

CHAPTER No. 24

**ROAD TRAFFIC (AMENDMENT)
ACT 2006**

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ROAD TRAFFIC (AMENDMENT) ACT 2006

Arrangement of Sections

Section

PART 1

DRIVERS

1. Samples from drivers
2. Newly qualified drivers
3. Payment for driving instruction
4. Driving instructors

PART 2

VEHICLES

5. Registration
6. Construction and use : penalties
7. Duration of licences
8. Trade licences

PART 3

HIGHWAYS

9. Parking : excess charge

PART 4

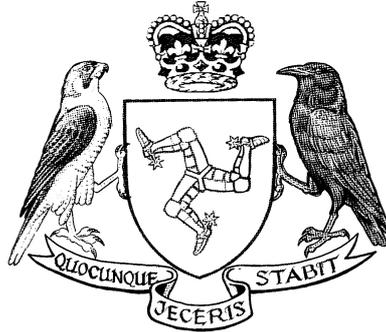
TRAFFIC REGULATION

10. Traffic signs
11. Temporary prohibition or restriction of traffic
12. Speed limits : exemptions
13. Traffic regulation : exemptions

PART 5

GENERAL

- 14.** Rear seat belts : persons under 14 years
- 15.** Interpretation
- 16.** Citation and commencement



Isle of Man) Signed in Tynwald: 17th October 2006
 to Wit } Received Royal Assent: 12th December 2006
 Announced to Tynwald: 12th December 2006

AN ACT

to amend enactments relating to road traffic and its regulation, road transport, highways and the licensing and registration of vehicles; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

PART 1

DRIVERS

1. (1) After section 7D of the Road Traffic Act 1985 (in this Act referred to as "the 1985 Act") insert —

Samples
from drivers

"Specimens
of blood
taken from
persons
incapable of
consenting

7DA.(1) A constable may make a request to a medical practitioner for the practitioner to take a specimen of blood from a person ("A") irrespective of whether A consents if —

[c.23]

- (a) A is a person from whom the constable would (in the absence of any incapacity of A and of any objection under section 7A) be entitled under section 6 to require the provision of a specimen of blood for a laboratory test;

- (b) it appears to that constable that A has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
- (c) it appears to that constable that A is or may be incapable (whether or not A has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
- (d) it appears to that constable that that A's incapacity is attributable to medical reasons.

(2) A request under this section —

- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of A; and
- (b) shall not be made to a medical practitioner other than a police medical practitioner unless —
 - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (ii) it is not reasonably practicable for such a medical practitioner (assuming the practitioner to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom a request is made under this section, if the practitioner thinks fit —

- (a) to take a specimen of blood from A irrespective of whether A consents; and
- (b) to provide the sample to a constable.

(4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless A —

- (a) has been informed that it was taken; and
- (b) has been required by a constable to give permission for a laboratory test of the specimen; and

(c) has given permission.

(5) A constable must, on requiring a person to give permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render the person liable to prosecution.

(6) A person who, without reasonable excuse, fails to permit a laboratory test of a specimen of blood taken from that person under this section is guilty of an offence.

(7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of the police force.”

(2) In section 6(4) of the 1985 Act (constable to decide if specimen is of blood or urine) for the words from “shall be decided” onwards substitute “and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (4A)) by the constable making the requirement”.

(3) After section 6(4) of the 1985 Act insert —

“(4A) Where a constable decides for the purposes of subsection (4) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if —

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
- (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner,

and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”.

(4) In section 7E(2) of the 1985 Act (interpretation of sections 3A and 5 to 7D of that Act), after the definition of “the prescribed limit” insert —

““registered health care professional” means a person (other than a medical practitioner) who is —

- (a) a registered nurse; or
 - (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Department.”.
- (5) After section 7E(2) of the 1985 Act insert —
 - “(2A) An order under subsection (2) shall be laid before Tynwald.”.
- (6) For section 7E(4) of the 1985 Act substitute —
 - “(4) A person provides a specimen of blood if and only if —
 - (a) that person consents to the taking of such a specimen; and
 - (b) the specimen is taken by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”.
- (7) For section 7A of the 1985 Act (protection for hospital patients), substitute —
 - “**7A.** (1) While a person is at a hospital as a patient, no specimen shall be taken from that person nor shall that person be required to give permission for a laboratory test of a specimen taken unless the medical practitioner in immediate charge of the person’s case —
 - (a) has been notified of the proposal to take the specimen or to make the requirement; and
 - (b) has not objected on the ground specified in subsection (2).
 - (2) The ground on which the medical practitioner may object is, in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 6(7) or section 7DA(5) would be prejudicial to the proper care and treatment of the patient.”.
- (8) In Part I of Schedule 6 to the 1985 Act, after the entry relating to section 6(6) insert —

“

Section 7DA	Failing to allow specimen of blood to be subjected to laboratory test:						
	(a) Where the test would be for ascertaining ability to drive or proportion of alcohol at the time offender was driving or attempting to drive,	Summ-arily	6 months or £5,000 or both.	(a) Oblig-atory	(a) Oblig-atory	(a) 10	Sections 57 and 59 apply
	(b) In any other case	Summ-arily	3 months or £2,500 or both	(b) Discre-tionary	(b) Oblig-atory	(b) 4	Sections 57 and 59 apply

”

(9) In Paragraph 11(3)(b) of Part II of Schedule 3 to the 1985 Act (disqualification for certain offences where offender has previous conviction), after “6(6)” insert “or 7DA”.

(10) In section 7C of the 1985 Act —

(a) in subsection (2) —

(i) after “provided by” insert “or taken from”; and

(ii) after the word “provided”, in the second place where it occurs, insert “or taken”;

(b) in subsection (3)(a), after “provided the specimen” insert “or before the specimen was taken”;

(c) for subsection (4), substitute —

“(4) A specimen of blood shall be disregarded unless —

(a) it was taken with the consent of the accused and either —

- (i) in a police station by a medical practitioner or a registered health care professional; or
- (ii) elsewhere by a medical practitioner; or
- (b) it was taken from the accused by a medical practitioner under section 7DA and the accused subsequently gave permission for a laboratory test of the specimen.”;
- (d) after subsection (5), add —

“(6) Where a specimen of blood was taken from the accused under section 7DA, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless —

- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
- (b) any request to be supplied with the other part which was made by the accused at the time when the accused gave permission for a laboratory test of the specimen was complied with.”.
- (11) In section 7D —
 - (a) in subsection (1), after “7C(5)” insert “and (6A)”;
 - (b) in subsection (2), after the words “medical practitioner”, in both places where they occur, insert “or a registered health care professional”.

Newly
qualified
drivers

- 2. (1) In Schedule 3 to the 1985 Act —
 - (a) in paragraph 6B (restrictions on newly qualified drivers) —
 - (i) in sub-paragraph (1), for “12 months” substitute “24 months”;
 - (ii) after sub-paragraph (1) insert —

“(1A) Where a person has passed such a test, that person shall, until the coming into force of the licence referred to in sub-paragraph (1)(a), be subject to the

prescribed restrictions while driving on a road a motor vehicle of any class in respect of which that person was not, immediately before passing that test, entitled to drive or hold a licence.”;

(iii) in sub-paragraph (3)(a), for “vehicle; and” substitute “vehicle and the nature of the distinguishing mark may be different in different circumstances; and”;

(iv) after sub-paragraph (3) insert —

“(3A) Regulations prescribing the nature of a distinguishing mark may require the distinguishing mark to be accompanied (in such position, manner and size as may be prescribed) by a plate or disc incorporating such a statement and such plate or disc shall be treated as part of the distinguishing mark for the purposes of this paragraph.”;

(v) in sub-paragraph (5), for “12 months” substitute “24 months”;

(vi) in sub-paragraph (6), for “12 months” substitute “24 months”;

(b) for paragraph 6C (offence of exceeding speed set for vehicles displaying “R” plates) substitute —

“**6C.** Any person who drives on a road at a speed exceeding the maximum speed permitted under paragraph 6B(3)(b) in a motor vehicle displaying a distinguishing mark referred to in paragraph 6B(3)(a), where that person is not subject to the prescribed restrictions (within the meaning of paragraph 6B(3)), is guilty of an offence.”;

(c) after paragraph 6C insert —

“**6D.** (1) The Department may by order make provision for the purpose of applying paragraph 6B to any person who —

(a) is temporarily in the Island; or

(b) is in the Island with the intention of becoming resident; or

(c) has become resident in the Island but the period prescribed for the purpose of paragraph 1(3) has not expired,

and is authorised to drive a vehicle on a road in the Island by reason of being the holder of a permit authorising that person to drive a vehicle under the law of a country or territory outside the Island.

(2) An order under sub-paragraph (1) may make such modifications to paragraph 6B as the Department considers to be necessary for the purpose mentioned in sub-paragraph (1).

(3) This paragraph is without prejudice to the power to make regulations under paragraph 1(3).

(4) An order under this paragraph shall not come into operation unless it is approved by Tynwald.”.

(2) This section shall not apply in respect of any person driving a motor vehicle of any class on a road if that person passed a test of competence to drive that class of motor vehicle pursuant to paragraph 2 or an order under paragraph 11(5) of Schedule 3 to the 1985 Act before the date on which this section comes into operation.

Payment for
driving
instruction

3. In paragraph 3 of Schedule 4 to the 1985 Act —

- (a) in sub-paragraph (1), for the words from the beginning to “is given,” substitute “No paid instruction”;
- (b) in sub-paragraph (2), for “given for payment of money by the person to whom the instruction is given” substitute “paid instruction”;
- (c) after sub-paragraph (5) add —

“(6) Subject to sub-paragraphs (2) and (7), in sub-paragraph (1), instruction is paid instruction if instruction is given in return for any valuable consideration in money or money’s worth provided or to be provided, by or in respect of the person to whom the instruction is given.

(7) Instruction which is given in pursuance of arrangements under which the consideration is provided (either wholly or partly and whether directly or indirectly) for or in respect of —

- (a) the supply of a vehicle for the instruction;
- (b) any expense incurred in supplying or running the vehicle used for the instruction;
- (c) any expense incurred by the instructor in respect of the instruction,

shall be deemed to be paid instruction.

(8) Instruction that is given as part of a commercial promotion shall be deemed to be paid instruction.”.

4. (1) In paragraph 8 of Schedule 4 to the 1985 Act, for sub-paragraphs (1) and (2) substitute —

Driving
instructors

“(1) For the purpose of enabling a person to acquire practical experience of giving instruction in driving motor vehicles with a view to undergoing the examination referred to in paragraph 5(1)(a) the Registrar may grant a licence to give instruction.

(2) Before granting a licence under this paragraph, the Registrar must be satisfied that —

(a) the conditions set out in paragraph 5(1)(b), (c) and (d); and

(b) such other conditions as to which the Registrar is required by or under this Schedule to be satisfied for the grant of a licence,

are fulfilled by the applicant for the licence.

(2A) Applications for a licence shall be made in a manner determined by the Department and shall be accompanied by —

(a) such particulars as are so determined; and

(b) such fee as may be prescribed.

(2B) A licence under sub-paragraph (1) enables the holder of the licence to give instruction in the driving of a motor vehicle, being instruction the giving of which is restricted by paragraph 3.”.

(2) In paragraph 11 of Schedule 4 to the 1985 Act, after paragraph (b) add —

“(c) without prejudice to the generality of the words “fit and proper” wherever used in this Schedule, specify circumstances in which a person shall be treated as not being a fit and proper person to be entered in or remain in the register.”.

PART 2

VEHICLES

Registration
[c.21]

5. (1) In section 11 of the Licensing and Registration of Vehicles Act 1985 (in this Act referred to as “the Registration Act”) —

(a) in subsection (1), after “Every vehicle” insert “(whether or not on a public road)”;

(b) after subsection (3) add —

“(4) This section does not apply to a prescribed vehicle or in such cases or circumstances as are prescribed.

(5) The keeper of any vehicle who fails to register that vehicle in accordance with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.”.

(2) In section 12(2) of the Registration Act, for the words from “and” to the end of the subsection substitute “and, where the vehicle was being driven on a public road, it was being driven for the purpose of being so registered.”.

(3) After section 13(1)(f) of the Registration Act, insert —

“(ff)require any person who ceases to be the keeper of a vehicle to furnish to the Department a prescribed statement signed by that person and a prescribed statement signed by the person who becomes the keeper of the vehicle and in any case where both such statements are not furnished to the Department, regulations may provide for the person ceasing to be the keeper of the vehicle to be treated for the purposes of this Act as continuing to be the keeper until both such statements are so furnished;”.

(4) After section 13 of the Registration Act insert —

13A. (1) Regulations under section 13(1) may in particular include provision —

“Restriction of cancellation of registration of vehicles and registration where vehicle used other than on public roads

(a) that the registration of a vehicle shall not be cancelled on the application of the person who is registered as the keeper of the vehicle unless that person produces such evidence as may

be prescribed that the vehicle no longer exists or that it has been permanently removed from the Island;

- (b) requiring any person who is registered as the keeper of a vehicle that —
 - (i) is not on a public road and will not be used or kept on a public road; or
 - (ii) is taken on a public road only in prescribed circumstances,

to apply for a continuation of registration certificate in accordance with regulations;

- (c) for the continuation of registration for a prescribed period where —
 - (i) no vehicle licence is in force in respect of a vehicle; and
 - (ii) the Department is satisfied that it will not be used or kept on a public road,

and for the issue in such cases of a continuation of registration certificate to the keeper of a vehicle which shall be evidence of such continuation;

- (d) for the amount of fees to be paid by the keeper of the vehicle when a certificate is issued in accordance with regulations under paragraph (b), and for the time when the fee must be paid;
- (e) for the keepers of vehicles that are the subject of a certificate under paragraph (b) to notify the Department if the vehicle no longer exists or has been permanently removed from the Island; and for the form and content of the notification and the period within which such notification must be given;
- (f) for the keepers of vehicles to notify the Department —
 - (i) of any vehicle kept by them in respect of which there is no vehicle licence; or

(ii) where a vehicle licence in respect of that vehicle expires and is not renewed, a notification of non-renewal,

and for the form and content of the notification and the period within which the notification must be given;

(g) for the circumstances in which a certificate issued under paragraph (b) shall expire or be cancelled.

(2) This section is without prejudice to the power of the Department to cancel registration under section 13(1)(k) and (l), (3)(b) and (4)(c).”.

(5) In section 14 —

(a) in subsection (1)(b), after “licence” insert “, certificate”;

(b) in subsection (2) —

(i) after “vehicle licence”, wherever occurring, insert “, continuation of registration certificate”.

Construction and use : penalties

6. In the Table in Part I of Schedule 6 to the 1985 Act, in the entry relating to Schedule 2 paragraph 1(5), at the end of the entry add —

“

		But in the case of an offence of using or causing to be used a vehicle in breach of any construction and use requirement relating solely to vehicles carrying dangerous goods		Obligatory	Obligatory	—	
		(a) Summarily (b) On information	(a) £5,000 (b) a fine				

”

Duration of licences

7. In section 2 of the Registration Act for subsections (1) and (2) substitute —

“(1) Subject to subsections (2) to (4), a vehicle licence may be taken out for any period of 12 months running from either the date on which it is issued or the date on which it is stated to have effect.

(2) An order under section 1 may provide that vehicle licences may be taken out for such period less than 12 months as may be specified in the order, being a period of a fixed number of months running from the date on which the licence first has effect.”.

8. In the Registration Act —

Trade licences

(a) in section 10(1), after “motor trader” insert “or the Chief Constable”;

(b) in section 20, for the definition of motor trader substitute —

“motor trader” means —

(a) a manufacturer or repairer of, or dealer in, vehicles;

(b) a person carrying on a business concerned with the financing or insuring of motor vehicles;

(c) any other class of persons as is prescribed for the purposes of this definition but only in such circumstances and subject to such conditions as may be prescribed;”;

(c) in paragraph 5 of Part II of Schedule 1, after “motor trader” insert “or the Chief Constable”.

PART 3

HIGHWAYS

9. In the Road Traffic Regulation Act 1985 (in this Act referred to as “the Regulation Act”) —

Parking :
excess charge

(a) in section 14A(2) —

[c.20]

(i) the word “either” is repealed; and

(ii) for paragraph (a) substitute —

“(a) as an amount which is either —

- (i) (an “initial charge”) payable in respect of an initial period, and an amount (an “excess charge”) payable in addition to an initial charge in respect of any excess over an initial period; or
- (ii) an amount (an “overstay charge”) payable in respect of a period in excess of an initial period for which there is no charge, or”;

(b) after section 14A(2) insert —

“(2A) In this Act (except in sections 14B(5) and 14C(1)), any reference to an excess charge includes an overstay charge under subsection (2)(a)(ii).”;

- (c) in section 38(1), at the end of the definition of “excess charge” add “and, in accordance with section 14A(2A) includes an overstay charge under section 14A(2)(a)(ii)”.

PART 4

TRAFFIC REGULATION

Traffic signs **10.** (1) In section 15 of the Regulation Act —

- (a) in subsection (1), the words “specified by regulations made by the Department or authorised by the Department” shall cease to have effect;
- (b) for subsection (4) substitute —

“(4) No traffic signs shall be placed on or near any highway unless authorised by the Department and in conformity with regulations (if any) made under section 16.

(4A) An obligation to place traffic signs that is imposed under any other enactment on any department, statutory board or local authority shall be subject to and shall not override subsection (4).

(4B) A person who places a traffic sign in contravention of subsection (4) is guilty of an offence.”.

(2) In Schedule 4 to the Regulation Act, after the entry relating to section 14B(6) insert —

“Section 15(4B) Unauthorised placing of traffic signs £1,000”.

11. In section 3 of the Regulation Act —

Temporary
prohibition
or restriction
of traffic

(a) in subsection (1), after paragraph (c) add —

“or

(d) for facilitating the passage of vehicular traffic on the road; or

(e) for facilitating the investigation of serious crime at a crime scene where the presence of vehicular traffic would, in the opinion of the Chief Constable, be likely to prejudice the investigation or damage evidence; or

(f) for facilitating public order or crowd control;”;

(b) in subsection (3), after “highway” insert “ or where it appears necessary —

(a) for facilitating the passage of vehicular traffic on the road;

(b) for facilitating the investigation of serious crime at a crime scene where the presence of vehicular traffic would, in the opinion of the Chief Constable, be likely to prejudice the investigation or damage evidence; or

(c) for facilitating public order or crowd control.”.

12. In section 27 of the Regulation Act, after paragraph (b) insert —

Speed limits :
exemptions

“or

(c) for civil defence or bomb disposal purposes.”.

13. (1) After section 35 of the Regulation Act insert —

Traffic
regulation :
exemptions

“Traffic
regulations :
exemptions

35A. No provision an of enactment in or under Part I or II or section 15(6) of this Act or section 16(1)(b) of the Road Traffic Act 1985 shall apply in respect of a vehicle to which section 27 applies if the observance of those provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.”.

(2) In section 18(3) of the 1985 Act, at the end add “or to a motor vehicle or trailer during such time as it is in actual use for civil defence or bomb disposal purposes”.

PART 5

Rear seat belts
: persons
under 14
years

14. (1) In section 25 of the 1985 Act —

(a) for subsection (5) substitute —

“(5) Except as provided by regulations under subsection (6)(a), a person who, without reasonable excuse, drives a motor vehicle on a road when there is in the vehicle a child under the age of 14 years who is not wearing a seat belt in conformity with regulations under subsection (6)(c) and (d), shall be guilty of an offence.”;

(b) subsection (5A) is repealed;

(c) in subsection (6) —

(i) in paragraph (a), “or (5A)”;

(ii) paragraph (b); and

(iii) in paragraph (c), “or (5A)”,

are repealed;

(d) after paragraph (c) insert —

“(d) requiring seat belts to be marked in such manner as is specified in the regulations.”

(e) in subsection (7), “, (5A)” is repealed.

[c.5] (2) Section 4 of the Road Traffic (Amendment) Act 1991 is repealed.

Interpretation **15.** In this Act —

[c.23] “the 1985 Act” means the Road Traffic Act 1985;

[c.21] “the Registration Act” means the Licensing and Registration of Vehicles Act 1985;

[c.20] “the Regulation Act” means Road Traffic Regulation Act 1985.

16. (1) This Act may be cited as the Road Traffic (Amendment) Act 2006. Citation and commencement

(2) This Act shall come into force on such day as the Department of Transport may by order appoint and different days may be so appointed for different provisions and for different purposes.

(3) An order under subsection (2) may make such transitional provisions or savings as the Department of Transport may consider necessary in connection with any provision brought into force by the order.