

“(4) This section applies to the following crimes and offences, namely:—

- (a) The crime of manslaughter arising out of the driving of a motor vehicle;
- (b) An offence against section thirty-two of the *Traffic Act 1925* that is a crime by virtue of subsection (4) of that section;
- (c) An offence under—
 - (i) section thirty-two of the *Traffic Act 1925*;
 - (ii) section forty-one of that Act;
 - (iii) section forty-one B of that Act; or
 - (iv) section forty-one C of that Act; and
- (d) An offence under section thirty-six of the *Police Offences Act 1935* (including an offence under that section that is a crime by virtue of subsection (2) thereof),

and the expression ‘crime or offence to which this section applies’ shall be construed accordingly.”.

TRAFFIC.

No. 26 of 1966.

AN ACT to amend the *Traffic Act 1925*.

[20 July 1966.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title and citation.

1—(1) This Act may be cited as the *Traffic Act 1966*.

(2) The *Traffic Act 1925*, as subsequently amended, is in this Act referred to as the Principal Act.

2 After section eleven of the Principal Act the following section is inserted:—

“12—(1) No person shall, on or after the appointed day, drive a motor vehicle to which this section applies unless—

- (a) the vehicle is fitted as prescribed with such seat belts and anchorages for seat belts as are prescribed; and

Certain vehicles to be fitted with seat belts, &c. Cf. No. 59 of 1961 (S.A.), s. 162a.

- (b) those seat belts and anchorages—
 - (i) comply in all respects with the provisions of the regulations made for the purposes of this section; and
 - (ii) are in sound condition and good working order.

Penalty: One hundred dollars.

“(2) No person shall, on or after the appointed day, sell or offer for sale a seat belt or an anchorage for a seat belt that does not comply in all respects with the regulations made for the purposes of this section.

Penalty: One hundred dollars.

“(3) Where on or after the appointed day an application for the registration or renewal of registration of a motor vehicle to which this section applies is made to a registering authority, the registering authority may refuse to register, or as the case may be, to renew the registration of, that motor vehicle if it appears to the registering authority—

- (a) that the motor vehicle is not fitted as prescribed with such seat belts and anchorages for seat belts as are prescribed; or
- (b) that any seat belts or anchorages for seat belts that are fitted to, or installed in, the motor vehicle—
 - (i) do not comply in all respects with the provisions of the regulations made for the purposes of this section; or
 - (ii) are not in sound condition and good working order.

“(4) For the purposes of this section, the Governor may make regulations—

- (a) prescribing specifications as to the design, materials, strength, construction, and mode of fitting or installing seat belts and anchorages for seat belts and as to any other matters relating to seat belts and anchorages therefor as he deems necessary;
- (b) prescribing optional or alternative specifications as to any matters referred to in paragraph (a) of this subsection;
- (c) prescribing the number and position of seat belts and anchorages for seat belts required to be fitted to vehicles to which this section applies or to any particular kind or class of those vehicles;
- (d) exempting, or authorizing the Registrar of Motor Vehicles or a designated officer to exempt, any vehicle or kind or class of vehicle from the

requirements of this section, either generally or in prescribed circumstances or when used for prescribed purposes; and

- (e) authorizing the Registrar of Motor Vehicles or a designated officer to approve, either unconditionally or subject to the observance of conditions imposed by the Registrar or that officer and either for a limited period or without limitation as to time, of seat belts or anchorages for seat belts fitted to any particular vehicle notwithstanding that they do not comply with the prescribed specifications as to the design, materials, strength, construction, or mode of fitting or installation thereof.

“(5) The regulations made for the purposes of this section may make different provision with respect to different kinds or classes of vehicles to which this section applies.

“(6) Where, pursuant to the regulations, the Registrar of Motor Vehicles or a designated officer approves of the seat belts or anchorages for seat belts fitted to a particular motor vehicle those seat belts and anchorages shall, so long as the approval continues in force and subject to the observance of the conditions (if any) imposed by the Registrar or that officer, be deemed for the purposes of this section to comply with the provisions of the regulations.

“(7) In this section—

- ‘appointed day’ means such day as is declared by the Minister, by order, to be the appointed day for the purposes of this section;
- ‘designated officer’ means any police officer or officer of the Commission who is authorized in that behalf, in writing, by the Registrar of Motor Vehicles to exercise the powers conferred on a designated officer by this section;
- ‘motor vehicle to which this section applies’ means a motor vehicle of such kind or class as may be prescribed, being a motor vehicle that has not at any time before the appointed day been registered in this State.”

3 After section fourteen of the Principal Act the following section is inserted:—

“14AA—(1) A person who for fee, reward, salary, wages, or other remuneration or consideration, by whomsoever paid or payable, teaches any other person to drive a motor vehicle unless the first-mentioned person is the holder of a current motor driving instructor’s licence (in this section referred to as ‘an instructor’s licence’) is guilty of an offence against this section.

“(2) If the holder of an instructor’s licence, for the purpose of teaching another person to drive a motor vehicle, uses a motor vehicle that does not comply in all respects with the provisions of the regulations made under subsection (15) of this section as to the construction, equipment, or suitability of the vehicle or a vehicle in respect of which a certificate of roadworthiness under those regulations is not, for the time being in force, he is guilty of an offence against this section.

“(3) A person who is guilty of an offence against this section is liable, for a first offence, to a penalty of fifty dollars and, for a second or subsequent offence, to a penalty of one hundred dollars and, in addition, the court by which he is convicted of a second or subsequent offence shall order that he be disqualified for a period of three months after the date of his conviction for obtaining or holding an instructor’s licence unless the court considers that such a disqualification would be harsh or unreasonable, having regard to—

- (a) the time that has elapsed since the commission of the previous offence;
- (b) the character and antecedents of that person; and
- (c) any other circumstances that the court considers to be of a special or exceptional nature.

“(4) Upon the application of a person—

- (a) who is over the age of twenty-one years;
- (b) who is the holder of a current driver’s licence; and
- (c) who has for a continuous period of at least three years held—
 - (i) a driver’s licence; or
 - (ii) a licence or other authority to drive a motor vehicle granted under the law of any State other than this State or of any Territory of the Commonwealth,

the Registrar of Motor Vehicles, upon being satisfied of the applicant’s good character and of his proficiency as a motor driving instructor, shall, subject to subsection (5) of this section, grant to the applicant an instructor’s licence.

“(5) Notwithstanding anything in subsection (4) of this section, the Registrar of Motor Vehicles may refuse to grant an instructor’s licence to a person by whom an application for such a licence is made if that person has, before the date of his application, been convicted (whether in this State or elsewhere) of a crime or offence of such a kind as, in the opinion of the Registrar, renders that person unfit to hold an instructor’s licence.

“(6) An instructor’s licence, subject to this Act, remains in force for a period of three years from the date on which it is granted, but nothing in this subsection precludes the

granting, subject to this Act, of a further instructor's licence to the holder to take effect upon the expiration of an earlier instructor's licence.

“(7) A fee of twenty dollars is payable for the issue of an instructor's licence.

“(8) In order to test the proficiency of an applicant for an instructor's licence (whether or not he is or has been the holder of such a licence) the Registrar of Motor Vehicles may require the applicant to undergo such tests as the Registrar may think necessary, whether written, oral, or practical, and those tests shall, without limiting the generality of this subsection, include examination in the following matters, namely:—

- (a) Traffic laws;
- (b) Driving practices;
- (c) Vehicle manipulation; and
- (d) Teaching technique.

“(9) Where the driver's licence of a person who is the holder of an instructor's licence is cancelled or surrendered or that person otherwise ceases to hold a driver's licence, his instructor's licence, by force of this subsection, thereupon ceases to have effect, and where the driver's licence of such a person is suspended the instructor's licence, unless cancelled pursuant to the provisions of this Act, is thereupon suspended, by force of this subsection, for the same period.

“(10) The Registrar of Motor Vehicles may cancel an instructor's licence or suspend an instructor's licence for such period as he thinks fit if the holder thereof has been convicted of an offence against this section or if the Registrar is satisfied that the holder has been guilty of conduct making him unfit to hold such a licence.

“(11) Where an instructor's licence is suspended, it is, during the term of the suspension, of no effect and the holder of that licence shall, during that term, be regarded as unlicensed.

“(12) A person who is aggrieved by the refusal of the Registrar of Motor Vehicles to grant to him an instructor's licence or the decision of the Registrar to cancel or suspend such a licence held by that person may appeal from that refusal or decision to a police magistrate.

“(13) On the hearing of an appeal under subsection (12) of this section, the police magistrate by whom it is heard—

- (a) shall re-determine the matter of the refusal, cancellation, or suspension;
- (b) shall hear any relevant evidence tendered whether by the appellant or the Registrar of Motor Vehicles; and

- (c) without limiting the generality of his discretion, shall take into consideration, in determining the appeal, all the matters that the Registrar ought to have taken into consideration in determining the matter of the refusal, suspension, or cancellation.

“(14) Subject to this section, an appeal under subsection (12) of this section shall be instituted, heard, and determined as prescribed.

“(15) The Governor may make regulations for or with respect to—

- (a) the construction and equipment of motor vehicles used or proposed to be used by persons who are the holders of or applicants for instructors' licences and the suitability of those vehicles for that purpose; and
- (b) the examination of, and the granting of certificates of roadworthiness in respect of, vehicles so used or proposed to be used.”.

4 Section thirty-six of the Principal Act is amended by omitting from subsection (5) thereof the words “, or section thirty-seven” and substituting therefor the words “section thirty-seven, or section forty-one B”. Disqualification of drivers. &c.

5 Section thirty-six A of the Principal Act is amended by adding at the end thereof the following subsection:— Effect of disqualification.

“(8) Where under, or by virtue of the operation of, a provision of an Act other than this Act, a person is disqualified for obtaining or holding a driver's licence or a driver's licence is suspended, the provisions of this section, with the necessary adaptations, apply and have effect as if the disqualification or suspension were imposed under, or arose by virtue of the operation of, a provision of this Act, and this section shall be construed accordingly.”.

6 Section thirty-nine of the Principal Act is amended by omitting subsection (1) thereof and substituting therefor the following subsection:— Refusal to give name and address.

“(1) A person who, when required by a police officer or an authorized officer in the execution of his duty under this Act—

- (a) to state that person's name, place of abode, or age; or
- (b) where that person is the driver of a motor vehicle, to state the name or place of abode of the owner of the vehicle,

refuses to do so or states a false name, place of abode, or age is guilty of an offence against this Act.”.

Operating
vehicle
while
intoxicated.

7 Section forty-one of the Principal Act is amended by omitting subsection (3) thereof.

8 After section forty-one A of the Principal Act the following sections are inserted:—

Prohibition of
driving a
motor vehicle
while the
percentage of
alcohol in the
blood exceeds
0.08 per cent.
Cf. No. 6325
(Vic.), s.
81A.

“41B—(1) A person who drives a motor vehicle while the percentage of alcohol in his blood, expressed in grammes per one hundred millilitres of blood, is more than 0.08 per cent is guilty of an offence against this section.

“(2) For the purposes of this section, if in proceedings in respect of an offence against this section it is established that at any time within two hours after the time at which the offence was alleged to have been committed not less than a particular percentage of alcohol was present in the blood of the person charged with the offence, it shall be presumed, unless the contrary is proved, that not less than that particular percentage of alcohol was present in that person’s blood at the time at which the offence is alleged to have been committed.

“(3) All proceedings in respect of offences against this section shall be heard and determined by a police magistrate sitting alone.

“(4) A person who is guilty of an offence against this section (not being a person who has previously been convicted of such an offence) is liable to a penalty of—

- (a) one hundred dollars, if the police magistrate by whom he is convicted is satisfied that at the time of the commission of the offence the percentage of alcohol in the person’s blood, expressed in grammes per one hundred millilitres of blood, did not exceed 0.15 per cent; or
- (b) two hundred dollars, if the police magistrate by whom he is convicted is satisfied that at the time of the commission of the offence the percentage of alcohol in that person’s blood, expressed in grammes per one hundred millilitres of blood, exceeded 0.15 per cent.

“(5) A person who, having previously been convicted of an offence against this section, is convicted of a second or subsequent offence against this section is liable to a penalty of—

- (a) two hundred dollars, if the police magistrate by whom he is convicted is satisfied that at the time of the commission of the second or subsequent offence against this section the percentage of alcohol in that person’s blood, expressed in grammes per one hundred millilitres of blood, did not exceed 0.15 per cent; or
- (b) four hundred dollars, if the police magistrate by whom he is convicted is satisfied that at the time of the commission of the second or sub-

sequent offence against this section, the percentage of alcohol in that person's blood, expressed in grammes per one hundred millilitres of blood, exceeded 0.15 per cent.

“(6) Where a person is convicted of an offence against this section, he shall not by reason only of his conviction be deemed, for the purposes of any law, or of any contract or arrangement, or of any policy of insurance or other document to have been drunk, or under the influence of intoxicating liquor, or incapable of driving a motor vehicle, at the time of the commission of that offence.

“(7) The provisions of subsection (6) of this section have effect notwithstanding anything contained in any law or any covenant, term, condition, or provision of or contained in any contract or arrangement or policy of insurance or other document, and any such covenant, term, condition, or provision whereby the operation of that subsection is excluded, limited, modified, or restricted is void.

“(8) Any covenant, term, condition, or provision contained in a contract or policy of insurance or other document purporting to exclude or limit the liability of an insurer in the event of the owner or driver of a motor vehicle being convicted of an offence against this section is void.

“41C—(1) A police officer may at any time direct the driver of a motor vehicle or the person for the time being in charge of a motor vehicle or a person whom he finds attempting to drive or operate a motor vehicle to furnish, in accordance with the provisions of this section, a sample of his breath for analysis by a breath analysing instrument for the purpose of determining the percentage (if any) of alcohol in his blood.

Power of police officer to direct driver, &c., to furnish a sample of his breath for analysis. Cf. No. 6231 (Vic.), s. 408A.

“(2) A police officer may exercise the power conferred on him by subsection (1) of this section in relation to a person only if he has reasonable grounds for suspecting that the person may have consumed intoxicating liquor, and at the hearing of any complaint for any offence against this section the court shall be satisfied that the police officer had reasonable grounds for his suspicion.

“(3) A person who is directed pursuant to this section to furnish a sample of his breath for analysis shall do so by exhaling directly into a breath analysing instrument operated by a person authorized in that behalf, in writing, by the Commissioner of Police, and, unless pursuant to subsection (4) of this section it is agreed between that person and the police officer by whom the direction is given that the sample be taken in a particular vehicle or place, shall do so—

(a) at or in the vicinity of the place where the direction is given; or

(b) at a police station,

according as that police officer, in his discretion, may direct.

“(4) A person who is directed pursuant to this section to furnish a sample of his breath for analysis may request the police officer by whom the direction is given to arrange for the sample to be taken in a particular vehicle or place agreed on between that person and that police officer and to make such other arrangements as may be necessary to avoid undue publicity, and the police officer shall comply with any reasonable request made by that person under this subsection.

“(5) As soon as practicable after a sample of a person’s breath is analysed by means of a breath analysing instrument, the person by whom the instrument is operated shall sign and deliver to the first-mentioned person a statement in writing of the percentage (if any) of alcohol indicated by the analysis to be present in his blood (which may be by way of indication on a scale) and of the date and time at which the analysis was made.

“(6) A person who is directed pursuant to this section to furnish a sample of his breath for analysis may request a police officer to arrange for the taking of a sample of that person’s blood or urine for analysis and, if that person so requests, it is the duty of the police officer to whom the request is made to arrange for that sample to be taken by a legally-qualified medical practitioner; but the taking of a sample of that person’s blood or urine does not absolve that person from the obligation imposed on him by this section to furnish a sample of his breath in accordance with the provisions of this section.

“(7) A medical practitioner by whom a sample of a person’s blood or urine is taken pursuant to this section shall, if that person so requires, divide the sample into two approximately equal parts and give one such part, enclosed in a suitable container, to that person and shall retain the other part and deal with it as provided in subsection (8) of this section.

“(8) A medical practitioner by whom a sample of a person’s blood or urine is taken pursuant to this section shall, as soon as practicable after the taking of the sample, forward (in a suitable container) the part of the sample that is retained by him to an approved analyst for analysis for the purpose of assessing the percentage of alcohol in the blood of that person.

“(9) An approved analyst to whom a sample of a person’s blood or urine is forwarded pursuant to subsection (8) of this section shall, within forty-eight hours after he has analysed that sample, forward or give to—

(a) that person; and

(b) the police officer by whom that person was, in pursuance of this section, directed to furnish a sample of his breath,

a certificate in writing stating the percentage of alcohol, expressed in grammes per one hundred millilitres of blood, indicated by the analysis to have been present in the blood of that person at the time of the making of the analysis.

“(10) A person who, on being directed pursuant to this section to furnish a sample of his breath for analysis, fails to do so is guilty of an offence against this section, unless the police magistrate before whom the proceedings in respect of that offence are taken is satisfied—

- (a) that by reason of that person's physical condition it would have been dangerous to that person's health to require him to furnish that sample; or
- (b) that there were no reasonable grounds for suspecting that the person may have consumed intoxicating liquor.

“(11) All proceedings in respect of offences against this section shall be heard and determined by a police magistrate sitting alone.

“(12) A person who is convicted of an offence against this section is liable to a penalty of two hundred and fifty dollars, and, in addition, that person may be disqualified for holding or obtaining a driver's licence for such period not exceeding twelve months as the court may specify.

“(13) The Governor may make regulations for or with respect to—

- (a) the maintenance and use of breath analysing instruments used for the purposes of this section;
- (b) the methods to be employed for ensuring that those instruments give accurate results;
- (c) the qualifications to be possessed by persons who are authorized by the Commissioner of Police to operate those instruments; and
- (d) the manner in which breath is to be analysed for the purposes of this section.

“(14) In this section—

‘approved analyst’ means—

- (a) the Government Analyst; and
- (b) any other analyst who possesses the prescribed qualifications and who is declared by the Governor, by notice in the *Gazette*, to be an approved analyst for the purposes of this section;

‘breath analysing instrument’ means apparatus that is designed for ascertaining, by analysis of a person's breath, the percentage of alcohol present in his blood (being apparatus of a type approved by the Governor by notice in the *Gazette*).”

9 After section forty-three of the Principal Act the following section is inserted in Part IV:—

Drivers of, and passengers on, motor cycles to wear protective helmets.
Cf. No. 6325 (Vic.), s. 31 (1) (j).

“43A—(1) On and after the appointed day, a motor cycle shall not be driven on a public street unless the driver of the motor cycle, and, where any other person is riding or being carried on the pillion seat thereof, that person, are each wearing securely on the head a protective helmet of a type approved by the Commissioner of Police.

“(2) If in respect of the driving of a motor cycle on a public street there is any contravention of or failure to comply with the provisions of subsection (1) of this section, the driver of the motor cycle is guilty of an offence against this section.

Penalty: Fifty dollars.

“(3) In this section—

‘appointed day’ means such day as is declared by the Minister, by order, to be the appointed day for the purposes of this section;

‘pillion seat’ means a seat designed to carry a passenger on a motor cycle, being a seat attached to the motor cycle behind the driver’s seat.”.

Transitory provisions.

10—(1) Notwithstanding the amendments of the Principal Act that are effected by this Act, proceedings shall not be taken against a person in respect of a contravention of, or failure to comply with, any of the provisions of section forty-one B of the Principal Act if the contravention or failure occurs before the appointed day.

(2) In this section, “appointed day” means such day as is declared by the Minister, by order, to be the appointed day for the purposes of this section.

Expiry of section eight.

11 Section eight of this Act shall expire on the thirty-first day of December 1968.

HOUSING AGREEMENT.

No. 27 of 1966.

AN ACT to authorize the execution by the State of an agreement between the Commonwealth and the States in relation to housing, to make provision for matters incidental thereto, and to amend the *Homes Act 1935*.

[23 September 1966.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—