

REPUBLIC OF KIRIBATI
(No.11 of 1996)

I assent

Beretitenti
Assented: 9th July 1996

AN ACT TO AMEND THE TRAFFIC ORDINANCE (Cap 98)

Commencement
1996

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title

1. This Act may be cited as the Traffic (Amendment) Act 1996.

Amendment of section 23

2. Section 23 of the Traffic Ordinance (Cap 98) is amended by inserting the words “on a road” between the word “persons” and “shall” in the second line.

Amendment of section 24

3. Section 24 of the Traffic Ordinance is amended –
 - (a) in subsection (1) by inserting the words “on a road” between the word “recklessly” and “shall” in the first line; and
 - (b) in subsection (2) by inserting the words “on a road” between the words “recklessly” and “shall” in the second line.

Amendment of section 26

4. Section 26 of the Traffic Ordinance is amended in subsection (1) by inserting the words “on a road” between the words “vehicle” and “whilst” in the second line.

Insertion of new section 31A

5. Section 31 of the Traffic Ordinance is amended by inserting a new section as follows –

“Time Limitation of Prosecution

31A. No prosecution for an offence against this Act shall be commenced after the expiration of 12 months from the time of its commission”.

TRAFFIC (AMENDMENT) ACT 1996

Explanatory Memorandum

1. The Traffic Act Section 16 require the driving on or use of public roads before a person is required to be licensed to drive and Section 30 imposes obligations on persons propelling hand cart on a public road.
 - (a) However, the Traffic Act does not require a person to be driving on a public road to be guilty of careless driving (section 23) reckless driving (s.24) or drink driving (s.26).
 - (b) Sections 23 and 24 before amendment Ordinance 6/75 provided for the driving offence to be committed on a road but when amended to provide further penalties requirement of roads was omitted.
 - (c) The present Act is then based on the requirement of a road apparently being inadvertently omitted when amended in 1975. Section 26 did not limit the offence to a road.
 - (d) The obligation should only arise when the driving is on a road to which the public has access as the protection extends to the public. Amendment is necessary to avoid liability for example in your own backyard of your house. (Sections 2, 3 & 4)

2. The Traffic Act does not provide any time limitation on the bringing of prosecutions.
 - (a) The purpose of the amendment is to require a person to be charged within a period of time in fairness to the person charged and of witnesses.
 - (b) Witnesses accounts are generally based on momentary observation where accidents are involved and are notoriously unreliable after a period of time has elapsed.
 - (c) The time limit then protects the driver charged where he wishes to rely on witnesses' accounts to obtain statement within a reasonable time so those witnesses can rely on it in future proceedings to refresh memory.
 - (d) Further potential witnesses in these cases tend to become unavailable quickly and the problem increases with time.
 - (e) The time generally in other jurisdictions is 12 months. (Section 5)

James T Bradshaw
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7 July 1995