the person by whom a policy has been effected, judgment in respect of

any such liability as is required to be covered by a policy under section 8 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, whether or not the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of the costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under subsection (1) –

(a) in respect of any judgment, unless before or within fourteen days after the commencement of the proceedings in which the judgment was given the insurer had notice of the bringing of the proceedings;

(b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or

(c) in connection with any liability, if, before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein, and either –

(i) before the happening of that event the certificate was surrendered to the insurer, or the person to whom the certificate was issued made a declaration stating that the certificate had been lost or destroyed;

(ii) after the happening of that event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy, the certificate was surrendered to the insurer, or the person to whom the certificate was issued made a declaration pursuant to subsection (2)(c)(i); or

(iii) either before or after the happening of that event, but within the said period of fourteen days, the insurer has commenced proceedings under this Part in respect of the failure to surrender the certificate.

(3) No sum shall be payable by an insurer under subsection (1) if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular, or, if he has avoided the policy on that ground, that he was entitled so to do, apart from any provision contained in it:

Provided that an insurer who has obtained such a declaration in an action shall not thereby become entitled to the benefit of this subsection as respects any judgment obtained in proceedings commenced before the commencement of that action unless, before or within seven days after the commencement of that action, he has given notice thereof to the person who is the plaintiff in the proceedings, specifying the non-disclosure or false representation on which he proposes to rely, and any person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party thereto.

(4) If the amount which an insurer becomes liable under subsection (1) to pay in respect of a liability of a person insured by a policy exceeds the amount for which he would, apart from the provisions of this section, be liable under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(5) In this section the expression **material** means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions, and the expression **liability covered by the terms of the policy** means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or had avoided or cancelled, the policy.

Rights of third parties against insurers.

12. (1) Where, under any policy issued for the purposes of this Part, a person (in this Part called **the insured**) is insured against liabilities to third parties which he may incur and any of the following events occurs –

(a) the insured becomes bankrupt or makes a composition or arrangement with his creditors; or

(b) where the insured is a company, a winding-up order is made, or a resolution for a voluntary winding-up is passed with respect to the company, or a receiver or manager of the company's business or undertaking is appointed, or possession is taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge,

then, if, either before or after that event, any such liability as referred to in this subsection is incurred by the insured, his rights against the insurer under the policy in respect of the liability shall be transferred to, and vested in, the third party to whom the liability was so incurred.

(2) Any condition in a policy issued for the purposes of this Part, purporting directly or indirectly to avoid the policy or to alter the rights of the third party thereunder upon the happening to the insured of any of the events specified in subsection (1)(a) or subsection (1)(b) shall be of no effect.

(3) Upon a transfer under subsection (1) the insurer shall, subject to section 14, be under the same liability to the third party as he would have been under to the insured, but –

(a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the insured against the insurer in respect of the excess; and

(b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Ordinance shall affect the rights of the third party against the insured in respect of the balance.

(4) For the purposes of this section and sections 13 and 14, the expression **liabilities to third parties**, in relation to a person insured under any policy of insurance, shall not include any liability of that person in the capacity of insurer under some other policy of insurance.

(5) References in this section and in sections 13 and 14 to a company being wound up do not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Duty to give necessary information to third parties.

13. (1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy under section 8 shall on demand by or on behalf of the person making the claim, state whether or not he was insured in respect of that liability by any policy having effect for the purposes of this Part, or would have been so insured if the insurer had not avoided or cancelled the policy, and, if he was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance delivered in respect thereof under section 8(3).

(2) If any person becomes bankrupt or makes a composition or arrangement with his creditors, or if a winding-up order is made, or a resolution for a voluntary winding-up is passed with respect to any company, or if a receiver or manager of the company's business or undertaking is duly appointed, or if possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to a charge, it is the duty of the bankrupt, debtor or company and, as the case may be, of the trustee, liquidator, receiver or manager or person in possession of the property, to give, at the request of any person claiming that the bankrupt, debtor or company is under a liability to him, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Ordinance and for the purpose of enforcing such rights, if any; and any contract of insurance, in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in any of the events described in this

subsection, or otherwise to prohibit or prevent the giving thereof in any of those events, shall be of no effect.

(3) If the information given to any person in pursuance of subsection (2) discloses reasonable ground for supposing that there have or may have been transferred to him under this Ordinance rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by that subsection on the persons therein mentioned.

(4) The duty to give information imposed by the section shall include a duty to allow all contracts of insurance, receipts for premiums and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

(5) If, without reasonable excuse, any person fails to comply with the provisions of this section or wilfully makes any false or misleading statement in reply to any demand or request made thereunder, he is guilty of an offence and is liable, on conviction, to a fine of £1,000.

Settlement between insurers and insured persons.

14. Where a person who is insured under a policy issued for the purposes of this Part has become bankrupt, or where, if such an insured person is a company, a winding-up has been made or a resolution for a voluntary winding-up has been passed with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding-up, as the case may be, nor any waiver, assignment or other disposition made by, or payment made to, the insured after that commencement shall be effective to defeat or affect the rights transferred to the third party under this Ordinance but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

Bankruptcy, etc., of insured persons not to affect certain claims by third parties.

15. Where a certificate of insurance has been delivered under section 8(3) to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in section 12(1) shall, despite anything in this Ordinance, not affect any liability of that person that is required to be covered by a policy under section 8, but nothing in this section shall affect any rights against the insurer conferred under section 12, 13 or 14 on the person to whom the liability was incurred.

Further rights of third parties against insurers.

16. (1) No settlement by an insurer in respect of any claim which has been or might be made by a third party in respect of any liability that is required to be covered by a policy under section 8 shall be valid unless the third party is a party to that settlement.

(2) Despite the death of any person insured under section 8, a policy issued under this Part shall remain in force and available for third parties as if the insured person were still alive.

Duty to surrender certificate on cancellation of policy.

17. Where a certificate of insurance has been delivered under section 8(3) to the person by whom a policy has been effected and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person to whom the certificate was delivered shall, within seven days from the taking effect of the cancellation, surrender the certificate to the insurer or, if it has been lost or destroyed, make a declaration to that effect, and, if he fails to do so, he is guilty of an offence and is liable, on conviction, to a fine of £1,000.

Requirements as to production of certificate of insurance.

18. (1) Any person driving a motor vehicle shall, on being so required by a Police Officer, give his name and address and the name and address of the owner of the vehicle and produce his certificate, and if he fails to do so, he is guilty of an offence and is liable, on conviction, to a fine of £1,000:

Provided that it is a sufficient compliance with this subsection if the driver of the vehicle, when so requested, undertakes to the officer to produce the certificate in person to that officer or to another Police Officer within five days of the request and does so.

(2) It shall be the duty of the owner of a motor vehicle to give such information as he may be required by a Police Officer to give for the purpose of determining whether the motor vehicle was or was not being driven in contravention of section 7 on any occasion when the driver was required under this section to produce his certificate, and, if the owner fails to do so, he is guilty of an offence and is liable, on conviction, to a fine of £1,000.

(3) In this section the expression **produce his certificate** means produce for examination the relevant certificate of insurance or other evidence that the motor vehicle was not being driven in contravention of section 7.

PART IV

CONSTRUCTION AND USE

Brakes required on motor vehicles and trailers.

19. (1) A motor vehicle when used shall have either an efficient braking system having two means of operation or two efficient braking systems each having a separate means of operation, in either case capable of being operated by the driver of the vehicle.

(2) A trailer exceeding two hundredweight in weight when unladen shall, when used, have an efficient braking system capable of being operated by the driver of the drawing vehicle.

Motor vehicles and trailers not to be in dangerous condition.

20. (1) A motor vehicle or trailer and all the fittings thereof including, but not by way of limitation, any hitch, ball mount, receiver or pin shall, when used, be in such a condition as not to cause or to be likely to cause danger to any person, whether on the motor vehicle or trailer or not.

(2) Without prejudice to the generality of subsection (1) whenever a vehicle or trailer is in an un-roadworthy condition by reason of the condition of its lights, brakes, tyres, steering, indicators, bodywork, exhaust, audible warning device, load, or otherwise it shall be deemed to be in a condition likely to cause danger to any person for the purposes of subsection (1).

(3) For the purposes of subsection (2) a motor vehicle is in an un-roadworthy condition if it would be obvious to a competent and careful driver that it is un-roadworthy.

(4) For the purposes of subsection (2) a tyre on a motor vehicle is in an un-roadworthy condition if it does not meet the required standard.

(5) The required standard referred to in subsection (4) is –

(a) Every tyre fitted to a motor car or trailer not exceeding 3500 kilograms gross vehicle weight, or fitted to a passenger vehicle having up to 8 seats including the driver shall have a minimum of 1.6 mm tread depth in a continuous band throughout the central three-quarters of the tread width throughout the whole circumference of the tyre.

(b) Every tyre fitted to a motor vehicle or trailer with a gross vehicle weight or gross train weight exceeding 3500 kilograms, or fitted to a motorcycle, which expression includes vehicles commonly known as **Tuk Tuks**, with an engine capacity exceeding 50cc shall have a minimum of 1 mm tread depth throughout a continuous band measuring at least three-quarters of the breadth of the tread throughout the entire outer circumference of the tyre, or where the grooves of the original tread pattern do not extend beyond three-quarters of the breadth of the tread all grooves of the original tread pattern shall have a minimum of 1mm tread depth throughout the entire outer circumference of the tyre.

Lights and horn required on motor vehicles etc.

21. (1) Every motor vehicle other than those referred to in subsections (2) and (3), when being driven between sunset and sunrise, shall carry, attached to it and kept lit and free of all obstruction, two lamps, each showing to the front a white light visible from a distance of one hundred yards, and two other lamps (**tail lights**), each showing to the rear a red light visible from a distance of one hundred yards:

Provided that, in the case of a motor vehicle having a trailer or trailers attached to it, the red tail lights shall be carried and exhibited by the vehicle and every trailer.

(2) Every motor cycle, when being driven between sunset and sunrise, shall carry, attached to it and kept lit and free of all obstruction, one lamp, showing to the front a white light visible from a distance of one hundred yards, and one other lamp, showing to the rear a red light visible from a distance of one hundred yards.

(3) Every Tuk Tuk or similar vehicle having one wheel at the front and not less than two wheels at the rear, when being driven between sunset and sunrise, shall carry, attached to it and kept lit and free of all obstruction, one lamp, showing to the front a white light visible from a distance of one hundred yards, and two other lamps (**tail lights**) each showing to the rear a red light visible from a distance of one hundred yards.

(4) Every motor vehicle when being used shall be equipped with an audible warning device capable of alerting other road users to its presence on the road.

Offences against sections 19, 20 and 21 and vehicle defect rectification notices.

22. (1) Any person who uses a motor vehicle in contravention of section 19, 20 or 21 is liable, on conviction, to a fine of £1,000.

(2) Whenever a person is using a vehicle in contravention of section 20 a Police Officer may in his discretion issue that person with a vehicle defect rectification notice substantially in the form specified in Schedule 3 requiring that person to remedy the defect and to produce the rectified vehicle to a Police Officer within 7 days from the date of issue of the notice.

(3) If a person issued with a notice under subsection (2) attends the police station in Diego Garcia within the time allowed for the vehicle to be produced, and there satisfies a Police Officer that he is unable for good cause to remedy the defect within the time allowed for the vehicle to be produced, that officer may extend as he sees fit the period within which the rectified vehicle is to be produced.

(4) If a person issued with a notice under subsection (2) complies with the requirements of the notice that person shall not be liable to conviction for an offence under section 20 for the use of the vehicle on the occasion when the notice was issued.

(5) If a person issued with a notice under subsection (2) fails to comply with the requirements of the notice, that person shall in addition to being liable to be prosecuted for the offence under section 20, have registered against him in the Magistrate's Court under sections 56 and 57 a certificate stating that the sum of £150 is registerable for enforcement against him as a fine.

Speed limits and traffic signs.

23. (1) Subject to section 23A, the maximum speed at which a motor vehicle may lawfully be driven at any place in the Territory is 45 miles per hour or, where a lower maximum speed is specified by an authorised traffic sign, in respect of the road (or the part of a road or the other place) where the vehicle is being driven, that lower speed.

(2) An authorised traffic sign specifying a lower maximum speed than 45 miles per hour (a **speed traffic sign**) has effect for that purpose in respect of the road (or the part of a road or the other place) on or at or near which it is erected or placed, beginning at the point at which it is so erected or placed and ending (if the case arises) at the point at which there is erected or placed another speed traffic sign, specifying a different maximum speed.

(3) Subject to section 23A, any person driving a motor vehicle on a road (or on a part of a road or at another place) at a speed greater than the maximum speed in respect of that road (or that part of a road or that place) is guilty of an offence and is liable, on conviction, to a fine of £2,500:

Provided that it shall be a defence (the onus of proof of which lies on the accused person) to a charge under this subsection that the traffic sign was not in such a position as to give adequate warning of that maximum speed to approaching drivers.

(4) On the prosecution of a person for an offence under subsection (3), evidence of the speed at which he drove may be given in the form of a measurement of that speed by a device designed or adapted for measuring the speed of motor vehicles by radar, but no such evidence is admissible unless the device is of a type approved by the Commissioner.

(5) Where a Police Officer or a Services policeman in uniform is for the time being engaged in the regulation of traffic or where an authorised traffic sign (other than a speed traffic sign) has been erected or placed on or near any road or at or near any other place where motor vehicles are driven, any person who –

(a) neglects or refuses to stop a vehicle (whether a motor vehicle or cycle) or to make it proceed in or keep to a particular line of

traffic when directed to do so by that Police Officer or Services policeman in the execution of his duty; or

(b) fails to comply with the direction given by the traffic sign,

is guilty of an offence and is liable, on conviction, to a fine of £1,000.

Provided that –

(i) where a traffic sign and a direction given by a Police Officer or a Services policeman are in conflict, the latter prevails; and

(ii) it shall be a defence (the onus of proof of which lies on the accused person) to a charge under subsection (b) that the traffic sign was not in such a position as to give adequate warning to approaching drivers to enable them to conform to the direction which it gives.

(6) In this section and in section 24, **authorised traffic sign** means a traffic sign which –

(a) was erected or placed with the consent of the Commissioner's Representative;

(b) is of a description (in terms of its design, size and colouring and the design, size and colouring of its component features) that has been approved by the Commissioner's Representative; and

(c) where appropriate, whose placement in relation to the surface of the ground below it conforms with any specifications in that behalf (in relation to all such signs or to signs of the class to which that sign belongs or to that particular sign) that have been so approved.

(7) In any proceedings for an offence under this Ordinance, it shall be presumed, unless credible evidence to the contrary is adduced and subject to subsection (8), that a traffic sign, whether erected or placed before or after the commencement of this Ordinance, was, at any material time, an authorised traffic sign.

(8) For the purposes of any proceedings for an offence under this Ordinance, a certificate, signed by the Commissioner's Representative or by a person authorised by him in that behalf, that a traffic sign was or was not, at any material time, an authorised traffic sign shall be conclusive of that fact, and any certificate purporting to be so signed shall be accepted in evidence as such without proof of signature or authorisation unless credible evidence to the contrary is adduced.

Speed limit – exemptions for certain drivers of specified motor vehicles.

23A. (1) Despite subsections (1) and (3) of section 23, it shall be lawful for –

- (a) the qualified driver of an emergency vehicle travelling in connection with an emergency,
- (b) a Police Officer driving a police vehicle in the course of his duties,
- (c) a Police Officer driving any motor vehicle in connection with an emergency, and
- (d) any person who complies with each of the conditions set out in subsection (5),

to cause the vehicle which he is driving to travel at a speed in excess of the prevailing speed limit.

(2) For the purposes of subsection (1)(a), the **qualified driver of an emergency vehicle** means a trained and appropriately qualified driver of –

- (a) a REACT or Nuclear Emergency Response Organisation vehicle;
- (b) an ambulance;
- (c) a Fire Department Response vehicle; or
- (d) a U.S. Navy Security vehicle,

which is appropriately marked to identify its specified role to other road users and pedestrians, and is equipped with suitable blue or red warning lights and/or audible devices to warn other road users and pedestrians of its approach.

(3) For the purposes of subsection (1)(b), a **police vehicle** means a motor vehicle designated for use by the British Indian Ocean Territory Police, which may be marked to identify its specified role to other road users and pedestrians, and is equipped with suitable blue or red warning lights and/or audible devices to warn other road users and pedestrians of its approach.

(4) Where a person drives a motor vehicle in excess of the prevailing speed limit in accordance with subsection (1)(a), (b) or (c), the driver shall, in his discretion, sound any siren or other device available in the vehicle and illuminate any blue or red lights available on the vehicle as a warning to other persons of the approach of that vehicle.

(5) The conditions mentioned in subsection (1)(d) are –

(a) that the driving is restricted to the runway or other part of the airfield in Diego Garcia;

(b) that the Chief of Police permits the person to drive the motor vehicle in excess of the speed limit at the location and time when the driving takes place;

(c) that the person is driving in excess of the speed limit for the purposes of servicing the motor vehicle he is driving or otherwise improving its mechanical performance or efficiency.

(6) Before granting permission pursuant to subsection (5)(b), the Chief of Police shall ensure that the Air Operations Control Supervisor has agreed that the runway or other part of the airfield can safely be used at the relevant time for the purposes set out in subsection (5)(c).

Directions given by traffic signs.

24. (1) The direction given by an authorised traffic sign (other than a speed traffic sign) shall be specified in a notice issued by the Commissioner's Representative at the time when, in accordance with section 23(6)(b), he approves the description to which the sign conforms.

(2) Notices issued by the Commissioner's Representative under this section shall be signed by him or by a person authorised by him in that behalf and a copy of every such notice shall be held in the office of the Commissioner's Representative and shall be made available by him for consultation by any member of the public during normal office hours and, on written request to him, at such other reasonable time as he may appoint.

(3) In any proceedings for an offence under this Ordinance, a copy of a notice issued under this section which is certified by the Commissioner's Representative or by a person authorised by him in that behalf to be a true copy thereof shall be accepted in evidence as sufficient proof of the direction given by any traffic sign to which the notice relates, and any document purporting to be such a certified copy and to be so signed shall be accepted in evidence as such in those proceedings, without proof of signature or authorisation or of its accuracy as a copy, unless credible evidence to the contrary is adduced.

PART V

RULE OF THE ROAD

General rule.

25. The general rule of the road is that vehicles shall keep to the right hand side.

PART VI

OTHER DUTIES AND OFFENCES RELATING PARTICULARLY TO MOTOR VEHICLES

Causing death by reckless driving.

26. A person who causes the death of another person by driving a motor vehicle recklessly is guilty of an offence and is liable, on conviction, to imprisonment for fourteen years.

Reckless driving.

27. A person who drives a motor vehicle recklessly is guilty of an offence and is liable, on conviction, to imprisonment for two years.

Careless and inconsiderate driving.

28. A person who drives a motor vehicle without due care and attention, or without reasonable consideration for other persons, is guilty of an offence and is liable, on conviction, to imprisonment for three months or to a fine of £2,500.

Driving, or being in charge, when under influence of drink or drugs.

29. (1) A person who, when driving or attempting to drive a motor vehicle, is unfit to drive through drink or drugs is guilty of an offence and is liable, on conviction, to imprisonment for two years or a fine of £10,000.

(2) Without prejudice to subsection (1), a person who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence and is liable, on conviction, to imprisonment for one year or a fine of £5,000.

(3) For the purposes of subsection (2), a person shall be deemed not to have been in charge of a motor vehicle if he proves that, at the material time, the circumstances were such that there was no likelihood of his driving it so long as he remained unfit to drive through drink or drugs.

(4) For the purposes of this section, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

(5) The court may, in determining whether there was such a likelihood as is mentioned in subsection (3) above, disregard any injury to him and any damage to the vehicle.

(6) A Police Officer may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing an offence under this section.

(7) For the purpose of arresting a person under the power conferred by subsection (6) above, a Police Officer may enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

Driving with alcohol concentration above prescribed limit.

30. (1) A person who drives or attempts to drive a motor vehicle after consuming so much alcohol that the proportion of it in his breath exceeds the prescribed limit is guilty of an offence and is liable, on conviction, to imprisonment for two years or a fine of £10,000.

(2) Without prejudice to subsection (1), a person who is in charge of a motor vehicle which is on a road or at another public place after consuming so much alcohol that the proportion of it in his breath exceeds the prescribed limit is guilty of an offence and is liable, on conviction, to a fine of £5,000.

(3) For the purpose of subsection (2), a person shall be deemed not to have been in charge of a motor vehicle if he proves that, at the material time, the circumstances were such that there was no likelihood of his driving it so long as the proportion of alcohol in his breath remained likely to exceed the prescribed limit.

(4) The court may, in determining whether there was such a likelihood as is mentioned in subsection (3) above, disregard any injury to him and any damage to the vehicle.

Power to administer preliminary tests.

31. (1) If any of subsections (2) to (5) applies a Police Officer may require a person to co-operate with any one or more preliminary tests administered to the person by that Police Officer or another Police Officer.

(2) This subsection applies if a Police Officer reasonably suspects that the person –

(a) is driving, is attempting to drive; or

(b) is in charge of a motor vehicle on a road or other public place, and

(c) has alcohol or a drug in his body or is under the influence of a drug.

(3) This subsection applies if a Police Officer reasonably suspects that the person while having alcohol or a drug in his body or while unfit to drive because of a drug –

(a) has been driving, attempting to drive; or

(b) has been in charge of a motor vehicle on a road or other public place, and

(c) still has alcohol or a drug in his body or is still under the influence of a drug.

(4) This subsection applies if a Police Officer reasonably suspects that the person –

(a) is or has been driving, attempting to drive; or

(b) is or has been in charge of a motor vehicle on a road or other public place, and

(c) has committed a traffic offence while the vehicle was in motion.

(5) This subsection applies if –

(a) an accident occurs owing to the presence of a motor vehicle, and

(b) a Police Officer reasonably believes that the person was driving, attempting to drive or was in charge of the vehicle at the time of the accident.

(6) In this section –

(a) a reference to a preliminary test is to either of the tests described in subsections 7 and 8, and

(b) **traffic offence** means an offence under a provision of this Ordinance.

(7) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Commissioner, an indication whether the proportion of alcohol in the person's breath or urine is likely to exceed the prescribed limit.

(8) A preliminary impairment test is a procedure whereby the Police Officer administering the test –

(a) observes the person to whom the test is administered in his performance of tasks specified by the Police Officer, and

(b) makes such other observations of the person's physical state as the Police Officer thinks expedient.

(9) A person who, without reasonable excuse fails to co-operate with a preliminary test in pursuance of a requirement imposed under this section is guilty of an offence and is liable, on conviction, to imprisonment for two years or to a fine of £10,000.

(10) A Police Officer may arrest a person without warrant if –

(a) as a result of a preliminary test, he has reasonable cause to suspect that the proportion of alcohol in that person's breath exceeds the prescribed limit;

(b) that person has failed to co-operate with a preliminary test in pursuance of a requirement imposed under this section; or

(c) any of subsections (2) to (5) are applicable and the Police Officer has reasonable cause to suspect that the person has alcohol or a drug in his body.

(11) For the purpose of arresting a person under the power conferred by subsection (10) above, a Police Officer may enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

Provision of specimens for analysis.

32. (1) In the course of an investigation into whether a person has committed an offence under section 29 or 30, a Police Officer may, subject to the following provisions of this section, require him –

(a) to provide two specimens of breath for analysis by means of a device of a type approved by the Commissioner; or

(b) to provide a specimen of urine for a laboratory test.

(2) A Police Officer must, on requiring any person to provide specimens in pursuance of this section, warn him that a failure to provide them may render him liable to prosecution.

(3) A person who, without reasonable excuse, fails or refuses to provide specimens when required to do so in pursuance of this section is guilty of an offence and is liable, on conviction, to imprisonment for two years or to a fine of £10,000.

(4) Of any two specimens of breath provided by any person in pursuance of this section, that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(5) A requirement under this section to provide a specimen of urine can only be made at a police station or at a hospital and can only be made if –

(a) the Police Officer making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required;

(b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a) above is not available or it is then for any other reason not practicable to use such a device;

(c) a device of the type mentioned in subsection (1)(a) above has been used but the Police Officer who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned; or

(d) the Police Officer making the requirement has reasonable cause to believe that the person required to provide a specimen of urine has a drug in his body,

but may then be made whether or not the person required to provide the specimen has already provided or been required to provide two specimens of breath.

(6) A specimen of urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.

(7) While a person is at a hospital or medical facility as a patient he shall not be required to provide a specimen of breath or to provide a specimen of urine unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement, and –

(a) if the requirement is then made, it shall be for the provision of the specimen at the hospital or medical facility; but

(b) if the medical practitioner objects on the ground specified in subsection (8) below, the requirement shall not be made.

(8) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of urine, the warning required under subsection (2) above would be prejudicial to the proper care and treatment of the patient.

Evidence in proceedings for an offence under section 29 or 30.

33. (1) The following provisions apply in respect of proceedings for an offence under section 29 or 30.

(2) Evidence of the proportion of alcohol in a specimen of breath provided by the accused shall in all cases be taken into account and, subject to

subsection (3), it shall be assumed that the proportion of alcohol in the accused's breath at the time of the alleged offence was not less than in the specimen.

(3) If the proceedings are for an offence under section 30 or, where the accused is alleged to have been unfit through drink, for an offence under section 29, that assumption shall not be made if the accused proves –

(a) that he consumed alcohol after he had ceased to drive, or to attempt to drive, or to be in charge of a motor vehicle on a road or at another public place, and before he provided the specimen; and

(b) that, had he not done so, the proportion of alcohol in his breath would not have exceeded the prescribed limit and, if the proceedings are for an offence under section 29, would not have been such as to impair his ability to drive properly.

(4) Evidence of the proportion of alcohol or a drug in a specimen of breath or urine may, subject to subsections (5) and (6) below be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say –

(a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a Police Officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement; or

(b) a certificate signed by the analyst as to the proportion of alcohol or any drug found in a specimen of urine identified in the certificate.

(5) Subject to subsection (6) below –

(a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsections (4) or (5) above is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him before the hearing; and

(b) any other document is so admissible only if a copy of it has been served on the accused before the hearing.

(6) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused before the hearing has given notice to the prosecutor and the court requiring the attendance at the hearing of the person by whom the document purports to be signed.

Interpretation and definitions.

34. (1) The following provisions apply for the interpretation of sections 30, 31, 32, 33 and 34.

(2) In those sections –

drug includes any intoxicant other than alcohol;

fail includes refuse;

hospital means a place which provides medical or surgical treatment for in-patients or outpatients.

the prescribed limit means, as the case may require –

(a) 35 micrograms of alcohol in 100 millilitres of breath; or

(b) 107 milligrams of alcohol in 100 millilitres of urine,

or such other proportion as may be prescribed by regulations made by the Commissioner.

(3) A person does not provide a specimen of breath for a breath test or for analysis unless the specimen –

(a) is sufficient to enable the test or the analysis to be carried out; and

(b) is provided in such a way as to enable the objective of the test to be satisfactorily achieved.

Repealed.

35. *Repealed.*

Seatbelts.

36. (1) Save as provided by subsection (2), every person who –

(a) is driving a motor vehicle on a road; or

(b) is riding in a motor vehicle on a road in a passenger seat,

shall, if the vehicle is designed to be fitted with a seat belt in respect of the seat in which he is so driving or riding, wear a seat belt of an approved standard which is in good condition.

(2) The following persons are exempt from the requirement in subsection (1) –

(a) a person driving the vehicle while performing a manoeuvre which involves reversing;

(b) a person driving or riding in a vehicle which is being used by Police Officers in the course of their official duties or for the purposes of a fire-fighting service or for carrying a person in lawful custody (a person being so carried being included in this exemption);

(c) a person holding a valid certificate (the period of its validity being specified in it) signed by a medical practitioner or by or on behalf of the Commissioner's Representative or by or on behalf of the Commanding Officer to the effect that it is inadvisable on medical grounds for that person to wear a seat belt.

(3) Any person who contravenes subsection (1) is guilty of an offence and is liable, on conviction, to a fine of £250.

(4) In any proceedings for an offence under this section, a document purporting to be a certificate signed by or on behalf of the Commissioner's Representative or the Commanding Officer shall be received in evidence as such without proof of signature unless credible evidence to the contrary is adduced.

Prohibition of use of mobile telephone whilst driving.

37. (1) No person shall drive a motor vehicle on a road if he is using –

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in subsection (3).

(2) No person shall cause or permit any other person to drive a motor vehicle on a road while that other person is using –

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in subsection (3).

(3) A device referred to in subsections (1)(b) and (2)(b) is a device which performs an interactive communication function by transmitting and receiving data.

(4) A person does not contravene a provision of this section if, at the time of the alleged contravention –

(a) he is using the telephone or other device to call the police, fire, ambulance or other emergency service;

(b) he is acting in response to a genuine emergency; and

(c) it is unsafe or impracticable for him to cease driving in order to make the call.

(5) For the purposes of this Ordinance –

(a) a mobile telephone or other device is to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function;

(b) **interactive communication function** includes the following –

(i) sending or receiving oral or written messages;

(ii) sending or receiving facsimile documents;

(iii) sending or receiving still or moving images; and

(iv) providing access to the internet.

(6) Any person who contravenes subsection (1) or subsection (2) is guilty of an offence and is liable, on conviction, to a fine of £2,000.

Duty to stop and furnish particulars, in case of accident.

38. (1) If in any case, owing to the presence of a motor vehicle, an accident occurs whereby personal injury is caused to a person other than the driver of that vehicle, or damage is caused to a vehicle other than that vehicle or a trailer drawn thereby, or to an animal other than an animal in or on that vehicle or a trailer drawn thereby, or to any other property constructed on, fixed to or growing in or otherwise forming part of the land on which the road or place in or at which the accident occurred is situated, or land adjacent thereto, the driver of that vehicle shall stop and, if required so to do by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner and the identification marks of the vehicle.

(2) If, in the case of any such accident as described in subsection (1) the driver of the vehicle for any reason does not give his name and address to any such person as required by subsection (1) he shall report the accident to a Police Officer as soon as reasonably practicable, and in any case within twenty-four hours of the occurrence of the accident.

(3) In this section **animal** means any horse, cattle, ass, mule, sheep, pig, goat or dog.

(4) A person who fails to comply with this section is guilty of an offence and is liable, on conviction, to a fine of £1,000.

Duty, in a case of accident involving injury to another, to produce certificates of insurance.

39. (1) If, in a case where, owing to the presence of a motor vehicle, an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce his certificate to a Police Officer or some person who, having reasonable grounds for so doing, has required its production, the driver shall as soon as possible, and in any case within twenty four hours of the occurrence of the accident, report the accident to a Police Officer and shall thereupon or within five days after the occurrence of the accident produce his certificate, and, if he fails to do so, he is guilty of an offence and is liable, on conviction, to a fine of £1,000.

(2) In this section **produce his certificate** has the same meaning as in section 18(3) above.

Power of Police officers, etc., to stop vehicle.

40. A person driving a motor vehicle on a road shall stop the vehicle on being so required by a Police Officer or Services policeman in uniform, and, if he fails to do so, he is guilty of an offence and is liable, on conviction, to a fine of £1,000.

PART VII

OTHER DUTIES AND OFFENCES RELATING PARTICULARLY TO CYCLES

Reckless cycling.

41. A person who rides a cycle recklessly is guilty of an offence and is liable, on conviction, to a fine of £250 or, in the case of a second or subsequent such conviction, to imprisonment for three months or a fine of £500.

Careless and inconsiderate cycling.

42. (1) A person who rides a cycle without due care and attention or without reasonable consideration for other persons is guilty of an offence and is liable, on conviction, to a fine of £100 or in the case of a second or subsequent such conviction, to a fine of £200.

(2) When a person is charged with an offence under section 41 and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under this section, he may be convicted of the latter offence although he was not charged with it.

Cycling when under the influence of drink or drugs.

43. (1) A person who, when riding a cycle, is unfit to ride through drink or drugs is guilty of an offence and is liable, on conviction, to a fine of £250 or, in the case of a second or subsequent such conviction, to imprisonment for three months or a fine of £500.

(2) A Police Officer may arrest without warrant any person whom he suspects on reasonable grounds of having committed an offence under this section.

Restriction of carriage of person on cycles.

44. (1) No more than one person may be carried on a cycle unless it is constructed or adapted for the carriage of more than one person.

(2) If persons are carried on a cycle in contravention of this section, each of the persons so carried is guilty of an offence and is liable, on conviction, to a fine of £50.

Brakes and warning instrument; lights and reflector.

45. (1) A cycle, when being ridden, shall have an efficient braking system, and shall carry, attached to it, a bell or other instrument in working order and capable of giving audible warning to other persons of the approach of the cycle.

(2) A cycle, when being ridden between sunset and sunrise, shall carry, attached to it and kept lit and free of all obstruction, a lamp showing to the front a white light visible from a reasonable distance and another lamp showing to the rear a red light visible from a reasonable distance, and shall carry, attached to it, an unobstructed and efficient red reflector showing to the rear.

(3) A person who rides a cycle, or causes or permits a cycle to be ridden, in contravention of any of the provisions of this section is guilty of an offence and is liable, on conviction, to a fine of £100 in the case of a contravention of subsection (1) or £200 in the case of a contravention of subsection (2).

Cyclists to wear approved helmets.

46. (1) Every person who rides a cycle shall, when doing so, wear a cycling helmet of an approved design.

(2) The design of a helmet shall be deemed to be approved for the purposes of this section if, and only if, the helmet bears a maker's stamp or mark that the manufacture of the helmet conforms to an internationally approved standard.

(3) *Repealed.*

(4) *Repealed.*

(5) Any person who contravenes this section is guilty of an offence and is liable, on conviction, to a fine of £100.

Power of Police Officers, etc., to stop cycles.

47. A person riding a cycle shall stop the cycle on being so required by a Police Officer or Services policeman in uniform, and, if he fails to do so, he is guilty of an offence and is liable, on conviction, to a fine of £1,000.

PART VIII

ROLLER SKATES, ETC.

Restrictions on use of roller skates, etc.

48. (1) No person shall ride on roller skates in any place except on pathways or cycle lanes or in approved sports centres or along approved competition courses.

(2) An area or place is an approved sports centre or an approved competition course for the purposes of this section if, and only if, it is for the time being designated as such by a notice issued by the Commissioner's Representative.

(3) Every notice under subsection (2) shall, so long as it is in force, be posted in a part of the office of the Commissioner's Representative to which the public have access and a copy of every notice shall be sent to the Commanding Officer.

(4) Any person who contravenes this section is guilty of an offence and is liable, on conviction, to a fine of £60.

(5) In this section –

cycle lane means a path or track (whether or not forming part of a road) which has been set aside for the passage of cycles or is in general use for such passage and which is indicated as such by one or more signs at a point or points along its length;

pathway means a path or track (not being a road or part of a road) which is in general use for the passage of pedestrian traffic; and

roller skates includes roller blades and skateboards.

(6) In any proceedings for an offence under this section –

(a) a certificate signed by or with the authority of the Commissioner's Representative that an area or place was or was not, at the material time, an approved sports centre or an approved competition course shall be conclusive as to that matter, and a document purporting to be such a certificate shall be received in evidence as such without proof of signature or authorisation unless credible evidence to the contrary is adduced; and

(b) the onus of proof that a place was, at the material time, a pathway or a cycle lane shall lie on the accused person.

PART IX

FIXED PENALTIES

Interpretation and definitions.

49. (1) In this Part –

(a) **fixed penalty offence** and **fixed penalty notice** have the meanings assigned to those terms by sections 50 and 51(1) respectively; and

(b) **suspended enforcement period** has the meaning assigned to that term by section 51(4)(a).

(2) In this Part –

(a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence; and

(b) references to an offence include an alleged offence.

Fixed penalty offences.

50. (1) Subject to subsection (2), any offence under any provision of this Ordinance specified in column 1 of Schedule 1 (the general nature of that offence being indicated in column 2) is a fixed penalty offence.

(2) An offence under a provision so specified is not a fixed penalty offence if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision of this Ordinance unless the user is the employer of the person using the vehicle in the course of his employment.

Fixed penalty notices.

51. (1) In this Part **fixed penalty notice** means a notice offering the opportunity of the discharge of any liability to be convicted of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part.

(2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(3) Where the offence to which the fixed penalty notice relates is an offence under section 23(3) (excessive speed) the notice shall state the speed at which the offender drove so as to commit the offence.

(4) A fixed penalty notice must –

(a) state the period (referred to in this Part as the **suspended enforcement period**) within which, by virtue of section 60, proceedings cannot be brought against any person for the offence to which the notice relates, being the period of 21 days following the date of the notice or such longer period (if any) as may be specified in the notice;

(b) state the amount of the fixed penalty;

(c) state that the fixed penalty may be paid to the clerk to the Magistrate's Court; and

(d) specify the manner in which the person to whom the notice is given may request a hearing of the offence to which the notice relates.

(5) A fixed penalty notice should be substantially in the form shown in Schedule 2.

Amount of fixed penalty.

52. (1) Subject to subsections (2) and (3), the fixed penalty for an offence is –

(a) £200; or

(b) one-half of the maximum fine to which a person committing the offence would be liable on conviction of that offence by the Magistrate's Court,

whichever is the less.

(2) The fixed penalty for an offence under section 23(3) (excessive speed) is –

(a) £200; or

(b) £10 for every mile per hour by which the speed at which the offender drove so as to commit the offence exceeded the maximum speed permitted in the circumstances of the offence,

whichever is the less.

(3) The fixed penalty for an offence under section 23(5)(b) (failure to comply with a direction given by a traffic sign) is, where the direction is a prohibition of parking or a restriction on parking, £25.

Notices to be given on the spot.

53. Where, on any occasion, a Police Officer in uniform finds a person who he has reason to believe is committing or has on that occasion committed a fixed penalty offence, he may give that person a fixed penalty notice in respect of that offence.

Effect of fixed penalty notice.

54. (1) Where a fixed penalty notice has been given to a person (in this section referred to as **the recipient**) under section 53, no proceedings may be brought against him for the offence to which it relates unless, before the end of the suspended enforcement period, he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of that offence.

(2) Where, by the end of the suspended enforcement period –

(a) the recipient has not given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates; and

(b) the fixed penalty has not been paid in accordance with this Part,

a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 57 for enforcement against the recipient as a fine.

Payment of penalty.

55. Payment of a fixed penalty must be made to the clerk to the Magistrate's Court and may be so made either in person at the office of the clerk during the normal working hours of that office or at such other times as the clerk, by notice exhibited at that office, may appoint for that purpose or in such other manner as

the Commissioner's Representative may authorise by notice exhibited at his office.

Registration certificates.

56. (1) This section and section 57 apply where, by virtue of section 54, a sum determined by reference to the fixed penalty for any offence may be registered under section 57 for enforcement against any person as a fine.

In this section and in section 57 –

(a) that sum is referred to as a **sum payable in default**; and

(b) the person against whom that sum may be so registered is referred to as the **defaulter**.

(2) The Police Officer for the time being in command of the Police Officers of the Territory (in this section referred to as **the Senior Police Officer**) may, in respect of any sum payable in default, issue a certificate (in this section and in section 57 referred to as a **registration certificate**) stating that the sum is registrable under section 57 for enforcement against the defaulter as a fine.

(3) Where the Senior Police Officer issues a registration certificate under this section, he must cause it to be sent to the clerk of the Magistrate's Court.

(4) A registration certificate issued under this section in respect of any sum payable in default must –

(a) give particulars of the offence to which the fixed penalty notice relates; and

(b) state the name and last known address of the defaulter and the amount of the sum payable in default.

Registration of sums payable in default.

57. (1) Where the clerk to the Magistrate's Court receives a registration certificate issued under section 56 in respect of any sum payable in default, he must register that sum for enforcement as a fine by entering it in the register of the Court.

(2) On registering any sum under this section for enforcement as a fine, the clerk to the Magistrate's Court must give the defaulter a notice of registration –

(a) specifying the amount of that sum; and

(b) giving the information with respect to the offence included in the registration certificate by virtue of section 56(4)(a).

(3) On the registration of any sum in the Magistrate's Court by virtue of this section, any provision of law referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on conviction by that Court shall have effect in the case in question as if the sum so registered were a fine imposed by that Court on the conviction of the defaulter on the date of registration.

Invalidation of fixed penalty notices or subsequent proceedings.

58. (1) This section applies where –

(a) a person who has received notice of the registration of a sum under section 57 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in subsection (2); and

(b) that declaration is, within 21 days of the date on which that person received notice of the registration, served on the clerk to the Magistrate's Court.

(2) The statutory declaration must state –

(a) that the person making it was not the person to whom the fixed penalty notice was given; or

(b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.

(3) In any case within subsection (2)(a) the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.

(4) In any case within subsection (2)(b) –

(a) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void; and

(b) the case shall be treated after the declaration is served as if the person making it had given notice requesting a hearing of the alleged offence as stated in the declaration.

(5) References in this section to the relevant fixed penalty notice are references to the fixed penalty notice relating to the fixed penalty concerned.

Provisions supplementary to section 58.

59. (1) In any case within section 58(2)(b), section 39 of the Criminal Procedure Code 2019 (limitation of time) shall have effect if, for the reference to the time when the matter of the charge or complaint arose, there were

substituted a reference to the date of the statutory declaration made for the purposes of section 58(1).

(2) Where, on the application of a person who has received notice of the registration of a sum under section 57 for enforcement against him as a fine, it appears to the Magistrate's Court that it was not reasonable to expect him to serve, within 21 days of the date on which he received the notice, a statutory declaration to the effect mentioned in section 58(2), the Court may accept service of such a declaration by that person after that period has expired.

(3) A statutory declaration accepted under subsection (2) shall be taken to have been served as required by section 58(1).

(4) For the purposes of section 58(1), a statutory declaration shall be taken to be duly served on the clerk to the Magistrate's Court if it is delivered to him in person or is left at his office.

(5) In section 58 and this section references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum.

(6) For the purposes of section 58 and this section, a person shall be taken to receive notice of the registration of a sum under section 57 against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

(7) Nothing in the provisions of section 58 or this section is to be read as prejudicing any rights a person may have, apart from those provisions, by virtue of the invalidity of any action purportedly taken in pursuance of this Part which is in fact not authorised by this Part in the circumstances of the case, and, accordingly, references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

General restriction on proceedings.

60. (1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.

(2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part before the end of the suspended enforcement period.

Certificates about payment.

61. In any proceedings a certificate signed by the clerk to the Magistrate's Court that the payment of a fixed penalty was or was not received by a date specified in the certificate shall be conclusive of that matter, and a certificate

purporting to be so signed shall be received in evidence as such without proof of signature unless credible evidence to the contrary is adduced.

PART X

MISCELLANEOUS

Restriction on prosecution for certain offences.

62. (1) Where a person is prosecuted for an offence under any of the provisions to which this subsection applies, then, subject to subsections (2) and (3), he shall not be convicted of that offence if he proves that none of the following conditions has been satisfied –

(a) that he was warned on each occasion on which the offence is alleged to have been committed that the question of prosecuting him for an offence under one or other of those provisions would be considered;

(b) that a summons in respect of the offence was served on him within 14 days of the alleged commission of the offence; or

(c) that a notice of intended prosecution specifying the nature of the offence and the time at which and the place where it is alleged to have been committed was served on him within the said 14 days.

(2) Whether or not the accused person proves that none of the conditions specified in subsection (1) has been satisfied, that subsection does not operate to prevent his being convicted of the offence if the court is satisfied –

(a) that his name and address could not with reasonable diligence have been ascertained in time for a notice to be served on him in accordance with subsection (1)(c); or

(b) that he contributed by his own conduct to the failure to satisfy any of those conditions.

(3) Subsection (1) does not operate to prevent the conviction of a person (but subject to section 54) for an offence under section 23(3) or 23(5) if he was, in accordance with section 53, given a fixed penalty notice (as defined in section 51(1)) in respect of that offence.

(4) The provisions to which subsection (1) applies are sections 23(3), 23(5), 27, 28, 30(1) and 30(2).

Signification of Commissioner's approval of devices.

63. For the purposes of any provision of this Ordinance which refers to a device as being such a device, or a device of such type, as is approved by the Commissioner, the approval of the Commissioner shall be given by notice or other instrument signed by him, which shall be published in the *Gazette*.

Application to the Crown.

64. This Ordinance, except Part III, applies to vehicles and persons in the public service of the Crown.

Transitional provisions.

65. (1) Despite section 3, any traffic sign which, immediately before 1st May 1998 was erected or placed on or near a road or at or near another place where vehicles are driven shall, so long as it remains in place, be treated for all the purposes of this Ordinance as being an authorised traffic sign (as defined in section 23(6)).

(2) Any traffic sign (other than a speed traffic sign) which, in accordance with subsection (1), is treated for the purposes of this Ordinance as being an authorised traffic sign shall also be treated for those purposes as giving the following directions –

(a) in a case where a direction has been attributed to it by the Motor Vehicles Ordinance 1981 as originally enacted, that direction;

(b) in a case where a direction has been specified in relation to it by a notice issued in accordance with section 2(3)(b) of the Motor Vehicles (Amendment) Ordinance 1998, that direction, and the provisions of section 24(2) and (3) apply in relation to such a notice as they apply in relation to a notice issued in accordance with section 24(1);

(c) in a case not falling within either subsection (a) or subsection (b), such direction (if any) as has been specified in relation to it by a notice issued under this subsection by the Commissioner's Representative, and the provisions of section 24(2) and (3) apply in relation to such a notice as they apply in relation to a notice issued in accordance with section 24(1); or

(d) in a case not falling within any of the preceding subsections, the direction which a reasonable driver would, in the circumstances of the case, understand to be given by it.

(3) In any proceedings under this Ordinance for the offence of failing to comply with the direction given by an authorised traffic sign (being proceedings in which the traffic sign in question is such a traffic sign as is referred to in

subsection (1)) the direction stated by the prosecution to be the direction given by that sign in accordance with subsection (2) shall be presumed to be the direction so given, unless—

(a) in a case stated by the prosecution to fall within subsection (2)(a) or (2)(b) or (2)(c), credible evidence rebutting the presumption is adduced (including by production of such a copy of a notice issued in accordance with subsection (2)(b) or (2)(c) as is referred to in section 24(4), as it applies by virtue of the subsection in question); or

(b) in a case stated by the prosecution to fall within subsection (2)(d), the accused person disputes the presumption.

SCHEDULE 1

(Section 50)

Fixed Penalty Offences

Provision creating offence (Column 1)	General nature of offence (Column 2)
Section 22	Using vehicle in contravention of section 19, 20 or 21 (brakes, dangerous condition, lights)
Section 23(3)	Speeding
Section 23(5)	Failing to comply with direction
Section 36(3)	Failing to wear seatbelt
Section 37(6)	Using a mobile telephone whilst driving
Section 38(4)	Failing to stop in case of accident
Section 40	Failing to stop motor vehicle when required by Police Officer
Section 44(2)	Excessive number of persons on cycle
Section 45(3)	Inadequately equipped cycle (brakes, bell, light, etc.)
Section 46(5)	Failing to wear cycling helmet
Section 47	Failing to stop cycle when required by Police Officer
Section 48(4)	Roller skating otherwise than in permitted place

SCHEDULE 2

(Section 51(5))

Form of fixed penalty notices

FIXED PENALTY NOTICE

Part IX of the Road Traffic Ordinance 1998

- 1. To: (name of recipient)
- 2. Circumstances constituting offence.

It is alleged that you have committed an offence under section (section number) of the Road Traffic Ordinance 1998. The circumstances alleged to constitute that offence are as follows:

(Set out sufficient particulars of the offence alleged, including date and approximate time, to give the recipient reasonable information about what he is alleged to have done)

- 3. Speed at which vehicle was driven.

(To be completed only in cases under section 23(3) of the Road Traffic Ordinance 1998. Insert recorded speed, as shown to recipient of notice)

- 4. Options open to recipient of notice.

(a) You have the opportunity to discharge any liability to be convicted of the above offence if you pay the fixed penalty which is specified in paragraph 5 below. If you wish to do that, you must pay the fixed penalty to the clerk to the Magistrate’s Court within the period indicated in paragraph 6 below (**the suspended enforcement period**).

(b) Alternatively, you may request a hearing by the Court in respect of that offence at which you may contest liability for the offence or seek the Court’s determination as to the appropriate penalty. Such a request must be made, in writing, to the clerk to the Magistrate’s Court and be lodged with the clerk, during normal working hours, within the suspended enforcement period.

NOTE: No proceedings will be brought against you for the above offence during the suspended enforcement period. Nor will such proceedings be brought thereafter if you have, during that period, paid the fixed penalty. But, if by the end of that period you have neither paid the fixed penalty nor requested a hearing by the Court, you will automatically be liable, without further proceedings, to pay a sum of 1½ times the fixed penalty. This sum will be enforceable against you as a fine.

- 5. Fixed penalty. (Enter amount, as determined by section 52)
- 6. Suspended enforcement period.

(This may not be less than 21 days from the date of this Notice)

.....
(Date of issuance of Notice)

.....
(Signature and rank of Police Officer)

SCHEDULE 3

(Section 22(2))

Form of Vehicle Defect Rectification Notice

VEHICLE DEFECT RECTIFICATION NOTICE

Section 22(2) of the Road Traffic Ordinance 1998

1. To: (name and address of user of vehicle)

2. On day the day of 20.. you were using

(insert full details of vehicle being used)

in a dangerous condition contrary to section 20(1) of the Road Traffic Ordinance 1998. The vehicle was in a dangerous condition by reason of it being un-roadworthy because

(insert full details of the defects found)

3. If on or before day the day of 20.. (insert date 7 days from date of use)

you produce this notice and the vehicle in a roadworthy condition with these defects rectified to a Police Officer at the Police Station you will not be prosecuted for the alleged offence contrary to section 20(1) of the Road Traffic Ordinance 1998.

4. If you fail to produce the vehicle in a roadworthy condition as required, a fine of £150 will be registered against you in the Magistrate's Court pursuant to section 22(5), and you may also be prosecuted in the Magistrate's Court for the alleged offence contrary to section 20(1) which carries a maximum penalty of £1,000.

.....
(Date of issuance of Notice)

.....
(Signature and rank of Police Officer issuing the Notice)

[This part to be completed by the Police Officer to whom the rectified vehicle is produced and the whole notice then to be returned to the user of the vehicle]

On day the day of 20.. the vehicle to which this notice refers was produced to me in a roadworthy condition with the defects referred to in this notice rectified.

.....
(Signature and details of Police Officer to whom rectified vehicle is produced)

