



**TRAFFIC (AMENDMENT) BILL  
2009**

**(BILL NO. 10 OF 2009)**





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Entitled

**AN ACT** TO AMEND THE TRAFFIC ACT (CAP. 131)

**ENACTED** by the National Parliament of Solomon Islands.

### TRAFFIC (AMENDMENT) BILL 2009

Citation and  
commencement

**1.** This Act may be cited as the Traffic (Amendment) Act 2009, and commences on a date appointed by the Minister, by notice in the *Gazette*.

Section 1  
amended

**2.** The principal Act is amended in section 1 by deleting “Traffic Act” and substituting “Road Transport Act”.

Section 2  
amended

**3.** The principal Act is amended in section 2–

(a) by adding the following definition –

““Board” means the Road Transport Board established by section 3;”;

(b) by repealing the definition of “highway authority” and substituting the following definition –

““highway authority” means the Board, and includes a person declared under section 3(5);”;

(c) in the definition of “inspector”, by deleting “section 4(3)” and substituting “section 5”; and

(d) by adding the following new definition –

““Minister” means the Minister responsible for road transport;”.

Sections 3, 4 and  
5 substituted

**4.** The principal Act is amended by repealing sections 3, 4 and 5 and substituting the following sections –

“Road Transport  
Board”

“3. (1) This section establishes the Road Transport Board consisting of the following members –

(a) the Permanent Secretary for the Ministry responsible for road transport, as the Chairperson;

(b) the Clerk of the Honiara City Council;

- (c) the Commissioner of Police or a senior Gazetted officer as the Commissioner's nominee;
  - (d) the Permanent Secretary for the Ministry responsible for Provincial Governments or the Permanent Secretary's nominee;
  - (e) the Permanent Secretary for the Ministry responsible for commerce or the Permanent Secretary's nominee;
  - (f) the Chief Mechanical Engineer of the Ministry responsible for roads;
  - (g) a member to represent the Solomon Islands Chamber of Commerce; and
  - (h) two other members (one is to represent the taxi operators and the other is to represent the bus operators).
- (2) The Minister may –
- (a) appoint or re-appoint the members under subsection (1)(g) and (h) for a period of up to three years; and
  - (b) determine the allowances for such members.
- (3) The Minister may give written policy directives in the public interest to the Board, and the Board shall comply with such directives.
- (4) The Board shall be the highway authority for the purpose of this Act and any other written law.
- (5) The Board may, by notice in the *Gazette*, declare any other body to be a highway authority for any specific area, subject to conditions the Board

may impose.

(6) Any document of the Board is to be signed by the Chairperson or a member authorised by resolution of the Board, subject to section 4.”.

“Functions of the Board”

“3A. The functions of the Board are –

- (a) to formulate, implement, monitor and review policies in relation to road transport, in conjunction with the functions of the Ministry to formulate national transport policy;
- (b) to coordinate the implementation, administration and enforcement of this Act;
- (c) to prepare and submit quarterly reports to the Minister on the implementation, administration and enforcement of this Act;
- (d) to submit to the Minister any information in relation to this Act, if so required by the Minister; and
- (e) other functions given to it under this Act or any other written law.”.

“Powers of the Board”

“3B. The powers of the Board are –

- (a) to register and license motor vehicles;
- (b) to license drivers;
- (c) to carry out inspections and examinations of motor vehicles;
- (d) to carry out testing and examination of drivers;
- (e) to carry out enforcement of this Act, in conjunction with the Police, any other highway authority and any other enforcement agency;
- (f) to institute and conduct prosecutions for offences under this Act, its regulations or

Highway Code, subject to any written directions by the Director of Public Prosecutions; and

- (g) to exercise any other powers conferred on it under this Act or any other written law.”.

“Meetings of the Board”

“3C. (1) The Board shall meet at least once a month to be convened by the Chairperson or upon the written request of at least 4 members to the Chairperson.

(2) Five members constitute a quorum for a meeting of the Board.

(3) If the Chairperson is absent, the members present may elect one of them to preside at that meeting.

(4) A member who has an interest in any matter before the Board shall disclose such interest to the Board and shall not take part in the deliberation and voting on such matter.

(5) Subject to this Act, the Board may determine its meeting procedures.”.

“Delegation of powers”

“4. The Board may, by notice in the *Gazette*, delegate any of its functions and powers under this Act or any other written law to any of the officers specified in section 5(1) or to any other highway authority.”.

“Officers of the Board”

“5. (1) The following public officers’ positions are established for the purposes of this Act –

- (a) Principal Licensing Officer;
- (b) licensing officers;
- (c) inspectors and examiners; and
- (d) enforcement officers.

(2) The Principal Licensing Officer is responsible for the day to day administration of the

Board and shall act as Secretary to the Board.

(3) This section is without prejudice to the power to appoint other public officers necessary for the administration of this Act.”.

Section 59A  
added

**5.** The principal Act is amended by adding after section 59 the following section –

“Unlawful  
possession of  
Government  
vehicles”

“59A. (1) The Permanent Secretary for the Ministry that is responsible for a Government vehicle shall serve a notice on any person who is in possession or control of such vehicle, without lawful authority, demanding the return of such vehicle.

(2) The notice under subsection (1) shall be in writing and specify a period of up to fourteen days.

(3) A person who fails to return the Government vehicle after being served with a notice under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding twelve months or both.

(4) It is not a defence for an offence under this section that the person has other pending entitlements, claims, benefits or rights with the Government, in particular where such person is no longer employed or engaged by the Government.

(5) The court may, in addition to any penalty imposed under subsection (3), order the return of the Government vehicle, including order for compensation for any damage to or loss of the vehicle.”.

New section 71A  
added

**6.** The principal Act is amended by adding after section 71 the following new section –

“Infringement  
notices”

“71A. (1) The Board may issue infringement notices, in the prescribed form, for breach of an offence under this Act or under any regulation or Highway Code.

(2) Any regulation made under section 82(1)(kb) shall –

- (a) list the offences under the Act, regulations or Highway Code that are to be subject to infringement notice; and
- (b) prescribe the fixed penalty, which shall be an amount not exceeding one-fifth of the maximum penalty units specified for that offence.

(3) Infringement notices shall –

- (a) set out the name and address of the offender;
- (b) set out the offence prescribed for infringement notice;
- (c) set out the prescribed fixed penalty;
- (d) provide for payment of the fixed penalty, whether or not the offence is admitted, and for election to the court if the offence is disputed; and
- (e) set out any other prescribed information.

(4) Any infringement notice shall be issued on behalf of the Board and may be signed by the Principal Licensing Officer or a licensing officer, inspector, examiner, police officer, officer of another highway authority or any other person authorised in writing by the Board.

(5) If the fixed penalty is paid in full, including any incidental costs, no further proceedings shall be instituted against the person in respect of that offence, without prejudice to the right to any civil claim for damages arising out of that offence.”.

7. Section 82 of the principal Act is amended –

- (a) in line 1 of subsection (1), by inserting “, in consultation with the Board,” after “Minister may”;

- (b) in subsection (1), by adding the following new paragraphs after paragraph (k) –

“(ka) the formation of associations for owners or operators of public service vehicles and the regulation of the form of entities to operate or own public service vehicles;

(kb) for the purposes of giving effect to section 71A”; and

- (c) by adding the following new subsection –

“(3) Before the Minister makes regulations for the control of fares and charges under subsection (1)(k), the Minister shall first issue a notice in the *Gazette* and other forms of public medium calling for public submissions on any proposal to prescribe new fares or charges or to increase or decrease any existing fares or charges.”.

Section 83 amended **8.** Section 83 of the principal Act is amended in subsection (1), by deleting “a highway authority” and by substituting “the Board”.

General amendments to references

**9.** (1) Any reference to “Principal Licensing Officer”, “licensing officer” or “inspector” is deleted and substituted with “Board” in the following provisions –

- (a) sections 8, 9, 11, 14, 16, 17, 18, 19, 21, 22, 23, 24, 26, 28, 29, 37, 42, 46, 71, 72, 76 and 82(2) of the principal Act; and
- (b) regulations 8, 12, 13, 16, 18, 22, 37, 61, 76, 77, 79 and 80 of the Traffic Regulations.

(2) Any reference to “Minister” is deleted and substituted with “Board” in sections 5, 10, 29, 42, 65, 67 and 68 of the principal Act and regulations 59, 63 and 76 of the Traffic Regulations.

(3) Any reference in the principal Act or any other written law or statutory instruments and other documents to “Traffic Act”, “Traffic Regulations” or any other subsidiary legislation by that name is deleted and substituted with

“Road Transport Act”, “Road Transport Regulations” or the relevant name of the subsidiary legislation.

**10.** Without limiting the Interpretation and General Provisions Act (Cap. 85), at the commencement of this Act –

Transitional

- (a) the exercise of any functions by the existing Principal Licensing Officer, licensing officers, inspectors and examiners shall continue as if they have been delegated such powers by the Board pursuant to the new section 4 of the principal Act until such time the Board issues new delegations to such officers; and
- (b) any highway authority appointed before the commencement of this Act shall continue as if such authority were declared under the new section 3(5) of the principal Act.

**TRAFFIC (AMENDMENT) BILL 2009****OBJECTS AND REASONS**

The Bill seeks to amend the Traffic Act for the purpose of ensuring that the functions and powers under that Act are well coordinated, administered and enforced to ensure safety on our roads. The amendment will allow for proper administration and better enforcement of our traffic laws, which will include on-the-spot fines, appointment of enforcement officer and undertaking of prosecutions in the Magistrates' Courts by officers of the Board for minor offences.

The objective of the Bill can be achieved through the establishment of a Road Transport Board. The Board will be responsible for carrying out the functions and powers under the Act for the registration and licensing of motor vehicles and licensing of drivers, including formulation of road transport policies for consideration by Government. The Board will delegate its functions and powers to the Principal Licensing Officer, licensing officers, inspectors and examiners who are currently performing those functions and powers.

**EXPLANATORY MEMORANDUM**

Clause 1 provides for the short title and commencement provisions. The Minister will appoint the commencement date w after preliminary steps have been taken to establish the Board, including provisions for budget, making of regulations, etc.

Clause 2 changes the title of the Act to be called the Road Transport Act.

Clause 3 adds some new words to the interpretation section.

Clause 4 establishes the proposed Road Transport Board consisting of Government and non-government representatives. It provides for its functions and powers, which include taking over the licensing of vehicles and drivers under the Act. The existing officers will continue to perform those functions, which the Board will eventually delegate to them but retain the supervision control of licensing powers. The Board will become the overall Highway Authority, which under the current Act vests with the Permanent Secretary. The creation of the Board will also augurs well for the

recently enacted Transport Fund Act 2009, which is designed to improve road infrastructure development.

Clause 5 amends section 59 to create an offence for unlawful possession of Government vehicles.

Clause 6 provides for a on-the-spot fine system. An infringement notice will be served on an offender whereby the offender will be required to pay the fine to Government if he/she admits the offence, otherwise the person can challenge the matter in court.

Clause 7 amends section 82 to include other matters that may be covered by regulations, which includes formation of associations for public service vehicle owners and operators, and other matters required for the proposed on-the spot fine system.

Clause 8 amends section 83 as a result of changing the Highway Authority to the Board.

Clause 9 provides consequential amendments to references from the Minister, Principal Licensing Officer, etc to the Board, the overall authority under the Act.

Clause 10 provides for transitional provisions for continuation of the exercise of functions and powers by the Principal Licensing Officer, etc when the Act commences.

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**MINISTER FOR POLICE, NATIONAL SECURITY AND  
CORRECTIONAL SERVICE**