



Tonga

# **TRAFFIC (AMENDMENT) ACT 2012**

**Act No. 17 of 2012**





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## TRAFFIC (AMENDMENT) ACT 2012

Act No. 17 of 2012

**AN ACT TO AMEND THE TRAFFIC ACT TO PROVIDE FURTHER FOR  
OFFENCES RELATED TO RECKLESS DRIVING, FOR PENALTY  
NOTICES AND OTHER MATTERS**

I assent,  
TUPOU VI,  
21<sup>st</sup> November 2012.

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

**1 Short Title**

This Act may be cited as the Traffic (Amendment) Act 2012.

**2 Section 25 replaced**

Section 25 of the Traffic Act is repealed and replaced with –

**“25 Reckless driving, etc**

- (1) Every person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for the persons using the road is guilty of the offence of driving without due care and attention, and is liable to a fine not exceeding \$800 or to imprisonment for a term not exceeding 4 months or to both such fine and imprisonment, and the Court may order that the convicted person

be disqualified from holding or obtaining a driver's licence for a period not exceeding 3 years.

- (2) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, commits the offence of reckless driving, and is liable on conviction to a fine not exceeding \$2,000 or to imprisonment for not more than 2 years or to both such fine and imprisonment.
- (3) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, and who causes bodily harm within the meaning of section 107(2) of the Criminal Offences Act to any person whilst so driving, commits the offence of reckless driving causing harm and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for not more than 3 years or to both such fine and imprisonment.
- (4) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, and who causes grievous harm within the meaning of section 106(2) of the Criminal Offences Act to any person whilst so driving, commits the offence of reckless driving causing grievous harm and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for not more than 7 years or to both such fine and imprisonment.
- (5) Every person who drives a motor vehicle on a road recklessly, or at a speed and in a manner which, having regard to all the circumstances, is or might be dangerous to the public, and who causes death to any person whilst so driving, commits the offence of reckless driving causing death and is liable on conviction to imprisonment for not more than 15 years.”.

### 3 Section 28A amended

Section 28A of the Traffic Act is amended by repealing subsection (2) and replacing it with –

- “(2) There shall be a fine set out in the notice at the rate of –
- (a) \$35 plus \$3 for every kilometre per hour over the maximum speed limit in a 70 kilometre per hour speed zone; and
  - (b) \$25 plus \$2 for every kilometre per hour over the maximum speed limit in all other zones.”.

**4 Section 29 amended**

Section 29 of the Traffic Act is amended by repealing “section 25(2)(b)” and replacing it with “section 25(2), (3), (4) or (5)”.

**5 Section 41 amended**

Section 41 of the Traffic Act is amended by repealing “Every” and replacing it with “In every case to which section 41A(2)(a)(i) does not apply a”.

**6 Section 41A inserted**

The Traffic Act is amended by inserting the following section –

**“41A Infringement Notices**

- (1) If a police officer considers that any person has committed an offence against any of the provisions specified in subsection (6) he may issue to the person a Notice of Infringement in the form set out in Form 3 of the Schedule.
- (2)
  - (a) A person issued with such a notice may —
    - (i) pay the fine set out in the notice, applicable to the offence alleged, to a Magistrate's Court; or
    - (ii) contest the notice.
  - (b) Where the person wishes to contest the notice a summons will be issued for an offence against the relevant provision of this Act.
- (3) The police officer who issues a Notice of Infringement under subsection (1) shall lodge the duplicate notice within 48 hours with the clerk of the Magistrate's Court for the district.
- (4) The Clerk of the Magistrate's Court shall —
  - (a) where the fine is tendered by the person, receive the payment, issue a receipt and file the notice;
  - (b) where no payment is tendered within 21 days of the date of issue of the notice, issue a summons to the person for the offence alleged.
- (5) The summons shall be heard and determined by a Magistrate.
- (6) The offences to which this section applies, and the fixed penalty attaching thereto are –

Traffic Act section	Offence	Fixed Penalty \$
4(2)	Driving unregistered vehicle	50
9	Using invalid registration plates	50
10(5)	Failure to notify sale of vehicle	50
14(1)	Unlicensed driving	150
23(2)	Failure to obey Police Notice etc	50
27A	Driver causing loud noise	50
33	Failure to obey police direction	50
35	Failure to report accident	50
36	Failure to produce driver's licence	50

- (7) This section shall apply to the offences listed in subsection (6) notwithstanding anything in the relevant section or the specific penalty set out therein.
- (8) If an incident is disposed of under this section, section 28A or regulation 39A of the Traffic Regulations by the payment of the sum specified in a Notice of Infringement then this shall be deemed to be an administrative penalty with no offence committed.”.

## 7 Form 2 amended

Form 2 in the Schedule to the Traffic Act is amended by inserting “- Speeding” after the heading “Notice of Infringement”.

## 8 Form 3 inserted

The Traffic Act is amended by inserting in the Schedule the following Form 3 –

**“FORM 3**

Notice of Infringement - General  
(Section 41A)

Date:.....

To..... of ..... Licence No. ....

(name)

(address)

Vehicle Registered Number .....

The Police allege that you have committed an offence under the Traffic Act

If you choose to have this offence dealt with by way of payment of Infringement Notice in accordance with Section 41A you may pay the following fixed fine for this offence –

Section:

Offence:

Fixed Infringement Notice Fine:

To dispose of this matter in this way you may sign the declaration below and take this notice together with the sum of \$..... to pay the fine only to the Clerk of the Magistrate’s Court at ..... district within 21 days of today's date;

OR

If you wish to contest this offence a summons will be issued to you after 21 days and you will be required to attend a court and appear before a Magistrate and if convicted the penalty will be decided by the Magistrate in accordance with the Traffic Act may be more than specified on the infringement notice.

**DECLARATION:**

I, (insert your name)..... understand that under clause 10 of the Constitution of Tonga I have a right to have this matter dealt with by a court. However instead of appearing in court I wish to pay the fine as set out in this notice. I tender this Declaration and the fine of \$..... set by this Notice of Infringement.

Signed..... Dated.....”

*(see overleaf for list of offences and penalties)*

*FORM 3 TRAFFIC ACT INFRINGEMENT NOTICE**REVERSE SIDE*

Traffic Act section	Offence	Fixed Penalty \$
4(2)	Driving unregistered vehicle	50
9	Using invalid registration plates	50
10(5)	Failure to notify sale of vehicle	50
14(1)	Unlicensed driving	100
23(2)	Failure to obey Police Notice etc	50
27A	Driver causing loud noise	50
33	Failure to obey police direction	50
35	Failure to report accident	50
36	Failure to produce driver's licence	50
37(c)	Obstructing road with object or projectile	50
37(e)	Use of defective vehicle	50
37(o)	Failure to indicate stop or turn	50"

**9 Section 15 amended**

The Traffic Act is amended by deleting subsection (3) and replacing it with –

“(3) A motor driver's licence shall remain in force as follows –

- (a) the first driver's licence issued to a person in Tonga who has not previously held a valid driver's licence for a period of at least one year, shall remain in force for one year;
- (b) subject to paragraph (a) a driver's licence may be issued to a person and remain in force for periods of 1 year, 3 years or 5 years at their option,

and may be renewed upon payment of the prescribed fee, unless the holder is disqualified as hereinafter provided: provided that no person under the age of 21 years shall be issued with a public service vehicle driver's licence.”.

Passed by the Legislative Assembly this 12<sup>th</sup> day of October 2012.