

CHAPTER X

OFFENCES, PENALTIES AND PROCEDURE

137. **General provision for punishment of offence** – Whoever contravenes any provision of this Ordinance or of any rules or regulations made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to two hundred taka, or, if having been previously convicted of any offence under this Ordinance he is again convicted of an offence under this Ordinance, with fine which may extend to four hundred taka.

138. **Driving without licence** - Whoever drives a motor vehicle or public service vehicle or whoever causes or allows a motor vehicle or public service vehicle to be driven in contravention of the provisions of sub-section (1) of section 3 shall be punishable with imprisonment which may extend to four months, or with fine which may extend to four months, or with fine which may extend to five hundred taka, or with both.

139. **Fitting and using of prohibited horns or other sound producing device** - Whoever uses or being the owner or person in charge of motor vehicle fits, causes or allows fitting of any horns or any sound producing devices prohibited by any competent authority having jurisdiction over the area or prohibited under the provision of this Ordinance or any rules or regulations made thereunder or uses horn or any sound producing device where its use is prohibited shall be punishable with fine which may extend to one hundred taka.

140. **Disobedience of orders, obstruction and refusal of information** - (1) Whoever willfully disobeys and direction lawfully given by any person or authority empowered under this Ordinance 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 Ordinance to discharge, or, being required by or under this Ordinance to supply any information, 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 taka, or with both.

(2) Whoever, otherwise than with lawful authority or reasonable excuse, drives or cause to be driven a motor vehicle in opposite direction on one way road or contrary to any notice shall be punishable with fine, which may extend to two hundred taka.

141. **Offences relating to licence** - (1) Whoever, being disqualified under this Ordinance for holding or obtaining a driving licence, drives a motor vehicle in a public place or applies for or obtains a driving licence or, not being entitled to have a driving licence issued to him face of endorsement, applies for or obtains a driving licence without disclosing the endorsements made on a driving licence previously held by him or, being disqualified under this Ordinance for holding or obtaining a driving licence uses in Bangladesh a driving licence such as is referred to in sub-section (2) of section 10, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to three months or with fine which may extend to five hundred taka, or with both, and any driving licence so obtained by him shall be of no effect.

(2) Whoever, being disqualified under this Ordinance, for holding or obtaining a conductor's licence, acts as a conductor of a stage carriage or a contract 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 licence without disclosing the endorsement 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 two hundred taka or with both, and any conductor's licence so obtained by him shall be of no effect.

(3) Whoever, while driving a motor vehicle in a public place fails to produce his valid driving licence whenever required to do so by any authority acting under this Ordinance or any rules

or regulations made thereunder shall be punished with fine of fifty taka.

142. Driving at excessive speed - (1) Whoever drives any motor vehicle or a tractor or a locomotive in contravention of section 85 shall be punishable for a first offence with imprisonment for a term which may extend to one month or with fine which may extend to three hundred taka or with both and for any subsequent offence with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both and his driving licence shall be suspended for a period not exceeding one month.

(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 section 85 shall be punishable for a first offence with imprisonment which may extend to one month, or with fine which may extend to three hundred taka, or with both and for any subsequent offence with imprisonment which may extend to three months, or with fine which may extend to five hundred taka, or with both.

(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 a estimate obtained by the use of some mechanical device.

(4) The publication of a time-table under which or the giving or any direction that, any journey or part of a 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 infringing the provisions of section 85, 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).

143. Driving recklessly or 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 on a first conviction for the offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred taka, and his driving licence shall be suspended for a specified period, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to six months or with fine which may extend to one thousand taka, or with both, and his driving licence shall be suspended for a period not exceeding one month.

144. Driving while under the influence or drink or drug - Whoever while driving or attempting to drive a motor vehicle is under the influence of drink or drug to such extent as to be incapable of exercising proper control over the vehicle shall be punishable for a first offence with imprisonment which may extend to three months, or with fine which may extend to one thousand taka, or with both, and for a subsequent offence with imprisonment which may extend to two years, or with fine which may extend to one thousand taka, or with both and his driving licence shall be suspended for a specified period.

145. Driving when mentally or physically unfit to drive - Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving of the vehicle to be a source of danger to the public, shall be punishable for a first offence with fine which may extend to five hundred taka and his driving licence shall be suspended for a specified period and for a subsequent offence with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both.

146. Punishment for offence relating to accidents - Whoever fails to comply with the provisions of clause (c) of sub-section (1) of section 102 or, of section 104 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both or, if having been previously 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 taka, or with both.

147. **Punishment for abetment of certain offences** - Whoever abets the commission of an offence under section 143, or 145, shall be punishable with the punishment provided for the offence.

148. **Racing or a trial of speed** - Whoever without the written consent of the Government permits or take part in a race or trial of speed between motor vehicles in any place shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to five hundred taka, or with both, and his driving licence shall be suspended for a period which may extend to one month.

149. **Using vehicle in unsafe condition** - 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 vehicle using such place, shall be punishable with imprisonment for a term which may extend or with both, or, if as a result of such defect an accident is caused, causing bodily injury or damage to property, with imprisonment which may extend to three months, or with fine which may extend to one thousand taka, or with both.

150. **Using of motor vehicles emitting smokes** - (1) Whoever drives or causes or allows or lets out a motor vehicle for use in any public place, the smoke of which would constitute a health hazard, shall be punishable with fine which may extend to two hundred taka.
(2) Any police officer not below the rank of Sub-Inspector of Police in uniform authorised in this behalf by the Authority or any Inspector of Motor Vehicles or other persons authorised in this behalf by the Authority may seize and detain such vehicle for such time as may be necessary to ascertain if the smokes constitute a health hazard.
(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of a witness unless that opinion is based on a test by the competent person.

151. **Sale of vehicle in or alteration of vehicle to a condition contravening this Ordinance** - 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 VI or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter VI or any rule made thereunder shall be punishable with imprisonment which may extend to two years or with fine which may extend to five thousand taka or with both :
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.

152. **Using of motor vehicle without registration or certificate of fitness or permit** -
(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used or let out a motor vehicle for use in contravention of the provisions of section 32 or without the certificate of fitness under section 47 or the permit required by sub-section (1) of section 51 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 of passengers and maximum weight of luggage that may be carried on the vehicle, shall be punishable for a first offence with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand taka, or with both and for any subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand taka, 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 of food or materials to relieve distress or of medical supplies for a like purpose :
Provided that the person using the vehicle reports such to the Transport committee with seven days.

153. **Agents and canvassers without proper authority** - Whoever engages himself as an

agent or canvasser in contravention of the provisions of section 79 or any regulations made thereunder, shall be punishable for first offence with fine which may extend to one thousand taka and for any second or subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two thousand taka or with both.

154. Driving vehicle exceeding permissible weight - Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 86 or of the conditions prescribed under that section 86 or section 88 shall be punishable for a first offence with fine which may extend to one thousand taka and for any subsequent offence with imprisonment for a term which may extend to six months, or with fine may extend to two thousand taka, or with both.

155. 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 109 shall be punishable with fine which may extend to two thousand taka.

156. Taking vehicle without authority - 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 two thousand taka, or with both.

157. Obstruction in public street or public place - Whoever causes obstruction in a public street or public place by keeping a motor vehicle for repair or keeping or storing spare parts of motor vehicles or any articles for sale or keeps any article for any other purposes causing obstruction to flow of traffic shall be punishable with a fine which may extend to five hundred taka and such vehicles or spare parts or articles shall be liable to confiscation.

158. Unauthorised interference with vehicle - Whoever otherwise than with lawful authority or reasonable excuse enters or mounts any stationary motor vehicle or tampers with the brake or any part of the mechanism of any part of the body, or the speed governor or the speed governor seal, or the taxi meter (fare meter), or the taxi meter seal of a motor vehicle shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand taka, or with both.

159. Special procedure for trial of offences - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), a police officer not below the rank of Sub-Inspector or Sergeant, or any Inspector of Motor Vehicles authorised in this behalf or other person authorised in this behalf by the Authority shall frame a charge of the offences punishable under sections 137, 139, 140, 142, 146, 149, 150, 151, 151, 152, 153, 154, 155, 156, 157 and 158 one copy of which shall be delivered to the accused person who shall be delivered to the accused person who shall acknowledge receipt thereof under his signature or thumb-impression and another copy to be forwarded to the Superintendent of Police or the Deputy Commissioner of Police (Traffic) in the Metropolitan Area or such authority as is notified by the Authority in this behalf having jurisdiction in the area in which the offence is committed.

(2) The authorised police officer or other authority shall impose a fine as provided for, in the section, in the charge and if the fine so specified is paid at the specified place on or before the specified date either in cash or by money-order, no further proceedings shall be taken against the offender in respect of that offence.

(3) If the fine is not paid in the manner specified in the charge, the Superintendent of Police or the Deputy Commissioner of Police (Traffic) in the Metropolitan Area having jurisdiction in the area in which the offence was committed, or any officer authorised by him in this behalf, on receipt of a report from the authorised police officer or other authority may lay a complaint against the offender before a court of competent jurisdiction.

(4) Where a person, on his failure to pay the fine has been prosecuted under sub-section (3), the provision of clause (b) of sub-section (1) of section 165 shall not apply to him.

(5) Any person who refuses or avoids to accept a copy of the charge made or to him under this section or to acknowledge receipt thereof may be arrested without warrant by the officer acting under this section and shall, on conviction before a Magistrate, be punished in a

addition to any penalty that may be incurred by him in respect of the offence specified therein with fine which may extend to two hundred and fifty taka.

160. Power of arrest without warrant - (1) A police officer in uniform may arrest without warrant any person who commits in his view an offence punishable under section 32 or section 51 or section 143 or section 144 or section 145 or section 146 or section 147 or section 148 or section 154 or section 156.

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

(a) any person who being required under the provisions of this Ordinance 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 Ordinance 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.

(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 safe custody of the vehicle or to take it to the nearest Police-station.

(4) A police officer acting under this section shall, as soon as possible, intimate to the owner the place where the vehicle has been removed or where the driver has been taken and in any case within twenty-four hours of the occurrence.

161. Power of police officer to impound document - (1) any police officer not below the rank of Sub-Inspector or Sergeant or any Inspector of Motor Vehicles authorised in this behalf or other person authorised in this behalf by the Authority 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 fitness, 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 Penal Code 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 not below the rank of Sub-Inspector or Sergeant or any Inspector of Motor Vehicles authorised in this behalf or other person authorised in this behalf by the Authority may, if he has reason to believe that the driver or the conductor, if any, of a motor vehicle who is charged with any offence under this Ordinance may abscond or otherwise avoid the service or a summons, seize any licence held by such driver or conductor and forward it to the Court taking cognizance of the offence and the said Court shall, on the first appearance of such driver or conductor before it, return the licence to him in exchange for the temporary acknowledgement given under sub-section (3).

(3) A police officer or any Inspector of Motor Vehicles or other person seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgement therefore and such acknowledgement shall authorise the holder to drive or to act as conductor until the licence has been returned to him or until such date as may be specified by the police officer or by the Inspector of Motor Vehicles or by other person in the acknowledgement, whichever is earlier or the Court has otherwise ordered.

162. Power to detain vehicles used without certificate of registration or certificate of fitness or permit - Any police officer or any Inspector of Motor Vehicles authorised in this behalf or other person authorised in this behalf by the Authority may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of sub-section (1) of section 32 or without the certificate of fitness required by sub-section (1) of section 47 or without the permit required by sub-section (1) of section 51 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 proper for the temporary safe custody of the vehicle :

Provided that where any such officer or person has reason to believe that a vehicle has been or is being used without the certificate of fitness required by sub-section (1) of section 47 or without the permit required by sub-section (1) of section 51, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle, and shall issue an acknowledgement in respect thereof.

163. Power to charge certain offenders on the spot - (1) notwithstanding anything to the contrary contained in this Ordinance or any other law for the time being in force, a police officer in uniform, not below the rank of a Sub-Inspector or Sergeant, specially empowered in this behalf by the competent authority or any Inspector of Motor Vehicles or other persons authorised in this behalf by the Authority, may, in any area to be notified by the Authority in this behalf charge on the spot any person who; in his presence or view; commits any of the offences set forth in the Twelfth Schedule with the Commission of that offence.

Explanation - For the purpose of the sub-section, "competent authority" shall be such authority as may be notified by the Authority.

(2) An officer acting under sub-section (1) shall draw up the charge in the form prescribed, specifying the nature of the offence, the fine as mentioned against such offence in the Twelfth Schedule payable in respect thereof and the accused person shall pay the fine on the spot by means of stamps to the officer who made the charge and shall receive an acknowledgement therefor.

(3) If the accused person has refused to receive the copy of the charge or if the fine is not paid in the manner specified in sub-section (2), the officer acting under sub-section (1) shall arrange to send the vehicle which has been used in the commission of the offence to the officer-in-charge of the nearest police-station who shall keep the vehicle in his custody and shall release it as soon as the fine is paid and shall also send an intimation to the officer who forwarded the vehicle.

(4) The accused person may, prefer an appeal to the court which is competent to hear appeals against the orders or sentences of Magistrates of the third class and the decision of the appellate authority in this respect shall be final.

164. Deprivation of driving licence - (1) Notwithstanding anything to the contrary contained in this Ordinance or any other law for the time being in force, and police officer of or above the rank of Superintendent of Police or Deputy Commissioner or an officer of the Authority not below the rank of Assistant Director having jurisdiction over the area specially empowered in this behalf, by the Authority or any other person empowered in this behalf by the Authority may deprive any person from holding the driving licence for a period which may extend to three months, who, in his presence or view, commits any of the misdemeanors in traffic as mentioned hereunder -

(a) driving against red light; or

(b) overtaking just before or on the pedestrian crossing or where overtaking is prohibited;

or

(c) driving on to a main road without stopping and exceeding the speed limit indicated on the road; or

(d) not giving way to other vehicle intentionally; or

(e) driving in opposite direction on one way road; or

(f) any other matter as may be prescribed.

(2) Any officer acting under sub-section (1) shall seize any driving licence held by such driver and shall give to the person surrendering the driving licence an acknowledgement therefor, specifying the period of deprivation and the nature of offence thereof and the name of the licensing authority to whom report shall be on the expiry of the said period for getting back the driving licence.

(3) The authority making the order under sub-section (1) shall endorse the period of deprivation and reasons thereof in the driving licence and shall forward it to the licensing authority having jurisdiction over the area or the licensing authority who issued it or last renewed it.

(4) The licensing authority, on receipt of the driving licence, shall enter the endorsement in the record and keep the licence until the period of deprivation expires and thereafter shall return the licence to the holder in exchange of the acknowledgement given under sub-section (2).

(5) If, at the time of committing the offence, the driving licence is not in the possession of the person committing the offence, the authority acting under sub-section (1) may take or cause to be taken any steps he may consider proper for the disposal of the case.

165. Summary disposal of cases - (1) A court taking cognizance of an offence under this

Ordinance shall, unless the offence is an offence specified in Part A of the Fifth Schedule, state upon the summons to be served on the accused person that he -

(a) may appear by pleader and not in person, or

(b) may by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the Court such sum not exceeding two hundred and fifty taka as the Court may specify.

(2) Where the offence dealt with in accordance with sub-section (1) is an offence specified in Part B of the Fifth Schedule, the accused person shall, if he pleads guilty to the charge, forward his licence to the Court with the letter containing his plea in order that the conviction may be endorsed on the licence.

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

166. Cognizance of offences - Every Court of competent jurisdiction or any other competent authority unless otherwise provided, shall take cognizance of any offence committed under this Ordinance or the rules made thereunder when reported by any member of the Authority or the Transport Committee or any Inspector of Motor Vehicles or any officer of the Transport Department authorised in this behalf by the Chairman of the Authority or the Transport Committee or by the Government.

167. Restriction on conviction - (1) No person prosecuted for an offence punishable under section 142 or section 143 shall be convicted unless-

(a) within twenty-one 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 registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or

(b) within thirty 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 -

(i) 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

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

(2) No Court shall, unless otherwise provided, make any award of loss than twenty-five per cent of the maximum fine provided for the offence punishable under this Ordinance.

168. Courts to send intimations about conviction - Every Court by which any person holding a driving licence or a conductor's licence or a permit is convicted of an offence under this Ordinance or 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 or the conductor's licence;

(b) the licensing authority which last renewed the driving licence or the conductor's licence;

(c) the Transport Authority which issued the permit and the authority which countersigned it;

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 permit number, the date of issue and renewal of the permit the nature of the permit the nature of the offence, the punishment awarded for the offence and such other particulars as may be prescribed.

169. Jurisdiction of Courts - No Court inferior to that of a Magistrate of the second class shall try any offence punishable under this Ordinance or any rules or regulations made thereunder.

170. Corresponding of Offences - Notwithstanding anything contained in the Code of Criminal procedure, 1898 (Act V of 1898) and offence punishable under sections 137, 139, 140, 142, 146, 149, 151, 152, 153, 154, 155, 156 and 158, may be compounded by any

Magistrate of the first or second class or any police officer of or above the rank of Deputy Superintendent of Police specially authorised in this behalf by the Government and the cases may be disposed of in the manner as may be prescribed.

171. **Power to levy fee** - Any regulations which the Authority is empowered to make under this Ordinance may, notwithstanding the absence of any express provision to that effect, provide for the levy of the such fees in respect of applications, amendment of documents, test, endorsements, badges, plates, countersignature, authorisations, supply of statistics, or copies of the documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Ordinance or any regulation made thereunder as may be considered necessary :

Provided that the Government may, if it considers so to do in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full.

172. **Power to make regulations** - The Authority may make regulations for carrying out the purposes of this Chapter.