

2017-10-20

OBJECTS AND REASONS

This Bill would amend the *Road Traffic Act*, Cap. 295 to make provision for

- (a) the registration of manufacturers of registration number plates;
- (b) the regulation of all terrain vehicles;
- (c) breathalyser testing;
- (d) disabled parking; and
- (e) related matters.

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 295
3. Amendment of section 10 of Cap. 295
4. Insertion of sections 10E and 10F into Cap. 295
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7. Insertion of Part IVA into Cap. 295
8. Amendment of section 61 of Cap. 295
9. Amendment of section 69 of Cap. 295
10. Insertion of section 69A into Cap. 295
11. Repeal and replacement of section 74 of Cap. 295
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BARBADOS

A Bill entitled

An Act to amend the *Road Traffic Act*, Cap. 295 to make provision for the registration of manufacturers of registration number plates, the regulation of all terrain vehicles, breathalyser testing, disabled parking and for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Road Traffic (Amendment) Act, 2017*.

Amendment of section 2 of Cap. 295

2. *Section 2 of the Road Traffic Act, Cap. 295, in this Act referred to as the principal Act is amended in subsection (1) by*

- (a) *deleting the definitions of “all terrain vehicle”, ”driver”, owner”, “trailer” and “vehicle” ; and*
- (b) *substituting and inserting the following definitions in their respective alphabetical order:*

““ all terrain vehicle” means a recreational motorized vehicle that

- (a) is designed to travel on 3 or more low pressure tyres, has a seat designed to be straddled by the operator and has handlebars for steering control;
- (b) is primarily designated to travel over unimproved terrain, but is capable of travelling on a public road; and
- (c) may be used for hire as a tour vehicle;

“carriageway” means the part of the highway that is improved, designed or primarily used for vehicular traffic, but does not include the shoulder of the highway;

“construction zone” means an area of a public road on which construction, maintenance or repair work is being carried out;

“disabled parking permit” means a parking permit issued by the Licensing Authority pursuant to section 88A for use by a person with a disability or an organisation or corporation engaged in the transportation of persons with disabilities;

“drive” means

- (a) in relation to a motor vehicle, having control over the steering, movement and propulsion of the motor vehicle; and
- (b) in relation to an animal, having control of the animal;

“driver” means a person driving a motor vehicle, and includes

- (a) a person in charge of a motor vehicle for the purpose of driving, where the vehicle is stationary on a road;
- (b) a person acting as a steersman of a motor vehicle; and
- (c) any person driving a vehicle or animal;

“driving licence” means

- (a) a licence referred to in section 61 authorising the holder to drive a motor vehicle on a road or highway, but does not include a learner’s permit; or
- (b) a licence or other authorisation granted to a person of another jurisdiction authorising that person to drive a motor vehicle on a road or highway other than solely for the purpose of learning to drive;

“garage” means a place where motor vehicles are received for

- (a) storage;
- (b) inspection;
- (c) examination; or
- (d) repair,

whether compensation is paid or not;

“highway” includes a road, a common and public highway, an overpass, an underpass, carriageway, median strip, bridge, traffic island and any part of which is intended for and used by the general public

for the passage of vehicles, animals and pedestrians and includes all road reserves, nature strips, footpaths and cycle paths thereof;

“learner’s permit” means a permit issued under section 63;

“median strip” means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction or traffic travelling in the same direction by a physical barrier, or a raised or depressed, paved or unpaved separation area that is not intended to allow the crossing of vehicular movement;

“owner” means, in the case of a registered vehicle,

- (a) a person in whose name the vehicle is registered;
- (b) the person in charge or in possession of the motor vehicle where the registered owner is absent from Barbados;
- (c) the person in possession of the vehicle under a contract for hire purchase;
- (d) where there are several persons entitled to its immediate possession, the person whose entitlement is paramount,

and for the purposes of Part IV includes a person in possession of a motor vehicle under a contract for hire;

“parking” means the standing of a vehicle whether occupied or not, except when standing temporarily for the purpose of loading or unloading passengers or goods;

“registration number plate” means an identification plate which bears the registration number of a motor vehicle;

“trailer” means

- (a) a vehicle not having independent motor power that is designed to be drawn by a motor vehicle, but does not include a side-car attached to a motor cycle; or

- (b) a vehicle that is drawn by another motor vehicle on a highway;

“vehicle” means

- (a) a carriage, wagon, cart, motor vehicle, bicycle, tricycle, van, handcart, sledge, truck, barrow, wheelchair or any other machine for the carriage of goods or persons on land;
- (b) every conveyance capable of being propelled or drawn on wheels or tracks by any means;
- (c) where the context permits, an animal being driven or ridden;”.

Amendment of section 10 of Cap. 295

3. *Section 10 of the principal Act is amended in subsection (4A) by deleting the words “authorised by the Licensing Authority” and substituting the words “registered under section 10E”.*

Insertion of sections 10E and 10F into Cap. 295

4. *The principal Act is amended by inserting immediately after section 10D, the following new sections:*

“Registration of manufacturers of registration number plates

10E.(1) Subject to section 10F, no person shall

- (a) manufacture registration number plates unless he is registered under this section; or
- (b) obtain registration number plates from a manufacturer who is not registered under this section.

(2) A person who manufactures registration number plates is, on application to the Licensing Authority in such form as the Licensing Authority approves and on payment to the Barbados Revenue Authority of such fee as the Minister of Finance by order prescribes, entitled to be registered as a manufacturer of registration number plates.

(3) A person shall, upon making an application under subsection (2), furnish the Licensing Authority with

- (a) the name and address of the person, business or company to be registered;
- (b) the certificate of registration issued under the *Registration of Business Names Act*, Cap. 317 or the certificate of incorporation issued under the *Companies Act*, Cap. 308 in the case of a registered business or a company; and
- (c) any other relevant particulars that the Licensing Authority may require.

(4) The Licensing Authority shall, on receiving proof of payment of the fee prescribed pursuant to subsection (2), issue a certificate of registration.

(5) A certificate of registration issued in accordance with subsection (4) is valid for a period of one year from the date of issue.

(6) The Licensing Authority shall keep a record of the manufacturers of registration number plates registered under this Act.

(7) A manufacturer of registration number plates shall not issue a number plate in respect of a motor vehicle to any person unless that person presents the following:

- (a) an identification card;
- (b) a valid driving licence;

- (c) a valid registration card evidencing payment of the relevant tax in respect of the motor vehicle; and
 - (d) a valid certificate of insurance in respect of the motor vehicle.
- (8) A person who contravenes subsection (1) or (7) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 12 months or to both.

Transitional provisions

- 10F.(1)** Every person who is a manufacturer of registration number plates at the commencement of the Road Traffic (Amendment) Act, 2017 shall, within a period of 4 months after the date of commencement, comply with the requirements specified in section 10E.
- (2) A person shall be permitted to obtain registration number plates from a manufacturer who is not registered in accordance with section 10E for a period of 4 months after the date of commencement of the Road Traffic (Amendment) Act, 2017.”.

Amendment of section 42 of Cap. 295

5. *Section 42 of the principal Act is amended by deleting subsection (2) and substituting the following:*

“(2) A driver of a motor vehicle who does not have with him the certificate of insurance at the time he is required to produce it, shall produce it at the police station designated by the member of the Police Force or the transport inspector referred to in subsection (1), within 24 hours of the date on which he was required to produce it.”.

Insertion of section 43A and 43B into Cap. 295

6. *The principal Act is amended by inserting immediately after section 43 the following new sections:*

“Written-off vehicles

43A.(1) Where a motor vehicle that is registered under this Act and insured is damaged in an accident, the motor vehicle becomes written-off when

- (a) the cost of repairing the motor vehicle is more than the value of the motor vehicle and the owner of the vehicle decides not to repair the damage and to
 - (i) keep the motor vehicle; or
 - (ii) sell or otherwise dispose of the motor vehicle; and
- (b) the insurance company with which the motor vehicle is insured under a contract of insurance
 - (i) pays an amount determined under the contract of insurance in relation to the damaged motor vehicle and acquires ownership of the motor vehicle; or
 - (ii) pays an amount determined under the contract of insurance in relation to the damaged motor vehicle less its value as salvage and does not acquire ownership of the motor vehicle.

(2) Where a motor vehicle is written-off pursuant to subsection (1), the insurance company shall register the particulars of the motor vehicle with the Licensing Authority.

(3) An insurance company shall, for the purpose of registering the particulars of the motor vehicle pursuant to subsection (2), submit the following information to the Licensing Authority:

- (a) the name and address of the owner of the motor vehicle;
- (b) the make and model of the motor vehicle;
- (c) the engine number and chassis number of the motor vehicle;
and
- (d) the reason for the write-off.

(4) An insurance company that fails to comply with the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of \$5 000 and in the case of a continuing offence to a further fine of \$500 for each day or part thereof during which the offence continues after which a conviction is first obtained.

Notification of purchase of written-off vehicle

43B. Where a person purchases a motor vehicle that has been accepted by an insurance company as a write-off, the insurance company shall submit to the Licensing Authority the name and address of the purchaser no later than 14 days after the date of purchase of the motor vehicle.”.

Insertion of Part IVA into Cap. 295

7. *The principal Act is amended by inserting immediately after Part IV the following new Part:*

“PART IVA

ALL TERRAIN VEHICLES

No driving of all terrain vehicles on public road or highway

60B. Subject to section 60C, no person shall drive an all terrain vehicle on a public road or highway.

Driving licence

60C. A person who drives an all terrain vehicle on a public road or highway shall

- (a) be the holder of a valid driving licence;
- (b) be over the age of 16 years; and
- (c) have been granted special permission by the Licensing Authority.

Registration and insurance

60D. Every owner of an all terrain vehicle shall register and insure the vehicle in accordance with the provisions of sections 5 and 37 of this Act respectively.

Prohibitions

60E. No person shall operate an all terrain vehicle

- (a) without due care and attention;
- (b) without reasonable consideration for other persons on the road or highway;
- (c) at a speed greater than is reasonable and safe in the circumstances and at a speed greater than 50 kilometres per hour;

- (d) with a passenger, unless the all terrain vehicle was designed by the original manufacturer of the vehicle for the transportation of passengers;
- (e) at night without using the prescribed lights;
- (f) fitted with seat belts installed by the manufacturer of the vehicle, without using the seat belts in a properly adjusted and securely fastened manner while the vehicle is in operation.

Rules of operation

60F. Every driver of an all terrain vehicle shall

- (a) when approaching an oncoming vehicle, pass the vehicle on the left;
- (b) yield the right of way to vehicles approaching from the right;
- (c) when overtaking another vehicle, pass the vehicle on the right;
- (d) yield the right of way to all pedestrians that are approaching so close as to present a hazard;
- (e) except when overtaking another vehicle, maintain a safe following distance behind any other vehicle;
- (f) when circumstances warrant, signal his intention to turn by using signal lights, if the vehicle is equipped with them or hand signals as described in the Highway Code;
- (g) on being requested or signalled to do so by a member of the Police Force, unit of the Department of Emergency Management, unit of the Defence Force, unit of the Fire Service, unit of the Prison Service sounding a bell, siren or flashing a lamp, immediately stop the all terrain vehicle.

Equipment

60G. The driver of an all terrain vehicle and every passenger being carried on an all terrain vehicle shall wear a helmet and protection for the eyes of the type prescribed by the Minister.

Records to be kept

60H.(1) Every person engaged in the business of renting all terrain vehicles shall keep a record, signed by each person to whom a vehicle is rented, containing the following particulars:

- (a) the registration number of each vehicle rented;
- (b) the name, national registration number or equivalent information of the person to whom each vehicle is rented;
- (c) the date and time at which the vehicle is rented;
- (d) the time during which the vehicle is in the possession of the person to whom it is rented; and
- (e) any other information which the Licensing Authority may require.

(2) A record kept pursuant to subsection (1) shall be made available to any member of the Police Force in uniform who wishes to inspect it in order to ascertain whether this Act and the regulations are being complied with.

Offences

60I. Every person who contravenes any provision in this Part is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 6 months or to both.”

Amendment of section 61 of Cap. 295

8. *Section 61 of the principal Act is amended in subsection (1) by inserting immediately before the words “driving licence” the word “valid”.*

Amendment of section 69 of Cap. 295

9. *Section 69 of the principal Act is amended by deleting subsection (1) and substituting the following:*

“(1) Subject to section 62, a driving licence shall not be issued or endorsed as valid to an applicant who is

- (a) under the age of 25 years, for the purpose of driving
 - (i) a public service vehicle that is not a self-driven or hired car;
 - (ii) a motor tractor; or
 - (iii) a heavy goods vehicle; or
- (b) under the age of 18 years for the purpose of driving a self-driven or hired car.”.

Insertion of section 69A into Cap. 295

10. *The principal Act is amended by inserting immediately after section 69 the following new section:*

“Random alcohol and drug testing for drivers of articulated vehicles and public service vehicles

69A.(1) A person who applies for and is granted a licence to drive an articulated vehicle or a public service vehicle shall, as a condition

of being granted the licence, be subject to random alcohol and drug testing at the request of the Authority which issued the licence.

(2) A test referred to in subsection (1) shall be carried out by a medical practitioner.”.

Repeal and replacement of section 74 of Cap. 295

11. *Section 74 of the principal Act is deleted and the following is substituted:*

“Production of driving licence or identification card

74.(1) The driver of a motor vehicle on a public road shall have his driving licence or a government-issued identification card in his possession and produce it for examination on being required to do so by a member of the Police Force or a transport inspector in uniform, so that the member of the Police Force or transport inspector is able to ascertain

- (a) the name and address of the holder of the driving licence;
- (b) the identity of the driver of the motor vehicle; or
- (c) whether the driver of the motor vehicle is licensed to drive that particular class of motor vehicle.

(2) Where a driver of a motor vehicle does not produce his driving licence but produces an identification card to a member of the Police Force or a transport inspector in uniform, that driver shall produce his driving licence at the police station designated by the member of the Police Force or the transport inspector within 24 hours of the date on which he was required to produce it.

- (3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 12 months or to both.”.

Insertion of section 76A into Cap. 295

12. *The principal Act is amended by inserting immediately after section 76 the following new section:*

“Dishonoured cheques

76A.(1) The Licensing Authority may refuse to issue, renew or replace a permit, licence or registration of a motor vehicle where payment made by cheque in respect of the permit, licence or registration is dishonoured by the financial institution on which it is drawn.

(2) The issuer of the cheque referred to in subsection (1) shall be charged an administrative fee of \$50 by the Barbados Revenue Authority for handling the dishonoured cheque.

(3) Where a cheque is dishonoured, the Licensing Authority shall notify the issuer and unless the outstanding payment is made within 7 days of the date of notification, the permit, licence or registration will be cancelled.

(4) Where the amount of the outstanding payment is paid to the Barbados Revenue Authority within the 7 day period stipulated in subsection (3), the permit, licence or registration will be considered to be valid.

(5) No person shall be able to

- (a) renew a permit or driving licence; or
- (b) register a motor vehicle

where that person owes the Barbados Revenue Authority an outstanding payment under this section.”.

Insertion of section 84A into Cap. 295

13. *The principal Act is amended by inserting immediately after section 84 the following new section:*

“Speed limit in construction zones

84A.(1) No person shall drive a motor vehicle in a construction zone at a speed greater than the speed specified in the regulations.

(2) Where traffic control devices placed on a road or highway at either end of a construction zone facing oncoming traffic indicate the maximum speed permissible in the construction zone, no person shall drive a vehicle in the construction zone at a rate of speed greater than the speed indicated by the traffic control devices.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 12 months or to both.

(4) A person who contravenes subsection (1) or (2) shall pay, in addition to the fine stated in subsection (3), where it is found that the rate of speed at which the motor vehicle was driven is

- (a) less than 30 kilometres per hour over the maximum posted speed limit, a fine of \$50 for each kilometre per hour that the motor vehicle was driven over the maximum posted speed limit;
- (b) 30 kilometres per hour or more but less than 50 kilometres per hour over the maximum posted speed limit, a fine of \$70 for each kilometre per hour that the motor vehicle was driven over the maximum posted speed limit;

- (c) 50 kilometres per hour or more but less than 60 kilometres per hour over the maximum posted speed limit, a fine of \$100 for each kilometre per hour that the motor vehicle was driven over the maximum posted speed limit; or
- (d) 60 kilometres per hour or more over the maximum posted speed limit, a fine of \$200 for each kilometre per hour that the motor vehicle was driven over the maximum posted speed limit.”.

Repeal and replacement of section 85 of Cap. 295

14. *Section 85 of the principal Act is deleted and the following is substituted:*

“Driving or being in charge of a motor vehicle while under the influence of a drug or alcohol

85.(1) No person shall drive, attempt to drive or be in charge of a motor vehicle on a road or in any other public place while that person

- (a) is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the motor vehicle; or
- (b) has consumed alcohol in such a quantity that the proportion in his breath or blood exceeds the prescribed limit.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction

- (a) in the case of a first conviction, to a fine of \$5 000 or to imprisonment for a term of 2 years, or both ; or
- (b) in the case of a second or subsequent conviction, to a fine of \$10 000 or to imprisonment for a term of 5 years, or both.

- (3) A person convicted of an offence under this section, unless the court for any special reason thinks fit to order otherwise, shall
- (a) in the case of a first conviction, be disqualified from holding or obtaining a driving licence from the date of the conviction for a period of 12 months;
 - (b) in the case of a second conviction, be disqualified from holding or obtaining a driving licence from the date of the conviction for a period of 5 years; and
 - (c) in the case of a subsequent conviction, be permanently disqualified from holding or obtaining a driving licence.
- (4) Where there is an appeal against a conviction under this section, a period of disqualification runs from the date of the conviction if the appeal is dismissed or allowed; but, if the appeal is discontinued, a period of disqualification runs from the date of the discontinuance of the appeal.
- (5) For the purposes of this section, a person is unfit to drive if his ability to drive properly is for the time being impaired. ”.

Insertion of sections 85A to 85I into Cap. 295

15. *The principal Act is amended by inserting immediately after section 85 the following new sections:*

“Approval of devices by the Minister

85A. The Minister may, by order, approve the devices to be used for

- (a) the purpose of obtaining an indication of alcohol in a person’s breath; and

- (b) the quantitative measuring of the proportion of alcohol in a person's breath.

Breath test

85B.(1) Where a member of the Police Force in uniform has reasonable cause to suspect that

- (a) a person driving or in charge of a motor vehicle on a road or other public place has alcohol in his breath in excess of the prescribed limit;
- (b) a person has been driving or attempting to drive or has been in charge of a motor vehicle on a road or other public place with alcohol in his breath in excess of the prescribed limit and the person still has alcohol in his breath; or
- (c) a person driving or in charge of a motor vehicle on a road or other public place committed a traffic offence while the vehicle was in motion,

the member of the Police Force may, subject to section 85G, require that person to provide a specimen of breath for a breath test.

(2) The specimen of breath shall be provided at the place where the requirement is made or at the police station nearest to that place, as soon as is reasonably practicable after the member of the Police Force makes the requirement.

(3) The member of the Police Force shall warn every person who is required to provide a specimen in accordance with this section that a failure to do so may render that person liable to prosecution.

(4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 6 months or to both.

Breath analysis

85C.(1) Subject to section 85G, where the result of a breath test carried out in accordance with section 85B indicates that there may be present in a person's breath, a proportion of alcohol that is in excess of the prescribed limit, a member of the Police Force in uniform may require that person to provide 2 specimens of breath for analysis.

(2) The specimens of breath shall be provided the at the place where the requirement is made or at the police station nearest to that place, as soon as is reasonably practicable after the member of the Police Force makes the requirement.

(3) Where 2 specimens of breath are provided for analysis, they shall be suitable if

- (a) each specimen is sufficient to enable the analysis to be carried out;
- (b) each specimen is provided in such a way as to enable the objective of the analysis to be satisfactorily achieved; and
- (c) there is an interval of not less than 2 minutes and not more than 10 minutes between the provision of specimens.

(4) The reading from the specimen which indicates the lower proportion of alcohol in the person's breath shall be considered to be the result of the breath analysis.

(5) The member of the Police Force shall warn every person who is required to provide the specimens in accordance with this section that a failure to do so may render that person liable to prosecution.

(6) A person who, without reasonable excuse, fails to provide 2 specimens of breath when required to do so is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 6 months or to both.

Duty to provide written statement

85D.(1) A member of the Police Force shall, as soon as is practicable after completing a breath analysis in accordance with section 85C, provide the person who provided the specimens of breath with a written statement which shall include the following:

- (a) the date, time and place at which the specimen was taken;
- (b) the proportion of alcohol in the person's breath as indicated by the device referred to in section 85A(a); and
- (c) the proportion of alcohol determined by the analysis to be present in that person's breath expressed in microgrammes of alcohol in one hundred millilitres of breath.

(2) The statement referred to in subsection (1) shall be signed by the member of the Police Force.

Laboratory test

85E.(1) During the course of an investigation to determine whether a person contravened section 85, a member of the Police Force in uniform may require the person to provide a specimen of blood or urine for a laboratory test if

- (a) a device of the type referred to in section 85A is not available or it is, for any other reason, not practicable to use such device; or
- (b) the member of the Police Force has reasonable cause to believe that, for medical reasons, the person is unable to provide a specimen of breath,

but he shall not make the requirement where a breath analysis has been carried out in accordance with section 85C, and the result of that analysis is available.

- (2) A specimen of blood or urine shall only be taken if
 - (a) the person providing the specimen consents to the specimen being taken; and
 - (b) the specimen is taken at a medical clinic, polyclinic or hospital by a medical practitioner.
- (3) The question whether it shall be a specimen of blood or a specimen of urine shall be decided by the member of the Police Force making the requirement, except where a medical practitioner has expressed a professional opinion that one type of specimen cannot or should not be taken, in which case the other type of specimen shall be taken.
- (4) The specimen of blood or urine shall be provided as soon as is reasonably practicable after the member of the Police Force makes the requirement.
- (5) The member of the Police Force shall warn every person who is required to provide a specimen in accordance with this section that a failure to do so may render that person liable to prosecution.
- (6) A person who, without reasonable excuse, fails to provide a specimen of blood or urine when required to do so is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 6 months or to both.

Accident resulting in serious injury or death

85F.(1) Notwithstanding section 85E(1), where an accident involving a motor vehicle on a road or in any other public place results in serious injury or death, a member of the Police Force in uniform shall, subject to section 85G, require any person driving or in charge of a motor vehicle involved in the accident to provide a specimen of blood or urine for a laboratory test.

- (2) The member of the Police Force shall determine whether a specimen of blood or a specimen of urine is required, except where a medical practitioner has expressed a professional opinion that one type of specimen cannot or should not be taken, in which case the other type of specimen shall be taken.
- (3) The specimen of blood or urine shall
- (a) be provided as soon as is reasonably practicable after the member of the Police Force makes the requirement; and
 - (b) be taken at a medical clinic, polyclinic or hospital by a medical practitioner.
- (4) The member of the Police Force shall warn every person who is required to provide a specimen under this section that a failure to provide the specimen may render that person liable to prosecution.
- (5) A person who, without reasonable excuse, fails to provide a specimen when required to do so pursuant to this section is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 6 months or to both.

Protection for hospital patients

- 85G.(1)** A person who is at a hospital as a patient shall not be required to provide a specimen of breath for a breath test or a specimen of blood or urine for a laboratory test, unless the medical practitioner in charge of his case has been notified of the requirement.
- (2) Where a medical practitioner has been notified in accordance with subsection (1), he may
- (a) comply with the requirement and the specimen shall be taken at the hospital; or
 - (b) object to the requirement on the ground that the provision of a specimen will be detrimental to the health, proper care or

treatment of the patient, in which case the specimen shall not be taken.

Arrest of persons affected by a drug or alcohol

85H.(1) A member of the Police Force may arrest, without a warrant, a person who is driving or in charge of a motor vehicle on a public road or in any other public place where

- (a) the results of a breath test indicate that the proportion of alcohol in that person's breath exceeds the prescribed limit; or
- (b) that person failed to provide a specimen of breath for a breath test when required to do so and the member of the Police Force has reasonable cause to suspect that the person is under the influence of drink or a drug,

but a member of the Police Force shall not arrest a person who is at a hospital as a patient.

(2) Where a member of the Police Force exercises his power of arrest under subsection (1)(b), he shall

- (a) consult a medical practitioner to determine whether the person's ability to drive is impaired by reason of drink or a drug as soon as is reasonably practicable after the arrest; and
- (b) act on the advice of the medical practitioner.

Interpretation

85I. For the purposes of sections 85 to 85H,

“breath analysis” means the quantitative measuring of the proportion of alcohol in a person's breath carried out by means of a device approved by the Minister under section 85A;

“breath test” means a preliminary test for the purpose of obtaining, by means of a device approved by the Minister under section 85A, an indication of whether the proportion of alcohol in a person’s breath exceeds the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“fail” includes refuse;

“laboratory test” means the analysis of a specimen of blood or urine taken by a medical practitioner for the purpose of indicating

- (a) the presence of a drug in a persons’s blood or urine; or
- (b) whether the proportion of alcohol in a persons’s blood or urine has exceeded the prescribed limit;

“prescribed limit” means, as the case may require,

- (a) 35 microgrammes of alcohol in 100 millilitres of breath;
- (b) 80 milligrammes of alcohol in 100 millilitres of blood; or
- (c) 107 milligrammes of alcohol in 100 millilitres of urine, or such other proportion as may be prescribed by regulations made by the Minister.”.

Insertion of section 86A into Cap. 295

16. *The principal Act is amended by inserting immediately after section 86 the following new section:*

“Duty not to litter a road or highway

86A.(1) No person shall, while travelling in a motor vehicle, throw litter from the motor vehicle onto a road or highway.

(2) Where a person referred to in subsection (1) throws litter from a motor vehicle onto a road or highway and it cannot be determined by a member of the Police Force or a transport inspector as to who is responsible for throwing the litter from the motor vehicle, the driver of the motor vehicle shall be deemed to be the person who threw the litter onto the road or highway.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$200 or to imprisonment for a term of 3 months or to both.

(4) For the purpose of this section “litter” includes paper, plastic items, glass and metal.”.

Insertion of section 88A into Cap. 295

17. *The principal Act is amended by inserting immediately after section 88 the following new section:*

“Disabled parking

88A.(1) No driver of a motor vehicle shall stop, stand or park a motor vehicle in a parking space that is designated for disabled parking by a disabled parking sign, unless the motor vehicle prominently displays a valid disabled parking permit issued by the Licensing Authority that clearly indicates that the motor vehicle is

- (a) owned and operated by a person with a disability; or
- (b) used for the transportation of a person with a disability.

(2) No driver of a motor vehicle shall stop, stand or park a motor vehicle in a manner which hinders the use of a dropped kerb unless

- (a) the driver is picking up or setting down a passenger who is a person with a disability; or

- (b) the dropped kerb is attached to a residential property and the driver has received the consent of an occupant of that property.
- (3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$500.
- (4) For the purposes of this section
 - “dropped kerb” means the portion of a sidewalk or pavement which has been lowered to meet the level of the road to facilitate the movement of a person with a disability from the sidewalk or pavement to the road; and
 - “person with a disability” means a person whose mobility is limited as a result of a permanent or temporary disability that makes it impossible or difficult for the person to walk.”.

Insertion of sections 89A and 89B into Cap. 295

18. *The principal Act is amended by inserting immediately after section 89 the following new sections:*

“Abandoned vehicles

- 89A.**(1) No person shall abandon a vehicle on a road or highway.
- (2) A vehicle that is left standing on a road or highway for more than 24 hours is abandoned at that location.
 - (3) A vehicle is not abandoned under subsection (2) where that vehicle is parked in close proximity to a residential property
 - (a) to facilitate access to the property by an occupant or visitor; and
 - (b) does not obstruct other drivers, pedestrians or residents.

Removal of abandoned vehicle

89B.(1) The Chief Technical Officer or any person authorised by him shall take all reasonable steps to remove and where necessary provide for the safe custody of any motor vehicle where the vehicle is

- (a) abandoned pursuant to section 89A;
- (b) left unattended on a road or highway in a manner that obstructs the normal movement of traffic for a period of more than one hour;
- (c) parked on a road or highway in a manner that obstructs a police officer, traffic warden, transport inspector or fire officer in the course of his duty;
- (d) parked on a road or highway in contravention of this Act;
- (e) parked on a road, highway or public property and is not displaying any registration number plates, a registration card, valid registration number plates or a valid registration card;
- (f) parked on a road or highway and is in such a condition that in the opinion of the Chief Technical Officer the motor vehicle constitutes or presents a potential hazard to persons or property.

(2) Where a motor vehicle is removed from a road or highway pursuant to subsection (1) and is kept in safe custody by or under the direction of the Chief Technical Officer, the owner of the motor vehicle shall pay to the Barbados Revenue Authority

- (a) a fee of \$200 for removing the motor vehicle from the road or highway; and
- (b) a fee of \$100 per day for securing the motor vehicle in safe custody.

(3) The owner of a motor vehicle referred to in subsection (2) shall on the payment of the fees mentioned in that subsection receive possession of the motor vehicle.

(4) Where a motor vehicle is kept in safe custody and it

(a) is in such a condition that in the opinion of the Chief Technical Officer it ought to be disposed of;

(b) does not bear a valid registration card pursuant to section 16(1);

(c) does not bear registration number plates as required under section 10; or

(d) has no distinguishing marks by which the owner can identify that the motor vehicle belongs to him,

the motor vehicle may be disposed of by the Chief Technical Officer after it has been kept in safe custody for a period of 28 days.

(5) A motor vehicle may be disposed of by or under the direction of the Chief Technical Officer after steps have been taken by him to find the owner of the motor vehicle and the Chief Technical Officer has failed to find the owner or the owner has failed to comply with a notice which was

(a) served on him by the Chief Technical Officer; or

(b) published in the *Official Gazette* or in a daily newspaper circulated in Barbados,

requiring him to pay the fees due under subsection (2) and remove the motor vehicle within 21 days of the date of the notice.

(6) Where, before a motor vehicle is disposed of by the Chief Technical Officer in pursuance of subsection (4), the motor vehicle is claimed by a person who satisfies the Chief Technical Officer that he

is the owner and pays the sums specified by the Chief Technical Officer in respect of

- (a) removal and storage costs;
- (b) advertising costs; and
- (c) where applicable, any outstanding
 - (i) road taxes in respect of that motor vehicle; and
 - (ii) driving licence fees,

the Chief Technical Officer shall permit that person to receive possession of the motor vehicle within such period as may be specified.”.

Amendment of section 94 of Cap. 295

19. *Section 94 of the principal Act is amended by deleting subsection (2) and substituting the following:*

“(2) Any disqualification imposed at the discretion of the Court pursuant to subsection (1) shall not be limited to the driving of a motor vehicle of the same class or description as the vehicle in relation to which the offence was committed but shall apply to all of the categories of driving licences which that person holds pursuant to sections 68 and 69.”.

Insertion of section 106A into Cap. 295

20. *The principal Act is amended by inserting immediately after section 106 the following as section 106A:*

“Suspension of public service vehicle permit

106A. Where a public service vehicle is driven by a person who is not the owner of the vehicle and that person is convicted of 2 offences involving the same public service vehicle, the Transport Authority shall issue a warning letter to the owner of the public service vehicle, indicating that where the person is convicted of a third offence involving that public service vehicle, the permit issued in respect of the vehicle shall be suspended for a period of 6 months.”.

Repeal and replacement of section 119 of Cap. 295

21. *Section 119 of the principal Act is deleted and the following is substituted:*

“Issuance of the Highway Code by the Chief Technical Officer

119.(1) The Chief Technical Officer shall, within a reasonable time after the commencement of this Act, prepare a highway code, in this section referred to as the “Code” containing such directions as appear to him to be proper for the guidance of persons using the road or highway.

(2) The Code may be revised and published every 5 years commencing from the year 2005.

(3) The Chief Technical Officer shall cause the Code to be printed and issued to the public at such price as the Cabinet, by order published in the *Official Gazette*, determines.

(4) Failure on the part of any person to observe the Code prepared pursuant to this section does not by itself render that person liable to prosecution but may in any proceedings, whether civil or criminal, be

relied upon by any party to the proceedings as tending to establish or negative the culpability or liability that is in question in those proceedings.

(5) A Code prepared pursuant to subsection (1) is subject to affirmative resolution.”.

Amendment of section 124 of Cap. 295

22. *The principal Act is amended in subsection (1) by*

(a) deleting paragraph (t) and the following is substituted:

“(t) the safety, control and regulation of traffic whether on special occasions or otherwise, the use of vehicles of any class on any road and the conditions under which vehicles may be constructed, maintained and used;”;

(b) inserting immediately after paragraph (t) the following new paragraphs:

“(u) the proportions of alcohol in specimens of breath, blood or urine that represent the prescribed limit;

(v) disabled parking;

(w) construction zones on a road or highway;

(x) all terrain vehicles including

(i) the examination and regulation of all terrain vehicles;

(ii) the specifications of all terrain vehicles;

(iii) the safety equipment required for use on all terrain vehicles;

(iv) the safety training required for persons driving all terrain vehicles;

- (v) the use of all terrain vehicles on a highway; and
- (vi) the use of all terrain vehicles in the Scotland District Area;
- (y) the removal of abandoned vehicles from a road or highway;
- (z) the better carrying out of the provisions of this Act.”.

Amendment of Second Schedule to Cap. 295

23. *The Second Schedule to the principal Act is amended in paragraph (2) by*

(a) *inserting immediately after subparagraph (a), the following new subparagraph:*

“(aa)the font of the letters and figures must be Helvetica medium or bold;”;

(b) *deleting subparagraph (c) and substituting the following:*

“(c) each letter and figure must be 76.2 millimetres in height;”;

(c) *deleting subparagraphs (e), (f) and (g) and substituting the following:*

“(e) the total width of the space occupied by a letter or figure, except in the case of the figure 1, must be at least 44.45 millimetres but no more than 63.5 millimetres;

(f) the space between adjoining letters or figures must be 12.7 millimetres;

(g) there shall be a margin between the nearest part of any letter or figure and the top and bottom of the plate of at least 12.7 millimetres and between the nearest part of any letter or

figure and the sides of the plate of at least 25.4 millimetres;"; and

(d) deleting subparagraph (i) and substituting the following:


“(i) in the alternative diagram No. 2, the space between the letter and the figure shall be at least 25.4 millimetres but no more than 38.1 millimetres.”.

Amendment of Fourth Schedule to Cap. 295

24. *The Fourth Schedule to the principal Act is amended by deleting Part III and substituting the following:*

“PART III

Vehicles owned by the Government of Barbados or a Statutory Board

COLUMN 1	COLUMN 2
USE	LETTER OR SYMBOL
(a) Vehicle owned by the Government of Barbados and assigned to the Governor-General	 or GG
(b) Vehicles owned by the Government of Barbados and assigned to Government Ministries and Departments for the business of the Government	MP
(c) Vehicles owned by the Government of Barbados and assigned to the Barbados Defence Force for the business of the Force	D or 1-D to 10-D
(d) Vehicles owned by a Statutory Board and used for the business of the Board	ML.

Commencement

25. *The amendments directed to be made to the principal Act by section 18 of the Road Traffic (Amendment) Act, 2017 shall come into operation on a date to be fixed by proclamation.*

Read three times and passed the House of Assembly this
day of _____, 2017.

Speaker

Read three times and passed the Senate this _____ day of
, 2017.

President

ROAD TRAFFIC (AMENDMENT) ACT, 2017

EXPLANATORY MEMORANDUM

The Road Traffic Act came into force on 1st June, 1981 to establish, *inter alia*, the duties of owners and drivers of motor vehicles and the standards that should be observed by road users. Following the last amendment to the Act in 2009, a number of changes have become necessary. Such changes include technological and social advancements such as breathalyser testing and designated parking areas for persons with disabilities respectively. It has also become necessary to provide for the regulation of all terrain vehicles, given the recent increase in the use of those vehicles on the public roads.

Clause 1: This clause provides the short title of the amending Act. It may be cited as the *Road Traffic (Amendment) Act, 2017*.

Clause 2: This clause amends the interpretation section of the *Road Traffic Act*, Cap. 295 (the Act), to delete and substitute the terms “all terrain vehicles”, ”driver”, owner”, “trailer” and “vehicle”. The clause also amends the interpretation section of the Act to define the terms “carriageway”, “construction zone”, “disabled parking permit”, “drive”, “driving licence”, “garage”, “highway”, “learner’s permit”, “median strip”, “parking” and “registration number plates”.

Clause 3: This clause amends section 10 of the Act to make reference to the newly inserted section 10E.

Clause 4: This clause amends the Act by inserting sections 10E and 10F. It provides that manufacturers of registration number plates must be registered with the Licensing Authority and what steps must be taken to become registered. It imposes a duty upon persons to obtain registration number plates from registered manufacturers only. It also sets out the duty of a

manufacturer to ensure that he is presented with certain documents prior to issuing a registration number plate. It also provides the penalty for manufacturing registration number plates without being registered, obtaining registration number plates from a manufacturer who is not registered and issuing number plates without sight of the relevant documents. Provision is also made for the transitional period within which a manufacturer of number plates must register with the Licensing Authority as well as the transitional period within which a person may obtain number plates from a manufacturer who is not registered.

Clause 5: This clause amends section 42 of the Act to provide that a driver who is unable to produce an insurance certificate when required to do so, must produce the certificate at a police station designated by the member of the Police Force who requested the certificate.

Clause 6: This clause amends the Act by inserting sections 43A and 43B. Provision is made for the circumstances under which a vehicle becomes written-off and a duty is imposed on insurance companies to register certain particulars of the written-off vehicle with the Licensing Authority. The clause also provides the penalty for failing to comply with the registration requirements. It also imposes a duty on insurance companies to submit the name and address of a purchaser of a written-off vehicle within 14 days of the date of purchase.

Clause 7: This clause amends the Act by inserting Part IVA which deals with all terrain vehicles. The Part comprises sections 60B to 60I. These sections prohibit drivers from driving all terrain vehicles on public roads or highways unless they hold a valid driving licence and obtained special permission from the Licensing Authority. Section 60D imposes a requirement that

all terrain vehicles be registered and insured. General prohibitions on the operation of all terrain vehicles are imposed by section 60E and section 60F lists the rules that must be observed by drivers of all terrain vehicles. Sections 60G, 60H and 60I respectively, make provision for the protective equipment to be worn when travelling on an all terrain vehicle, the duty of persons who rent all terrain vehicles to keep certain records and the penalty for failing to comply with Part IVA.

- Clause 8:** This clause amends section 61 of the Act to make reference in subsection (1) to a valid driving licence, where that section previously referred to a driving licence.
- Clause 9:** This clause amends section 69 of the Act to increase the age from which a driving licence for certain vehicles may be issued and to specify the age from which a driving licence for a self-driven or hired car may be granted.
- Clause 10:** This clause amends the Act to insert section 69A which makes provision for random alcohol and drug tests to be carried out on persons who drive articulated vehicles and persons who drive public service vehicles.
- Clause 11:** This clause amends the Act by repealing and replacing section 74. The section imposes a requirement upon drivers of motor vehicles on public roads to have a driving licence or an identification card for presentation to a member of the Police Force or a transport inspector, if required to do so. The section also makes provision for the procedure to followed when a driver is unable to produce his driving licence and the penalty for failing to comply with a requirement to produce a driving licence or an identification card.

- Clause 12:** This clause amends the Act by inserting section 76A which makes provision for the action to be taken by the Licensing Authority where a payment made by cheque in respect of a permit, licence or registration is dishonoured. It also provides that no person who has monies outstanding to the Barbados Revenue Authority will be able to renew a permit or driving licence or register a motor vehicle.
- Clause 13:** This clause amends the Act by inserting section 84A which imposes a prohibition on driving at a speed that is greater than the speed limit in a construction zone and provides the penalties for persons who contravene the prohibition.
- Clause 14:** This clause amends the Act by repealing and replacing section 85 and provides for the offence of driving, attempting to drive or being in charge of a motor vehicle while under the influence of drink or a drug, or having consumed alcohol in excess of the prescribed limit. Provision is also made for more severe penalties for persons who are guilty of offences under the section.
- Clause 15:** This clause amends the Act by inserting sections 85A to 85I which pertain to breathalyser testing and related matters. Provision is made for the approval of the relevant breathalyser equipment by the Minister, the circumstances under which persons may be required to provide a specimen of breath and the procedure to be followed when a requirement to provide a specimen of breath is made. In addition, provision is made for the circumstances under which persons may be required to provide specimens of blood or urine and the procedure to be followed when persons are required to provide such specimens. Provision is also made for the power of members of the Police Force to make an arrest, without a warrant, in specified circumstances and protection of hospital patients

from being arrested and from being required to provide a specimen, in the absence of approval from the medical practitioner in charge of their cases.

Clause 16: This clause amends the Act by inserting sections 86A which imposes a prohibition on littering on a road or highway. Provision is also made for the penalty where persons fail to comply with the section.

Clause 17: This clause amends the Act by inserting section 88A which provides for disabled parking. Provision is made for the circumstances under which persons will be permitted to park in a parking space that is designated for disabled parking. The section also imposes a prohibition on drivers impeding the use of a dropped kerb and provides the circumstances under which a driver may stop, stand or park a vehicle in front of a dropped kerb. Provision is also made for the penalty when persons fail to comply with the section.

Clause 18: This clause amends the Act by inserting sections 89A and 89B which make provision for abandoned vehicles. Section 89A imposes a prohibition on abandoning a vehicle on a road or highway and states when a vehicle is considered abandoned. Section 89B makes provision for the removal of abandoned vehicles by the Chief Technical Officer and the procedure to be followed when such vehicles are removed. Provision is also made for the disposal of abandoned vehicles and the steps to be undertaken by the owners of abandoned vehicles to recover those vehicles.

Clause 19: This clause amends section 94(2) of the Act to provide that when a court orders that a person is disqualified from obtaining a driving licence, that penalty will apply to all categories of driving licences that the person holds and is no

longer limited to a vehicle of the same class or description as the vehicle in relation to which the offence was committed.

- Clause 20:** This clause amends the Act by inserting section 106A which provides for the issuance by the Transport Authority, of warning letters to the owners of public service vehicles. The section provides that the warning letters must notify owners of public service vehicles that the permits issued in respect of those vehicles will be suspended for 6 months if a driver of a public service vehicle, having been convicted of 2 offences involving the same public service vehicle, is convicted of a third offence involving that vehicle.
- Clause 21:** This clause amends the Act by repealing and replacing section 119 which provides for the issuance of a highway code by the Chief Technical Officer, rather than by the Commissioner of Police. In addition, provision is now made for the time within which the code must be revised and published.
- Clause 22:** This clause amends section 124 of the Act by inserting additional matters in respect of which the Minister may make regulations.
- Clause 23:** This clause amends the Second Schedule to the Act by making provision for the font and reduction in certain sizing requirements of the letters and figures on registration number plates.
- Clause 24:** This clause amends Part III of the Fourth Schedule to the Act to include a vehicle assigned to the Governor General.
- Clause 25:** This clause provides that certain sections in the Act will come into operation on a date to be fixed by proclamation.