

ARRANGEMENT OF CLAUSES

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GRENADA

ACT NO. 21 OF 2017**I assent,**

CÉCILE E. F. LA GRENADE

*Governor-General.**29th September, 2017.*

AN ACT to amend the Road Traffic Act CAP. 289A.

[6th October, 2017].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows—

1. This Act may be cited as the

Short title.

ROAD TRAFFIC (AMENDMENT) ACT, 2017

and shall be read and construed as one with the Road Traffic Act, Chapter 289A, hereinafter referred to as the “principal Act”.

2. Section 30 is amended in subsection (1) as follows—

Amendment to
section 30 of
principal Act.

- (a) by deleting the word “and” at the end of paragraph (b);

- (b) in paragraph (c) by deleting the “comma” and substituting therefor a “semicolon” and the word “or”;
- (c) by inserting after paragraph (c) the following new paragraph—

“(d) a motor vehicle is parked or left on a road or at a place in contravention of another provision of this Act.”.

Insertion of section 30A to principal Act.

3. The principal Act is amended by inserting after section 30 the following new section—

“Power to fit immobilising device.

30A. (1) Without prejudice to section 30, if a motor vehicle is—

- (a) parked or left on a road or at a place in such a manner as to cause danger or obstruction to other traffic on the road, contrary to this Act; or
- (b) parked or left on a road or at a place in contravention of another provision to this Act,

a police officer or a person authorised by a police officer may place the vehicle under the control of the Police Force by fitting an immobilising device onto the vehicle.

(2) The owner or person in charge of a motor vehicle under the control of the Police Force by virtue of subsection (1) may recover the vehicle if a fee of one hundred and twenty-five dollars, and twenty-five dollars for each day

or part thereof during which the immobilising device has been fitted onto the vehicle, is paid to the officer in charge of the nearest police station.

(3) Neither a police officer, a person assisting a police officer nor the State is liable for any motor vehicle under the control of the Police Force in accordance with this section or for any damage sustained by such a vehicle during or as a result of the fitting onto the vehicle of an immobilising device unless such damage is caused intentionally or negligently.

(4) No person, except a police officer or a person authorised by a police officer, may remove, attempt to remove or in any way interfere with an immobilising device or a motor vehicle under the control of the Police Force pursuant to this section.

(5) If a motor vehicle remains under the control of the Police Force under this section for more than three months, application may be made by the Commissioner of Police by summons to the High Court, to be heard *inter partes*, for the forfeiture of the vehicle.

(6) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one month.

(7) The Minister may, by regulations, approve immobilising devices for the purposes of this section.

(8) For the purpose of this section—

“immobilising device” means a steel cable secured by a padlock and fitted to a wheel or body of a motor vehicle to immobilise the motor vehicle, or any similar device including any device approved by the Minister in accordance with subsection (7);

“motor vehicle” includes a trailer.”.

Amendment to
section 62 of
principal Act.

4. Section 62 of the principal Act is amended as follows—

- (a) in subsection (1) by deleting the word “drugs” after the words “alcoholic liquor or” and substituting therefor the words “a drug”;
- (b) by inserting after subsection (4) the following new subsections—

“(5) Without prejudice to the generality of subsection (1), a person who has consumed alcohol in such a quantity that the proportion thereof in his or her breath or blood exceeds the prescribed limit is unfit to drive a vehicle.

(6) For the purposes of subsection (5) and section 62A, “the prescribed limit” means—

- (a) in the case of breath, seventy microgrammes of alcohol in one hundred millilitres of breath; or

- (b) in the case of blood, one sixty milligrammes of alcohol in one hundred millilitres of blood,

or any other proportion as may be prescribed by regulations.”.

5. The principal Act is amended by inserting after section 62A the following new sections—

Insertion of sections 62B to 62D to principal Act.

“Testing for alcohol.

62B. (1) Where a member of the Police Force has reasonable cause to suspect—

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road has alcohol in his or her breath or blood exceeding the prescribed limit;
- (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road, with alcohol in his or her breath or blood exceeding the prescribed limit and that the person still has alcohol in his or her breath or blood; or
- (c) that a person has been driving, attempting to drive or been in charge of a motor vehicle on a road and has committed an offence against this Act while the vehicle was in motion,

that member may require the person to provide a specimen for a breath or blood test to determine

the quantity of alcohol in his or her breath or blood.

(2) Where an accident occurs involving a motor vehicle on a road and a member of the Police Force on arriving at the place of the accident has reasonable cause to believe that, at the time of the accident, any person involved in the accident was under the influence of alcohol, the member may require the person to provide a specimen for a breath or blood test.

(3) No requirement may be made by virtue of paragraph (b) or (c) of subsection (1) or subsection (2)–

- (a) unless it is made as soon as reasonably practicable after the occurrence of the accident or the commission of the offence; and
- (b) in the case of a person who is at a hospital as a patient, unless the medical practitioner in charge of his or her case–
 - (i) is given prior notice of the proposal to make the requirement; and
 - (ii) does not object to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the

proper care or treatment of the patient.

(4) A person who—

- (a) without reasonable excuse, refuses to provide a specimen under subsection (1), (2) or (7); or
- (b) wilfully does anything to alter the concentration of alcohol in his or her breath or blood between the time of the event and the time when he or she undergoes that test,

commits an offence and is liable—

- (c) in the case of a first conviction, to a fine of five thousand dollars and to imprisonment for twelve months; and
- (d) in the case of a second or subsequent conviction, to a fine of ten thousand dollars and to imprisonment for two years.

(5) It shall be a defence to a prosecution for an offence under subsection (4) (a) if the accused satisfies the Court that he or she was unable on medical grounds at the time required to do so, to undergo the breath or blood test.

(6) A member of the Police Force may, without prejudice to section 62 (4), arrest a person without a warrant, if—

- (a) the person is found to have in his or her breath or blood a proportion of alcohol exceeding the prescribed limit;
- (b) the person is required to provide a specimen for a breath or blood test in accordance with subsection (1) or (2) and refuses to do so; and
- (c) the member has reasonable cause to suspect that the person has alcohol in his or her breath or blood exceeding the prescribed limit,

but no such arrest may be made if the person is at a hospital as a patient.

(7) A person arrested under subsection (6) or section 62 (4) shall, while at a police station, be given an opportunity to provide a specimen for a breath or blood test.

(8) For the purposes of this section—

- (a) a requirement under subsection (1), (2) or (7) to provide a specimen is satisfied only if the specimen is of a sufficient quantity to enable the breath or blood test to be carried out; and
- (b) where any person is required to provide a specimen of blood, such specimen shall be taken only—

- (i) with the consent of that person;
- (ii) at a hospital; and
- (iii) by a medical practitioner, or laboratory technician registered under the Health Practitioners Act, Chapter 132A.

(9) The Minister may, by regulations, approve devices and procedures to be used or applied for the purpose of carrying out a breath or blood test to determine the quantity of alcohol in a person's breath or blood.

(10) The results of any breath or blood test carried out in accordance with this section shall be admissible as evidence for the purposes of any proceedings, pursuant to any enactment.

Testing for
controlled drugs.

62C. (1) Where a member of the Police Force has reasonable cause to suspect that a person—

- (a) driving or attempting to drive or in charge of a motor vehicle on a road is under the influence of a controlled drug;
- (b) has been driving or attempting to drive or been in charge of a motor vehicle on a road, while under the influence of a controlled drug; or
- (c) has been driving, attempting to drive or been in charge of a motor vehicle

on a road and has committed an offence against this Act while the vehicle was in motion,

that member may require the person to provide a specimen for a urine or blood test to determine the presence of a controlled drug in his or her urine or blood.

(2) Where an accident occurs involving a motor vehicle on a road and a member of the Police Force on arriving at the place of the accident has reasonable cause to believe that, at the time of the accident, any person involved in the accident was under the influence of a controlled drug, the member may require the person to provide a specimen for a urine or blood test.

(3) No requirement may be made by virtue of paragraph (b) or (c) of subsection (1) or subsection (2)–

- (a) unless it is made as soon as reasonably practicable after the occurrence of the accident or the commission of the offence; and
- (b) in the case of a person who is at a hospital as a patient, unless the medical practitioner in charge of his or her case–
 - (i) is given prior notice of the proposal to make the requirement; and

(ii) does not object to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(4) A person who—

- (a) without reasonable excuse, refuses to provide a specimen under subsection (1), (2) or (7); or
- (b) wilfully does anything to alter the concentration of a controlled drug in his or her urine or blood between the time of the event and the time when he or she undergoes that test,

commits an offence and is liable—

- (c) in the case of a first conviction, to a fine of five thousand dollars and to imprisonment for twelve months; and
- (d) in the case of a second or subsequent conviction, to a fine of ten thousand dollars and to imprisonment for two years.

(5) It shall be a defence to a prosecution for an offence under subsection (4) (a) if the accused satisfies the Court that he or she was

unable on medical grounds at the time required to do so, to undergo the urine or blood test.

(6) A member of the Police Force may, without prejudice to section 62 (4), arrest a person without a warrant, if—

- (a) the person is found to have in his or her urine or blood a controlled drug;
- (b) the person is required to provide a specimen for a urine or blood test in accordance with subsection (1) or (2) and refuses to do so; and
- (c) the member has reasonable cause to suspect that the person has a controlled drug in his or her urine or blood,

but no such arrest may be made if the person is at a hospital as a patient.

(7) A person arrested under subsection (6) or section 62 (4) shall, while at a police station, be given an opportunity to provide a specimen for a urine or blood test.

(8) For the purposes of this section—

- (a) a requirement under subsection (1), (2) or (7) to provide a specimen is satisfied only if the specimen is of a sufficient quantity to enable the

urine or blood test to be carried out; and

- (b) where any person is required to provide a specimen of blood, such specimen shall be taken only—
 - (i) with the consent of that person;
 - (ii) at a hospital; and
 - (iii) by a medical practitioner, or laboratory technician registered under the Health Practitioners Act, Chapter 132A.

(9) The Minister may, by regulations, approve a device and procedures to be used or applied for the purpose of carrying out a urine or blood test to determine the presence of a controlled drug in a person's urine or blood.

(10) The results of any urine or blood test carried out in accordance with this section shall be admissible as evidence for the purposes of any proceedings, pursuant to any enactment.

(11) In this section, "controlled drug" is assigned the meaning of "controlled drug" in the Drug Abuse (Prevention and Control) Act, Chapter 84A.

Authorised
members to carry
out tests.

62D. (1) Subject to subsection (2), for the purposes of section 62B and 62C, a breath, urine or blood test shall be carried out by a

medical practitioner, or laboratory technician registered under the Health Practitioners Act, Chapter 132A.

(2) Without prejudice to subsection (1), for the purposes of sections 62B and 62C, a breath or urine test may be carried out by a member of the Police Force authorised under subsection (3)–

- (a) at or near the place where the requirement is made if facilities for the specimens to be taken are available and it is practicable to conduct the analysis there; or
- (b) at a police station, as the member may direct.

(3) The Minister with responsibility for national security may in writing authorise that the member of the Police Force named therein is authorised to carry out a breath test or urine test.

(4) Within a reasonable time after receiving the specimen of breath or urine, an authorised member of the Police Force conducting a breath or urine test shall deliver to that person, a statement in writing, specifying–

- (a) in the case of a breath test, the concentration of alcohol determined by the breath test to be present in that person's breath;

- (b) in the case of urine test, a determination as to whether a controlled drug was present in that person's urine; and
- (c) the time of day and the day on which the breath or urine test was completed, as the case may be,

and signed by the member.

(5) In proceedings for an offence under this Act or any other enactment, a certificate purporting to be signed by a member of the Police Force certifying—

- (a) that he or she is authorised, by the Minister responsible for national security, to conduct a breath or urine test using a device approved in accordance with section 62B (9) or 62C (9), as the case may be;
- (b) that a person named therein submitted to a breath or urine test, as the case may be;
- (c) that the analysis was made on the date and completed at the time stated in the certificate;
- (d) in the case of a breath test, the concentration of alcohol determined by the device as present in the breath of that person on the date

and at the time stated in the certificate;

- (e) in the case of a urine test, that the controlled drug was present in the urine of that person on the date and at the time stated in the certificate; and
- (f) that a statement in writing required by subsection (4) was delivered in accordance with that subsection,

shall be *prima facie* evidence of the particulars certified in and by the certificate.

(6) In proceedings for an offence under this Act or any other enactment, a certificate purporting to be signed by the Minister responsible for national security that the member of the Police Force named therein is authorised to conduct a breath or urine test using a device approved in accordance with section 62B (9) or 62C (9), shall be *prima facie* evidence of the particulars certified in and by the certificate.”.

Renumbering of section 62B of principal Act as section 62E.

6. The principal Act is amended as follows—

- (a) by renumbering section 62B of the principal Act as section 62E; and
- (b) in section 31 (5), deleting the words “section 62B (5)” and substituting therefor the words “section 62E (5)”.

7. The principal Act is amended by inserting after section 77 the following new sections—

Insertion of sections 77A to 77D to principal Act.

“Interpretation for sections 77B to 77D.

77A. (1) For the purposes of sections 77B to 77D—

“affixed to” in relation to a vehicle, includes forming part of the vehicle;

“interactive communications functions” includes—

- (a) sending or receiving oral or written message;
- (b) sending or receiving facsimile;
- (c) sending or receiving still or moving images; and
- (d) providing access to the internet;

“mobile device” means a mobile telephone or any other device which performs an interactive communication function by transmitting and receiving data;

“use” in relation to a mobile device, includes—

- (a) holding the mobile device to, or near, the ear (whether or not engaged in a phone call);

- (b) creating, sending or looking at a text or video message on the mobile device;
- (c) turning the mobile device on or off; and
- (d) operating any other function of the mobile device;

“wireless communication device” means a device used to transfer information over a distance without the use of electrical conductors or wires.

(2) The Minister may by regulations exempt a specified device from the definition of “mobile device”.

(3) For the purpose of sections 77B to 77D—

- (a) a mobile device is to be treated as hand-held if it is held or is required to be held at some point during the course of making or receiving a call or performing any other interactive communication function; and
- (b) a person supervises the holder of a learner’s permit if he or she does so pursuant to a condition imposed on the holder of the learner’s permit under this Act.

Prohibition on driving while holding or using a hand-held mobile device.

77B. (1) A person who, while driving or having charge of a private motor car, or a goods vehicle on any road, holds or uses a hand-held mobile device commits an offence and is liable on summary conviction to a fine of three thousand five hundred dollars and to imprisonment for three months.

(2) A person who, while driving or having charge of a public service vehicle, holds or uses a hand-held mobile device commits an offence is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year.

(3) A person who, while supervising the holder of a learner's driving permit, uses a hand-held mobile device commits an offence and is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months.

(4) A person who uses a wireless communication device to view, send or compose an electronic message while driving or having charge of a motor vehicle commits an offence and is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months.

Use of hands-free mobile devices permitted.

77C. (1) Subsections (1), (2) and (3) of section 77B shall not apply where—

- (a) a person driving a motor vehicle is using a mobile device in hands-free mode; or

- (b) the mobile device being used to make or receive a phone call, and while being so used—
 - (i) is secured in a mounting affixed to the vehicle; or
 - (ii) is remotely operated by means of a device (whether connected to the mobile device by means of a wire or otherwise) is affixed to the motor vehicle, or worn by the driver in the manner intended by the manufacturer,

and the mobile device is not being held by the driver.

(2) For the avoidance of doubt, nothing in subsection (1) authorises a person to use a mobile device by pressing a key on the mobile device, or by otherwise manipulating the body or screen of the mobile device, if the mobile device is not secured in a mounting affixed to the motor vehicle.

(3) For the purposes of this section, a mobile device is secured in a mounting affixed to the motor vehicle if—

- (a) the mounting is commercially designed and manufactured for that purpose; and
- (b) the mobile device is secured in the mounting, and the mounting is affixed to the motor vehicle, in the manner intended by the manufacturer.

Limitation on the application of section 77B to certain persons and in certain circumstances.

77D. (1) Subsections (1), (2) and (4) of section 77B shall not apply to—

- (a) the driver of an ambulance, fire service vehicle or police service vehicle;
- (b) any other person or class of persons prescribed by the Minister;
- (c) a person holding or using a device prescribed by the Minister;
- (d) a person engaged in an activity prescribed by the Minister; and
- (e) under any other condition prescribed by the Minister.

(2) Section 77B shall not apply where the motor vehicle is—

- (a) off the roadway or is lawfully parked on the roadway;
- (b) not in motion; and
- (c) not impeding traffic.”.

8. The Third Schedule to the principal Act is amended by inserting after Item 27 the following new items—

Amendment to Third Schedule to principal Act.

| | | | |
|--|------------------------|----------|--------------|
| <p>27A. Holding or using a hand-held mobile device while driving or having charge of a private motor car, or a goods vehicle on any road</p> | <p>Section 77B (1)</p> | <p>3</p> | <p>\$150</p> |
|--|------------------------|----------|--------------|

| | | | |
|---|-----------------|---|-------|
| 27B. Holding or using a hand-held mobile device while driving or having charge of a public service vehicle on any road | Section 77B (2) | 4 | \$500 |
| 27C. Using a wireless communication device to view, send or compose an electronic message while driving or having charge of a vehicle | Section 77B (4) | 1 | \$50 |

Passed by the House of Representatives this 1st day of September, 2017.

WILLAN A. THOMPSON

Clerk to the House of Representatives.

Passed by the Senate this 15th day of September, 2017.

WILLAN A. THOMPSON

Clerk to the Senate.

GRENADA

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