

REPUBLIC OF NAURU
MOTOR TRAFFIC BILL 2014
EXPLANATORY MEMORANDUM

The *Motor Traffic Bill 2014* is a Bill for the *Motor Traffic Act 2014*.

EXPLANATION OF CLAUSES

Part I

Clause 1 provides that, once enacted, the short title of the Bill will be the *Motor Traffic Act 2014*.

Clause 2 sets out when the Bill's provisions will commence.

Clause 3 is the repealing provision of the Act. This clause repeals the Motor Traffic Act 1937 and the Regulations made under it. This does not mean though that the laws cannot still continue to be used by those already subject to it. Under the transitional provisions of this Act, under a later clause, certain things can be completed under the old Act until such time as dictated by this Act.

Clause 4 simply indicates the parts of the Act and which sections are included in each part.

Clause 5 is the definitions section of the Act and provides the definitions of any words that might be considered as ambiguous and needing interpretation. Some words are given their ordinary meaning whilst others take on a more technical meaning as stated under this section.

Clause 6 provides for the appointment of a Registrar of Motor Vehicles and Licences who has many responsibilities under this Act including signing off on licences, registration and those concerning number plates for motor vehicles under the Regulations

Part II

Clause 7 is a clause providing that all motor vehicles being driven on roads in Nauru must be registered.

Clause 8 provides for all registration exemptions. These are if the person is taking a motor vehicle to the garage for inspection and registration or to be repaired and only if the person holds a written permit from the Registrar.

Clause 9 outlines the classes of vehicles in Nauru which people may register and apply for licences accordingly.

Clause 10 are the steps to be taken for applying for registration of one's motor vehicle. Applications are submitted at an approved garage who shall conduct all vehicle checks for roadworthiness.

Clause 11 deals with the actual registration of the motor vehicle. Vehicles must be produced at an approved garage for inspection and once complying with all requirements shall be issued with a certificate of roadworthiness that owners must present along with the receipt of registration fee payment and a policy of insurance under Part VII of this Act. Once all requirements are fulfilled the car shall be issued with a certificate of registration and registration label for the duration of the period for which the motor vehicle is registered.

Clause 12 states that a registration for a motor vehicle remains in force for 12 months from the date that the motor vehicle is first registered. This is renewable every year.

Clause 13 deals with the registration labels that are issued once a motor vehicle once it is registered. This label must be immediately affixed to the vehicle and shall remain so until the vehicle is registered again in the following 12 months. This clause also makes it an offence if any person drives on a public road with a motor vehicle where the registration vehicle is not clearly visible.

Clause 14 provides that government vehicles must also be registered and that registration is for as long as the vehicle remains the property of the government. All vehicles though must still go through yearly inspection at an approved garage.

Clause 15 states that the onus of proving that a motor vehicle has been registered rests upon the owner of that vehicle. This is an important clause that impresses upon vehicle owners the importance of having their vehicle go through the inspection stage and having that vehicle registered.

Clause 16 provides for the information that must be recorded by an approved garage in the register. The information concerns details about the car and the approved garage must provide the Registrar's office with a duplicate of all the information stored in their Register.

Clause 17 concerns any alteration to motor vehicles. Once motor vehicles have been registered, any changes made must be made known to the Registrar who will make the necessary amendments to the certificate of registration and return it to the owner.

Clause 18 provides that registration numbers issued under this Act are not transferable and any person transferring such numbers shall be liable to a fine of \$500.

Clause 19 deals with the sale and disposal of motor vehicles. It is important to notify the Registrar every time such a transaction happens to allow the Registrar to make the

necessary changes to the registration information. Otherwise, there could be misleading information existing that may end up in for example, someone being penalised for an offence that involved a motor vehicle that they no longer owned.

Part III

Clause 20 deals with the issuing of licences and states that all driver's in Nauru must carry a valid driver's licence when driving any motor vehicle on the island. Any person in contravention of this shall pay a penalty.

Clause 21 provides for the issuing of learner's permits to persons over the age of 17.

Clause 22 deals with the learner's test that all permit holders must attempt when applying for a permit. The test may be administered both verbally and in writing. This is important especially when it concerns illiterate persons.

Clause 23 states the conditions of a learner's permit. This clause is important because it places conditions on the holder of a learner's permit rather than giving them free reign on the road.

Clause 24 places a legal requirement on a person who has been granted a learner's permit to carry that permit with them at all times and if they fail to do this they are liable to a fine of \$100.

Clause 25 provides for a driver's licence for Nauru that persons may apply for at the Nauru Revenue Office.

Clause 26 provides the process for which a person may apply for a driver's licence, the documents that must be included in that application and finally the content of the licence itself.

Clause 27 states the age at which persons may hold a driver's licence and the type of vehicle they may operate on that licence.

Clause 28 states that a driver's licence granted to an individual is not transferable to any other person.

Clause 29 provides for medical examinations to be conducted on any person that the Registrar determines may affect the safety of the public generally. So the medical examination will be done to determine that the person is fit and proper to act as a driver of a motor vehicle.

Clause 30 covers foreign licences in Nauru. This is an important provision as it allows travelers to Nauru to utilise their foreign licence while driving a motor vehicle. The time

period though is limited at 2 months and anyone remaining in the country for longer than that time and wishes to continue to operate a motor vehicle must apply for a Nauru driver's licence.

Clause 31 provides for the issuing of trader's licences to persons who are engaged in the business of manufacturing, renting, dealing in or repairing motor vehicles.

Clause 32 provides for the appeal process that can be instituted by persons who are aggrieved with a decision of the Registrar not to grant, renew or transfer a trader's licence.

Clause 33 deals with the cancellation, suspension of and refusal to grant or renew licences. The power here is given to the Registrar who may apply discretion but subject to certain conditions that involve the safety of the public, any mental physical or mental disability on the person, if the person is in the opinion of the Registrar unfit to operate a motor vehicle or the person has been convicted of an offence.

Clause 34 places a legal obligation on the owner of a motor vehicle to refrain from allowing a person without a valid driver's licence, to drive his or her motor vehicle.

Clause 35 provides for fees to be paid with regard to the Act. The fees are provided in the Motor Traffic Regulations 2014.

Clause 36 provides an exemption on fees for government vehicles and any vehicle specially exempted by Order of the Minister on account of the motor vehicle being owned by a public body or its being used for any charitable, philanthropic or other public purpose.

Part IV

Clause 37 is the clause creating a legal obligation on all drivers to obey the speed limit provided by Clause 38.

Clause 38 provides the national speed limit in Nauru that drivers must comply with. This has been amended to reflect what other states are currently doing. The speed limit has been changed from miles per hour to kilometres per hour and also rounded off to reflect those laws of other states.

Clause 39 provides that all vehicles in Nauru must be driven on the left hand side of the road.

Clause 40 prohibits the making of U-turns unless the driver has a clear view of approaching traffic and the driver can safely make the turn without obstructing free movement of traffic.

Clause 41 is a clause that covers the issue of overtaking vehicles and provides guidelines that drivers must follow whenever they are driving and about to overtake another vehicle. This is a safety clause also as it provides a provision on overtaking school buses.

Clause 42, 43 and 44 deal with drivers giving way to buses, police vehicles, emergency vehicles and escort vehicles. This is important to allow the latter 3 types of vehicles to respond quickly and efficiently to emergency cases. It is also a safety clause for buses that are carrying school children and need to drop them off. By providing that vehicles stop, it ensures that the school bus monitor and any child crossing does not have their life endangered because the vehicle behind the bus keeps moving.

Clause 45 is a more detailed clause on the right hand rule requirement in Nauru and is a helpful guide.

Clause 46, 47, 48, and 49 are the clauses that provide for the type of signal to give when turning, when stopping or slowing down, how to give the signal and the means of signaling. These rules are important as they provide clearer direction for drivers and for a safer Nauru.

Clause 50, 51, and 52 are provisions on the use of a motor vehicle's lights. For both the driver and the pedestrian this is an important clause as any person who contravenes the sections is liable to a fine. Clause 50 places restrictions on vehicles using their headlights on high beam at night and the importance of not using excessive bright lights that might restrict the ability of other drivers on the roads.

Clause 53 provides direction for drivers as to when they are able to use the vehicles' hazard warning lights.

Clause 54 is a provision on slow moving traffic and what drivers must do in the event that they face a situation where there is traffic obstructing their lane because it is moving very slowly.

Clause 55 is a clause on the duty of a driver when approaching a pedestrian crossing. This is an important clause as it concerns the safety of driver, passengers (if any) and pedestrians.

Clause 56 provides for cyclists who ride their bicycles on public roads at night. It is important also that they protect their lives and those of others, by ensuring that the bicycle complies with the provisions of this Act.

Clause 57 makes it an offence to ride a motor cycle without a proper helmet. This is important because one life saved through the introduction of helmets is an accomplishment.

Clause 58 places a restriction on the number of persons that can be carried on a motor cycle.

Clause 59 are general road rules for drivers.

Part V

Clause 60 makes it illegal to travel in a motor vehicle without wearing a seatbelt if the vehicle is fitted with one and is travelling over the speed limit. This includes driver of the motor vehicle, a passenger seated in the front passenger seat and in the back middle passenger seat and children described in clause 61.

Clause 61 is one of the new and very important clause relating to children travelling in motor vehicles. To avoid complacency amongst parents when it comes to child safety in vehicles, this clause makes it illegal to carry a child less than 5 years of age in the front seat of a motor vehicle. This is a safety issue and prevents serious accidents that involve children from occurring. It also places responsibility on the parents, guardians and owners of the motor vehicles to be more vigilant when it comes to child passengers.

Clause 62 provides an exemption for a certain class of persons when it comes to the seat belt provision. Passengers in police, emergency or enforcement vehicles or persons providing or receiving medical treatment while in a motor vehicle.

Clause 63 provides more rules for persons travelling in motor vehicles. It is now against the law to stand in a motor vehicle or have any part of their body out of the motor vehicle or ride in any part of the motor vehicle that was never designed for passengers.

Clause 64 is a rule for pedestrians crossing at pedestrian crossings.

Part VI

Clause 65 is an offence clause that penalises any person who drives on the road an unregistered motor vehicle or allows any other person to drive their unregistered motor vehicle on the road. The penalty for contravening this clause is \$500 for each offence.

Clause 66 prohibits any person from driving their vehicle across the sidewalk.

Clause 67 is an offence clause that concerns dangerous driving. As this is a very serious offence, the penalty provision is very high and this is done to deter drivers from breaching this provision. The clause gives the court discretion to consider circumstances surrounding the offence which include the nature, condition, and use of the public highway at the time of the offence and the amount of traffic which was or might have reasonably expected to have been on the highway at that time.

Clause 68 makes it an offence against the Act if a person fails or refuses to provide to a police officer their name when being stopped and questioned.

Clause 69 prohibits any driver from driving while under the influence of liquor or drugs. This clause has expanded on the old provision by clarifying and increasing the penalty that shall be awarded for breaches. The clause separates into a first, second and third offence with the penalties increasing with each offence committed.

Clause 70 provides for the police to conduct preliminary breath tests on persons that are reasonably believed to be under the influence of alcohol. The police officer after conducting the preliminary test and has ascertained that the percentage of alcohol is greater than the prescribed limit, the police officer may detain the person for not more than an hour to allow him to conduct another test as prescribed under clause 71.

Clause 71 provides for a breath analysis test in cases as stated in clause 70 where the police officer has conducted a preliminary test and concluded that the person may have in their blood more than the prescribed alcohol limit.

Clause 72 is a clause that provides for the furnishing of breath sample. It provides the conditions and procedure for undergoing a preliminary breath test and furnishing that sample.

Clause 73 makes it an offence for a person to refuse to furnish a sample as required by clause 70, 71 and 72.

Clause 74 provides for a certificate of breath analysis and the authorised person to sign that certificate.

Clause 75 deals with the evidence of intoxication and the admissibility of a test conducted under this Act. The results of that test shall be admissible and is conclusive of the fact of the percentage of alcohol in the blood of that person at the time his breath was analysed by the instrument.

Clause 76 deals with the operator's evidence. The operator is the person or police officer who was operating the breath analysis machine at the time a breath analysis test was taken. The evidence given shall be prima facie proof of those facts.

Clause 77 provides for a presumption as to alcohol level in the blood of a person and in this regard if it is established that at any time within two hours after an alleged offence a certain percentage of alcohol was present in the blood of the person charged with the offence, it shall be presumed until the contrary is proved beyond reasonable doubt that no less than that percentage of alcohol was present in the person's blood at the time at which the offence is alleged to have been committed.

Clause 78 relates to the consumption of alcohol after an accident or preliminary breath test. If after a vehicle has been involved in a collision and the driver has undergone a preliminary breath test and proceeds to consume alcohol two hours after that test commits an offence if the results of that preliminary breath test showed a level of alcohol that was much higher than the prescribed limit.

Clause 79 provides for penalties for clause 69 (1), 73 (1) and 78. It increases the penalty for subsequent offences committed and allows the court the discretion to cancel the licence of offenders.

Clause 80 and 81 are definition clause defining 'prescribed device', 'breath analyzing instrument', percentage of alcohol present in blood' and 'the prescribed limit'.

Clause 82 creates an obligation on drivers and owners of vehicles to provide information when required to do so by a member of the police force.

Clause 83 provides minimum requirements for drivers and vehicles including not allowing an unlicensed person to drive a vehicle, if the vehicle does not comply with registration and inspection requirements, if the vehicle does not have proper number plates or if the numbers plates are not clearly visible.

Clause 84 creates an offence regarding the giving of false statements, having unlawful possession of licences and other related purposes.

Clause 85 provides for the procedure that needs to be followed in the event that the driver of a motor vehicle is involved in an accident, he or she must immediately inform the Director of Police if he had failed to stop his vehicle and if when required by parties listed he failed to produce his licence, give his name and address as well as that of the owner and the registration number of the vehicle.

Clause 86 creates an offence for any person who drives a vehicle without the consent of the owner.

Clause 87 is a penalties clause relating to any offence committed under any other Act involving the driving of a motor vehicle. If this occurs, the court may in addition to penalties imposed consider suspending the person's licence, disqualify the person from driving and enter those particulars against the person during any period that the court sees fit.

Clause 88 concerns the providing of evidence of speed as indicated by a prescribed portable measuring device. This clause is similar to the clause relating to the use of a breath analysis machine.

Clause 89 concerns the evidence of testing and sealing by a person who is competent to operate any such machine or equipment.

Clause 90 covers excessive noise that is emitted by any vehicle being driven on a public highway. Any person breaching the provisions of this clause commits an offence and is liable to pay a fine of \$1000.

Part VII

Clause 91 to 113 deal with third party insurance. This is a requirement if owners want to register their motor vehicle under this Act. Third party insurance is an insurance policy that protects persons who are traveling in motor vehicles in the event of an accident. This is an advantage for a driver who may not be able to compensate victims whose lives he endangered in an accident.

Part VIII

Clause 114 is the first provision dealing with police powers. Police may arrest any person that they reasonably believe has breached the provisions relating to licences, liquor and drugs, dangerous driving or obstructing a police officer.

Clause 115 gives power to the police to control traffic. They may direct drivers to move their vehicles, give directions as to the manner of approaching a place, picking up or discharging of passengers, parking of vehicles and the power to seize and impound vehicles that have breached provisions on parking, accidents, has been abandoned, is hazardous or dangerous to other road users, is obstructing access to the street, is unregistered or has breached any other provision in the Act or the Regulations.

Clause 116 makes provision for the impounding of vehicles under clause 115. Owners of motor vehicles who have their vehicles impounded shall be notified with a notice for payment after 30 days and then again after 45 days. If the owner fails to pay the necessary fine, the vehicle shall be disposed off by auction or public tender.

Clause 117 provides for the Traffic Infringement Notice that the police will start issuing for offences attracting a penalty of \$500 or less. The form for the Notice shall be prescribed by the Registrar.

Clause 118 are the proceedings for Traffic Infringement Notices. The police may serve it on the person or if the owner of a vehicle is not present, by affixing it in a conspicuous place on the vehicle. The notice shall require the person to appear in court on a prescribed time and date unless payment for the fine is paid within 21 days or the person has a legal practitioner appears on their behalf. There is nothing in this clause though that prevents the institution of proceedings under any other provision of the Act.

Clause 119 provides for the acceptance of a Traffic Infringement Notice. Payment of a fixed penalty within 21 days shall be taken as an acceptance of the offence and entered as a conviction. Where an offence is a second or subsequent offence, a summons shall be served and any penalty paid by the person shall be held in credit against any subsequent penalty arising from the offence or may be refunded. If a person does not make payment within 21 days of being given the Notice, the Notice shall be taken to be a summons issued under the Criminal Procedure Act and the Criminal Procedure Rules.

Clause 120 provides that in any proceedings, a certificate signed by the clerk of the court or a police officer that the fixed penalty was or was not paid shall, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

Clause 121 makes it an offence to remove a Traffic Infringement Notice. It is only a defence to prosecution if the person was acting on behalf of the person to whom the notice was addressed or the person having immediate lawful charge of the motor vehicle.

Clause 122 binds all vehicles that belong to government.

Part IX

Clause 123 gives authority to the Registrar authority to instruct that a vehicle be presented for inspection.

Clause 124 provides for records to be kept at the office of the Registrar and any extract or copy of those records shall be sufficient for the purpose of evidence and proof in court.

Clause 125 states that nothing in this law affects any other liability that a person might have under other laws in force in Nauru.

Clause 126 binds all employees of the Public Service.

Clause 127 provides again for evidence regarding registration for proceedings under this Act.

Clause 128 provides for the recovery of fees by the Registrar.

Clause 129 makes provision for general offences under the Act.

Clause 130 allows the Minister to have traffic control signs to be installed on public highways and by notice in the Gazette specify the design and meaning of those traffic control signs.

Clause 131 are transitional provisions that allows for the smooth transition of the new law and slow phasing out of the repealed law.

Clause 132 allows for regulations to be made by Cabinet on matters that relate to road safety, use of motor vehicles by the elderly and handicapped, administration of breath tests or breath analysis, public service vehicles including safety and serviceability, hiring, tariff, fees and the waiver of and reduction of fees, matters relating to the class of vehicles and licences, matters pertaining to the movement of vehicles and vehicles part in and out of the country, documentation and record keeping, numbers plates or trader's plates, environment matters, and finally fines and sentences.

The Schedule contains a first schedule and a second schedule that deal with inspections and a certificate for a breath test.