



Tuvalu

TRAFFIC (AMENDMENT) ACT 2017



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Tuvalu

TRAFFIC (AMENDMENT) ACT 2017

AN ACT TO AMEND THE TRAFFIC ACT

Commencement [24 November, 2017]

1 Short Title

This Act may be cited as the Traffic (Amendment) Act 2017.

2 Commencement

This Act commences on the date fixed by the Minister.

3 Amendment to section 3

Item B inserts the words ‘and includes a taxi’ after the words ‘hire and reward’

4 Amendment to section 6

Inserting a new subsection (3) after subsection (2) as follow:-

- (3) Any person who uses a vehicle that is licensed as a public service vehicle or a commercial motor vehicle unless the vehicle has also been licensed as either a public service vehicle or a commercial motor vehicle.

5 Amendment to section 14(2)

Delete the words ‘shall be in prescribed form’ and replace it with ‘must include the information specified in the Regulations.’

6 Amendment to section 16(2)

Repeal the words ‘in the prescribed form’ after the word license.

7 Amendment to section 17

Subsection 17(1) is repealed in its entirety and replaced with the following:-

- (1) Every driving licence must include the information specified in the regulations and is valid for a period of either 1 year, 3 years or 5 years as specified on the licence from the day on which it was issued.
- (1A) A person may renew their licence at any time during a 2 month period before the licence expires by paying the prescribed fee to a licensing officer.
- (1B) On renewal of a driver’s licence, the licensing officer must either –
 - (a) record the renewal on the licence; or
 - (b) issue a new licence.

8 Amendment to section 24

Section 24 is repealed in its entirety.

9 Amendment to section 25

Section 25 is repealed in its entirety and replaced by:

- (1) On the conviction of a person of the offence of manslaughter arising out of the driving of a motor vehicle or of an offence under this Act, the court may make an order –
 - (a) that the person is disqualified from holding a driving licence for a specified length of time; or
 - (b) placing restrictions on the person’s driving licence for a specified length of time.
- (2) A person who drives a vehicle in contravention of an order made under this section shall be liable for a fine of \$200 and imprisonment for 1 year.
- (3) An order made under this section, the court must cause notice of the order to be given to the Commissioner of Police.

10 Amendment to section 26

Repeal the words ‘Any person’ and replace it with ‘Unless a period of disqualification has been specified under section 24(1), any person’.

Repeal the words ‘the provisions of section 25 or’.

11 New Part V

Insert a new Part V as follow:-

PART V – IMPOUNDING VEHICLES**31 Impounding vehicles**

- (1) This section applies where any motor vehicle –
 - (a) is being used in connection with a specified offence;
 - (b) has been left on any road or other public place in such circumstances as to make it appear that such motor vehicle has been abandoned or should be moved to a place of safety; or
 - (c) has been left on a road in a position which causes or is likely to cause danger to other road users and the owner or driver cannot readily be found.
- (2) A police officer may impound the vehicle by taking the motor vehicle, or causing the motor vehicle to be taken, to the police station or other place of safety by such method, route and other such conditions as considered necessary, having regard to all the circumstances of the case.
- (3) A police officer who impounds a vehicle under this section must–
 - (a) issue an impound notice to the driver of the motor vehicle;
 - (b) if the vehicle is unattended, deliver the impound notice to the owner (if known) within 48 hours after the vehicle is impounded.
- (4) An impound notice must –
 - (a) state the date the notice was issued;
 - (b) identify the police officer who issued the notice;
 - (c) identify the vehicle to which the notice relates;
 - (d) state the reason the vehicle has been impounded; and
 - (e) state such other matters as may be prescribed by regulation.
- (5) The impound notice may also specify a period of time, not to exceed 30 days, for which the vehicle may be impounded.
- (6) If the driver of a vehicle who is given an impound notice is not the owner of the vehicle, the driver must cause the impound notice to be given to the owner.
- (7) In this section
“**specified offence**” means–
 - (a) section 13 (driving without licence);
 - (b) section 23 (driving whilst driving efficiency impaired by drink or drug);
or
 - (c) section 25(2) (Disqualification of Driver).

32 Penalties not affected by impounding

The impounding of a vehicle under this Part does not affect or in any way limit a provision of this Act relating to the imposition of any penalty on a person convicted of an offence in respect of which the vehicle was impounded.

33 Releasing impounded vehicle

- (1) A police officer may release an impounded vehicle if –
 - (a) the officer is satisfied that the reason for which the vehicle was impounded no longer exists;
 - (b) the person who allegedly committed the offence was not the lawful owner of the vehicle;
 - (c) a period of time for impounding the vehicle was specified in the impound notice – the period of time has expired.
- (2) A person collecting a vehicle impounded under this Part must present the police officer with a valid driving licence before the vehicle may be released.
- (3) Where, under section 31, it is considered necessary to have a vehicle towed, transported, driven, or otherwise removed, any expense reasonably incurred is payable by the owner and the vehicle will not be released from the police station or other place of safety until either –
 - (a) such expenses have been paid; or
 - (b) a police officer provides written permission to the owner that the vehicle may be removed without such costs having been paid.
- (4) A person may also be required to pay a fee prescribed in the regulations for storage of the impounded vehicle before the vehicle is released.

34 Disposal of impounded vehicles

- (1) This section applies if the owner of a vehicle does not collect the vehicle within 30 days after the date the impound notice was issued on.
- (2) The Police Commissioner may deal with the vehicle in any way that does not cause an actual, or apparent, conflict of interest for the Commissioner (including, for example, sale or destruction).
- (3) The Police Commissioner must give at least 30 days notice to the owner of the vehicle that the vehicle will be disposed of.
- (4) If the owner of the vehicle is not known or cannot reasonably be found, notice may be given publicly by whatever means the Police Commissioner determines is appropriate in the circumstances.
- (5) If the vehicle is sold, it must be sold by public auction and the proceeds of the sale are to be paid in the following order –
 - (a) in payment of the expense of the sale;

- (b) in payment of the expense of the removal and custody of the impounded vehicle;
- (c) if the owner of the vehicle is known, to the owner of the vehicle;
- (d) if the owner of the vehicle is not known or cannot reasonably be found, to the Tuvalu Police Service allocation held by the Ministry of Finance or Treasury Department.

35 Liability for impounded vehicles

A police officer who impounds a vehicle under this part is not to be held liable for any damage to, or loss of any item from, the vehicle that occurs honestly and without negligence during its removal to or detention at a police station or other place of safety.

12 New Part VI

Insert Part VI as follows:-

PART VI- DEFECT NOTICES

36 Interpretation for Part VI

In this Part:-

“**deficiencies**” means deficiencies in the vehicle standards required under a law of Tuvalu.

“**Repairs**” means repairs, replacements, reconditioning, additions, adjustments or work of any kind for remedying deficiencies or defects.

“**safety risk**” means a risk –

- (a) to public safety; or
- (b) of harm to the environment.

37 Examining vehicles for deficiencies

- (1) A police officer may direct the driver of a vehicle to stop the vehicle for;
 - (a) examination if the vehicle has deficiencies or the officer suspects on reasonable grounds that the vehicle has deficiencies.
 - (b) determining whether the vehicle has deficiencies if the officer suspects on reasonable ground.
- (2) A police officer, on reasonable grounds, suspect that a vehicle has deficiencies, the officer may direct the owner, the operator or the person in charge of the motor vehicle to produce it for examination at a specified time and place.

- (3) A person must comply with a direction given under this section.
- (4) An authorised officer may for the purposes of examining a vehicle under this section –
 - (a) cause the vehicle to be examined by any other qualified person; or
 - (b) test drive the motor vehicle; or
 - (c) cause any other person to drive or test, the vehicle.

38 Defect warning

- (1) If, on examination of a vehicle, a police officer on reasonable ground suspect that the vehicle has deficiencies and further use of the vehicle on the road would give rise to a safety risk, the officer may issue a written defect warning to the driver of the vehicle or, if the vehicle is unattended, cause a written defect warning to be affixed to the vehicle.
- (2) A defect warning must –
 - (a) state the date the warning was issued; and
 - (b) identify the police officer who issued the warning; and
 - (c) identify the vehicle to which the warning relates; and
 - (d) state details of the vehicle's deficiencies and the repairs that should be made to the vehicle to remedy those deficiencies; and
 - (e) the date by which the repairs are required to be made to the vehicle; and
 - (f) state such other matters as may be prescribed by regulation.
- (3) If the driver of a vehicle who is given a defect warning is not the owner of the vehicle, the driver must cause the defect warning to be given to the owner.
- (4) A person who drives a vehicle with a deficiency listed in a defect warning after the date by which the repairs were required to be made shall be liable to a fine of \$200.

39 Defect notice

- (1) If, on examination of a vehicle, a police officer on reasonable ground suspects that the vehicle has deficiencies and reasonably believes that further use of the vehicle on the road would give rise to a safety risk, the officer may issue a written defect notice in relation to the vehicle.
- (2) A defect notice must –
 - (a) state the date the notice was issued; and
 - (b) identify the police officer who issued the notice; and
 - (c) identify the vehicle to which the notice relates; and

- (d) state details of the vehicle's deficiencies and the repairs that are required to be made to the vehicle to remedy those deficiencies; and
 - (e) specify the means by which the vehicle must be moved to the place at which the repairs required by the notice are to be made; and
 - (f) direct that the vehicle must not, except as provided in the defect notice, stand or be driven on a road, or be sold or otherwise disposed of, after the issue of the defect notice until –
 - (i) the vehicle has been produced at a place specified in the notice for examination; and
 - (ii) a certificate has been issued by a police officer certifying that the repairs required by the defect notice have been made; and
 - (g) state such other matters as may be prescribed by regulation.
- (3) If the driver of a vehicle who is given a defect notice is not the owner of the vehicle, the driver must cause the defect notice to be given to the owner.
- (4) A police officer may examine a vehicle for the purpose of determining whether the repairs required by a defect notice issued in relation to the vehicle have been made and whether the vehicle has any other deficiencies.
- (5) A police officer may at any time vary or withdraw a defect notice upon approval of an officer in charge.
- (6) A person must not drive a vehicle, or cause or permit a vehicle to be driven or to stand, on a road, or sell or otherwise dispose of a vehicle, contrary to the terms of a defect notice.
- (7) It is a defence to a charge under subsection (6) of having sold or otherwise disposed of a vehicle contrary to the terms of a defect notice if the defendant satisfies the court that at the time of the sale or disposal he or she had reason to believe that the vehicle was not intended to be used on a road after the sale or disposal.
- (8) A person who stands, drives, sells or otherwise disposes of a vehicle in contravention of a defect notice shall be liable to a fine of \$500 or an imprisonment of 2 years.

13 Schedule

Form T/O 4 'Driving Licence' is repealed in its entirety and replaced with the following:-

T/O 4:

TUVALU
TRAFFIC ACT
IMPOUND NOTICE
(Section 31(3))

DETAILS OF ISSUING POLICE OFFICER	
Name	
Rank:	
Station:	

DETAILS OF IMPOUNDED VEHICLE	
Vehicle to which impound notice relates:	
Reason the vehicle has been impounded:	
Period of time for which the vehicle will be impounded (<i>not to exceed 30 days</i>):	
Date of issue of impound notice:	

If you are not the owner of the vehicle to which this impound notice relates you must cause this impound notice to be given to the owner.

T/O 5:

TUVALU
TRAFFIC ACT
DEFECT WARNING
(Section 38(2))

DETAILS OF ISSUING POLICE OFFICER	
Name:	
Rank:	
Station:	

DETAILS OF DEFECT WARNING	
Vehicle to which defect warning relates:	
Details of defect/s and required repairs:	
Date by which required repairs are to be made:	
Date of issue of defect warning:	

If you are not the owner of the vehicle to which this defect warning relates you must cause this defect warning to be given to the owner.

T/O 6:

TUVALU
TRAFFIC ACT
DEFECT NOTICE
(Section 39(2))

DETAILS OF ISSUING POLICE OFFICER	
Name:	
Rank:	
Station:	

DETAILS OF DEFECT NOTICE	
Vehicle to which defect notice relates:	
Details of defect/s and required repairs:	
How the vehicle should be moved to the place the repairs will be carried out:	
Place that the vehicle must be brought for inspection following repairs:	
Date of issue of defect notice:	

If you are not the owner of the vehicle to which this defect notice relates you must cause this defect notice to be given to the owner.

The vehicle described by this defect notice must not, except as provided by this defect notice, stand or be driven on a road or be sold or otherwise disposed of until:

- (a) the vehicle has been produced at the place listed above for examination; and
- (b) certificate has been issued by a police officer certifying that the repairs required by the defect notice have been made.

T/O 7:

CERTIFICATE OF EXAMINATION

(Section 39(2)(g)(ii))

DETAILS OF ISSUING POLICE OFFICER	
Name:	
Rank:	
Station:	

DETAILS OF EXAMINATION	
Date of issue of defect notice:	
Vehicle to which defect notice relates:	
Date of examination:	
Repairs which were required to be made:	

This certificate certifies that the vehicle listed above has been produced for examination and the repairs required in the defect notice have been made.

Signed:
(Signature of police officer)

14 Transitional - existing licences

- (1) A licence which was valid immediately before the commencement of this amendment remains valid for the rest of the period that the licence would have remained valid but for the commencement of this amendment, unless otherwise suspended or cancelled under the Act.
- (2) A licence which was valid immediately before the commencement of this amendment continues to be subject to any condition or requirement to which the licence was subject immediately before the commencement of this amendment, unless removed or varied by the Act.