

TRAFFIC (AMENDMENT) BILL 2009

(NAME OF BILL) (NO. 10 OF 2009)
(ACT NO. 10 OF 2009)

CONTENTS: Bill
Objects and Reasons
Notice of Presentation
Covering letter from Minister to Clerk to Parliament
(Authorisation from Minister of Finance under s.60 of Constitution)

FROM: Attorney General's Chambers *[Signature]* 15/6/09

TO: Minister *[Signature]* 16/6/09
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)

TO: Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)

TO: Clerk to National Parliament
(for certificate by Speaker) *[Signature]* 17/6/09

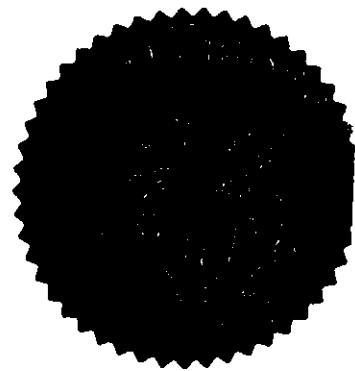
TO: Attorney General's Chambers
(for printing) *[Signature]*

TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed... 29/6/09... Act No.)

TO: Attorney General's Chambers
(for checking before Assent) *[Signature]* 15/7

TO: Governor-General
(for Assent) F.O. Kabui
17/7/09.

TO: Clerk to National Parliament
(for distribution: 1 copy Attorney General's Chambers
1 copy Ministry
1 copy Parliament Office)



**TRAFFIC (AMENDMENT)
ACT 2009**

(NO. 10 OF 2009)



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(NO. 10 OF 2009)**

APPROVED by the National Parliament this twenty-ninth day of June 2009.

Its printed impression has been carefully compared by me with the Bill passed by the National Parliament and found by me to be a true copy of the Bill

Renee
Renee Sanga (Mrs)
Secretary to National Parliament

PRESENTED to in Her Majesty's name and on Her Majesty's behalf this
seventeenth day of July 2009.

F. O. Kabui
Frank Utu Ofagiro Kabui (CSI, CMG, OBE)
Governor General

Date of Commencement: (See section 1)

TRAFFIC (AMENDMENT) ACT 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 –

Section 82
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.