

CHAPTER 360

THE TRAFFIC AND ROAD SAFETY ACT, 1970.

Arrangement of Sections.

Section

1. Condition of motor vehicle, etc. for use on a road.
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CHAPTER 360

THE TRAFFIC AND ROAD SAFETY ACT, 1970.

Commencement: 1 January, 1971.

An Act to consolidate the law relating to road traffic; to make provision for the establishment of a National Road Safety Council; for the appointment of traffic wardens and for other purposes connected with road traffic.

1. Condition of motor vehicle, etc. for use on a road.

(1) No motor vehicle, trailer or engineering plant shall be used on a road unless the motor vehicle, trailer or engineering plant and all parts of it and its equipment, including its tyres and lights, are in good repair and in efficient working order and are in such condition that the driving of the vehicle on the road either in the daytime or at night is not likely to be a danger to the persons travelling on the motor vehicle, trailer or engineering plant or to other users of the road.

(2) No motor vehicle, trailer or engineering plant shall be used on a road with a load greater than the load capacity declared by the manufacturers of the chassis of the motor vehicle, trailer or engineering plant or greater than the load capacity determined by a vehicle inspector under section 11(2) of the Traffic and Road Safety Act, 1970.

(3) No motor vehicle, trailer or engineering plant shall be used on a road if the distribution, packing and adjustment of the load is such as to make it a danger to persons travelling on the motor vehicle, trailer or engineering plant or to other users of the road.

(4) For the purposes of subsections (2) and (3), persons travelling on a motor vehicle, trailer or engineering plant shall be deemed to be part of the load; except that—

- (a) a child who is under the apparent age of five years and who does not occupy a seat shall not be deemed to be a passenger; and
- (b) any two children, each of whom is over the apparent age of five years and under the apparent age of twelve years, shall be deemed to be one passenger.

(5) Notwithstanding subsection (4) of this section, in the case of a vehicle licensed under section 107 of the Traffic and Road Safety Act, 1970, subsections (2) and (3) shall, with regard to the number of passengers carried, be deemed to be complied with if the number does not exceed the number permitted by the licence.

(6) Any person who uses on a road a motor vehicle, trailer or engineering plant in contravention of subsection (1), (2) or (3) commits an offence and is liable—

(a) in the case of a person convicted of an offence under this section in connection with the condition of a vehicle licensed under section 107 of the Traffic and Road Safety Act, 1970, on first conviction, to a fine not exceeding two thousand shillings and on a second or subsequent conviction, to a fine not exceeding five thousand shillings or to a term of imprisonment not exceeding six months or to both;

(b) in any other case, on first conviction, to a fine not exceeding one thousand shillings and on a second conviction, to a fine not exceeding two thousand shillings, and on a third or subsequent conviction, to a fine not exceeding four thousand shillings or to a term of imprisonment not exceeding six months or to both.

(7) For the purposes of subsection (6)—

(a) in the case of a contravention of subsection (1), any person who is shown to the satisfaction of the court to be responsible for the maintenance of the motor vehicle, trailer or engineering plant;
and

(b) in the case of a contravention of subsection (2) or (3), any person who is shown to the satisfaction of the court to have been responsible for the loading of the motor vehicle, trailer or engineering plant,

shall be deemed to have committed the like offence and is liable to the same penalties provided under this section.

(8) Where a person is convicted of an offence under subsection (1), (2) or (3) in respect of the same motor vehicle, trailer or engineering plant two or more times within a period of twelve months, the court may order the registrar to suspend the licence of the vehicle, trailer or engineering plant issued under section 15 of the Traffic and Road Safety Act, 1970, for six months, and in that event the owner of the motor vehicle, trailer or engineering plant shall return the licence and the registration plates of the

motor vehicle, trailer or engineering plant to the registrar, who shall return the licence and the registration plates or issue another licence and registration plates in respect of the motor vehicle, trailer or engineering plant after the expiration of the period of suspension on production by the applicant of a vehicle inspector's certificate stating that the vehicle is fit in all respects for use upon a road.

(9) When a motor vehicle, trailer or engineering plant licence has been suspended under subsection (8), no refund of licence fee shall be made.

(10) A court shall, in sentencing any person under subsection (6)(a), in addition to any other penalty which it may impose, order the registrar to suspend the licence of the vehicle issued under section 15 of the Traffic and Road Safety Act, 1970, for a period not exceeding two years, and in that event the owner of the vehicle shall return the licence and registration plates of the vehicle to the registrar and the operator's vehicle licence issued under section 107 of the Traffic and Safety Act, 1970, to the secretary to the board; and the registrar shall return the licence and the registration plates or issue another licence and registration plates in respect of the vehicle after the expiration of the period of suspension and on production by the applicant of a vehicle inspector's certificate that the motor vehicle is fit in all respects for use upon a road.

2. Causing bodily injury or death through dangerous driving, etc.

(1) Every person who causes bodily injury to or the death of any person by the driving of a motor vehicle, trailer or engineering plant recklessly or at a speed or in a manner which, having regard to all the circumstances of the case, is dangerous to the public or to any person commits an offence.

(2) Every person who, while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, is in charge of a motor vehicle, trailer or engineering plant and by an act or omission in relation to it causes bodily injury to or the death of any person commits an offence.

3. Causing bodily injury or death through carelessness.

Every person who causes bodily injury to or the death of any person by carelessly using a motor vehicle, trailer or engineering plant commits an

offence.

4. Reckless or dangerous driving.

- (1) Every person who, on any road—
 - (a) recklessly drives a motor vehicle, trailer or engineering plant;
 - (b) drives a motor vehicle, trailer or engineering plant at a speed which, having regard to all the circumstances of the case, is or might be dangerous to the public or to any person; or
 - (c) drives a motor vehicle, trailer or engineering plant in a manner which, having regard to all the circumstances of the case, is or might be dangerous to the public or to any person,

commits an offence.

(2) Any police officer may arrest without warrant the driver of any motor vehicle, trailer or engineering plant who commits an offence under this section within his or her view—

- (a) if the driver refuses to give his or her name and address;
- (b) if the police officer has reason to believe that the name or address so given is false; or
- (c) if the motor vehicle, trailer or engineering plant does not bear an identification plate.

(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 or she was present in the vehicle at the time of the offence of which he or she is convicted, that person shall, for the purpose of the provisions of this Act relating to disqualification for holding or obtaining driving permits, be deemed to commit an offence in connection with the driving of a motor vehicle, trailer or engineering plant.

5. Offences and penalties.

Any person who is convicted of—

- (a) an offence under section 2 is liable to a fine of not less than five thousand shillings but not exceeding ten thousand shillings or to a term of imprisonment of not less than two years but not exceeding five years or to both;
- (b) an offence under section 3 or 4 is liable to a fine of not less than one thousand two hundred and fifty shillings but not exceeding five thousand shillings or to a term of imprisonment of not less

than six months but not exceeding two years or to both.

History: Act 38/1970; S.I. 211/1970; Decree 18/1973; Decree 22/1973; Decree 5/1978, s. 47; Decree 19/1978, s. 59; Statute 3/1989, s. 9; Statute 3/1991, s. 26; Statute 6/1991, s. 20; Statute 9/1996, s. 25; Act 15/1998, s. 181; S.I. 12/1999.

Commissioners' note: These provisions of the Traffic and Road Safety Act, 1970, were continued in force by S.I. 12/1999 until the corresponding provisions of the Traffic and Safety Act, Cap.361, are brought into force.