

THE MOTOR VEHICLES (AMENDMENT) ACT, 1977

No. 27 OF 1977

[3rd August, 1977]

An Act further to amend the Motor Vehicles Act, 1939.

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 1977.

(2) It shall come into force on ¹such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amend-
ment of
section
7.

2. In section 7 of the Motor Vehicles Act, 1939 (hereinafter referred to as the principal Act), in sub-section (8), for the words "a fee of eleven rupees", the words "such fee as the Central Government may, by rules made under this Act, specify" shall be substituted.

4 of 1939.

Amend-
ment of
section
11.

3. In section 11 of the principal Act,—

(i) in sub-section (3), for the words "nine rupees", the words "the amount specified in the rules made by the Central Government in this behalf" shall be substituted;

(ii) in sub-section (3A), for the words "eleven rupees", the words "the amount specified in the rules made by the Central Government in this behalf" shall be substituted.

Amend-
ment
sectio
17.

4. In section 17 of the principal Act in sub-section (1) to (4)
- 1.9.1977: vide Notifn. No.S.O.647(E), dt. 1.9.1977
(in respect of ss. 4, 5, 7, 12(1) and 13).
- 1.1.1978: vide Notifn. No.S.O.847(E), dt. 20.12.1977,
(in respect of s.10).
- 1.1.1978: vide Notifn. No.S.O.845(E), dt. 19.12.1977,
(in respect of ss. 2, 3 & 6).
- 1.3.1978: vide Notifn. No. S.O.123(E), dt. 22.2.1978,
(in respect of section 9).

5. After section 17 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
17A and
17B.

'17A. (1) Where, in relation to a person who had been previously convicted of an offence punishable under section 116, a case is registered by a police officer on the allegation that such person has by such reckless or dangerous driving as is referred to in the said section 116, caused the death of, or grievous hurt to, one or more persons, the driving licence held by such person shall become, and shall remain, suspended—

Suspension
of driving
licence in
certain
cases.

(a) for a period of six months from the date on which the case is registered, or

(b) if such person is discharged or acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be.

(2) Where by virtue of the provisions of sub-section (1), the driving licence held by a person becomes suspended, the police officer, by whom the case referred to in sub-section (1) is registered, shall bring such suspension to the notice of the Court competent to take cognizance of such offence, and, thereupon, such Court shall take possession of the driving licence, endorse the suspension thereon and forward it to the licensing authority by which it was granted or last renewed and that authority shall, on receipt of the driving licence, keep it in its safe custody until the expiry of the period of suspension, or, as the case may be, until the holder of the licence is discharged or acquitted by the Court trying the offence and shall, on such expiry or discharge or acquittal, as the case may be, return the licence to the holder thereof on an application made by him for such return:

Provided that no such licence shall be returned unless the holder thereof has, after such expiry, discharge or acquittal, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive specified in the Third Schedule.

(3) Where the person referred to in sub-section (1) is acquitted or discharged, the Court competent to take cognizance of the offence referred to in sub-section (1) shall, on the application of the holder of the driving licence, cancel the endorsement thereon with regard to the suspension of such driving licence.

(4) If a licence to drive a particular class or description of motor vehicles is suspended under sub-section (1), the person holding such licence shall be debarred from holding or obtaining any licence to drive such particular class or description of motor vehicles so long as the suspension of the driving licence remains in force.

17B. (1) Without prejudice to the provisions of sub-section (5) of section 17, where a person, referred to in sub-section (1) of section 17A, is convicted of an offence of causing, by such reckless or dangerous driving as is referred to in section 116, the death of, or grievous hurt to, one or more persons, the Court, trying such person on such charge, may cancel, or suspend for such period as it may think fit, the driving licence held by such person.

Suspension or cancellation of driving licence on conviction.

(2) Without prejudice to the provisions of sub-section (3) of section 17, if a person, having been previously convicted of an offence punishable under section 117, is again convicted of an offence punishable under that section, the Court, making such subsequent conviction, shall, by order, cancel the driving licence held by such person.

(3) If a driving licence is cancelled or suspended under this section, the Court shall take the driving licence in its custody, endorse the cancellation or, as the case may be, suspension, thereon and send the driving licence so cancelled or endorsed to the authority by which the licence was issued or last renewed and such authority shall, on receipt of the licence, keep the licence in its custody, and in the case of a suspended licence, return the licence to the holder thereof after the expiry of the period of suspension on an application made by him for such return:

Provided that no such licence shall be returned unless the holder thereof has, after the expiry of the period of suspension, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive specified in the Third Schedule.

(4) If a licence to drive a particular class or description of motor vehicles is suspended or cancelled under this section, the person holding such a licence shall be debarred from holding, or obtaining, any licence to drive such particular class or description of motor vehicles so long as the suspension or cancellation of the driving licence remains in force.

Explanation.—For the purposes of this section, “Court making the conviction” means the Court by which the final order of conviction is made.

6. After section 20 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
20A.

“20A. The Central Government may, by notification in the Official Gazette, make rules specifying the fees payable under sub-section (8) of section 7 and sub-sections (3) and (3A) of section 11 for the grant or renewal of driving licences.”.

Power
of
Central
Govern-
ment to
make
rules.

7. In section 63 of the principal Act,—

Amend-
ment of
section
63.

(1) in sub-section (7), for the words “in respect of tourist vehicles such number of permits valid for the whole or any part of India”, the words “permits valid for the whole or any part of India, in respect of such number of tourist vehicles” shall be substituted;

(2) in sub-section (11)—

(a) for the words “grant to public carriers in a State such number of national permits”, the words “grant, in a State, national permits to the owners of motor vehicles who use, or intend to use, such vehicles for the carriage of goods, for hire or reward, in respect of such number of motor vehicles” shall be substituted;

(b) in the *Explanation*, in clause (a)—

(i) for the words “to a public carrier authorising him to operate as a public carrier”, the words “to the owner of a motor vehicle authorising him to operate as a public carrier” shall be substituted;

(ii) for the words “indicated by the public carrier”, the words “indicated by such owner” shall be substituted.

8. After section 85 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
85A.

“85A. Every person driving or riding (otherwise than in a side car) on a motor cycle of any class shall, while in a public place, wear a protective headgear of such description as may be specified by the Central Government by rules made by it in this behalf, and different descriptions of headgears may be specified in such rules in relation to different circumstances or different class of motor cycles:

Wear-
ing of
 protec-
tive
head-
gear.

Provided that the provisions of this section shall not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban:

Provided further that the Central Government may, by such rules, provide for such exceptions as it may think fit.

Explanation.—"Protective headgear" means a helmet which,—

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motor cycle a degree of protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of the straps or other fastenings provided on the head-gear.

Substi-
tution of
section 117.

9. For section 117 of the principal Act, the following section shall be substituted, namely:—

Driving
by
a drunken
person
or by a
person
under
the influ-
ence of
drugs.

"117. Whoever, while driving, or attempting to drive, a motor vehicle or riding or attempting to ride, a motor cycle,—

(a) has, in his blood, alcohol in any quantity, howsoever small the quantity may be, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle,

shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both.

Explanation.—For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle."

10. After section 128 of the principal Act, the following sections shall be inserted, namely:—

Inser-
tion of
new
sections
128A,
128B
and
128C.
Breath
tests.

'128A. (1) A police officer in uniform may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if the police officer has any reasonable cause—

(a) to suspect him of having alcohol in any quantity in his body, or

(b) to suspect him of having committed an offence punishable under section 117:

Provided that no requirement for breath test shall be made unless it is made as soon as reasonably practicable after the commission of such offence.

(2) If a motor vehicle is involved in an accident in a public place and a police officer in uniform has any reasonable cause to suspect that the person who was driving or attempting to drive the motor vehicle at the time of the accident, had alcohol in his blood or urine or that he was driving under the influence of a drug referred to in section 117, he may require the person so driving or attempting to drive the motor vehicle, to provide a specimen of his breath for a breath test—

(a) in the case of a person who is at a hospital as an indoor patient, at the hospital,

(b) in the case of any other person, either at or near the place where the requirement is made, or, if the police officer thinks fit, at a police station specified by the police officer:

Provided that a person shall not be required to provide such a specimen while at a hospital as an indoor patient if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects 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.

(3) If it appears to a police officer in uniform, in consequence of a breath test carried out by him on any person under sub-section (1) or sub-section (2), that the device by means of which the test has been carried out indicates the presence of alcohol in the person's blood, the police officer may arrest that person without warrant except while that person is at a hospital as an indoor patient.

(4) If a person, required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood or urine, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient.

(5) A person arrested under this section shall, while at a police station, be given an opportunity to provide a specimen of breath for a breath test there.

(6) The results of a breath test made in pursuance of the provisions of this section shall be admissible in evidence.

Explanation.—For the purposes of this section, “breath test” means a test for the purpose of obtaining an indication of the presence of alcohol in a person's blood carried out, on one or more specimens of breath provided by that person, by means of a device of a type approved by the Central Government, by notification in the Official Gazette, for the purpose of such a test.

Labora-
tory test.

128B. (1) A person, who has been arrested under section 128A, may, while at a police station, be required by a police officer to provide, to such registered medical practitioner as may be produced by such police officer, a specimen of his blood or urine for a laboratory test if,—

(a) it appears to the police officer that the device, by means of which breath test was taken in relation to such person, indicates the presence of alcohol in the blood of such person, or

(b) such person, when given the opportunity to submit to a breath test, has refused, omitted or failed to do so:

Provided that where the person required to provide such specimen is a female and the registered medical practitioner produced by such police officer is a male medical practitioner, the specimen shall be taken only in the presence of a female, whether a medical practitioner or not.

(2) A person while at a hospital as an indoor patient may be required by a police officer to provide at the hospital a specimen of his blood or urine for a laboratory test—

(a) if it appears to the police officer that the device by means of which test is carried out in relation to the breath of such person indicates the presence of alcohol in the blood of such person, or

(b) if that person having been required, whether, at the hospital or elsewhere, to provide a specimen of breath for a breath test, has refused, omitted or failed to do so and a police officer has reasonable cause to suspect him of having alcohol in his blood:

Provided that a person shall not be required to provide a specimen of his blood or urine for a laboratory test under this sub-section if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of such 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.

(3) The results of a laboratory test made in pursuance of this section shall be admissible in evidence.

Explanation.—For the purposes of this section, “laboratory test” means the analysis of a specimen of blood or of urine made at a laboratory established, maintained or recognised by the Central Government or a State Government.

Presump-
tion of
unfitness
to drive.

128C. In any proceeding for an offence punishable under section 117, if it is proved that the accused, when requested by a police officer at any time so to do, had refused, omitted or failed to consent to the taking of or providing a specimen of his breath for a breath test or a specimen of his blood or urine for a laboratory test, his refusal, omission or failure may, unless reasonable cause therefor is shown, be presumed to be a circumstance supporting any evidence given on behalf of the prosecution, or rebutting any evidence given on behalf of the defence, with respect to his condition at that time.

11. In the First Schedule to the principal Act,—

(i) in Form A—

(a) in Part III, in paragraph (h), for the figures and word "84 and 85", the figures, word and letter "84, 85 and 85A" shall be substituted;

(b) the "Note", appearing after the words "*Signature or thumb impression of applicant*", shall be omitted;

(ii) in Form B, in section 11, as reproduced under the heading "*(Reverse)*",—

(a) in sub-section (1), after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that where the application is for the renewal of a licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompanied by a fresh medical certificate in Form C as set forth in the First Schedule, signed by a registered medical practitioner, and the provisions of sub-section (5) of section 7 shall apply to every such case.";

(b) in sub-section (3), for the words "nine rupees", the words "the amount specified in the rules made by the Central Government in this behalf" shall be substituted;

(c) in sub-section (3A), for the words "eleven rupees", the words "the amount specified in the rules made by the Central Government in this behalf" shall be substituted;

(d) after sub-section (3A), the following sub-section shall be inserted, namely:—

"(3B) When the authority to whom an application for the renewal of a licence to drive as a paid employee or to drive a transport vehicle is made, is not the authority which issued the licence sought to be renewed, it may, for the purpose of deciding whether the application for such renewal may be granted, verify the antecedents of the applicant in such manner as may be prescribed and pending the verification, such authority may grant a provisional licence for such period or periods not exceeding six months in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and

(i) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed;

(ii) where the application for renewal has not been rejected within the said period, the licence shall be renewed."

Amend-
ment of
Sixth
Schedule.

12. In the Sixth Schedule to the principal Act—

(1) in the entries in column 2,—

(a) against “Andhra Pradesh”, after the letters “AA”, the letters “AD, AT” shall be inserted;

(b) against “Assam”, after the letters “AS”, the letters “AM” shall be inserted;

(c) against “Bihar”, after the letters “BH”, the letters “BP” shall be inserted;

(d) against “Gujarat”, after the letters “GT”, the letters “GR” shall be inserted;

(e) against “Haryana”, after the letters “HY”, the letters “HN” shall be inserted;

(f) against “Jammu and Kashmir”, after the letters “JK”, the letters “KM” shall be inserted;

(g) against “Kerala”, after the letters “KL”, the letters “KE” shall be inserted;

(h) against “Madhya Pradesh”, after the letters “CP”, the letters “MB” shall be inserted;

(i) against “Maharashtra”, after the letters “MH”, the letters “MX, MW, MZ” shall be inserted;

(j) against “Punjab”, after the letters “PU”, the letters “PB, PJ” shall be inserted;

(k) against “Uttar Pradesh”, after the letters “UT”, the letters “UR” shall be inserted;

(l) against “West Bengal”, after the letters “WM”, the letters “WN” shall be inserted;

(m) against “Delhi”, after the letters “DH”, the letters “DE, DI” shall be inserted;

(2) after the entries in columns 1 and 2 in relation to the State of Rajasthan, the following respective entries shall be inserted, namely:—

“Sikkim SK, SS”.

Amend-
ment of
Eighth
Schedule.

13. In the Eighth Schedule to the principal Act, against item (1)—

(a) in sub-item (a), the words “or a motor cycle” shall be omitted;

(b) after sub-item (a), the following sub-item shall be inserted, namely:—

“(aa) if the vehicle is a motor cycle 50.

NOTE.—Endeavour shall be made to enforce the speed limit specified in this sub-item by inserting in the motor cycle such device, like a governor or the like, which would ensure that the motor cycle cannot be ridden at a speed faster than the speed specified in this sub-item.”.