

MONTSERAT

ROAD TRAFFIC (AMENDMENT) BILL

No. of 2011

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I ASSENT

GOVERNOR

DATE:

M O N T S E R R A T

No. of 2011

A BILL FOR

AN ACT TO AMEND THE ROAD TRAFFIC ACT (CAP 07.06).

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

1. Short title and Commencement

This Act may be cited as the Road Traffic (Amendment) Act, 2011 and shall come into force on a date to be appointed by the Governor acting on the advice of Cabinet.

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2. Interpretation

In this Act—

“principal Act” means the Road Traffic Act (Cap. 07.06).

3. Section 2 amended

Section 2 of the principal Act is amended by—

- (a) deleting the definition for **“chauffeur”**;
- (b) inserting the following definitions in the appropriate alphabetical order:

“Governor” means the Governor acting on the advice of Cabinet;”;

“public service vehicle driver’s licence” means a licence referred to in section 30(c);

“heavy equipment” means any motor vehicle which has a tare weight in excess of 7.5 tons;

“OECS” means the Organisation of Eastern Caribbean States established in 1981 by the Treaty of Basseterre;”; and

- (c) deleting the definitions of **“owner”** and **“Traffic Commissioner”** and substituting the following in alphabetical order:

“owner” in the case of a motor vehicle that is registered, means the person in whose name the vehicle is registered, but—

- (a) in the case of a motor vehicle that is the subject of a hire purchase agreement, it means the person in possession of the vehicle under that agreement; and

- (b) whenever the registered owner of a motor vehicle is absent from Montserrat, the person in actual charge or possession of the vehicle in Montserrat is deemed to be the owner; and

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“Traffic Commissioner” means the Commissioner of Police or any person as may be appointed under section 4;”.

4. Section 3 repealed and replaced

Section 3 of the principal Act is hereby repealed and replaced by the following:

“3. Transport Board

- (1) There shall be established a body called the Montserrat Transport Board (“the Board”) consisting of the following persons:
 - (a) the Traffic Commissioner, who shall be the Chairman;
 - (b) the Chief Physical Planner or the person designated by him from the unit with responsibility for physical planning;
 - (c) the Director of Public Works or person designated by him from the department with responsibility for public works;
 - (d) the Licensing Officer;
 - (e) the Director of Tourism; and
 - (f) two other members appointed by the Governor to represent—
 - (i) Montserrat Chamber of Commerce and Industry; and
 - (ii) the Tour and Taxi Drivers Association.
- (2) The Secretary to the Board shall be the officer responsible for traffic in the Police Force.
- (3) The Governor may appoint any person to act in the place of the Chairman or any other member of the Board in the case of absence or inability to act.
- (4) The Board may act by any five of its members, and may so act notwithstanding any vacancy in the number of members constituting the Board.

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- (5) The Board shall have the power to regulate its own procedure.
- (6) An appointment under subsection (1)(f) shall be for a period of three years and a person so appointed shall be eligible for reappointment.
- (7) The Board shall act in an advisory capacity and shall advise the Governor on all matters appertaining to road transport and traffic and in particular shall advise on the following matters—
 - (a) transport, rates, fares, tolls, dues or other charges;
 - (b) licence duties and fees in respect of motor and other vehicles;
 - (c) the regulation and control of traffic; and
 - (d) any other matter affecting traffic or transport that the Governor may refer to the Board.
- (8) The Board shall hear and determine any appeal submitted by an aggrieved party against any order or decision of the Traffic Commissioner, the Licensing Officer or an Examining Officer and the decision of the Board thereon shall be conclusive.
- (9) The Traffic Commissioner shall not act as Chairman or as a member of the Board whenever the Board is hearing or determining an appeal under subsection (8).
- (10) The Board shall perform any other duties assigned to it by this Act, regulations made thereunder or by an order of the Governor.”

5. Section 4 amended

Section 4 of the principal Act is amended in subsection (1) by deleting the words “senior police officer stationed in Montserrat” and substituting the words “Commissioner of Police”.

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6. Section 5 amended

Section 5 of the principal Act is amended—

- (a) in paragraph (b)(iii), by deleting the word “and” after the semi-colon;
- (b) in paragraph (c), by deleting the full stop at the end of the paragraph and substituting “; and”; and
- (c) by inserting the following after paragraph (c):
 - “(d) to examine and report upon the condition, construction and equipment of any motor vehicle or other vehicles.”.

7. Section 6 amended

Section 6 of the principal Act is amended by deleting paragraph (a).

8. Section 13A inserted

The principal Act is amended by inserting the following immediately after section 13—

“13A. Disclosure of Bill of Sale

- (1) The owner of a motor vehicle shall, where that motor vehicle is subject to a bill of sale, disclose the particulars of the bill of sale to the Licensing Officer on the application for registration of that motor vehicle.
- (2) Where a motor vehicle is already registered and that motor vehicle becomes subject to a bill of sale, the owner of that motor vehicle shall, within 1 month of the date of the bill of sale, submit the particulars of the bill of sale to the Licensing Officer.
- (3) The Licensing Officer shall where particulars of a bill of sale are submitted under subsections (1) and (2), add the particulars to the entry made for that motor vehicle in the register of motor vehicles and

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in the certificate of registration issued to the owner.

- (4) Where the Licensing Officer receives proof that the bill of sale has been satisfied he shall add the particulars to the entry made for that motor vehicle in the register of motor vehicles and in the certificate of registration issued to the owner.
- (5) Nothing in subsections (1) or (2) shall be construed to prevent the grantor of a bill of sale from supplying the Licensing Officer with details of a registered bill of sale.
- (6) Where the grantor of a bill of sale provides details of the registered bill of sale to the Licensing Officer, the Licensing Officer shall add the particulars to the entry made for that motor vehicle in the register of motor vehicles and shall require the registered owner to surrender the certificate of registration for the purpose of amending it to reflect the details of the registered bill of sale.
- (7) The owner of a motor vehicle who contravenes subsection (1), (2) or (6) is guilty of an offence.

9. Section 14 amended

Section 14 of the principal Act is amended—

(1) by inserting the following immediately after subsection (2) —

“(2A) An identification mark may only be retained under subsection (1)(a) for a period of 1 year from the date of the application.”.

(2) by inserting the following immediately after subsection (3) —

“(3A) Where the registered owner of a motor vehicle applies to change the identification mark under subsection 1(b) and wishes to use in its place the identification mark retained under subsection 1(a), he shall pay a fee of \$500 which covers both applications.”

10. Section 15 amended

Section 15 of the principal Act is amended in subsection (1) by deleting the figure “\$96” and substituting the figure “\$500”.

11. Section 15A inserted

The principal Act is amended by inserting, immediately after section 15, the following:

“15A. Restriction on haulage of loads on roads

(1) No person shall drive or, being the owner of a motor vehicle, shall permit any person to drive a motor vehicle on a road if the—

(a) weight of the vehicle when laden exceeds 8 metric tons per axle; or

(b) height of the good, merchandise or load being transported or hauled exceeds 14 feet.

(2) A person who contravenes this section commits an offence and shall be liable on summary conviction to a fine of \$1500.”

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12. Section 16 amended

Section 16 of the principal Act is amended—

(a) by deleting subsection (1) and substituting the following:

“(1) Notwithstanding section 15A but subject to section 8(2), the Traffic Commissioner may grant a special permit to the owner of a tractor, motor lorry or trailer for conveying heavy machinery or other articles in excess of the maximum weight of 8 metric tons per axle—

(a) subject to conditions specified in the special permit; and

(b) upon payment of a fee of \$150 for each journey specified in the special permit”;

(b) in subsection (2), by deleting all the words occurring after the words “special fee” and substituting the words “of \$150”; and

(c) in subsection (3), by deleting the figure “\$48” and substituting the words and figures “\$250 and on a second or subsequent conviction to a penalty not exceeding \$500”;

(d) by adding a new subsection as follows:

“(5) In this section “journey” includes a return trip to the original starting point.”.

13. Section 29 amended

Section 29 of the principal Act is amended—

(a) in subsections (1), by deleting the words “Chauffeur’s Licence” and substituting the words “public service vehicle driver’s licence”;

(b) in the proviso to subsection (1) by deleting the figure “\$480” and substituting the figure “\$1,000”; and

(c) in subsection (2), by inserting the following immediately before the proviso—

“Providing that a learner’s permit in respect of a motor cycle may only be issued to a person who has

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attained the age of 16; and a learner's permit in respect of a motor vehicle may only be issued to a person who has attained the age of 17.”.

14. Section 30 amended

Section 30 of the principal Act is amended by—

- (a) deleting the full stop at the end of paragraph (d) and substituting “; and”; and
- (b) inserting, after paragraph (d), the following:

“(e) “a heavy equipment driver's licence” which shall entitle the holder to drive heavy equipment which his driving test proves him competent to drive.”.

15. Section 35 amended

Section 35 of the principal Act is amended in subsection (1) by inserting, immediately after paragraph (f), the following:

“(ff) in respect of heavy equipment, if he is under the age of 25 years and has not held a driver's licence or a public service vehicle driver's licence for at least 5 years prior to the date of his application for a heavy equipment driver's licence;”.

16. Section 37 repealed and replaced

Section 37 of the principal Act is repealed and replaced by the following:

“37. Duration of driver's licences

A person's driver's licence shall, unless previously suspended, cancelled or revoked, be valid for 3 years from the anniversary of that person's date of birth which occurred or will occur in the year that the driver's licence is issued.”

17. Section 38 repealed and replaced

Section 38 of the principal Act is repealed and replaced by the following:

“38. Renewal of driver's licence

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- (1) The holder of a driver's licence issued under this Act may, at least 14 days before the expiration of the licence, apply to the licensing officer for the renewal of the licence.
- (2) The Licensing Officer shall, subject to section 35 and on payment of the prescribed fees, renew the licence.”

18. Section 39 amended

Section 39 of the principal Act is amended by deleting the words “chauffeur’s licence” and substituting the words “public service vehicle driver’s licence”.

19. Section 39A inserted

The principal Act is amended by inserting, immediately after section 39, the following:

“39A. OECS Driver’s Licence

- (1) Notwithstanding sections 29, 30 and 39, a citizen of an OECS member territory who possesses a valid driver’s licence issued by an OECS member territory may drive a motor vehicle in Montserrat of the type that his licence authorises him to drive.
- (2) Upon expiration of the driver’s licence issued by the OECS member territory, the driver may either—
 - (a) renew the driver’s licence in the OECS member territory in which it was issued;
or
 - (b) apply for a driver’s licence in accordance with this Part.”

20. Section 40 repealed and replaced

Section 40 of the principal Act is repealed and replaced by the following:

“40. Production of driver’s licence

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- (1) Any person who drives a motor vehicle on any road shall have, either on his person or in the motor vehicle, his driver's licence.
- (2) The driver of a motor vehicle shall, on being required by any police officer, produce his driver's licence for examination so as to enable the police officer to ascertain the name and the address of the holder of the licence and the date of issue of the licence.
- (3) Any person who fails to comply with subsection (2) commits an offence and shall be liable on summary conviction to a fine of \$250.
- (4) A person shall not be charged under subsection (3) if the person produces the licence in person within 48 hours, from the time production was required, at a police station to which he is directed.”

21. Section 41 repealed and replaced

Section 41 of the principal Act is repealed and replaced by the following:

“41. Suspension or cancellation of driver’s licence for disability

- (1) If it appears to the Traffic Commissioner that there is reason to believe, that any person who holds a driver’s licence is suffering from physical or mental disability likely to cause the driving of a motor vehicle, being a vehicle of any such class or description as he is authorised by the licence to drive, by that person to be a source of danger to the public, he may temporarily suspend that person’s driver’s licence and require such person to submit himself for a medical examination.
- (2) If a registered medical practitioner certifies that a person is unfit to drive a motor vehicle, the Traffic Commissioner shall revoke his licence and notify such person of the revocation of his licence.

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(3) If a driver whose licence has been suspended under subsection (1) submits to a medical examination as required under that subsection, and is certified as fit to drive a motor vehicle, the Traffic Commissioner shall revoke the suspension and notify the driver of the revocation of the suspension.”

22. Section 44 amended

Section 44 of the principal Act is amended by deleting the figure “\$24” and substituting the figure “\$100”.

23. Section 46 amended

Section 46 of the principal Act is amended in subsection (7) by deleting the figure “\$120” and substituting the figure “\$750”.

24. Section 46A inserted

The principal Act is amended by inserting, immediately after section 46 the following:

“46A. Speed-measuring and time-measuring devices

In any proceedings for an offence under section 46 or any other law, if the speed at which a motor vehicle travelled on the occasion of the alleged offence is relevant, evidence of the speed of the vehicle, as indicated or determined on that occasion by means of a prescribed speed-measuring or time-measuring device, used in the prescribed manner and subject to the prescribed conditions, is, without prejudice to any other mode of proof, prima facie evidence of the speed of the vehicle on that occasion.”

25. Section 48 amended

Section 48 of the principal Act is amended in subsection (1)(a), by—

(a) deleting the words “shall be liable” and substituting the words “commits an offence and shall be liable”;

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- (b) deleting the figure “\$240” and substituting the figure “\$1,500”; and
- (c) deleting the figure “\$480” and substituting the figure “\$2,000”.

26. Section 49 amended

Section 49 of the principal Act is amended in subsection (1) by deleting the words “shall be liable” and substituting the words “he commits an offence, and shall be liable”.

27. Section 50 repealed and replaced

Section 50 of the principal Act is repealed and replaced by the following:

“50. Careless Driving

A person who drives a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons using the road, commits an offence and shall be liable on summary conviction to a fine of \$500, and on a second or subsequent conviction to a fine of \$1,500 and to disqualification from holding or obtaining a driver’s licence for a period not exceeding 1 year.”

28. Section 51 amended

Section 51 of the principal Act is amended in subsection (1), by—

- (a) inserting, immediately after the words “on a road” the words “commits an offence and”;
- (b) deleting the figure “\$240” and substituting the figure “\$500”; and
- (c) inserting, immediately after the words “penalty and imprisonment” the words “and on a second or subsequent conviction to a penalty not exceeding \$1,000”.

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29. Section 55 amended

Section 55 of the principal Act is amended—

- (a) in subsection (1), by deleting the word “person” and substituting “police officer”; and
- (b) in subsection (3), by—
 - (i) inserting immediately before the words “shall be liable”, the words “commits an offence”; and
 - (ii) deleting the figure “\$24” and substituting the figure “\$250”.

30. Section 56 amended

Section 56 of the principal Act is amended in subsection (2), by—

- (a) inserting, immediately before the words “shall be liable”, the words “commits an offence”;
- (b) deleting the figure “\$9.60” and substituting the figure “\$100”; and
- (c) deleting the figure “\$24” and substituting the figure “\$250”.

31. Section 57 amended

Section 57 of the principal Act is amended in subsection (4), by —

- (a) inserting, immediately before the words “shall be liable”, the words “commits an offence and”;
- (b) deleting the figure “9.60” and substituting the figure “100”; and
- (c) deleting the figure “24” and substituting the figure “250”.

32. Section 58 amended

Section 58 of the principal Act is amended by inserting immediately after the words “person, vehicle”, the word, “property”.

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33. Section 63 amended

Section 63 of the principal Act is amended by deleting the figure “\$240” and substituting “\$500”.

34. Section 68 amended

Section 68(2) of the principal Act is amended by deleting the figure “\$120” and substituting “\$500”.

35. Section 73 amended

Section 73 of the principal Act is amended—

- (a) in the heading to the section, by inserting after the words “**traffic signs**”, the words “**and mirrors**”; and
- (b) in subsection (1), by—
 - (i) inserting after the words “traffic sign” the words “or mirrors” wherever they occur; and
 - (ii) deleting the words “shall be guilty” and substituting the words “commits an offence and shall be liable on summary conviction to a penalty of \$250.”.

36. Section 74 amended

Section 74 of the principal Act is amended in subsection (1) by—

- (a) inserting, immediately after paragraph (d), the following:
 - “(dd) the installation of safety devices, including seatbelts and child passenger seats, in motor vehicles and the use of these safety devices by drivers and passengers of motor vehicles;
 - (ee) the regulation of tinted windows and tinted windscreens on a motor vehicle;
 - (ff) the regulation of the use of a cell phone while driving a motor vehicle;
 - (gg) the safety of children in a motor vehicle;”

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(b) inserting, immediately after paragraph (r), the following:

“(rr) the maximum gross weight, tare weight and height of motor vehicles and loads permitted to use certain roads;”.

37. Section 76 amended

Section 76 of the principal Act is amended by deleting the figure “120” and substituting the figure “500”.

38. Section 76A inserted

The principal Act is amended by inserting after section 76 the following:

“76A. Breach of regulations

- (1) If a person acts in contravention of, or fails to comply with, any regulations made under this Act and the contravention thereof, or failure to comply therewith, is not made an offence under any other provisions to this Act, he commits an offence and shall, for each contravention or non-compliance, be liable on summary conviction to a fine of \$250, and on a second or subsequent conviction to a fine of \$500.
- (2) A person who contravenes a regulation made under section 74(1)(ee), or (ff), commits an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for a term of 6 months or to both, and for a second or subsequent conviction to a fine of \$1,000 or to imprisonment for a term of 1 year or to both.”

39. First Schedule amended

The First Schedule of the principal Act is amended—

- (a) in item 3, by deleting the words “**Front End Loaders**”;

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- (b) in item 4, by inserting after the words “**Bull dozer**”, the words “**Front End Loaders**”;
- (c) in item 8 by inserting, immediately after paragraph (e), the following:
- “(f) a Heavy Equipment Driver’s \$300”
Licence
- (d) deleting item 10 and substituting the following:
- “ 10. Driving Examinations-**
- (a) Written Driving Test \$20
- (b) Driving Test (Road) \$50”;
- (e) in item 11, by deleting the sum of “\$10” and substituting “\$100”; and
- (f) by inserting, immediately after item 12, the following:
- “13. Personalised Licence Plates \$500”.**

SPEAKER

Passed the Legislative Council this day of
, 2011.

CLERK OF LEGISLATIVE ASSEMBLY