

No. 15 of 2014.

Road Traffic Act 2014.

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No. of 2014.

An Act

entitled

Road Traffic Act 2014,

Being an Act to provide for the regulation and safety of land transport and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART 1. - PRELIMINARY.

1. PURPOSE.

The purpose of this Act is to provide for -

- (a) the safety of land transport; and
- (b) the administration and regulation of land transport and the use of public streets; and
- (c) the creation of a Road Traffic Authority to administer the regulation, safety and efficient use of land transport.

2. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) For the purposes of Section 38 of the *Constitution*, this Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

- (a) the right to liberty of the person conferred by Section 42 of the *Constitution*; and
- (b) the right to freedom from arbitrary search of the person or property and entry of premises, conferred by Section 44 of the *Constitution*; and
- (c) the right to freedom of expression and publication, conferred by Section 46 of the *Constitution*; and
- (d) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations and other associations, conferred by Section 47 of the *Constitution*; and
- (e) the right to freedom of choice of employment in any calling for which a person has the qualifications (*if any*) lawfully required, conferred by Section 48 of the *Constitution*; and

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- (f) the right to reasonable privacy in respect of private and family life, communications with other persons and personal papers and effects, conferred by Section 49 of the *Constitution*; and
- (g) the right of reasonable access to official documents, conferred by Section 51 of the *Constitution*; and
- (h) the right to freedom of movement conferred by Section 52 of the *Constitution*, is a law made for the purpose of giving effect to the public interest in Defence, of public safety, public order, public welfare and public health, and in order to protect the exercise of the rights and freedoms of others.

(2) In so far as this Act involves a compulsory taking of possession of property or a compulsory acquisition of an interest in or right over property within the meaning of Section 53 of the *Constitution*, the purposes and reasons for each such taking and acquisition are declared and described to be -

- (a) to facilitate and maintain the efficient and safe provision of land transport for Papua New Guinea in the national interest; and
- (b) to maintain the peace and good order of Papua New Guinea; and
- (c) a public purpose and a reason that is reasonably justified in a democratic society for the purposes of Section 53 of the *Constitution* and any other applicable law.

(3) For the purpose of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest and importance.

(4) For the purpose of Subsection 41(6) of the *Organic Law on Provincial Governments and Local-level Governments* (the *Organic Law*), it is declared that this Act is an act of Parliament on a matter specified in Sections 42 and 44 of the *Organic Law* and prevails over any Provincial or Local-level Government Law to the extent of any inconsistency.

(5) This Act binds the State.

3. INTERPRETATION.

In this Act, unless the contrary intention appears -

“Authorised Collection Officer” means a person appointed by the Authority under Section 34;

“Authority” means the Road Traffic Authority established under Section 4;

“Board” means the Board of the Authority established under Section 7;

“Chairperson” means the Chairperson of the Board appointed under Section 7;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under Section 17;

“driver” means a person driving a motor vehicle;

“drug” means a dangerous drug within the meaning of the *Dangerous Drugs Act 1952*;

“fatal injury” means an injury where death occurs within 30 days of the date of injury;

“GVM (gross vehicle mass)” of a vehicle means the maximum loaded mass of the vehicle -

- (a) as specified by the vehicle’s manufacturer on an identification plate on the Vehicle; or

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- (b) as specified by the Authority if -
- (i) a mass is not specified by the vehicle's manufacturer on an identification plate on the vehicle; or
 - (ii) a mass so specified on an identification plate is no longer appropriate because the vehicle has been modified;
- "heavy vehicle" means a motor vehicle that has a GVM greater than 4.5 tonnes;
- "land transport document" means any licence, certificate, right, permission, authority or related document issued by the Authority under this Act, the regulations or the Rules;
- "licence" means licence issued by the Authority under the regulations or the Rules;
- "member" means a member of the Board;
- "mobility device" means a vehicle that -
- (a) is designed and constructed for use by persons who require mobility assistance due to a physical or neurological impairment; and
 - (b) is solely powered by a motor that has a maximum output of 1,500 watts;
- "motor vehicle" means a vehicle drawn or propelled by mechanical power, including a trailer, but does not include -
- (a) a vehicle running on rails; or
 - (b) a pedestrian-controlled vehicle; or
 - (c) a mobility device;
- "National Road Safety Council" means the National Road Council established by the *National Road Safety Council Act 1997*;
- "National Transport Strategy" means the National Transport Strategy endorsed by the National Executive Council on 17 July 2013 and any approved amendments to the strategy;
- "owner" in relation to a motor vehicle, means -
- (a) the person lawfully entitled to possession of the vehicle; or
 - (b) in the case of a motor vehicle that is the subject of a hire-purchase agreement, the person who, but for the letting on hire, is lawfully entitled to possession of the motor vehicle;
- "pedestrian" includes a person running, walking, sitting, standing or otherwise being on a public street;
- "permit" means -
- (a) a learner's permit issued to a person by the Authority; or
 - (b) a permit to drive an unregistered motor vehicle on a public street issued by the Authority;
- "public motor vehicle" means a motor vehicle used for carrying passengers for hire or reward;
- "public street" means a street, road, lane, thoroughfare, footpath, bridge or place to which the public have permitted access;
- "registered" means registered under the regulations or the rules;
- "the Regulations" means any regulations made under Section 55;
- "the Rules" means any rules made under Section 56 or 58;
- "Traffic Enforcement Officer" means -
- (a) a commissioned officer of the Police Force; or
 - (b) a person appointed by the Authority under Section 32;
- "vehicle" means any description with wheels, tracks, or revolving runners on which it

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PART II. - ROAD TRAFFIC AUTHORITY.

4. ESTABLISHMENT OF THE ROAD TRAFFIC AUTHORITY.

- (1) The Road Traffic Authority is established.
- (2) The Authority -
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may acquire, hold and dispose of property; and
 - (d) may sue and be sued in its corporate name.
- (3) All courts, Judges and persons acting judicially must -
 - (a) take judicial notice of the seal of the Authority affixed to any document; and
 - (b) presume that the common seal was duly affixed by the authority of the Authority.

5. OBJECTIVE AND FUNCTIONS OF THE ROAD TRAFFIC AUTHORITY.

- (1) The objective of the Road Traffic Authority is to manage and administer the regulation, safety and efficient use of land transport throughout Papua New Guinea.
- (2) The functions of the Authority are to -
 - (a) establish, administer and enforce regulatory requirements for land transport in Papua New Guinea, including setting fees and charges for services provided by the Authority; and
 - (b) within the resources available to the Authority, provide for the safe and efficient use of land transport in Papua New Guinea; and
 - (c) assist, advise and work cooperatively with the Police Force, Provinces and other organisations in relation to land transport regulatory matters, road safety and the efficient use of land transport; and
 - (d) monitor the road safety performance of the public road network and to develop and implement action plans for improvements; and
 - (e) manage data for activities within the land transport system including maintaining and preserving records, registers and documents in relation to the activities; and
 - (f) undertake investigations into land transport accidents and incidents and report to the Minister and the public as to the findings of such investigations; and
 - (g) promote and conduct research into land transport regulatory matters and road safety; and
 - (h) monitor and evaluate the effectiveness of programs and activities concerning land transport regulatory matters and road safety; and
 - (i) promote and conduct educational and awareness programs to stimulate compliance with land transport regulatory requirements and road safety; and
 - (j) advise the Minister on all functions specified in this section; and
 - (k) perform other functions as are given to the Authority under this Act, the regulations, the rules or any other law; and
 - (l) do all things incidental, consequential or convenient in the exercise of the Authority's functions and powers.

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- (3) The Authority's statutorily independent functions are to -
- (a) issue, endorse, alter, renew, suspend or revoke any land transport document or other authorization under this Act, the regulations or the Rules; and
 - (b) grant exemptions under this Act, the regulations or the Rules; and
 - (c) enforce the provisions of any law conferring functions on the Authority.

(4) The Authority is not subject to direction by the Minister concerning any function under Subsection (3).

(5) The Minister may direct the Authority to provide a report on any function referred to in this section

6. POWERS OF THE AUTHORITY.

(1) The Authority may do all things necessary or convenient to be done in relation to the following:

- (a) the attainment of the Authority's objective; and
- (b) the performance of its functions; and
- (c) the exercise of any function or power given to the Authority by this Act, the regulations, the Rules or any other law.

(2) Subsections (3) to (6) apply if the Authority reasonably believes that -

- (a) information, books or records in the possession of, or under the authority of, a person is or are relevant to the exercise or performance of the powers or functions of the Authority under this Act, or to the achievement of the purposes of this Act; and
- (b) it is desirable that the information be given to the Authority or that the books or records are made available for inspection by the Authority.

(3) The Authority may issue a person with written notice -

- (a) advising that the Authority has formed the view mentioned in Subsection (2); and
- (b) specifying the information, books or records to be furnished or produced; and
- (c) specifying the place and time at which the information, books or records are to be furnished or produced.

(4) A notice under Subsection (3) must be signed by the Chairperson or Chief Executive Officer.

(5) A person served with a notice under Subsection (3) shall furnish or produce for inspection at the place and time specified in the notice, the information, books or records specified in the notice.

(6) The Authority may make and retain copies or extracts from any information, books or records furnished or produced under this section.

(7) Subsection (6) does not affect the operation of any law by or under which any information, books or records are to be kept confidential.

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- (8) A person who does not comply with Subsection (3) commits an offence.
Penalty: A fine not exceeding K10, 000.00 or a term of imprisonment not exceeding one year, or both.

(9) It is a defence to an offence under Subsection (8) if the person charged proves that the information, books or records were not -

- (a) relevant to the functions of the Authority under this Act; or
- (b) relevant to the achievement of the purposes of this Act; or
- (c) in the person's possession or custody; or
- (d) under the control of the person at the time of receipt of the notice under Subsection (3).

PART III. - MEMBERS OF THE BOARD.

7. MEMBERS OF THE BOARD.

(1) The Board of the Authority is comprised of -

- (a) the following *ex officio* members:
 - (i) the Departmental Head of the Department responsible for Transport, or his nominee;
 - (ii) the Departmental Head of the Department responsible for Works, or his nominee;
 - (iii) the Departmental Head of the Department responsible for Finance, or his nominee;
 - (iv) the Departmental Head of the Department responsible for Provincial and Local Government Affairs, or his nominee; and
- (b) a person nominated by the Road Transport Association of Papua New Guinea; and
- (c) a person nominated by the Papua New Guinea Chamber of Commerce and Industry; and
- (d) a person nominated by the National Council of Women; and
- (e) a person nominated by the Papua New Guinea Law Society; and
- (f) a person nominated by an incorporated association representing public motor vehicle owners.

(2) A nominee under Subsection (1)(a)(i) to (iv) shall be an officer of not less than First Assistant Secretary level or the equivalent.

(3) The five members referred to in Subsection (1)(b) to (f) shall -

- (a) be appointed in accordance with the *Regulatory Statutory Authorities (Appointments to Certain Offices) Act 2004*; and
- (b) be appointed for a term not exceeding three years; and
- (c) hold office on such terms and be entitled to such fees and allowances as determined by the Minister in accordance with any directions or guidelines issued by the National Executive Council; and
- (d) be ordinarily resident in Papua New Guinea; and
- (e) be eligible for reappointment.

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- (4) The Board shall appoint -
 - (a) a member as Chairperson; and
 - (b) another member as Deputy Chairperson.

- (5) A person occupying the positions of Chairperson and the Deputy Chairperson shall hold the position until the earlier of -
 - (a) the expiration of the period of their appointment; or
 - (b) when he or she ceases to be a member.

- (6) If for any reason the Chairperson is unable to act, the Deputy Chairperson may exercise and perform the powers and functions of the Chairperson.

- (7) The Minister may grant, in writing, leave of absence to the Chairperson on terms and conditions as the Minister determines.

- (8) A member seeking leave of absence must do so, in writing, to the Chairman, at least two days before a Board meeting.

- (9) The Chairperson may grant, in writing, leave of absence to a member for -
 - (a) a particular Board meeting; or
 - (b) a specified period of time.

- (10) A member who is absent from a Board meeting other than in accordance with this section will be considered absent for the purposes of Section 8(2).

- (11) The Board shall -
 - (a) carry out the functions, exercise the powers and oversee the affairs of the Authority; and
 - (b) provide for the safe custody and use of the common seal of the Authority.

- (12) Subject to this Act, the Board is responsible and accountable to the Minister for ensuring efficiency, effectiveness, transparency and propriety in the -
 - (a) administration of the Authority's regulatory requirements; and
 - (b) collection and use of the Authority's funds; and
 - (c) conduct of the Authority's business, operations and activities.

- (13) Pursuant to Section 26(3) of the ***Constitution*** (Application of Division 2), the office of a member of the Board is declared to be a public office to and in relation to which Division 111.2 (***Leadership Code***) of the ***Constitution*** applies.

8. VACATION OF OFFICE.

- (1) A member, other than an ***ex officio*** member, may resign from office by giving his signed, written resignation to the Minister.

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(2) The Minister must terminate the appointment of a member, other than an *ex officio* member, if the member -

- (a) dies; or
- (b) becomes permanently incapable of performing his or her duties; or
- (c) is absent, except on leave granted in accordance with Section 7, from three consecutive meetings of the Authority; or
- (d) fails to comply with Section 12; or
- (e) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his benefits for their benefit; or
- (f) is convicted of an offence punishable under a law by death or a term of imprisonment of one year or longer; or
- (g) ceases to be ordinarily resident in the country.

(3) The Minister may, at any time, by written notice, advise a member (other than an *ex officio* member) that the Minister intends to terminate the member's appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) A member, may, within 14 days of a notice under Subsection (3), make submissions in writing to the Minister.

(5) The Minister shall consider any written submissions received under Subsection (4) before making a decision in relation to the termination of the member's appointment.

(6) If a member does not make submissions in accordance with Subsection (4) the member's appointment is terminated after the expiry of 14 days from the date of the notice.

9. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

Where there is a vacancy in the membership of the Board, the vacancy shall not affect the exercise of a power or the performance of a function of the Authority or of the Board.

PART IV. - MEETINGS OF THE BOARD.

10. MEETINGS OF THE BOARD.

(1) The Board shall meet as often as the business of the Authority requires, and at such times and places as the Chairperson directs, but at least once every three months.

(2) At a meeting of the Board -

- (a) five members constitute a quorum; and
- (b) the Chairperson, or in the Chairperson's absence, the Deputy Chairperson must preside; and
- (c) if both the Chairperson and Deputy Chairperson are absent, the members present must appoint, from their own number, a Chairperson for that meeting; and
- (d) matters arising must be decided by a majority of the votes of the members present; and

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- (e) the Chairperson presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.
- (3) The Board must cause minutes of its meetings to be recorded and kept.
- (4) Subject to this Act, the procedures of the meetings of the Board are as determined by the Board.

11. COMMITTEE OF THE BOARD.

- (1) The Board may, from time to time, establish a committee of the Board to advise the Board on such matters as the Board considers necessary.
- (2) In establishing a committee under Subsection (1), the Board may -
 - (a) appoint such persons as it considers necessary; and
 - (b) specify the functions and procedures of the committee; and
 - (c) for a member of the committee who is not a member of the Board, determine any fees or allowances for that member.

(3) A member of the committee who is not a member of the Board may receive fees and allowances under the *Boards (Fees and Allowances) Act 1955*.

12. DISCLOSURE OF INTEREST.

- (1) A member who has a direct or indirect interest in a matter being considered or to be considered by the Board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the member's interest at a meeting of the Board.
- (2) A disclosure under Subsection (1) shall be recorded in the minutes of the meeting of the Board, and the member -
 - (a) must not be present or take part, after the disclosure, in any deliberation or decision of the Board in relation to the matter; and
 - (b) must be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

13. DIRECTIONS BY MINISTER.

- (1) Subject to Sections 5(4) and (5), the Minister may, after consulting with the Board, give to the Board written directions as the Minister considers fit in relation to the exercise and performance of the Authority's powers and functions under this Act.
- (2) The Board shall give effect to all directions under Subsection (1).

14. DELEGATION AND CONTRACTING OF FUNCTIONS AND POWERS.

- (1) The Authority may, by written instrument, delegate all or any of its functions and powers, other than -
 - (a) the power to borrow money or to raise loans or give guarantees, loans or advances; and

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- (b) to subscribe to or underwrite the issue of stocks, bonds or debentures; and
- (c) this power of delegation.

(2) The Authority may contract with, or enter into arrangements with any person, entity or organization (including a Province) to exercise and undertake, on behalf of the Authority, any of the Authority's functions and powers under this Act, the Regulations and the Rules, including the function, power or authority to collect fees and charges on behalf of the Authority.

15. PROTECTION FROM PERSONAL LIABILITY.

The Authority, a member of the Board, the Chief Executive Officer, an officer, employee or an agent of the Authority, is not personally liable for any act or default of the Authority that is done or omitted to be done, in good faith, in the operations of the Authority, or for the purpose or function of the Authority.

16. CORPORATE PLAN AND ANNUAL REPORT.

(1) The Board shall prepare and publish a Corporate Plan at or before the start of each financial year -

- (a) for that financial year; and
- (b) for at least the two following financial years.

(2) The Corporate Plan shall contain -

- (a) key background information about the Authority and its operating environment; and
- (b) the nature and scope of the Authority's functions and intended operations; and
- (c) the specific impacts, outcomes and objectives which the Authority seeks to achieve or contribute to and, if the Authority is directed to give effect to or have regard to government policy directions, how those objectives might relate to any outcomes or objectives referred to in the direction; and
- (d) how the Authority intends to perform its functions and conduct its operations to achieve the impacts, outcomes and objectives mentioned in Paragraph (c); and
- (e) how the Authority proposes to manage the organizational health and capability of the Authority; and
- (f) the main financial and non-financial measures and standards by which the future performance of the Authority may be judged; and
- (g) any other matters that are reasonably necessary to achieve an understanding of the Authority's intentions and direction.

(3) The Board shall provide the Minister, on or before 15 March each year, with an annual report on the performance of the Authority for the previous year ending 31 December.

(4) The annual report shall include -

- (a) an explanation of the Authority's mission and objectives; and
- (b) a description of the Authority's activities for the year (structured according to the strategies and programs pursued in relation to each objective), including -
 - (i) the Authority's performance in terms of output measures or indicators in the Authority's corporate plan; and

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- (ii) a comparison of the Authority's performance to previous years and an explanation of the apparent trends; and
- (c) an explanation of the accounting policies adopted by the Authority, with a clear demonstration of how the Board fulfills its commitment to transparency of operations; and
- (d) the audited accounts of the Authority, together with the auditor's report; and
- (e) comprehensive statistics of the Authority's activities.

(5) As soon as practicable after the Minister has received the annual report, the Minister must forward the report to the Speaker for presentation to Parliament.

PART V - CHIEF EXECUTIVE OFFICER AND STAFF.

17. CHIEF EXECUTIVE OFFICER.

- (1) The Chief Executive Officer of the Authority shall be -
 - (a) responsible to the Board for the efficient performance of the functions and powers of the Authority; and
 - (b) appointed for a term of four years; and
 - (c) eligible for reappointment.

(2) The terms and conditions of appointment and service of the Chief Executive Officer shall be determined by the Board under the *Salaries and Conditions Monitoring Committee Act 1988* and the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

18. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.

- (1) The Chief Executive Officer shall -
 - (a) manage the Authority in accordance with the written directions and policies of the Board; and
 - (b) advise the Board on any matter concerning the Authority referred to the Chief Executive Officer; and
 - (c) carry out and perform the duties required of the Chief Executive Officer under this Act, the Regulations, the Rules and any other law and the Chief Executive Officer's contract of employment.

(2) The Chief Executive Officer must perform such other duties as the Board may determine from time to time.

(3) Subject to an instrument of delegation of the Board under Subsection 14(1), and any policies adopted by the Board, the Chief Executive Officer may exercise any function or power of the Authority under this Act, the Regulations, the Rules and any other law.

(4) The exercise of a function or power by the Chief Executive Officer under Subsection (3) shall be taken, for all purposes, as the exercise by the Authority of the function or power.

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19. STAFF OF THE AUTHORITY.

(1) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the Chief Executive Officer may appoint, as employees of the Authority (including temporary employees), such persons as the Chief Executive Officer considers necessary for the purpose of giving effect to this Act, on such terms and conditions as the Board may determine from time to time.

(2) An employee of the Authority shall be employed under a contract of employment which must be executed by -

- (a) the Chief Executive Officer, on behalf of the Authority; and
- (b) the employee.

PART VI - FINANCES.

20. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.

(1) Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the authority.

(2) For the purposes of Section 59 of the *Public Finances (Management) Act 1999*, tenders must be publicly invited and contracts taken for all works, supplies and services, the estimated cost of which exceeds K500,000.00 or such other figure declared by the Minister responsible for finance matters.

21. APPLICATION OF *AUDIT ACT 1989*.

The accounts of the authority shall be audited in accordance with Part III of the *Audit Act 1989*.

22. FUNDS.

(1) The funds of the Authority shall consist of -

- (a) all monies levied under Section 23; and
- (b) monies as are appropriated annually by Parliament for the purposes of carrying out and giving effect to this Act; and
- (c) all monies by way of fines (except fines imposed by courts), fees, charges and other monies, levied under this Act, the Regulations or the Rules; and
- (d) all monies received by the Authority for services provided by the Authority; and
- (e) all monies earned or arising from any investments; and
- (f) all other monies received by the Authority in accordance with this Act and in the exercise and performance of its functions and powers.

(2) The funds of the Authority shall be expended only -

- (a) on payment or discharge of expenses, obligations and liabilities of the Authority; and
- (b) in payment of fees and allowances of members of the Board and remuneration of staff of the Authority; and
- (c) for such other purposes that are consistent with the functions of the Authority and which are approved by the Board.

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23. THIRD PARTY INSURANCE PREMIUM LEVY.

(1) The Minister may, after consultation with the Minister responsible for finance and the Insurance Commissioner, by a notice in the National Gazette, determine and fix a levy on all third party insurance cover for motor vehicles issued under the *Motor Vehicles (Third Party Insurance) Act 1974*.

(2) A person providing third party insurance shall deduct the amount of levy fixed under Subsection (1) from every motor vehicle third party insurance premium paid and remit that amount to the authority at least monthly or at such other intervals as the Authority may direct.

(3) A direction under Subsection (2) must not be for an interval shorter than a period of one week unless agreed between the parties.

(4) Subject to Subsection (1), the Minister may, from time to time, determine and fix different rates of levy for different types of motor vehicles issued with third party insurance cover.

(5) A levy shall not be less than 5% of each third party insurance premium paid.

(6) A person is not entitled to receive any payment or benefit from the levy payable to the Authority under this section.

24. BANK ACCOUNTS.

(1) The Authority shall open and maintain one or more accounts as it considers necessary, within Papua New Guinea, with an approved bank or licenced financial institution as the Board thinks fit.

(2) The Authority shall deposit all funds received by it into an account referred to in Subsection (1).

25. EXEMPTION FROM TAXATION.

The income, property and operations of the Authority are exempt from income tax under the *Income Tax Act 1959*.

26. OBLIGATIONS OF PUBLIC AUTHORITIES.

The executives, Departmental Heads, officers and employees of all public authorities and governing bodies shall co-operate with and assist the Authority in the performance of the Authority's functions and exercise of the Authority's powers under this Act and any other law.

27. PROOF OF CERTAIN MATTERS.

In proceedings by or against the Authority, proof is not required, unless evidence is given to the contrary, in relation to -

- (a) the *Constitution* of the Board; or
- (b) a resolution of the Board; or
- (c) the appointment of a member of the Board; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Board.

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28. SERVICE OF PROCESS.

A notice, summons, writ or other process may be served on the Authority by being delivered at the office of the Authority.

29. AUTHENTICATION OF DOCUMENTS.

(1) A document is authenticated by the Authority by affixing the common seal of the Authority on the document in accordance with this section.

(2) The common seal of the Authority shall only be affixed to a document in pursuance of a resolution of the Board.

(3) Subject to Subsection (4), the Chairperson and one other member must attest to the affixing of the seal, which must be witnessed and countersigned by such other person appointed by the Board.

(4) The Board may, in the absence of the Chairperson, appoint another Board member to attest to the affixing of the seal.

30. RECOVERY OF MONEY DUE.

Any money due to the Authority under this Act may be recovered by the Authority as a debt.

31. CONFIDENTIALITY.

(1) The Authority shall take all reasonable steps to protect, from unauthorized use or disclosure, information given to it in confidence in connection with the performance of its functions and powers.

(2) For the purposes of Subsection (1) -

(a) the disclosure of information as required and permitted by any law or a court of competent jurisdiction is to be considered authorized use and disclosure of the information; and

(b) the disclosure of information by the following persons, performing that person's functions, is to be considered authorized use and disclosure of the information -

(i) the Chief Executive Officer; or

(ii) a member of the Board; or

(iii) an employee of the Authority.

PART VII. - LAND TRANSPORT REGULATION.

32. TRAFFIC ENFORCEMENT OFFICERS.

(1) The Authority may appoint such persons as traffic enforcement officers as the Authority deems necessary.

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(2) A commissioned officer of the Police Force is a traffic enforcement officer.

(3) Subject to a written direction of the Board, a traffic enforcement officer may exercise the functions and powers specified for such officers by this Act, the Regulations, the Rules or any other law.

(4) A traffic enforcement officer shall do all things within the officer's power to ensure that this Act, the Regulations and the Rules are duly observed.

(5) Subject to this Act, the Regulations and the Rules, a traffic enforcement officer may give such directions to the following class of persons, as are in the opinion of the officer reasonably necessary for the safe and efficient regulation of traffic, or for public safety and order:

- (a) persons driving motor vehicles or driving or riding other vehicles or animals on a public street; and
- (b) pedestrians.

(6) A traffic enforcement officer (other than a member of the Police Force) shall -

- (a) be issued, by the Authority, with an identification card; and
- (b) carry the card with him at all times the officer is on duty; and
- (c) produce the card for inspection by any person when requested.

33. TRAFFIC ENFORCEMENT OFFICERS - OFFENCES.

A person commits an offence if the person -

- (a) fails to comply with a lawful instruction, direction or other act of authority made or given by a traffic enforcement officer under this Act, the Regulations or the Rules; or
- (b) obstructs, or attempts to obstruct, an Officer exercising any function or power under this Act, the Regulations or the Rules; or
- (c) assists or incites another person to commit an act referred to in Paragraphs (a) or (b); or
- (d) impersonates or in any other way attempts to pass himself off as a traffic enforcement officer.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding 1 year, or both.

34. AUTHORISED COLLECTION OFFICERS.

(1) The Authority may appoint such persons as authorised collection officers as the Authority deems necessary.

(2) Subject to a written direction from the Board, an authorised collection officer may exercise the functions and powers specified for such officers by this Act, the Regulations, the Rules or any other law.

(3) The function of an authorised collection officer is to collect and receipt monies in payment of traffic infringement notices.

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- (4) An authorised collection officer shall -
 - (a) be issued, by the Authority, with an identification card; and
 - (b) carry the card with him at all times the officer is on duty; and
 - (c) produce the card for inspection by any person when requested.

35. AUTHORISED COLLECTION OFFICERS-OFFENCES.

A person commits an offence if the person -

- (a) obstructs, or attempts to obstruct, an authorised collection officer exercising any function or power under this Act, the Regulations or the Rules; or
- (b) assists or incites another person to commit an act referred to in Paragraph (a); or
- (c) impersonates or in any other way attempts to pass himself off as an authorised collection officer.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding 1 year, or both.

36. TRAFFIC INFRINGEMENT NOTICES.

(1) If a traffic enforcement officer is of the reasonable opinion that a person has committed a prescribed offence, the officer may serve on the person a traffic infringement notice.

- (2) A traffic infringement notice shall -
 - (a) be in the prescribed form; and
 - (b) include details of the prescribed offence including the date, time, location and circumstances of the offence; and
 - (c) include the prescribed penalty for the offence; and
 - (d) include details of where and to whom the prescribed penalty must be paid; and
 - (e) include the date by which the prescribed penalty must be paid.

- (3) A traffic infringement notice shall be served -
 - (a) personally; or
 - (b) by post; or
 - (c) by leaving it on or in, or attaching it to, the vehicle.

(4) If a person is served with a traffic infringement notice and, at the time of service, an authorised collection officer is present, payment of the prescribed penalty may be made to the authorised collection officer.

(5) An authorised collection officer shall immediately issue a receipt, in the prescribed form, to a person who pays a prescribed penalty in a traffic infringement notice.

(6) A person alleged to have committed a prescribed offence under Subsection (1) may decline to have the matter dealt with under this section.

(7) A person is deemed to have declined to be dealt with under this section if the prescribed penalty is not paid within the time specified in the traffic infringement notice or such further time as may be allowed in any particular case.

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(8) If the prescribed penalty is paid in accordance with this section, no person is liable to any further proceedings for the offence.

(9) The payment of a prescribed penalty in accordance with this section is not to be regarded as an admission of liability for the purposes of, and does not affect or prejudice, any criminal proceedings other than proceedings for the alleged offence or any civil claim, action or proceeding arising out of the same occurrence.

(10) The Regulations may -

- (a) prescribe an offence for this section by -
 - (i) setting out the offence; or
 - (ii) referring to the provision creating the offence; and
- (b) prescribe the penalty for a prescribed offence under this section; and
- (c) prescribe the method of payment of a prescribed penalty.

(11) A prescribed penalty under this section must not exceed the lesser of -

- (a) the maximum amount of penalty that could be imposed for the offence by a court;
or
- (b) K7000.00.

(12) Subject to Subsections (6) and (7), this section is supplementary to, and not in derogation of, any other provision of this Act or any other law in relation to proceedings that may be taken in respect of a prescribed offence.

37. TRAFFIC INFRINGEMENT SUMMONS.

(1) A traffic enforcement officer may -

- (a) serve a traffic infringement summons on a person if the officer is of the reasonable opinion that a person has committed a prescribed offence; or
- (b) serve a traffic infringement summons on a person previously served with a traffic infringement notice if the prescribed penalty in the traffic infringement notice has not been paid in accordance with Section 36.

(2) A traffic infringement summons shall -

- (a) be in the prescribed form; and
- (b) include details of the prescribed offence including the date, time, location and circumstances of the offence; and
- (c) include the prescribed penalty for the offence; and
- (d) include details of the court at which the prescribed penalty must be paid; and
- (e) specify that the summons must be paid within 14 days commencing on the day following service of the summons; and
- (f) state that -
 - (i) if the prescribed penalty is paid at the specified court in accordance with the summons, the matter will not be called in court and no person is liable to any further proceedings for the offence; and

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- (ii) if the prescribed penalty is not paid at the specified court in accordance with the summons, the matter will be called on the first day on which the court sits, following the expiry of the payment period and the person named in the summons should appear or be represented at court on that day.

(3) A traffic enforcement officer who serves a traffic infringement summons shall immediately after service -

- (a) make an affidavit, endorsed on the original summons, stating the day and place of service; and
- (b) transmit the original summons and affidavit to the Clerk of the court specified in the summons.

(4) A traffic infringement summons containing an affidavit purporting to be an affidavit of service is *prima facie* evidence of the service of the summons.

38. PROCEDURE ON TRAFFIC INFRINGEMENT SUMMONS.

(1) If the prescribed penalty in a traffic infringement summons is paid to the specified court in accordance with the summons, the matter proceeds no further.

(2) If the prescribed penalty in a traffic infringement summons is not paid to the specified court in accordance with the summons, the matter will be called on the first day on which the court sits following the expiry of the payment period.

(3) If a matter is called under Subsection (2) and the person named in the traffic infringement summons is not present or represented in court -

- (a) a plea of guilty must be recorded; and
- (b) the matter must be dealt with in accordance with the procedure of the court.

(4) If a matter is called under Subsection (2) and the person named in the traffic infringement summons is present or represented at court, the matter must be dealt with in accordance with the procedure of the court.

(5) The Regulations may -

- (a) prescribe an offence for this section by -
 - (i) setting out the offence; or
 - (ii) referring to the provision creating the offence; and
- (b) prescribe the penalty for a prescribed offence under this section; and
- (c) prescribe the method of payment of a prescribed penalty.

PART VIII. - ROAD USER OFFENCES.

39. RECKLESS AND DANGEROUS DRIVING.

(1) A person who drives a motor vehicle in a reckless or dangerous manner on a public street is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding 6 months, or both.

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(2) A person who drives a motor vehicle on a public street in a reckless or dangerous manner that causes bodily injury to another person is guilty of an indictable offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding 5 years, or both.

(3) A person commits an indictable offence if the person drives a motor vehicle, on a public street, in a reckless or dangerous manner that causes a fatal injury to another person.

Penalty: A fine not exceeding K60,000.00 or imprisonment for a term not exceeding 10 years, or both.

40. CARELESS AND NEGLIGENT DRIVING.

(1) A person who drives a motor vehicle in a careless or negligent manner on a public street is guilty of an offence.

Penalty: A fine not exceeding K6,000.00.

(2) A person who drives a motor vehicle in a careless or negligent manner on a public street that causes -

- (a) bodily injury to another person; or
- (b) a fatal injury to another person,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding 3 years, or both.

41. MATTERS FOR CONSIDERATION FOR SECTIONS 39 AND 40.

In considering whether an offence has been committed under Sections 39 and 40, a court must have regard to all the circumstances of the case, including -

- (a) the nature, condition and use of the place in which the offence is alleged to have been committed; and
- (b) the amount of traffic that was or might reasonably have been expected at the time to have been in the place where the offence is alleged to have been committed.

42. DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(1) A person who -

(a) is under the influence of alcohol or a drug; and

(b) either -

(i) drives a motor vehicle on a public street; or

(ii) occupies the driving seat of a motor vehicle on a public street and attempts to put the vehicle in motion,

is guilty of an offence.

Penalty: For a first offence, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 6 months, or both.

For a second or subsequent offence, a fine not exceeding K10,000.00 or imprisonment for a term not exceeding 3 years, or both.

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- (2) A person who -
 - (a) is under the influence of alcohol or a drug; and
 - (b) drives a motor vehicle on a public street; and
 - (c) the act of driving the motor vehicle causes -
 - (i) a bodily injury to another person; or
 - (ii) a fatal injury to another person,

is guilty of an offence.

Penalty: A fine not exceeding K60,000.00 or imprisonment for a term not exceeding 10 years, or both.

(3) The Rules may prescribe a test or method of administration of a test which a driver suspected of committing an offence under this section may be required to undergo.

(4) A person arrested for an offence under this section is entitled, on the person's request, to be examined by a medical practitioner, and where such request is made, the member of the Police Force who arrested the person shall afford all reasonable facilities for the conduct of the examination.

43. PREVENTION OF DRIVING UNDER THE INFLUENCE ETC.

- (1) This section applies if -
 - (a) a person is -
 - (i) driving a motor vehicle on a public street; or
 - (ii) in the reasonable opinion of a traffic enforcement officer, about to drive a motor vehicle; and
 - (b) the traffic enforcement officer is of the reasonable opinion that the person -
 - (i) is under the influence of alcohol or a drug; or
 - (ii) is not capable of safely controlling the vehicle due to a physical or mental condition.
- (2) Subject to Subsection (3), the officer may do all or any of the following things:-
 - (a) forbid the person to drive the vehicle while the person appears to be under the influence of alcohol or a drug or appears to be incapable of safely controlling the vehicle; or
 - (b) require the person to give the officer all ignition or other keys of the vehicle in the person's possession; or
 - (c) take other steps as are, in the officer's reasonable opinion, necessary to make the vehicle immobile or to remove it to a place of safety.

(3) The officer shall not detain the keys of the motor vehicle or otherwise immobilise or detain the motor vehicle for any longer period than is necessary in all the circumstances of the case in the interests of the person or of any other person, or of the public.

- (4) Subject to Subsection (5), a person who -
 - (a) contravenes or fails to comply with a prohibition or requirement made by the officer under this section; or

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(b) attempts to obstruct the officer in the exercise of any power conferred on the officer by this section,
is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding six months, or both.

(5) A person shall not be found guilty of an offence against Subsection (4) unless the court is satisfied that the officer concerned had reasonable grounds for believing that the action taken by the officer under Subsection (2) was, in all the circumstances of the case, necessary, in the interests of the person or of any other person, or of the public.

44. AUTOMATIC DISQUALIFICATION.

If a person is convicted of an offence against Sections 39 or 40 or 42, the court that convicts the person must disqualify the person from holding a licence or permit for such period as the court thinks proper, but not less than -

- (a) for a conviction against Subsections 39(1), 40(2) or 42(1) - 6 months; and
- (b) for a conviction against Subsection 39(2), 39(3) or 42(2) - 12 months.

45. DISCRETIONARY SUSPENSION OF LICENCE OR PERMIT OR DISQUALIFICATION.

(1) Subject to Section 46, a court that convicts a person of an offence under this Act, the Regulations or the Rules may -

- (a) if the person holds a licence or permit -
 - (i) order that the licence or permit be suspended for such period as the court thinks proper and, if the court thinks fit, order that no further licence or permit be issued to the person after expiry of the licence or permit for such period as the court thinks proper; or
 - (ii) order that the licence or permit be cancelled and, if the court thinks fit, disqualify the person from obtaining a further licence or permit for such period as the court thinks proper; and
- (b) if the person does not hold a licence or permit - order that no licence or permit be issued to the person for such period as the court thinks proper.

(2) A person who has his licence or permit suspended under Subsection (1)(a)(i) is disqualified from obtaining a further licence or permit during the period of suspension.

(3) A person who -

- (a) is charged with an offence under this Act the Regulations or the Rules; and
- (b) does not produce his or her licence or permit to the court at the time of hearing,

is guilty of an offence.

Penalty: A fine not exceeding K6,000.00 or imprisonment for a term not exceeding 6 months, or both.

46. DRIVING WHILE DISQUALIFIED OR LICENCE OR PERMIT ETC., SUSPENDED.

- (1) A person who -
 - (a) is disqualified by a court from holding or obtaining a licence or permit; and

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(b) drives a motor vehicle on a public street,
is guilty of an offence.

Penalty: A fine not exceeding K6,000.00 or imprisonment for a term not exceeding 6 months, or both.

(2) A person -

(a) whose licence or permit has been suspended by an order of the court; and

(b) who drives a motor vehicle on a public street during the period that the licence or permit is suspended,

is guilty of an offence.

Penalty: A fine not exceeding K6, 000.00 or imprisonment for a term not exceeding 6 months, or both.

47. PARTICULARS OF CONVICTION TO BE PROVIDED TO AUTHORITY.

(1) A court that convicts a person of an offence under this Act, the Regulations or the Rules shall, as soon as practicable, provide particulars of the conviction to the Authority.

(2) The Authority shall record the particulars of conviction against the licence or permit.

48. AUTHORITY TO CANCEL OR SUSPEND LICENCE OR PERMIT PURSUANT TO COURT ORDER.

The Authority shall, in accordance with an order of the court, cancel or suspend a licence or permit.

49. WRONGFULLY ATTEMPTING TO OBTAIN LICENCE OR PERMIT.

A person who -

(a) has been disqualified from holding or obtaining a licence or permit under this Act the Regulations or the Rules; and

(b) applies for a licence or permit during the period of disqualification,

is guilty of an offence.

Penalty: A fine not exceeding K6,000.00 or imprisonment for a term not exceeding 6 months, or both.

PART IX. - ARREST AND SEIZURE POWERS.

50. ARREST WITHOUT WARRANT.

A member of the Police Force may, without warrant, arrest a person -

(a) in the act of committing, or immediately after having committed, an offence under Sections 39, 40, 42 or 43; or

(b) whom the member reasonably believes has committed an offence under Sections 39, 40, 42, or 43.

51. POWERS OF TRAFFIC ENFORCEMENT OFFICERS IN RELATION TO SEIZURE OF VEHICLES ETC.

(1) In this Section -

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“officer-in-charge” in relation to a motor vehicle that is kept or impounded under this section, means the traffic enforcement officer who is in charge of the place at which the motor vehicle is kept or impounded.

(2) A traffic enforcement officer may seize and take charge of, or cause to be seized and removed, a motor vehicle, on a public street, that -

- (a) is a danger to traffic or an unreasonable obstruction to traffic; or
- (b) has been abandoned or apparently abandoned.

(3) A motor vehicle that is seized under (2) shall be kept at such place or places as the Authority may designate for this purpose, from time to time.

(4) Before a traffic enforcement officer seizes or removes a motor vehicle under Section 2(a) and (b), the officer shall -

- (a) if a person is in charge of the vehicle -
 - (i) request the person to remove the vehicle, or cause it to be removed, immediately; and
 - (ii) afford the person a reasonable opportunity to comply with the request; and
- (b) if no person is in charge of the vehicle, make reasonable inquiry of the immediate vicinity for the purpose of locating the owner or driver of the vehicle.

(5) An inquiry under (4)(b) does not require an officer to enter a building for the purpose of the inquiry.

(6) If after an inquiry under (4)(b), the owner or driver of the vehicle is found, the officer shall -

- (a) request the person to remove the vehicle, or cause it to be removed, immediately; and
- (b) afford the person a reasonable opportunity to comply with the request.

(7) If the Authority seizes a motor vehicle under this section, the Authority shall -

- (a) if the Authority can ascertain from its records, the name and address of the owner of the vehicle within a period of seven days after the seizure, send or cause to be sent to the owner, a notice setting out particulars of -
 - (i) the time, date and place of the seizure; and
 - (ii) the place where the vehicle is kept or impounded; and
- (b) if the name and address of the owner of the vehicle cannot be ascertained from the authority's records -
 - (i) if the owner can, after reasonable inquiry, be found, send or caused to be sent to the owner, within seven days after the seizure, a notice setting out the particulars referred to in (a)(i) and (ii); and
 - (ii) if the owner cannot, after reasonable inquiry, be found, cause a notice in accordance with the prescribed form, setting out those particulars, to be published in a newspaper published in, and circulating not less frequently than once a week in, the area in which the vehicle was seized.

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- (8) For each motor vehicle seized and impounded under this section, the authority shall calculate a release fee that incorporates -
- (a) the costs and expenses of seizing the vehicle; and
 - (b) the costs and expenses of removing, keeping, impounding and releasing the vehicle.
- (9) A person may apply to the Authority for the release of a motor vehicle that has been seized under this section.
- (10) The application shall -
- (a) be made by the owner of the motor vehicle or by a person acting on behalf of the owner; and
 - (b) be in accordance with the prescribed form; and
 - (c) be accompanied by a statutory declaration in accordance with the prescribed form; and
 - (d) be accompanied by evidence as to the ownership of the vehicle.
- (11) The Authority shall not release a motor vehicle to an applicant under (10) unless the Authority is satisfied that -
- (a) the applicant either -
 - (i) is the owner of the vehicle; or
 - (ii) possesses authority to collect the vehicle, for and on behalf of the owner; and
 - (b) the release fee for the vehicle has been paid; and
 - (c) the applicant has signed a receipt in accordance with the prescribed form for the delivery of the vehicle.
- (12) If the owner of a seized vehicle has not applied for release of the vehicle, and paid the release fee, at the end of a period of three months after the date on which the motor vehicle was seized, the Authority may dispose of it in accordance with the *Unclaimed Goods Act 1966*.

PART X. - ACCIDENT AND INCIDENT INVESTIGATIONS.

52. INVESTIGATION OF LAND TRANSPORT ACCIDENTS AND INCIDENTS.

- (1) The Authority has the function and power to investigate -
- (a) land transport accidents; and
 - (b) incidents involving land transport which, in the opinion of the Authority, concern the safety of land transport or the safety of persons using land transport.
- (2) Subject to Subsection (3), the Authority may determine which land transport accidents and incidents to investigate.
- (3) The Authority shall investigate a land transport accident or incident which -
- (a) is referred to the Authority by the Minister; or
 - (b) in the opinion of the Authority, raises major issues concerning public safety; or

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- (c) if the officer believes on reasonable grounds that a person drove the vehicle on a public street while -
 - (i) the person was disqualified from holding or obtaining a driver licence authorizing the person to drive that vehicle; or
 - (ii) the person's driver licence is for the time being suspended or was revoked; or
 - (iii) on the case of the person who was previously forbidden to drive because the person was an unlicensed driver or his or her licence had expired, the person did not hold a driver licence,
- (d) that is being used in a transport service, if the officer believes on reasonable grounds that a person drove the vehicle on a public street while -
 - (i) the transport service operator was disqualified from holding or obtaining a transport service licence; or
 - (ii) the transport service operator's transport service licence was suspended or revoked; or
 - (iii) the transport service operator -
 - (A) does not hold a transport service licence; and
 - (B) has previously been forbidden to operate a transport service,
- (e) the vehicle is being operated in contradiction of a notice issued for that vehicle declaring it to be unsafe.”.

(4) In undertaking an investigation under this Part, the Authority must work co-operatively with the Police Force and, if the accident or incident also involves maritime transport or aviation transport, with the following agencies as necessary -

- (a) the National Maritime Safety Authority and relevant Port Managers; or
- (b) the Accident Investigation Commission, the Civil Aviation Safety Authority, the National Airports Corporation and PNG Air Services Ltd.

(5) For the purpose of carrying out its functions and powers under this Part, the Authority has the same powers as are conferred on a Commission of Inquiry by the *Commissions of Inquiry Act* (Chapter 31) and, subject to the provisions of this Part, all the provisions of that act apply.

(6) To enable the Authority to carry out its functions and powers under this Part, the authority has such powers -

- (a) as may be conferred on it by any other Act; and
- (b) as may be reasonably necessary or expedient.

53. POWERS OF ENTRY AND INVESTIGATION.

(1) Subject to Subsection (2), where a land transport accident or incident occurs and the Authority determines to investigate it, each motor vehicle involved (including the contents and parts of the vehicle) -

- (a) is deemed to be in the custody of the Authority for such period as the Authority considers necessary for the purposes of the investigation; and
- (b) shall not be removed or otherwise interfered with except with the permission of the Chief Executive Officer or nominee of the Chief Executive Officer.

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(2) A motor vehicle to which Subsection (1) applies may be moved to the extent necessary to -

- (a) extricate persons, animals, mail and valuables; or
- (b) prevent destruction or damage by fire or other cause; or
- (c) eliminate any danger or obstruction to other transport or the public.

(3) Without limiting the generality of the powers given by Section 52, for the purposes of exercising any of its functions, duties or powers under this Act, the Authority and any person authorized in writing for the purpose by the Authority shall have power to do the following -

- (a) to enter and inspect any motor vehicle, building or place where the Authority believes, on reasonable grounds, that it is necessary to do so for the purpose of investigating an accident or incident; and
- (b) to inspect, make copies of, or take extracts from, or retain any document or record that the Authority believes, on reasonable grounds, is relevant to the investigation of an accident or incident; and
- (c) where necessary to preserve or record evidence, or to prevent the alteration, mutilation or destruction of any motor vehicle, place or any other thing in any manner in an accident or incident, to prohibit or restrict access of persons or classes of persons to the site of any accident or incident; and
- (d) to seize detain, remove, preserve protect, or test any motor vehicle or anything that the Authority believes, on reasonable grounds, will assist in establishing the cause of an accident or incident.

54. INVESTIGATION REPORTS AND FINDINGS.

(1) Where the Authority undertakes an investigation under this Part it shall, as soon as practicable, provide a copy of its report on the investigation and its findings to the Minister.

(2) The Authority may -

- (a) provide a copy of an investigation report and findings under this Part to the Police, the Coroner, a Court or any other person or body which the Authority may determine; and
- (b) publish an investigation report and findings under this Part.

(3) Where the Authority undertakes an investigation under this Part, it shall consider the investigation report and findings and determine if a reform, change or improvement to land transport safety should be made as a result of the investigation and findings.

PART XI. - REGULATIONS AND RULES.

55. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for the carrying out or giving effect to this Act and its administration.

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- (2) Without limiting Subsection (1), regulations may deal with the following matters -
- (a) the imposition of taxation and fees on motor vehicles, public motor vehicles and heavy vehicles; and
 - (b) the imposition of fees and charges, and method of payment, for any licence, permit, registration, examination, testing, certificate, service or any other act or matter provided for under this Act, the Regulations or the Rules; and
 - (c) the exemption, and conditions of exemption, from any of the provisions of this Act, the Regulations and the Rules; and
 - (d) the prescribing of offences and penalties for such offences under this Act, the Regulations and the Rules, where such penalties must not exceed a fine of K30,000.00 or term of imprisonment for a period not exceeding 3 years, or both a fine and term of imprisonment; and
 - (e) the prescribing of additional penalties for offences under this Act, the Regulations and the Rules, including but not limited to -
 - (i) the cancellation of a licence, registration or permit issued under this Act, the Regulations or the Rules; and
 - (ii) the banning or disqualification of a driver from driving a motor vehicle, public motor vehicle or heavy vehicle for a period up to and including the life of the driver; and
 - (iii) the seizure, detention and confiscation of a motor vehicle, public motor vehicle or heavy vehicle; and
 - (iv) the imposition of a requirement for a driver of a motor vehicle, public motor vehicle or heavy vehicle to undertake a nominated skills or education programme, or refrain from a nominated behavior; and
 - (f) the prescribing of fines and methods of payment for such fines for offences under this Act, the Regulations and the Rules; and
 - (g) the waiving of a penalty or fine if the issue causing the offence is rectified; and
 - (h) any other matter which the Authority reasonably believes is necessary to improve public safety or the safety of persons using a public street.

56. POWER OF MINISTER TO MAKE ORDINARY RULES.

(1) The Minister may, from time to time, make Rules (in this Act called "ordinary rules") for all or any of the following purposes -

- (a) the implementation of road transport related aspects of the National Transport Strategy and any subsequent road transport related policy or strategy; and
- (b) any matter related or reasonably incidental to any of the functions of the Minister, the Authority, or the Chief Executive Officer as set out in this Act; and
- (c) any other matter contemplated by any provision of this Act.

(2) Without limiting the generality of Subsection (2), the Minister may make rules in relation to the following matters -

- (a) issuing of permits to, the testing, licensing, qualification, age, medical condition, conduct, behavior and regulation of -
 - (i) learner drivers; and
 - (ii) the owners and drivers of motor vehicles, public motor vehicles and heavy vehicles; and

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- (b) the conduct, behavior and regulation of passengers of motor vehicles, public motor vehicles and heavy vehicles; and
- (c) the conduct, behavior and regulation of pedestrians; and
- (d) the conduct, behavior and regulation of animals, and owners of animals or persons in charge of animals, on or using a public street; and
- (e) the registration and plating of motor vehicles, public motor vehicles and heavy vehicles; and
- (f) the issuing of permits, special vehicle registration, special vehicle plating and regulation of motor vehicle manufacturers and traders; and
- (g) the form, construction, size, dimension, width, height, weight, condition, marking, loading, equipping and maintenance of motor vehicles, public motor vehicles and heavy vehicles; and
- (h) the insurance required for the registration, licensing or use of motor vehicles, public motor vehicles and heavy vehicles; and
- (i) the speed, use and conditions of use of motor vehicles, public motor vehicles and heavy vehicles on a public street; and
- (j) the rules of the road and conduct of pedestrians and drivers of motor vehicles, public motor vehicles and heavy vehicles on a public street; and
- (k) the regulation (including but not limited to prohibiting and restricting) of traffic both generally and in respect of particular localities, areas, public streets, routes, times, loads, weights, configurations and classes of motor vehicles, public motor vehicles and heavy vehicles; and
- (l) the storage, handling and carriage of inflammable, dangerous or noxious substances on a public street; and
- (m) the parking or storage of motor vehicles, public motor vehicles and heavy vehicles on a public street, and payment for such parking or storage; and
- (n) the marking and control of marking of roads, including requirements to comply with such markings for drivers, pedestrians and animals using a public street; and
- (o) the installation, erection and control of signs and notices, including requirements to comply with such signs and notices for drivers, pedestrians, and animals using a public street; and
- (p) the inspection and testing of drivers of motor vehicles, public motor vehicles and heavy vehicles, including the examination and testing of drivers and passengers for alcohol, smoking, drugs and other substances; and
- (q) the inspection, testing and measurement of motor vehicles, public motor vehicles and heavy vehicles; and
- (r) restrictions, controls, conditions of use and prohibitions on the use of the following things by drivers and passengers of motor vehicles, public motor vehicles and heavy vehicles on a public street -
 - (i) mobile phones, electronic devices, computers, televisions and other specified devices; and
 - (ii) alcohol, smoking, drugs and other substances; and
- (s) the control of emissions from motor vehicles, public motor vehicles and heavy vehicles; and
- (t) requirements to produce and provide licences, permits and identification of drivers of motor vehicles, public motor vehicles and heavy vehicles; and

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- (u) the immobilization, seizure, detention, confiscation and disposal of motor vehicles, public motor vehicles and heavy vehicles; and
- (v) the regulation, control and prohibition of the sale of goods, pursuit of any business, calling or employment on a public street; and
- (w) the forms and procedures to be used concerning any function or matter under this Act, the Regulations or the Rules; and
- (x) the control and regulation of obstructions, billboards, posters, signs, speed limiting devices and constructions on a public street; and
- (y) standards, controls and any other measure deemed necessary by the authority concerning the sale or use of any fuel used by, or intended to be used by, a motor vehicle, including but not limited to the content of any such fuel and additive in such fuel.

(3) An ordinary rule may apply generally or with respect to different classes of driving licences, motor vehicles, public motor vehicles or heavy vehicles, or with respect to the same class of driving licences, motor vehicles, public motor vehicles or heavy vehicles in different circumstances.

(4) An ordinary rule may apply generally throughout Papua New Guinea or within any specified part or parts of Papua New Guinea.

(5) The coming into operation of an ordinary rule may be wholly suspended until it is brought into force by the Minister by notice in the National Gazette.

- (6) An ordinary rule may -
- (a) confer a discretion upon, or allow a matter to be determined or approved by, the Authority, the Chief Executive Officer or any other person; or
 - (b) allow the Authority, the Chief Executive Officer or any other person, to impose requirements as to the performance of an activity.

(7) No breach of an ordinary rule shall constitute an offence unless the offence is prescribed in the Regulations made under this Act.

(8) So far as the laws of a province or local-level government are inconsistent with or repugnant to any ordinary rule made under this Act and in force in the same locality, the laws shall be construed subject to the rules.

(9) The Minister shall not delegate his power to make ordinary rules under this Act.

57. PROCEDURE FOR MAKING ORDINARY RULES.

- (1) Before an ordinary rule is made, the Minister shall -
- (a) publish a notice of his intention to make the rule in a national newspaper that is regularly distributed throughout the country; and
 - (b) publish the notice in the National Gazette; and
 - (c) give interested persons a reasonable time, which shall be specified, to make submissions on the proposed ordinary rule; and

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- (d) ensure that the Authority undertakes consultation with such persons, representative groups within the road transport industry or elsewhere, departments and State agencies as the Minister, in each case, considers appropriate.
- (2) An ordinary rule shall -
 - (a) be signed by the Minister; and
 - (b) contain a statement specifying the objective of the rule and the extent of any consultation under Subsection (1); and
 - (c) set out fully the requirements of the rule, except where, by reason of size or length certain information is incorporated in the rule by reference under Section 61.
- (3) Subject to Subsection (4), the making of an ordinary rule shall be notified in the National Gazette and be made available by the Authority to members of the public for inspection at the Authority free of charge and for purchase at a fee set by the Authority.
- (4) Where for reasons of security it is inappropriate to notify a rule under Subsection (3), the Minister shall notify such persons as he considers appropriate or necessary in the circumstances.
- (5) Service of notification of a rule under Subsection (4) may be effected in such manner as the Minister considers appropriate or necessary in the circumstances, and the rule shall apply only to the persons so notified.
- (6) An ordinary rule comes into force on the date of its publication in the National Gazette or on such later day as may be specified in the rule or under Subsection 56(5) or, where notified by service on any person under Subsection (5), immediately upon service of the rule upon that person and in respect of that person only.

58. POWER OF CHIEF EXECUTIVE OFFICER TO MAKE EMERGENCY RULES.

- (1) Subject to Subsection (2), the Chief Executive Officer may, from time to time, in accordance with Section 60, make such emergency rules as may be necessary to alleviate or minimise any risk of death of or serious injury to any person or of damage to any property.
- (2) The Chief Executive Officer shall not make an emergency rule unless it is impracticable in the circumstances of the particular case for an ordinary rule to be made effectively to alleviate or minimise the risk concerned.
- (3) The Minister may revoke an emergency rule made under Subsection (1).

59. PROCEDURE FOR MAKING EMERGENCY RULES.

- (1) Before making an emergency rule, the Chief Executive Officer may consult with such persons, representative groups within the road transport industry or elsewhere, Departments and State agencies as the Chief Executive Officer, in each case, considers appropriate.
- (2) An emergency rule shall -
 - (a) be signed by the Chief Executive Officer; and

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- (b) contain a statement specifying the objective of the rule and the extent of the consultation under Subsection (1) that took place before the making of the rule; and
- (c) set out fully the requirements of the rule, except where, by reason of size or length certain information is incorporated in the rule by reference under Section 61.

(3) Subject to Subsection (5), an emergency rule shall be published in the National Gazette and be made available by the Authority to members of the public at the Authority for inspection free of charge and purchase at a fee set by the Authority.

(4) An emergency rule shall come into force immediately upon its being published in the National Gazette, or where notified by service on any person under Subsection (5), immediately upon service of notification upon that person and in respect of that person only.

(5) Where for reasons of safety or security it is impracticable or inappropriate to publish an emergency rule under Subsection (3), the Chief Executive Officer shall notify such persons as he considers appropriate or necessary in the circumstances.

(6) Service of notification under Subsection (5) may be effected by email, facsimile, telephone or such other manner as the Chief Executive Officer considers appropriate or necessary in the circumstances.

(7) An emergency rule may be in force for a period not exceeding 90 days and may be renewed by the Chief Executive Officer once only for a further period not exceeding 30 days.

(8) The Minister may, at any time while an emergency rule is in force in accordance with Subsection (5), by notice in the National Gazette, renew the rule for a further period not exceeding 180 days from the date of publication.

(9) Before renewing an emergency rule under Subsection (8), the Minister shall consult with such persons, representative groups within the transport industry or elsewhere, departments and State agencies as the Minister considers appropriate.

(10) So far as any emergency rule is inconsistent or repugnant to any ordinary rule made under this Act, the emergency rule shall prevail.

60. MATTERS TO BE TAKEN INTO ACCOUNT IN MAKING RULES.

- (1) A rule shall be consistent with -
 - (a) this Act; and
 - (b) the road transport related aspects of the National Transport Strategy or any subsequent land transport policy or strategy.

- (2) In making a rule, regard shall be had and such weight as is appropriate shall be given in each case, to the following -
 - (a) the nature of the particular activity or service for which the rule is being established; and

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- (b) the level of risk existing in relation to road transport safety and security in Papua New Guinea in general; and
- (c) the need to maintain road transport safety and security; and
- (d) the costs of implementing road transport safety and security measures; and
- (e) the international circumstances in respect of road transport safety and security; and
- (f) such other matters as the Minister or the Chief Executive Officer considers appropriate in the circumstances.

61. INCORPORATION BY REFERENCE.

(1) The following may be incorporated by reference into a rule made by the Minister or the Chief Executive Officer -

- (a) standards, requirements or recommended practices of international road transport organizations; and
- (b) any other written material or document that, in the opinion of the Minister or the Chief Executive Officer, as the case may be, is too large or impractical to be printed as part of the rule.

(2) Unless otherwise provided in the rule, the following shall be deemed to be part of the rule:-

- (a) any material incorporated in a rule by reference under Subsection (1); and
- (b) subject to Subsections (3) and (4), an amendment to any material so incorporated by reference that is made by the person or organization originating the material.

(3) The Chief Executive Officer shall, by notice in the National Gazette, specify the date on which an amendment to material incorporated by reference under Subsection (1) shall take effect.

(4) All material incorporated by reference under Subsections (1) or (2) shall be made available at the Authority for inspection free of charge or for purchase at a reasonable cost.

62. EXEMPTION POWER OF CHIEF EXECUTIVE OFFICER.

(1) The Chief Executive Officer may, where he considers appropriate and upon such conditions as he considers appropriate, exempt any person, motor vehicle, public motor vehicle or heavy vehicle from any specified requirement in any rule made under Section 56.

(2) Before granting an exemption under Subsection (1), the Chief Executive Officer shall be satisfied in the circumstances of each case that -

- (a) the requirement has been substantially complied with and that further compliance is unnecessary; and
- (b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; and
- (c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; and
- (d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case; and

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- (e) the risk to safety will not be significantly increased by the granting of the exemption.

(3) The Authority must publish details of exemptions granted under Subsection (1) as soon as practicable in the National Gazette.

(4) This section does not apply if a rule specifically provides that no exemptions are to be granted.

PART XII - MISCELLANEOUS.

63. EVIDENCE OF REGISTRATION AND OWNERSHIP.

In any proceedings under this Act, the Regulations or the Rules -

- (a) proof that a motor vehicle does not display a current registered number plate or current registration label is prima facie evidence that the vehicle is not registered; and
- (b) proof that a person registered a motor vehicle is prima facie evidence that the person is the owner of the vehicle; and
- (c) proof that a person is registered as the owner of a motor vehicle is prima facie evidence that the person is the owner of the vehicle; and
- (d) an extract from the records of the Authority in relation to particulars of the registration of a motor vehicle or the issuing of a licence or permit shall, in all proceedings, be received as evidence and be deemed to be sufficient proof of all particulars contained in the record.

64. SERVICE OF NOTICE.

A notice under this Act, the Regulations or the Rules is deemed to be served on an owner or driver of a motor vehicle if the notice is -

- (a) served personally; or
- (b) delivered by post to, or left at, the last address specified in or endorsed on the licence of the owner or driver (as the case requires).

65. SAVINGS AND TRANSITIONAL ARRANGEMENTS.

(1) All references to the following persons or entities are to be taken as a reference to the Authority -

- (a) the Superintendent of Motor Traffic in any Act or Regulation; and
- (b) the Land Transport Board in the *Land Transport Board Act 1968* and any other Act or Regulation; and
- (c) a Licencing Authority in the *Licencing of Heavy Vehicles Act 1977*.

(2) All references to an Inspector in the *Licencing of Heavy Vehicles Act 1977* and *Licencing of Heavy Vehicles Regulation 1977* are to be taken as a reference to a Traffic Enforcement Officer under this Act, the Regulation or the Rules.

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(3) All appointments, permits, licences, registrations, authorisations, permissions, notices and any other act of authority under the *Motor Traffic Act 1950*, the *Motor Traffic Regulation 1967*, the *National Road Safety Council Act 1997*, the *Land Transport Board Act 1968*, the *Licencing of Heavy Vehicles Act 1977* and the *Licencing of Heavy Vehicles Regulation 1977* are saved and continue to have full force and effect under the provisions of this Act until they are amended, replaced, cancelled or otherwise dealt with under this Act, the Regulations or the Rules.

(4) All proceedings in respect of offences committed or alleged to be committed against an Act or Regulation repealed when this Act commences may be commenced or continued as if this Act had not commenced.

66. TRANSFER OF STAFF FROM NATIONAL ROAD SAFETY COUNCIL.

(1) In this section:

“transfer date” means the date of commencement of this Act;

“transfer employee” means an employee of the National Road Safety Council transferred pursuant to Subsection (2).

(2) Each person who, on the day immediately preceding the transfer date, was employed by the National Road Safety Council shall be deemed to be an employee of the Authority, with effect from the transfer date.

(3) The terms and conditions of employment for a transferred employee applying on the day immediately preceding the transfer date shall continue in force and shall be binding on the transferred employee and the Authority, until replaced by an agreement or determination between the Authority, and the employee or a group of employees.

(4) A transferred employee is deemed to have accrued, with the Authority, entitlement benefits equivalent to the benefits that he or she had accrued immediately prior to the transfer date.

(5) A transfer of employment under this section does not create, and must not be taken to be -

- (a) a breach of any contract of employment; or
- (b) an interruption to employment; or
- (c) a retrenchment, severance or redundancy.

67. TRANSFER OF STAFF FROM LAND TRANSPORT DIVISION OF DEPARTMENT OF TRANSPORT.

(1) In this Section:-

“transfer date” means the date of commencement of this Act;

“transferred employee” means an employee of the Land Transport Division of the Department of Transport transferred pursuant to Subsection (2).

(2) Subject to Subsection (3), each person employed by the Land Transport Division of the Department of Transport shall remain a public servant and employee of the Department of Transport.

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(3) Notwithstanding Subsection (2), a person employed by the Land Transport Division of the Department of Transport may be transferred to the Authority and be deemed to be an employee of the Authority from the transfer date.

(4) The terms and conditions of employment for a transferred employee applying on the day immediately preceding the transfer date shall continue in force and shall be binding on the transferred employee and the Authority, until replaced by an agreement or determination between the Authority, and the employee or a group of employees.

(5) If, after the transfer date, the terms and conditions referred to in Subsection (4) are varied for public servants under the **Public Services (Management) Act 1995** or Public Service General Orders, such variations shall apply to the transferred employees whose contract of employment is still governed by Subsection (4) as if they were still employed in the Public Service.

(6) Every transferred employee ceases to be employed in the Public Service from the transfer date.

(7) A transferred employee shall be deemed to have accrued, with the Authority, entitlement benefits equivalent to the benefits that he or she had accrued immediately prior to the transfer date.

(8) For the avoidance of doubt and greater certainty, a transferred employee is not entitled to claim payment from the State, or any other person, any accrued benefits as at the transfer date.

(9) Any disciplinary proceeding, proceeding, claim, and other action taken under the **Public Services Conciliation and Arbitration Act** (Chapter 69), the **Public Services (Management) Act 1995** and the Public Service General Orders that was commenced before the transfer date by and in respect of a transferred employee shall be continued as though the Authority were the employer.

(10) Where events giving rise to a right to commence a disciplinary proceeding, proceeding, claim or other action occurred before the transfer date but the proceedings had not commenced before that date, the proceedings may be commenced by or against the Authority on or after that date, and be proceeded with as though the Authority were the State.

(11) If, at the transfer date, a transferred employee is a member of the State Services and Statutory Authorities Superannuation Fund established under the **Superannuation (General Provision) Fund Act 2000**, the Authority shall pay and continue to pay to the State Services and Statutory Authorities Superannuation Fund, as long as a person remains a member of the State Services and Statutory Authorities Superannuation Fund, the same sum that the State is obliged to pay to the State Services and Statutory Authorities Superannuation Fund as if the transferred employee had remained a public servant, excluding any payment due for the period prior to the transfer date.

(12) All sums payable by the Authority under Subsection (11) shall be paid by the Authority to the State Services and Statutory Authorities Superannuation Fund no later than the end of the month after the month in which the salary or wages payment on which the Authority's contribution is based was made to the transferred employee.

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- (13) A transfer of employment under this section does not create, and must not be taken to be -
- (a) a breach of any contract of employment; or
 - (b) an interruption to employment; or
 - (c) a retrenchment, severance or redundancy.


68. TRANSFER OF ASSETS AND LIABILITIES.

(1) All assets, liabilities, rights, entitlements and chose-in action of the National Road Safety Council and the Land Transport Board are transferred to the Authority upon the commencement of this Act.


(2) If in any contract, instrument or other document, reference is made to the National Road Safety Council or the Land Transport Board immediately prior to the date of commencement of this Act, such reference is to be taken for all purposes as a reference to the Authority.

(3) Subject to Subsection 68(2), every matter and proceeding commenced in any Court under an Act or Regulation repealed by this Act and pending or in progress immediately before this Act commenced may be continued, completed and enforced under this Act in the name of the Authority.

I hereby certify that the above is a fair print of the *Road Traffic Act 2014*, which has been made by the National Parliament.


Clerk of the National Parliament.
05 AUG 2014

I hereby certify that the *Road Traffic Act 2014*, was made by the National Parliament on 8th May, 2014 by an absolute majority in accordance with the *Constitution*.


Speaker of the National Parliament.
05 AUG 2014