

CHAPTER XIII
OFFENCES, PENALTIES AND PROCEDURE

177. General provision for punishment of offences. – Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence, be punishable for the first offence, with fine which may extend to one hundred rupees, and for any second or subsequent offence with fine which may extend to three hundred rupees.

Corresponding Law – Section 177 corresponds to section 112 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 177 provides for a general provision for punishment of offences.

178. Penalty for travelling without pass or ticket and for dereliction of duty on the part of conductor and refusal to ply contract carriage, etc - (1) Whoever travels in a stage carriage without having a proper pass or ticket with him or being in or having alighted from a stage carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on a requisition being made therefore, shall be punishable with fine which may extend to five hundred rupees.

Explanation. – In this section, “pass” and “ticket” have the meanings respectively assigned to them in section 124.

(2) If the conductor of a stage carriage, or the driver of a stage carriage performing the functions of a conductor in such stage carriage, whose duty is –

(a) to supply a ticket to a person travelling in a stage carriage on payment of fare by such person, either willfully or negligently, -

(i) fails or refuses to accept the fare when tendered, or

(ii) fails or refuses to supply a ticket, or

(iii) supplies an invalid ticket, or

(iv) supplies a ticket of a lesser value, or

(b) to check any pass or ticket, either willfully or negligently fails or refuses to do so, he shall be punishable with fine which may extend to five hundred rupees.

(3) If the holder of a permit or the driver of a contract carriage refuses, in contravention of the provisions of this Act or rules made thereunder, to ply the contract carriage or to carry the passengers, he shall, -

(a) in the case of two-wheeled or three-wheeled motor vehicles, be punishable with fine which may extend to fifty rupees; and

(b) in any other case, be punishable with fine which may extend to two hundred rupees.

Corresponding Law-Section 178 corresponds to section 112-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 178 provides for penalty for travelling without ticket or pass by a passenger and also for penalty for the conductor and operator of a contract carriage permit for dereliction of his duties.

179. Disobedience of orders, obstruction and refusal of information. – (1) Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall, if no other penalty is provided for the offence, be punishable with fine which may extend to five hundred rupees.

(2) Whoever, being required by or under this Act to supply any information, willfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both.

Corresponding Law. – Section 179 corresponds to section 113 of the Motor Vehicle Act, 1939.

Objects and Reasons. – Clause 179 provides for penalties for disobedience of orders given by persons authorized to give such instruction and refusal to give information and for causing obstruction.

180. Allowing unauthorized persons to drive vehicles. – Whoever, being the owner or person in charge of a motor vehicle, causes or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Corresponding Law.–Section 180 corresponds to section 113-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 180 provides penalty both for the owner and person in charge of the vehicle for allowing unauthorized persons to drive the vehicle.

181. Driving vehicles in contravention of section 3 or section 4. - Whoever drives a motor vehicle in contravention of section 3 or section 4 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Corresponding Law. – Section 181 corresponds to section 113 – B of the Motor Vehicle Act, 1939.

Objects and Reasons. – Clause 181 prescribes penalty of imprisonment or fine or with both for persons driving a motor vehicle without a driving licence or when he has not attained the requirement age to drive a motor vehicle.

182. Offences relating to licenses. – (1) Whoever, being disqualified under this Act for holding or obtaining a driving licence, drives a motor vehicle in a public place or in any other place, or applies for or obtains a driving licence or, not being entitled to have a driving licence issued to him free of endorsement, applies for or obtains a driving licence without disclosing the endorsement made on a driving licence previously held by him shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both, and any driving licence so obtained by him shall be of no effect.

(2) Whoever, being disqualified under this Act for holding or obtaining a conductor's licence, acts as a conductor of a stage carriage in a public place or applies for or obtains a conductor's licence or, not being entitled to have a conductor's licence issued to him free of endorsement, applies for or obtains a conductor's license without disclosing the endorsements made on a conductor's licence previously held by him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both, and any conductor's licence so obtained by him shall be of no effect.

Corresponding Law. – Section 182 corresponds to section 114 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 182 lays down that driving a motor vehicle during disqualified period or driving while in possession of a driving licence obtained by misrepresentation is punishable with imprisonment or with fine or with both.

4

[182-A. Punishment for offences relating to construction and maintenance of vehicles. – Any person who contravenes the provisions of sub-section (3) of section 109, shall be punishable with a fine of one thousand rupees for the first offence, and with a fine of five thousand rupees for any subsequent offence.]

Corresponding Law. – This is a new provision in the 1988 Act.

183. Driving at excessive speed, etc. – (1) Whoever drives a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to one thousand rupees.

(2) Whoever causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to three hundred rupees, or, if having been previously convicted of an offence under this sub-section, is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees.

(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical device.

(4) The publication of a time table under which, or the giving of any direction that any journey or part of journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without contravening the speed limits referred to in section 112 be *prima facie* evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (2).

Corresponding Law – Section 183 corresponds to section 115 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 183 provides that whoever drives a motor vehicle at a speed exceeding the limit prescribed for such vehicle is punishable with fine.

184. Driving dangerously – Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, 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 one thousand rupees, and for any second or subsequent offence with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Corresponding Law – Section 184 corresponds to section 116 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 184 provides for punishment for driving recklessly and dangerously.

4. Inserted by Act 54 of 1994, S. 54 (w.e.f. 14-11-1994).

185. Driving by a drunken person or by a person under the influence of drugs. – Whoever, while driving, or attempting to drive, a motor vehicle -

⁵ [(a) has, in his blood, alcohol exceeding 30 mg. Per 100 ml. of blood detected in a test by a breath analyzer, 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 year, 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.

Corresponding Law. - Section 185 corresponds to section 117 of the Motor Vehicles Act, 1939.

Objects and Reasons–Clause 185 provides for punishment or driving under the influence of drink or drug.

186. Driving when mentally or physically unfit to drive- Whoever drives a motor vehicle in any public place when he is to his knowledge vehicle to

be a source of danger to the public, shall be punishable for the first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extent to five Hundred rupees.

Corresponding Law. - Section 186 corresponds to section 118 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 186 provides for penalty for driving a motor vehicle when the driver is mentally or physically unfit to drive.

187. Punishment for offence relating to accident. – Whoever fails to comply with the provisions of clause (c) of sub-section (1) of section 132 or of section 133 or section 134 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both or, if having been previously convicted of an offence under this section, he is again convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Corresponding Law-Section 187 corresponds to section 118-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 187 provides for punishments relating to accidents which may be imprisonment or fine or both.

188. Punishment for abetment of certain offences. – Whoever abets the commission of an offence under section 184 or section 185 or section 186 shall be punishable with the punishment provided for the offence.

Corresponding Law. – Section 188 corresponds to section 119 of the Motor Vehicles Act, 1939

5. Cl. (a) substituted by Act 54 of 1994, S. 55 (w.e.f. 14-11-1994). Prior to its substitution, Cl. (a) read as under :-

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

Objects and Reasons. – Clause 188 makes provision for abetment of certain offences.

189. Racing and trials of speed. – Whoever without the written consent of the State Government permits or takes part in a race or trial of speed of any kind between motor vehicles in any public place shall be punishable with imprisonment for a term which may extend to one month, or with a fine which may extend to five hundred rupees, or with both.

Corresponding Law. – Section 189 corresponds to section 120 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 189 provides for punishment for offences of racing or trial of speed of any kind.

190. Using vehicle in unsafe condition. – (1) Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standard prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with a fine of one thousand rupees and for any second or subsequent offence with a fine of two thousand rupees.

(3) Any persons who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made thereunder relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence which may extend to three thousand rupees, or with imprisonment for a term which may extend to one year, or with both, and for any second or subsequent offence with fine which may extend to five thousand rupees, or with imprisonment for a term which may extend to three years, or with both.

Corresponding Law. – Section 190 corresponds to section 121 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 190 provides for penalty for persons driving and person permitting to drive a motor vehicle which is in an unsafe condition. It also provides for penalty for driving a motor vehicle which violates the standards prescribed for safety, control of noise and air pollution.

191. Sale of vehicle in or alteration of vehicle to condition contravening this Act. – Whoever being an importer of or dealer in motor vehicles, sells or delivers or offers to sell or deliver a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter VII or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in public place would be in contravention of Chapter VII or any rule made thereunder shall be punishable with fine which may extend to five hundred rupees :

Provided that no person shall be convicted under this section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

Corresponding Law. – Section 191 corresponds to section 122 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 191 lays down that whoever sells a vehicle or alters a vehicle in contravention of the provisions of Chapter VII is punishable.

6

[192. Using vehicle without registration. – (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 39 shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees for a second or subsequent offence with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both :

Provided that the Court may, for reasons to be recorded, impose a lesser punishment.

Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injuries of for

(4) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order of suspension or cancellation made under sub-section (3) by the Court below and the Court, to which appeals ordinarily lie from the Court below, may set aside or vary any such order of suspension or cancellation made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.”

(2) the transport of food or materials to relieve distress of medical supplies for a like purpose : Provides that the persons using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use.

6. S. 192 substituted by Act 54 of 1994, S. 56 (w.e.f. 14-11-1994). Prior to its substitution, S. 192 read as under :-

“192. Using vehicle without registration or permit. – (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 39 or without the permit required by sub-section (1) of section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle, shall be punishable for the first offence with fine which may extend to two thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months or with fine which may extend to three thousand rupees, or with both.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose: Provided that the person using the vehicle reports such use the to the Regional Transport Authority within seven days from such use.

(3) Where a person is convicted of an offence under this section the Court by which such person is convicted may, in addition to any sentence which may be passed under sub-section (1) by order –

(a) if the vehicle used in the commission of the offence is a motor car, suspend its certificate of registration for a period not exceeding four months.

(b) if the vehicle used in the commission of the offence is a transport vehicle, suspend its permit for a period not exceeding six months or cancel it.

(3) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1), may set aside or vary any order made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

Corresponding Law. – Section 192 corresponds to section 123 of the Motor Vehicles Act, 1939.

192-A. Using vehicles without permit. – (1) Whoever drives a motor vehicle or causes or allow a motor vehicle to be used in contravention of the provisions of sub-section (1) of section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both :

Provided that the Court may for reasons to be recorded, impose a lesser punishment.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose :

Provided that the person using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use.

(3) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1), may set aside or vary any order, made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made].

Corresponding Law. – Section 192-A corresponds to section 123 of the Motor Vehicles Act, 1939.

193. Punishment of agents and canvassers without proper authority. – Whoever engages himself as an agent or canvasser in contravention of the provisions of section 93 or of any rules made thereunder shall be punishable for the first offence with fine which may extend to one thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Corresponding Law–Section 193 corresponds to section 123-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 193 lays down that persons acting as Goods Booking Agents or Travel Agents without a proper licence are punishable.

194. Driving vehicle exceeding permissible weight. – ⁷ [(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 113 or section 114 or section 115 shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess load].

(2) Any driver of a vehicle who refuses to stop and submit his vehicle to weighing after being directed to do so by an officer authorized in this behalf under section 114 or removes or causes the removal of the load or part of it prior to weighing shall be punishable with fine which may

extend to three thousand rupees.

Corresponding Law. – Section 194 corresponds to section 124 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 194 lays down that driving any overloaded vehicle is punishable and that refusal to stop the vehicle and submit to weighment is also punishable with fine.

195. Imposition of minimum fine under certain circumstances. – (1) Whoever having been convicted of an offence under this Act or the rules made thereunder commits a similar offence on a second or subsequent occasion within three years of the commission of the previous offence, no Court shall, except for reasons to be recorded by it in writing, impose on him a fine of less than one-fourth of the maximum amount of the fine imposable for such offence.

(2) Nothing in sub-section (1) shall be construed as restricting the power of the Court from awarding such imprisonment as it considers necessary in the circumstances of the case not exceeding the maximum specified in this Act in respect of that offence.

Corresponding Law. – Section 195 corresponds to section 124-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 195 speaks of imposition of minimum fine in certain cases.

196. Driving uninsured vehicle- Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 146 shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Corresponding Law- Section 196 corresponds to section 125 of the Motor Vehicles Act, 1939

Objection and Reasons- Clause 196 lays down that driving a motor vehicle and allowing a motor vehicle to be driven without a valid insurance is punishable with imprisonment or with fine or with both.

197. Taking vehicle without authority. – (1) Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both :

Provided that no person shall be convicted under this section, if the Court is satisfied that such person acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefor.

(2) Whoever, unlawfully by force or threat of force or by any other form of intimidation, seizes or exercise control of a motor vehicle, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

7. Sub-S. (1) substituted by act 54 of 1994, S.57 (w.e.f. 14-11-1994). Prior to its substitution, sub-S. (1) read as under :-

“(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 113 or of the conditions prescribed under that section or in contravention of any prohibition or restriction imposed under section 113 or section 115 shall be punishable for the first offence with fine which may extend to two thousand rupees, and for any second or subsequent offence with fine which may extend to five thousand rupees.”

(3) Whoever attempts to commit any of the acts referred to in sub-section (1) or sub-section (2) in relation to any motor vehicle, or abets the commission of any such act, shall also be deemed to have committed an offence under sub-section (1) or, as the case may be, sub-section (2).

Corresponding Law. – Section 197 corresponds to section 126 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 197 provides for a penalty of imprisonment or fine or with both for the offence of taking away a motor vehicle without authority or by force or by other forms of intimidation.

198. Unauthorized interference with vehicle. - Whoever otherwise than with lawful authority or reasonable excuse enters or moves any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine which may extend to one hundred rupees.

Corresponding Law. – Section 198 corresponds to section 127 of the Motor Vehicles Act, 1939.

Objects and Reasons. - Clause 198 provides for punishment of fine for tampering with a stationary vehicle.

199. Offences by companies. – (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. – For the purposes of this section –

(a) “company” means anybody corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Corresponding Law. – Section 199 corresponds to section 127 – A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 199 lays down that where the contravention is committed by a company then the person who was in charge and was responsible to the company shall be liable for the punishment.

200. Composition of certain offences. – (1) Any offence whether committed before or after the commencement of this Act punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (2) of section 183, section 184, section 186, [section 189, sub-section (2) of section 190,] section 191, section 192, section 194, section 196, or section 198, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Corresponding Law—Section 200 corresponds to section 127-B of the Motor Vehicles Act, 1939.
Objects and Reasons. – Clause 200 provides for compounding of certain offences under this Chapter by officers authorized by the State Government for such amount as may be specified by the State Government.

NOTES

Scope and applicability. – For violation of Ss. 113 to 115, S. 194 accords penal sanction and on conviction for violation thereof, the section sanctions punishment with fine. Section would give guidance to the State Government as a delegate under the statute to specify the amount for compounding the offences enumerated under sub-S. (1) of S. 200. It is not mandatory that the authorized officer would always compound the offence. It is conditional upon the willingness of the accused to have the offences compounded. It may also be done before the institution of the prosecution case. In the event of the petitioner's being willing to have the offences compounded, the authorized officer gets jurisdiction and authority to compound the offence and call upon the accused to pay the same. Or: compliance thereof, the proceedings, if already instituted, would be closed or no further proceedings, shall be initiated. It is a matter of violation or face the prosecution in the appropriate Court. As regards canalization and prescribing of the amount of fine for the offence committed, S. 194, the penal and charging section, prescribes the maximum outer limit within which the compounding fee would be prescribed. The discretion exercised by the delegated legislation, i.e., the executive, is controlled the specification in the Act. It is not necessary that S. 200 itself should contain the details in that behalf. So long as the compounding fee does not exceed the fine prescribed by penal section, the same cannot be declared to be either exorbitant or irrational or bereft of guidance: P. Ratnakar Rao v. Government of Andhra Pradesh A.I.R., 1996 S.C. 2523: (1996) 5 S.C.C. 359: (1996) 2 Acc. C.C. 512.

201. Penalty for causing obstruction to free flow of traffic. – (1) Whoever keeps a disabled vehicle on any public place, in such a manner, so as to cause impediment to the free flow of traffic, shall be liable for penalty up to fifty rupees per hour, so long as it remains in that position:

Provided that the vehicle involved in accidents shall be liable for penalty only from the time of completion of inspection formalities under the law:

[Provided further that where the vehicle is removed by a Government agency, towing charges shall be recovered from the vehicle owner or person in-charge of such vehicle.]

8. Substituted for "section 189" by Act 54 of 1994, S. 58 (w.e.f. 14-11-1994).

9. Inserted by Act 54 of 1994, S. 59 (w.e.f. 14-11-1994).

10

[(2) Penalties or towing charges under this section shall be recovered by such officer or authority as the State Government may, by notification in the Official Gazette, authorize.]

Corresponding Law- This is a new provision in the 1988 Act.

Objects and Reasons- Clause 201 lays down penalty for keeping a disabled vehicle on public road causing impediment to the free flow of traffic.

202. Power to arrest without warrant. – (1) A police officer in uniform may arrest without warrant any person who in his presence commits an offence punishable under section 184 or section 185 or section 197 :

Provided that any person so arrested in connection with an offence punishable under section 185 shall, within two hours of his arrest, be subjected to a medical examination referred to in sections 203 and 204 by a registered medical practitioner failing which he shall be released from custody.

11

[(2) A police officer in uniform may arrest without warrant any person, who has committed an offence under this Act, if such person refuses to give his name and address.]

(3) A police officer arresting without warrant the driver of a motor vehicle shall if the circumstances so require take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

Corresponding Law. – Section 202 corresponds to section 128 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 202 confers upon Police Officers the power to arrest without warrant persons committing certain serious offences such as drunken driving, taking vehicle without authority, etc.

203. Breath tests. – ¹² [(1) A police officer in uniform or an officer of the Motor Vehicle Department as may be authorized in this behalf by that Department, may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more

10. Sub.-S. (2) substituted, substituted (w.e.f. 14-11-1994). Prior to its substitution, sub-S. (2) read as under :-

“(2)The penalties under this section shall be recoverable by the prescribed officers or authorities.”

11. Sub-S. (2) substituted by Act 54 of 1994, S. 60 (w.e.f. 14-11-1994). Prior to its substitution, sub-S. (2) read as under :-

“(2) A police officer in uniform may arrest without warrant :-

(a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or

(b) any person concerned in an offence under this Act or reasonably suspected to have been so concerned, if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons.”

12. Sub-S(1)substituted by S.61,ibid (w.e.f. 14-11-1994). Prior its substitution, sub-S. (1)read as under :-

“(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 specimen of breath for breath test there or nearby, if the police officer has any reasonable cause to suspect him of having committed an offence punishable under section 185.

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.”

specimens of breath for breath test there or nearby, if such police officer or officer has any reasonable cause to suspect him to having committed an offence under section 185:

Provided that 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 the motor vehicle at the time of the accident had alcohol in his blood or that he was driving under the influence of a drug referred to in section 185 he may require the person so driving 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 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.

(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.

(3) 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, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient.

(4) 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.

(5) 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.

Corresponding Law. – Section 203 corresponds to section 128-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 203 empowers the Police Officers to require any person driving a motor vehicle in a public place to provide for breath test and if, it is found that there is presence of alcohol in his blood or urine, the Police Officer may arrest him without warrant.

204. Laboratory test. – (1) A person, who has been arrested under section 203 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 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 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 the 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 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.

(4) 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 made at a laboratory established, maintained or recognized by the Central Government or a State Government.

Corresponding Law. - Section 204 corresponds to section 128-b of the Motor Vehicles Act 1939.

Objects and Reasons - Clause 204 lays down the procedure for laboratory test of blood and urine to be followed by Police officers in suspected cases of drunken driving.

205. Presumption of unfitness to drive - In any proceeding for an offence punishable under section 185 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 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 defense, with respect to his condition at that time.

Corresponding Law- section 205 corresponds to section 128-C of the Motor Vehicles Act, 1939.

Objects and Reasons - Clause 205 lays down that refusal by a driver to submit himself to breath test or urine test to prove drunkenness without any reasonable case will amount to presumption by the Prosecution of the driver's unfitness to drive.

206. Power of police officer to impound document - (1) Any police officer or other person authorized in this behalf by the State Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a

motor vehicle is a false document within the meaning of section 464 of the Indian Penal Code , 1860 (45 of 1860) seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document.

(2) Any police officer or other person authorized in this behalf by the State Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgement given under sub-section (3).

(3) A police officer or other person seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorize the holder to drive until the licence has been returned to him or until such date as may be specified by the police officer or other person in the acknowledgement, whichever is earlier:

Provided that if any Magistrate, police officer or other person authorized by the State Government in this behalf is, on an application made to him, satisfied that the licence cannot be, or has not been returned to the holder thereof before the date specified in the acknowledgement for any reason for which the holder is not responsible, the Magistrate, police officer or other person, as the case may be, may extend the period of authorization to drive to such date as may be specified in the acknowledgement.

Corresponding Law. - Section 206 corresponds to section 129 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 206 gives powers to police officers to impound documents in certain cases.

207. Power to detain vehicles used without certificate of registration permit, etc. – (1) Any police officer or other person authorized in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of section 3 or section 4 or section 39 or without the permit required by sub-section (1) of section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle :

Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used in contravention of section 3 or section 4 or without the permit required by sub-section (1) of section 66 he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof.

(2) Where a motor vehicle has been seized and detained under sub-section (1), the owner or person in charge of the motor vehicle may apply to the transport authority or any officer authorized in this behalf by the State Government together with the relevant documents for the release of the vehicle and such authority or officer may, after verification of such documents, by order, release the vehicle subject to such conditions as the authority or officer may deem fit to impose.

Corresponding Law. – Section 207 corresponds to section 129-A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 207 empowers a police officer to impound a motor vehicle if he has reason to believe that the vehicle is being driven without registration, without a permit, driven by a person who has no driving licence or plying on unauthorized route and the vehicle may be released only after satisfying that the vehicle complies with the requirement of this section.

State Amendment – [Rajasthan]. – In its application to the State of Rajasthan, in S. 207, in the proviso to sub-S. (1), the expression “or without the permit required by sub-section (1) of section 66” as occurring between the expression “section 3 or section 4” and the expression “he may” shall be deleted. – Rajasthan Act 2 of 1993, S.3 (w.e.f. 30-1-1993).

NOTES

Power to seize and detain vehicle. – The power of seizure has been conferred upon the appropriate authority, which power is in fact a sovereign power of the State and has been delegated to the police officer in discharge of their duties of law enforcement and in the enforcement of an orderly society. The power, therefore, is required to be exercised with care and caution and the power has to be exercised only when the pre-condition for exercise of power is fully satisfied: State of Maharashtra v. Nanded Prabhani Zila Luxury Bus Malak V.A. Operator Sangh A.I.R. 2000 S.C. 725: J.T. (2000) 1 S.C. 290.

208. Summary disposal of cases. – (1) The Court taking cognizance of any offence (other than an offence which the Central Government may by rules specify in this behalf) under this Act, -
(i) may, if the offence is an offence punishable with imprisonment under this Act; and
(ii) shall, in any other case.

State upon the summons to be served on the accused person that he – (a) may appear by lawyer or in person; or

(b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge and remit to the Court, by money order, such sum (not exceeding the maximum fine that may be imposed for the offence) as the Court may specify, and the plea of guilt indicated in the money order coupon itself.

Provided that the Court shall, in the case of any of the offence referred to in sub-section (2), state upon the summons that the accused person, if he pleads guilty, shall so plead in the manner specified in clause (b) and shall forward his driving licence to the Court with his letter containing such plea.

(2) Where the offence dealt with in accordance with sub-section (1) is an offence specified by the Central Government by rules for the purposes of this sub-section, the Court shall, if the accused person pleads guilty to the charge and forward his driving licence to the Court with the letter containing his plea, make an endorsement of such conviction on his driving licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (1), or as the case may be, sub-section (1) and (2), no further proceedings in respect of the offence shall be taken against him nor shall he be liable, notwithstanding anything to the contrary contained in this Act, to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

Corresponding Law. – Section 208 corresponds to section 130 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 208 provides for summary disposal of certain cases and the procedure to be followed in such cases.

209. Restriction on conviction – No person prosecuted for an offence punishable under section 183 or section 184 shall be convicted unless –

(a) he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration, or

(b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or

(c) within twenty-eight days of the commission of the offence, a summons for the offence was served on him:

Provided that nothing, in this section shall apply where the Court is satisfied that –

(a) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or

(b) such failure was brought about by the conduct of the accused.

Corresponding Law. – Section 209 corresponds to section 131 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 209 places some restrictions on conviction of persons for certain offences.

210. Courts to send intimation about conviction. – Every Court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to -

(a) the licensing authority which issued the driving licence, and

(b) the licensing authority by whom the licence was last renewed, and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the and such other particulars as may be prescribed.

Corresponding Law. – Section 210 corresponds to section 131 – A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 210 requires the Court convicting persons holding driving licence to send intimation of the punishment awarded with the name and address of the licence holder, licence No., etc., to the licensing authority.
