

## DUTY TO IDENTIFY OFFENDING DRIVER OR PERSON IN CHARGE OF VEHICLE

This notice may assist with understanding the requirements for people responsible for vehicles as a result of amendments to the Road Traffic (Admin) Act and the provisions of Sections 6, 34 and 35.

### **Duty to identify offending driver or person in charge of vehicle**

Section 34 of the Road Traffic (Admin) Act mainly involves traffic matters not related to 'Camera specific offences' and provides that a responsible person for a vehicle commits an offence if:-

- (a) an offence against any written law is alleged to have occurred of which the driving or being in charge of the vehicle is an element;
- (b) a member of the Police Force requests the responsible person to give information which may lead to the identification of the driver or person in charge of the vehicle at the time of the alleged offence;
- (c) the responsible person has, or could reasonably have ascertained, the information; and
- (d) the responsible person fails to give that information

Under the same section it is an offence to provide false information given in response to the request.

**Penalty: For each offence by an individual - First offence \$1200. Subsequent offence \$2400.**

**For each offence by a person other than an individual (i.e. Company) \$5000.**

### **Notice Requesting Information (Company) or Traffic Infringement Notice (individual)**

Your requirement as a company or an individual is as follows, and you must comply within the allocated time to avoid penalties and/or fees.

- (a) supply the name and address of the driver or person in charge of the vehicle at the time of the alleged offence.
- (b) provide information (Police Report Number) that the vehicle was stolen or unlawfully taken or used at the time.
- (c) a statutory declaration that the responsible person did not know, and could not reasonably have ascertained, the name and address of the driver or person in charge of the vehicle at the time of the offence described in the notice (statutory declarations must be completed correctly or they may not be accepted)

#### **Allocated time:**

- (a) **Individual:** If you are the driver named on the form, pay the Infringement within the 28 days to avoid further fees.
- (b) **Individual:** If the person named on the Infringement is not the driver or person in charge then complete details on the rear of the notice and return to Infringement Management & Operations (IMO) ensuring it is received by IMO within 28 days of the issue date. If nominating another person, your Infringement will be withdrawn and the nominated person will be posted an Infringement in their name. If correctly completed information is not received within 28 days of the original notice then the named person is presumed to be the driver. Section 94 RT(A)A.

**CAUTION:** DO NOT PAY A NOTICE IF THE NAMED PERSON IS NOT THE DRIVER. PAYMENT IS FINAL AND CAN NOT BE REVERSED IF AN ERROR WAS MADE IN REGARDS TO DRIVER. THIS INCLUDES, BUT NOT LIMITED TO, SITUATIONS WHERE YOU HAND THE NOTICE TO ANOTHER PERSON OR PERMIT OTHER PERSONS TO OPEN YOUR MAIL.

- (c) **Company:** Complete the appropriate section on the rear of the notice and return to IMO ensuring it is received by the RETURN DATE endorsed on the notice. If not received by the RETURN DATE then the notice converts to an Infringement for 'Failing to Comply' and must be paid by the DUE DATE to avoid further fees. (The penalty endorsed on the notice is a fine equivalent to twice the penalty for the camera

offence)

- (d) **Company:** When nominating a driver or person in charge then that person will be sent an Infringement for the camera offence and the penalty is half of that endorsed on the Notice Requesting Information.

**NOTE:** The penalty endorsed on the notice is for the company, and only applicable if IMO do not receive the required information, in a correctly completed format, by the RETURN DATE.

Section 100 (1) RT(A)A.

### **Duty to take reasonable measures to be able to comply with a driver identity request**

Section 35 Road Traffic (Admin) Act in short;

A responsible person for a vehicle commits an offence if the responsible person fails to take reasonable measures, or make reasonable arrangements, to **ensure** that if a driver identity request is made in relation to the vehicle, the responsible person **will** be able to comply with it.

**Penalty: For each offence by an individual - First offence \$1200. Subsequent offence \$2400.  
For each offence by a person other than an individual (i.e. Company) \$5000.**

It should be noted that to **ensure** that a driver's identity would be known requires significant measures.

For example a standard log book system does not ensure the log book is completed.

It is suggested that to ensure knowledge of the driver's identity the vehicle keys should be secured until a record is made of the driver. This should happen on each occasion the vehicle is used.