



BERMUDA

TRAFFIC OFFENCES PROCEDURE AMENDMENT ACT 2010

2010 : 54

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WHEREAS it is expedient to amend the Traffic Offences Procedure Act 1974 with regard to parking offences;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

**Citation**

1 This Act, which amends the Traffic Offences Procedure Act 1974 (the "principal Act"), may be cited as the Traffic Offences Procedure Amendment Act 2010.

**Amends section 10**

2 The definition "traffic officer" in section 10 of the principal Act is amended by inserting next after the words "Motor Car Act 1951" the words "and includes, for the purposes of regulating and controlling traffic on airport roads, an airport traffic officer appointed under section 7A of the Civil Airports Act 1949".

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### Repeals and replaces sections 15 to 20

3 Sections 15 to 20 of the principal Act are repealed and replaced by the following—

#### **"Parking notice**

15 (1) Where a police officer has reasonable cause to suspect that a person has committed a parking offence in respect of a vehicle, the officer may issue a parking notice under this Part.

(2) A parking notice shall be issued by the police officer—

- (a) affixing the notice to the vehicle in such a manner that it may reasonably be expected to be seen by the person in charge of the vehicle at the time of the alleged offence; or
- (b) delivering the notice personally to the person who appears to be in charge of the vehicle at the time of the alleged offence.

(3) A parking notice issued under this section may be generated electronically and need not be signed by the officer who issues the notice.

(4) A parking notice that is affixed to a vehicle under subsection (2)(a) is deemed to have been delivered to the owner of the vehicle, unless the contrary is proved.

#### **Form and content of parking notice**

16 The form of a parking notice in respect of a parking offence shall be determined by the Minister and shall include the following information—

- (a) the name of the police officer who issues the notice and the date of issue;
- (b) the name of the owner or person in charge of the vehicle involved in the offence, if known;
- (c) the registration number, make and colour of the vehicle involved in the offence;
- (d) the provision of law that is alleged to have been contravened and a brief description of the nature of the offence and the time, date and place of the offence;
- (e) a statement to the effect that a fixed penalty is payable in respect of the offence, as follows—
  - (i) a penalty of \$75 if paid within a period of 14 days after the date of issue of the parking notice, or
  - (ii) a penalty of \$100 if paid after the period of 14 days referred to in subparagraph (i) but before a time and date to be set for trial of the offence;
- (f) the place where, and the manner in which, payment of a fixed penalty may be made;

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- (g) a statement to the effect that a conviction shall not be recorded in respect of the offence if payment of a fixed penalty for the offence is made; and
- (h) a statement to the effect that, if payment of a fixed penalty for the offence is not made, the person charged with the offence is liable to be summoned to appear in court and to a fine not exceeding \$150 if convicted of the offence.

### **Summons**

17 (1) Where a parking notice is issued in respect of a parking offence and payment of the fixed penalty of \$75 is not received within 14 days after the date on which the notice was issued, a summons in respect of the offence may be issued by a magistrate and served on the person who was the owner of the vehicle involved in the offence at the time of the offence, charging that person with the offence and summoning him to appear at Magistrates' Court to answer the charge.

(2) A summons may be served by a police officer or by a person employed by the Bermuda Police Service acting under the direction of a police officer.

(3) A summons shall be served by—

- (a) delivering it personally to the person who is summoned; or
- (b) sending it by post to the last known address of the person who is summoned.

(4) Unless the contrary is proved, service under subsection (3)(b) is deemed to have been effected at the time at which the summons would be delivered in the ordinary course of post.

(5) A summons under this section for a parking offence may not be issued or served after the expiry of the period of six months from the date when the offence is alleged to have been committed.

### **Form and content of summons**

18 (1) The form of a summons in respect of a parking offence shall be determined by the Minister and shall include the following information—

- (a) the name and signature of the person who issues the summons;
- (b) the date on which the summons was signed by the person who issues it;
- (c) the name of the owner of the vehicle involved in the offence;
- (d) the registration number, make and colour of the vehicle involved in the offence;
- (e) a statement to the effect that the person to whom the summons is directed is charged with the offence, including the provision of law that is alleged to have been contravened and a brief description of the nature of the offence and the time, date and place of the offence;

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- (f) the time, date and place for trial of the offence;
- (g) a statement to the effect that, if a fixed penalty of \$100 is paid before the time and date set for trial, a conviction will not be recorded in respect of the offence;
- (h) the place where, and the manner in which, payment of the fixed penalty may be made; and
- (i) a statement to the effect that, if payment of the fixed penalty of \$100 is not made, the person charged with the offence shall be liable, on summary conviction, to a fine not exceeding \$150.

(2) In the event that a matter proceeds to trial, a copy of the summons, together with evidence of the manner in which it was served, shall be deposited with the court on or before the trial date.

### **Appearance in court and trial**

19 (1) Where the person charged in a summons with a parking offence does not pay the fixed penalty of \$100 before the time and date for trial specified in the summons, that person shall appear in court for trial at the time, date and place specified in the summons.

(2) If the person charged fails to appear in court in response to a summons that has been served by post under section 17(3)(b), the court may issue a summons for a new trial date and order that it be served by delivering it personally to the person charged.

(3) If the person charged fails to appear in court in response to a summons that has been served personally under section 17(3)(a) or subsection (2) of this section, the court may proceed to determine the case in the absence of the person charged.

(4) Sections 17(2) and 18 apply to a summons that is issued under subsection (2).

### **Fine**

20 A person who commits a parking offence is liable, on summary conviction, to a fine not exceeding \$150.

### **Court record**

20A (1) There shall be appended to the summons for a parking offence a court record, in which a summary of the proceedings before the court in respect of the offence shall be recorded, including any conviction, and any fine imposed, in respect of the offence.

(2) The appropriate officer shall cause a copy of the summons and court record to be forwarded to the Director of Transport Control and to the Commissioner of Police.

### **Unlawful removal of parking notice**

20B (1) A parking notice that is affixed to a vehicle under section 15 shall not be removed or interfered with except by or under the authority of the owner or the person in charge of the vehicle or by or under the authority of a police officer.

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(2) Any person who contravenes subsection (1) commits an offence punishable on summary conviction by a fine not exceeding \$150.”.

### **Amends section 23**

4 Section 23(2) of the principal Act is amended by deleting the words “section 15(3), section 18 and”.

### **Repeals Schedule 2**

5 Schedule 2 of the principal Act is repealed.

### **Related amendments**

6 (1) Section 55A(1) of the Motor Car Act 1951 is amended by deleting the words “a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976.” and substituting a long dash and the following—

- “(a) a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976;
- (b) a traffic offence within the meaning of the Traffic Offences Procedure Act 1974; or
- (c) a parking offence within the meaning of Part III of the Traffic Offences Procedure Act 1974.”.

(2) Section 19A(1) of the Auxiliary Bicycles Act 1954 is amended by deleting the words “a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976” and substituting a long dash and the following—

- “(a) a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976;
- (b) a traffic offence within the meaning of the Traffic Offences Procedure Act 1974; or
- (c) a parking offence within the meaning of Part III of the Traffic Offences Procedure Act 1974.”.

### **Transitional**

7 For greater certainty, sections 15 to 20B of the principal Act, as enacted by section 3, do not affect parking notices issued under section 15 of the principal Act as it read immediately before the coming into operation of the said sections 15 to 20B.

### **Commencement**

8 This Act comes into operation on a day to be appointed by the Minister by notice published in the Gazette.

[Assent Date: 09 August 2010]