

IN THE KEYS

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**ROAD TRAFFIC AND HIGHWAYS  
(MISCELLANEOUS AMENDMENTS)  
BILL 2011**

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**Explanatory Memorandum**

1. This Bill, which is promoted by the Department of Infrastructure (“the Department”), makes a series of amendments to legislation concerned with road traffic and highways.

2. **Part 1** (*clauses 1 and 2*) gives the Bill its short title and provides for it to come into operation on one or more days appointed by the Department.

3. **Part 2** (as introduced by *clause 3*) makes amendments to the Road Traffic Act 1985. *Clause 4* inserts a new section 1A creating the offence of causing grievous bodily harm by dangerous driving and *clause 5* applies the existing definition of “dangerous driving” to the new offence.

4. *Clause 6* inserts 2 new offences of causing death and causing grievous bodily harm respectively by careless or inconsiderate driving. *Clause 7* inserts a section defining careless or inconsiderate driving.

5. *Clause 8* inserts the offence of causing death by driving when the person is unlicensed, disqualified for driving or uninsured.

6. *Clauses 9 and 10* extend the exception to the ban on motor racing and cycle racing respectively to occasions where it is permitted by or under any other enactment instead of just under the Road Races Act 1982.

7. *Clause 11* makes specific provision to enable the Manx Highway Code to be adapted from that having effect in Great Britain.

8. *Clause 12* inserts 4 new sections concerned with the seizure, retention and disposal of vehicles and related matters. Section 47A gives power to a constable to seize a motor vehicle if he or

she believes that it was being driven without insurance, has had no tax disc for at least a month or was being driven by a person who was disqualified for holding a driving licence, otherwise held no driving licence, was driving unaccompanied when he or she should have been accompanied or who was at the time committing a serious driving offence connected with drink or drugs. There is power for the constable to immobilise the vehicle concerned. Section 47B gives power for the Department to make further provision by regulations as to the removal, retention or storage of seized vehicles and for their release, forfeiture or disposal. Section 47C creates offences in connection with the new provisions and section 47D provides definitions of terms there used.

**9.** *Clause 13* inserts a new provision into section 53 enabling the punishments set out in Schedule 6 to be varied by order. *Clause 16* adds the new provision inserted by clause 13 to section 74 so that orders made under that provision require Tynwald approval. *Clause 14* amends section 55 to take account of substitution of the provisions in Part IV of Schedule 6 about alternative verdicts.

**10.** *Clause 15* amends section 63 about inquiries so that they are conducted by a person independent of the Department.

**11.** *Clause 17* amends the provisions in Schedule 2 to empower an examiner appointed by the Department to stop vehicles on roads when a constable in uniform is present. It becomes an offence to fail to stop as required.

**12.** *Clause 18* revises the disqualification provisions in Schedule 3 so as to increase the minimum period of disqualification for the more serious offences to 2 years. In the case of certain offences where the person is intoxicated or fails to provide a specimen when required to do so, the minimum disqualification period is increased to up to 5 years.

**13.** *Clause 19* amends Schedule 4 so as to enable various provisions relating to paid driving instruction to extend to classes of motor vehicle other than motor cars and so as to cater for instruction to learner drivers given by car dealers to be treated as paid instruction. The exemption that applies to police instructors is extended to members of the fire brigade who provide driving instruction. In particular it introduces a new procedure whereby the Registrar may serve a “stop notice” on a person if he or she considers that the person is giving instruction unlawfully and certain conditions are satisfied. If the person gives instruction to a person other than a close relative in contravention of a stop notice

it is an offence. The provisions with respect to appeals against a decision of the Registrar are revised to include appeals against service of stop notices and to provide for the appeal to be conducted by an independent adjudicator appointed by the Appointments Commission. The provisions about examinations and tests of ability to give driving instruction are slightly revised so as to reflect the current tests used. There is also some revision of the provisions about the time period that must elapse before another examination or part of it may be attempted and about examinations or parts of them that were not properly conducted.

**14.** *Clause 20* amends Schedule 5 so as to require a person to be insured against third-party risks by an insurance company authorised to carry on motor insurance business anywhere in the British Islands or the European Union, whereas at present the insurer must be so authorised with respect to the Island or the United Kingdom.

**15.** *Clause 21* makes a number of amendments to the table in Part I of Schedule 6 which lists offences, prescribes their respective penalties and provides for endorsements and disqualification and other relevant matters. Entries are included for the new offences created by the Bill, some penalties are increased and some entries amended as a result of other changes made by the Bill. The table in Part II is amended to vary the penalty points that attach to the offence of speeding. Part IV is replaced with more comprehensive provision with respect to alternative verdicts.

**16. Part 3** (as introduced by *clause 22*) amends the Road Traffic Regulation Act 1985. *Clause 23* makes new provision prohibiting double parking and parking adjacent to a dropped footway, cycle-path, cycle track or verge. These provisions are made enforceable as if imposed by an order under section 1 of the 1985 Act.

**17.** *Clauses 24 and 25* amend sections 3 and 3A so as to enable provision for road closures to be effected by notice instead of by order. In respect of closing of roads for filming it will be permissible to suspend the parking of vehicles and to allow the parking of up to 6 vehicles by the film participants. The prohibition on the use of a road by through traffic is extended from 24 to 48 hours. *Clauses 26 and 30* are consequential on the changes to sections 3 and 3A and *clause 27* removes a redundant provision in section 7 that is covered by the Interpretation Act 1976.

**18.** *Clause 28* amends and clarifies the provisions in section 15 regarding the placing of traffic signs. In the case of portable light

signals the consent of the Department is always needed. It is an offence to place traffic signs contrary to the provisions, the penalty for which is provided by the amendment to Schedule 4 in *clause 36*. *Clause 29* amends section 17 so as to extend the power to place traffic signs in an emergency to a constable or person acting under the instructions of the Chief Constable.

**19.** *Clause 31* amends section 28 so that it is the Department of Social Care that is to issue disabled person's badges in the form it considers appropriate (instead of the Department making regulations for the issue of the badges by the Department of Social Care in a form prescribed by regulations). A typographical error in the section is also corrected.

**20.** *Clause 32* inserts a new provision into section 31 to enable the maximum levels of fines in Schedule 4 to be varied by order. *Clause 34* amends section 39 so that these orders, and those under section 33, require Tynwald approval.

**21.** *Clause 33* substitutes a new section 33 providing for traffic wardens to be appointed by the Department of Infrastructure to carry out the functions conferred by or under that section under the direction of the Chief Executive of the Department. Currently traffic wardens are appointed by the Department of Home Affairs and act under the direction of the Chief Constable. The opportunity has been taken to revise the wording of the section slightly for reasons of clarity. *Clause 38* inserts a transitional provision into Schedule 6, the effect of which is to import standard provisions, applicable in the case of orders providing for a transfer of departmental functions, to cover the transfer of functions with respect to traffic wardens.

**22.** *Clause 35* makes consequential amendments to Schedule 1 about the notification of temporary traffic restrictions and *clause 37* amends Schedule 5A in respect of the provision on the amount of fixed penalties to enable an order to prescribe the penalty for offences under sections 11(3) and 14B(1).

**23.** **Part 4** (as introduced by *clause 39*) amends the Highways Act 1986. *Clause 40* inserts section 7A providing for the recovery of expenses where the Department has incurred excess costs due to heavy traffic on a highway.

**24.** *Clause 41* inserts section 16A providing a power to designate a line, to be known as an "improvement line", where a highway is to be widened. This prohibits new building or permanent

excavation without the Department's consent. *Clause 45* inserts section 85A which gives power to the Department to acquire any land (including premises) that lies between an improvement line and the boundary of a highway. *Clause 52* inserts a new Schedule making further provision about improvement lines.

**25.** *Clause 42* inserts section 32B enabling a local authority, after consultation with the Department, to enter into an agreement with a building owner for the provision of walkways. Detailed regulation-making powers are included.

**26.** *Clause 43* substitutes a new section 38 providing for the temporary closure of highways for the purposes of entertainment. The new section provides for the temporary closure of highways by public notice.

**27.** *Clause 44* amends section 51 to enable the Department to cut, lop or fell vegetation that is overhanging or is likely to fall on to a highway, road or footpath if there is immediate danger or the owner or occupier otherwise fails to do so within 14 days of being served a notice requiring him or her to do so. There is provision to recover the cost of the works from the owner or occupier.

**28.** *Clause 46* is consequential on other changes in the Bill with respect to regulation-making powers.

**29.** *Clause 47* inserts section 109A about agreements as to the execution of works made between the Department and a third party whereby that other party pays some or all of the cost of the works, including in particular the costs incurred by the Department.

**30.** *Clause 48* amends section 110 in order to widen the ability of the Department to recover expenses so that the section goes beyond applying just to recovery from the owners of premises and modifies the interest-charging provisions to match those in the new section 109A(5).

**31.** *Clause 49* amends section 115 so as to increase the maximum penalty for most of the offences under the Act from £1,000 to £2,500. It also enables the Department to vary the levels of fines specified in the section by order requiring the approval of Tynwald.

**32.** *Clause 50* enables the Department merely to specify the form of documents under the Act rather than having to prescribe them by regulations.

**33.** *Clause 51* amends Schedule 1A so as to remove the requirement for the Department to have to make regulations setting out what it must do when constructing traffic restraint works.

**34.** *Clause 53* makes a minor consequential amendment as a result of the removal of regulation-making powers.

**35.** *Clause 54* makes changes to the provisions dealing with the Road Works Code in Schedule 4. In particular these provisions enable the Department to step in and make good or repair a highway or bridge, including objects or equipment installed there, after undertakers have executed works and make further provision with respect to the service of default notices.

**36. Part 5** makes miscellaneous amendments and repeals. *Clause 55* amends the Petty Sessions and Summary Jurisdiction Act 1927. The penalty for the offence of furious driving is made the same as that for careless or inconsiderate driving under the Road Traffic Act 1985.

**37.** *Clause 56* makes an amendment to the Civil Service Act 1990 consequential on the transfer of the appointment of traffic wardens from the Department of Home Affairs to the Department of Infrastructure.

**38.** *Clause 57* makes amendments to the Road Transport Act 2001. The limitation on the weight that may be prescribed in respect of the definition of “goods vehicle” under section 7 is removed and the definition expanded to include not just motor vehicles and trailers constructed or adapted for use for the carriage of goods but any combination of them. A provision is added to section 10 to enable the Road Transport Licensing Committee to refuse an application for registration or an operator’s licence under the Act unless prescribed requirements are met. The Department is also given a power to make regulations authorising the Committee to refuse, suspend or revoke any registration or licence on health grounds. The opportunity is also taken to update references to UK and EU legislation.

**39.** *Clause 58* corrects a minor error in the Road Traffic (Amendment) Act 2006 and *clause 59* repeals provisions made redundant by the Bill.

**40.** By and large the provisions of the Bill are cost-neutral, being either self-financing through the recovery of costs or being

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administered by existing personnel as part of their ongoing responsibilities with no corresponding increase in budgetary provision. However, there will be some additional costs in enforcing the new driving offences, but these are not at present quantifiable, as they will depend on the number of cases arising each year.

**41.** In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

## **Arrangement of Sections**

Section

PART 1 — INTRODUCTORY PROVISIONS

1. Short title
2. Commencement

PART 2 — AMENDMENT OF ROAD TRAFFIC ACT 1985

3. Amendment of Road Traffic Act 1985
4. Section 1A inserted
5. Section 2A amended
6. Sections 2B and 2C inserted
7. Section 3ZA inserted
8. Section 3B inserted
9. Section 8 amended
10. Section 14 amended
11. Section 31 substituted
12. Sections 47A to 47D inserted
13. Section 53 amended
14. Section 55 amended
15. Section 63 amended
16. Section 74 amended
17. Schedule 2 amended
18. Schedule 3 amended
19. Schedule 4 amended
20. Schedule 5 amended
21. Schedule 6 amended

**PART 3 — AMENDMENT OF ROAD TRAFFIC  
REGULATION ACT 1985**

- 22.** Amendment of Road Traffic Regulation Act 1985
- 23.** Sections 2ZA, 2ZB and 2ZC inserted
- 24.** Section 3 amended
- 25.** Section 3A amended
- 26.** Section 4A amended
- 27.** Section 7 amended
- 28.** Section 15 amended
- 29.** Section 17 amended
- 30.** Section 24 amended
- 31.** Section 28 amended
- 32.** Section 31 amended
- 33.** Section 33 substituted
- 34.** Section 39 amended
- 35.** Schedule 1 amended
- 36.** Schedule 4 amended
- 37.** Schedule 5A amended
- 38.** Schedule 6 amended

**PART 4 — AMENDMENT OF HIGHWAYS ACT 1986**

- 39.** Amendment of Highways Act 1986
- 40.** Section 7A inserted
- 41.** Section 16A inserted
- 42.** Section 32B inserted
- 43.** Section 38 substituted
- 44.** Section 51 amended

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- 45.** Section 85A inserted
- 46.** Section 94A amended
- 47.** Section 109A inserted
- 48.** Section 110 amended
- 49.** Section 115 amended
- 50.** Section 118 amended
- 51.** Schedule 1A amended
- 52.** Schedule 1B inserted
- 53.** Schedule 3 amended
- 54.** Schedule 4 amended

PART 5 — MISCELLANEOUS AMENDMENTS AND  
REPEALS

- 55.** Amendment of Petty Sessions and Summary Jurisdiction Act 1927
- 56.** Amendment of Civil Service Act 1990
- 57.** Amendment of Road Transport Act 2001
- 58.** Amendment of Road Traffic (Amendment) Act 2006
- 59.** Repeals

## **A BILL**

to amend further various enactments connected with road traffic and highways; and for connected purposes.

**B**E IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### **PART 1**

#### **INTRODUCTORY PROVISIONS**

**1.** The short title of this Act is the Road Traffic and Highways (Miscellaneous Amendments) Act 2011. Short title

**5** **2.** (1) This Act (apart from this section and section 1) comes into operation on such day or days as the Department of Infrastructure may by order appoint and different days may be appointed for different purposes of this Act. Commencement

**10** (2) An order under subsection (1) may make such transitional and saving provisions as the Department of Infrastructure considers necessary or expedient.

### **PART 2**

#### **AMENDMENT OF ROAD TRAFFIC ACT 1985**

**15** **3.** The Road Traffic Act 1985 is amended in accordance with this Part. Amendment  
of Road Traffic  
Act 1985

Section 1A  
inserted

**4.** After section 1 insert —

“Causing grievous bodily harm by dangerous driving **1A.** A person who causes grievous bodily harm to another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.”

**5**

Section 2A  
amended

**5.** In section 2A(1) and (2) for “sections 1 and 2” substitute “sections 1, 1A and 2”.

Sections 2B  
and 2C  
inserted

**6.** After section 2A insert —

“Causing death by careless or inconsiderate driving **2B.** A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.”

**10**

P1988/52/2B

Causing grievous bodily harm by careless or inconsiderate driving **2C.** A person who causes grievous bodily harm to another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.”

**15**

Section 3ZA  
inserted

**7.** After section 3 but before section 3A insert —

**20**

“Meaning of careless or inconsiderate driving **3ZA.** (1) This section has effect for the purposes of sections 2B, 2C, 3 and 3A.

P1988/52/  
3ZA

(2) A person is to be regarded as driving without due care and attention if (and only if) the way the person drives falls below what would be expected of a competent and careful driver.

**25**

(3) In determining for the purposes of subsection (2) what would be expected of a competent and careful driver in a particular case, regard must be had not only to the circumstances of which the accused could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

**30**

(4) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by the person’s driving.”

**35**

8. After section 3A insert —

Section 3B  
inserted

5 “Causing death by driving and at the time unlicensed, disqualified or uninsured”  
**3B.** A person is guilty of an offence under this section if the person causes the death of another person by driving a motor vehicle on a road and, at the time when he or she is driving, the circumstances are such that the person is committing an offence under —

P1988/52/3ZB

- 10 (a) paragraph 1(1) of Schedule 3 (driving otherwise than in accordance with a licence);
- (b) paragraph 18 of Schedule 3 (driving while disqualified); or
- (c) paragraph 1(1) of Schedule 5 (using motor vehicle while uninsured or unsecured against third party risks).”

15 **9.** In section 8(2) for “by an order made by the Department under section 1 of the Road Races Act 1982” substitute “by or under any enactment”.

Section 8  
amended

**10.** In section 14(5) for “by an order made by the Department under section 1 of the Road Races Act 1982” substitute “by or under any enactment”.

Section 14  
amended

20 **11.** For section 31 substitute —

Section 31  
substituted

25 “The Highway Code”  
**31.** (1) The Department must prepare a code (in this section referred to as “the Highway Code”) comprising such directions as appear to the Department to be proper for the guidance of persons using the roads.

(2) The Highway Code may consist of the Highway Code having effect in Great Britain with such adaptations, exceptions or modifications as the Department thinks fit.

30 (3) The Department may from time to time revise the Highway Code by revoking, varying, amending or adding to it in such manner as it thinks fit.

35 (4) Subject to subsection (3), the Department must cause the Highway Code, in a form incorporating all current revisions and entitled “The Manx Highway Code”, to be printed and laid before Tynwald, and may cause copies of it to be sold to the public at such price as it may determine.

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(5) A failure on the part of a person to observe a provision of the Highway Code does not of itself render that person liable to criminal proceedings of any kind, but any such failure may be relied on in any proceedings (whether civil or criminal, and including proceedings for an offence under this Act or the Road Traffic Regulation Act 1985) by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.”

[c.20]

Sections 47A  
to 47D  
inserted

**12.** After section 47 insert — **10**

*“Seizure, retention and disposal, etc of vehicles*

Power to  
seize and  
immobilise  
vehicles

**47A.** (1) If any of the conditions in subsection (2), (3) or (4) is satisfied, a constable may, in accordance with regulations made under section 47B and using reasonable force if necessary — **15**

(a) seize and remove a motor vehicle; and

(b) in order to do so, enter any premises (other than a private dwelling house) where he or she has reasonable grounds for believing the vehicle to be. **20**

(2) The first condition is that —

(a) a constable requires, under section 43, a person to produce evidence that the motor vehicle is not or was not being driven on a road in contravention of paragraph 1(1) of Schedule 5 (users of motor vehicles to be insured or secured against third-party risks); **25**

(b) the person fails to produce such evidence in accordance with that section; and

(c) the constable has reasonable grounds for believing that the vehicle is or was being driven on a road in contravention of that paragraph. **30**

(3) The second condition is that a constable —

(a) stops or otherwise comes upon a motor vehicle on a road, being a vehicle on which no current vehicle licence is exhibited; or **35**

(b) has reasonable grounds for believing that no such licence was exhibited on a motor vehicle when it was on a road,

5 and after making such lawful enquiries as he or she considers appropriate in the circumstances, has reasonable grounds for believing that no such licence has been displayed on that vehicle for a period exceeding one month.

10 (4) The third condition is that a constable, after making such lawful enquiries as he or she considers appropriate in the circumstances, has reasonable grounds for believing that a motor vehicle has been driven on a road by a person who —

(a) was disqualified for holding or obtaining a driving licence;

(b) otherwise held no current driving licence;

15 (c) held a provisional licence authorising the person to drive the vehicle but was not accompanied by a person currently authorised by a full licence to drive it;

20 (d) held a full licence authorising the person to drive the vehicle subject to the same conditions as if he or she were authorised by a provisional licence to do so but was not so accompanied; or

(e) was committing a serious driving offence connected with drink or drugs.

25 (5) If, for any reason, a constable is unable to remove a motor vehicle immediately he or she may —

(a) immobilise it while it remains in the road or place in which he or she finds it;

30 (b) move it from that road or place to another road or place and immobilise it in that other road or place; or

(c) authorise a contractor to do either of the things mentioned in paragraph (a) or paragraph (b),

35 but the vehicle must be moved to a place of storage within the period of 24 hours beginning with the time at which any of the conditions in subsections (2) to (4) is first satisfied.

(6) On any occasion when a vehicle is immobilised in accordance with this section, there must also be affixed to the vehicle a notice —

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- (a) indicating that the vehicle is immobilised and warning that no attempt should be made to drive it or otherwise put it in motion; and
- (b) giving such other information as may be prescribed. **5**

(7) If the vehicle has been removed to another place before immobilisation a copy of the notice described in subsection (6) must be placed at or near the place where the vehicle was found.

(8) If a vehicle has been immobilised a person must not — **10**

- (a) remove any notice that has been affixed to it under subsection (6);
- (b) release or attempt to release it from any immobilisation device that has been fixed to it under subsection (5); or **15**
- (c) remove or attempt to remove it from the road or place where it was immobilised,

unless the person is a constable or acting under the direction of a constable. **20**

Removal,  
retention,  
disposal and  
release etc  
of seized  
vehicles

**47B.** (1) The Department may by regulations make provision for —

- (a) the removal, retention or storage of motor vehicles seized under section 47A; and
- (b) the release, forfeiture or disposal of such motor vehicles in accordance with the regulations, including any role a court may have in determining a vehicle's release, forfeiture or disposal. **25**

(2) Regulations under subsection (1) may, in particular, make provision about — **30**

- (a) giving notice of the seizure of a motor vehicle under section 47A to prescribed persons;
- (b) enabling any property found in the vehicle to be removed, delivered into custody, returned or disposed of in accordance with the **35**

- regulations (including provision as to determining entitlement to such property);
- 5 (c) the payment of fees, charges or costs in relation to the seizure, immobilisation, removal, storage or disposal of the vehicle and any application for its release;
- (d) the destination —
- (i) of any fees, charges or costs payable in accordance with the regulations;
- 10 (ii) of the proceeds (if any) arising from the disposal of the vehicle and any property found in it;
- (e) where the vehicle has been supplied under any contract of lease or hire, including a hire-purchase agreement, and despite any term of that contract —
- 15 (i) the vehicle's release to any party to the contract;
- (ii) enabling any such contract to be nullified or varied on release of the vehicle; and
- 20 (iii) without limiting any civil claim, requiring such monies to be paid to or by the parties to the contract as the court determines in accordance with the regulations.
- 25
- (3) No claim shall lie to any civil court in respect of the seizure, storage, retention, disposal or forfeiture of any motor vehicle or property found in it in pursuance or purported pursuance of section 47A or regulations made under this section.
- 30
- Offences **47C.** (1) A person who contravenes section 47A(8) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- 35 (2) A person who intentionally obstructs a constable or a contractor in the exercise of his or her functions under section 47A or under regulations made under section 47B is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

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- (3) A person who provides evidence that the person knows to be false or misleading in a material particular in order to secure the release of a vehicle seized under section 47A is guilty of an offence and liable — 5
- (a) on summary conviction to a fine not exceeding £5,000; or
- (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both. 10

Interpretation of sections 47A to 47C **47D.** In sections 47A to 47C —

- “contractor” means a person who has been appointed by the Chief Constable to carry out, direct or supervise —
- (a) the immobilisation of motor vehicles, their removal to, storage at or release from a place of storage, or their destruction; or 15
- (b) the removal, storage or disposal of property found in motor vehicles,

including a person authorised by a person so appointed and, in the case of storage, a person to whom the storage has been sub-contracted; 20

“current”, in relation to a driving licence, means not expired, cancelled, revoked or suspended;

“current”, in relation to a vehicle licence, means not expired or cancelled; 25

“disposal” includes sale or destruction;

“driving licence” means —

- (a) a licence granted under Schedule 3;
- (b) a Community licence as from time to time defined in regulations made under that Schedule; 30
- (c) a Convention driving permit as from time to time defined by an order made under section 1 of the Motor Vehicles (International Circulation) Act 1955; 35

(d) a domestic driving permit as from time to time defined by such an order;

“full licence” means a licence granted under Schedule 3 other than a provisional licence;

**5** “immobilisation device” means any device or appliance designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion;

“immobilise” means immobilise by —

**10** (a) the seizure of the ignition key or other device by means of which access to the vehicle may be gained and by means of which the vehicle’s engine may be started; or

(b) the use of an immobilisation device;

**15** “private dwelling house” does not include a garage or other structure occupied with the dwelling house or any land appurtenant to the dwelling house;

**20** “provisional licence” has the same meaning as in Schedule 3;

“serious driving offence connected with drink or drugs” means an offence —

**25** (a) under section 3A (causing death by careless driving under the influence of drink or drugs), section 5(1) (driving etc under the influence of drink or drugs) or section 5A(1)(a) (driving etc with alcohol above the prescribed limit); or

**30** (b) under section 6(6) (failing to provide a specimen) or section 7DA (failing to allow laboratory test of specimen of blood), where such an offence involves obligatory disqualification;

**35** “vehicle licence” has the same meaning as in the Licensing and Registration of Vehicles Act 1985.”

[c. 21]

**13.** In section 53 after subsection (5) add —

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“(6) The Department may by order amend Schedule 6 so as to vary any of the punishments there shown.”.

Section 55  
amended

**14.** In section 55 —

(a) for subsection (1) substitute —

**5**

“(1) Subject to Part IV of Schedule 6, this section applies to any offence under this Act to which it is applied by column 8 of the Table in Part I of that Schedule.” ;

(b) in subsection (2) delete “and to the provisions of paragraphs 3 and 4 of Part IV of Schedule 6,”.

**10**

Section 63  
amended

**15.** (1) Section 63 is amended as follows.

(2) In subsections (1), (2) and (5) (wherever occurring) for “chairman or vice-chairman of the Department” substitute “person conducting the inquiry”.

**15**

(3) In subsection (2) for “Department had been a court of law” substitute “inquiry had been a court of law”.

(4) In subsection (3) for “Department” substitute “inquiry”.

(5) In subsection (4) —

(a) for “Department holding the inquiry” substitute “person conducting the inquiry”;

**20**

(b) for “opinion of the Department” substitute “opinion of the person conducting the inquiry”.

(6) In subsection (5) —

(a) for “Department may” substitute “person conducting the inquiry may”;

**25**

(b) for “by the Department” substitute “by the person conducting the inquiry”.

Section 74  
amended

**16.** In section 74 —

(a) in the marginal note after “regulations” add “, orders etc”;

**30**

- (b) in subsection (3)(b) after “section 24(8),” insert “section 53(6),”.

**17.** In paragraph 4 in Part II of Schedule 2 —

Schedule 2  
amended

- 5** (a) in sub-paragraph (1) delete “; but a vehicle shall not be required to stop for a test except by a constable in uniform”;

- (b) after sub-paragraph (1) insert —

**10** “(1A) In order to test a vehicle an authorised examiner may require a vehicle to stop if the following conditions are satisfied —

- (a) a constable in uniform must be present at the scene;

- 15** (b) at least one sign indicating a police presence and warning drivers of oncoming vehicles that they may be required to stop must be displayed so as to be visible to them at such a distance from the area where the test is to be conducted as will enable them to stop safely if required to do so; and

- 20** (c) the examiner must wear such distinguishing clothing as the Department may require.

(1B) A driver of a vehicle who fails to stop as required by sub-paragraph (1A) is guilty of an offence.”.

**18.** (1) Part II of Schedule 3 is amended as follows.

Schedule 3  
amended

- 25** (2) In paragraph 11 —

- (a) in sub-paragraph (1) for “for such period” until the end of the sub-paragraph substitute “in accordance with sub-paragraph (1A)”;

- (b) after sub-paragraph (1) insert —

**30** “(1A) The period of disqualification is —

- (a) in the case of —

- (i) an offence under section 1 (causing death by dangerous driving), section 1A

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(causing grievous bodily harm by dangerous driving) or section 3B (causing death by driving when unlicensed, disqualified or uninsured), not less than 2 years as the court thinks fit; or **5**

(ii) an offence under section 6(6) (failing to provide a specimen) or section 7DA (failing to allow laboratory test of specimen of blood), where such an offence involves obligatory disqualification, not less than 5 years as the court thinks fit; or **10**

(b) in the case of any other offence involving obligatory disqualification and if neither of sub-paragraphs (3) or (3A) applies, not less than 12 months as the court thinks fit, **15**

unless the court for special reasons thinks fit to order the person to be disqualified for a shorter period or not to be disqualified at all.”; **20**

(c) for sub-paragraphs (3) and (3A) substitute —

“(3) Where a person convicted of an offence under section 3A, 5(1) or 5A(1)(a) has, within the 10 years immediately preceding the commission of the offence, been convicted of any such offence, sub-paragraph (1A)(b) shall apply in relation to the person with the substitution of 5 years for 12 months. **25**

(3A) Without limiting sub-paragraph (3), if —

(a) a person is convicted of an offence under section 3A, 5(1) or 5A(1)(a); **30**

(b) it is shown that the proportion of alcohol in the person’s breath, blood or urine was that specified in column 2 of the following table; and

(c) the corresponding period specified in column 3 of that table consists of a longer period of disqualification than would otherwise apply under sub-paragraph (1A), **35**

sub-paragraph (1A) applies in relation to the person with the substitution of that longer period of disqualification for the period set out in that sub-paragraph — **40**

<b>5</b>	Proportion in 100ml of breath	Over 50 µg but not over 75 µg	2 years
		Over 75 µg but not over 100 µg	3 years
		Over 100 µg	5 years
<b>10</b>	Proportion in 100ml of blood	Over 115 mg but not over 173 mg	2 years
		Over 173 mg but not over 230 mg	3 years
		Over 230 mg	5 years
<b>15</b>	Proportion in 100ml of urine	Over 153 mg but not over 230 mg	2 years
		Over 230 mg but not over 306 mg	3 years
		Over 306 mg	5 years;

(d) after sub-paragraph (3A) insert —

“(3B) The Department may, with the approval of Tynwald, make regulations amending the table in sub-paragraph (3A).”;

**20** (e) in sub-paragraph (5) for “that test” in each place where it occurs substitute “the extended test”;

(f) in sub-paragraph (5A)(d) for “serious doubt” substitute “reasonable doubt”;

**25** (g) in sub-paragraph (7) for “section 3A, 5 or 5A in circumstances in which the court is required by sub-paragraph (1)” substitute “section 3A, 5(1) or 5A(1)(a) in circumstances in which the court is required by sub-paragraph (1A)”.

**30** (3) At the end of paragraph 12(1) add “unless the court determines otherwise”.

(4) In paragraph 23 —

(a) after the definition of “disqualified” insert —

**35** “ “extended test” means the test of competence to drive modified so that the time during which the person taking the test drives on roads is not less than 60 minutes;”.

**19.** In Schedule 4 —

## (a) in paragraph 3 —

(i) in sub-paragraph (1) after “motor car” insert “or any other motor vehicle of a class prescribed by regulations”;

5

(ii) for sub-paragraph (2) substitute —

“(2) However, if instruction in the driving of a motor vehicle mentioned in sub-paragraph (1) is given —

(a) to a person who is not the holder of a current licence to drive a motor vehicle granted under Schedule 3 (other than a provisional licence within the meaning of that Schedule); and

10

(b) by, or in pursuance of arrangements made by, a person carrying on business in the supply of motor vehicles, and in connection with the supply of a motor vehicle in the course of that business,

15

such instruction is treated as paid instruction, irrespective of whether or not it is actually given free of charge.”;

(b) in paragraph 4 —

20

(i) for sub-paragraph (1) substitute —

“(1) Paragraph 3(1) does not apply to the giving of instruction by —

(a) a police instructor in pursuance of arrangements made by the Chief Constable;

25

(b) a member of the fire brigade (within the meaning of the Fire Services Act 1984) in pursuance of arrangements made by the Chief Fire Officer (within the meaning of that Act), where the duties of that member consist of or include, or have consisted of or included, the giving of instruction in the driving of motor vehicles to other such members.”;

30

(ii) in sub-paragraph(2)(a) for “cars” substitute “vehicles”;

35

(iii) consequentially, in the cross-heading delete “of police instructors”;

(c) after paragraph 4 insert —

*“Stop notices*

**4A.** (1) The Registrar may serve a notice in respect of a person, to be known as a “stop notice”, if —

5 (a) it appears to the Registrar that the person is giving or has given instruction in the driving of a motor vehicle in contravention of paragraph 3(1); and

(b) the Registrar considers it expedient to do so.

10 (2) Before serving a stop notice, the Registrar must —

15 (a) notify the person in writing of the particulars of the grounds on which the Registrar is considering serving the stop notice and that the person has 28 days in which to make representations to the Registrar; and

(b) take into consideration any such representations made,

20 and if the Registrar decides not to serve a stop notice he or she must give further notice to the person.

(3) If the Registrar decides to serve a stop notice he or she must specify the period, which must not exceed 2 years, for which it is to apply and must serve it on the person.

25 (4) A stop notice is served by sending it by recorded delivery to the usual or last known address of the person in respect of whom it is to apply.

(5) A stop notice takes effect —

30 (a) where no appeal under the following provisions is brought against the decision within the time limited for the appeal, on the expiration of that time;

(b) where such an appeal is brought and is withdrawn, struck out or dismissed, when it is so withdrawn, struck out or dismissed.

35 (6) Where a stop notice has taken effect in accordance with this paragraph, a person on whom the notice was served commits an offence if the person gives instruction in the driving of a motor vehicle, whether or

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not that instruction is restricted by paragraph 3(1), other than to a close relative.

(7) In proceedings for an offence under sub-paragraph (6) it is a defence for the accused to satisfy the court that — 5

(a) the stop notice was not served on the person; and

(b) the person did not know, and could not reasonably have been expected to know, of its existence. 10

(8) A stop notice ceases to have effect if the Registrar withdraws the stop notice and serves notice of the withdrawal on the person on whom the stop notice was served but this sub-paragraph does not affect any liability for an offence committed before the stop notice ceased to have effect. 15

(9) In this paragraph “close relative” means the person’s —

(a) spouse or civil partner, or a child of such person;

(b) child or parent, or spouse or civil partner of such person; 20

(c) grandchild or grandparent;

(d) brother or sister, or child, spouse or civil partner of such person;

(e) uncle or aunt, or child of such person.”; 25

(d) in paragraph 5 (duration of registration) —

(i) in subparagraph 1(a) and sub-paragraph (2) for “cars” substitute “vehicles”;

(ii) for sub-paragraph (4) substitute —

“(4) A person registered to give instruction in the driving of motor cars under Part V of the Road Traffic Act 1988 (of Parliament) is exempt from the condition specified in sub-paragraph (1)(a) in relation to those vehicles.”; 30

(e) in paragraph 6(1)(b) (extension of duration of registration), for “cars” substitute “vehicles”; 35

(f) for paragraph 9 substitute —

*“Appeals*

9. (1) A person who is aggrieved by a decision of the Registrar —

- (a) to serve a stop notice;
- 5 (b) to refuse an application for the entry of his or her name in the register;
- (c) to refuse an application for the retention of his or her name in the register;
- (d) to remove his or her name from the register;
- 10 (e) to refuse an application for the grant of a licence; or
- (f) to revoke such a licence,

15 may by notice in writing appeal by giving notice to the Department to be received within 28 days of notice of the decision being given in accordance with this Schedule.

[c. 1]  
20 (2) The appeal shall be conducted by an independent adjudicator appointed by the Appointments Commission (within the meaning of section 1 of the Tribunals Act 2006) on such terms as to remuneration and expenses as the Treasury shall determine, being a person considered by that Commission to be suitably qualified for such appointment, and the adjudicator may be appointed to conduct one particular appeal or for any such appeal as may be made to the Department during a  
25 period determined by the Commission.

(3) The Department may —

- (a) make rules about the procedure on appeals, including in particular applying section 63(1) to (4) (general provisions as to inquiries) to the appeals; and
- 30 (b) specify the form and contents of the notice of appeal.

35 (4) The Registrar is the respondent to the appeal and the appellant and the respondent may make representations on the appeal to the adjudicator.

(5) On the appeal the adjudicator may make such order for the upholding or quashing of the stop notice, for the entry, retention or removal of the name on the register or for the grant, continuation or revocation of the licence, as the case may be, as he or she thinks fit.

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(6) An order under sub-paragraph (5) may direct that an application by the appellant for the grant of a licence under this Schedule or for his or her name to be entered in the register must not be entertained for a specified period of up to 4 years beginning with the day on which the order is made. 5

(7) The adjudicator may make such order as to costs as he or she thinks fit and where he or she has certified an amount of costs to be paid by the appellant that amount is recoverable from the appellant by the Department as a civil debt.”; 10

(g) in paragraph 10 (examinations and tests of ability to give driving instruction) —

(i) in sub-paragraph (1) from the beginning of the sub-paragraph to the end of head (a) substitute — 15

“(1) The Department may make regulations about examinations of persons’ suitability to give instruction in the driving of motor vehicles of such classes as may be prescribed and such regulations may in particular provide — 20

(a) for the examination to consist of a theory test, and practical tests of driving ability and fitness and instructional ability and fitness;”;

(ii) for sub-paragraph (1)(d) substitute —

“(d) for preventing a person who fails to pass an examination or any part of it from submitting himself or herself to another such examination or part of it before the expiration of such period (not exceeding 12 months) as may be prescribed;”;

25  
30

(iii) for sub-paragraph (2) substitute —

“(2) On the application of a person who has submitted himself or herself for an examination in accordance with regulations made under this paragraph the Department may determine whether the examination, or any part of it, was properly conducted in accordance with the regulations. 35

(2A) If it appears to the Department that the examination, or any part of it, was not so conducted, the Department may — 40

5 (a) declare the applicant eligible to submit himself or herself to another examination or, as the case may be, part of the examination as if he or she had not submitted himself or herself to the examination or part held not to be properly conducted; and

10 (b) waive any fee that would otherwise be payable by the applicant in respect of the examination or part, or, if it has been paid, cause it to be refunded.”;

(h) delete paragraphs 17, 18 and 19.

15 **20.** In paragraph 12(1)(a) in Part II of Schedule 5, in the definition of “authorised insurer”, for “in the Island or the United Kingdom” substitute “anywhere in the British Islands or in the territory of a member State of the Communities”. Schedule 5 amended

**21.** (1) In the Table in Part I of Schedule 6 — Schedule 6 amended

(a) in the entries relating to sections 1 and 3A for “10 years” in column 4 (punishment) substitute “14 years”;

20 (b) after the entry relating to section 1 insert the following entry —

25	1A	Causing grievous bodily harm by dangerous driving	On information	5 years or a fine or both	Obligatory	Obligatory	- Section 57 and paragraph 1 of Part IV apply
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(c) in the entry relating to section 2 in column 8 (additional provisions) for “paragraphs 1, 2 and 3” substitute “paragraph 1”;

30 (d) after the entry relating to section 2 insert the following entries —

35	2B	Causing death by careless or inconsiderate driving	(a) Summarily	12 months or £5,000 or both	Obligatory	Obligatory	- Sections 57 and 59 and paragraph 1 of Part IV apply
			(b) On information	5 years or a fine or both			

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2C	Causing grievous bodily harm by careless or inconsiderate driving	(a) Summarily	6 months or £5,000 or both	Obligatory	Obligatory	- Sections 57 and 59 and paragraph 1 of Part IV apply	<b>5</b>
		(b) On	2 years or a fine or both				

(e) in the entry relating to section 3 — **10**

(i) in column 4 (punishment) for “£2,500” substitute “£5,000”;

(ii) in column 7 (penalty points) for “2-5” substitute “3-9”;

(iii) in column 8 (additional provisions) delete “and paragraphs 2 and 4 of Part IV”; **15**

(f) in the entry relating to section 3A, in column 8 (additional provisions) for “paragraph 1A” substitute “paragraphs 1 and 2”;

(g) after the entry relating to section 3A insert the following entry — **20**

3B	Causing death by driving and at the time unlicensed, disqualified or uninsured	(a) Summarily	12 months or £5,000 or both	Obligatory	Obligatory	- Sections 57 and 59 apply	<b>25</b>
		(b) On	5 years or a fine or both				<b>30</b>

(h) in the entry relating to section 5(1), in column 8 (additional provisions) after “Sections 57 and 59” insert “and paragraphs 1 and 3 of Part IV”;

(i) in the entry relating to section 5A(1)(a), in column 8 (additional provisions) after “Sections 57 and 59” insert “and paragraphs 1 and 3 of Part IV”; **35**

(j) in the entry relating to section 6(6), for the text in the first entry in column 2 (general nature of offence) substitute “Failing to provide a specimen for analysis:”; **40**

- (k) in the entry relating to section 11, in column 8 (additional provisions) after “Sections 55, 57 and 59” insert “and paragraph 1 of Part IV”;
- 5** (l) in the entry relating to section 12, in column 8 (additional provisions) delete “and paragraphs 2 and 4 of Part IV”;
- (m) in the entry relating to section 20(3) —
- (i) for the text in column 4 (punishment) substitute “9 months or £5,000 or both”;
- 10** (ii) in column 7 (penalty points) for “2-5” substitute “5-10”;
- (n) in the entry relating to section 40, for the text in column 4 (punishment) substitute —
- 15**

“(a) if the offence involved a motor vehicle, £5,000
(b) if the offence involved a cycle or an animal, £1,000
- (o) in the entry relating to section 47(4), for the text in column 4 (punishment) substitute —
- 20**

“(a) if the offence involved a motor vehicle, £2,500
(b) if the offence involved a cycle, £1000
- 25** (p) in the entries relating to section 49(1), 49(2), 49(3) and 49(4), for the text in column 4 (punishment) in respect of each of the entries substitute “3 months or £2,500 or both”;
- (q) in the entry relating to Schedule 2 paragraph 1(5) insert the following so they appear opposite each other —
- 30** (i) in column 4 before “£1,000 in any other case” insert “£2,500 in the case of an offence of driving a motor vehicle while using a mobile telephone which is held in a hand”;
- (ii) in column 5 insert “Discretionary”;
- 35** (iii) in column 6 insert “Obligatory”;

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(iv) in column 7 insert “4”; and

(v) in column 8 insert “Court must order forfeiture of the mobile telephone unless it finds special reasons not so to do”;

(r) after the entry relating to Schedule 2 paragraph 1(5) insert the following entry — **5**

Schedule 2 para 4(1B)	Failing to stop when required by authorised examiner	Summarily £2,500	-	-	-	Sections 57 and 59 apply
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**10**

(s) in the entry relating to Schedule 4 paragraph 3(3) in column 4 (punishment) for “£1,000” substitute “£2,500”;

(t) after the entry relating to Schedule 4 paragraph 3(3) insert the following entry —

Schedule 4 para 4A(6)	Giving instruction in contravention of a stop notice	Summarily 6 months or £5,000 or both	-	-	-	-
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**15**

(2) In the table in Part III of Schedule 6, in entry 6 (relating to an offence under section 22(1) of the Road Traffic Regulation Act 1985 (speeding)) in column 2 (penalty points) for “3” substitute “1-10”. **20**

(3) For Part IV of Schedule 6 substitute —

“PART IV

*Alternative verdicts*

**25**

**1.** Where —

(a) a person charged with an offence specified in column 1 of the following table is found not guilty of that offence; but

(b) the allegations in the information amount to or include an allegation of an offence under one or more of the provisions specified in the corresponding entry in column 2, **30**

the person may be convicted of that offence or of one or more of those offences. **35**

<i>Offence charged</i>	<i>Alternative offence</i>
<b>5</b>	Manslaughter in connection with the driving of a motor vehicle
	Section 1 (causing death by dangerous driving)
	Section 2 (dangerous driving)
	Section 2B (causing death by careless or inconsiderate driving)
<b>10</b>	Section 3A (causing death by careless driving when under the influence of drink or drugs)
<b>15</b>	Section 1 (causing death by dangerous driving)
	Section 2 (dangerous driving)
	Section 2B (causing death by careless or inconsiderate driving)
	Section 3 (careless or inconsiderate driving)
<b>20</b>	Section 1A (causing grievous bodily harm by dangerous driving)
	Section 2 (dangerous driving)
<b>25</b>	Section 2C (causing grievous bodily harm by careless or inconsiderate driving)
	Section 3 (careless or inconsiderate driving)
<b>30</b>	Section 2 (dangerous driving)
	Section 3 (careless or inconsiderate driving)
<b>35</b>	Section 2B (causing death by careless or inconsiderate driving)
	Section 3 (careless or inconsiderate driving)
	Section 2C (causing grievous bodily harm by careless or inconsiderate driving)
	Section 3 (careless or inconsiderate driving)
	Section 3A (causing death by careless driving when under the influence of drink or drugs)
	Section 3 (careless or inconsiderate driving)

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	Section 5(1) (driving or attempting to drive when unfit to drive through drink or drugs)	
	Section 5A(1)(a) (driving or attempting to drive with alcohol above prescribed limit)	<b>5</b>
	Section 6(6) (failing to provide specimen)	<b>10</b>
Section 5(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Section 5(2) (being in charge of a vehicle when unfit through drink or drugs)	
Section 5A(1)(a) (driving or attempting to drive with alcohol above prescribed limit)	Section 5A(1)(b) (being in charge of a vehicle with alcohol above prescribed limit)	<b>15</b>
Section 11 (dangerous cycling)	Section 12 (careless or inconsiderate cycling)	<b>20</b>

**2.** Where the offence with which a person is charged is an offence under section 3A, paragraph 1 does not authorise the person's conviction of any offence of attempting to drive.

**3.** Where a person is charged with having committed an offence under section 5(1) or 5A(1)(a) by driving a vehicle, the person may be convicted of having committed an offence under the provision in question by attempting to drive. **25**

**4.** Where by virtue of this Part a person is convicted before the Court of General Gaol Delivery of an offence triable only summarily, the court has the same powers and duties as a court of summary jurisdiction would have had on convicting the person of that offence. **30**

**5.** (1) This paragraph applies where a person is prosecuted for an offence in respect of which the person may, by virtue of this Part, be liable to be convicted of an alternative offence, and the court is of opinion that the offence with which the person is charged is not proven. **35**

5 (2) Where this paragraph applies, at any time during or immediately after the hearing the court may, irrespective of any other powers it possesses, direct or allow a charge for that alternative offence to be preferred forthwith against the defendant and may then proceed with that charge.

10 (3) However, the defendant and his or her advocate must be informed of the new charge and be given an opportunity, whether by way of cross-examining any witness whose evidence has already been given against the defendant or otherwise, of answering the new charge.

(4) If it considers that the defendant is prejudiced in his or her defence by reason of the new charge being so preferred, the court must adjourn the hearing.

15 6. This Part does not limit section 22 of the Criminal  
[c.9] Jurisdiction Act 1993(alternative verdicts).”.

### PART 3

#### AMENDMENT OF ROAD TRAFFIC REGULATION ACT 1985

20 22. The Road Traffic Regulation Act 1985 is amended in accordance with this Part.

Amendment  
of Road Traffic  
Regulation Act  
1985  
[c.20]

23. After section 2 but before section 2A insert —

Sections 2ZA,  
2ZB and 2ZC  
inserted

25 “Prohibition  
of double  
parking etc  
P2004/18/85 2ZA. (1) A vehicle must not be parked on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.

(2) However, subsection (1) does not apply —

30 (a) where the vehicle is parked wholly within a parking place designated under section 14 or any other part of the carriageway where parking is specifically authorised;

(b) where the vehicle is being used for fire brigade, ambulance or police purposes;

(c) where —

35 (i) the vehicle is being used for the purposes of delivering goods to, or collecting

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- goods from, any premises, or is being loaded from or unloaded to any premises;
- (ii) the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1); and **5**
- (iii) the vehicle is so parked for no longer than is necessary and for no more than 20 minutes; **10**
- (d) where —
- (i) the vehicle is being used in connection with any of the matters mentioned in subsection (3);
- (ii) it cannot be so used without being parked as mentioned in subsection (1); and **15**
- (iii) it is so parked for no longer than is necessary; or
- (e) where the Department, by regulations, provides otherwise. **20**
- (3) The matters are —
- (a) undertaking any building operation, demolition or excavation;
- (b) collecting waste by a local authority;
- (c) removing an obstruction to traffic; **25**
- (d) undertaking works in relation to a road, a traffic sign or road lighting; and
- (e) undertaking works in relation to a sewer or water main or in relation to the supply of gas, electricity, water or communications services. **30**
- 2ZB.** (1) A vehicle must not be parked on the carriageway adjacent to a footway, cycle-path, cycle track or verge where —
- (a) the footway, cycle-path, cycle track or verge has been lowered to meet the level of the carriageway for the purpose of — **35**

Prohibition  
of parking  
at dropped  
footways etc

P2004/18/86

- 5

  - (i) assisting pedestrians crossing the carriageway;
  - (ii) assisting cyclists entering or leaving the carriageway; or
  - (iii) assisting vehicles entering or leaving the carriageway across the footway, cycle-path, cycle track or verge; or
- 10

  - (b) the carriageway has, for a purpose within paragraph (a)(i) to (iii), been raised to meet the level of the footway, cycle-path, cycle track or verge.
- (2) However, subsection (1) does not apply —

  - 15

    - (a) where the vehicle is parked wholly within a parking place designated under section 14 or any other part of the carriageway where parking is specifically authorised;
    - 20

      - (b) where the vehicle is parked outside residential premises by or with the consent (but not consent given for reward) of the occupier of the premises, except in the case of a shared driveway;
      - (c) where the vehicle is being used for fire brigade, ambulance or police purposes;
      - (d) where —
      - 25

        - (i) the vehicle is being used for the purposes of delivering goods to, or collecting goods from, any premises, or is being loaded from or unloaded to any premises;
        - 30

          - (ii) the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1); and
          - 35

            - (iii) the vehicle is so parked for no longer than is necessary and for no more than 20 minutes;
        - (e) where —

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- (i) the vehicle is being used in connection with any of the matters mentioned in subsection (3);
  - (ii) it cannot be so used without being parked as mentioned in subsection (1); and 5
  - (iii) it is so parked for no longer than is necessary; or
  - (f) where the Department, by regulations, provides otherwise.
  - (3) The matters are — 10
    - (a) undertaking any building operation, demolition or excavation;
    - (b) collecting waste by a local authority;
    - (c) removing an obstruction to traffic;
    - (d) undertaking works in relation to a road, a traffic sign or road lighting; or 15
    - (e) undertaking works in relation to a sewer or water main or in relation to the supply of gas, electricity, water or communications services.
- Provisions supplementary to sections 2ZA and 2ZB
- 2ZC.** (1) In sections 2ZA and 2ZB “carriageway”, “cycle-path”, “cycle track” and “footway” have the meanings given by section 119 of the Highways Act 1986. 20
- [c.17] (2) References in those sections to parking include waiting, but do not include stopping where —
- (a) the driver is prevented from proceeding by circumstances beyond his or her control or it is necessary for him or her to stop to avoid an accident; or 25
  - (b) the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it. 30
- (3) The prohibitions in those sections are enforceable as if imposed by an order under section 1.
- (4) No requirement under any enactment as to the placing or maintenance of any traffic sign for the 35

purposes of indicating any prohibition or restriction applies to the prohibitions in those sections.”.

**24.** In section 3 —

Section 3  
amended

- (a) in subsection (1) for “order” substitute “notice”;
- 5** (b) in subsection (2) for “making of an order” substitute “issuing of a notice” and for “by the order” substitute “by it”;
- (c) subsections (3) and (6) are repealed;
- 10** (d) in subsection (4) for “any such order or notice as aforesaid” substitute “any notice under subsection (1)” and for “no such order or notice” substitute “no such notice”;
- 15** (e) in subsection (5) for “An order made or notice issued” substitute “A notice issued” and delete “order or” in each place where it occurs;
- (f) for subsection (7) substitute —  
  
“**20** (7) A notice issued under this section shall not, without the approval of the Council of Ministers, continue in force for a longer period than 6 months from the date of issue and where the Council of Ministers has refused to approve the continuing in force of such a notice, a subsequent notice must not be issued without the consent of the Council of Ministers as respects any  
**25** length of road to which the previous notice related unless at least 3 months have elapsed from the time when the previous notice ceased to have effect.”.

**25.** In section 3A —

Section 3A  
amended

- (a) in subsection (1) for “order” in each place where it occurs substitute “notice”;
- 30** (b) in subsections (2), (3), (4) and (9) for “An order” substitute “A notice”;
- (c) in subsection (3)(b) for “the order” substitute “the notice” and delete “a road or”;
- 35** (d) in subsection (3), delete “or” at the end of paragraph (a) and after paragraph (b) insert —

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- “(c) suspending the parking or waiting of vehicles on roads or any parts of roads; or
- (d) despite any statutory provision to the contrary, allowing the parking of up to 6 vehicles being used by persons connected with the recording of a scene on film.”; 5
- (e) in subsections (5), (10) and (11) for “an order” substitute “a notice”;
- (f) in subsection (6) for “the order, an order” substitute “the notice, a notice” and in paragraph (a)(i) and (ii) for “24 hours” substitute “48 hours”; 10
- (g) in subsection (7) for “making of an order” substitute “issuing of a notice” and for “by the order” substitute “by it”;
- (h) for subsection (8) substitute — 15
- “(8) The Department must, not less than 7 days before the matters contained in any notice under this section are to have effect —
- (a) publicise the notice, and any alternative routes suitable for traffic affected by the notice, in one or more newspapers circulating in the Island; 20
- (b) cause the notice and the alternative routes to be posted at each end of any road or part of a road to which the notice relates and in any other place affected by it; and 25
- (c) take any further steps that it considers appropriate to bring the matters covered by the notice to the attention of persons who may be affected by them.”.
- Section 4A amended **26.** In section 4A delete “(other than orders under section 3 or 3A)”. 30
- Section 7 amended **27.** Section 7(3) is repealed.
- Section 15 amended **28.** In section 15 for subsections (4) and (5) substitute —
- “(4) Subject to subsection (5), no traffic signs may be placed on or near a road except — 35

- (a) under and in accordance with this Act;
- (b) where a Department, Statutory Board or local authority is required or authorised to place the signs by any other enactment, in accordance with that enactment; or
- (c) where the operator of a tramway or railway undertaking places the signs under powers conferred by any other enactment, in accordance with those powers.
- 5
- 10 (5) However, in the case of traffic signs that are portable light signals, despite any other enactment, they must not be placed on or near a road without the prior consent of the Department.
- 15 (5A) A person who contravenes subsection (4) or (5) is guilty of an offence.”.
29. In section 17(1) for “A person under the authority (whether general or specific) of the Department” substitute “A constable, or person acting under the instructions (whether general or specific) of the Chief Constable or the Department,”. Section 17 amended
- 20 30. In section 24 for “An order under section 3(1) or a notice under section 3(3)” substitute “A notice under section 3(1)”. Section 24 amended
31. In section 28 — Section 28 amended
- (a) for subsection (1) substitute —
- 25 “(1) The Department of Social Care may issue badges in such form as it considers appropriate for motor vehicles driven by, or used for the carriage of, disabled persons.”;
- (b) in subsection (2)(b) for “issued” substitute “used”.
32. In section 31 — Section 31 amended
- 30 (a) renumber existing text as subsection (1);
- (b) after the renumbered subsection (1) add —
- “(2) The Department may by order amend Schedule 4 so as to vary the maximum levels of fines there specified.”.

Section 33  
substituted

**33.** For section 33 substitute —

“Traffic  
wardens

**33.** (1) The Department may appoint persons, to be known as “traffic wardens”, to discharge the functions conferred on them by or under this section under the direction of the Chief Executive of the Department. **5**

(2) However, the Department —

(a) must not employ a constable as a traffic warden; and

(b) must take steps to ensure that only persons suitable for appointment and adequately qualified are appointed as traffic wardens, and that traffic wardens are suitably trained before undertaking their duties. **10**

(3) Where an order of the Department so provides, traffic wardens have the following functions — **15**

(a) those functions normally undertaken by a constable in connection with the control and regulation of, or the enforcement of the law relating to, traffic, which functions may be exercised for the purposes of assisting a constable; **20**

(b) such other functions connected with the control and regulation of traffic as the Chief Executive of the Department may assign; and

(c) the function of patrolling prescribed places (within the meaning of section 8) in accordance with any arrangements made by the Department with the Department of Education and Children. **25**

(4) Where an order under subsection (3) confers any powers on a traffic warden that are conferred on a constable under this Act or under the Road Traffic Act 1985, references in those Acts to a constable include a traffic warden. **30**

[c.23]

(5) If an order under subsection (3) provides that any power of a constable under sections 40, 42(1) and (4) and 43 of the Road Traffic Act 1985 is to be exercisable by a traffic warden, the power is limited to where — **35**

(a) the traffic warden is assisting a constable; **40**

5 (b) the traffic warden has reasonable cause to believe that an offence has been committed of a description specified in relation to the section in question for the purposes of this paragraph by the order and, in the case section 43 of that Act, the order authorises the use of the power in relation to that offence; or

10 (c) in the case of section 40 of that Act, the traffic warden is exercising functions in connection with the control or regulation of traffic.

(6) Traffic wardens must wear such uniform as the Department may determine, and may act as traffic wardens only when in that uniform.”.

15 **34.** In section 39(2) after “orders under” insert “section 31(2), section 33(3) and”. Section 39 amended

**35.** In Schedule 1 for paragraphs 1 to 3 substitute — Schedule 1 amended

20 **“1.** (1) Subject to this Schedule, the Department must publish a notice issued under section 3(1) in one or more newspapers printed and circulating in the Island —

(a) not less than 7 days before the notice comes into force; and

(b) within a period of 7 days after issuing the notice.

25 (2) The Department must publish with the notice a description of any alternative routes available for traffic.

30 **2.** So long as a notice issued under section 3(1) is in force, details of the notice and any alternative routes available for traffic must be kept posted in a conspicuous manner at each end of any road or part of the road to which the notice relates and at the points at which it will be necessary for vehicles or, as the case may be, foot passengers to diverge from any such road or part.

35 **3.** Where such a notice has been posted, the Department may, before the expiration of the period for which the notice can continue in force, proceed to issue a further notice under section 3(1) with respect to the

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same road or part of a road without causing notice of its intention to issue the notice to be published in any newspaper.”.

- Schedule 4 amended **36.** In Schedule 4, after the entry relating to section 14B(6) insert — **5**
- “Section 15(5A) Unauthorised placing of traffic signs £1,000”.
- Schedule 5A amended **37.** In Schedule 5A for paragraph 3(3) substitute — **10**
- “(3) The fixed penalty for a fixed penalty offence shall be —
- (a) such amount as may be prescribed by order made by the Department; or
- (b) one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction, **15**
- whichever is the less.”.
- Schedule 6 amended **38.** In Schedule 6 after paragraph 9 insert —
- [c.13] “**9A.** Paragraph 5 of Schedule 2 to the Government Departments Act 1987 has effect in relation to the transfer of functions effected by section 33 of this Act as substituted by section 33 of the Road Traffic and Highways (Miscellaneous Amendments) Act 2011 as if those functions were transferred by means of an order made under that Schedule.”. **20**
- PART 4** **25**
- AMENDMENT OF HIGHWAYS ACT 1986**
- Amendment of Highways Act 1986 **39.** The Highways Act 1986 is amended in accordance with this Part.
- [c.17] Section 7A inserted **40.** After section 7 insert —
- “Recovery of expenses due to extraordinary traffic **7A.** (1) If it appears to the Department that, having regard to the average expense of maintaining a highway or other similar highways in the Island, extraordinary expenses have been or will be incurred by the **30**

5 Department in maintaining that highway by reason of  
the damage caused or likely to be caused by excessive  
weight passing along the highway or other extraordinary  
traffic on the highway, the Department may recover from  
any person (“the operator”) by or in consequence of  
whose order the damage has been or is likely to be  
caused, such expenses as may be proved to the  
satisfaction of the High Court to have been, or to be  
likely to be, incurred by the Department by reason of  
10 the damage.

(2) However, if the operator admits liability  
before the damage is caused —

15 (a) the operator and the Department may agree  
for the payment by the operator to the  
Department of a sum in lieu of the  
Department’s taking proceedings; or

(b) either party may require that the sum to be so  
paid shall be determined by arbitration,

20 and where a sum has been so agreed or determined the  
operator is liable to pay that sum to the Department and  
is not liable to proceedings under subsection (1).

25 (3) Proceedings for the recovery of any sums  
under this section must be commenced within 12 months  
from the time at which the damage has been or is likely  
to be done or, where the damage or likely damage is the  
consequence of any particular building contract or work  
extending over a long period, not later than 6 months  
from the date of completion of the contract or work.

30 (4) For the purpose of this section the expenses  
incurred by the Department in maintaining the highway  
include expenses incurred by it in maintaining a cattle-  
grid provided for the highway under this Act.”.

41. After section 16 insert —

Section 16A  
inserted

35 “Power to designate improvement line for widening highway  
16A. (1) Where in the opinion of the Department —

(a) a highway maintainable at the public expense  
is narrow or inconvenient, or without any  
sufficiently regular boundary line; or

(b) it is necessary or desirable that the highway  
be widened,

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the Department may designate in relation to either one side or both sides of the highway, or at or within a distance of 15 metres from any corner of the highway, a line to which the highway is to be widened (in this section referred to as an “improvement line”). **5**

(2) Where an improvement line designated under this section is in force —

- (a) no new building may be erected; and
- (b) no permanent excavation below the level of the highway in respect of which the improvement line is designated may be made, **10**

nearer to the centre line of that highway than the improvement line, except with the consent of the Department, and the Department may give a consent for such period and subject to such conditions as it considers expedient. **15**

(3) However, the prohibition imposed by subsection (2) does not affect any right of statutory undertakers to make an excavation for the purpose of laying, altering, maintaining or renewing any main, sewer, pipe, electric line, cable, duct or other work or apparatus. **20**

(4) Where the Department designates an improvement line under this section, a person aggrieved by — **25**

- (a) the decision to designate the line;
- (b) the refusal of consent under subsection (2);  
or
- (c) the period for which the consent is given or any conditions attached to it, **30**

may appeal to a court of summary jurisdiction.

(5) A condition imposed in connection with the giving of a consent under subsection (2) is binding on the successor in title to every owner, and on every lessee and every occupier, of any land to which it relates. **35**

(6) Without limiting any other proceedings that may be available against the person, a person who contravenes this section, or any condition imposed in connection with the giving of a consent under it, is guilty

5 of an offence and liable on summary conviction to a fine not exceeding £2,500; and if the offence is continued after conviction he or she is guilty of a further offence and liable to a fine not exceeding £50 for each day on which the offence is so continued.

10 (7) Where in the opinion of the Department an improvement line designated under this section, or any part of such a line, is no longer necessary or desirable and should be revoked, it may revoke the line or that part of it.

(8) Schedule 1B has effect in relation to the designation of an improvement line under this section and to the revocation of such a line or any part of it.

15 (9) Any person whose property is injuriously affected by the designation of an improvement line under this section is entitled to recover from the Department compensation for the injury sustained.

20 (10) However, a person is not entitled to compensation on account of any building erected, contract made, or other thing done, after the date on which a plan showing the improvement line was deposited in accordance with the provisions of paragraph 3 of Schedule 1B, except as regards work done for the purpose of finishing a building the erection of which had begun before that date, or of carrying out a contract made before that date.

(11) Nothing in this section applies to or affects, without the consent of the users concerned —

30 (a) any land used by the Department of Community, Culture and Leisure for the purposes of a railway comprised in a railway undertaking;

35 (b) any land used by gas undertakers for the manufacture or storage of gas, by electricity undertakers for the generation of electricity, by water undertakers as a pumping station or reservoir for water, or by sewerage undertakers as a pumping station or sewage disposal works; or

40 (c) any land used by dock or harbour undertakers for the purposes of a dock or harbour comprised in a dock or harbour undertaking.

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(12) A consent required by subsection (11) must not be unreasonably withheld, and any question whether the withholding of such a consent is unreasonable must be determined by the Council of Ministers.

(13) In this section “building” includes any erection however, and with whatever material, it is constructed and any part of a building, and “new building” includes any addition to an existing building.” 5

Section 32B  
inserted

**42.** After section 32A insert —

“Creation of  
walkways by  
agreement  
P1980/66/35 **32B.** (1) A local authority, after consultation with the Department, may enter into an agreement with a building owner — 10

(a) for the provision of ways over, through or under parts of a building, or a building when constructed, as the case may be, or parts of any structure attached, or to be attached, to the building; and 15

(b) for the dedication by the building owner of those ways as walkways.

(2) An agreement under this section may make provision for — 20

(a) the maintenance, cleansing and drainage of any walkway to which the agreement relates;

(b) the lighting of such walkway and of that part of the building or structure which will be over or above it; 25

(c) the provision and maintenance of support for such walkway;

(d) entitling the local authority to enter on any building or structure in which such walkway will be situated and to execute any works necessary to secure the performance of any obligation which any person is for the time being liable to perform by virtue of the agreement or of subsection (3); 30  
35

(e) the making of payments by the local authority to the building owner;

(f) the termination, in such manner and subject to such conditions as may be specified in the

agreement, of the right of the public to use such walkway;

(g) any incidental and consequential matters.

5 (3) Any covenant (whether positive or restrictive) contained in an agreement under this section and entered into by the building owner is binding to the same extent upon the building owner's successors in title whether or not it would have been binding upon those persons apart from the provisions of this subsection, and is enforceable against those persons by the local authority.

10

(4) Where an agreement has been entered into under this section the Department may make regulations regulating —

15

(a) the conduct of persons using any walkway to which the agreement relates;

(b) the times at which any such walkway may be closed to the public;

20

(c) the placing or retention of anything (including any structure or projection) in, on or over any such walkway.

(5) The regulations may in particular provide —

25

(a) that the building owner keep a copy of the regulations displayed at each location where a walkway provides an entrance to the building;

(b) that a person reasonably required by a constable so to do must provide the constable with his or her name and address;

30

(c) that a contravention of any provision of the regulations is an offence punishable on summary conviction by a fine not exceeding £2,500.

35

(6) Not less than 2 months before the Department proposes to make regulations under subsection (4) it must display in a conspicuous position on or adjacent to the walkway in question notice of its intention to make such regulations.

(7) A notice under subsection (6) must specify the place where a copy of the proposed regulations may

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be inspected and the period, which must not be less than 6 weeks from the date on which the notice was first displayed as aforesaid, within which representations may be made to the Department, and the Department must consider any representations made to it within that period. **5**

(8) The Department, after consulting such representative organisations as it thinks fit, may make regulations —

(a) for preventing any enactment or instrument relating to highways or to things done on or in connection with highways from applying to walkways which have been, or are to be, created in pursuance of agreements under this section or to things done on or in connection with such walkways; **10**  
**15**

(b) for amending, modifying or adapting any such enactment or instrument in its application to such walkways;

(c) without limiting paragraphs (a) and (b), for excluding, restricting or regulating the rights of statutory undertakers and the operators of electronic communications code networks to place and maintain apparatus in, under, over, along or across such walkways; **20**  
**25**

(d) without limiting paragraphs (a) and (b), for defining the circumstances and manner in which such walkways may be closed periodically or temporarily or stopped up and for prescribing the procedure to be followed before such a walkway is stopped up. **30**

(9) However, regulations under subsection (8) must not exclude the rights of statutory undertakers or the operators of electronic communications code networks to place and maintain apparatus in, under, along or across any part of a walkway, being a part which is not supported by any structure. **35**

(10) Without limiting subsection (8), regulations under that subsection may include such incidental, supplemental and consequential provisions (and, in particular, provisions relating to walkways provided in pursuance of agreements made before the coming into operation of the regulations) as appear to the Department to be expedient for the purposes of the regulations. **40**

(11) Regulations under this section cannot come into operation unless they are approved by Tynwald.

5 (12) Nothing in this section is to be taken as affecting any other provision of this Act, or any other enactment, by virtue of which highways may be created.

(13) In this section —

10 “building owner” means any person having an interest in the land on which a building is, or is proposed to be, situated, being a person who by virtue of that interest has the necessary power to enter into an agreement under this section;

15 “walkway” means a highway over which the public have a right of way on foot only, but subject to such limitations and conditions, if any, affecting that right of way as may be specified in an agreement under this section and to any rights reserved by the agreement to the building owner and any person deriving title to the land under him or her.”.

20 43. For section 38 substitute —

Section 38  
substituted

“Temporary closure of highways for the purposes of entertainment”  
25 38. (1) The Department may close any highway to such traffic or classes of traffic, and on such days or at such times, as it considers necessary to facilitate the holding of any entertainment.

(2) The Department must give such public notice of the closure of a highway as it considers necessary in order to bring its effect to the attention of the public, including in particular the operators of any railway or tramway undertaking whose traffic is affected by it.

30 (3) The Department may make such incidental or consequential arrangements as it considers necessary for the temporary prohibition, restriction, suspension or regulation of —

(a) traffic on any other highway; or

35 (b) tramway and railway traffic.

(4) Any person who, without lawful authority, enters or is found on any highway closed under subsection (1), or contravenes any requirement, prohibition or restriction imposed in accordance with  
40 this section, is guilty of an offence.

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[c.14] (5) In exercising its powers under this section to close any highway to facilitate the holding of any entertainment, the Department may make any arrangements that can be made by virtue of section 2(1) of the Road Races Act 1982 in respect of a road race order, and sections 2(2), 3, 4 and 5 of that Act apply to the exercise of the Department's powers under subsection (1) as they apply to a road race order. **5**

(6) In the application of the provisions of the Road Races Act 1982 mentioned in subsection (5) to a decision to close a highway under this section, references to a race or road racing under that Act are to be construed as references to the entertainment in question. **10**

(7) Any expenses incurred by the Department in connection with — **15**

(a) a decision to close a highway under this section; or

(b) the exercise of any powers in subsection (5),

are to be defrayed by the person at whose request the decision was made or the powers were exercised. **20**

(8) In this section —

“entertainment” includes any festival, parade, display, exhibition, performance, amusement, game, sport, race or competition;

“road race order” means an order under section 1 of the Road Races Act 1982.” **25**

Section 51  
amended

**44.** In section 51 —

(a) in subsections (1) and (2) omit “within 14 days of the date of service of the notice”;

(b) after subsection (2) add — **30**

“(3) However, the Department may instead itself carry out any appropriate cutting, lopping or felling —

(a) if, in the opinion of the Department, the danger is such that it needs to be carried out immediately; or **35**

(b) otherwise at any time after 14 days have elapsed since service of a notice under

subsection (1) or subsection (2), if it has not been carried out by the owner or occupier.

5 (4) Where the Department, in carrying out any works pursuant to subsection (3), removes any thing from a highway, the Department may dispose of it in such manner as it thinks fit, but if the Department sells the thing, it must pay the proceeds of sale, less any expenses of removal and sale, to the owner.

10 (5) Where the Department carries out any works pursuant to subsection (3) it may recover the cost of doing so from the owner or occupier of the land on which the hedge, tree, shrub or other vegetation is situated.

15 (6) No act of the Department or of its servants or agents carried out in good faith under this section is a contravention of the Tree Preservation Act 1993.”

45. After section 85 insert —

Section 85A  
inserted

20 “Acquisition of land between improvement line and boundary of highway 85A. (1) Where the Department has designated an improvement line in relation to any highway under section 16A it may acquire any land (including any premises) lying between the improvement line and the boundary of the highway.

P1980/66/241  
25 (2) Any land acquired under this section shall, at such time or times as the Department may determine, be added to and made good as part of the highway by the Department, and until it is so added, the occupier of the land from which it is severed, and other persons with his or her permission, are entitled to reasonable access across the land so acquired to and from the highway, and have the same rights in regard to the laying, altering, maintaining and removal of sewers, drains, mains, pipes or electric lines in that land as if it were already part of the highway.

30 (3) Section 16A(11) and (12) have effect in relation to this section as it has effect in relation to that section.”

35 46. For section 94A(1) substitute —

Section 94A  
amended

“(1) The Department may include in street works any of the following —

(a) works consisting of the construction of raised surfaces;

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- (b) such other traffic restraint works as it considers desirable.”.

Section 109A inserted **47.** After section 109 insert —

*“Financial provisions*

- Agreements as to execution of works  
P1980/66/278
- 109A.** (1) The Department, if it is satisfied it will be of benefit to the public, may enter into an agreement with any person for the execution by the Department or by the person of — **5**
- (a) any works which the Department is or may be authorised to execute; or **10**
- (b) any such works incorporating particular modifications, additions or features, or at a particular time or in a particular manner,
- on terms that the person pays the whole or such part of the cost of the works as may be specified in or determined in accordance with the agreement. **15**
- (2) For the purposes of subsection (1) the cost of the works is taken to include in particular —
- (a) the whole of the costs incurred by the Department in or in connection with — **20**
- (i) the making of the agreement;
- (ii) the making or confirmation of any scheme or order required for the purposes of the works;
- (iii) the granting of any authorisation, permission or consent required for the purposes of the works, and **25**
- (iv) the acquisition by the Department of any land required for the purposes of the works; and **30**
- (b) all relevant administrative expenses of the Department, including an appropriate sum in respect of general staff costs and overheads.
- (3) The agreement may also provide for the making to the Department of payments in respect of the maintenance of the works to which the agreement relates **35**

and may contain such incidental and consequential provisions as appear to the Department to be necessary or expedient for the purposes of the agreement.

5 (4) The fact that works are to be executed in pursuance of an agreement under this section does not affect the power of the Department to acquire land, by agreement or compulsorily, for the purposes of the works.

10 (5) If any amount due to the Department in pursuance of an agreement under this section is not paid in accordance with the agreement, the Department may do any or all of the following —

15 (a) direct that any means of access or other facility afforded by the works to which the agreement relates must not be used until that amount has been paid;

20 (b) recover that amount from any person having an estate or interest in any land for the benefit of which any such means of access or other facility is afforded;

(c) declare that amount to be a charge on any such land (identifying it) and on all estates and interests in the land,

25 and the Department may charge compound annual interest on the amount at 2% above the base rate from time to time of the Bank of England.

(6) If it appears to the Department that a direction under subsection (5)(a) is not being complied with, the Department may —

30 (a) execute such works as are necessary to stop up the means of access or deny the facility, as the case may be, and may for that purpose enter any land; and

35 (b) recover the cost of the works from any person from whom recovery may be made under subsection (5)(b) as if it were an amount due under subsection (5).

40 (7) Where the Department recovers an amount from a person by virtue of subsection (5)(b) or (6)(b), he or she may in turn recover from any other person having an estate or interest in land for the benefit of

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which the means of access or other facility was afforded such contribution as may be found by the court to be just and equitable.

This does not affect the right of any of those persons to recover from the person liable under the agreement the amount which they are made to pay.” **5**

Section 110  
amended

**48.** In section 110 —

(a) for subsection (1) substitute —

“(1) Where the Department has incurred expenses for the repayment of which a person is liable under this Act, or by agreement with the Department, the Department may recover those expenses, together with interest, from that person — **10**

(a) in the case of expenses due under Part VII, from the expiry of one month from the date of service of notice of the final apportionment; and **15**

(b) in any other case, from the date of service of a demand for the expenses.

(1A) Where works are involved, as from the date of their completion the expenses and accrued interest due on the works shall, until recovered, be a charge on any premises (and all estates and interests included) in respect of which the expenses were incurred.”; **20**

(b) for subsection (3) substitute — **25**

“(3) The Department may charge compound annual interest on any expenses recoverable by it under this section at 2% above the base rate from time to time of the Bank of England.”.

Section 115  
amended

**49.** In section 115 — **30**

(a) in subsection (2)(b) for “£1,000” substitute “£2,500”;

(b) after subsection (2) insert —

“(2A) The Department may by order amend subsection (2) so as to vary the amount of any fine there specified and such order shall not have effect unless approved by Tynwald.”. **35**

- 50.** In section 118 — Section 118  
amended
- (a) in subsection (2) for “by regulations prescribe” substitute “specify”;
  - (b) subsection (3) is repealed.
- 5 51.** In Schedule 1A — Schedule 1A  
amended
- (a) paragraphs 4 and 6 and their respective cross-headings are repealed;
  - (b) in paragraph 5 —
    - 10** (i) in sub-paragraph (1) delete “which are of a description prescribed by regulations under paragraph 6,”;
    - (ii) delete sub-paragraphs (2) and (3);
  - (c) in paragraph 7 —
    - 15** (i) in sub-paragraph (1) for “where a raised surface in a highway conforms to regulations under paragraph 4, it” substitute “a raised surface in a highway”;
    - 20** (ii) in sub-paragraph (3) for “Works (whenever constructed) of a description prescribed by regulations under paragraph 6 which conform to any requirements imposed by the regulations” substitute “Traffic restraint works (whenever constructed)”;
    - (iii) delete sub-paragraph (4);
  - (d) in paragraph 8 delete the definition of “prescribed”.
- 25 52.** After Schedule 1A insert — Schedule 1B  
inserted
- “Section 16A(8) SCHEDULE 1B
- IMPROVEMENT LINES
- 30 1.** Before an improvement line is designated by the Department it must consult the local authority in whose district the highway in relation to which the line is to be designated is situated.

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2. A line that the Department proposes to designate must be shown on a plan to be signed by the Minister.
3. The plan must be deposited at the offices of the Department or at such place as the Department may direct, and may be inspected by any person free of charge at all reasonable hours during a period of one month from the day on which it is so deposited. 5
4. As soon as the plan has been so deposited the Department must give notice of the proposal to designate the line, of the times and place at which the plan may be inspected, and of the effect of section 16A and of paragraph 5, to every owner, lessee and occupier of land affected. 10
5. The Department must consider any objection to the proposed line made within 6 weeks from the date on which the notices were given and may then designate the line. 15
6. Not later than 6 weeks after the date on which the Department designates the line it must prepare a plan, duly sealed and authenticated, on which the line must be shown and must give notice of the designation of the line and of the time and place at which the plan may be inspected to every owner, lessee and occupier of land affected. 20
7. If the Department revokes the line, it must—
- (a) give notice of the revocation to every owner, lessee or occupier of land affected and to the local authority in whose district the land to which the line relates is situated; and 25
  - (b) indicate on the plan prepared in accordance with paragraph 6 the extent to which the line has been revoked.”.
- Schedule 3 amended **53.** In paragraph 9(1) of Schedule 3 delete “or of regulations made under this Act”. 30
- Schedule 4 amended **54 .** In paragraph 2 of Schedule 4 —
- (a) in sub-paragraph (6) —
  - (i) for “When” substitute “Subject to the following provisions of this paragraph, when”; 35

- (ii) in head (c) for “in accordance with regulations made by the Department” substitute “in accordance with any directions given by the Department or the relevant body, as the case may be”;
- 5** (iii) for “12 months” substitute “24 months”;
- (b) in sub-paragraph (7) delete the second sentence;
- (c) after sub-paragraph (7) insert —
- “(7A) If the undertakers —
- 10** (a) have not reinstated or made good a highway or bridge in accordance with the Department’s directions under sub-paragraph (6)(c); or
- (b) have failed to keep it in good repair in accordance with paragraph (6),
- 15** the Department may, having given not less than 28 days’ notice to the undertakers, carry out the works that it considers necessary itself and may recover from the undertakers the expenses reasonably incurred in so doing.”;
- (d) in sub-paragraph (8) for “, the Department, or, as the case may be” substitute “relating to a sewer, drain or tunnel”;
- 20**
- (e) after sub-paragraph (8) insert —
- “(8A) Without limiting sub-paragraph (7A), if, in the opinion of the Department, the undertakers fail to keep in good repair a highway or bridge in accordance with sub-paragraph (6), the Department may, within the 24 month period specified in that sub-paragraph, serve a default notice on the undertakers specifying the delay or omission, and on service of that notice the period specified in that sub-paragraph is extended by a further 24 months.
- 25**
- 30**
- (8B) If there is continuing failure of the matters referred to in sub-paragraph (8A), the Department may serve further default notices and in each case the period specified in sub-paragraph (6) is extended by a further 24 months from the service of each such notice.
- 35**
- (8C) If any question arises in relation to the amount of expenses reasonably incurred under sub-paragraphs (7), (7A) and (8), the question shall be determined by arbitration.”;

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(f) after sub-paragraph (9) add —

“(10) In this paragraph a reference to reinstatement and making good in the context of a highway or bridge includes —

- (a) the planing off and resurfacing of the carriageway to the following extent — **5**
  - (i) in a case where the undertakers’ works are confined to a single lane, the full width of that lane;
  - (ii) in a case where such works encompass more than one lane but do not extend beyond the centre line of the carriageway, the width of that side of the carriageway to the centre line; **10**
  - (iii) in a case where such works extend beyond the centre line, the entire width of the carriageway; and **15**
  - (iv) in a case where such works are carried out on a highway habitually forming part of a race circuit, or on a carriageway subject to heavy braking, the entire width of the carriageway; **20**
- (b) the use of materials that are of the same type as were used in the surfacing of adjacent stretches of the carriageway not affected by the works; **25**
- (c) the application of surface dressing, antiskid surfacing or special finishes in accordance with specifications approved by the Department;
- (d) the replacement of line markings and catseyes; and **30**
- (e) the making good of any object or equipment installed on the highway or bridge.”.

PART 5

MISCELLANEOUS AMENDMENTS AND REPEALS

Amendment  
of Petty  
Sessions and  
Summary  
Jurisdiction  
Act 1927

**55.** In section 66(4) of the Petty Sessions and Summary Jurisdiction Act 1927 for “a fine not exceeding £1,000, or to be imprisoned for a term not exceeding two months” substitute “the same penalties as would apply if the person were convicted of **35**

[XII p.291]

[c.23]

contravening section 3 of the Road Traffic Act 1985 (careless or inconsiderate driving) (save that obligatory endorsement applies only if the offence were committed in respect of a carriage that is mechanically propelled).”.

- 5** **56.** In Part II of Schedule 1 to the Civil Service Act 1990 — Amendment  
of Civil  
Service  
Act 1990
- (a) delete paragraph 2(b) apart from “or”;
- (b) after paragraph 2 insert — [c.8]
- “**2A.** Employment by the Department of Infrastructure as a traffic warden under section 33 of the Road Traffic Regulation Act 1985.”.
- 10** [c.23]
- 57.** (1) The Road Transport Act 2001 is amended as follows. Amendment  
of Road  
Transport  
Act 2001
- (2) For section 7(1) and (2) substitute — [c.27]
- “(1) In this Act “goods vehicle” means —
- (a) a motor vehicle constructed or adapted for use for the carriage of goods;
- (b) a trailer so constructed or adapted; or
- (c) any combination of such vehicles,
- the maximum weight of which exceeds such weight as is prescribed.”.
- 15**
- 20** (3) For section 10(4) substitute —
- “(4) In addition to the requirements of subsection (1) or (2), an application for registration or an operator’s licence shall not be granted unless the Committee is satisfied that —
- (a) any place specified in the application as an operating centre of the applicant is suitable —
- (i) for use as such an operating centre, and
- (ii) for use as such an operating centre for the number of vehicles, or the number of vehicles of any specified class, proposed to be used under the registration or licence; and
- 25**
- 30**

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(b) such additional requirements as may be prescribed are met.”.

(4) After section 62(4) insert —

“(4A) The Department may make regulations authorising the Committee to refuse, suspend or revoke any registration or licence under this Act on grounds relating to the health of the person concerned.”. 5

(5) In Schedule 1 —

(a) in paragraph 5 for “Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (Acts of Parliament)” substitute “Armed Forces Act 2006 (of Parliament)”;

(b) in paragraph 13(3) for the definition of “the requisite skills” substitute —

“ “the requisite skills” means the skills appropriate for the type of registration or operator’s licence applied for as set out in Annex I to Council Directive 1996/26/EC dated 29 April 1996 (on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for those operators the right to freedom of establishment in national and international transport operations), as that Directive may be amended from time to time.”. 15  
20  
25

Amendment  
of Road  
Traffic  
(Amendment)  
Act 2006  
[c.24]

**58.** In section 1(11)(a) of the Road Traffic (Amendment) Act 2006 for “and (6A)” substitute “and (6)”.

Repeals

**59.** The following provisions are repealed —

[c.24]

(a) the Road Traffic (Amendment) Act 1996, Schedule 2, paragraph 3(2); 30

[c. 1]

(b) the Road Traffic Act 1999 section 5(2) and (4);

(c) the Road Traffic (Amendment) Act 2006, section 10;

[c. 3]

(d) the Criminal Justice, Police and Courts Act 2007, section 24. 35

IN THE KEYS

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**Road Traffic and Highways  
(Miscellaneous Amendments)**

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**A BILL**

*to amend further various enactments connected with road traffic and highways; and for connected purposes.*

Approved by the Council of Ministers for introduction in the House of Keys.

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MR. GAWNE

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MARCH 2011

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