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# **An Act to amend the Road Traffic Act.**

*Date of Assent:* 22.12.2008

*Date of Commencement:* On Notice

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Road Traffic (Amendment) Act, 2008, and shall come into operation on such date as the Minister may, by Order, appoint.

Short title and commencement

2. Section 2 of the Road Traffic Act, (in this Act referred to as the “the Act”) is amended —

Amendment of section 2 of Cap. 69:01

- (a) by inserting the following new definitions in their correct alphabetical order —
- “conductor permit” means an authorisation issued to a person employed by a public service vehicle operator to handle fees from passengers and handle luggage of passengers;
- “conversion” means the replacement of a driving licence obtained outside Botswana with a new Botswana driving licence;
- “demerit point” means a point incurred by a person who has contravened any offence under this Act;
- “detecting device” means a device prescribed as a traffic offence detecting device for the purposes of this Act;
- “driving school” means a business licensed under this Act which employs for a reward, licensed driving instructors to instruct or supervise any person in the driving of a motor vehicle on a road;
- “institutional vehicle” means a vehicle registered under the name of any formal institution such as training colleges, universities, schools, churches, Government and parastatal organisations;
- “permit” means an authorisation issued under section 108 of the Act.
- (b) by substituting for the definitions of the words “heavy commercial vehicle”, “light commercial vehicles”, “motor cycle”, “motor car”, “private hire vehicle” and “tractor” the following new definitions respectively —
- “heavy commercial vehicle” means a commercial motor vehicle wholly or primarily constructed or adapted for the carriage of goods the gross weight of which exceeds 7500 kg;
- “light commercial vehicle” means a commercial motor vehicle wholly or primarily constructed or adapted for the carriage of goods the gross weight of which does not exceed 7500 kg;
- “motor cycle” means any two or three or four-wheeled vehicle as prescribed under section 4;
- “motor car” means a motor vehicle having seating accommodation for not more than 7 passengers excluding the driver, but does not include a motor cycle;

“private hire vehicle” means any public service vehicle used for the conveyance of passengers or goods for rental purposes; and  
“tractor” means an agriculture vehicle designed or adapted solely for agricultural activities and does not include a road or passenger vehicle”;  
and

(c) by deleting the following definitions —

- (i) “invalid carriage”,
- (ii) “public service vehicle driver’s licence” or “public service vehicle conductor’s licence”.

Substitution of section 14 of the Act

**3.** The Act is amended by substituting for section 14 the following new section —

“Offences and penalties

14. Any person who contravenes any of the provisions of this Part or who fails to comply with a requirement lawfully made of him by a police officer, authorized officer, licensing officer or the Director under this Part, shall be guilty of an offence and liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding 12 months, or to both.”.

Amendment of section 18 of the Act

**4.** Section 18 of the Act is amended in subsection (1) —

(a) by inserting immediately after the word “licence” appearing in the second line the following new words “or carry out any other transaction regarding the vehicle”; and

(b) by inserting immediately after paragraph (d) the following new paragraph —

“(e) there is no outstanding fine owed to the Government relating to the use of the vehicle in contravention of the provisions of this Act.”.

Amendment of section 29 of the Act

**5.** Section 29 of Act is amended by substituting for subsection (1) the following new subsection —

“(1) Any person who contravenes any of the provisions of Part III or Part IV shall be guilty of an offence and liable for a first offence to a fine not exceeding P500, or to imprisonment for a term not exceeding six months, or to both, and for each subsequent offence to a fine not exceeding P1 000, or to imprisonment for a term not exceeding 12 months, or to both:

Provided that sentencing may include the following —

- (i) community service, or
- (ii) probation.”.

Amendment of section 30 of the Act

**6.** Section 30 of the Act is amended —

(a) by substituting for subsection (1) the following new subsection —

“(1) No person shall drive a motor vehicle of any class on a road unless —

(a) he is a holder of a valid driving licence in respect of that class of vehicle; and

(b) in the case of a holder of a provisional driving licence, such person is accompanied by a holder of a driving instructor certificate issued under section 41.”;

(b) by inserting immediately after subsection (5) the following new subsection —

“(5A) Notwithstanding the provisions of subsection (5), the holder of a driving licence shall, every five years, present himself to a licensing officer to have his eyesight screened by such apparatus as may be prescribed and the licensing officer shall deal with his licence in such manner as the Minister may prescribe.”.

(c) substituting for subsection (7), the following new subsections —

“(7) Any person who contravenes the provisions of subsection (3) shall be guilty of an offence and liable to a fine not exceeding P500, or to imprisonment for a term not exceeding six months, or to both.

(8) Any person who contravenes any of the provisions of subsections (1), (2) and (4) shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P3 000, or to imprisonment for a term of not less than six months but not more than 18 months, or to both.”.

7. The Act is amended by substituting for section 40 the following new section —

“Suspension  
etc. of driving  
licence or  
permit

40. (1) The Director may —

(a) suspend or revoke a driving licence, provisional driving licence, driving instructor’s permit or PrDP of any person who —

(i) appears by any reason to be unfit;

(ii) has reached the prescribed demerit point limit; or

(iii) is unfit to hold a driving instructor’s certificate under section 41;

(b) order a fresh driving test in the case of any holder of a driving licence who appears to the Director to be so deficient in driving ability as to be a source of danger to the public, and, if the licence holder fails to pass such tests, revoke his licence; or

(c) order a refresher training course for a holder of a particular class of licence to reduce the number of demerit points.

(2) Where the Director has suspended or revoked a driving licence, provisional driving licence or permit under subsection (1), the owner of such licence shall deliver his driving licence within 48 hours to the Director, who shall endorse on it the reason for its suspension or revocation.

(3) The Director shall restore a driving licence, provisional driving licence or permit suspended under subsection (1) to the person in question under the following conditions —

(a) in the case of a licence suspended under subsection (1)

(a), if such person satisfies the Director, by means of a certificate referred to under section 31 (2) (a) that he is not suffering from any disease or disability likely to cause the driving by him of a vehicle, of the class or classes in respect of which his licence was issued, to be a source of danger to the public; and

Substitution of  
section 40 of  
the Act

(b) in the case of a driver having accumulated the prescribed legal limit of demerit point, such conditions as the Minister may prescribe.

(4) Where a licence or permit is revoked under subsection (1) (a) (ii), the driver shall be disqualified from acquiring another licence for a prescribed period.

(5) Any person who is aggrieved by the suspension or revocation of a licence under this section may, after giving the Director notice of his intention to do so, appeal to a Magistrate Grade I or over, who shall, after considering the grounds for such suspension or revocation, make such order as he thinks fit.”.

Substitution of section 42 of the Act

**8.** The Act is amended by substituting for section 42 the following new section —

“No penalty prescribed”

42. Any person who contravenes any of the provisions of this Part for which no specific penalty is prescribed shall be guilty of an offence and shall be sentenced to a fine of not less than P500, but not more than P2 000 or to imprisonment for a term of not less than six months but not more than 15 months, or to both.”.

Insertion of section 44A in the Act

**9.** The Act is amended by inserting immediately after section 44 the following new section —

“Detecting devices

44A. (1) An authorised officer may mount on the road a detecting device and evidence provided through such devices shall be admissible in court.

(2) In the case of an offence detected under subsection (1) it shall be presumed that the owner of the vehicle was the driver during the commission of the offence unless such owner can provide proof that he was not the driver at the material time.

(3) Where an offence is detected under subsection (2) an authorised officer shall, within 30 days, serve the owner of the vehicle with a prescribed notice detailing the offence and the penalty thereof.

(4) The owner of a vehicle who was the driver at the time of the commission of the offence detected under subsection (2) shall upon receipt of the notice under subsection (3), pay the penalty prescribed in the notice within 14 days.

(5) Where the owner of the vehicle was not the driver at the time of the commission of the offence, the owner shall complete a prescribed form and submit it to the authorised officer within 14 days, nominating the person who was driving the vehicle during the commission of the offence or the person who had control of the vehicle.

(6) An authorised officer shall, on receiving a form completed under subsection (5), issue a notice referred under subsection (3) to the person nominated in the form as being the driver of the vehicle or the person who had control of the vehicle at time of the commission of the offence.

(7) The provisions of subsections (4), (5) and (6) shall with necessary modifications apply to each person served with a notice under this section.

(8) A person who makes a false statement under this section commits an offence.

(9) No person shall own, sell, use or possess a device having as one of its purposes the prevention of effective use of a detecting device or to detect when the detecting device is being used.

(10) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P1 000 but not more than P5 000, or to imprisonment for a term of not less than 12 months, but not more than two years, or to both, and for each subsequent offence to a fine of not less than P2 000 but not more than P10 000, or to imprisonment for a term of not less than 15 months, but not more than five years, or to both.”.

**10.** Section 45 of the Act is amended by —

(a) substituting for subsection (1) the following new subsection —

“(1) Any person who contravenes a provision of section 44 shall be guilty of an offence and shall be sentenced to a fine of not less than P100 plus P20 for every kilometre per hour exceeded but not more than P5 000, or to imprisonment for a term not exceeding two years, or to both”; and

(b) in subsection (2), by deleting the words, “of or above the rank of Sergeant”.

Amendment of section 45 of the Act

**11.** The Act is amended by substituting for section 46 the following new section —

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

46. (1) No person shall drive or attempt to drive a motor vehicle when the alcohol content in his breath or blood is in excess of the prescribed limit.

(2) Without prejudice to subsection (1) no person shall drive or attempt to drive a motor vehicle whilst unfit to drive through drinks or drugs.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be sentenced to a fine of not less than P3 000 but not more than P5 000 or to imprisonment for a term not less than 18 months but not more than two years, or to both.

Substitution of section 46 of the Act

(4) Any person who contravenes subsection (2) shall be guilty of an offence and shall be sentenced to a fine of not less than P5 000 but not more than P10 000 or to imprisonment for a term of not less than two years but not more than five years, or to both.

(5) Without prejudice to subsections (1) and (2), a person who, when in charge of a motor vehicle, is unfit to drive through drink or drugs or when the alcohol content in his breath or blood is in excess of the prescribed limit shall be guilty of an offence and shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 15 months but not more than two years, or to both:

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

(6) Notwithstanding the provision of subsections (3) and (4) any person who drives a motor vehicle for which a professional driving permit is required and contravenes subsection (1) or (2) shall be guilty of an offence and shall be sentenced to a fine of not less than P5 000 but not more than P10 000, or to imprisonment for a term of not less than two years but not more than five years, or to both.”.

Amendment of  
section 47 of  
the Act

**12.** Section 47 of the Act is amended by —

(a) substituting for subsection (3) the following new subsection —

“(3) Where the results of an analysis of breath provided in pursuance of subsection (2) indicate that the level of alcohol in the breath of a person who provided the specimen exceeds the prescribed limit of alcohol, those results shall be deemed to be *prima facie* evidence that the person was unfit to drive.”; and

(b) by substituting for subsection (5) the following new subsection —

“(5) A person who, without reasonable excuse refuses or fails to provide a specimen of breath or blood or sufficient specimen of breath or blood when required to do so in pursuance of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P3 000 but not more than P5 000, or to imprisonment for a term of not less than 18 months but not more than two years, or to both.”.

Amendment of  
section 48 of  
the Act

**13.** Section 48 of the Act is amended —

(a) by inserting immediately after subsection (1) the following new subsection —

“(1A) No evidence of the proportion or quantity of alcohol found in a specimen of blood or breath shall be admissible for the purposes of this section on behalf of the prosecution unless the specimen was taken from the accused with his consent:

Provided that such evidence shall be admissible on behalf of the prosecution, notwithstanding that the specimen of blood or breath was taken from the accused without his consent, where the specimen was taken in accordance with subsection (4) or (5).”; and

(b) by substituting for subsection (10) the following new subsection —

“(10) The Minister may prescribe a limit to the amount of alcohol permissible in a specimen of blood or breath taken from an accused under this Act.”.

**14.** The Act is amended by substituting for section 49 the following new section —  
“Reckless and dangerous driving generally

49. (1) If a person drives a motor vehicle recklessly or at a speed or in a manner which is dangerous to other persons, having regard to all the circumstances of the case, he shall be guilty of an offence and shall be sentenced to a fine of not less than P2 000 but not more than P10 000, or to imprisonment for a term of not less than 15 months but not more than five years, or to both.

(2) Notwithstanding the provisions of subsection (1), any person who, being the driver of a motor vehicle for which a professional driving permit is required, drives the vehicle recklessly or at a speed or in a manner which is dangerous to other persons, having regard to all the circumstances of the case, shall be guilty of an offence and shall be sentenced to a fine of not less than P5 000 but not more than P20 000, or to imprisonment for a term of not less than two years but not more than 10 years, or to both.

(3) Where a person is convicted of aiding, abetting, counselling, procuring or inciting the commission of an offence under this section, and it is proved that he was present in the vehicle at the time of the commission of the offence, the offence of which he is convicted shall, for the purpose of the provisions of this Act relating to disqualification from driving or from holding or obtaining driving licences, be deemed to be an offence in connection with the driving of a motor vehicle.

(4) Where a holder of a professional driving permit drives a motor vehicle recklessly or in a manner dangerous or at a speed dangerous to other persons shall be guilty of an offence and shall be sentenced to a fine of not less than P10 000 but not more than P20 000, or to imprisonment for a term of not less than five years but not more than 10 years, or to both.”.

Substitution of section 49 of the Act

**15. The Act is amended by substituting for section 50 the following new section —**

“Causing  
death by  
reckless  
driving, etc.

50. (1) Any person who causes the death of another person by driving a motor vehicle recklessly or in a manner which is dangerous to other persons having regard to all circumstances of the case shall be guilty of an offence and shall be sentenced to a fine of not less than P10 000 but not more than P30 000, or to imprisonment for a term of not less than five years but not more than 15 years, or to both.

(2) Any person who causes death of another person by driving a vehicle which is in such a condition as to constitute a danger to the public shall be guilty of an offence and shall be sentenced to a fine of not less than P5 000 but not more than P15 000, or to imprisonment for a term of not less than two years but not more than eight years, or to both.

(3) Any person who causes the death of another person by driving a vehicle whilst he is unfit to drive through drink or drugs shall be guilty of an offence and shall be sentenced to a fine of not less than P10 000 but not more than P30 000, or to imprisonment for a term of not less than five years or more than 15 years, or to both.

(4) Any person who causes the death of another person by leaving any vehicle on a road in such a position or manner, or in such a condition as to constitute a danger to the public having regard to all the circumstances of the case including the nature, condition and use of the road, and the amount of traffic or number of animals which are actually, or which are reasonably expected to be on the road at the time, shall be guilty of an offence and shall be sentenced to a fine of not less than P5 000 but not more than P15 000, or to imprisonment for a term of not less than two years but not more than eight years, or to both.

(5) Any person who, being the driver of a vehicle for which a professional driving permit is required causes the death of another person by driving that vehicle on a road whilst the alcohol content in his blood or breath is above the prescribed limit shall be guilty of an offence and shall be sentenced to a fine of not less than P15 000 but not more than P40 000, or to imprisonment for a term of not less than eight years but not more than 20 years, or to both.

(6) Any person who, being the driver of a vehicle for which a professional driving permit is required causes the death of another person by driving that vehicle on a road whilst the vehicle is not roadworthy, shall be guilty of an offence and shall be sentenced to a fine of not less than P10 000 but not more than P20 000, or to imprisonment for a term of not less than five years but not more than 10 years, or to both.”.

**16.** The Act is amended by substituting for section 51 the following new section —  
“Careless and inconsiderate driving

Substitution  
of section 51  
of the Act

51. (1) If a person drives a motor vehicle without due care and attention, or without reasonable consideration for other persons, he shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P2 000, or to imprisonment for a term of not less than six months but not more than 15 months, or to both.

(2) Notwithstanding the provisions of subsection (1), any person who, being the driver of a motor vehicle where a professional driving permit is required, drives the vehicle without due care and attention or without reasonable consideration for other persons, shall be guilty of an offence and shall be sentenced to a fine of not less than P2 000 but not more than P10 000 or to imprisonment for a term of not less than 15 months but not more than five years, or to both.

(3) Where a person is convicted of an offence under subsection (1) or (2) and he has been previously convicted of an offence under section 49 or 50 he shall be treated for the purposes of subsection (2) as having been previously convicted under that subsection.”.

**17.** Section 53 is amended —

Amendment of  
section 53 of  
the Act

(a) in subsection (2) —

(i) by substituting for the word “two” the word “one”;

(ii) by substituting the word “five” the word “three”;

(b) in subsection (3) —

(i) by substituting for the word “one” the word “two”,

(ii) by substituting for the word “three” the word “five”; and

(c) by inserting immediately after subsection (3) the following new subsection —

“(3A) Where a person is convicted of an offence under section 46 the court convicting him shall order that he be disqualified from driving or holding or obtaining a driving licence for not less than one year but not more than three years.”.

**18.** Section 54 of the Act is amended in subsection (2) by substituting for the words “P25” the words “P500”, or to imprisonment for a term not exceeding six months, or to both.”.

Amendment of  
section 54 of  
the Act

**19.** Section 55 of the Act is amended by substituting for the words “P25” the words “P500”, or to imprisonment for a term not exceeding six months, or to both.”.

Amendment of  
section 55 of  
the Act

**20.** Section 56 of the Act is amended in subsection (2) by substituting for the words “liable to a fine not exceeding P1 000 or to imprisonment for a term not exceeding three years, or to both” the words “shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 12 months but not more than two years, or to both.”.

Amendment of  
section 56 of  
the Act

Amendment of section 57 of the Act

**21.** Section 57 of the Act is amended by substituting for subsection (3) the following new subsection —

“(3) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P1 000 but not more than P5 000 , or to imprisonment for a term of not less than 12 months but not more than two years, or to both.”.

Amendment of section 58 of the Act

**22.** Section 58 of the Act is amended —

(a) in subsection (1) by substituting for the words “P20” the words “P100”;

and

(b) in subsection (4) —

(i) by substituting for the words “P100” the words “P1 000”;

(ii) by substituting for the words “one month” the words “12 months”.

Amendment of section 59 of the Act

**23.** Section 59 of the Act is amended by substituting for subsection (4) the following new subsection —

“(4) Any person who leaves a vehicle on a road or carriageway in such a position or manner or in such condition as to cause or be likely to cause any danger to any person shall be guilty of an offence and shall be sentenced to a fine of not less than P1 000 but not more than P2 000, or to imprisonment for a term not less than 12 months but not more than 15 months, or to both.”.

Amendment of section 61 of the Act

**24.** Section 61 of the Act is amended by substituting for subsection (3) the following new subsection —

“(3) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P100 but not more than P1 000, or to imprisonment for a term not less than one month but not more than 12 months, or to both.”.

Amendment of section 63 of the Act

**25.** Section 63 of the Act is amended in subsection (1) by substituting for the words “of or above the rank of Assistant Superintendent” the words “of the rank of Sergeant or above”.

Amendment of section 64 of the Act

**26.** Section 64 of the Act is amended in subsection (1) —

(a) by substituting for the word “P600” the word “P5 000 ”; and

(b) by substituting for the words “nine months” the words “two years”.

Amendment of section 65 of the Act

**27.** Section 65 of the Act is amended by inserting immediately after subsection (3) the following new subsections —

“(4) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P2 000 or to imprisonment for a term of not less than six months but not more than 15 months, or to both.

(5) In the case where an accident occurs as a result of an offence committed under subsections (1), (2) or (3) the offender shall be guilty of an offence and shall be sentenced to a fine of not less than P2 000 but not more than P5 000 or to imprisonment for a term of not less than 15 months but not more than two years, or to both.

(6) In the case where an accident referred to in subsection (5) results in the death of another person, the offender shall be guilty of an offence and shall be sentenced to a fine of not less than P5 000 but not more than P15 000 or to imprisonment for a term of not less than two years but not more than eight years or to both.”.

- 28.** Section 71 of the Act is amended in subsection (1) —
- (a) by substituting for the words “P300” the words “P5 000”;
  - (b) by substituting for the words “nine months” the words “two years”.
- 29.** Section 73 of the Act is amended by substituting for subsection (5) the following new subsection —
- “(5) Any person who contravenes the provisions of this section or who crosses or attempts to cross any railway line when it is unsafe to do so, shall be guilty of an offence and shall be sentenced to a fine of not less than P1 000 but not more than P5 000, or to imprisonment for a term not less than 12 months but not more than two years, or to both”.
- 30.** The Act is amended by substituting for section 74 the following new section —
- “Offences and penalties 74. Any person who contravenes the provisions of this Part for which no other penalty is provided shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P5 000, or to imprisonment for a term not less than six months but not more than two years, or to both.”.
- 31.** The Act is amended by repealing section 75.
- 32.** Section 78 of the Act is amended by inserting immediately after subsection (5) the following new subsection —
- “(6) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P1 000 but not more than P5 000, or to imprisonment for a term not less than 12 months but not more than two years, or to both.”.
- 33.** Section 82 of the Act is amended —
- (a) in subsection (5) by inserting immediately after the word “nurse” the following words “and shall not drive the vehicle involved in the accident until authorised by a police officer”; and
  - (b) by inserting immediately after subsection (7) the following new subsection —
- “(8) It shall be the duty of person who having witnessed an accident to report such accident to the nearest police.”.
- 34.** Section 83 of the Act is amended —
- (a) in paragraph (a) —
    - (i) by substituting for the word “P1 200” the word “P5 000”, and
    - (ii) by substituting for the words “three years” the words “two years”;
  - (b) in paragraph (b) —
    - (i) by substituting for the word “P400” the word “P3 000;” and
    - (ii) by substituting for the words “one year” the words “18 months”.

Amendment of section 71 of the Act

Amendment of section 73 of the Act

Substitution of section 74 of the Act

Repeal of section 75 of the Act

Amendment of section 78 of the Act

Amendment of section 82 of the Act

Substitution of section 83 of the Act

- (c) by inserting immediately after paragraph (b) the following new paragraphs —
  - “(c) where as a result of a driver’s failure to report an accident in which he was involved, injury or death occurs, his driving licence and any other related permit shall, in addition to the fines prescribed in paragraphs (a) and (b), be suspended for not less than one year; and
  - (d) where having witnessed an accident he fails to report such accident to the nearest police to a fine not exceeding P3 000 to imprisonment for a term of not exceeding 18 months, or to both.”.

Amendment of section 84 of the Act

**35.** Section 84 of the Act is amended by substituting for subsection (3) the following new subsection —

“(3) Any person who is guilty of an offence under this section shall be sentenced to a fine of not less than P1 000 but not more than P2 000, or to imprisonment for a term of not less than six months but not more than 15 months, or to both.”.

Amendment of section 88 of the Act

**36.** Section 88 of the Act is amended —

- (a) by renumbering section “88 ” as subsection “88 (1)”;
  - (b) by substituting for the words “liable to a fine not exceeding P600 or to imprisonment for a term not exceeding 18 months, or to both” the words “shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 15 months but not more than two years, or to both”; and
  - (c) by inserting immediately after subsection (1) the following new section —

“(2) Any person who is guilty of a second or subsequent offence under this section shall be sentenced to a fine of not less than P5 000 but not more than P10 000, or to imprisonment for a term of not less than two years but not more than five years, or to both.”.

Amendment of section 89 of the Act

**37.** Section 89 of the Act is amended in subsection (1) (b) by substituting for the words “exceeding P600 or to imprisonment for a term not exceeding 18 months, or to both ” the words “shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 15 months but not more than two years, or to both.”.

Amendment of section 91 of the Act

**38.** Section 91 of the Act is amended by substituting for the word “exceeding P200 or to imprisonment for a term not exceeding six months, or to both ” the words “shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 15 months but not more than two years, or to both.”.

Substitution of section 93 of the Act

**39.** The Act is amended by substituting for section 93 the following new section —

“Driving under the influence of drink

93. Any person who when driving or attempting to drive, or when in charge of a vehicle, other than a motor vehicle, on a road or in a public place, is under the influence of drink or drugs to such an extent as to be incapable of having proper control of the vehicle shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P2 000 or to imprisonment for a term of not less than six months but not more than 15 months, or to both.”.

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| <p><b>40.</b> Section 94 of the Act is amended by substituting for the words “P100 or more than P500 or to imprisonment for a term of not less than two months but not more than six months, or to both.” the words “P500 but not more than P2 000 or to imprisonment for a term of not less than six months but not more than 15 months, or to both.”.</p>   | <p>Amendment of section 94 of the Act</p>  |
| <p><b>41.</b> Section 95 of the Act is amended by substituting for the words “P50 or more than P500 or to imprisonment for a term of not less than one month but not more than six months, or to both” the words “P100 but not more than P2 000 or to imprisonment for a term of not less than one month but not more than 15 months, or to both.”.</p>   | <p>Amendment of section 95 of the Act</p>  |
| <p><b>42.</b> Section 96 of the Act is amended by substituting for subsection (9) the following new subsection —<br/> “(9) Any person who contravenes a provision of this section shall be guilty of an offence and liable to a fine not exceeding P1 000 or to imprisonment for a term not exceeding 12 months, or to both.”.</p>  | <p>Amendment of section 96 of the Act</p>  |
| <p><b>43.</b> Section 99 of the Act is amended by substituting for subsection (7) the following new subsection —<br/> “(7) Any person who contravenes a provision of this section shall be guilty of an offence and liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding 12 months, or to both.”.</p>   | <p>Amendment of section 99 of the Act</p>  |
| <p><b>44.</b> Section 100 of Act is amended in subsection (2) by substituting for the paragraph which appears immediately after paragraph (<i>b</i>) the following new paragraph —<br/> “and any person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 15 months but not more than two years, or to both.”.</p> | <p>Amendment of section 100 of the Act</p> |
| <p><b>45.</b> Section 101 of the Act is amended by substituting for subsection (3) the following new subsection —<br/> “(3)Any person who contravenes a provision of this section shall be guilty of an offence and liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding 12 months, or to both.”.</p>   | <p>Amendment of section 101 of the Act</p> |
| <p><b>46.</b> Section 102 of Act is amended in subsection (1) by substituting, for the paragraph which appears immediately after paragraph (<i>h</i>) the following new paragraph —<br/> “shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P2 000 or to imprisonment for a term of not less than six months but not more than 15 months, or to both.”.</p>  | <p>Amendment of section 102 of the Act</p> |
| <p><b>47.</b> Section 103 of the Act is amended by substituting for subsection (4) the following new subsection —<br/> “(4) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P200 but not more than P1 000, or to imprisonment for a term of not less than two months but not more than 12 months, or to both.”.</p>  | <p>Amendment of section 103 of the Act</p> |

Amendment of section 106 of the Act

**48.** Section 106 of the Act is amended by inserting immediately after subsection (3) the following new subsection —

“(4) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than 15 months but not more than two years, or to both.”.

Insertion of section 106A to the Act

**49.** The Act is amended by inserting immediately after section 106 the following new section —

“Penalties 106A. Any person who contravenes a provision of this Part for which no penalties are provided shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P1 000, or to imprisonment for a term of not less than six months but not more than 12 months, or to both.”.

Substitution of section 107 of the Act

**50.** Section 107 of the Act is amended by substituting for that section the following new section —

“Requirements for certain public service vehicles 107. (1) No person shall drive a call-cab, taxi, mini-bus, midi-bus or any motor omnibus, used for hire or reward unless he is a holder of a valid PrDP “P” for that class of vehicle.

(2) No person shall drive a vehicle conveying goods for hire or reward or on own account unless he is a holder of a PrDP “G” or PrDP “H” for that class of vehicle.

(3) No person shall drive a school-bus unless he or she is a holder of a valid professional driving permit “special” for that class of vehicle and the sign “school-bus” is displayed on the left front and at the right rear side of the school bus next to the number plate.

(4) Any person who contravenes a provision of this section shall be guilty of an offence and shall be sentenced to a fine of not less than P1 000 but not more than P5 000, or to imprisonment for a term of not less than six months but not more than 12 months, or to both.”.

Amendment of section 108 of the Act

**51.** Section 108 of the Act is amended —

(a) by substituting for the word “licence” wherever it appears in that section, the word “permit”; and

(b) in subsection (2) —

(i) by substituting for the word “taxicab” appearing in paragraph (e) the words “taxi or call-cab”; and

(ii) by substituting for the words “Assistant Superintendent” appearing under paragraph (f) the word “Inspector”.

Amendment of section 110 of the Act

**52.** Section 110 of the Act is amended —

(a) by substituting for the word “licence” wherever it appears in the section, the word “permit”;

(b) by substituting for subsection (1) the following new subsection —

“(1) Any person who drives or acts as a conductor of a public service vehicle without being authorised for that purpose under this Part, and any person who employs or permits any person who is not so

authorised to act as a conductor of a public service vehicle shall be guilty of an offence and shall be sentenced to a fine of not less than P500 but not more than P2 000 in the case of a conductor and P2 000 but not more than P5 000 in the case of a driver or any person who employs or permits any person who is not so authorised”;

(c) in subsection (3) —

- (i) by substituting for the word “21” appearing under paragraph (a) the word “25”, and
- (ii) by substituting for the word “15” appearing under paragraph (c) the word “90”; and

(d) in subsection (5) (b) —

- (i) by substituting for the word “15” the word “90”, and
- (ii) by substituting for the words “Assistant Superintendent” the word “Sub-Inspector”.

**53.** Section 111 of the Act is amended by substituting for the word “licence” wherever it appears in that section, the word “permit”.

Amendment of section 111 of the Act

**54.** Section 112 of the Act is amended by substituting for the word “licence” wherever it appears in that section, the word “permit”.

Amendment of section 112 of the Act

**55.** Section 113 of the Act is amended —

Amendment of section 113 of the Act

- (a) in subsection (2) by substituting for the words “liable to a fine not exceeding P200” the words “shall be sentenced to a fine of not less than P500 but not more than P1 000, or to imprisonment for a term of not less than six months but not more than 12 months, or to both.”; and
- (b) in subsection (3) by substituting for the words “P20” the words “P100, or to imprisonment for a term not exceeding one month, or to both.”.

**56.** Section 115 of the Act is amended by substituting for that section the following new section —

Substitution of section 115 of the Act

“Penalties 115. Any person who contravenes a provision of this Part shall be guilty of an offence and liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding two years, or to both.”.

**57.** Section 116 of the Act is amended —

Amendment of section 116 of the Act

- (a) in subsection (1), by substituting for the words “or motor vehicle examiner” the words “motor vehicle examiner, transport inspectors or any authorised person”; and
- (b) substituting for subsection (3) the following new subsection —  
“(3) Any person who fails to comply with any instruction or order given under this section shall be guilty of an offence and liable to a fine not exceeding P2 000, or to imprisonment for a term not exceeding 15 months, or to both.”.

Amendment of section 117 of the Act

**58.** Section 117 of the Act is amended —

- (a) in subsection (5) by substituting for the words “liable to a fine not exceeding P400 or to imprisonment for a term of not exceeding 12 months, or to both.” the words “shall be sentenced to a fine of not less than P500 but not more than P3 000, or to imprisonment for a term of not less than six months but not more than 18 months, or to both”; and
- (b) in subsection (8) by substituting for the words “liable to a fine not exceeding P50” the words “shall be sentenced to a fine of not less than P200 but not more than P1 000, or to imprisonment for a term of not less than six months but not more than 12 months, or to both.”.

Amendment of section 121 of the Act

**59.** Section 121 of the Act is amended by substituting for subsection (3) the following new subsection —

“(3) Any person who fails to comply with a provision of this section shall be guilty of an offence and liable to a fine not exceeding P100, or to imprisonment for a term not exceeding one month, or to both.”.

Amendment of section 123 of the Act

**60.** Section 123 of the Act is amended by substituting for the words “liable to a fine not exceeding P400 or to imprisonment of a term not exceeding 12 months, or to both” the words “shall be sentenced to a fine of not less than P1 000 but not more than P3 000, or to imprisonment for a term of not less than 12 months but not more than 18 months, or to both.”.

Amendment of section 124 of the Act

**61.** Section 124 of the Act is amended in subsection (1) by substituting for the words “liable to a fine not exceeding P400” the words “shall be sentenced to a fine of not less than P1 000 but not more than P5 000, or to imprisonment for a term of not less than 12 months but not more than two years, or to both.”.

Amendment of section 127 of the Act

**62.** Section 127 of the Act is amended in subsection (8) by substituting for the words “ be P300 ” the words “be P2 000”.

Amendment of section 128 of the Act

**63.** Section 128 of the Act is amended —

- (a) in subsection (8) —
  - (i) by substituting for the words “P20 ” the word “P100”, and
  - (ii) by substituting for the words “P50 or to imprisonment for a term not exceeding three months, or to both.” the words “P500 or to imprisonment for a term not exceeding six months, or to both”; and
- (b) in subsection (10) by substituting for the words “P10” the words “P200 or to imprisonment for a term not exceeding two months, or to both.”.

Amendment of section 129 of the Act

**64.** Section 129 of the Act is amended by substituting for subsection (2) the following new subsections —

“(2) Any person who is guilty of an offence under this Act for which no penalty is otherwise provided shall be liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding two years, or to both.

(3) The penalties imposed under this Act shall be in addition to the demerit point as the Minister may prescribe.”.

**65.** Section 130 of the Act is amended in subsection (1) by inserting immediately after paragraph (y) the following new paragraphs —

- “(z) the offences for which demerit points are incurred and the number of points and the date on which they are to be taken to be incurred;
- (aa) the keeping of a demerit points register;
- (ab) the period of suspension of a driving licence or permit to be imposed by the Director under section 40 (1) (a);
- (ac) circumstances in which the Director is to be required to revoke a person’s driving licence due to incurring of demerit points and the period of disqualification of such person from driving a motor vehicle;
- (ad) traffic offences which may be detected by detecting devices;
- (ae) giving effect to the provisions of the Act relating to offences detected by detecting devices, including time limits, forms and procedures;
- (af) prescribing devices for the purposes of detecting traffic offences.”.

PASSED by the National Assembly this 10th day of December, 2008.

E.S. MPOFU,  
*Clerk of the National Assembly.*