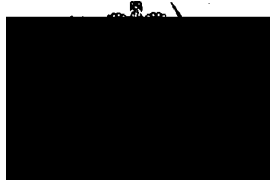


**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,331 of 23rd DECEMBER, 1986.

I ASSENT,
PETER TERRY,
GOVERNOR.
23rd December, 1986.



GIBRALTAR No. 25 of 1986.

AN ACT to amend the Traffic Act (Act 1957 No. 4).

ENACTED by the Legislature of Gibraltar.

Short title and commencement.

1. This Act may be cited as the Traffic (Amendment) Act 1986 and shall come into operation on a date to be appointed by the Governor by notice published in the Gazette.

Amendment of section 2.

2. Section 2 of the Traffic Act (hereinafter called the principal Act) is amended-

- (a) by renumbering subsection (1) as section 2 and repealing subsection (2);

- (b) by deleting the definition of "examiner" and substituting therefor the following definition -

"examiner" means a person appointed under section 4A to be an examiner of drivers or of vehicles, and includes the Chief Examiner";

- (c) by deleting the figures "21" from the definition of "self-drive car" and substituting "16G".

Insertion of new section 2A.

3. The principal Act is amended by the insertion, immediately after section 2, of the following new section -

"Application to the Crown.

2A.(1) Parts I, II, III (in so far as it relates to bicycles), V and VI shall, subject as hereinafter in this Act provided, apply to vehicles and persons in the service of the Crown and for the purpose of proceedings for an offence in connection with any such vehicle against any person other than the driver of the vehicle, the person nominated in that behalf by the department in whose service the vehicle is used shall be deemed to be the person actually responsible, unless it is shown to the satisfaction of the court that the driver only was responsible.

(2) Part IA shall, in so far as it relates to the examination of motor vehicles and trailers, bind the Crown in right of the Government of Gibraltar but shall not bind the Crown in right of the Government of the United Kingdom."

Repeal of section 4.

Section 4 of the principal Act is repealed.

Insertion of new Part IA.

5. The principal Act is amended by the insertion immediately after section 3, of a new Part, as follows-

"PART IA. TESTING EXAMINATION AND INSPECTION.

Designation of Test Centre.

- 4.(1) The licensing authority may from time to time by notice designate a place, to be known as the Motor Vehicles Test Centre, as a place for the examination of motor vehicles and trailers, and may, if he considers it necessary or desirable, designate any other place or places for the like purpose.
- (2) The licensing authority shall be responsible for providing and maintaining the apparatus needed for the examination of vehicles.

Appointment of examiners.

4A. The licensing authority may from time to time, by order published in the Gazette, appoint a Chief Examiner and as many examiners as he may think necessary for the testing and examination of drivers and of vehicles.

Examination of motor vehicles and trailers.

4B.(1) The Governor may make regulations requiring the examination of motor vehicles and trailers of all or any classes, to ascertain whether they comply with the requirements of this Act and of any regulations made thereunder for the time being in force relating to the construction and condition of motor vehicles and trailers or their accessories or equipment and providing for the issue of test certificates in respect of vehicles which are found to comply with those requirements.

(2) Regulations made under subsection (1) may-

- (a) provide for initial examinations and for annual or other periodical examinations thereafter;
- (b) provide for the issue and validity of test certificates;
- (c) provide for notification of failure to satisfy the examiner;
- (d) provide for the re-examination of vehicles that are found not to comply with the prescribed conditions;
- (e) provide for the reporting of alterations to vehicles and re-examination on account thereof;

- (f) Prescribe the fees to be paid to the licensing authority in respect of the initial, annual or periodical examinations or any reexaminations;
- (g) Provide for appeals from any decision or requirement of an examiner;
- (h) Prescribe penalties for failure to comply with the regulations or any requirement lawfully made under them.

Road side tests.

4C.(1) The Governor may make regulations empowering any police officer in uniform, who has reason to suspect that a motor vehicle or trailer being used on a road may, by reason of some defect, be unfit for the purpose for which it is licensed, to require the driver of the vehicle to stop it for examination.

(2) Regulations made under subsection (1) may-

- (a) empower the police officer, either alone or together with an examiner, to examine the vehicle;
- (b) empower the police officer or examiner to require the owner of the vehicle to have such defects as may be found in the vehicle remedied within such time as may be prescribed;
- (c) provide for appeals from any decision or requirement of a police officer or examiner;
- (d) Prescribe penalties for failure to comply with the regulations or any requirement lawfully made under them.

Tests of compliance.

4D.(1) If either the licensing authority or the Commissioner of Police has reasonable suspicion that the requirements imposed by law (whether generally or at specified times or in specified circumstances) as to brakes, silencers, steering gear, tyres and lighting equipment and reflectors are not complied with as respects any motor vehicle, he may, by order in writing, require the owner to apply at the Motor Vehicle Test Centre for the

certificate of an examiner that the vehicle does comply with those requirements.

(2) A person who fails without reasonable excuse to comply with an order issued under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of £50.

Suspension of licence.

4E.(1) If, on the examination of a motor vehicle under section 4C or 4D, it appears to the examiner that the vehicle, owing to some defect, is unfit for use, he may, by notice in writing given to the owner of the vehicle, suspend the motor vehicle licence for that vehicle.

(2) A copy of the notice of suspension issued under subsection (1) shall be served forthwith on the Commissioner of Police.

(3) Where the examiner is satisfied that the defects in a vehicle do not create an immediate risk to public safety, he may issue a notice under subsection (1) but endorse it to come into operation at some future date.

(4) The examiner shall lift the suspension as soon as he is satisfied that the defects have been remedied, and shall give notice that the suspension has been lifted to the owner of the vehicle and to the Commissioner of Police.

Inspection of public Service vehicles.

4F.(1) A police officer of or above the rank of sergeant, in uniform, shall be entitled -

- (a) to enter and inspect any public service vehicle, and for that purpose to require any such vehicle to be stopped;
- (b) at any time require a public service vehicle to be submitted to an examiner within such period as he may specify;
- (c) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that a public service vehicle is kept.

(2) A person who obstructs a police officer in the performance of his duty under this section or, when required to do so, fails to stop a vehicle or fails to submit a vehicle to an examiner within the period specified is guilty of an offence.

Horse-drawn vehicles.

4G.(1) If the licensing authority or the Commissioner of Police has reason to suspect that a horse-drawn vehicle is unfit for the purpose for which it was licensed or does not comply with any prescribed conditions as to fitness, he may order the person in charge or the owner of the vehicle to produce it for examination by an examiner at a specified time and place.

(2) If, on the report of the examiner, it appears to the licensing authority that the vehicle does not comply with any prescribed conditions of fitness or is unfit for the purpose for which it is licensed, he may suspend the licence until all necessary repairs, adjustments or alterations have been effected to the satisfaction of an examiner.

(3) A person who fails to obey an order given under the provisions of subsection (1) is guilty of an offence.

(4) A person aggrieved by the suspension of a licence under this section may, within 21 days from the date of such suspension, appeal to the magistrates' court and upon such appeal the court may make such order as it thinks fit and such order shall be binding on the licensing authority.

Testing of drivers.

4H.(1) The Governor may by regulations prescribe tests of competence to drive motor vehicles of any category or categories, and such regulations may prescribe the nature of the tests to be taken and the manner in which the results of such tests are to be evidenced, and without prejudice to the generality of the foregoing, regulations made under this section may require a person submitting himself for a test-

(a) to provide a suitable vehicle for the purpose of the test; and

(b) to pay to the licensing authority such fee as may be prescribed,

and the regulations may specify different fees in respect of tests of competence to drive vehicles of different categories.

(2) Regulations made under subsection (1) may provide that no person shall take a test of competence to drive a motor vehicle of any category unless he has first undergone such

examination as may be prescribed regarding his physical and mental fitness to drive."

Amendment of section 9.

6. (1) Section 9 of the principal Act is amended by substituting a colon for the full stop at the end of subsection (1) and adding the following proviso-

"Provided that-

(a) the licensing authority shall not issue a licence in respect of a motor vehicle which has not previously been licensed in Gibraltar unless he is satisfied that the import duty, if any, on that vehicle has been paid;

(b) where any regulation for the time being in force made under section 4B requires the examination of a motor vehicle, no licence shall be issued in respect of that vehicle unless a valid test certificate in respect of it is produced to the licensing authority."

(2) Subsection (4) of section 9 is repealed.

Repeal of section 12.

7. Section 12 of the principal Act is repealed.

Amendment of section 13.

8. Section 13 of the principal Act is amended -

- (a) by renumbering it as subsection (1);
- (b) by deleting from subsection (1) the words "for which a licence under this Act is not in force" and substituting "for which there is no licence valid under this Act or for which the licence is suspended"; and
- (c) by adding the following new subsections -

"(2) For the purposes of this section, a licence shall be deemed to be suspended if the owner of the vehicle, being under a duty to obtain a test certificate, fails to

take all necessary steps to obtain a test certificate within the time prescribed by regulations made under section 4B or if he has been refused a test certificate.

(3) The Governor may by regulations prescribe circumstances in which, notwithstanding the provisions of this section, a motor vehicle may be driven without a licence or while a licence is suspended."

Replacement of section 16.

9. Section 16 of the principal Act is repealed and replaced by the following new sections-

"Offence to drive unless licensed.

16.(1) Subject to the provisions of sections 17, 18 and 46, no person shall –

(a) drive a motor vehicle of any category upon a road unless he is the holder of a driving licence valid in respect of that category; or

(b) employ any other person to drive a motor vehicle of any category upon a road unless that person is the holder of such a driving licence.

(2) A person who contravenes the provisions of subsection (1) is guilty of an offence.

Application for licences.

16A.(1) An application for a driving licence shall be in such form as may be prescribed and shall –

(a) specify the category or categories of vehicle which the applicant wishes to be licensed to drive;

(b) contain a declaration-

(i) that he is not, under the provisions of this Act, ineligible or disqualified for obtaining or holding the licence for which he is applying;

(ii) that he is or is not, as the case may be, suffering from any such disease or disability as may be specified in the form;

(c) be accompanied by the prescribed fee.

- (2) In any proceedings, the fact that a driving licence has been granted to a person shall be evidence that that person, for the purpose of obtaining that licence, made a declaration that he was not ineligible or disqualified for obtaining or holding a licence.

Requirements as to physical and mental fitness.

16B.(1) No driving licence shall be granted to any person who fails to meet such standards of physical and mental fitness as may be prescribed by regulations made by the Governor.

- (2) Regulations made under subsection (1) may set different standards of fitness for drivers of vehicles of different categories.

- (3) For the purposes of this section, "driving licence" includes a learner's licence and a Services driving licence.

Requirements for granting of driving licence.

16C.(1) No driving licence shall be granted to any person, unless -

(a) he has passed the appropriate driving test; or

(b) he was the holder of a driving licence issued under this Act which expired not more than five years previously.

Disqualification.

16D. No driving licence shall be granted to any person who is disqualified from obtaining or holding a licence-

(a) under the provisions of this Part, by reason of a conviction; or

(b) under an order of a court made under this or any other Act.

No person to hold two licences.

16E. No driving licence shall be granted to any person who already holds a driving licence, other than a Services driving licence, granted under this Act, whether that licence is suspended or not.

Form and effect of driving licence.

16F.(1) A driving licence shall be in such form as may be prescribed and may authorize the driving of motor vehicles of any one or more of the categories specific in section 16G.

(2) A driving licence granted to a person who passed his test of competence-

(a) when driving a vehicle with automatic transmission, shall be limited to the driving of vehicles with automatic transmission

(b) when driving a vehicle propelled by electrical power, shall be limited to the driving of vehicles so powered,

but nothing in this subsection shall be deemed to prevent a person who passed a test of competence driving a vehicle of which the transmission is manually controlled, from driving such vehicles and also vehicles with automatic transmission and vehicles propelled by electrical power.

(3) A driving licence granted to a person who passed his test of competence driving a special kind of vehicle, which in the opinion of the examiner did not show that such person was competent to drive all vehicles falling within one of the categories specified in section 16G, shall be limited to the driving of that particular kind of vehicle.

Categories of motor vehicles.

16G.(1) For the purposes of sections 411, 16B and 16F, motor vehicles shall be divided into the following categories-

A. motor cycles, with or without side-cars, invalid carriages and three-wheeled motor vehicles with an unladen weight not exceeding 400 kilograms;

B. motor vehicles having not more than eight seats, in addition to the driver's seat, with a laden weight not exceeding 3,500 kilograms;

C. motor vehicles (not being constructed or adapted to form part of an articulated vehicle) used for the carriage of goods with a laden weight exceeding 3,500 kilograms;

CI. articulated motor vehicles used for the carriage of goods with a laden weight exceeding 3,500 kilograms;

D. motor vehicles used for the carriage of passengers, with more than eight seats in addition to the driver's seat;

E. motor vehicles of category B, C, CI or D towing a trailer with a laden weight exceeding 750 kilograms;

F. motor vehicles designed, constructed and used for the purpose of trench digging or any kind of excavating or shovelling work;

G. motor vehicles designed and constructed as mobile cranes;

H. motor vehicles designed and used as fire engines;

I. road rollers;

J. motor vehicles of any description not included in categories A to D and F to I;

K. motor vehicles of categories F to J towing a trailer with laden weight exceeding 750 kilograms.

(2) In the following cases, a licence to drive a vehicle of one category shall authorize the driving of a vehicle of such other categories as are specified in this subsection, that is to say-

(a) a licence to drive vehicles in category C1 shall also authorize the driving of vehicles in category C;

(b) a licence to drive vehicles in any of categories C, C1 and D shall also authorize the driving of vehicles in category B;

(c) a licence to drive vehicles in any of categories C to D and F to J shall also authorize the driving of any such vehicles when coupled to a trailer with a laden weight not exceeding 750 kilograms;

(d) a licence to drive vehicles of category B shall authorize the driving of any such vehicle when coupled to a trailer, provided that -

(i) the laden weight of the trailer does not exceed 750 kilograms or the unladen weight of the vehicle, whichever is the lesser; and

(ii) the combined laden weight of the vehicle and the trailer does not exceed 3,500 kilograms.

Duration of driving licences.

16H.(1) A driving licence shall, unless previously revoked or surrendered, remain in force until the holder attains the age of 70.

(2) A driving licence may be granted to a person of or over the age of 70, subject to such conditions as may be prescribed, but any such licence shall remain in force for three years only.

(3) Where, during the period that a driving licence remains in force, the holder of the licence takes up normal residence outside

Gibraltar in a Member State of the European Communities, the driving licence shall, so long as he remains normally resident in that State continue in force until the expiry of the period of validity or until the expiry of one year immediately following the date on which the holder first took up such residence, whichever period expires the earlier.

Production of licences.

16 I. A person driving a motor vehicle on a road shall, on being so required by any police officer, produce his driving licence for examination, and if he fails to do so is guilty of an offence:

Provided that if, within five days after the production of his licence was so required the holder of the licence produces it in person at the Central Police Station, he shall not be convicted of an offence against this section."

Amendment of section 17.

10. Section 17 of the principal Act is amended -

- (a) by repealing subsection (3) thereof; and
- (b) by deleting from subsection (7) thereof the words and figures "Subsection (5) of section 16" and substituting therefor "Section 16I".

Amendment of section 18.

11. Section 18 of the principal Act is amended by deleting paragraph (c) of subsection (3).

Repeal of sections 19 to 22.

12. Sections 19, 20, 21 and 22 of the principal Act are repealed.

Insertion of new sections 19, 20 and 21.

13. The principal Act is amended by inserting, immediately after section 18, the following new sections-

"Suspension of licences.

- 19.(1) If it appears to the licensing authority that the holder of a driving licence is suffering from an such physical or mental disease or disability as is likely to cause the driving by him of a motor vehicle a source of danger to the public, he may, by notice in writing to such person, suspend the licence.
- (2) A person whose licence has been suspended under subsection (1) shall be entitled to submit himself for medical examination as may be prescribed and if, at such examination, he is found to be of the required standard of fitness, the licensing authority shall, by notice in writing, lift the suspension.
- (3) If the person whose licence was suspended is not found to be of the required standard of fitness, the licensing authority shall, by notice in writing, revoke the licence.
- (4) A copy of any notice given under this section shall forthwith be served on the Commissioner of Police.

Renewal of licences.

20. A driving licence which is about to expire or which has expired may, upon payment of the prescribed fee, be renewed for a further period similar to that prescribed by section 16H, without the need for a further test of competence:

Provided that a driving licence shall not be renewed under this section if more than five years have elapsed since the date when it expired.

Appeals.

21. A person aggrieved by -
- (a) the refusal of the licensing authority to grant him a driving licence;
 - (b) the refusal of the licensing authority to renew a driving licence;
 - (c) the suspension by the licensing authority of a driving licence; or

(d) the revocation by the licensing authority of a driving licence,

may, within 21 days of the date of such refusal, suspension or revocation, appeal to the magistrates' court and on any such appeal the court may make such order as it thinks fit and such order shall be binding on the licensing authority."

Amendment of section 24.

14. Section 24 of the principal Act is amended by deleting subsection (1) and substituting the following subsection-

"(1) Where a person who is the holder of a driving licence is disqualified from obtaining or holding a licence by reason of a conviction or under an order of court, the driving licence shall be suspended so long as the disqualification continues in force."

Amendment of section 38.

15. Section 38 of the principal Act is amended-

- (a) by renumbering the same as subsection (1) thereof; and
- (b) by adding the following subsection -

"(2) This section shall not apply in relation to an offence if, at the time of the offence or immediately thereafter, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed".

Repeal of section 43.

16. Section 43 of the principal Act is repealed.

Amendment of section 44.

17. Section 44 of the principal Act is amended by deleting paragraph (m).

Repeal of sections 56 and 57.

18. Sections 56 and 57 of the principal Act and the sub-heading above them are repealed.

Amendment of section 60.

19. Section 60 (1) of the principal Act is amended-

- (i) by deleting from paragraph (b) the words "certificates of fitness" and substituting the words "test certificates" and
- (ii) by deleting subsections (2) and (3) and substituting the following:-

"(2) Where an application for a road service licence is made before a vehicle which is proposed to be used under such licence is acquired by the applicant, then, notwithstanding that the Commission has, in accordance with the provisions of section 61, decided to grant a licence in respect of such vehicle, it shall not do so until a test certificate is produced."

Amendment of section 83.

20. Section 83 of the principal Act is amended-

- (i) by deleting paragraph (a) and substituting the following:

"(a) the application for and issue of road service licences and test certificates and the fees to be paid in respect thereof;"

- (ii) by deleting paragraph (c) and substituting the following:

"(c) the issue of and the fees to be paid in respect of copies of licences or test certificates in the case of licences or certificates lost or destroyed;"

Minor amendments.

21.(1) The principal Act is amended by deleting from the provisions specified in subsection (2) the words "class" and "classes" wherever they

appear and substituting therefor respectively the words "category" and "categories".

(2) The provisions to which subsection (1) applies are sections 18(2) and (4), 23(1), 24(5) and 25(6).

Amendment of Act 1982 No. 36.

22. Section 4 of the Traffic (Amendment) (No. 2) Act 1982 is repealed.

Saving.

23. Notwithstanding anything in this Act, a driving licence issued prior to the date of the coming into operation of this Act shall continue to be valid until it expires unless previously revoked or surrendered, and for the purposes of this Act shall be deemed to be a licence granted under the principal Act as amended by this Act.

Passed by the Gibraltar House of Assembly on the 17th day of December, 1986.

P. A. GARBARINO
Clerk to the Assembly.