1. **Short title and commencement.**

   (1) This Act, which amends the Road Traffic Act (Ch. 220), may be cited as the Road Traffic (Amendment) Act, 2011.

   (2) This Act shall come into force on such date as the Minister may appoint by Notice published in the **Gazette**, and a notice may appoint different dates for different provisions or for different purposes of the same provision.

2. **Amends section 10 of the principal Act.**

   Section 10 of the principal Act is amended —

   (a) in subsection (1), by deleting paragraph (c) and substituting therefor the following—

   "(c) in the case of any motor vehicle other than a public service vehicle, and in the case of a self-drive vehicle, insures such person or classes of persons as may be specified in the policy in respect of liability which may be incurred by him or them in respect of the death of or bodily injury to any person who is lawfully being carried in a motor vehicle on a road by reason of or in pursuance of a contract of employment, for an amount, inclusive of costs and expenses incurred in relation thereto, of a minimum of two million five hundred thousand dollars in respect of any one claim by any one person or thirty million dollars in respect of all claims arising out of one original cause or event:
Provided that such policy shall not be required to cover --

(i) any contractual liability;
(ii) any liability for a person who was not in a fixed seat provided by the vehicle’s manufacturer or professionally installed in the vehicle at the time of the accident;
(iii) any contravention of any requirements of the Act; or
(iv) except in the case of a self-drive vehicle, liability in respect of the first five hundred dollars of any claim by any person;

(d) in the case of any motor vehicle other than a public service vehicle, and other than persons who are lawfully being carried in a motor vehicle by reason of or in pursuance of a contract of employment and in the case of a self-drive vehicle, insures such person or classes of persons as may be specified in the policy in respect of liability which may be incurred by him or them in respect of the death of or bodily injury to any person being carried in or upon or entering or getting onto or alighting from the vehicle at the time of the occurrence of the event out of which the claim arises caused by or arising out of the use of the vehicle on a road for an amount, inclusive of costs and expenses incurred in relation thereto, of a minimum of one hundred and twenty-five thousand dollars in respect of any one claim by any one person or five hundred thousand dollars in respect of all claims arising out of one original cause or event:

Provided that such policy shall not be required to cover --

(i) any contractual liability;
(ii) any liability for a person who was not in a fixed seat provided by the vehicle’s manufacturer or professionally installed in the vehicle at the time of the accident;
(iii) any contravention of any requirements of the Act; or
(iv) except in the case of a self-drive vehicle, liability in respect of the first five hundred dollars of any claim by any person;

(c) in the case of any motor vehicle, insures such person or classes of persons as may be specified in the policy in respect of liability which may be incurred by him or them in respect of loss or damage to property whether personal property or otherwise, arising out of the use of the vehicle on a road for an amount, inclusive of costs and expenses incurred in relation thereto, of a minimum of one
hundred and fifty thousand dollars in respect of any one claim or a series of claims arising from one occurrence:

Provided that such policy shall not be required to cover —

(i) any contractual liability; or

(ii) any property owned by or in the care or custody of the insured or person being indemnified or any person residing with them;”;

(b) by inserting, immediately after subsection (5), the following new subsection (6) —

“(6) A valid and subsisting Road Act Insurance Policy certificate issued prior to the commencement of this Act shall not be invalidated by this section but shall remain in full force until the expiration thereof.”.

3. **Amends section 42B of the principal Act.**

Section 42B of the principal Act is amended by deleting paragraphs (d), (e) and (f) and substituting therefor the following —

“(d) a taxi-cab, except the front seat used by the driver and any other person sitting alongside the driver’s seat and that other person shall not be a child less than four feet ten (4’ 10”) inches tall and under 8 years old;

(e) a truck, except the front seat used by the driver and any other person sitting alongside the driver’s seat and in the case of a truck with double rows of seats in the cab, such double rows of seats;

(f) a motor vehicle specifically designed for the use of the physically or medically handicapped or person with disability, when the person operating the motor vehicle has a certificate issued by a qualified medical practitioner registered under the Medical Act (Ch. 224) specifying —

(i) the nature of the physical or medical handicap or disability;

(ii) the reason why the use of seatbelt is not deemed vehicle desirable; and

(iii) the holder of the medical certificate who is exempted from the use of the seatbelt by virtue of some medical impairment;

(g) a motor vehicle displaying a disabled sign, when the person operating the motor vehicle has a certificate issued by a qualified medical practitioner specifying the conditions under subparagraphs (i), (ii) and (iii) of paragraph (f);

(h) a motor vehicle, when the person operating the motor vehicle or a passenger in that vehicle is the holder of a medical certificate issued by a qualified medical practitioner registered under the Medical Act.
(Ch. 224) exempting that person, for a specified period, from the use of the seatbelt by virtue of some medical impairment;

(i) vehicles or trucks that are manufactured before 1972; and

(j) golf carts, where they are permitted to operate on a public road.”.

4. **Amends section 42C of the principal Act.**

Section 42C of the principal Act is amended —

(a) by deleting subsections (3) and (4) and substituting therefor the following —

“(3) Subject to section 42B, the driver of any motor vehicle, except a taxi-cab, is responsible to ensure that a child is properly restrained at all times in the following manner —

(a) a child who weighs less than twenty pounds (20 lbs.) shall face the rear of the vehicle secured in an infant car seat fitted to the rear seat. Where a motor vehicle is designed without a rear seat the infant car seat may be fitted to the front seat;

(b) a child who weighs twenty pounds (20 lbs.) and less than forty pounds (40 lbs.) shall be secured in a convertible car seat fitted to the rear seat. Where a motor vehicle is designed without a rear seat the convertible car seat may be fitted to the front seat;

(c) a child who weighs over forty pounds (40 lbs.) or up to four feet nine inches (4’ 9”) tall shall be secured in a booster car seat fitted to the rear seat. Where a motor vehicle is designed without a rear seat the booster car seat may be fitted to the front seat; and

(d) a child taller than four feet nine inches (4’ 9”) tall (and is between 8 to 12 years old) shall be required to use a seatbelt.

(4) Subject to section 42B, any driver of a motor vehicle who drives and is not secured by a seatbelt or allows a passenger in such vehicle to ride without a seatbelt commits an offence and is liable on summary conviction to —

(a) a fine not exceeding one hundred dollars;

(b) a community service order;

(c) a suspension of his driving licence for a period not exceeding 1 year; or

(d) a combination of paragraphs (a) and (b);
(b) in subsection (5), by deleting the words “of one hundred dollars”, immediately after the word “fine” and substituting therefor the words “not exceeding one hundred dollars”;
(c) by deleting subsection (6) and substituting therefor the following—
“(6) Any person driving a motor vehicle who does not ensure a child is properly restrained according to the requirements of section 42C (3) shall be liable on summary conviction to a fine of one hundred dollars.”.

5. **Amends section 42D of the principal Act.**

Section 42D of the principal Act is amended in subsection (2), by deleting the words “of five hundred dollars for a first offence, and to a fine of one thousand dollars for a second or subsequent offence” and substituting therefor the words “not exceeding three hundred dollars for a first offence and to a fine not exceeding five hundred dollars for a second or subsequent offence”.

6. **Inserts new section 42E into the principal Act.**

The principal Act is amended —
(a) by renumbering section 42E as section 42F; and
(b) by inserting, immediately after section 42D, the following new section 42E—

“42E. Passenger on rear of truck.

(1) No person driving a truck shall permit a passenger riding in the rear of the truck to sit or stand on truck fenders and truck tailgates.

(2) A passenger shall sit on the bed of the truck while the vehicle is in motion.

(3) A person who commits an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding two hundred dollars for a first offence and to a fine not exceeding five hundred dollars for a second or subsequent offence.

(4) A person who commits an offence under this section as a passenger and not a minor shall be liable to a fine of one hundred dollars.

(5) For the purpose of this section a minor is a child below the age of criminal responsibility.”.

7. **Repeals and replaces section 49 of the principal Act.**

Section 49 of the principal Act is repealed and replaced by the following —
49. Driving or being in charge of a motor vehicle when under the influence of drink or drugs.

(1) A person commits an offence where that person drives or attempts to drive, or is in charge of, a motor vehicle on a road or other public place—

(a) after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit; or

(b) after consuming a drug such that it renders him unfit to drive or be in charge of a motor vehicle.

(2) A person who, when on a road or other public place and when in charge of a motor vehicle which is on that road or that public place, but not driving the vehicle, is unfit to drive, shall be liable on summary conviction to a fine of two hundred dollars or to imprisonment for a term of two months, or to both such fine and imprisonment:

Provided that a person shall be deemed for the purposes of this section not to have been in charge of a motor vehicle if he proves—

(a) that at the material time the circumstances were such that there was no likelihood of his driving the vehicle so long as he remained unfit to drive; and

(b) that between his becoming unfit to drive and the material time he had not driven the vehicle on a road or other public place.

(3) Any person who, pursuant to subsections (1) and (2), drives or attempts to drive a motor vehicle on a road or public place and is unfit to drive through drink or drugs commits an offence and is liable on summary conviction to—

(a) a fine not exceeding three thousand dollars; or

(b) a term of imprisonment not exceeding one year;

(c) suspension of his driving licence for a period not exceeding one year; and

(d) a combination of paragraphs (a) and (b).

(4) A police officer may arrest without warrant any person committing an offence under this section”.


Section 49B (7) of the principal Act is amended by inserting, immediately after the words “specimen of”, the words “blood or”. 
9. **Repeals and replaces sections 49C, 49D and 49E of the principal Act.**

Sections 49C, 49D and 49E of the principal Act is repealed and replaced by the following——

"49C. Choice of specimens of breath.

(1) Subject to subsection (2), of any two specimens of breath provided by any person in pursuance of section 49B of this Act, the specimen with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(2) If the specimen with the lower proportion of alcohol contains no more than 50 micrograms of alcohol in 100 milliliters of breath, the person who provided it may claim that it should be replaced by such specimen as may be required under section 49B (4) and if he provides such specimen, neither specimen of breath shall be used.

(3) The Minister may by regulations substitute another proportion of alcohol in breath for that specified in subsection (2).

49D. Protection for hospital patients.

(1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test or to provide a specimen for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and —

(a) if the requirement is then made, it shall be for the provision of a specimen at the hospital; but

(b) if the medical practitioner objects on the ground specified in subsection (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen of blood or urine under this Act, would be prejudicial to the proper care and treatment of the patient.

49E. Detention of persons affected by alcohol or a drug.

(1) Subject to subsections (2) and (3), a person required to provide a specimen of breath, blood or urine may afterwards be detained at a police station until it appears to the police officer that, were that person then driving or attempting to drive a motor vehicle on a road, he would not be committing an offence under section 44 or 49 of this Act.
(2) A person shall not be detained in pursuance of this section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(3) A police officer must consult a medical practitioner on any question arising under this section whether a person's ability to drive properly is or might be impaired through drugs and must act on the medical practitioner's advice.

49F. Use of specimens in proceedings for an offence.

(1) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by the accused shall, in all cases, be taken into account and subject to subsection (2) it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.

(2) If the proceedings are for an offence under section 49(3), or where the accused is alleged to have been unfit through drink, for an offence under section 49(1), that assumption shall not be made if the accused proves ---

(a) that he consumed alcohol after he had ceased to drive, attempt to drive or be in charge of a motor vehicle on a road or other public place and before he provided the specimen; and

(b) that had he not done so the proportion of alcohol in his breath, blood or urine, would not have exceeded the prescribed limit; and, if the proceedings are for an offence under section 49(1), would not have been such as to impair his ability to drive properly.

(3) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner.

(4) Where at the time a specimen of blood or urine was provided, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless ---

(a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided; and

(b) the other part was supplied to the accused.
49G. Documentary evidence as to specimens in such proceedings.

(1) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to subsections (3) and (4) and to section 49F (4), be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say —

(a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement; and

(b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

(2) Subject to subsections (3) and (4), evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner may be given by the production of a document purporting to certify that fact and to be signed by a medical practitioner.

(3) Subject to subsection (4) —

(a) document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsection (1)(a) is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing; and

(b) any other document is so admissible only if a copy of it has been served on the accused not later than seven days before the hearing.

(4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not admissible if the accused, not later than three days before the hearing or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing of the person by whom the document purports to be signed.

(5) A copy of a certificate required by this section to be served on the accused or a notice required by this section to be
served on the prosecutor may be served personally or may be sent by registered post or recorded delivery service.”.

49H. Interpretation.

(1) The following provisions apply for the interpretation of sections 49A, 49B, 49C, 49D, 49E, 49F and 49G of this Act.

(2) In the sections referred to in subsection (1) —

“alcohol” means ethanol (ethyl alcohol);

“authorised analyst” means —

(a) any person possessing the qualifications prescribed in section 120(4) of the Criminal Procedure Code Act (Ch. 9/);

(b) any other person authorised by the Minister to make analyses for the purposes of this section;

“breath test” means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the Minister, an indication whether the proportion of alcohol in a person’s breath or blood is likely to exceed the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients;

“the prescribed limit” means, as the case may require —

(i) 35 microgrammes of alcohol in 100 millilitres of breath;

(ii) 80 milligrammes of alcohol in 100 millilitres of blood (0.08%);

(iii) 107 milligrammes of alcohol in 100 millilitres of urine (0.11%),

or such other proportion as may be prescribed by regulations made by the Minister.

(3) A person does not provide a specimen of breath for a test or for analysis unless the specimen —

(a) is sufficient to enable the test or the analysis to be carried out; and

(b) is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved.

(4) A person provides a specimen of blood if and only if he consents to it being taken by a medical practitioner and it is so taken.”.
10. Repeals and replaces section 50 of the principal Act.

Section 50 of the principal Act is repealed and replaced by the following —

“50. Restrictions on prosecutions under the preceding sections.

Where an accident has occurred, and a person is prosecuted for an offence under any of the provisions of sections 43, 44, 45, 46, 47 or 49 (which relate to offences committed in connection with driving or being in charge of a motor vehicle), he shall not be convicted unless either —

(a) at the scene of such accident or within fourteen days of the commission of the offence a summons for the offence was served on him; or

(b) at the scene of such accident or within the said fourteen days a notice of prosecution specifying the nature of the alleged 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:

Provided that —

(i) failure to comply with this requirement shall not be a bar to the conviction of the accused in any case where the court is satisfied that —

(aa) 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 for a summons to be served or for a notice to be served or sent as aforesaid; or

(bb) the accused by his own conduct contributed to the failure; and

(ii) the requirements of this section shall in every case be deemed to have been complied with unless and until the contrary is proved.”.


Section 56 of the principal Act is repealed and replaced by the following —


(1) If in any case owing to the presence of a motor vehicle on a road an accident occurs whereby damage or injury is caused to any person, vehicle or animal, other than is specified in subsections (3) and (4), the driver of the motor vehicle is not required to request the presence of a police officer, but shall stop and, if required to do so by any person having reasonable grounds for so requiring, give his
name and address and also the name and address of the owner and
the registration number of the motor vehicle.

(2) If in the case of any such accident as described in subsection (1),
the driver of the motor vehicle for any reason does not give his
name and address to any such person as aforesaid, he shall report
the accident at a police station or to a police officer as soon as
reasonably practicable and, in any case, within twenty-four hours of
the occurrence of the accident.

(3) If in any case owing to the presence of a motor vehicle on a road an
accident occurs whereby any person is killed or any damage or
injury is caused to any person, vehicle or animal, the driver of the
motor vehicle shall render such assistance as may be reasonably
required by any police officer or in the absence of any police officer
such assistance as it may reasonably be in the power of the driver to
render.

(4) When owing to the presence of a motor vehicle on a road an
accident occurs in consequence of which any person is killed or
seriously injured or serious damage is caused to any vehicle, no
person shall, except under the authority of a police officer, move or
otherwise interfere with any vehicle involved in the accident or any
part of such vehicle or do any other act so as to destroy or alter any
evidence of the accident except that a vehicle or any part thereof
may be moved so far as may be necessary to extricate persons or
animals involved, prevent fire or further damage.

(5) Subsection (4) shall not apply where it is urgently necessary to
remove any seriously injured person to hospital and no suitable
means of conveyance other than a vehicle involved in the accident
is at hand.

(6) In this section, “animal” means any horse, cattle, mule, sheep, pig,
goat or dog.

(7) A person who fails to comply with this section, commits an offence
and is liable on summary conviction ----
(a) in the case of subsection (2), to a fine not exceeding five
hundred dollars, and
(b) in the case of subsections (3) and (4), to a fine not exceeding
one thousand dollars.”.

12. **Amends section 93 of the principal Act.**

Section 93 of the principal Act is amended ----
(a) in paragraph (f), by deleting the full-stop at the end of the sentence
and substituting therefor a semi-colon;
(b) by inserting, immediately after paragraph (f), the following new paragraphs (g) and (h)—

“(g) for prescribing regulations for the use of seatbelts as appear to him necessary to give effect to the provisions under this Act;

(h) generally for the proper carrying out of the provisions and purposes of this Act.”.

13. **Inserts section 96A into the principal Act.**

The principal Act is amended by inserting, immediately after section 96, the following as a new section 96A—

“**96A. Special procedure in respect of certain offences.**

(1) Notwithstanding anything to the contrary in this or any other Act, where a peace officer finds any person or has reason to believe that any person ("the alleged offender") is committing or has committed in any place an offence as may be prescribed in the regulations made under this section, he may then and there serve upon the alleged offender the prescribed notice in writing charging him with the commission of the offence.

(2) Without prejudice to subsection (3), the peace officer shall at any time of such service notify the alleged offender of his requirement to appear before a magistrate on the day specified in connection with the charge and also that he has the opportunity of having his appearance before a magistrate waived and of having no conviction recorded against him should he, the alleged offender, sign the notice in the appropriate place in acknowledgement of his guilt and return it to the magistrate's clerk specified in the notice together with the sum mentioned in the notice in payment of the fixed penalty.

(3) Where under subsection (1), the peace officer finds that the offence is being or has been committed and it is an offence—

(a) committed by reason of a vehicle obstructing the road or waiting or being left or parked or being unloaded or loaded in a road; or

(b) disclosed upon examination of such vehicle,

the officer may in lieu of serving personally the alleged offender then and there with the prescribed notice effect in the absence of the offender the service of the notice by affixing it to the vehicle.

(4) Notwithstanding anything to the contrary in any law, the registered owner of such vehicle shall, for the purposes of any criminal proceedings to be taken against the alleged offender in a court of summary jurisdiction in respect of an offence as may be prescribed in the regulations made under this section ("proceedings") be deemed to be the alleged offender served
and liable for the offence in respect of which service is effected in accordance with subsection (3):

Provided that if at the hearing of those proceedings the registered owner alleges that he was not the driver or the person in charge of the vehicle at the time when the alleged offence was committed, the court may cause a summons to be issued to the person who is alleged by the registered owner to have been the driver or the person in charge making him a co-defendant in the proceedings and the court may after hearing the evidence and witnesses, if any, of all parties make such order as to the payment of any fine and costs as the court may seem just.

(5) A notice, if affixed to a vehicle under subsection (3), shall not be removed or interfered with except by or under the authority of the driver or person in charge of the vehicle or the person liable for the offence in question; and any person contravening this subsection is guilty of an offence and liable to a fine of not less than five hundred dollars and not exceeding one thousand five hundred dollars.

(6) Notwithstanding anything to the contrary in any law, the alleged offender who signs the notice and pays the fixed penalty before the expiration of seven days following the date of the notice shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence in respect of which payment was made.

(7) Subject to subsection (10), where a person is served a notice under subsection (1) or (3) in respect of an offence, no proceedings shall be taken against the alleged offender for that offence until the end of seven days following the date of the notice.

(8) Payment of the fixed penalty shall be made to the clerk of the Magistrate's Court specified in the notice and the admission of guilt and the sum paid shall, subject to subsection (6) be dealt with by the magistrate of that court in the same manner as an adjudication by him in court upon the admission of an offence punishable on summary conviction and for which no conviction is recorded.

(9) In any proceedings a certificate that payment of the fixed penalty was or was not paid to the relevant magistrate's clerk by the date specified in the certificate shall, if the certificate purports to be signed by the magistrate's clerk, be sufficient evidence of the facts stated therein, unless the contrary is proved.

(10) For the purposes of this section, "fixed penalty" means the fine specified in relation to the offence as may be prescribed in the regulations made under this section.
(11) In any proceedings for an offence to which subsection (1) or (3) applies, no reference shall be made after the conviction of the alleged offender to the giving of any notice under this section or to the payment or non-payment of the fixed penalty unless in the course of the proceedings or in some document which is before the Court in connection with the proceedings reference has been made by or on behalf of the alleged offender to the giving of such a notice or as the case may be to such a payment or non-payment.

(12) A notice issued to a person, under subsection (1) or (3), shall for the purposes of this Act or any other law, be deemed to be a summons issued to that person by the magistrate or the magistrate's court specified in the notice for the appearance of that person in the event where he does not sign the notice in acknowledgement of his guilt and make payment of the fixed penalty.

(13) Where pursuant to subsection (4) the registered owner liable for the offence is a body corporate, that body corporate, in any proceedings, may appear in court through a counsel and attorney or a secretary or director or through a person authorised in writing to do so by that body corporate.

(14) For the purposes of this section the prescribed notice shall be in the form as may be prescribed in the regulations made under this section.

(15) The Minister may by regulations made under this section prescribe fixed penalty offences and such notices and summons as may be required under this section.”.


The Road Traffic (Amendment) Act, 2007 (Act No. 25 of 2007) is hereby repealed.