



ANALYSIS

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| <p>1. Title
Short Title</p> | <p>2. Minor offences procedure established</p> |
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1995, No. 3

An Act to amend the Transport Act, 1966

(17 November 1995)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short Title - This Act may be cited as the Transport Amendment Act 1995 and shall be read together with and deemed part of the Transport Act, 1966 (hereinafter called "the principal Act.").
2. Minor offences procedure established - The principal Act is amended by repealing Part VA, and substituting the following new Part VA.

"PART VA
MINOR OFFENCES

55A. Interpretation - In this Part unless the context shall otherwise require -

"Minor Offence" means an offence specified in the Schedule;

"Parking Offence" means parking in breach of any provision made under this Part."

55B. Minor Offences - (1) Where a constable has reason to believe that the user of a vehicle has committed a minor offence, the constable may issue a minor offence notice in the form prescribed by regulations made pursuant to this Act, requiring the user of the vehicle to pay a fine of the amount set out in the Schedule in respect of the alleged offence by -

- (a) attaching the notice, or a copy thereof, to the vehicle to which the notice relates; or
- (b) delivering the notice, or a copy thereof, personally to the person who is the user of the vehicle or who is accompanying that person; or
- (c) sending the notice, or a copy thereof, to the user or owner of the vehicle by post addressed to the user or owners last known place of residence or business.

Price \$3.00

(2) Every person who shall be required to pay a fine pursuant to subsection (1) may -

- (a) elect to pay the fine within 7 days in which event a receipt shall be issued and the person shall not be liable to any further prosecution of any kind in respect of that offence;
- (b) elect not to pay the fine either immediately or within 7 days of the minor offence notice having been issued, in which event that person shall be liable to prosecution under section 55C.

(3) Where a minor offence notice, or a copy thereof, is attached to the vehicle to which the notice relates pursuant to subsection (1), the notice or copy shall be deemed to have been served on every person liable in respect of the alleged offence and to have been served when the notice or copy was attached to the vehicle.

(4) Where a minor offence notice, or a copy thereof, is sent to a person by post addressed to the person at the person's last known place of residence or business pursuant to subsection (1), the notice or copy shall be deemed to have been served on the person when it would be delivered in the ordinary course of post.

(5) Every minor offence notice shall be in a form prescribed by regulations and shall contain -

- (a) such particulars of the alleged minor offence as are sufficient to fairly inform a person of the time, place and nature of the alleged offence together with such other details as may be described; and
- (b) the amount of the fine in respect of the minor offence; and
- (c) a statement of the consequences if the person served with the notice does not pay the fine within 7 days;
- (d) the date upon which a prosecution in the High Court shall be commenced being a date not less than 7 days from the date of the alleged offence.

55C. Prosecution of minor offences - (1) Every person served with a minor offence notice and who does not pay the fine within 7 days of being served shall be liable to prosecution in respect of the offence to which the notice shall relate and shall upon conviction be liable to a fine not exceeding \$100.00.

(2) Notwithstanding anything to the contrary in any other Act, every prosecution of a minor offence may be commenced against a person served with a minor offence notice by filing the notice in the High Court and without further service of any other documentation upon the offender.

(3) Every prosecution commenced pursuant to this section may be proceeded with in accordance with the provisions of the Criminal Procedure Act, 1980-81.

55D. Powers of constables in relation to parking offences - (1) A constable shall have the following powers in relation to parking offences, and such further powers as may be prescribed -

- (a) to direct any person on any road and apparently in charge of or in any vehicle to furnish that person's name and address and give any other particulars required as to the person's identity and give such information as is within the person's knowledge and as may lead to the identification of the driver or person in charge of any vehicle;
- (b) if the constable believes on reasonable grounds that a vehicle on a road causes an obstruction in the road or to any vehicle entrance to any property or that the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public -
 - (i) enter, or authorise another person to enter, the vehicle for the purpose of moving it or preparing it for movement; and
 - (ii) move, or authorise another person to move, the vehicle to any place where it does not constitute a traffic hazard;
- (c) 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 constable believes on reasonable grounds that it causes an obstruction in the road or to any vehicle entrance to any property, or that its removal is desirable in the interests of road safety or for the convenience or in the interest of the public.

(2) Every person commits an offence who fails to comply with any direction given under subsection (1)(a) of this section or who gives in response to all direction under that provision any information that the person knows to be false.

(3) Every person to whom any direction is given under the authority of this section shall comply with that direction and no person shall do any act that is for the time being forbidden by any direction given under the authority of this section.

(4) Any person who is authorised by a constable to -

- (a) enter a vehicle for the purpose of moving it or preparing it for movement; or
- (b) move a vehicle to a place where it does not constitute a traffic hazard,

may do so, but shall do everything reasonably necessary to ensure that the vehicle is not damaged in the course thereof.

55E. Owner liability for parking offences - (1) Every proceeding for a parking offence may be taken against any one or more of the following persons -

- (a) the person who allegedly committed the offence;
- (b) any person who, at the time of the alleged offence, was registered as the owner, or one of the owners, of the vehicle involved in the offence;

(c) any person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence whether (jointly with any other person or not), whether or not (in the case of a person referred to in paragraph (b) or paragraph (c) of this subsection) the person is an individual or was the driver, person in charge, or user of the vehicle at the time of the alleged offence was committed.

(2) In any proceedings under section 55C taken against a person referred to in paragraph (b) or paragraph (c) of subsection (1), it shall be conclusively presumed that -

- (a) the person was the driver, person in charge and user of the vehicle at the time of the alleged offence; and accordingly,
- (b) the acts or omissions of the driver, person in charge, or user of the vehicle at that time, were the acts or omissions of the first mentioned person.

(3) It shall be a defence to proceedings under section 55C against a person referred to in paragraph (b) or paragraph (c) of subsection (2), if the person proves that at the time the alleged offence was committed another person was unlawfully in charge of the vehicle.

(4) This section shall have effect notwithstanding anything to the contrary in any Act or rule of law.

55F. Regulations - For the purposes of this Part the Queen's Representative may by Order in Executive Council make regulations for all or any of the following purposes -

- (a) prescribing the form of minor offence notices;
- (b) offences involving parking a vehicle on a road in excess of such period of time as may be prescribed;
- (c) offences involving parking a vehicle at a location on a road reserved for specific vehicles as may be prescribed;
- (d) offences involving parking a vehicle whether attended or unattended without due care or without reasonable consideration for other persons using the road;
- (e) offences involving parking a vehicle so as to cause or be likely to cause damage to ornamental grass, plants, shrubs or flower beds laid out or planted on or adjacent to the road;
- (f) offences involving parking contrary to the terms of any notice traffic sign, or marking or sign maintained on or adjacent to the road indicating the stopping standing or parking of the vehicle is prohibited limited or restricted;
- (g) offences involving parking so as to obstruct other traffic or any view of the road way by other drivers;
- (h) procedures in relation to prosecutions under section 55C.

55G. New Schedule - The principal Act is amended by inserting after the Third Schedule, the Schedule set out in the Schedule to this Act.

This Act is administered by the Police

SCHEDULE

(s. 55B(1)(a))

New Schedule

"FOURTH SCHEDULESCHEDULE OF MINOR OFFENCES AND FINES PAYABLE

<u>Section</u>	<u>Offence</u>	<u>Fine Payable</u>
5(2)	Using unregistered vehicle	\$20
11 (a)(b) & (c)	Using unauthorised, deceptive or obscured registration plates or unauthorised licence	\$20
17	Driving without a licence	\$40
18	Failing to produce driver's licence	\$40
19	Failing to comply with conditions of licence	\$40
20	Failing to comply with age restrictions	\$40
21	Learner drivers underage	\$40
24	Offences in relation to Driver's licences	\$40
53	Operating unsafe vehicle	\$40
55D & 55E	Parking offences	\$10
56	Exceeding speed limit	\$40
57	Exceeding speed limit in reduced speed zones	\$40
61	Exceeding speed limit whilst towing a trailer	\$40
62	Exceeding speed limit whilst driving power cycle	\$40
64	Exceeding speeding limit whilst passing school bus	\$40

65	Failing to comply with lighting requirements	\$20
66	Driving without proper headlamps	\$20
67	Failing to dip lights	\$20
68	Driving without proper rear lamp	\$20
69	Driving without rear reflector	\$20
70	Driving without proper brakes	\$20
71	Driving without proper steering	\$20
73	Driving with defective tyres	\$20
74	Driving without proper windscreen wipers	\$20
75	Driving without rear-vision mirror	\$20
77	Means of entrance and exit	\$20
78	Operating with dangerous fittings	\$20
79	Operating without proper warrant of fitness	\$20
81 to 83 (inclusive)	Exceeding loading dimensions	\$20
84 to 85 (inclusive)	Infringing towing requirements	\$20
87 to 93 (inclusive)	Infringing provisions relating to motor cycles	\$20
94 to 95 (inclusive)	Infringing provisions relating to power bicycles	\$10
99	Infringing provisions relating to pedestrians	\$10

102 to 107 (inclusive)	Infringing provisions relating to horse traffic	\$20
108	Infringing provisions relating to heavy traffic	\$40
109	Infringing provisions relating to hire of vehicles	\$40"
