



NHMRC ROAD ACCIDENT RESEARCH UNIT
THE UNIVERSITY OF ADELAIDE



HISTORY OF DRINK DRIVING LEGISLATION IN SOUTH AUSTRALIA

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WHO COLLABORATING CENTRE IN THE PREVENTION
AND CONTROL OF ROAD TRAFFIC ACCIDENTS

INFORMATION RETRIEVAL

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ABSTRACT : Legislation relating to driving under the influence of intoxicating liquor or drugs was first introduced in South Australia in 1921. The changes made to the legislation and the penalties set down are documented.

* Non IRRD Keyword

The views expressed in this publication are those of the author and do not necessarily represent those of the National Health and Medical Research Council or The University of Adelaide.

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HISTORY OF DRINK DRIVING LEGISLATION IN SOUTH AUSTRALIA

Introduction

Alcohol is a major factor contributing to road crashes which result in fatalities and injuries. Over the years many different countermeasures have been developed to control the incidence of drink driving in the community. These include attempts to modify driver behaviour through making changes to legislation relating to alcohol consumption and the use of the motor vehicle. Legislation related to driving under the influence of intoxicating liquor or drugs has undergone numerous revisions since it was first introduced in South Australia in 1921. The changes made to this legislation since then are documented in the table presented on pages 6-12 of this report.

Parliamentary legislation

To compile this history of alcohol related driving legislation, the original Acts and amendments dealing with alcohol and driving passed by the South Australian parliament were consulted. Amendments to Acts are printed in the South Australian Government Gazette and every few years the government printer produces a new consolidation of the Act in which each section of the Act is documented with references to amendments. By tracing these references the chronological progress of the drink driving legislation in South Australia was identified and documented.

South Australian Road Traffic Act

The current alcohol related driving legislation is found in the South Australian Road Traffic Act, 1961, section 47. The topics dealt with in this section and subsections are as follows:

Section 47	Driving under the influence of intoxicating liquor or drug (DUI)
47a	Definitions, which appear as footnotes in the table below
47b	Driving while having the prescribed concentration of alcohol in the blood (PCA)
47c	Relation of conviction under PCA to contracts of insurance (not included in the table)
47d	Payment by convicted person of costs incidental to apprehension (not included in the table)
47da	Breath testing stations
47e	Police may require alcotest or breath analysis if person is involved in an accident or suspected of DUI
47f	Right of a person to request a blood test from a medical practitioner
47g	Evidence (not included in the table)
47h	Approval of apparatus for the purposes of breath analysis and alcotests (not included in the table)
47i	Compulsory blood tests to be taken at hospital
47ia	Certain offenders to attend lectures
47j	Recurrent offenders

Section 47 of the Road Traffic Act as at August 1990 appears in Appendix 1.

Summary of major changes in drink driving legislation

Prior to 1967 the police had to rely on using sobriety checks by medical practitioners to determine whether a driver's mental or physical faculties were appreciably impaired. If impairment was found, the person could be charged with driving under the influence of intoxicating liquor or drugs (DUI). They were fined up to £100 and disqualified from driving for 3 months. In 1967 the Breathalyzer was officially introduced, although it had already been in use for 2 years. The Breathalyzer measured the concentration of alcohol in the breath. This has a direct relationship to the concentration of alcohol in the blood. The Breathalyzer was portable and enabled the police to test any driver who infringed

traffic regulations, behaved in a way which indicated impairment or had been involved in an accident. This advance meant that it was now possible to obtain an objective measurement of blood alcohol concentration and so legislation setting the prescribed concentration of alcohol (PCA) at 0.08 g/100mL was introduced. This level was in line with legislation introduced in other states about the same time, although in Victoria the legal limit was set at 0.05 g/mL.

Penalties were increased during the 1970s and 80s for offences relating to DUI and driving with the PCA. Penalties for DUI and PCA offences are now related to whether previous drinking and driving convictions have occurred within 5 years. PCA penalties are further related to the level of blood alcohol concentration; by definition, a lesser offence is indicated when the BAC is less than 0.15 g/100mL and a greater offence is when the BAC is equal to or exceeds 0.15 g/100 mL. In terms of sentencing, the court determines the monetary penalties, the periods of licence disqualification and gaol sentences. Over the years there has been a change in penalty options which has seen a decrease in the use of gaol sentences in favour of the imposition of a monetary fine (which is now mandatory), in conjunction with licence disqualification.

Compulsory blood tests for injured motor vehicle accident victims attending hospital were introduced in 1973. Penalties for refusal to be tested were introduced and over the years these have been brought into line with those for DUI and PCA offences.

In 1976 legislation was introduced where an offender who had a prior drink driving conviction less than three years previously was required to attend an assessment clinic to determine whether they were addicted to alcohol or drugs or both. Changes were made to aspects of this legislation in 1985, however it was not proclaimed so it is not enforced.

South Australia introduced random breath testing in 1981 on a trial basis for three years and was one of the first states to implement the countermeasure as a permanent law. This legislation authorized police to conduct breath tests on a specified part of a road and in a way that allowed vehicles to be stopped in a safe and orderly manner. The breath tests had to be conducted in such a way as to avoid undue delay and inconvenience to the motorist. Penalties for refusing to submit to a breath test were made equal to those for a greater offence under the PCA law.

Legislation was also introduced in 1981 to lower the blood alcohol concentration limit to 0.05 g/100 mL for learner and probationary licence holders. Penalties included a fine and cancellation of driving licence. This meant that in order to regain their licence the offender had to start again with a learner or probationary licence and abide by the special conditions of the licence. Holders of full licences who are convicted of a drink driving offence revert back to a probationary licence and are subjected to all the conditions.

In 1985 the legislation was changed so that no alcohol was permitted while driving with these licences.

In recent years the legislation concerning alcohol and vehicle use has not changed a great deal, although penalties have increased in severity.

Explanation of the table

In the table the first column contains brief headings which indicate the content of the section. The citation column gives the reference to where the legislation can be found. For example, random breath testing legislation can be cited in the following way: South Australian Road Traffic Act section 47da inserted by Government Gazette Amendment 46 of 1981, section 8. In the table it appears as: s47da inserted by GG 46,1981 s8.

In the table, unless otherwise stated, legislation refers to the South Australian Road Traffic Act. However, the conditions for learner licence and special licence holders, including probationary licences are contained in the South Australian Motor Vehicles Act sections 75a, 81, 81a and 81b respectively.

The third column contains a brief description of how the legislation has been changed and the enforcement date where possible. In the early years enforcement date was not readily accessible so the date on which it was assented to in parliament is included instead. The remainder of the table refers to offences, whether it was the first or subsequent offence, and details of the penalties and the options that have to be implemented.

This table will be updated regularly to incorporate changes to the legislation and the associated penalties. Any queries about the table should be directed to Julie Freund, Librarian, NHMRC Road Accident Research Unit, University of Adelaide, GPO Box 498, Adelaide, South Australia 5001.

TABLE

History of drink driving legislation in South Australia

HISTORY OF DRINK DRIVING LEGISLATION IN SOUTH AUSTRALIA

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION ^a	GAOL	SENTENCE OPTIONS
Driving under the influence of intoxicating liquor	SA Motor Vehicles Act 1921 s26 inserted by GG 1480, 1921 s26	New law taken from NSW Motor Traffic Amendment Act 1915, 11, 1915 s54 Assented to 7 Dec 21	First ^b Subsequent	£10-£50 £50-£100			Fine
Driving under the influence of intoxicating liquor	s26 amended by GG 1695, 1925 s9	Penalties changed Assented to 17 Dec 25	First Subsequent	£20-£50 £50-£100		≤ 6 months	Fine or gaol
Driving under the influence of intoxicating liquor	SA Road Traffic Act 1934 s48 inserted by GG 2183, 1934 s48	Moved from SA Motor Vehicles Act to SA Road Traffic Act Assented to 29 Nov 34					
Driving under the influence of intoxicating liquor or drug (DUI) ^c	s48 amended by GG 2332, 1936 s25	Drug category inserted Penalties changed Assented to 3 Dec 36	First ^d Second Subsequent	£20 £50	3 months 6 months ≥ 3 years	≤ 3 months ≥ 3 months	Fine and disq Disq and (fine and/or gaol) Disq and gaol
DUI	s48 amended by GG 2416, 1938 s20	Penalties changed Enforced 15 Dec 38	First Second Subsequent	£20-£50 £50-£100	≥ 3 months ≥ 6 months ≥ 3 years	2-6 months 3-12 months	Fine and disq Disq and (fine and/or gaol) Disq and gaol
DUI	s48 amended by GG 55, 1948 s8	Penalties changed Enforced 6 Jan 49	First ^e	£30	14 days-3 months		Fine and disq

^a disqualification from holding or obtaining a driver's licence (abbreviated as disq)

^b first, second, third and subsequent offences are those offences under this subsection which occurred within 5 years

^c driving under the influence of intoxicating liquor or drug so as to be incapable of exercising effective control of a vehicle is defined as: 'if at the relevant time owing to the influence of intoxicating liquor or drug the use of any mental or physical faculty of that person was lost or appreciably impaired'

^d if the court thinks offence is trifling it may disqualify for a period less than 3 months or not order licence disqualification at all

^e the court may disqualify for a period of 14 days-3 months or not order licence disqualification at all

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION	GAOL	SENTENCE OPTIONS
DUI	s48 amended by GG 48, 1951 s15	Penalties changed Enforced 20 Dec 51	First Second	£30-£50 -	≥ 3 months ≥ 6 months	≤ 3 months 1-6 months	Disq and (fine or gaol) Disq and gaol
DUI	s48 amended by GG 51, 1957 s11	Penalties changed Enforced 14 Nov 57	First	£30-£100			Fine
DUI	SA Road Traffic Act s47 inserted by GG 50, 1961 s47	Penalties changed Enforced 30 Aug 62	First Second Subsequent For vehicles not motor vehicles	£30-£100 - - £50	≥ 3 months ≥ 6 months ≥ 3 years	≤ 3 months 1-6 months 3-12 months	Disq and (fine or gaol) Disq and gaol Disq and gaol
Driving while having prescribed concentration of alcohol in blood (PCA) ^f	SA Road Traffic Act s47b inserted by GG 43, 1967 s6	0.08 level set Penalties changed Enforced 23 Nov 67	First Second Subsequent	≤ \$100 \$100-\$300 -	≤ 12 months (optional) 6 months-3 years (optional) ≥ 2 years (optional)	- ≤ 3 months 1-6 months	Fine ± disq (Fine or gaol) ± disq Gaol ± disq
Police may require alcotest or breath analysis (PCA and DUI)	SA Road Traffic Act s47e inserted by GG 43, 1967 s6	Police breath testing of drivers if suspected of DUI; refusal to test = ≥0.08 Penalties changed Enforced 23 Nov 67	First Subsequent	≤\$100 ≤\$250	≤ 12 months (optional) ≤ 2 years (optional)	- ≤ 6 months	Fine ± disq (Fine or gaol) ± disq
Right of person to request a blood test from a medical practitioner	SA Road Traffic Act s47f inserted by GG 43, 1967 s6	Enforced 23 Nov 67					

^f concentration of 0.08 g or more of alcohol in a hundred millilitres of blood

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION	GAOL	SENTENCE OPTIONS
Police may require alcotest or breath analysis	s47e amended by GG 146,1972 s5	Police breath testing of drivers involved in an accident, or suspected of DUI; refusal to test ≥ 0.08 Enforced 1 Aug 73	First Second Subsequent	$\leq \$100$ $< \$250$	6-12 months 12 months-2 years	≤ 6 months	Fine and disq Disq and (fine or gaol)
Compulsory blood tests to be taken at hospital	s47i inserted by GG 146,1972 s9	Blood tests for injured motor vehicle accident victims ≥ 14 years at hospital to be taken within 8 hours of accident Penalty for refusal Enforced 1 Aug 73	Penalty for refusal to be tested	\$200			Fine
DUI	s47 amended by GG 103, 1976 s20	Penalties changed Enforced 1 Mar 77	First Second Subsequent For vehicles not motor vehicles	\$300-\$600 - - \$300	≥ 6 months ≥ 12 months ≥ 3 years	≤ 3 months 2-6 months 4-12 months	Disq and (fine or gaol) Disq and gaol Disq and gaol
PCA	s47b amended by GG 103, 1976 s21	Penalties changed for above and below 0.15 Enforced 1 Mar 77	First < 0.15 First ≥ 0.15 Second < 0.15 Second ≥ 0.15 Subsequent < 0.15 Subsequent ≥ 0.15	\$200-\$500 \$300-\$600 \$400-\$600 - - -	≥ 1 month ≥ 6 months ≥ 6 months ≥ 12 months ≥ 8 months ≥ 3 years	- ≤ 3 months ≤ 3 months 2-6 months 1-6 months 4-12 months	Disq and fine Disq and (fine or gaol) Disq and (fine or gaol) Disq and gaol Disq and gaol Disq and gaol
Police may require alcotest or breath analysis	s47e amended by GG 103, 1976 s22	Penalties changed Enforced 1 Mar 77	First Second Subsequent	\$300-\$600 -	≥ 6 months ≥ 12 months ≥ 3 years	≤ 3 months 2-6 months 4-12 months	Disq and (fine or gaol) Disq and gaol Disq and gaol
Compulsory blood tests to be taken at hospital	s47i amended by GG 103, 1976 s23	Penalties changed for refusal Enforced 1 Mar 77	First \S Second Subsequent	\$300-\$600 - -	≥ 6 months ≥ 12 months ≥ 3 years	≤ 3 months 2-6 months 4-12 months	Disq and (fine or gaol) Disq and gaol Disq and gaol

\S if the court thinks offence is trifling it may disqualify for a period between 1-6 months

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION	GAOL	SENTENCE OPTIONS
Recurrent offenders	s47j inserted by GG 103,1976 s24	Recurrent offenders assessment ^h Enforced 1 Mar 77					
DUI	s47 amended by GG 46, 1981 s5	Penalties changed Enforced 18 Jun 81	First [§] Subsequent For vehicles not a motor vehicle	\$400-\$700 \$600-\$1000 \$300	≥ 6 months ≥ 3 years	≤ 3 months ≤ 6 months	Disq and (fine or gaol) Disq and (fine or gaol)
PCA	s47b amended by GG 46, 1981 s7	Penalties changed Enforced 18 Jun 81	First < 0.15 [§] First ≥ 0.15 Second < 0.15 Second ≥ 0.15 Subsequent < 0.15 Subsequent ≥ 0.15	\$300-\$600 \$400-\$700 \$500-\$800 \$600-\$1000 \$600-\$1000 \$600-\$1000	≥ 3 months ≥ 6 months ≥ 12 months ≥ 3 years ≥ 2 years ≥ 3 years		Fine and disq Fine and disq Fine and disq Fine and disq Fine and disq Fine and disq
Commissioner of Police may authorize breath tests	s47da inserted by GG 46, 1981 s8	Introduction of random breath testing Enforced 15 Oct 81					
Police may require alcotest or breath analysis	s47e amended by GG 46, 1981 s9	Penalties changed Enforced 18 Jun 81	First [§] Subsequent	\$400-\$700 \$600-\$1000	≥ 6 months ≥ 3 years		Fine and disq Fine and disq
Compulsory blood tests to be taken at hospital	s47i amended by GG 46, 1981 s11	Penalties changed for refusal Enforced 18 Jun 81	First [§] Subsequent	\$400-\$700 \$600-\$1000	≥ 6 months ≥ 3 years		Fine and disq Fine and disq
Certain offenders to attend lectures ⁱ	s47ia inserted by GG 46, 1981 s12	Penalty introduced Enforced 18 Jun 81	Prior to conviction	\$100			Fine

[§] if the court thinks offence is trifling it may disqualify for a period between 1-6 months

^h recurrent offenders with a conviction less than 3 years previously shall be ordered by the court to attend an assessment clinic at a time and length specified by the court to examine whether the offender is addicted to alcohol or other drugs or both

ⁱ although proclaimed, there are no regulations about lectures so they are not available

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION	GAOL	SENTENCE OPTIONS
BAC limits for learner licence holders	SA Motor Vehicles Act s75a (3a) inserted by GG 48, 1981 s3	Not permitted to drive with BAC ≥ 0.05 Enforced 18 Jun 81	First	\$100			Fine
BAC limits for probationary licence holders	SA Motor Vehicles Act s81a (1ca) inserted by GG 48, 1981 s4	Not permitted to drive with BAC ≥ 0.05 Enforced 18 Jun 81	First	\$200			Fine
Consequences of learner or probationary driver breaking a condition including alcohol offences	SA Motor Vehicles Act s81b inserted by GG 48, 1981 s5	Cancellation and disqualification of licence Enforced 18 Jun 81					
Police may require alcotest or breath analysis	s47e(2) inserted by GG 84, 1984 s5	Alcotest or breath analysis to be performed within 2 hours of DUI Enforced 1 Jan 85					
Right of person to request a blood test from a medical practitioner	s47f amended by GG 84, 1984 s6	Restriction placed on time (within 1 hour) and place where a test may be done (within 10 km) Enforced 1 Jan 85					
DUI	s47 amended by GG 55, 1985 s3	Licence of driver shall be cancelled at commencement of disqualification Penalties changed Enforced 1 Jul 85	First Subsequent For vehicles not a motor vehicle	\$400-\$700 \$600-\$1000 \$300	≥ 12 months ≥ 3 years	≤ 3 months ≤ 6 months	Disq and (fine or gaol) Disq and (fine or gaol)

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION	GAOL	SENTENCE OPTIONS
PCA	s47b amended by GG 55, 1985 s5	Penalties changed Licence of driver shall be cancelled at commencement of disqualification Enforced 1 Jul 85	First (lesser) ^j First (greater) ^k	\$300-\$600 \$400-\$700	≥ 6 months ≥ 12 months		Fine and disq Fine and disq
Police may require alcotest or breath analysis	s47e amended by GG 55, 1985 s7	Penalty changed Licence of driver shall be cancelled at commencement of disqualification Enforced 1 Jul 85	First	\$400-\$700	≥ 12 months		Fine and disq
Compulsory blood tests to be taken at hospital	s47i amended by GG 55, 1985 s9	Penalty changed for refusal Licence of driver shall be cancelled at commencement of disqualification Enforced 1 Jul 85	First	\$400-\$700	≥ 12 months		Fine and disq
Recurrent offenders ^l	s47j amended by GG 55, 1985 s10	Changes to prescribed area and time of previous conviction					
BAC limits for learner licence holders	SA Motor Vehicles Act s75a(3a) amended by GG 72,1985s3	Not permitted to drive with any concentration of alcohol in blood Penalty changed Enforced 1 Jul 85	First	\$1000			Fine
BAC limits for probationary licence holders	SA Motor Vehicles Act s81a(1ca) amended by GG 72, 1985 s4	Not permitted to drive with any concentration of alcohol in blood Penalty changed Enforced 1 Jul 85	First	\$1000			Fine

^j a lesser offence is an offence against the PCA law where the concentration of alcohol in the blood of the convicted person was less than 0.15 g/100mL

^k a greater offence is an offence against the PCA law where the concentration of alcohol in the blood of the convicted person was 0.15 g/100mL or more

^l changes are not proclaimed, therefore not in operation

LEGISLATION	CITATION	TYPE OF CHANGE AND ENFORCEMENT DATE	OFFENCE	FINE	LICENCE DISQUALIFICATION	GAOL	SENTENCE OPTIONS
DUI	s47 amended by GG 1, 1990 s2	Penalties changed Enforced 22 Mar 90	First Subsequent For vehicles not motor vehicles	\$700-\$1200 \$1500-\$2500 \$300	≥ 6 months ≥ 3 years	≤ 3 months ≤ 6 months	Disq and (fine or gaol) Disq and (fine or gaol)
PCA	s47b amended by GG 1, 1990 s3	Penalties changed Enforced 22 Mar 90	First (lesser) ^j First (greater) ^k Second (lesser) ^j Second (greater) ^k Subsequent (lesser) ^j Subsequent (greater) ^k	\$500-\$900 \$700-\$1200 \$700-\$1200 \$1200-\$2000 \$1100-\$1800 \$1500-\$2500	≥ 6 months ≥ 12 months ≥ 12 months ≥ 3 years ≥ 2 years ≥ 3 years		Fine and disq Fine and disq Fine and disq Fine and disq Fine and disq Fine and disq
Police may require alcotest or breath analysis	s47e amended by GG 1, 1990 s4	Penalties changed Enforced 22 Mar 90	First Subsequent	\$700-\$1200 \$1500-\$2500	≥ 12 months ≥ 3 years		Fine and disq Fine and disq
Compulsory blood tests to be taken at hospital	s47i amended by GG 1, 1990 s5	Penalties changed for refusal Enforced 22 Mar 90	First Subsequent	\$700-\$1200 \$1500-\$2500	≥ 12 months ≥ 3 years		Fine and disq Fine and disq

^j a lesser offence is an offence against the PCA law where the concentration of alcohol in the blood of the convicted person was less than 0.15 g/100mL

^k a greater offence is an offence against the PCA law where the concentration of alcohol in the blood of the convicted person was 0.15 g/100mL or more

APPENDIX

**Road Traffic Act, 1961
Section 47**

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Road Traffic Act, 1961

Driving under Influence of Liquor or Drugs

Driving under influence

47. (1) A person must not—

(a) drive a vehicle;

or

(b) attempt to put a vehicle in motion,

while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle.

Penalty: If the vehicle concerned was a motor vehicle—

(a) for a first offence—

(i) a fine of not less than ~~\$400~~^{\$700} and not more than ~~\$700~~^{\$1200};

or

(ii) imprisonment for not more than three months;

and

(b) for a subsequent offence—

(i) a fine of not less than ~~\$600~~¹⁵⁰⁰ and not more than ~~\$1000~~²⁵⁰⁰;

or

(ii) imprisonment for not more than six months.

If the vehicle concerned was not a motor vehicle—\$300.

(2) For the purposes of subsection (1), a person is incapable of exercising effective control of a vehicle if, owing to the influence of intoxicating liquor or a drug, the use of any mental or physical faculty of that person is lost or appreciably impaired.

This subsection does not restrict the meaning of the words “incapable of exercising effective control of a vehicle”.

(3) Where a court convicts a person of an offence against subsection (1) in which the vehicle concerned was a motor vehicle, the following provisions apply:

(a) the court must order that the person be disqualified from holding or obtaining a driver's licence—

Amended
by GG
1,1990 s2

Amended
by GG
1,1990 s2

Road Traffic Act, 1961

(i) in the case of a first offence—for such period, being not less than twelve months as the court thinks fit;

or

(ii) in the case of a subsequent offence—for such period, being not less than three years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence unless, in the case of a first offence, the court is satisfied, by evidence given on oath, that the offence is trifling, in which case it may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

* * * * *

(d) if the person is the holder of a driver's licence—the disqualification operates to cancel the licence as from the commencement of the period of disqualification;

(e) the court may, if it thinks fit to do so, order that conditions endorsed pursuant to section 81a of the *Motor Vehicles Act, 1959*, on any driver's licence issued to the person after the period of disqualification be effective for a period greater than the period prescribed by that section.

(4) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against subsection (1), or against section 47b(1), 47e(3) or 47i(14) for which the defendant has been convicted will be taken into account, but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

* * * * *

* * * * *

Interpretation

47a. In this Act—

“alcotest” means a test by means of an apparatus of a kind approved by the Governor by which the presence of alcohol in the blood of a person who exhales into the apparatus is indicated:

“analyst” means—

(a) a person appointed by the Minister as an analyst for the purposes of this Act;

or

(b) a person holding an office of a class approved by the Minister for the purposes of this Act:

“breath analysing instrument” means an apparatus of a kind approved as a breath analysing instrument by the Governor:

“breath analysis” means an analysis of breath by a breath analysing instrument:

* * * * *

“prescribed concentration of alcohol” means a concentration of .08 grams or more of alcohol in 100 millilitres of blood.

Road Traffic Act, 1961

Driving whilst having prescribed concentration of alcohol in blood

47b. (1) A person must not—

- (a) drive a motor vehicle;
- or
- (b) attempt to put a motor vehicle in motion,

while there is present in his or her blood the prescribed concentration of alcohol as defined in section 47a.

Penalty: For a first offence—

- (a) being a lesser offence—a fine of not less than ~~\$300~~⁵⁰⁰ and not more than ~~\$600~~⁹⁰⁰;
- or
- (b) being a greater offence—a fine of not less than ~~\$400~~⁷⁰⁰ and not more than ~~\$700~~¹²⁰⁰.

Amended by
GG 1,1990
s3

For a second offence—

- (a) being a lesser offence—a fine of not less than ~~\$500~~⁷⁰⁰ and not more than ~~\$800~~¹²⁰⁰;
- or
- (b) being a greater offence—a fine of not less than ~~\$600~~¹²⁰⁰ and not more than ~~\$1000~~²⁰⁰⁰.

For a subsequent offence—

- (a) being a lesser offence—a fine of not less than ~~\$600~~¹¹⁰⁰ and not more than ~~\$1000~~¹⁸⁰⁰;
- or
- (b) being a greater offence—a fine of not less than ~~\$600~~¹⁵⁰⁰ and not more than ~~\$1000~~²⁵⁰⁰.

(2) For the purposes of this section, if it is established that there was present in the blood of a person charged with an offence under subsection (1) the prescribed concentration of alcohol as defined in section 47a at any time within two hours after that offence is alleged to have been committed, it must be presumed, unless the court before which the person is charged, from the evidence before it, draws a reasonable inference to the contrary, that there was present in the blood of the person that prescribed concentration of alcohol at the time the offence is alleged to have been committed.

* * * * *

(3) Where a court convicts a person of an offence against subsection (1), the following provisions apply:

- (a) the court must order that the person be disqualified from holding or obtaining a driver's licence—
 - (i) in the case of a first offence—
 - (A) being a lesser offence—for such period, being not less than six months, as the court thinks fit;
 - (B) being a greater offence—for such period, being not less than twelve months, as the court thinks fit;
 - (ii) in the case of a second offence—
 - (A) being a lesser offence—for such period, being not less than twelve months, as the court thinks fit;
 - (B) being a greater offence—for such period, being not less than three years, as the court thinks fit;

Road Traffic Act, 1961

(iii) in the case of a subsequent offence—

(A) being a lesser offence—for such period, being not less than two years, as the court thinks fit;

(B) being a greater offence—for such period, being not less than three years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence unless, in the case of a first offence, the court is satisfied, by evidence given on oath, that the offence is trifling, in which case it may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

* * * * *

(d) if the person is the holder of a driver's licence—the disqualification operates to cancel the licence as from the commencement of the period of disqualification;

(e) the court may, if it thinks fit to do so, order that conditions endorsed pursuant to section 81a of the *Motor Vehicles Act, 1959*, on any driver's licence issued to the person after the period of disqualification be effective for a period greater than the period prescribed by that section.

(4) For the purposes of determining whether an offence is a first, second or subsequent offence for the purposes of this section, any previous offence against subsection (1), or against section 47(1), 47e(3) or 47i(14) for which the defendant has been convicted will be taken into account, but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

(5) In this section—

“greater offence” means an offence against subsection (1), where the concentration of alcohol in the blood of the convicted person was .15 grams or more in 100 millilitres of blood:

“lesser offence” means an offence against subsection (1), where the concentration of alcohol in the blood of the convicted person was less than .15 grams in 100 millilitres of blood.

Relation of conviction under s. 47b to contracts of insurance, etc.

47c. (1) A person who is convicted of an offence under section 47b(1) is not, by reason only of the conviction and any consequent penalty, to be taken, for the purposes of any law, or of any contract, agreement, policy of insurance or other document, to have been under the influence of, or in any way affected by, intoxicating liquor, or incapable of driving, or of exercising effective control of, a motor vehicle, at the time of the commission of that offence.

(2) The provisions of subsection (1) have effect notwithstanding anything contained in any law, or any covenant, term, condition or provision of, or contained in, any contract, agreement, policy of insurance or other document, and a covenant, term, condition or provision purporting to exclude, limit, modify or restrict the operation of that subsection is void.

(3) Any covenant, term, condition or provision contained in a contract, policy of insurance or other document purporting to exclude or limit the liability of an insurer in the event of the owner or driver of a motor vehicle being convicted of an offence under section 47b is void.

Payment by convicted person of costs incidental to apprehension, etc.

47d. (1) The court by which a person is convicted of an offence under section 47(1), 47b(1) or 47e(3) on the complaint of a member of the police force may, in addition to imposing any other penalty, order, on the application of the complainant, that the defendant pay to the complainant a reasonable sum to cover the expenses of all or any of the following matters:

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- (a) apprehending the defendant;
- (b) conveying the defendant to a police station;
- (c) keeping the defendant in custody until trial;
- (d) medically examining the defendant;
- and
- (e) facilitating the taking of a sample of the defendant's blood and providing for the presence of a member of the police force pursuant to section 47f(2) and (2a).

(2) Any sum of money received by the complainant in consequence of an order under subsection (1) must be paid into the General Revenue of the State.

Breath testing stations

47da. (1) A breath testing station may be established by members of the police force at any time on or in the vicinity of any road for the purpose of enabling alcotests to be conducted in relation to persons driving motor vehicles on the road.

(2) A breath testing station must be established in such a way, and consist of such facilities and warning and other devices, as the Commissioner of Police considers necessary in order to enable vehicles to be stopped in a safe and orderly manner and the alcotests to be made in quick succession.

(3) Any member of the police force who requires a driver to submit to an alcotest at a breath testing station, or who stops a motor vehicle for that purpose, must be in uniform.

(4) The Commissioner of Police must establish procedures to be followed by the members of the police force performing duties at or in connection with a breath testing station, being procedures designed to prevent as far as reasonably practicable any undue delay or inconvenience to persons stopped at the station.

(5) The Minister must cause a report to be prepared within three months after the end of each calendar year on the operation and effectiveness of this section and related sections during that calendar year.

(6) The Minister must, within twelve sitting days after receipt of a report under subsection (5), cause copies of the report to be laid before each House of Parliament.

* * * * *

Police may require alcotest or breath analysis

47e. (1) Where a member of the police force believes on reasonable grounds that a person, while driving a motor vehicle or attempting to put a motor vehicle in motion—

- (a) has committed an offence against any provision of Part III of which the driving of a motor vehicle is an element;
- (b) has committed an offence against section 20, 111 or 122;
- (c) has behaved in a manner that indicates that his or her ability to drive the motor vehicle is impaired;
- or
- (d) has been involved in an accident,

that member of the police force may, subject to subsection (2), require that person to submit to an alcotest or breath analysis, or both.

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(2) An alcotest or breath analysis must be performed within two hours after the occurrence of the event giving rise to the belief referred to in subsection (1).

(2a) A member of the police force may require the driver of a motor vehicle that approaches a breath testing station established pursuant to section 47da to submit to an alcotest.

(2b) Where an alcotest conducted under subsection (2a) indicates that the prescribed concentration of alcohol may be present in the blood of any person, a member of the police force may require that person to submit to a breath analysis.

(3) A person required under this section to submit to an alcotest or breath analysis must not refuse or fail to comply with all reasonable directions of a member of the police force in relation to the requirement and, in particular, must not refuse or fail to exhale into the apparatus by which the alcotest or breath analysis is conducted, in accordance with the directions of a member of the police force.

Penalty: For a first offence—a fine of not less than ~~\$400~~⁷⁰⁰ and not more than ~~\$700~~¹²⁰⁰.
For a subsequent offence—a fine of not less than ~~\$600~~¹⁵⁰⁰ and not more than ~~\$1 000~~²⁵⁰⁰.
Amende by GG 1, 1990 s4

* * * * *

(4) It is a defence to a prosecution under subsection (3) that—

(a) the requirement or direction to which the prosecution relates was not lawfully made;

or

(b) there was, in the circumstances of the case, good cause for the refusal or failure of the defendant to comply with the requirement or direction.

(5) No person is entitled to refuse or fail to comply with a requirement or direction under this section on the ground that, by complying with that requirement or direction, he or she would, or might, furnish evidence that could be used against himself or herself.

(6) Where a court convicts a person of an offence against subsection (3), the following provisions apply:

(a) the court must order that the person be disqualified from holding or obtaining a driver's licence—

(i) in the case of a first offence—for such period, being not less than twelve months, as the court thinks fit;

or

(ii) in the case of a subsequent offence—for such period, being not less than three years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence unless, in the case of a first offence, the court is satisfied, by evidence given on oath, that the offence is trifling, in which case the court may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

* * * * *

(d) if the person is the holder of a driver's licence—the disqualification operates to cancel the licence as from the commencement of the period of disqualification;

(e) the court may, if it thinks fit to do so, order that conditions endorsed pursuant to section 81a of the *Motor Vehicles Act, 1959*, on any driver's licence issued to the person after the period of disqualification be effective for a period greater than the period prescribed by that section.

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(7) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against subsection (3), or against section 47(1), 47b(1) or 47i(14) for which the defendant has been convicted will be taken into account, but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

Right of person to request blood test

47f. (1) A person required in accordance with this Act to submit to a breath analysis may request of a member of the police force that a sample of his or her blood be taken by a medical practitioner.

(2) Where a request is made by a person under subsection (1), a member of the police force must do all things reasonably necessary to facilitate the taking of a sample of the person's blood—

(a) by a medical practitioner nominated by the person;

or

(b) if—

(i) it becomes apparent to the member of the police force that there is no reasonable likelihood that a medical practitioner nominated by the person will be available to take the sample within one hour of the time of the request at some place not more than ten kilometres distant from the place of the request;

or

(ii) the person does not nominate a particular medical practitioner, by any medical practitioner who is available to take the sample.

(2a) The taking of a sample of blood pursuant to this section—

(a) must be carried out by the medical practitioner in the presence of a member of the police force;

and

(b) must be at the expense of the person from whom the sample is taken.

(3) A sample of blood taken by a medical practitioner in accordance with a request under subsection (1) must be divided by that practitioner into two approximately equal parts and placed in sealed containers of which—

(a) one must be handed to the member of the police force present at the taking of the sample;

and

(b) one must be retained by the medical practitioner and dealt with in accordance with the directions of the person from whom it was taken.

(4) Nothing in this section absolves a person from the obligation imposed by section 47e(3).

Evidence, etc.

47g. (1) Without affecting the admissibility of evidence that might be given otherwise than in pursuance of this section, evidence may be given, in any proceedings for an offence against this Act, of the concentration of alcohol indicated as being present in the blood of the defendant by a breath analysing instrument operated by a person authorized to operate the instrument by the Commissioner of Police and, where the requirements and procedures

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in relation to breath analysing instruments and breath analysis under this Act, including subsections (2) and (2a), have been complied with, it must be presumed, in the absence of proof to the contrary, that the concentration of alcohol so indicated was present in the blood of the defendant at the time of the analysis and throughout the period of two hours immediately preceding the analysis.

(1a) In any proceedings for an offence against this Act, no evidence can be adduced in rebuttal of the presumption created by subsection (1) except evidence of the concentration of alcohol in the blood of the defendant as indicated by analysis of a sample of blood taken and dealt with in accordance with section 47f or 47i.

(2) As soon as practicable after a person has submitted to an analysis of breath by means of a breath analysing instrument, the person operating the instrument must deliver to the person whose breath has been analysed a statement in writing specifying—

(a) the concentration of alcohol indicated by the analysis to be present in the blood expressed in grams in 100 millilitres of blood;

and

(b) the date and time of the analysis.

(2a) Where a person has submitted to an analysis of breath by means of a breath analysing instrument and the concentration of alcohol indicated as being present in the blood of that person by the breath analysing instrument is the prescribed concentration of alcohol, the person operating the instrument must forthwith—

(a) inform that person of the right pursuant to section 47f to have a sample of blood taken by a medical practitioner;

and

(b) warn that person that, if he or she does not exercise that right, it may be conclusively presumed for the purposes of proceedings for an offence against this Act that the concentration of alcohol in the blood during the period of two hours preceding the analysis was the concentration as indicated by the breath analysing instrument.

(3) In proceedings for an offence under section 47(1) or 47b(1), a certificate—

(a) purporting to be signed by the Commissioner of Police and to certify that a person named in the certificate is authorized by the Commissioner of Police to operate breath analysing instruments;

or

(b) purporting to be signed by a person authorized under subsection (1) and to certify that—

(i) the apparatus used by the authorized person was a breath analysing instrument within the meaning of this Act;

(ii) the breath analysing instrument was in proper order and was properly operated;

and

(iii) in relation to the breath analysing instrument, the provisions of this Act with respect to breath analysing instruments were complied with,

is, in the absence of proof to the contrary, proof of the matters so certified.

(3a) A certificate purporting to be signed by a member of the police force and to certify that an apparatus referred to in the certificate is or was of a kind approved under this Act for the purpose of performing alcotests is, in the absence of proof to the contrary, proof of the matter so certified.

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(3b) A certificate purporting to be signed by a member of the police force and to certify that a person named in the certificate submitted to an alcotest on a specified day and at a specified time and that the alcotest indicated that the prescribed concentration of alcohol may then have been present in the blood of that person is, in the absence of proof to the contrary, proof of the matters so certified.

(3c) A certificate purporting to be signed by a member of the police force and to certify that a breath testing station had been established pursuant to section 47da at a place and during a period referred to in the certificate is, in the absence of proof to the contrary, proof of the matters so certified.

(4) Subject to subsection (6), in proceedings for an offence under section 47(1) or 47b(1), a certificate purporting to be signed by an analyst, certifying as to the concentration of alcohol, or any drug, found in a specimen of blood identified in the certificate expressed in grams in 100 millilitres of blood is, in the absence of proof to the contrary, proof of the matters so certified.

(5) Subject to subsection (6), in proceedings for an offence under section 47(1) or 47b(1), a certificate purporting to be signed by a person authorized under subsection (1) and to certify that—

- (a) a sample of the breath of a person named in the certificate was furnished for analysis in a breath analysing instrument;
- (b) a concentration of alcohol expressed in grams in 100 millilitres was indicated by that breath analysing instrument as being present in the blood of that person on the day and at the time stated in the certificate;
- (c) a statement in writing required by subsection (2) was delivered in accordance with that subsection;

and

- (d) the person named in the certificate was informed and warned of the matters referred to in subsection (2a) in accordance with that subsection,

is, in the absence of proof to the contrary, proof of the matters so certified.

(6) A certificate referred to in subsection (4) or (5) cannot be received as evidence in proceedings for an offence under section 47(1) or 47b(1)—

- (a) unless a copy of the certificate proposed to be put in evidence at the trial of a person for the offence has, not less than seven days before the commencement of the trial, been served on that person;
- (b) if the person on whom a copy of the certificate has been served under paragraph (a) has, not less than two days before the commencement of the trial, served written notice on the complainant requiring the attendance at the trial of the person by whom the certificate was signed;

or

- (c) if the court, in its discretion, requires the person by whom the certificate was signed to attend at the trial.

Approval of apparatus for the purposes of breath analysis and alcotests

47h. (1) The Governor may, by notice published in the *Gazette*—

- (a) approve apparatus of a specified kind as breath analysing instruments;

or

- (b) approve apparatus of a specified kind for the purpose of conducting alcotests.

(2) The Governor may, by subsequent notice, vary or revoke any such notice.

* * * * *

Road Traffic Act, 1961**Compulsory blood tests**

47i. (1) Where a motor vehicle is involved in any accident and, within eight hours after the accident, a person apparently of or above the age of 14 years who suffered injury in the accident attends at, or is admitted into, a hospital for the purpose of receiving treatment for that injury, it is, subject to this section, the duty of the legally qualified medical practitioner by whom that patient is attended to take, as soon as practicable, a sample of that patient's blood (notwithstanding that the patient may be unconscious) in accordance with this section.

(2) A medical practitioner must not take a sample of blood under this section where, in his or her opinion, it would be injurious to the medical condition of the patient to do so.

(3) A medical practitioner is not obliged to take a sample of blood under this section where the patient objects to the taking of the sample of blood and persists in that objection after the medical practitioner has informed the patient that, unless the objection is made on genuine medical grounds, it may constitute an offence against this section.

(4) Where a motor vehicle is involved in any accident and a person apparently of or above the age of 14 years who suffered injury in the accident is dead on arrival at the hospital, or dies before a sample of blood has been taken in accordance with this section and within eight hours after admission to the hospital, it is the duty of the medical practitioner who certifies the cause of death, or reports the death to a coroner—

(a) to take a sample of blood from the body of the deceased in accordance with this section;

or

(b) to notify a coroner as soon as practicable that, in view of the circumstances in which the death of the deceased occurred, a sample of blood should be taken from the body under this section.

(5) A coroner who receives a notification under subsection (4) may authorize and direct a pathologist to take a sample of blood from the body of the deceased in accordance with this section.

(6) A medical practitioner is not obliged to take a sample of blood under this section where a sample of blood has been taken in accordance with this section by any other medical practitioner.

(7) A medical practitioner by whom a sample of blood is taken under this section must place it, in approximately equal proportions, in two separate containers, seal the containers and—

(a) must make available to a member of the police force—

(i) one of the containers marked with an identification number distinguishing the sample of blood from other samples of blood taken under this section;

and

(ii) a certificate signed by the medical practitioner containing the information required under subsection (10);

and

(b) must cause the other container to be delivered to, or retained on behalf of, the person from whom the sample of blood was taken or, if that person is dead, a relative or personal representative of the deceased.

(8) Each container must contain a sufficient quantity of blood to enable an accurate evaluation to be made on any concentration of alcohol present in the blood and the sample of blood taken by the medical practitioner must be such as to furnish two such quantities of blood.

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(9) It is the duty of the medical practitioner by whom the sample of blood is taken to take such measures as are reasonably practicable in the circumstances to ensure that the blood is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of alcohol present in the blood of the person from whom the sample was taken.

(10) The certificate referred to in subsection (7)(a) must be signed by the medical practitioner by whom the sample of blood was taken and contain the following information:

- (a) the identification number of the sample of blood marked on the container referred to in subsection (7)(a);
 - (b) the name and address of the person from whom the sample of blood was taken;
 - (c) the name of the medical practitioner by whom the sample of blood was taken;
- and
- (d) the date, time and hospital at which the sample of blood was taken.

(11) After analysis of the sample of blood in a container made available to a member of the police force pursuant to subsection (7)(a), the analyst who performed or supervised the analysis must sign a certificate containing the following information:

- (a) the identification number of the sample of blood marked on the container;
 - (b) the name and professional qualifications of the analyst;
 - (c) the date on which the sample of blood was received in the laboratory in which the analysis was performed;
 - (d) the concentration of alcohol or other drug found to be present in the blood;
 - (e) any factors relating to the blood sample or the analysis that might, in the opinion of the analyst, adversely affect the accuracy or validity of the analysis;
- and
- (f) any other information relating to the blood sample or analysis or both that the analyst thinks fit to include.

(12) On completion of an analysis of a sample of blood, the certificate of the medical practitioner by whom the sample of blood was taken and the certificate of the analyst who performed or supervised the analysis must be sent to the Minister or retained on behalf of the Minister and, in either event, copies of the certificates must be sent—

- (a) to the Commissioner of Police;
 - (b) to the medical practitioner by whom the sample of the blood was taken;
- and
- (c) to the person from whom the sample of blood was taken or, if the person is dead, a relative or personal representative of the deceased.

(13) If the whereabouts of the person from whom the sample of blood is taken, or (that person being dead) the identity or whereabouts of a relative or personal representative of the deceased, is unknown, there is no obligation to comply with subsection (12)(c) but copies of the certificates must, upon application made within three years after completion of the analysis, be furnished to any person to whom they should, but for this subsection, have been sent.

(13a) Subject to subsection (13c), an apparently genuine document purporting to be a certificate, or copy of a certificate, of a medical practitioner or analyst under this section is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters stated in the certificate.

(13b) Where certificates of a medical practitioner and analyst are received as evidence in proceedings before a court and contain the same identification number for the samples of

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blood to which they relate, the certificates will be presumed, in the absence of proof to the contrary, to relate to the same sample of blood.

(13ba) Where a certificate of an analyst is received as evidence in proceedings before a court, it will be presumed, in the absence of proof to the contrary, that the concentration of alcohol stated in the certificate as having been found to be present in the sample of blood to which the certificate relates was present in the sample when the sample was taken.

(13c) A certificate referred to in subsection (13a) cannot be received as evidence in proceedings for an offence under section 47(1) or 47b(1)—

(a) unless a copy of the certificate proposed to be put in evidence at the trial of a person for the offence has, not less than seven days before the commencement of the trial, been served on that person;

(b) if the person on whom a copy of the certificate has been served has, not less than two days before the commencement of the trial, served written notice on the complainant requiring the attendance at the trial of the person by whom the certificate was signed;

or

(c) if the court, in its discretion, requires the person by whom the certificate was signed to attend at the trial.

(14) Any person who, on being requested to submit to the taking of a sample of blood under this section, refuses or fails to comply with that request and who—

(a) fails to assign any reason based on genuine medical grounds for that refusal or failure;

(b) assigns a reason for that refusal or failure that is false or misleading;

or

(c) makes any other false or misleading statement in response to the request,

is guilty of an offence.

Penalty: Where the convicted person was the driver of a motor vehicle involved in the accident—

(a) for a first offence—a fine of not less than ~~\$400~~⁷⁰⁰ and not more than ~~\$700~~¹²⁰⁰, Amended by GG 1,1990 s5

and

(b) for a subsequent offence—a fine of not less than ~~\$600~~¹⁵⁰⁰ and not more than ~~\$1 000~~²⁵⁰⁰.

In any other case—\$300.

(14a) Where a court convicts a person of an offence against subsection (14) in which the person was the driver of a motor vehicle involved in the accident, the following provisions apply:

(a) the court must order that the person be disqualified from holding or obtaining a driver's licence—

(i) in the case of a first offence—for such period, being not less than twelve months, as the court thinks fit;

or

(ii) in the case of a ~~second~~^{subsequent} offence—for such period, being not less than three years, as the court thinks fit; Amended by GG 1,1990 s5

(b) the disqualification prescribed by paragraph (a) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence unless, in the case

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of a first offence, the court is satisfied, by evidence given on oath, that the offence is trifling, in which case the court may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

* * * * *

- (d) if the person is the holder of a driver's licence—the disqualification operates to cancel the licence as from the commencement of the period of disqualification;
- (e) the court may, if it thinks fit to do so, order that conditions endorsed pursuant to section 81a of the *Motor Vehicles Act, 1959*, on any driver's licence issued to the person after the period of disqualification be effective for a period greater than the period prescribed by that section.

(14b) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against subsection (14), or against section 47(1), 47b(1) or 47e(3) for which the defendant has been convicted will be taken into account, but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

(15) A medical practitioner who fails, without reasonable excuse, to comply with a provision of, or to perform any duty arising under, this section is guilty of an offence.

(16) No proceedings can be commenced against a medical practitioner for an offence against subsection (15) unless those proceedings have been authorized by the Attorney-General.

(17) An apparently genuine document purporting to be signed by the Attorney-General and to authorize proceedings against a medical practitioner for an offence under subsection (15) must, in the absence of evidence to the contrary, be accepted by any court as proof that those proceedings have been authorized by the Attorney-General.

(18) No proceedings lie against a medical practitioner in respect of anything done in good faith and in compliance, or purported compliance, with the provisions of this section.

(19) In this section—

“accident” includes a collision caused either intentionally or unintentionally;

“hospital” means any institution at which medical care or attention is provided for injured persons, declared by regulation to be a hospital for the purposes of this section.

Certain offenders to attend lectures

47ia. (1) Where the court before which a person is charged with a prescribed first or second offence convicts the person of the offence, or finds that the charge is proved but does not proceed to conviction, the court must, unless proper cause for not doing so is shown, order the person to attend, within a period fixed by the court being not more than six months from the making of the order, a lecture conducted pursuant to the regulations.

(2) A person must not fail, without reasonable excuse, to comply with an order under subsection (1).

Penalty: \$100.

(3) In this section—

“prescribed first or second offence” means an offence against section 47(1), 47b(1), 47e(3) or 47i(14), being an offence that is, within the meaning of that section, a first or second offence against that section.

(4) A certificate purporting to be signed by the Commissioner of Police and to certify that a person named in the certificate failed to comply with an order under subsection (1) is, in the absence of proof to the contrary, proof of the matter so certified.

Road Traffic Act, 1961**Recurrent offenders**

47j. (1) Where a person—

- (a) is convicted of a prescribed offence that was committed within the prescribed area;
- and
- (b) has previously been convicted of a prescribed offence committed within three years before the date of the later offence,

the court before which the person is convicted of the later offence must, before imposing any penalty, order the person to attend an assessment clinic, at a time or over a period specified by the court, for the purpose of submitting to an examination to determine whether the person suffers from alcoholism or addiction to other drugs, or both.

(2) The superintendent of the assessment clinic must, as soon as practicable after an examination of a convicted person has been completed under this section, furnish a report on the examination to the court by which the examination was ordered, and send a copy of the report to the convicted person.

(3) Before the court imposes any sentence on the convicted person, it must allow that person a reasonable opportunity to call or give evidence as to any matter contained in the report.

(4) Where—

- (a) the court is satisfied, on the report of the superintendent of an assessment clinic, that a convicted person suffers from alcoholism or addiction to other drugs;
- or
- (b) the convicted person fails to comply with an order under subsection (1) or to submit to the examination to which the order relates,

the court must, notwithstanding any other provision of this Act, order that the convicted person be disqualified from holding or obtaining a driver's licence until further order.

(5) A person who is disqualified from holding or obtaining a driver's licence under this section may apply to a court of summary jurisdiction for the revocation of the disqualification.

(6) An application may not be made under subsection (5) before the expiration of the minimum period of disqualification to which the applicant would have been liable if dealt with otherwise than under this section.

(7) Before an application under subsection (5) is heard by the court, the applicant must attend an assessment clinic and submit to such examination as may be directed by the superintendent of the clinic.

(8) The superintendent of an assessment clinic must furnish a report on an examination conducted under subsection (7) to the court, and send a copy of the report to the applicant.

(9) Where the court is satisfied, on an application under subsection (5)—

- (a) that the applicant no longer suffers from alcoholism or addiction to other drugs;
- or
- (b) that there is other proper cause for revocation of the disqualification,

it may order that the disqualification be revoked.

(10) On revoking a disqualification under subsection (9), the court may order that a driver's licence issued to the applicant be subject to such conditions as the court thinks desirable to protect the safety of the public.

(11) In any proceedings to which this section relates, an apparently genuine document purporting to be a report of the superintendent of an assessment clinic is admissible in evidence without further proof.

(12) In this section—

“assessment clinic” means a place approved by the Minister of Health as an assessment clinic for the purposes of this section:

“prescribed area” means any part or parts of the State declared by regulation to constitute the prescribed area for the purposes of this section:

“prescribed offence” means an offence under section 47, 47b, 47e or 47i.