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1978, No.21

AN ACT to amend the Road Traffic Ordinance 1960*[22 August 1978]*

BE IT ENACTED by the Legislative Assembly of Western Samoa in Parliament assembled as follows:-

1. Short title— This Act may be cited as the Road Traffic Amendment Act 1978, and shall be read together with and deemed part of the Road Traffic Ordinance 1960* (hereinafter referred to as the principal Ordinance).

2. Interpretation— Section 2 of the principal Ordinance (as amended by section 3 of the Road Traffic Amendment Act 1969** and section 139 of the Magistrates' Court Act 1969***) is further amended—

*1960, No. 23

**1969, No. 1

***1969, No.2

- (a) By inserting in the appropriate place the following definition:—

“‘Rental vehicle’ means a private motor vehicle let on hire (otherwise than under a hire purchase agreement or under a bailment that is for a period exceeding 6 months) for the carriage of passengers (including the driver) or of goods or both to a person who himself drives the vehicle or provides a driver therefore:”

- (b) By repealing the definition of “Road” and substituting the following definition:—

“‘Road’ includes any street or highway; and also includes any place to which the public have access, whether as of right or not; and also includes all bridges, culverts, ferries, fords and footpaths forming part of any road, street, highway, or place as aforesaid:”

3. Appointment of officers— Subsection (1) of section 3 of the principal Ordinance is amended—

- (a) By repealing the words “and bicycles”;
- (b) By repealing the words “Superintendent of Police” and substituting the words “Commissioner of Police Service”

4. Application of Ordinance— Section 5 of the Principal Ordinance is amended by repealing the proviso thereto and substituting the following proviso:—

“Provided that section 12 relating to licence labels and section 13 relating to registration (except that the payment for licence plates shall be required for motor vehicles to which paragraph (c) of this proviso applies) shall not apply to the following motor vehicles but such vehicles shall be distinguished as follows:—

- (a) Motor vehicles regularly used by the Head of State: by the Crest of Western Samoa of such size as to be readily distinguishable at a reasonable distance:

- (b) Motor vehicles regularly used by any member of the Council of Deputies or the Prime Minister: by licence plates bearing the word "OFFICIAL":
- (c) Motor vehicles regularly used by the head of a diplomatic mission or a senior staff member of such mission: by licence plates bearing a figure or figures preceded by the letters D.C."

5. Duplicate licence label fee— Subsection (2) of section 12 of the principal Ordinance (as amended by section 5 of the Decimal Currency Act 1966*) is amended by repealing the words "the fee of twenty-five sene" and substituting the words "the fee set out in the First Schedule to this Ordinance".

6. Repeal of provisions for registration of bicycles— Sections 21 to 26 inclusive of the principal Ordinance are repealed.

7. Learner's permit fee— Subsection (1) of section 28 of the principal Ordinance (as amended by section 5 of the Road Traffic Amendment Act 1969**) is further amended by repealing the words "a fee of one tala" and substituting the words "the fee set out in the First Schedule to this Ordinance".

8. Test of competence fee— Paragraph (b) of subsection (1) of section 30 of the principal Ordinance (as amended by section 6 of the Road Traffic Amendment Act 1969) is amended by repealing the words "two tala" and substituting the words "6 tala".

9. Driving licence replacement fee— Subsection (2) of section 32 of the principal Ordinance (as amended by section 5 of the Decimal Currency Act 1966) is further amended by repealing the words "of twenty-five sene" and substituting the words "set out in the First Schedule to this Ordinance".

*1966, No.3

**1969, No.1

10. Court may order driving test— The principal Ordinance is amended by inserting after section 33 the following section:—

“33A. Court may order driving test— Where a person is convicted of any offence in connection with the driving of a motor vehicle, and the Court has ordered under section 33 of this Ordinance the disqualification of that person from holding a driving licence and the suspension of his licence, the Court may further order that the disqualification and suspension shall continue until such time as that person has passed the prescribed test of competence to drive any class or classes of vehicles as the Court may determine.”

11. Fee for driving licence free of endorsement— Subsection (5) of section 35 of the principal Ordinance (as amended by section 5 of the Decimal Currency Act 1966) is further amended by repealing the words “a fee of one tala” and substituting the words “the fee set out in the First Schedule to this Ordinance”.

12. Dangerous riding on, or overcrowding of, vehicles— The principal ordinance is amended by inserting after section 38 the following section:—

“38A. Dangerous riding on, overcrowding of, vehicles— No person shall ride, and the driver shall not permit any person to ride in or on any vehicle—

- (a) In a manner or position which may be liable to cause injury to that person or any other person;
- (b) Where the number of passengers in such vehicle exceeds any maximum number of seated passengers as may be set by the Principal Licensing Authority for that vehicle:

Provided that for the purpose of the preceding paragraph (b) of this section—

- (a) Any 2 children under the apparent age of 12 years shall be counted as 1 passenger;
- (b) Any 3 children under the apparent age of 12 years shall be counted as 2 passengers.

- (2) Any person convicted of an offence against this section shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 1,000 tala."

13. Unsafe vehicles— The principal Ordinance is amended by inserting after section 38A (as inserted by section 12 of this Act) the following section:-

"38B. Unsafe vehicles—(1) No person shall operate any vehicle in such condition or in such manner or so loaded or with a load so unsafe or insecure, as to cause, or be liable to cause, injury to any person.

- (2) Any person convicted of an offence against this section shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 1,000 tala."

14. Driving improvement courses— The principal Ordinance is amended by inserting after section 44 the following section:—

"44A. Driving improvement courses—(1) Where any person is convicted of an offence against this Part of this Act or of any other offence (whether against this Act or any other Act or regulations) in connection with the driving of a motor vehicle, the Court, whether or not it imposes any other penalty in respect of the offence, may order that person to attend for such period as the Court specifies a driving improvement course conducted by the Principal Licensing Authority.

- (2) Where any offender ordered under this section to attend a driving improvement course completes the course to the satisfaction of the person conducting the course the Principal Licensing Authority shall issue to him a certificate to that effect.
- (3) Every offender ordered under this section to attend a driving improvement course shall, not later than 21 days after the completion of the course, pay to the Principal Licensing Authority the amount of the fee usually charged by that Authority for that course.

- (4) Every person commits an offence who, having been ordered under this section to attend a driving improvement course,—
- (a) Fails to attend the course in accordance with the order; or
 - (b) Fails to comply with the reasonable directions of the person conducting the course; or
 - (c) Fails to pay the fee payable in respect of that course.”

15. Regulations— Subsection (1) of section 45 of the principal Ordinance is amended—

- (a) By repealing paragraph (i) and inserting the following paragraph:—

“(i) The number and nature of any brakes, lights, and any other fittings or equipment required for a motor vehicle and for ensuring that any brakes, lights and any other fittings or equipment shall be efficient and kept in proper working order and mechanical condition and for empowering persons authorised by or under the regulations to test and inspect either on the road or subject to the consent of the owner of the premises, on any premises where the vehicle is, such brakes, lights and any other fittings or equipment.”

- (b) by inserting after paragraph (p) the following paragraph:—

“(q) The establishment and regulation of school patrols and their duties in respect of the direction of traffic.”

16. Traffic signs— Section 49 of the principal Ordinance is amended by inserting after subsection (6) the following subsections:—

“(7) For the purposes of this Ordinance or of any regulations or rules made thereunder, a traffic sign placed on or near a road shall be deemed to be of the correct size, colour, and type and to have been lawfully so placed unless the contrary is proved.

(8) Any person who wilfully alters, defaces, moves, or otherwise interferes with any traffic sign shall be guilty of an offence”

17. Drivers and pedestrians to comply with traffic direction and signs— Section 50 of the principal Ordinance is repealed and the following section is substituted:-

“50. Drivers and pedestrians to comply with traffic directions and signs—(1) Where any police officer is in uniform, or any school patrol is for the time being engaged in the regulation of traffic at a pedestrian crossing and is wearing a uniform, insignia or badge of office -

(a) Every person using any vehicle or riding or driving any animal on the road shall stop the vehicle or animal, as the case may be, or cause it to proceed in or keep to a particular line of traffic or direction, when directed so to do by the police officer or school patrol:

(b) No pedestrian shall proceed across the road in contravention of a direction to stop given by the police officer or school patrol, either to pedestrians or to pedestrians and other traffic.

(2) Every pedestrian and every person using any vehicle or riding or driving any animal on the road shall conform to or cause the vehicle or animal to conform to the directions given by any traffic sign.

(3) Any person who fails to comply with the provision of this section shall be guilty of an offence.”

18. Offence to carry passengers for reward on goods or pick-up vehicles— The principal Ordinance is amended by inserting after section 58 the following section:-

“58A. Offence to carry passengers for reward on goods or pick-up vehicles—(1) It shall be an offence to use or permit to be used any goods vehicle or pick-up vehicle for the purpose of carrying passengers for hire or reward and on conviction every person shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 1,000 tala.

(2) This section shall not apply to the carriage of passengers for hire or reward where the vehicle had been hired for a special purpose where no other mode of public

transportation is available, or where the vehicle had been hire on the occurrence of an accident or other emergency, in either case where the driver did not offer or did not hold himself out as willing to use his vehicle to carry passengers for hire or reward."

19. Duty to give information— Section 72 of the principal Ordinance is repealed and the following section is substituted:—

"72. **Duty to give information**— Where the driver of a vehicle is alleged to be guilty of an offence under this Ordinance or any offence involving dishonesty towards a passenger or with respect to any goods or freight carried on the vehicle the owner of the vehicle shall, on demand by any police officer, give such information as he can as to the identity of the driver, and if he fails to do so shall be guilty of an offence."

20. Offences and general penalties— The principal Ordinance is amended by inserting after section 72 (as substituted by section 19 of this Act) the following section:—

"72A. **Offences and general penalties**(1) Any person who fails to do any act required by this ordinance to be done, and any person who does any act which this Ordinance forbids to be done commits an offence.

(2) Any person convicted of an offence under this Ordinance or any regulation made thereunder for which no special penalty is provided shall be liable in the case of the first offence to a fine not exceeding 200 tala and in the case of a second or subsequent conviction to a fine not exceeding 400 tala or to imprisonment for a term not exceeding 3 months.

(3) Any person who commits a breach of any rule or traffic order made by the Principal Licensing Authority or by the Board for which no special penalty is provided in this Ordinance or any regulation made thereunder shall be liable on conviction to a fine not exceeding 50 tala."

21. Powers of police officers— The principal Ordinance is amended by inserting after section 72A (as inserted by section 20 of this Act) the following section:—

"72B. Powers of police officers—(1) Every police officer, if for the time being in uniform or in possession of any warrant or other evidence of his authority as a police officer, is authorised to enforce the provisions of this Ordinance and any regulations or rules for the time being in force under this Ordinance, and in particular may at any time—

- (a) Direct any person being in charge of or in any vehicle, whether on a road or not, or any person on any road to stop and furnish his name and address and give any other particulars required as to his identity and give such information as is within his knowledge and as may lead to the identification of the driver or person in charge of any vehicle;
- (b) inspect, test, and examine the brakes or any other parts of any vehicle on any road or any equipment thereof;
- (c) At the expense of the owner, move or cause to be moved to any place of safety any vehicle on any road, if the police officer believes on reasonable grounds that it causes an obstruction in the road or to any vehicle entrance to any property or its removal is desirable in the interests of road safety or for the convenience or in the interests of the public;
- (d) Direct the driver or person in charge of any vehicle on any road to remove the vehicle from the road or any specified part of any road, if the police officer believes on reasonable grounds that it causes an obstruction in the road or to any vehicle entrance to any property or its removal is desirable in the interests of road safety or for the convenience or in the interests of the public.

(2) Any such police officer, if he believes on reasonable grounds that any vehicle does not comply with the provisions of this Ordinance or the provisions of any regulations for the time being in force under this Ordinance, may, by notice in writing given to the driver or owner of the vehicle, direct that the vehicle be not used on any road, and that notice shall con-

tinue in force until the vehicle has been made to comply with the provisions of any such Ordinance or regulations as aforesaid:

Provided that any such notice may be subject to a condition to the effect that the vehicle may continue to be used to reach any specified place for repair or may continue to be used for a given time or under limitations as to speed or route or otherwise.

(3) Any such police officer, if he believes on reasonable grounds that any vehicle on any road is not in a safe condition to use the road, may affix or cause to be affixed to the vehicle a notice to that effect and may give to the driver or owner of the vehicle a notice directing that the vehicle shall be removed from the road and shall not be used on any road until—

- (a) It has been inspected by an officer authorised to issue a certificate of fitness or a warrant of fitness, as the case may require; and
- (b) The officer is satisfied that the vehicle is in a safe condition for use on the road; and
- (c) A new certificate of fitness or a new warrant of fitness, as the case may require, has been issued for the vehicle and is displayed on that vehicle:

Provided that any such notice may be subject to a condition to the effect that the vehicle may continue to be used on a road to reach any specified place for repair.

(4) Where any direction is given under subsection (2) of this section, the owner of the vehicle shall not use that vehicle on a road until a new certificate of fitness or a new warrant of fitness, as the case may require, has been obtained for and is displayed on that vehicle.

(5) Every person commits an offence who removes, obscures, or renders indistinguishable a notice affixed to a vehicle pursuant to subsection (3) of this section, unless a new certificate of fitness or permit or warrant of fitness, as the case may require, has been obtained for that vehicle.

(6) Every person to whom any direction is given pursuant to this section shall comply with that direction, and no person shall do any act which is for the time being forbidden pursuant to this section:

Provided that no person shall be deemed to have committed a breach of this subsection in so far as it relates to a prohibition under subsection (2) or subsection (3) of this section, unless the Court is satisfied that the police officer had reasonable grounds for believing that in all the circumstances of the case the prohibition was necessary in the interests of the safety of the driver or person in charge of the vehicle or of any other person or of the public."

22. Fees—(1) The principal Ordinance is amended by repealing the whole of the First Schedule thereto (as inserted by section 7 of the Road Traffic Amendment Act 1969) and substituting the new First Schedule set out in the First Schedule to this Act.

(2) Section 7 of the Road Traffic Amendment Act 1969 is consequentially repealed.

23. Amendments to penalties— The principal Ordinance is amended as set out in the Second Schedule hereto.

SCHEDULES

FIRST SCHEDULE

Section 21:

Fees for Annual Licences

1. Vehicle Licences (Sec. 9)—	§
(a) Goods vehicles, tractors, and trailers (a separate fee is payable in respect of each trailer)	15.00
Additional fee for every 5 cwt net weight of the vehicle or part thereof	6.00

Provided that no licence shall be payable in respect of a tractor used exclusively in connection with the cultivation or farming

of the owner's plantation or farm and used on the road only in proceeding from one part of the plantation or farm to another part of the same plantation or farm, or in proceeding to or from a garage in connection with the servicing or repair of such tractor

(b) Public service vehicles other than taxis-

The fee shall be the same as is payable for goods vehicles of the equivalent net weight plus the amount shown for every passenger (seated) the vehicle is licensed to carry

3.00

(c) Taxis and rental vehicles

60.00

(d) Private motor vehicles (other than motor cycles and rental vehicles)

25.00

(e) Motor cycle (with or without side car)-

Where any licence mentioned above is issued for any number of months less than 12 the licence fee shall be the proportion of the appropriate fee above which the number of months covered by the licence bears to 12 months

10.00

(f) Dealer's Licence (Sec. 19)

30.00

2. Driving Licence—

(a) On issue but not including test of competence (Sec. 29)

5.00

(b) On renewal for 1 year (Sec. 32)

2.00

(c) On endorsement of an international driving licence (Sec. 27)

1.00

Other Fees

- | | | |
|----|---|------|
| 3. | Vehicle Licence on Registration (Sec. 13) | 3.00 |
| 4. | Transfer of Vehicle Licence (Sec.17) | 3.00 |
| 5. | Duplicate Vehicle Licence Label (Sec. 12) | 2.00 |
| 6. | Road Service Licences— | |

(a) Application in respect of 1 route for a road service licence (Sec. 59)	6.00
(b) Road Service Licence for each 3 months (Sec. 60)	6.00
(c) Application for transfer of road service licence (Sec. 66)	5.00
(d) Application for amendment of road service licence (Sec. 67)	5.00
(e) Application for temporary road service licence for every day for which licence applied for (Sec. 68)	3.00
7. Learner's Permit (Sec. 28)	3.00
8. Duplicate Driving Licence (Sec. 32)	5.00
9. New Driving Licence without endorsement (Sec. 35)	5.00
10. Registration Plates (Sec. 13)—	
Two plates for motor cycle or other vehicle or trailer	3.00

SECOND SCHEDULE

Section

Amendments to Penalties

Section Amended	Repeal	Substitute
Section 34 (4)	100 tala	500 tala
Section 35 (4)	100 tala	200 tala
Section 39 (1)	400 tala	1,000 tala
Section 39A	1,000 tala	2,000 tala
Section 40 (1)	400 tala	1,000 tala
Section 44 (3)	1,000 tala	2,000 tala
Section 44 (4)	100 tala	200 tala
Section 55A	100 tala	500 tala
Section 71 (1)	200 tala	1,000 tala
Section 71 (2)	100 tala	500 tala
Section 73 (4)	20 tala	50 tala