

Western Australia

Road Traffic Act 1974

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Notes

Defined Terms

Western Australia

Road Traffic Act 1974

An Act to consolidate and amend the law relating to road traffic; to repeal the *Traffic Act 1919* and for incidental and other purposes.

Part I — Preliminary

1. Short title

This Act may be cited as the *Road Traffic Act 1974*^{1, 1a}.

2. Commencement

- (1) Subject to subsection (2) the provisions of this Act shall come into operation on such date or such dates as is or are, respectively, fixed by proclamation¹.
- (2) Section 4 shall come into operation on the day on which this Act receives the Royal Assent¹.

[3. *Repealed by No. 82 of 1982 s.4.*]

4. Repeal

The provisions of the *Traffic Act 1919* shall be repealed on such date or such dates as is or are, respectively, fixed by proclamation.

5. Definitions

(1) In this Act, unless the contrary intention appears —

“agricultural implement” means an implement or machine designed and used for ploughing, cultivation, spreading fertilizer, sowing seed, spraying, harvesting, chaff cutting, or any other agricultural operation, whether the implement or machine is hauled or towed by animal or mechanical power;

“Council” means the Road Safety Council established under section 9;

“Director General” means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*²;

“district” means an area that has been declared to be a district under the *Local Government Act 1995*;

“driver” means any person driving, or in control of, a vehicle or animal;

“driver’s licence” means a licence issued under this Act authorizing a person to drive a motor vehicle of the class or classes therein specified, on a road;

“Government road” means a road declared by Order in Council under the *Public Works Act 1902* to be a Government road or a highway or main road to which section 13(4) of the *Main Roads Act 1930* applies;

“licence” means a licence granted under this Act;

“licensing provisions of this Act” means —

- (a) Parts III, IV and IVA, section 76, section 82 and the First and Second Schedules;
- (b) regulations made for the purposes of the provisions mentioned in paragraph (a);
- (c) regulations made under section 111(2)(d) to (g), (i), (l) and (m), (2a) and (2b); and

- (d) regulations made under section 111(2)(j), (k) and (n), (3), (4) and (5) for the purposes of the regulations referred to in paragraph (c);

“mechanical power” includes any motive power not being animal power;

“Minister” means the Minister administering the *Transport Co-ordination Act 1966*²;

“moped” means a motor cycle which has a propelling engine having a piston displacement not exceeding 50 millilitres and which is designed so as to be capable of a speed not exceeding 60 kilometres per hour whether or not it is also capable of being propelled as a pedal cycle, but does not include a power assisted pedal cycle;

“motor vehicle” means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

“number plate” means an identification tablet or number plate issued under the regulations bearing numerals, or letters, or numerals and letters;

“omnibus” means a passenger vehicle equipped to carry more than 8 adult persons and used to carry passengers for separate fares;

“owner” in relation to a vehicle, includes —

- (a) a person who is the owner thereof;
- (b) a person nominated as owner pursuant to subsection (4);
- (ba) a person who is the purchaser or hirer of the vehicle under a contract that for the purposes of the *Credit Act 1984* is a credit sale contract to which that Act applies or who is the debtor under an agreement that pursuant to that Act is deemed to be a credit sale contract to which that Act applies;

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- (baa) a person who is the purchaser or hirer of a vehicle under a contract that for the purposes of the *Consumer Credit (Western Australia) Code* is a credit contract, or is to be regarded as a credit contract, to which that Code applies;
- (c) a person who has the use thereof under a hiring or hire-purchase agreement or under a lease or loan or other arrangement; and
- (d) a person in whose name the vehicle is registered under this Act or under any corresponding law of any State or Territory of the Commonwealth, (being a law in respect of which a declaration under subsection (5) is in force),

but does not include an unpaid vendor of the vehicle under a hire-purchase agreement or the lessor under a lease;

“passenger vehicle” means —

- (a) a taxi within the meaning of the *Taxi Act 1994* and any vehicle that is licensed to stand or ply for the carriage of passengers for reward, including an omnibus; or
- (b) a motor vehicle that is fitted with seats for 13 or more persons, including the driver of the vehicle, and is being used to carry 13 or more persons, including the driver;

“permit” means permit granted under this Act;

“power assisted pedal cycle” means a vehicle designed to be propelled through a mechanism operated solely by human power, to which is attached one or more auxiliary propulsion motors having a combined maximum output not exceeding 200 watts;

“recording fee” means the fee payable under section 19(1);

- “regulation”** means a regulation made under this Act, and includes a local law made by a local government under this Act;
- “repealed Act”** means the Act repealed by section 4;
- “road”** means any highway, road or street open to, or used by, the public and includes every carriageway, footway, reservation, median strip and traffic island thereon;
- “stock”** includes horses, mares, fillies, foals, geldings, colts, camels, bulls, bullocks, cows, heifers, steers, calves, asses, mules, sheep, lambs, goats and swine;
- “this Act”** includes the regulations;
- “traffic regulation provisions of this Act”** means the provisions of this Act other than the licensing provisions of this Act;
- “unrestricted licence”** means a driver’s licence that is not issued on probation;
- “vehicle”** includes —
- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means; and
 - (b) where the context permits, an animal being driven or ridden;
- “vehicle licence fee”** means the fee payable under section 19(3);
- “warden”** means a warden appointed under section 7.
- (1a) In provisions of this Act dealing with penalties for offences —
- (a) these abbreviations are used:
 - “Disq”** for minimum period of disqualification;
 - “Max”** for maximum fine;
 - “Min”** for minimum fine;

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“**PU**” for penalty unit or penalty units;

and

- (b) a reference to a number of PU is a reference to an amount (in dollars) that is that number multiplied by 50.
- (2) For the purposes of this Act a vehicle which is, in any manner, drawn or propelled on a road shall be deemed to be used on a road.
- [(3) repealed]*
- (4) Where a vehicle is owned by more than one person as owner or otherwise, only one of those persons, to be nominated by all such persons, by notice in writing given to the Director General shall for the purposes of this Act be deemed to be the owner of the vehicle.
- (5) The Minister may by notice published in the *Government Gazette* declare a law of a State or Territory to be a corresponding law for the purposes of paragraph (d) of the interpretation “owner” in subsection (1) and may by subsequent notice so published vary or cancel any such declaration.

[Section 5 amended by No. 77 of 1975 s.3; No. 89 of 1978 s.3; No. 71 of 1979 s.3; No. 71 of 1981 s.3; No. 105 of 1981 ss.3 and 19; No. 102 of 1984 s.16; No. 121 of 1987 s.4; No. 11 of 1988 s.4; No. 50 of 1991 s.3; No. 13 of 1992 s.4; No. 83 of 1994 s.48; No. 21 of 1995 s.4; No. 14 of 1996 s.4; No. 30 of 1996 s.13; No. 76 of 1996 ss.4, 20(1) and (3); No. 50 of 1997 s.4.]

Part II — Administration

[Heading inserted by No. 76 of 1996 s.5.]

6. Functions of the Commissioner of Police and the Director General

- (1) The Commissioner of Police is responsible for the control and regulation of traffic in the State and for the enforcement of the traffic regulation provisions of this Act.
- (2) The administration of the licensing provisions of this Act shall be carried out through the Director General who shall be responsible for the enforcement of those provisions.
- (3) Without limiting subsection (2), the functions of the Director General include the exercise and performance of all powers, duties and responsibilities vested in or imposed on the Director General by this Act.
- (4) Subsection (2) does not affect the powers of a member of the Police Force in relation to offences, or suspected offences, against the licensing provisions of this Act.

[Section 6 inserted by No. 76 of 1996 s.5.]

7. Wardens

- (1) The Commissioner of Police may appoint wardens to perform —
 - (a) duties relating to the controlling of vehicles and pedestrians at children's crossings and pedestrian crossings;
 - (b) duties relating to the parking and standing of vehicles;
 - (c) duties of such other nature relating to the traffic regulation provisions of this Act as the Minister administering the *Police Act 1892* may from time to time approve.

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- (2) The Director General may appoint wardens to perform duties of such nature relating to the licensing provisions of this Act as the Minister may from time to time approve.
- (3) For the purposes of the performance of the duties for which a warden was appointed under this section —
 - (a) the warden has such of the powers conferred by this Act on a member of the Police Force as may be prescribed; and
 - (b) a reference in this Act to a member of the Police Force is to be read as including a warden if the regulations so provide.
- (4) A warden appointed under this section shall be issued with a certificate of appointment in the prescribed form which the warden shall carry whenever performing the duties of a warden, and shall, on reasonable demand, produce for inspection by any person.

[Section 7 inserted by No. 76 of 1996 s.5.]

8. Access to information

- (1) In this section —

“licence” means a driver’s licence or vehicle licence under this Act or a licence under the *Motor Vehicle Drivers Instructors Act 1963*;

“offence particulars” means particulars of any offences of which a person has been convicted whether within the State or elsewhere and whether relating to road traffic matters or any other matters, including particulars of any penalties, suspensions, cancellations or disqualifications arising from any such convictions, and also particulars of instances in which a person has paid a penalty pursuant to a traffic infringement notice under this Act and particulars of any points recorded against a person under section 103;

“permit” means a permit under section 48C or a permit under the *Motor Vehicle Drivers Instructors Act 1963*;

“supply” includes provide or allow access at all times to.

- (2) The Director General is to supply the Commissioner of Police with particulars of licences and permits held or issued and of the persons who hold licences or permits or to whom licences or permits have been issued.
- (3) Particulars supplied to the Commissioner of Police under subsection (2) —
 - (a) may be used in the performance of the functions of the Commissioner of Police, whether under this Act or otherwise; and
 - (b) may be supplied by the Commissioner of Police to an officer, department or instrumentality of this State, another State, a Territory, the Commonwealth or another country for use in the performance of the functions of that officer, department or instrumentality.
- (4) The Director General is to allow the Registrar appointed under section 7(1) of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* to have access to records in relation to licences for the purposes of that Act.
- (5) The Commissioner of Police is to supply the Director General with such offence particulars as are known to the Commissioner of Police concerning a person who has applied for the issue or grant of a licence or permit, or who holds a licence or permit, or to whom a licence or permit has been issued.
- (6) Particulars supplied under subsection (5) may be used in the performance of the functions of the Director General under the licensing provisions of this Act.
- (7) The supply of particulars under this section is to be free of charge.

[Section 8 inserted by No. 76 of 1996 s.5.]

Part IIA — Road Safety Council

[Heading inserted by No. 76 of 1996 s.5.]

9. Establishment and functions

- (1) A body called the Road Safety Council is established.
- (2) The Council's functions are —
 - (a) to identify measures to —
 - (i) improve the safety of roads in the State; and
 - (ii) reduce the deaths of people, the injuries to people and the damage to property, resulting from incidents occurring on roads in the State;
 - (b) to recommend to relevant bodies and persons the action that should be taken to implement such measures;
 - (c) to coordinate the implementation of any such measures by relevant bodies and persons;
 - (d) to evaluate and monitor the effectiveness of any such measures;
 - (e) to evaluate and monitor the safety of roads in the State; and
 - (f) to recommend to the Minister how moneys standing to the credit of the Road Trauma Trust Fund should be spent to implement such measures and to facilitate the Council's functions.

[Section 9 inserted by No. 76 of 1996 s.5.]

10. Membership

- (1) The Council consists of 9 members appointed by the Minister, being —
 - (a) a person to be the chairperson of the Council;
 - (b) a person to represent users of roads;

- (c) a person to represent local government, nominated by the Western Australian Municipal Association;
 - (d) the Director General, or an officer in the department of the Public Service principally assisting the Minister in the administration of the licensing provisions of this Act whose duties relate to road safety;
 - (e) a person nominated under subsection (2) by the Minister administering the *Police Act 1892*;
 - (f) a person nominated under subsection (3) by the Minister administering the *Education Act 1928*;
 - (g) a person nominated under subsection (3) by the Minister administering the *Health Act 1911*;
 - (h) a person nominated under subsection (3) by the Minister administering the *Main Roads Act 1930*; and
 - (i) a person nominated under subsection (4) by the Minister administering the *Insurance Commission of Western Australia Act 1986*³.
- (2) For the purposes of subsection (1)(e) the person nominated by the relevant Minister must be either the Commissioner of Police, or an officer in the Police Force or in the department of the Public Service principally assisting that Minister in the administration of the *Police Act 1892* whose duties relate to road safety.
- (3) For the purposes of subsection (1)(f) to (h) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting that Minister in the administration of the relevant Act, or an officer in that department whose duties relate to road safety.
- (4) For the purposes of subsection (1)(i) the person nominated by the relevant Minister must be either the managing director of the Insurance Commission of Western Australia⁴, or an officer of the Commission whose duties relate to road safety.

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- (5) The Minister may appoint a deputy for each Council member, other than the chairperson, and for that purpose, subsections (1) to (4) apply with any necessary changes.
- (6) The deputy of a Council member may act as the member at a meeting of the Council if the member is absent or if no-one is appointed as the member.
- (7) Whenever it is necessary to appoint a Council member or a deputy on the nomination of a person, the Minister, in writing, is to request the person to submit the person's written nomination, and the Minister is not to appoint a person under the relevant paragraph of subsection (1) until such a nomination is received.
[Section 10 inserted by No. 76 of 1996 s.5.]

11. Members and deputies: term of office etc.

- (1) A Council member appointed under section 10(1)(a), (b) or (c), or a deputy of such a member —
 - (a) is appointed for a term, not exceeding 3 years, determined by the Minister and specified in the instrument appointing the member or deputy, and is eligible for reappointment;
 - (b) may resign by written notice given to the Minister.
- (2) The Minister may revoke the appointment of a Council member appointed under section 10(1)(a), (b) or (c), or a deputy of such a member, if the member or deputy —
 - (a) becomes incapable of carrying out satisfactorily the duties of a Council member;
 - (b) is absent without the leave of the Council from 3 consecutive meetings of the Council of which he or she has had notice; or
 - (c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

- (3) A Council member, or a deputy, who is a public service appointee ceases to be a member or deputy when he or she ceases to be eligible to be appointed under the paragraph of section 10(1) under which he or she was appointed.
- (4) The Minister may at any time revoke the appointment of a Council member, or a deputy, who is a public service appointee, but, except in the case of a member or a deputy appointed under section 10(1)(d), may not do so unless requested to do so by the Minister empowered to nominate the member or deputy.
- (5) Council members and deputies, who are not public service appointees, are entitled to the remuneration and allowances determined by the Minister from time to time on the recommendation of the Minister for Public Sector Management.
- (6) In this section —
“public service appointee” means a person appointed under section 10(1)(d), (e), (f), (g), (h) or (i).
[Section 11 inserted by No. 76 of 1996 s.5.]

12. Meetings

- (1) Subject to this section the Council is to determine the procedure for convening and conducting its meetings.
- (2) The chairperson is to preside at Council meetings.
- (3) In the absence of the chairperson, a person elected by the Council members present is to preside.
- (4) The Council is to keep accurate minutes of its meetings.
[Section 12 inserted by No. 76 of 1996 s.5.]

12A. Road Trauma Trust Fund

- (1) An account called the “Road Trauma Trust Fund” and forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985* is to be established at the Treasury.

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- (2) These moneys are to be credited to the Fund:
- (a) one-third of each prescribed penalty paid pursuant to a traffic infringement notice served under section 102(3a);
 - (b) any moneys appropriated by Parliament for the purposes of the Fund;
 - (c) such amount of investment income, as defined in section 39(2) of the *Financial Administration and Audit Act 1985*, as is determined by the Treasurer (at a rate determined by the Treasurer) to be attributable to the investment under section 38 of that Act of moneys standing to the credit of the Fund.
- (3) For the purposes of the *Financial Administration and Audit Act 1985* the Fund is to be administered by the department of the Public Service principally assisting the Minister in the administration of the licensing provisions of this Act.
- (4) The moneys standing to the credit of the Fund are to be applied for the purposes determined by the Minister on the recommendation of the Council.

[Section 12A inserted by No. 76 of 1996 s.5 (as amended by No. 49 of 1996 s.27(4)); amended by No. 49 of 1996 s.27(3).]

13. Annual report

- (1) As soon as practicable after 1 July each year the Council is to give the Minister a report on the activities of the Council in the previous financial year.
- (2) The Minister is to cause the report to be tabled in each House of Parliament within 14 sitting days of that House after it is received from the Council.

[Section 13 inserted by No. 76 of 1996 s.5.]

[14. Repealed by No. 76 of 1996 s.5.]

Part III — Licensing of vehicles

15. Vehicle licences

- (1) A vehicle licence is required for any vehicle described in the First Schedule whilst that vehicle is being used on a road.
- (2) A vehicle licence is not required for —
 - (a) an agricultural implement being towed on a road by another vehicle; or
 - (b) an unlicensed vehicle of any type being towed on a road by a tow truck, as described in the First Schedule,if the towing vehicle or tow truck, as the case requires, is the subject of a vehicle licence or permit.
- (2a) A vehicle licence is not required for a vehicle that is drawn by an animal.
- (3) Where a vehicle for which there is not a valid vehicle licence granted or issued under this Act is used on any road, the owner of the vehicle and any person so using the vehicle or causing or permitting such use commits an offence against this Act, but —
 - (a) the provisions of this subsection do not apply to the use of a vehicle within the period of 15 days immediately succeeding the day of expiry of a vehicle licence for the vehicle;
 - (b) it is a defence to a complaint for an offence against this subsection against any person other than the owner of the vehicle if the defendant proves that he had no knowledge that a valid vehicle licence had not been granted or issued in respect of the vehicle; and
 - (c) a person shall not be convicted of an offence against this subsection if he has already been convicted, or charged and acquitted of an offence against section 4(3)(a) of the *Motor Vehicle (Third Party Insurance) Act 1943*, and both those offences or alleged offences were committed simultaneously.

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- (4) A person who is convicted of an offence against this section shall be liable to a penalty not exceeding 10 PU, and in addition, the court shall order the defendant to pay a further penalty equal to the fees payable under this Act for the issue of a vehicle licence for the vehicle concerned for a period of 6 months, except where the licence for the vehicle has, prior to the conviction being recorded, been renewed under section 18(5).
- (5) Any person who has committed an offence against this section for which he has not been prosecuted shall be liable to pay to the Director General the fees which he might have been ordered to pay on conviction of such offence, and such fees shall be recoverable in any court of competent jurisdiction.
- (6) For the purposes of the provisions of this section a vehicle licence or equivalent document issued in any other State or Territory of the Commonwealth for a vehicle of which the owner is not ordinarily resident within the State of Western Australia shall, during the currency of the licence, be deemed to be a vehicle licence under this Act in respect of the vehicle when used on any road within the State of Western Australia.

[Section 15 amended by No. 105 of 1981 s.19; No. 11 of 1988 ss.5 and 24; No. 13 of 1994 s.12; No. 57 of 1995 s.4; No. 76 of 1996 s.20(3); No. 50 of 1997 s.13.]

16. Commercial vehicles to be licensed in the State

- (1) Where a commercial vehicle for which there is not a valid vehicle licence granted or issued under this Act, is used on a road (except in the prescribed circumstances or otherwise with the prior approval of the Director General,) the owner of the vehicle and every person so using the vehicle or causing or permitting its use, commits an offence.

Minimum penalty: An amount equal to the fees that would be payable for the issue of a vehicle licence under this Act for the vehicle, for a period of 6 months, irreducible in mitigation notwithstanding the provisions of any other Act.

- (2) For the purposes of subsection (1) —
- (a) a vehicle licence issued by another State or Territory of the Commonwealth shall not be regarded as a licence granted under this Act notwithstanding the provisions of section 15(6); and
 - (b) **“commercial vehicle”** means a motor wagon, tractor (prime mover type) or a trailer, within the descriptions respectively given thereto in the First Schedule of which the aggregate weight exceeds 2 540 kilograms or a semi-trailer or a converter dolly trailer within the descriptions respectively given thereto in the First Schedule.
- (3) The provisions of subsection (1) do not apply to the use of a vehicle on a road if the vehicle is being so used in the course of trade, commerce or intercourse among States.
- (4) Without affecting the liability of any person for or in respect of an offence against subsection (1), it is hereby declared that a person who commits an offence against subsection (1) shall not, by reason thereof, be regarded for the purposes of any contract or policy of insurance, irrespective of where or by whom the contract or policy was executed or issued, as having owned, used, or caused or permitted the use of, a vehicle for which there was not a valid vehicle licence granted or issued under this Act.

[Section 16 amended by No. 105 of 1981 s.19; No. 82 of 1982 s.5; No. 57 of 1995 s.5; No. 76 of 1996 s.20(3).]

[17. Repealed by No. 71 of 1981 s.4.]

18. Issue and renewal of vehicle licences

- (1) Any application for a licence for a vehicle or for the renewal of such a licence shall be made to the Director General by or on behalf of the owner of the vehicle and, at the time of making the application, the recording fee and vehicle licence fee shall be paid by the applicant to the Director General.

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- (2) Subject to the succeeding provisions of this section, where an application is duly made for a licence for —
- (a) a vehicle not previously licensed under this Act; or
 - (b) a vehicle for which the licence last granted or renewed under this Act expired more than 15 days prior to the date of the application,

the Director General shall grant a licence for the vehicle to the applicant for a period of 6 months or 12 months, at the option of the applicant, which period shall in either case commence on the day on which the licence is granted.

- (3) Where —
- (a) an application is made for the grant of a licence under subsection (2) for a vehicle referred to in paragraph (b) of that subsection;
 - (b) the owner by whom or on whose behalf the application is made was also the owner of the vehicle when the licence last granted or renewed for that vehicle expired; and
 - (c) the licence last granted or renewed for that vehicle expired less than 6 months prior to the date on which the application is made, and the number plate or number plates issued for the vehicle were not returned to the Director General forthwith after the expiration of the period of 15 days immediately succeeding the date of expiration of the licence,

the Director General may refuse to grant a licence under that subsection but may in lieu thereof permit the applicant to make an application for the renewal of that licence under subsection (5).

- (4) Subject to the succeeding provisions of this section, where an application for the renewal of a licence for a vehicle is made —
- (a) within the period of 30 days immediately preceding the day on which the licence expires; or

- (b) within the period of 15 days immediately succeeding the day on which the licence expired,

the Director General shall renew the licence for a period of 6 months or 12 months, at the option of the applicant, and the renewal shall be deemed to be a continuation of the licence and to have effect on and from the day next succeeding the day on which the licence expires or expired.

- (5) Subject to the succeeding provisions of this section, where an application for the renewal of a licence for a vehicle is made after the expiration of the period of 15 days immediately succeeding the day on which the licence expired, the Director General —

- (a) shall renew the licence if the Director General has pursuant to subsection (3), refused to grant a new licence for the vehicle; or
- (b) in any other case, may renew the licence,

for a period which terminates either 6 months or 12 months after the date of expiration of the licence which has already expired, at the option of the applicant, and where the renewal of a licence is effected under this subsection —

- (c) the renewal shall take effect on and from the day on which it is effected; and
- (d) the vehicle licence fee and recording fee payable shall be the fee payable for a period of 6 months or 12 months as the case may be.

- (6) Where pursuant to the provisions of this section the Director General may grant or renew a vehicle licence for a period of 12 months or 6 months, the Director General may, in any case where the owner so applies and the Director General considers the circumstances of the case so warrant —

- (a) where the vehicle is a tractor, other than a tractor (prime mover type), a trailer or a caravan, grant or renew the licence for a period of one month or 2 months; or

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(b) irrespective of the type of vehicle, grant or renew the licence for a period of 3 months.

(7) The fee payable for the grant or renewal of a vehicle licence for a period of less than 12 months shall be the total of —

(a) one-twelfth of the vehicle licence fee for each complete month for which the licence is granted or renewed; and

(b) one-thirtysixth of the vehicle licence fee for each additional period of 10 days or part thereof, for which the licence is granted or renewed,

together with the recording fee.

(8) Where an application is made by the owner of 3 or more vehicles licensed under this Act for a common annual licensing date, the Director General may re-issue the licences for all or any of the vehicles to expire on a common date selected by the Director General.

[(9) repealed]

(10) Where the licences for vehicles owned by a person have been so issued as to expire on a common date, the Director General may thereafter grant or renew a licence for any other vehicle owned by that person for a period expiring on that common date.

[(11) and (12) repealed]

(13) Nothing in this section authorizes or permits the Director General to grant or renew a vehicle licence contrary to any provision of the *Motor Vehicle (Third Party Insurance) Act 1943* or any other provision of this Act or the regulations.

[Section 18 amended by No. 105 of 1981 s.19; No. 21 of 1995 s.5; No. 76 of 1996 s.20(1) and (3); No. 50 of 1997 s.5.]

19. Fees for vehicle licences

(1) The prescribed recording fee shall be paid to the Director General for the grant or renewal of any licence for a vehicle (other than under Part IV), irrespective of whether the whole or

any part of a vehicle licence fee is also payable for the grant or renewal of the licence.

- (2) The prescribed transfer fee shall be paid to the Director General for effecting the transfer of any licence for a vehicle.
- (3) Subject to any exemption, reduction, refund or deferral provided for in the regulations, the appropriate fee specified in Part III of the Second Schedule shall be paid to the Director General for granting or renewing any licence for a vehicle.

[(3a) - (16b) repealed]

- (17) Where a vehicle licence has been issued by the Director General without the payment of a vehicle licence fee, or upon the payment of a reduced vehicle licence fee, subject to conditions specified in the licence or in this Act or subject to the ownership or use of the vehicle, under the provisions of this Act, and the conditions are not observed or the ownership is changed to that of some person who would not be entitled to a licence issued, or the vehicle is put to some use that would not occasion the licence to be issued without payment of a vehicle licence fee or at a reduced vehicle licence fee, then, unless, or until the vehicle licence fee, or the difference between the vehicle licence fee and the reduced vehicle licence fee, has been paid in respect of that vehicle licence, every person using that vehicle on a road contravenes the provisions of section 15.
- (18) Where a vehicle licence is issued pursuant to the provisions of this Act and the fees paid in respect of the licence are subsequently found to be either in excess of or less than the fees which are properly payable in respect of the licence, the Director General —
 - (a) shall forthwith upon demand refund the amount of the excess to the person to whom the licence was issued;
 - (b) may recover the deficiency in a court of competent jurisdiction from the person to whom the licence was issued, if that person fails to pay the deficiency to the

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Director General within 7 days after the amount of the deficiency has been demanded in writing from him.

[Section 19 amended by No. 93 of 1975 s.5; No. 135 of 1976 s.2; No. 89 of 1978 s.4; No. 9 of 1979 s.6; No. 10 of 1979 s.3; No. 42 of 1980 s.3; No. 81 of 1980 s.3; No. 105 of 1981 s.19; No. 10 of 1982 s.28; No. 25 of 1982 s.12; No. 60 of 1982 s.3; No. 95 of 1984 s.2; No. 78 of 1986 s.5; No. 21 of 1995 s.6; No. 76 of 1996 s.20(3).]

20. Licence obtained by means of a dishonoured cheque void

- (1) Where the fees for the issue or renewal of a vehicle licence are paid by a cheque which is not honoured by the Bank on which it is drawn, the licence is void as from the time of issue or renewal as the case may be.
- (2) The person to whom a licence referred to in subsection (1) is issued shall, on demand made by or on behalf of the Director General, forthwith deliver the licence and the number plates relating to that licence to the Director General.
- (3) Where the person to whom the licence is issued —
 - (a) fails so to deliver the licence or the number plates; or
 - (b) after the demand uses or continues to use or allows any other person to use the licence or the number plates relating to that licence,

he commits an offence.

Penalty: For a first offence, a fine not exceeding \$50; for any subsequent offence, a fine not exceeding \$150.

[Section 20 amended by No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 78 of 1995 s.147; No. 76 of 1996 s.20(3).]

[21. Repealed by No. 21 of 1995 s.7.]

22. Certain fees to be credited to Main Roads Trust Fund

- (1) The Director General shall, on or before the 15th day of the month next following that in which it receives them, credit to the Consolidated Fund, all fees received for the issue and renewal of motor vehicle licences, other than recording fees.
- (2) All recording fees paid to the Director General may be retained by the Director General.
- [(3) repealed]*
- (4) All fees taken pursuant to the regulations on the issue of a permit for the carrying on a vehicle of a load exceeding a prescribed load, shall be credited to the Consolidated Fund.
- (5) An amount equal to the amounts credited to the Consolidated Fund under subsections (1) and (4) shall be —
 - (a) credited to the Main Roads Trust Fund maintained under the *Main Roads Act 1930*; and
 - (b) charged to the Consolidated Fund,

and this subsection appropriates the Consolidated Fund accordingly.

[Section 22 amended by No. 105 of 1981 s.19; No. 25 of 1982 s.13; No. 6 of 1993 s.6; No. 76 of 1996 s.20(3).]

23. Obligation to grant licences

Except as otherwise provided, the Director General shall not refuse to grant any licence under this Part, in respect of any vehicle, to an applicant tendering the proper fee or not bound to pay any fee, unless —

- (a) the vehicle does not meet the prescribed standards and requirements; or
- (b) the vehicle is unfit for the purpose for which the licence is desired.

[Section 23 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

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23A. Cancellation of vehicle licence in certain circumstances

The Director General may cancel the licence in respect of any vehicle where —

- (a) the proper fee has not been paid;
- (b) the vehicle does not meet the prescribed standards and requirements; or
- (c) the owner has failed to present the vehicle for inspection when so directed by the Director General pursuant to the provisions of this Act.

[Section 23A inserted by No. 89 of 1978 s.5; amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

24. Transfer of vehicle licences

- (1) Where a person to whom a licence in respect of a vehicle has been granted ceases to be the owner of the vehicle, he shall —
 - (a) within 7 days after ceasing to be the owner, give notice in writing to the Director General of the name and address of the new owner of the vehicle; and
 - (b) if the licence had been obtained without the payment of a vehicle licence fee or upon the payment of a reduced vehicle licence fee and unless the provisions of section 19(17) have been complied with, within 7 days after ceasing to be the owner, return the licence and the appropriate number plates to the Director General.
- (2) A person who becomes the owner of a vehicle in respect of which a licence has been granted shall, within 14 days after becoming the owner, give notice in writing to the Director General of that fact and apply for the transfer of the licence to the person.
- (2a) As soon as practicable after receiving notice under subsection (1)(a) or (2), or otherwise, of a change in the ownership of a vehicle in respect of which a licence has been

granted, the Director General shall issue the new owner with a notice requiring the new owner —

- (a) if the Director General reasonably suspects that the vehicle does not meet a prescribed standard or requirement relating to the security of the vehicle, to cause the vehicle to be modified so that it does meet the prescribed standard or requirement; and
 - (b) to pay an amount being —
 - (i) the prescribed transfer fee; and
 - (ii) the stamp duty assessed by the Director General under Part III C of the *Stamp Act 1921* in respect of the transfer of the licence.
- (2b) If the new owner complies with the notice issued under subsection (2a) within 28 days after the notice is issued, or any longer period that the Director General allows, the Director General, subject to subsection (5), shall transfer the licence to the new owner.
- (2c) If the new owner does not comply with the notice issued under subsection (2a) within 28 days after the notice is issued, or any longer period that the Director General allows, then —
- (a) if the notice contains the requirement referred to in subsection (2a)(a) and the new owner has not complied with the requirement, the Director General shall cancel the licence in respect of the vehicle, whether or not the new owner has complied with the requirement in subsection (2a)(b); and
 - (b) in any other case, the owner commits an offence.
- (2d) If under subsection (2c)(a) the Director General cancels a licence, the Director General shall refund to the new owner any of the amount referred to in subsection (2a)(b) that has been paid by the new owner.

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- (3) The court convicting a person of an offence against subsection (2c) shall, whether imposing a penalty or not, order the person to pay the sum of —
 - (a) the prescribed transfer fee; and
 - (b) the amount payable under the *Stamp Act 1921* in respect of the transfer of the licence.
- (4) Where a person to whom a licence in respect of a vehicle has been granted dies, the Director General shall on payment of the transfer fee, if any, by the executor or administrator of the estate of that person endorse on the licence the transfer thereof to that executor or administrator.
- (5) An application for a transfer may be refused for any reason for which an application for a licence by the same person for the same vehicle might be refused, and may also be refused where the applicant has not complied with the provisions of the *Stamp Act 1921*, relating to the transfer of motor vehicle licences.

[Section 24 amended by No. 105 of 1981 s.19; No. 11 of 1988 s.19; No. 21 of 1995 s.8; No. 57 of 1995 s.6; No. 76 of 1996 s.20(3); No. 24 of 1999 s.9.]

24A. Requirement to make declaration on applying for grant or transfer of vehicle licence

- (1) Regulations may require an applicant for the grant or transfer of a licence in respect of a vehicle to declare in writing that the vehicle meets any prescribed standard or requirement relating to the security of vehicles that applies to that vehicle.
- (2) If the applicant does not comply with a requirement of regulations made for the purposes of subsection (1), it may be taken for the purposes of section 23(a) that the vehicle concerned does not meet the prescribed standard or requirement.

[Section 24A inserted by No. 52 of 1998 s.4.]

25. Appeal

- (1) There shall be an appeal to a court of petty sessions, whose order shall be final, in any case where a licence, or a transfer of a licence, under this Part is refused.
- (2) On the hearing of the appeal the court may order that the licence shall be granted, or may dismiss the appeal, and may order either party to the appeal to pay such costs as in its discretion the court may think fit.

26. Permits, etc., for unlicensed vehicles

- (1) The Director General may, on payment of the prescribed fee, issue to a person a permit authorizing, subject to such conditions as the Director General may impose, the driving of an unlicensed vehicle or the towing of an unlicensed vehicle —
 - (a) to or from any place at which the Director General grants vehicle licences or examines vehicles in connection with the granting of vehicle licences or to or from any place at which the vehicle is to be or has been repaired; or
 - (b) for such other purposes as may be prescribed or approved by the Director General.
- (2) The Director General may, on payment of the prescribed fee, assign and issue to a person of a prescribed class number plates which may be used, subject to such conditions as may be prescribed, on any unlicensed motor vehicle.
- (2a) Without limiting any power conferred upon him to make regulations under this Act, the Governor may make regulations prescribing —
 - (a) a fee to be paid from time to time for the use and possession of number plates issued under subsection (2);
 - (b) a deposit to be paid on the issue of, and in respect of, such number plates, and the circumstances in which that deposit shall be forfeited or refunded; and

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- (c) as a condition referred to in subsection (2) and subsection (3)(b), the use of an unlicensed motor vehicle in such circumstances or for such purposes as the Director General may, in any particular case, approve.
- (3) Where an unlicensed motor vehicle is used on a road —
- (a) under the authority of a permit issued under subsection (1) and in accordance with such conditions, if any, as may have been imposed at the time of the issue of the permit; or
 - (b) with number plates issued pursuant to subsection (2) and in accordance with such conditions as may be prescribed relating to the use of those plates and of vehicles to which they may be attached,
- the use of the vehicle shall be lawful notwithstanding any provision of section 15 to the contrary.
- (4) Where an unlicensed motor vehicle for which a permit has been issued under subsection (1) is driven or towed otherwise than in accordance with any condition imposed under that subsection, the Director General may cancel the permit by notice in writing under subsection (5).
- (5) A notice in writing referred to in subsection (4) —
- (a) shall be signed by a person authorized so to do by the Director General;
 - (b) shall be served on the person to whom the permit was issued; and
 - (c) shall come into operation when it is so served or at such later time (if any) as is specified in the notice.

[Section 26 amended by No. 71 of 1979 s.4; No. 81 of 1980 s.4; No. 105 of 1981 ss.10 and 19; No. 76 of 1996 s.20(3).]

27. Register of vehicle licences

- (1) The Director General shall keep a register of vehicle licences, and enter therein particulars of every vehicle licence issued by it, and shall upon the issue or renewal of any vehicle licence issue to the applicant a registration label evidencing the issue of the licence.
- (2) A registration label is valid only while the vehicle licence in respect of which it is issued is valid.
- (3) Every owner of a licensed vehicle shall at all times whilst the licence for the vehicle remains valid affix and keep affixed to the vehicle the registration label issued to him under this section by such means, in such manner, and in or on such place in the vehicle as may be prescribed.

[Section 27 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

27A. Effect of disqualification

- (1) Where a licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of a person, a licence held by that person in respect of a vehicle specified in the order or in respect of any vehicle (as the order directs), shall by force of this section be suspended so long as the licence suspension order continues in force and during that period shall be of no effect.
- (2) Subsection (1) shall not operate to extend the period for which a vehicle licence may be valid or effective beyond the expiration of the period for which the licence was expressed to be issued or renewed.
- (3) A vehicle licence obtained by a person who is disqualified from holding or obtaining a vehicle licence shall be of no effect.

[Section 27A inserted by No. 92 of 1994 s.35.]

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28. Classification of vehicle licences

Notwithstanding any other provision of this Part, the Governor may make regulations prescribing classes of vehicle licences and by those regulations —

- (a) designate the kind or kinds of vehicle to which any class of licence is to apply;
- (b) permit licences of any particular class to be issued for a limited period or limited periods; and
- (c) empower the Director General to impose limitations on the use of a vehicle for which a particular class of licence is issued.

[Section 28 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

28A. Fees may be amended by regulation

- (1) The Governor may make regulations amending or substituting Part III of the Second Schedule and, subject to subsection (2), that Part as so amended or substituted shall have effect as if enacted in this Act.
- (2) Where Part III of the Second Schedule is amended or substituted by regulations made under this section, that Part as in force immediately before the commencement day of those regulations shall continue to apply in relation to —
 - (a) the grant of a vehicle licence if that licence is granted before the specified day; and
 - (b) the renewal of a vehicle licence if, pursuant to section 18(4), that renewal has effect, or is deemed to have effect, on and from a day that precedes the specified day.
- (3) In this section —
“**commencement day**” in relation to regulations, means the day from which, pursuant to section 36 of the *Interpretation Act 1918*⁵, those regulations take effect and have the force of law;

“**specified day**”, in relation to regulations, means the day prescribed therein as the specified day for the purposes of this section, being a day not less than 30 days after the commencement day of those regulations.

[Section 28A inserted by No. 10 of 1979 s.4.]

29. Minister may require vehicles to be inspected

- (1) The Minister may, by notice published in the *Government Gazette*, prohibit the issue, renewal or transfer of any vehicle licence, in respect of a vehicle unless and until the vehicle has been examined and a certificate of inspection has been issued pursuant to this Act that the vehicle meets the prescribed standards and requirements and that the vehicle is fit for the purpose for which the licence is desired.
- (2) The Minister may, in a notice under subsection (1), declare that the provisions of the notice —
 - (a) apply in respect of vehicles generally or in respect of vehicles of a class specified in the notice;
 - (b) apply throughout the State or in a part of the State specified in the notice;
 - (c) do not apply in a case, or cases of a class, specified in the notice.

[Section 29 inserted by No. 71 of 1979 s.5; amended by No. 76 of 1996 s.6.]

Part IV — Overseas motor vehicles when temporarily in Australia

30. Application of this Part

- (1) This Part applies to any motor vehicle which is imported for temporary use in the Commonwealth from any country outside the Commonwealth and is —
 - (a) landed in this State direct from that country; or
 - (b) brought to this State from any other State or a Territory of the Commonwealth.
- (2) The provisions of this Part do not affect the other provisions of this Act or the provisions of the regulations made under this Act except to the extent expressly provided.

[Section 30 amended by No. 57 of 1997 s.106(1).]

31. When owner of overseas vehicle entitled to free licence

Where a motor vehicle to which this Part applies and which is owned by a person who is not a permanent resident of any State or Territory of the Commonwealth is landed in this State direct from any country outside the Commonwealth, the owner of the vehicle is entitled, on application to the Director General and subject to the provisions of sections 34 and 35, to be issued with a vehicle licence for that vehicle without payment of the vehicle licence fee, for a period not exceeding 12 months calculated from the date when the vehicle was landed in this State, if it appears to the Director General that there are in force —

- (a) a vehicle licence or registration effected in relation to that vehicle under the law of the country of which the owner is a permanent resident; and
- (b) a contract of insurance with respect to the vehicle as provided in section 4 of the *Motor Vehicle (Third Party Insurance) Act 1943*,

but the period for which the Director General issues a licence under this section shall not extend beyond the date of the expiry of

the licence or registration effected under the law of that country nor beyond the date of the expiry of the contract of insurance.

[Section 31 amended by No. 105 of 1981 s.19; No. 21 of 1995 s.9; No. 76 of 1996 s.20(3).]

32. Licence issued in another State valid in this State

For the purpose of this Part a licence issued or a registration effected by any licensing or registering authority of another State or Territory of the Commonwealth in respect of a vehicle to which this Part applies is, during the currency of the licence or registration and so long as a contract of insurance with respect to that vehicle as provided in section 3(4), or in section 4, of the *Motor Vehicle (Third Party Insurance) Act 1943* is in force, to be regarded as a vehicle licence under this Act in respect of the vehicle when it is used on any road within the State.

33. When free licence may be extended free of charge

Where a licence issued without payment of the vehicle licence fee under section 31, or a licence issued, or a registration effected, free of charge by any licensing or registering authority of another State or a Territory of the Commonwealth, in respect of a motor vehicle to which this Part applies, expires, the owner of the vehicle is, if the vehicle is being used in this State, on application to the Director General and subject to the provisions of sections 34 and 35, entitled to an extension or a renewal of the licence or registration by the Director General without payment of the vehicle licence fee for a period not extending beyond the period of 12 months from the date on which the vehicle was landed in the Commonwealth, if it appears to the Director General that there are in force —

- (a) a vehicle licence or registration effected in respect of that vehicle under the law of the country of which the owner is a permanent resident; and
- (b) a contract of insurance with respect to the vehicle as provided in section 3(4), or in section 4, of the *Motor*

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Vehicle (Third Party Insurance) Act 1943, but the period for which the Director General extends or renews the licence or registration under this section is not to extend beyond the date of the expiry of the licence or registration, as the case may be, effected under the law of that country nor beyond the date of the expiry of the contract of insurance.

[Section 33 amended by No. 105 of 1981 s.19; No. 21 of 1995 s.9; No. 76 of 1996 s.20(3).]

34. Owner to furnish evidence of guarantee that vehicle will be taken out of Australia before free licence or extension of licence granted

The owner of the vehicle is not entitled to be issued with a licence for the vehicle without payment of the vehicle licence fee under section 31 or to an extension or renewal of the licence or registration without payment of the vehicle licence fee under section 33, unless he produces for inspection by the Director General a document representing a valid *Triptyque* or *Carnet de passages en douane* relating to the vehicle, or such other documentary evidence as the Director General requires establishing that the owner has given to the Customs Department of the Commonwealth Government a guarantee that the vehicle is to be subsequently taken out of Australia.

[Section 34 amended by No. 105 of 1981 s.19; No. 21 of 1995 s.9; No. 76 of 1996 s.20(3).]

35. No licence to be granted or extended unless requirements regarding construction, etc., of vehicles complied with

The Director General shall not grant, issue, extend or renew a licence in respect of a motor vehicle to which this Part applies, notwithstanding the provisions of section 31 or 33, unless it appears to a licensing officer of the Director General that the provisions of this Act relating to the construction, appliances,

lamps and other equipment of motor vehicles have been complied with in regard to that motor vehicle.

[Section 35 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

36. Free licence or renewal ceases to be valid when owner becomes, or transfers vehicle to, permanent resident

When the owner of a vehicle to which this Part applies and in respect of which a vehicle licence is issued, extended or renewed without payment of the vehicle licence fee under this Part becomes, or transfers the vehicle to, a permanent resident of the Commonwealth of Australia, the licence so issued, extended or renewed becomes invalid.

[Section 36 amended by No. 21 of 1995 s.9.]

37. When provisions of Act apply as though this Part was not enacted

Where the owner of a vehicle to which this Part applies is not entitled to be issued with a licence for the vehicle without payment of the vehicle licence fee under section 31, or to an extension or renewal of the licence without payment of the vehicle licence fee under section 33, or where a licence issued without payment of the vehicle licence fee in respect of a vehicle to which this Part applies becomes invalid as provided by section 36, the vehicle may be licensed in accordance with the provisions of this Act as though this Part was not enacted.

[Section 37 amended by No. 21 of 1995 s.9.]

38. Registration label to be issued with each licence or renewal of licence

- (1) Where, under the provisions of this Part, a licence for a vehicle shall or may be granted, extended or renewed without payment of the vehicle licence fee the Director General shall, when granting, extending or renewing a licence, issue to the owner of

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the vehicle a registration label, without further payment, which shall have effect for the duration of the licence in respect of which it is issued.

- (2) The owner of the vehicle shall, so long as the licence in respect of which it is issued remains in force, affix and keep affixed to the vehicle the registration label issued to him under this section by such means and in such manner as is prescribed in regard to ordinary registration labels.

[Section 38 amended by No. 105 of 1981 s.19; No. 21 of 1995 s.9; No. 76 of 1996 s.20(3).]

39. Number plates on overseas vehicles

- (1) Where a motor vehicle, to which this Part applies and which is owned by a person who is not a permanent resident of any State or Territory of the Commonwealth, when landed in or brought to this State, is equipped with one or more number plates in accordance with the law of the country, or the States or Territory of the Commonwealth from which it was so landed or brought, those number plates are to be regarded, so long as the vehicle licence under this Act remains or is regarded to be in force and the vehicle is being used temporarily within the Commonwealth, as number plates issued under this Act.
- (2) Where the vehicle is not so equipped or where the number plate is so mutilated that any material part is obscured, obliterated or indistinct, the Director General shall, on payment of the prescribed charge, issue to the person a temporary plate or plates which he shall affix to the vehicle in the manner prescribed and which are to be regarded, so long as a vehicle licence or registration under this Act remains in force in respect of the vehicle and the vehicle is being used temporarily within the Commonwealth, as a number plate or plates issued under this Act.

[Section 39 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

40. Regulations

The Governor may make such regulations as may be necessary or convenient for carrying out or giving effect to the provisions of this Part and, without limiting the generality of the foregoing, by such regulations may —

- (a) prescribe the particulars to be stated in any application made under section 31 or 33;
- (b) prescribe the type of temporary number plates to be issued by the Director General, the charge for temporary number plates and the conditions of their use, and provide for their surrender before the vehicles in respect of which they are issued are taken out of Australia;
- (c) provide for the issue by the Director General at a prescribed charge of plates displaying the words “Left-Hand Drive” in letters at least 50 millimetres high to owners of vehicles to which this Part applies and which have the steering apparatus on the left-hand side of the vehicle;
- (d) prescribe the charge for those plates;
- (e) prescribe the conditions under which “Left-Hand Drive” vehicles to which this Part applies may be used on any road in this State;
- (f) prescribe the nature and kind of information and particulars owners of vehicles to which this Part applies are to give the Director General at any specified time or from time to time;
- (g) authorize the licensing under this Part and the use in this State of vehicles to which this Part applies notwithstanding that any regulations relating to the construction, appliances, lamps and other equipment have not been complied with; and
- (h) require every vehicle to which this Part applies and in respect of which any regulations referred to in paragraph (g) have not been complied with to be

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converted so as to comply with those regulations when the owner becomes, or the vehicle is transferred to, a permanent resident of the Commonwealth.

[Section 40 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

41. *Transport Co-ordination Act 1966 not affected*

The provisions of this Part do not affect any of the provisions of the *Transport Co-ordination Act 1966* ².

Part IVA — Licensing of drivers

[Heading inserted by No. 76 of 1996 s.7.]

42. Licensing of drivers

- (1) An application for a driver's licence shall be lodged with the Director General in a form approved by the Director General and shall specify the class of motor vehicle for which the appropriate licence is sought.
- (2) Subject to the succeeding provisions of this Part, the Director General shall, on the application of any person, on payment of the prescribed fee and on being satisfied that the applicant —
 - (a) has —
 - (i) attained the minimum age of 17 years, unless in the opinion of the Director General the denial of a licence to a person of lesser age would occasion undue hardship; or
 - (ii) if the application is for a driver's licence for a moped, attained the age of 16 years;
 - (b) has, if under the age of 18 years, obtained the consent in writing of a parent or guardian to hold the class of licence applied for, or, where the applicant has no parent or guardian in the State, of his employer, to hold the class of licence applied for if considered essential for the purposes of his employment;
 - (c) has demonstrated his ability to control the class of motor vehicle for which the appropriate driver's licence is sought; and
 - (d) has a reasonable knowledge of the traffic laws of the State and of safe driving techniques,

issue to the applicant a driver's licence appropriate to the class of vehicle for which it is sought.

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- (2a) The Director General may accept evidence other than the requirement that a person undergo a driving test in satisfaction of the requirement imposed by subsection (2)(c).
- (3) Without limiting subsection (2a), the Director General may, in satisfaction of the requirement imposed by subsection (2)(c), accept evidence from a body authorized by the Director General for that purpose.
- (4) An applicant for a driver's licence appropriate to the passenger vehicle class provided by section 43 may, in addition to satisfying the requirements of subsection (2), be required to —
 - (a) submit himself to a medical practitioner approved by the Director General for examination as to his physical fitness to drive a passenger vehicle; and
 - (b) supply proof of his good character.
- (5) The holder of a driver's licence to which subsection (4) applies shall, at intervals prescribed by regulations or determined in a particular case under subsection (6), submit himself to a medical practitioner approved by the Director General for examination as to his physical fitness to drive a passenger vehicle.
- (6) Upon examining a person for the purposes of subsection (4) or (5), a medical practitioner may recommend in writing to the Director General that shorter intervals than those prescribed under subsection (5) should apply in relation to that person and the Director General may determine that the shorter intervals so recommended shall apply in relation to that person and shall inform the person in writing accordingly.
- (7) The Director General shall not issue a driver's licence to a person mentioned in section 51(2), (3) or (3a), until that person has again complied with the requirements of subsection (2), and shall then issue the licence on probation only, unless the person has then —
 - (a) attained the age of 18 years; and
 - (b) been the holder of a valid driver's licence issued on probation for a period of, or periods amounting in the aggregate to, one year.

- (8) The Director General shall not issue a driver's licence to a person whose licence has been cancelled by force of section 75(2a) or (2b) until that person has again complied with the requirements of subsection (2).

[Section 42 amended by No. 89 of 1978 s.7; No. 42 of 1980 s.5; No. 105 of 1981 s.19; No. 95 of 1984 s.3; No. 57 of 1988 s.4; No. 76 of 1996 ss.8 and 20(3).]

42A. Form of licence

- (1) A driver's licence shall be in such form as the Director General may approve.
- (2) The Director General may approve different forms of drivers' licences for different circumstances or for different provisions of this Act.
- (3) A form of driver's licence approved by the Director General may allow for the inclusion in the licence of a photograph of the face of the holder of the licence.
- (4) A form of application for a driver's licence under section 42 or for renewal of a licence under section 46 shall provide for the applicant to choose whether he wishes a licence issued to him —
- (a) to contain a photograph referred to in subsection (3); or
 - (b) not to contain any photograph of the applicant.
- (5) A driver's licence shall not contain any photograph of the person who is the holder of the licence unless that person has in his application for a licence or for a renewal of a licence made the choice described in subsection (4)(a).
- (6) A person who makes the choice referred to in subsection (4)(a) is deemed to consent to the taking of his photograph for the purposes of this section.
- (7) Where a photograph of a person is taken for the purposes of a driver's licence, all photographs and photographic negatives created, other than the photograph appearing in the licence, shall

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be destroyed, or damaged so as to be unusable, not later than 3 months after the photograph is taken.

- (8) The Director General shall ensure that subsection (7) is complied with.
- (9) No person shall be in possession of a photograph or a photographic negative that has not been damaged or destroyed as required by subsection (7).

Penalty applicable to this subsection: 40 PU.

[Section 42A inserted by No. 57 of 1988 s.5; amended by No. 76 of 1996 s.20(3); No. 50 of 1997 s.13.]

43. Regulations classifying vehicles, drivers, etc.

- (1) The Governor may make regulations —
 - (a) classifying motor vehicles for the purposes of this Part;
 - (b) prescribing the minimum ages, subject to section 42, of persons to be issued with a driver's licence appropriate to any class of motor vehicle;
 - (c) requiring that an applicant for a driver's licence for specified classes of motor vehicle be the holder for a prescribed period of a driver's licence for such other class or classes of motor vehicle as is or are, respectively, specified in the regulations; and
 - (d) providing for transitional provisions in relation to the issue of drivers' licences where the Director General has approved a new form of licence under section 42A, including provision for the surrender of existing licences and the issue of licences in a new form in place of existing licences.
- (2) Without limiting the generality of subsection (1)(a), a vehicle may be classified by regulations under that paragraph by reference to the purpose for which or manner in which it is being used.

[Section 43 amended by No. 89 of 1978 s.8; No. 11 of 1988 s.6; No. 57 of 1988 s.6; No. 76 of 1996 s.20(3).]

44. Conditional drivers' licences

- (1) Where an applicant for a driver's licence —
- (a) is, in the opinion of the Director General, incapable, by reason of any physical disability, of properly driving or controlling a motor vehicle but the incapacity can be overcome by the wearing of suitable aids or the fitting to the motor vehicle of suitable appliances;
 - (aa) is unable to comply with the requirement of section 42(2)(c) but, in the opinion of the Director General —
 - (i) the applicant is capable of controlling the class of motor vehicle for which the driver's licence is sought under certain conditions or subject to certain limitations; and
 - (ii) the denial of a driver's licence would occasion undue hardship or inconvenience;
 - (b) is unable to comply with any of the requirements, not being the requirement of section 42(2)(c), and the denial of a driver's licence would, in the opinion of the Director General occasion undue hardship or inconvenience; or
 - (c) should not, in the opinion of the Director General, drive a motor vehicle, except subject to conditions or limitations,
- the Director General may issue a driver's licence subject to such conditions or limitations as the Director General thinks fit to impose, and those conditions or limitations shall be endorsed on the driver's licence.
- (1a) Where the Director General is of the opinion described in subsection (1)(a) in relation to the holder of a driver's licence, the Director General may at any time during the currency of the licence, or upon a renewal thereof endorse such conditions or limitations as the Director General thinks fit on the licence whether by adding any new condition or limitation or amending an existing condition or limitation.

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- (1b) The Director General may at any time by notice in writing given to the holder of a licence revoke any condition or limitation endorsed on the licence under this section.
- (1c) The Director General may, by notice in writing given to the holder of a licence, request him to produce the licence to the Director General for endorsement under subsection (1a) at a place, specified in the notice, and a person to whom such a notice is duly given shall comply with it as soon as is practicable.
- (2) Every person who, being the holder of a driver's licence endorsed with conditions or limitations pursuant to this section, fails to comply with those conditions or limitations, or any of them, commits an offence.
- Penalty: For a first offence, 6 PU.
For a subsequent offence, 12 PU.
- (3) For the purposes of this section a condition or limitation is endorsed on a driver's licence if —
- (a) notice of the condition or limitation is served on the applicant for or the holder of the licence; and
 - (b) the condition or limitation is set out on the licence or a notation appears thereon referring to the fact that the licence is subject to any condition or limitation.

[Section 44 amended by No. 81 of 1980 s.5; No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 32 of 1988 s.4; No. 57 of 1988 s.7; No. 78 of 1995 s.147; No. 76 of 1996 s.20(1) and (3); No. 50 of 1997 s.13.]

45. Drivers' licences to be issued on probation

- (1) Every driver's licence that is issued to a person who —
- (a) has not previously held a driver's licence under this Act and has not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory;

[(b) repealed]

- (c) being, or having been, the holder of a driver's licence issued on probation, has not been the holder of a valid driver's licence so issued for a period of, or for periods amounting in the aggregate to, one year; or
- (d) is under the age of 18 years,

shall be issued on probation only, and the licence shall be endorsed to that effect, in the prescribed manner.

- (1a) A driver's licence that is issued on probation only on and after the coming into operation of section 9 of the *Road Traffic Act Amendment Act 1978*¹ is valid only for a period of 12 months commencing from the date of issue and may be renewed, subject to and in accordance with the provisions of this Act.
- (2) For the purposes of this section, a person is not the holder of a driver's licence for any period during which the licence is cancelled or during any period of its invalidity.
- (3) Where a person satisfies the Director General that he has, under the law in force in any other State or in a Territory or other country, been authorized to drive a motor vehicle for a period of, or for periods amounting in the aggregate to, less than one year, he is deemed, for the purposes of subsection (1)(c) and subsection (4), to have been the holder of a driver's licence issued on probation during that period or those periods and the period or periods shall be taken into account, accordingly.
- (4) For the purposes of this Act a driver's licence issued on probation shall be deemed to be an unrestricted licence if and when the holder of the licence has —
 - (a) attained the age of 18 years; and
 - (b) been the holder of a valid driver's licence issued on probation for a period of, or periods amounting in the aggregate to, one year.

[(5) repealed]

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- (6) The provisions of subsection (4) shall have effect in relation to a driver's licence notwithstanding the terms of any endorsement made on that licence for the purpose of this section.

[Section 45 amended by No. 17 of 1976 s.3; No. 89 of 1978 s.9; No. 105 of 1981 s.19; No. 95 of 1984 s.4; No. 11 of 1988 s.7; No. 13 of 1992 s.5; No. 76 of 1996 s.20(3).]

46. Renewal of drivers' licences

- (1) Subject to this Act, a driver's licence —
- (a) may be issued to have effect for a period that is prescribed, being a period commencing on the day of issue;
 - (b) may be renewed from time to time to have effect for a period that is prescribed, being a period commencing on the day of the renewal.
- (1a) An application for renewal under subsection (1)(b) shall be made by the holder of the licence, in a form approved by the Director General, within one month before or within 12 months after the expiry of the licence.
- (2) Where a driver's licence is not renewed prior to its expiry but within a period of 12 months thereafter, the renewal has the effect of validating the licence for the balance of the period for which the renewal would have had effect had it been effected prior to the expiry only, but where the holder has, within 15 days after the expiry, given to the Director General notice of his intention not to renew the licence and thereafter renews it within 12 months after its expiry, the renewal has effect on and from the day on which it is effected.
- (3) Where the renewal of a driver's licence is not effected within 12 months after its expiry, the Director General may require an applicant for renewal to satisfy the Director General of all or any of the requirements, provided by section 42(2).

[(4) repealed]

- (5) Where the holder of a driver's licence to which section 42(4) applies is required to submit himself to a medical examination in accordance with section 42(5), the licence may be renewed only if the holder satisfies the Director General that he has complied with section 42(5) and has been found fit to drive a passenger vehicle.

[Section 46 amended by No. 71 of 1979 s.6; No. 42 of 1980 s.6; No. 105 of 1981 s.19; No. 95 of 1984 s.5; No. 57 of 1988 s.8; No. 76 of 1996 s.20(1) and (3).]

47. Fees for drivers' licences and renewals of drivers' licences

- (1) There shall be payable on the issue, and renewal, of a driver's licence such fee as is prescribed.
- (2) The provisions of section 20 apply, with such adaptation as may be necessary, where the fee payable for the issue or renewal of a driver's licence is paid by a cheque.

[Section 47 inserted by No. 76 of 1996 s.9.]

48. Power of Director General to refuse, cancel and suspend drivers' licences

- (1) The Director General may refuse to issue a driver's licence, or may cancel, suspend or refuse to renew a driver's licence, where the Director General has reason to believe that the applicant for, or the holder of, a driver's licence —
- (a) is not of good character;
 - (b) is addicted to alcohol or drugs to such extent as to render him a danger to the public when in control of a motor vehicle on a road;
 - (c) suffers from a mental disorder or physical disability that is likely to impair his ability to control a motor vehicle;
 - (d) is debarred from driving a motor vehicle under the law in force in any other State or in a Territory or other country;

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- (e) should not, by reason of the number or nature of his convictions for offences under this Act or the regulations, be the holder of a driver's licence;
 - (f) is no longer capable of controlling the class of motor vehicle for which he holds the appropriate driver's licence.
- (1a) Where the Director General has reason to believe that the holder of a driver's licence —
- (a) suffers from a mental disorder or physical disability that is likely to impair his ability to control a motor vehicle except under certain conditions or subject to certain limitations; or
 - (b) is no longer capable, except under certain conditions or subject to certain limitations, of controlling the class of motor vehicle for which he holds the appropriate driver's licence,

and that to refuse to renew that licence would occasion undue hardship or inconvenience the Director General may renew the licence subject to such conditions as the Director General thinks fit to impose and those conditions shall be endorsed on the driver's licence.

- (2) Without limiting the operation of subsection (1), where the Director General suspects that grounds may exist for the suspension or cancellation of a driver's licence on any one or more of the grounds specified in that subsection, the Director General may, by notice served on the person who is the holder of that driver's licence, require him to satisfy the Director General within such reasonable period as is specified in the notice that the Director General would not be empowered to so suspend or cancel his driver's licence on that ground or those grounds, as the case requires, and where the person fails to so satisfy the Director General within that period or within such further period as the Director General may allow, the Director General may suspend the driver's licence held by that person until the Director General becomes so satisfied.

- (3) Without affecting any penalty to which the holder may be liable, the Director General may cancel or suspend the operation of, and refuse to renew, a driver's licence, where —
- (a) the holder of the licence obtained its issue by fraud or misrepresentation or in a manner contrary to the provisions of this Act; or
 - (b) the licence being endorsed, pursuant to section 44, the holder of the licence has failed to comply with any conditions so endorsed.
- (4) Where the Director General decides to exercise the power conferred by subsection (1), (1a), (2) or (3), as the case may be, the Director General shall give to the person thereby affected notice in writing of that decision, setting out the Director General's reasons therefor, and a person aggrieved by the decision may, within 30 days after the receipt of the notice, apply, by way of complaint, to a court of petty sessions for a review of the decision.
- (5) The court hearing an application made under subsection (4) shall be constituted by a stipendiary magistrate and may, after hearing the parties, grant or dismiss the application, and, if granting the application, shall review the decision of the Director General and make such order, including an order for the issue of a driver's licence, with or without conditions and limitations, as it thinks fit.
- (6) (a) The holder of a licence issued subject to conditions and limitations pursuant to the making of an order under subsection (5) may from time to time during the currency of the licence apply by way of complaint to a court of petty sessions constituted by a stipendiary magistrate for an order varying the conditions and limitations to which the licence is for the time being subject or cancelling and substituting other conditions and limitations therefor.

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- (b) If the court is of opinion that the conditions and limitations to which the licence is then subject, should be varied or cancelled and other conditions and limitations substituted therefor, the court may order accordingly.
 - (c) When an order is so made, the Director General shall cause the conditions and limitations as so varied or substituted to be endorsed on the licence.
 - (d) The court may order the complainant to pay the whole or any part of the costs of an application made under this subsection.
- (7) Subject to subsection (1a), the Director General shall not renew a driver's licence in the case of a licence holder aged 75 years or more, unless the licence holder satisfies the Director General, at the prescribed intervals that he is able to comply with the requirements of section 42(2)(c).
- (8) Where, under subsection (1a) or pursuant to an order made under subsection (5) or (6), a licence is issued subject to limitations or conditions, the provisions of section 44(2) apply, as though the licence were issued pursuant to that section.
- (9) For the purposes of this section a condition or limitation is endorsed on a driver's licence if —
- (a) notice of the condition or limitation is served on the applicant for or the holder of the licence; and
 - (b) the condition or limitation is set out on the licence or a notation appears on the licence referring to the fact that the licence is subject to any condition or limitation.

[Section 48 amended by No. 71 of 1979 s.7; No. 81 of 1980 s.7; No. 105 of 1981 s.19; No. 82 of 1982 s.6; No. 32 of 1988 s.5; No. 57 of 1988 s.10; No. 76 of 1996 s.20(1) and (3).]

48A. Forfeited licence to be delivered up

- (1) When any driver's licence issued to a person is cancelled or suspended or a person who is the holder of a driver's licence is disqualified from holding or obtaining a driver's licence, the person shall, on demand made by an authorized person, deliver the licence to the authorized person.
- (2) In subsection (1) —
 “authorized person” means —
 - (a) the Director General;
 - (b) any person authorized by the Director General for the purposes of this section; or
 - (c) any member of the Police Force.

[Section 48A inserted by No. 76 of 1996 s.10.]

48B. Issue of duplicate licence

- (1) Whenever a driver's licence is lost or destroyed, a duplicate or certified copy of it shall, on payment of the prescribed fee, be issued by the Director General, and shall serve and be available in lieu of the original.
- (2) In subsection (1) —
 “duplicate” includes any form of licence approved by the Director General under section 42A, but the form of licence issued by the Director General shall not contain any photograph of the holder of the licence unless that person when applying under this section has applied for a licence containing such a photograph.

[Section 48B inserted by No. 76 of 1996 s.10.]

48C. Learners' permits

- (1) The Director General may, subject to such conditions as the Director General sees fit to impose, issue a permit authorizing a person —
 - (a) who has attained the age of 16 years, to drive a motor vehicle of the class specified in the permit in the course

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of driving instruction under a youth driver education course conducted or supervised by a body authorized by the Director General for that purpose;

- (b) who has attained the age of 16 years and 9 months, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by any holder of a licence issued under the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) who has attained the age of 17 years, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by any holder of a licence referred to in paragraph (b) or by a person who has held a driver's licence appropriate to the class of vehicle specified in the permit for at least 4 years and who, in the case of a permit issued to a person who has an incapacity of the kind mentioned in section 44(1)(a), is approved by the Director General;
- (d) who has not attained the age of 17 years and who is an applicant for a licence under section 44, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by any holder of a licence referred to in paragraph (b) or by a person who has held a driver's licence appropriate to the class of vehicle specified in the permit for at least 4 years and who, in the case of a permit issued to a person who has an incapacity of the kind mentioned in section 44(1)(a), is approved by the Director General; or
- (e) who has attained the age of 16 years and who is an applicant for a licence under section 42(2)(a)(ii), to drive a moped in the course of driving instruction by any holder of a licence referred to in paragraph (b) or by a person who has held an appropriate driver's licence for at least 2 years and who, in the case of a permit issued to a person who has an incapacity of the kind mentioned in section 44(1)(a), is approved by the Director General.

- (2) The Director General shall cause a permit issued under this section to be endorsed with any conditions to which its issue is subject.
- (3) Subject to section 75(2) a permit issued under this section is valid for a period of 12 months from the date of issue unless it is sooner cancelled.
- (4) The Director General may, at any time, by notice in writing given to the holder, cancel a permit issued under this section.
- (5) Where the Director General causes a person applying for a driver's licence to undergo a driving test for the purposes of satisfying the Director General of the applicant's ability to control the class of motor vehicle for which the driver's licence is sought, the applicant is authorized to drive a motor vehicle during the conduct of the test as if the applicant were at that time the holder of the appropriate driver's licence.

[Section 48C inserted by No. 76 of 1996 s.10.]

48D. Drivers' licences issued overseas

- (1) Subject to section 50A(2), where a person, who is not a permanent resident of any State or Territory and who is not disqualified from holding or obtaining a licence to drive a motor vehicle under this Act, is temporarily in this State and holds —
 - (a) a licence to drive a motor vehicle;
 - (b) the equivalent of a licence to drive a motor vehicle; or
 - (c) an international driving permit,issued in the country of which the person is a permanent resident, that licence, equivalent of a licence, or permit is to be regarded as a driver's licence issued under this Act authorizing the person to drive in this State any vehicle of the type or class to which the licence, equivalent of a licence, or permit is applicable until —
 - (d) the expiration of one year after the holder's arrival in this State;

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- (e) the licence, equivalent of a licence, or permit expires; or
- (f) the authority to drive is withdrawn by notice served pursuant to subsection (2),

whichever first occurs.

- (2) Where, in the opinion of the Director General, a person referred to in subsection (1) —
 - (a) suffers from mental or physical disability likely to affect the person's ability to drive a motor vehicle efficiently, having regard to the safety of the public generally;
 - (b) is otherwise unfit to drive a motor vehicle, or, having regard to the safety of the public generally, it is not desirable that the person should be permitted to drive a motor vehicle; or
 - (c) has been convicted of an offence in connection with the driving of a motor vehicle,

the Director General may at any time by notice in writing served on the person, withdraw the authority conferred by subsection (1).

[Section 48D inserted by No. 76 of 1996 s.10.]

48E. Drivers' licences issued elsewhere in Australia

- (1) Subject to section 50A(2) where a person usually resident in another State or a Territory —
 - (a) is temporarily within this State;
 - (b) holds a licence or permit to drive a vehicle, issued pursuant to the laws of the State or Territory in which the person usually resides;
 - (c) has not been served with notice pursuant to subsection (2); and

- (d) is not otherwise disqualified from holding or obtaining a driver's licence in this State,

the licence or permit shall authorize the person to drive in this State any vehicle of the type or class to the driving of which the licence or permit is applicable until —

- (e) the expiration of one year after the holder's arrival in this State;
- (f) the licence or permit expires; or
- (g) the authority to drive is withdrawn by notice served pursuant to subsection (2),

whichever first occurs.

- (2) Where, in the opinion of the Director General, a person referred to in subsection (1) —
 - (a) suffers from mental or physical disability likely to affect the person's ability to drive a motor vehicle efficiently, having regard to the safety of the public generally;
 - (b) is otherwise unfit to drive a motor vehicle, or, having regard to the safety of the public generally, it is not desirable that the person should be permitted to drive a motor vehicle; or
 - (c) has been convicted of an offence in connection with the driving of a motor vehicle,

the Director General may at any time by notice in writing served on the person, withdraw the authority conferred by subsection (1).

[Section 48E inserted by No. 76 of 1996 s.10.]

48F. Persons taking up residence

A person who —

- (a) enters this State with the intention of permanently residing here; and

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- (b) but for that intention would be authorized to drive a motor vehicle pursuant to section 48D or 48E,

shall be taken to be similarly authorized as if the person were temporarily within this State, but for that purpose the reference to one year in section 48D(1)(d) or in section 48E(1)(e) shall be construed as a reference to 3 months.

[Section 48F inserted by No. 76 of 1996 s.10.]

Part V — Regulation of traffic

[Heading inserted by No. 76 of 1996 s.11.]

49. Offence of driving motor vehicle without appropriate driver's licence

- (1) Subject to subsections (2) and (3) and to sections 48C to 48F, every person who —
- (a) drives a motor vehicle of a class for which he is not the holder of the appropriate, valid driver's licence; or
 - (b) employs, or permits, some other person to drive a motor vehicle of a class for which that other person is not the holder of the appropriate, valid driver's licence,

on a road, commits an offence.

Penalty: For a first offence, 6 PU.

For a subsequent offence, 12 PU.

- (2) Where —

- (a) a person —
 - (i) having applied for a driver's licence and having been refused the issue of the licence under section 48;
 - (ii) having held a driver's licence that is cancelled or of which the operation is suspended; or
 - (iii) having been disqualified from holding or obtaining a driver's licence,

commits, whilst still legally disqualified to hold a driver's licence, an offence against subsection (1)(a); or

- (b) a person in respect of whom an order is made under section 76(3) commits an offence against subsection (1)(a) before a licence has been issued

pursuant to that order or when any licence so issued has expired and has not been renewed,

the person may be arrested without warrant by a member of the Police Force and is liable, instead of to the penalties provided by subsection (1), to those provided by this subsection.

Penalty —

- (i) if the offence is committed in the circumstances mentioned in paragraph (a)(i): a fine of not less than 4 PU or more than 30 PU or imprisonment for a term not exceeding 12 months;
 - (ii) if the offence is committed in the circumstances mentioned in paragraph (a)(ii) or (iii) or (b): for a first offence, a fine of not less than 8 PU or more than 40 PU, or imprisonment for a term not exceeding 12 months, or both the fine and the imprisonment; and for any subsequent offence committed in any of those circumstances, a fine of not less than 20 PU or more than \$2 000, or imprisonment for a term not exceeding 18 months, or both the fine and the imprisonment.
- (3) The court convicting a person of an offence against this section shall, if the offence is committed in any of the circumstances mentioned in subsection (2), disqualify that person from holding or obtaining a driver's licence, appropriate to any class of vehicle whatever, for a period of not less than 9 months and not more than 3 years, as the court thinks fit, and the period of disqualification so imposed shall be cumulative upon any other period of disqualification to which the person may then be subject or upon any period for which the operation of his driver's licence may currently be suspended.
- (4) Subsection (1) does not apply to the driving of a vehicle that is exempted by the regulations from paragraph (b) of the

description of “Motor carrier” in the First Schedule if the vehicle is being driven by a physically disabled person.

[Section 49 amended by No. 48 of 1976 s.3; No. 105 of 1981 s.19; No. 11 of 1988 ss.8, 20 and 24; No. 78 of 1995 s.147; No. 76 of 1996 s.20(1); No. 50 of 1997 s.13.]

50. Unauthorized driving by learner drivers

The holder of a permit issued under section 48C(1) shall not drive a motor vehicle except in conformity with any conditions endorsed on the permit under section 48C(2) and unless accompanied by a driving instructor with whom the holder is authorized to drive pursuant to section 48C(1) seated beside the holder or, in the case of a permit to drive a motor cycle, riding in a side car attached, or on a pillion seat fitted, to the motor cycle or riding on an accompanying motor cycle.

Penalty: 6 PU.

[Section 50 inserted by No. 76 of 1996 s.12; amended by No. 50 of 1997 s.13.]

50A. Unauthorized driving by drivers from outside the State

- (1) A person referred to in section 48D(1) or 48E(1) shall —
 - (a) while driving a motor vehicle upon any road pursuant to the authority conferred by section 48D(1) or 48E(1), carry the licence, equivalent of a licence, or permit, as the case may be; and
 - (b) produce the licence, equivalent of a licence, or permit, as the case may be, for inspection at the request of any member of the Police Force.
- (2) A person referred to in section 48D(1) or 48E(1) who, being the holder of a licence, equivalent of a licence, or permit that is endorsed with or otherwise subject to conditions that can

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lawfully be complied with in this State, fails to comply with those conditions, or any of them, commits an offence.

Penalty: For a first offence, 8 PU.

For a subsequent offence, 16 PU.

[Section 50A inserted by No. 76 of 1996 s.12; amended by No 50 of 1997 s.13.]

51. Cancellation of drivers' licences issued on probation

- (1) Where the holder of a driver's licence issued on probation —
- (a) is convicted of an offence —
 - (i) mentioned in section 277 of *The Criminal Code* and the offence arose out of the driving by him of a motor vehicle;
 - (ii) under section 378 of *The Criminal Code* where the property in question was a motor vehicle;
 - (iii) under section 53(1), section 54, 55, 56, 59, 61, 62, 64AA, 64A, 89, 90 or 97; or
 - (iv) under any regulation that may be prescribed for the purposes of this section;
 - or
 - (b) is disqualified by a court pursuant to the provisions of this or any other Act, from holding or obtaining a driver's licence,

then, that licence is, by operation of this subsection, cancelled.

- (2) A person whose driver's licence is cancelled by operation of subsection (1) is disqualified from holding or obtaining a driver's licence —
- (a) for any period for which he is so disqualified by the court; or
 - (b) for a period of 3 months from the date of his conviction or, where he is convicted on more than one occasion of

an offence mentioned in subsection (1), from the date of his latest conviction,

whichever period terminates later.

- (3) Where a person who is the holder of a driver's licence issued on probation is disqualified by operation of section 103 from holding or obtaining a driver's licence —
- (a) the licence held by that person is, by operation of this subsection, cancelled; and
 - (b) that person is disqualified from holding or obtaining a driver's licence for a period of 3 months.
- (3a) Where the holder of a driver's licence issued on probation is disqualified from holding or obtaining a driver's licence by a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, then that licence is, by operation of this subsection, cancelled.
- [(4) *repealed*]
- (5) Subsection (5a) applies to a person who does not hold a driver's licence under this Act and who —
- (a) has not previously held a driver's licence under this Act and has not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory;
 - (b) having been the holder of a driver's licence issued on probation, has not been the holder of a valid driver's licence so issued for a period of, or for periods amounting in the aggregate to, one year; or
 - (c) is under the age of 18 years.
- (5a) Where a person to whom this subsection applies is —
- (a) convicted of an offence such as is mentioned in subsection (1) or an offence against section 49(1)(a); or

- (b) disqualified by a court from holding or obtaining a driver's licence,

that person is disqualified from holding or obtaining a licence —

- (c) for any period for which he is so disqualified by the court; or
- (d) for a period of 3 months from the date of his conviction or, where he is convicted on more than one occasion of an offence referred to in paragraph (a), from the date of his latest conviction,

whichever period terminates later.

- (6) Regulations made for the purpose of subsection (1)(a)(iv) may limit the application of that subsection to offences against the regulations that are attended by prescribed circumstances.

[Section 51 amended by No. 105 of 1981 s.19; No. 82 of 1982 s.7; No. 11 of 1988 s.10; No. 37 of 1991 s.21; No. 13 of 1992 s.6; No. 92 of 1994 s.36; No. 76 of 1996 s.13.]

[52. Repealed by No. 76 of 1996 s.14.]

53. Driver failing to give name and address to member of the Police Force, failing to stop, etc.

- (1) Any driver of a vehicle who —
 - (a) when required by a member of the Police Force to state his name and place of abode refuses to do so, or states a false name or place of abode; or
 - (b) refuses or fails to stop his vehicle when called upon to do so by a member of the Police Force,

commits an offence.

Penalty: For a first offence, 6 PU.

For a subsequent offence, 12 PU.

- (2) Any driver of a vehicle who, when required by any member of the Police Force, does not produce his driver's licence on demand, commits an offence against this Act and shall be liable to a penalty not exceeding 4 PU, but it shall not be an offence if the driver subsequently produces the licence, within a reasonable time after demand, to the Director General or to the officer-in-charge of any police station.
- (3) Any person who was present at the scene of any accident in which a vehicle was involved, and who, in the opinion of a member of the Police Force, may be able to give information or evidence in relation to the accident, shall, if requested so to do by the member of the Police Force, furnish to him particulars of his name and place of abode, and if the person refuses to furnish any of those particulars when requested so to do, or furnishes particulars of his name or place of abode which are false or untrue in any respect he shall be guilty of an offence.
- (4) Where a member of the Police Force has reasonable grounds for believing that a person has committed an offence against this Act, he may require that person to furnish him with particulars of his name and place of abode, and a person who, when so required, refuses to furnish those particulars or furnishes particulars which are false or untrue in any respect commits an offence.

Penalty: For a first offence, 6 PU.

For a subsequent offence, 12 PU.

[Section 53 amended by No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 78 of 1995 s.147; No. 76 of 1996 s.20(3); No. 50 of 1997 s.13.]

54. Duty to stop in case of accident, etc.

- (1) Where in the course of the use of any vehicle, an accident occurs whereby any person is injured or any property is damaged, the driver or person in charge of the vehicle shall

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unless himself disabled from doing so stop immediately after the occurrence of the accident, and, if required, shall produce his licence and give his name and address, and also if it is in his power to do so the name and address of the owner of the vehicle, to any person who has been injured or whose property has been damaged, or to a member of the Police Force, or to any person representing a person who has been injured or the owner of any property which has been damaged.

Penalty: 30 PU; and, if the offence relates to an accident whereby a person was injured, the court may in addition impose an additional fine of not more than 50 PU or a sentence of imprisonment for a term not exceeding 12 months, or both the fine and the imprisonment.

[(2) and (3) repealed]

- (4) In any proceedings in respect of any offence against subsection (1) of which the failing to stop immediately after the occurrence of any accident is an element, it is a defence for the person charged to prove that he was not aware of the occurrence of the accident to which the alleged offence relates.
- (5) If in the opinion of the court an offence against subsection (1) is of a serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.
- (6) In addition to the obligations set out in subsection (1) it shall be the duty of any person, who in the course of using a vehicle on a road or in any place commonly used by the public or to which the public is permitted to have access has caused injury to another person, to render such person all such assistance as may be necessary or practicable under the circumstances, including the obtaining of medical aid, and any person who refuses or neglects to render such assistance and obtain such aid shall be guilty of an offence against this Act.

Penalty: 30 PU; and, if in the opinion of the court the offender has shown a callous disregard for the injured person, the

court may in addition impose an additional fine of not more than 50 PU or a sentence of imprisonment for a term not exceeding 12 months, or both the fine and the imprisonment.

[Section 54 amended by No. 105 of 1981 s.19; No. 82 of 1982 s.8; No. 11 of 1988 s.21; No. 50 of 1997 s.13.]

55. Duty to report accident

- (1) Where, in the course of the use of any vehicle on a road, an accident occurs whereby damage is caused to any property the driver or person in charge of the vehicle shall (unless disabled by personal injury himself) report the accident forthwith to the officer in charge of the nearest police station unless the driver or person in charge of the vehicle has reasonable cause for believing that the damage so caused does not exceed, in the aggregate, an amount of \$1 000 and the owner, in each case, of any property damaged is, then or immediately thereafter, present or represented at the place where the accident occurred.

Penalty: For a first offence, 8 PU.

For a subsequent offence, 16 PU.

- (2) It shall be sufficient compliance with subsection (1) if a member of the Police Force attends at the scene of the accident and takes the necessary particulars of the accident.

[Section 55 amended by No. 71 of 1979 s.8; No. 105 of 1981 ss.11 and 19; No. 11 of 1988 ss.11 and 24; No. 50 of 1997 s.13.]

56. Duty to report accident whereby bodily injury is caused

- (1) Where, in the course of the use of any vehicle on a road or in any place commonly used by the public or to which the public is permitted to have access, an accident occurs whereby bodily injury is caused to any person the driver or person in charge of the vehicle shall (unless disabled by personal injury himself)

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report the accident forthwith to the officer in charge of the nearest police station.

Penalty: For a first offence, 16 PU and, for any subsequent offence 32 PU or imprisonment for 12 months; and, in any event, the court convicting a person of a subsequent offence shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

- (2) It shall be sufficient compliance with subsection (1) if a member of the Police Force attends at the scene of the accident and takes the necessary particulars of the accident.

[Section 56 amended by No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 78 of 1995 s.147; No. 50 of 1997 s.13.]

57. Duty of owner to identify driver of vehicle involved in accident

- (1) Where the use of a motor vehicle has occasioned, or been an immediate or proximate cause of, the death of a person or bodily harm to a person, the owner of the vehicle and any person to whom the possession or control of the vehicle was entrusted shall, if required by a member of the Police Force, give any information which it is in his power to give which may lead to the identification of the person who was driving or who was in charge or control of the vehicle at the time when the use of the vehicle occasioned or was an immediate or proximate cause of the death or bodily harm.

Penalty: 60 PU or imprisonment for 12 months.

- (2) In this section the term “**bodily harm**” has the same meaning as is given thereto in *The Criminal Code*.

[Section 57 amended by No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

58. Duty of owner to identify offending driver

Any owner of a vehicle and any person to whom for the time being the possession or control of a vehicle may be entrusted shall, if required by a member of the Police Force, give any information which it is in his power to give, which may lead to the identification of any person who was driving or who was in charge or control of the vehicle when an offence under this Act, is alleged to have been committed.

Penalty: For a first offence, 12 PU.

For a subsequent offence, 24 PU.

[Section 58 amended by No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

59. Dangerous driving causing death, injury, etc.

- (1) A person who causes the death of or grievous bodily harm to another person by driving a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an indictable offence which may, subject to subsection (1a), at the election of the person charged, be dealt with summarily.
- (1a) Despite any election under subsection (1) the court of petty sessions hearing the charge shall abstain from dealing with the charge summarily, and shall commit the defendant for trial on indictment, if the court —
 - (a) has reason to believe that, at the time of the alleged offence, the motor vehicle was unlawfully being driven without the consent of the owner or person in charge of the motor vehicle; or
 - (b) is for any reason of the opinion that the charge is a fit subject for prosecution by indictment.

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- (1b) Where a person charged with an offence referred to in subsection (1) elects to have the charge dealt with summarily and is convicted and the court is of the opinion that for any reason the sentence which it is empowered by subsection (3) to pass on the person convicted by it is inadequate, the court may, in lieu of passing sentence, commit the convicted person for sentence.
- (2) For the purposes of this section —
- (a) a person causes the death of or grievous bodily harm to another person whether he does so directly or indirectly;
 - (b) it is immaterial that the death or grievous bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment;
 - (c) when a person causes grievous bodily harm to another person and that other person receives surgical or medical treatment, and death results either from the harm or the treatment, he is deemed to have caused the death of that other person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith; and
 - (d) the term “**grievous bodily harm**” has the same meaning as is given thereto in *The Criminal Code*.
- (3) A person convicted of an offence against this section is liable —
- (a) if convicted upon indictment and, at the time of the offence, the motor vehicle was unlawfully being driven without the consent of the owner or person in charge of the motor vehicle, to a fine of any amount and to imprisonment for —
 - (i) 20 years, if the person has caused the death of another person; or
 - (ii) 14 years, if the person has caused grievous bodily harm to another person; or

- (aa) if convicted upon indictment in any other circumstances, to a fine of 400 PU or to imprisonment for 4 years; or
- (b) if convicted summarily, to a fine of 160 PU or to imprisonment for 18 months,

and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- (4) On the summary trial of a person charged with an offence against this section the person may, instead of being convicted of that offence, be convicted of an offence against section 59A, 61 or 62.

[Section 59 amended by No. 89 of 1978 s.12; No. 82 of 1982 s.9; No. 11 of 1988 s.24; No. 37 of 1991 s.6(2)¹⁶; No. 1 of 1992 s.6; No. 50 of 1997 s.13.]

59A. Dangerous driving causing bodily harm

- (1) A person who causes bodily harm to another person by driving a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.
- (2) For the purposes of this section —
 - (a) a person causes bodily harm to another person whether he does so directly or indirectly;
 - (b) it is immaterial that the bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment;
 - (c) the term “**bodily harm**” has the same meaning as is given thereto by *The Criminal Code*.
- (3) A person convicted of an offence against subsection (1) is liable —
 - (a) for a first offence, to a fine of 80 PU or to imprisonment for 6 months; and, in any event, the court convicting that

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person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;

- (b) for a second or subsequent offence, to a fine of 160 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

- (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 61 or 62.

[Section 59A inserted by No. 89 of 1978 s.13; amended by No. 82 of 1982 s.10; No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

60. Reckless driving

- (1) Every person who wilfully drives a motor vehicle in a manner (which expression includes speed) that is inherently dangerous or that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.
- (2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 61 or 62.
- (3) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of 20 PU or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;
 - (b) for a second offence, to a fine of 24 PU or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months; and

- (c) for a third or subsequent offence, to a fine of 48 PU or to imprisonment for 12 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 31 of the repealed Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.

[Section 60 amended by No. 11 of 1988 s.24; No. 78 of 1995 s.147; No. 50 of 1997 s.13.]

61. Dangerous driving

- (1) Every person who drives a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.
- (2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 62.
- (3) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of 16 PU; and
 - (b) for any subsequent offence, to a fine of 40 PU or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 31 or 31A of the repealed

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Act, or section 59 or 60 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.

[Section 61 amended by No. 11 of 1988 s.24; No. 78 of 1995 s.147; No. 50 of 1997 s.13.]

62. Careless driving

Every person who drives a motor vehicle without due care and attention commits an offence.

Penalty: 12 PU.

[Section 62 amended by No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

63. Driving under the influence of alcohol, etc.

- (1) A person who drives or attempts to drive a motor vehicle while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle commits an offence, and the offender may be arrested without warrant.
- (2) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of not less than 16 PU or more than 50 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;
 - (b) for a second offence, to a fine of not less than 30 PU or more than 70 PU or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years; and

- (c) for a third or subsequent offence, to a fine of not less than 40 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by him against section 32 of the repealed Act or section 67 of this Act as in force after the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.
- (4) The charging of a person with an offence against this section shall not limit the operation of section 66, but the person charged shall immediately be told by the person laying the charge that —
- (a) he has the right to be examined by a medical practitioner nominated by him, if one is available, and if he desires to exercise this right, every facility in this regard shall be afforded him; and
 - (b) he has the right to communicate with a legal practitioner and another person nominated by him,
- and if he desires to exercise any of those rights, every reasonable facility to do so shall be afforded him.
- (5) In any proceeding for an offence against this section a person who had at the time of the alleged offence a percentage of alcohol in his blood of or exceeding 0.15% shall be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.

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- (6) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 64 or 64AA or, where, at the time of the alleged offence, he was a person to whom section 64A applied, an offence against that section.
- (7) In any proceedings for an offence against this section if it is alleged or appears on the evidence that the defendant was under the influence of drugs alone, it is a defence for the defendant to prove —
- (a) that those drugs were —
 - (i) taken by him pursuant to a prescription of a medical practitioner or registered dentist; or
 - (ii) administered to him by a medical practitioner or registered dentist,
for therapeutic purposes; and
 - (b) that he was not aware, and could not reasonably have been expected to be aware, that those drugs were likely to render him incapable of having proper control of a motor vehicle.

[Section 63 amended by No. 82 of 1982 s.11; No. 11 of 1988 s.24; No. 13 of 1992 s.7; No. 50 of 1997 s.13.]

64. Driving with prescribed percentage of alcohol in the blood

- (1) A person who drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.08%, commits an offence.
- (2) If a court convicts a person of an offence against this section —
- (a) the person is liable to the relevant penalty in the Table to this subsection; and
 - (b) the court shall order that the person be disqualified from holding or obtaining a driver's licence for not less than

the relevant minimum period of disqualification in the Table to this subsection.

Table

Percentage of alcohol in blood		1st offence	2nd offence	Subsequent offence
≥ 0.08% but < 0.09%	Min: Max: Disq:	8 PU 30 PU 3 months	16 PU 30 PU 6 months	16 PU 30 PU 6 months
≥ 0.09% but < 0.10%	Min: Max: Disq:	10 PU 30 PU 3 months	16 PU 30 PU 6 months	16 PU 30 PU 7 months
≥ 0.10% but < 0.11%	Min: Max: Disq:	10 PU 30 PU 4 months	20 PU 30 PU 6 months	20 PU 30 PU 8 months
≥ 0.11% but < 0.12%	Min: Max: Disq:	12 PU 30 PU 4 months	20 PU 30 PU 7 months	20 PU 30 PU 9 months
≥ 0.12% but < 0.13%	Min: Max: Disq:	12 PU 30 PU 5 months	24 PU 30 PU 8 months	24 PU 30 PU 10 months
≥ 0.13% but < 0.14%	Min: Max: Disq:	14 PU 30 PU 5 months	24 PU 30 PU 10 months	24 PU 30 PU 12 months
≥ 0.14% but < 0.15%	Min: Max: Disq:	14 PU 30 PU 6 months	24 PU 30 PU 12 months	24 PU 30 PU 14 months

Note: ≥ signifies greater than or equal to
< signifies less than

- (2a) For the purposes of the Table to subsection (2), an offence is a second or subsequent offence against this section irrespective of the percentage of alcohol in the blood on the occasion of the commission of any previous offence against this section.

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- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by him against section 32 or 32AA of the repealed Act, or section 32B(9) of the repealed Act as in force after the coming into operation of the *Traffic Act Amendment Act (No. 2) 1968*⁶ or section 63 or 67 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 64AA or where, at the time of the alleged offence, he was a person to whom section 64A applied, an offence against that section.

[Section 64 amended by No. 71 of 1979 s.9; No. 82 of 1982 s.12; No. 11 of 1988 s.24; No. 13 of 1992 s.8; No. 50 of 1997 s.6.]

64AA. Driving with 0.05% blood alcohol content

- (1) A person who drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.05% commits an offence.
- (2) If a court convicts a person of a first offence against this section the person is liable to a fine of not more than 4 PU.
- (2a) If a court convicts a person of a second or subsequent offence against this section —
- (a) the person is liable to the relevant penalty in the Table to this subsection; and
 - (b) the court shall order that the person be disqualified from holding or obtaining a driver's licence for not less than

the relevant minimum period of disqualification in the Table to this subsection.

Table

Percentage of alcohol in blood		Penalty
≥ 0.05% but < 0.06%	Min: Max: Disq:	5 PU 10 PU 3 months
≥ 0.06% but < 0.07%	Min: Max: Disq:	6 PU 10 PU 3 months
≥ 0.07% but < 0.08%	Min: Max: Disq:	7 PU 10 PU 3 months

Note: ≥ signifies greater than or equal to
< signifies less than

- (3) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 64A where, at the time of the alleged offence, he was a person to whom that section applied.

[Section 64AA inserted by No. 13 of 1992 s.9; amended by No. 50 of 1997 s.7.]

64A. Probationary driver driving with 0.02% blood alcohol content

- (1) Except as provided in subsection (2), a person who drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.02% commits an offence.

Penalty: Not less than 2 PU or more than 6 PU; and, in any event, the court convicting a person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

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- (2) This section does not apply to a person who —
- (a) holds or has previously held an unrestricted licence; or
 - (b) has, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory,
- unless the person —
- (c) is subject to an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*¹;
 - (d) does not hold a driver's licence because it has been cancelled under section 75(2a) or (2b) as a result of an order disqualifying the person from holding or obtaining a driver's licence imposed on the person upon being convicted of an offence committed after the commencement of the *Road Traffic Amendment Act 1997*¹;
 - (e) holds an extraordinary licence; or
 - (f) is a recently disqualified driver.
- (3) For the purpose of subsection (2), a person is a recently disqualified driver if, within the last 3 years, the person —
- (a) has ceased to be subject to; or
 - (b) has been issued a driver's licence in a case where the person did not hold a driver's licence because it had been cancelled under section 75(2a) or (2b) as a result of,
- an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64,

committed after the commencement of the *Road Traffic Amendment Act 1997*¹.

[Section 64A inserted by No. 82 of 1982 s.13; amended by No. 11 of 1988 s.22; No. 13 of 1992 s.10; No. 50 of 1997 s.8.]

65. Definitions

For the purposes of sections 63 to 73, inclusive —

“**analyst**” means a person certified by the Director of the Chemistry Centre (WA) as being competent to determine the percentage of alcohol in bodily substances;

“**authorized person**” means a person certified by the Director of the Chemistry Centre (WA) as being competent to operate all types of breath analysing equipment;

“**breath analysing equipment**” means apparatus of a type approved by the Minister for ascertaining the percentage of alcohol present in a person’s blood, by analysis of a sample of his breath;

“**drugs analyst**” means a person certified by the Director of the Chemistry Centre (WA) as being competent to ascertain whether and to what extent drugs are present in bodily substances;

“**medical practitioner**” has the same meaning as it has in, and for the purposes of the *Medical Act 1894*;

“**percentage of alcohol**”, in relation to the blood of a person, means the number of grams of alcohol contained in 100 millilitres of blood;

“**preliminary test**” means a test of a sample of a person’s breath by means of apparatus of a type approved by the Minister for the purpose of providing an indication of the percentage of alcohol in the blood of the person or an indication as to whether or not the percentage of alcohol in the blood of a person equals or exceeds a predetermined percentage or an indication of whether or not alcohol is present in the blood of a person;

“self-testing breath analysing equipment” means breath analysing equipment of a type that is designated as self-testing apparatus under section 72(2a).

[Section 65 amended by No. 82 of 1982 s.14; No. 121 of 1987 s.5; No. 19 of 1990 s.8.]

66. Requirement to submit sample of breath or blood for analysis

(1) A member of the Police Force may require the driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to provide a sample of his breath for a preliminary test in accordance with the directions of the member of the Police Force, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(1aa) A member of the Police Force may —

- (a) call upon the driver of a motor vehicle to stop the vehicle;
- (b) direct the driver of a motor vehicle to wait at a place indicated by the member of the Police Force,

in order that a requirement may be made under subsection (1).

(1a) Where a member of the Police Force —

- (a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and
- (b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the member of the Police Force may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to provide a

sample of his breath for a preliminary test in accordance with the directions of the member of the Police Force, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(2) Where —

- (a) a person having provided a sample of his breath for a preliminary test —
 - (i) it appears to a member of the Police Force that the preliminary test indicates that the percentage of alcohol in the blood of the person equals or exceeds 0.05% of alcohol; or
 - (ii) it appears to a member of the Police Force that the preliminary test indicates that there is alcohol present in the blood of the person and the member of the Police Force has reasonable grounds to believe that the person is a person to whom section 64A applies;

or

- (b) a person having been so required, refuses or fails to provide, or appears to a member of the Police Force to be incapable of providing a sample of his breath for a preliminary test or refuses or fails to provide, or appears to a member of the Police Force to be incapable of providing, a sample of his breath in sufficient quantity to enable a preliminary test to be carried out; or
- (c) a member of the Police Force has reasonable grounds to believe that a person has committed an offence against section 63; or
- (d) a member of the Police Force —
 - (i) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

- (ii) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe that a person may have been the driver or person in charge of the motor vehicle at that time and that, if he was, he has committed an offence against section 63,

a member of the Police Force may require that person to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis or to allow a sample of blood to be so taken and to provide a sample of his urine for analysis, pursuant to the provisions of subsections (4), (5), (6a), (7) and (8a), and for the purposes of this subsection may require that person to accompany a member of the Police Force to a police station or some other place, and may require that person to wait at any such police station or place.

- (3) A person who is required to supply a sample of his breath for a preliminary test or for analysis shall comply with that requirement by providing the sample of his breath into approved apparatus in accordance with the directions of a member of the Police Force or an authorized person, as the case may be.
- (4) A person shall not be required under subsection (2) to provide a sample of his breath for analysis if it appears to a member of the Police Force that —
 - [(a) deleted]*
 - (b) the sample of breath could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or
 - (c) because of his physical condition he is incapable of providing the specimen of breath or a specimen of breath in sufficient quantity for analysis.

(5) Where —

- (a) a member of the Police Force might require a person to provide a sample of his breath for analysis under subsection (2) but is precluded from so doing by subsection (4) or section 68(11); or
- (b) a member of the Police Force might, by virtue of subsection (1) or (1a), require a person to provide a sample of his breath for a preliminary test but it appears to the member of the Police Force that the physical condition of the person is such as to render him incapable of providing a sample of his breath in accordance with the directions of the member of the Police Force for a preliminary test,

then the member of the Police Force may require the person to allow a medical practitioner nominated by the person to take a sample of his blood for analysis or where the person is incapable of complying with that requirement, that member of the Police Force may cause a medical practitioner to take a sample of the blood of the person for analysis.

- (6) A person shall not be required to allow a medical practitioner to take a sample of his blood, and a medical practitioner shall not be caused to take a sample of the blood of a person under subsection (5) if it appears to the member of the Police Force that the sample cannot be taken within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place.

(6a) Where —

- (a) a member of the Police Force might, by virtue of subsection (2)(c) or (d), require a person to provide a sample of his breath for analysis but is precluded from so doing by subsection (4); and

- (b) under subsection (5), the member of the Police Force requires the person to allow a medical practitioner nominated by the person to take a sample of his blood for analysis,

the member of the Police Force may also require the person to provide the medical practitioner with a sample of his urine for analysis.

- (7) A person who might, under the preceding provisions of this section, be required to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis may himself require that he be permitted to do either of those things; and a person who has been required to provide a sample of his breath for analysis may himself require that, instead of so doing, he be permitted to allow a medical practitioner nominated by him to take a sample of his blood for analysis.
- (8) A member of the Police Force shall give effect to the requirement of a person under subsection (7) if that can be done in terms of subsection (4) or (6), as the case may be.

(8a) Where —

- (a) a person might be required under subsection (2)(c) or (d) to provide a sample of his breath for analysis and, under subsection (7), the person himself requires that he be permitted to allow a medical practitioner nominated by him to take a sample of his blood for analysis; or
- (b) a person has been required under subsection (2)(c) or (d) to provide a sample of his breath for analysis and, under subsection (7), the person requires that, instead of so doing, he be permitted to allow a medical practitioner nominated by him to take a sample of his blood for analysis,

a member of the Police Force may require the person to also provide the medical practitioner with a sample of his urine for analysis.

- (9) Where —
- (a) pursuant to subsection (5) a member of the Police Force requires a person to allow a medical practitioner nominated by the person to take a sample of his blood for analysis and the person fails to nominate a medical practitioner; or
 - (b) pursuant to subsection (5) or (7) a person nominates a medical practitioner to take a sample of his blood but a member of the Police Force has reasonable grounds to believe that the medical practitioner so nominated —
 - (i) is not available within a distance of 40 kilometres;
 - (ii) is not available within the time limited by this section for taking blood samples;
 - (iii) refuses to take the blood sample; or
 - (iv) cannot readily be located,

the member of the Police Force may require the person to provide a sample of his breath for analysis or to allow a medical practitioner nominated by the member of the Police Force to take a sample of the person's blood for analysis and, where a requirement has been made under subsection (6a) or (8a), provide the medical practitioner with a sample of his urine for analysis, and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

- (10) Where a person is apparently unconscious or seriously injured a member of the Police Force shall facilitate the provision of medical assistance for that person.
- (11) Where a person provides a sample of his breath for analysis pursuant to a requirement made under subsection (2)(c) or (d), or pursuant to his own requirement made under subsection (7),

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and the analysis result obtained pursuant to section 68 indicates —

- (a) that there is no alcohol present in the blood of the person; or
- (b) that the percentage of alcohol present in the blood of the person is such that it does not reasonably explain the conduct, condition or appearance of the person by reason of which the requirement was made,

a member of the Police Force may require the person —

- (c) to allow a medical practitioner nominated by the person to take a sample of his blood for analysis; or
- (d) to provide a medical practitioner nominated by the person with a sample of his urine for analysis,

or to do both of those things, and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

(12) A person shall not be required —

- (a) to allow a medical practitioner to take a sample of his blood; or
- (b) to provide a medical practitioner with a sample of his urine,

under subsection (11), and a medical practitioner shall not be caused to take a sample of the blood of a person under that subsection, if it appears to the member of the Police Force that the sample cannot be taken or given, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

(13) Where pursuant to subsection (11) —

- (a) a member of the Police Force requires a person —
 - (i) to allow a medical practitioner nominated by the person to take a sample of his blood for analysis;
or
 - (ii) to provide a medical practitioner nominated by the person with a sample of his urine for analysis,

or to do both of those things, and the person fails to nominate a medical practitioner; or

- (b) a person nominates a medical practitioner to take a sample of his blood or to collect a sample of his urine, or for both of those purposes, but a member of the Police Force has reasonable grounds to believe that the medical practitioner so nominated —
 - (i) is not available within a distance of 40 kilometres;
 - (ii) is not available within the time prescribed by subsection (12);
 - (iii) refuses to take the blood sample or collect the urine sample or to do either of those things; or
 - (iv) cannot readily be located,

the member of the Police Force may require the person —

- (c) to allow a medical practitioner nominated by the member of the Police Force to take a sample of his blood for analysis; or
- (d) to provide a medical practitioner nominated by the member of the Police Force with a sample of his urine for analysis,

or to do both of those things, as the case may require, and for the purposes of this subsection the member of the Police Force may require the person to accompany a member of the Police

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Force to a place, and may require the person to wait at that place.

- (14) A person who is required or is permitted under this section to allow a medical practitioner to take a sample of his blood for analysis may, subject to subsections (9) and (13), nominate a medical practitioner of his own choice to take that sample.
- (15) A person who is required under this section to provide a sample of his urine to a medical practitioner for analysis may, subject to subsections (9) and (13), provide that sample to a medical practitioner of his own choice.
- (16) Where under this section a member of the Police Force causes a medical practitioner to take a sample of a person's blood for analysis or requires a person to provide a medical practitioner nominated by the member of the Police Force with a sample of his blood for analysis, the medical practitioner is hereby authorized to take that sample.
- (17) No action shall lie against a medical practitioner by reason only of his taking a sample of a person's blood for analysis pursuant to this section.

[Section 66 amended by No. 71 of 1979 s.10; No. 81 of 1980 s.8; No. 105 of 1981 ss.12 and 19; No. 82 of 1982 s.15; No. 121 of 1987 s.6; No. 11 of 1988 s.12; No. 16 of 1988 s.4⁷; No. 13 of 1992 s.11; No. 50 of 1997 s.9.]

67. Failure to comply with requirement as to provision of breath, blood or urine sample for analysis

- (1) In this section “**requirement**” means a requirement of a member of the Police Force made pursuant to section 66.
- (2) A person who fails to comply with a requirement —
 - (a) to provide a sample of his breath for analysis;
 - (b) to allow a medical practitioner to take a sample of his blood for analysis; or

- (c) to provide a medical practitioner with a sample of his urine for analysis,
- commits an offence.
- (3) A person convicted of an offence against this section is liable —
- (a) for a first offence, to a fine of not less than 16 PU or more than 50 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;
 - (b) for a second offence, to a fine of not less than 30 PU or more than 70 PU or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;
 - (c) for any subsequent offence, to a fine of not less than 40 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 32 of the repealed Act or section 63 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence but any offence committed by him against this section as in force before the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall not be taken into account for that purpose.

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- (5) It shall be a defence to a prosecution for an offence against this section if the defendant satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.
- (6) Without limiting the generality of subsection (5) it shall be a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the defendant satisfies the court that he attempted to comply with the requirement.

[Section 67 inserted by No. 82 of 1982 s.16; amended by No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

67A. Failure to comply with other requirements made by a member of Police Force

- (1) Subject to subsection (2), a person who fails to comply with any requirement of a member of the Police Force made pursuant to section 66, other than a requirement mentioned in section 66(1aa) or 67(2), commits an offence.
- (2) This section does not apply to a medical practitioner by reason of his failing to co-operate in the taking of a sample of a person's blood for analysis or in the collection of a sample of a person's urine for analysis.
- (3) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of not less than 6 PU or more than 16 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;
 - (b) for any subsequent offence, to a fine of not less than 12 PU or more than 28 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.

- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 32 or 32AA of the repealed Act, or section 32B(9) of the repealed Act as in force after the coming into operation of the *Traffic Act Amendment Act (No. 2) 1968*⁶ or section 63, 64 or 67 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.
- (5) It shall be a defence to a prosecution for an offence against this section if the defendant satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.
- (6) Where a person is prosecuted for an offence against this section of failing to comply with a requirement to provide a sample of his breath for a preliminary test it shall be a defence to the prosecution if the defendant satisfies the court that he complied, in accordance with section 66, with a requirement mentioned in section 67(2)(a) or 67(2)(b) that arose out of —
 - (a) his failure to comply with the first-mentioned requirement; or
 - (b) the circumstances that gave rise to the first-mentioned requirement.

[Section 67A inserted by No. 82 of 1982 s.16; amended by No. 121 of 1987 s.7; No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

68. Analysis of alcohol in breath

- (1) Where, pursuant to section 66, a person provides a sample of his breath for analysis the analysis shall be made by breath analysing equipment.
- (1a) If the breath analysing equipment is not self-testing breath analysing equipment subsections (1b) to (4) shall have effect in relation to the analysis.

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- (1b) The breath analysing equipment shall be operated by an authorized person and shall be operated in accordance with the regulations relating to analysis by breath analysing equipment of the relevant type.
- (2) At the conclusion of the analysis the authorized person shall determine in accordance with the regulations whether the breath analysing equipment is in proper working order.
- (3) Subject to subsection (11), if the breath analysing equipment is determined not to be in proper working order a member of the Police Force may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis under section 66(2).
- (4) If the breath analysing equipment is determined to be in proper working order —
 - (a) the result indicated by the breath analysing equipment at the conclusion of the analysis shall be the analysis result and shall be deemed to be the percentage of alcohol present in the blood of the person at the time the sample of breath was provided; and
 - (b) the authorized person shall complete, sign, and hand to the person a statement in writing of the analysis result (which may be by way of an indication on a scale) and of the date and time of the analysis.
- (5) If the breath analysing equipment is self-testing breath analysing equipment subsections (6) to (10) shall have effect in relation to the analysis.
- (6) The breath analysing equipment shall be operated by an authorized person and shall be operated in accordance with the regulations relating to analysis by self-testing breath analysing equipment of the relevant type.
- (7) Subject to subsection (11), if the breath analysing equipment does not indicate a result in the prescribed manner at the

conclusion of the analysis, a member of the Police Force may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner to take a sample of his blood for analysis under section 66(2).

- (8) If the breath analysing equipment indicates a result in the prescribed manner at the conclusion of the analysis, the result so indicated shall be the analysis result and shall be deemed to be the percentage of alcohol present in the blood of the person at the time the sample of breath was provided.
- (9) Subject to subsection (10), the authorized person shall complete, sign, and hand to the person a statement in writing of the analysis result and of the date and time of the analysis.
- (10) If the manner of indication of a result prescribed for the purposes of subsections (7) and (8) is the printing of a statement by the breath analysing equipment, the authorized person may comply with the requirements of subsection (9) by signing and dating the statement so printed and handing it to the person.
- (11) If the person has provided 2 samples of his breath for analysis under section 66(2) and the analysis of each sample has failed, the person shall not be required to provide another sample of his breath for analysis under section 66(2).
- (12) For the purposes of subsection (11) an analysis of a sample of breath shall be regarded as having failed if, and only if —
 - (a) the analysis is made by breath analysis equipment that is not self-testing breath analysing equipment and the breath analysing equipment is determined not to be in proper working order; or
 - (b) the analysis is made by self-testing breath analysing equipment and the breath analysing equipment does not indicate a result in the prescribed manner.

[Section 68 amended by No. 121 of 1987 s.8.]

69. Blood analysis

- (1) Where, pursuant to the provisions of section 66, a medical practitioner takes a sample of a person's blood for analysis the sample shall be taken in accordance with the regulations, or otherwise in a proper manner, and shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's blood for the purposes of this Act, and one of which shall be given to or retained for the person from whom it was taken, or shall be given to some other person on behalf of the first-mentioned person, and the other of which shall be given to a member of the Police Force.
- (2) Where a sample of blood is analysed for alcohol by an analyst in accordance with the regulations the percentage of alcohol found by the analyst to be present in the sample shall be the analysis result and shall be deemed to be the percentage of alcohol present in the blood of the person at the time the sample of blood was taken.

[Section 69 amended by No. 105 of 1981 s.19.]

69A. Urine samples

Where pursuant to section 66 a person provides a medical practitioner with a sample of his urine for analysis the sample shall be collected in prescribed equipment and shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's urine for the purposes of this Act, and one of which shall be given to or retained for the person by whom it was provided, or shall be given to some other person on behalf of the first-mentioned person, and the other of which shall be given to a member of the Police Force.

[Section 69A inserted by No. 82 of 1982 s.17.]

70. Evidence

- (1) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section 64, 64AA or 64A, or for an offence against this or any

other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of alcohol at any material time is relevant, evidence may be given of —

- (a) the provision of a sample of breath by the person for analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence;
 - (b) the analysis of the sample of breath by breath analysing equipment operated by an authorized person;
 - (c) the determination that breath analysing equipment that was not self-testing breath analysing equipment was in proper working order;
 - (ca) the manner in which self-testing breath analysing equipment indicated the result of an analysis;
 - (d) the taking of a sample of blood from the person by a medical practitioner, if taken within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence;
 - (e) the analysis of the sample of blood for alcohol by an analyst; and
 - (f) the analysis result obtained pursuant to section 68 or 69.
- (2) In any proceeding such as is mentioned in subsection (1), a certificate in the prescribed form —
- (a) purporting to be signed by the Director of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an authorized person;
 - (b) purporting to be signed by the Director of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an analyst;
 - (ba) purporting to be signed by an authorized person —
 - (i) certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein;

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- (ii) certifying that a sample of breath so provided was analysed by apparatus operated by him and that apparatus was breath analysing equipment, other than self-testing breath analysing equipment, within the meaning of section 65;
 - (iii) certifying that the breath analysing equipment was operated by him in the prescribed manner and that all regulations relating to analysis by breath analysing equipment of the relevant type were complied with;
 - (iv) setting out the analysis result obtained from the analysis;
 - (v) certifying that the breath analysing equipment was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation;
 - (vi) certifying that in accordance with section 68(4)(b) he completed, signed, and handed to the person by whom the sample of breath was provided, a statement as required by that paragraph; and
 - (vii) certifying that he was at the material time an authorized person;
- (bb) purporting to be signed by an authorized person —
- (i) certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein;
 - (ii) certifying that the sample of breath so provided was analysed by apparatus operated by him and that apparatus was self-testing breath analysing equipment within the meaning of section 65;
 - (iii) certifying that the breath analysing equipment was operated by him in the prescribed manner

and that the regulations relating to analysis by self-testing breath analysing equipment of the relevant type were complied with;

- (iv) certifying that the breath analysing equipment indicated a result in the prescribed manner at the conclusion of the analysis;
 - (v) setting out the analysis result obtained from the analysis;
 - (vi) certifying that in accordance with subsection (9) of section 68 he completed, signed, and handed to the person by whom the sample of breath was provided, a statement as required by that subsection, or that he complied with the requirements of that subsection by signing, dating, and handing to the person, a statement printed by the breath analysing equipment; and
 - (vii) certifying that he was at the material time an authorized person;
- (c) purporting to be signed by a technologist of the Public Health Department⁸, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date;
- (d) purporting to be signed by a medical practitioner, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
- (e) purporting to be signed by an analyst, certifying either or both of the following, namely, that an identified sample of blood taken from a named person was analysed for alcohol in accordance with the regulations, and the analysis result obtained from the analysis,

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is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such Director, or was an authorized person, or was such a technologist, or was a medical practitioner or analyst.

- (2a) In any proceeding such as is mentioned in subsection (1), evidence by an authorized person that —
- (a) the apparatus operated by him pursuant to section 68 was self-testing breath analysing equipment within the meaning of section 65;
 - (b) self-testing breath analysing equipment was operated by him in the prescribed manner and the regulations relating to analysis by self-testing breath analysing equipment of the relevant type were complied with; or
 - (c) self-testing breath analysing equipment indicated a result in the prescribed manner on the occasion of its operation,

is prima facie evidence of that fact.

- (3) In any proceeding such as is mentioned in subsection (1), evidence by an authorized person that —
- (a) the apparatus operated by him pursuant to section 68 was breath analysing equipment, other than self-testing breath analysing equipment, within the meaning of section 65;
 - (b) breath analysing equipment was operated by him in the prescribed manner and all regulations relating to analysis by breath analysing equipment of the relevant type were complied with; or
 - (c) breath analysing equipment that was not self-testing breath analysing equipment and was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation,

is prima facie evidence of that fact.

- (3a) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of drugs at any material time is relevant, evidence may be given of —
- (a) the taking of a sample of blood from the person by a medical practitioner, if taken within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence;
 - (b) the provision of a sample of urine by the person for analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
 - (c) the analysis of a sample of blood or urine for drugs by a drugs analyst and the result obtained from the analysis.
- (3b) In any proceedings such as is mentioned in subsection (3a), a certificate in the prescribed form —
- (a) purporting to be signed by the Director of the Chemistry Centre (WA) certifying that a person named therein is, or was at the material time, a drugs analyst;
 - (b) purporting to be signed by a technologist of the Public Health Department⁸, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date;
 - (c) purporting to be signed by a technologist of the Public Health Department⁸, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of the collection of a sample of a person's urine for analysis if used not later than a specified date;

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- (d) purporting to be signed by a medical practitioner, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
- (e) purporting to be signed by a medical practitioner, certifying that an identified sample of urine was provided by a named person on a date and at a time therein specified and was collected using identified sampling equipment which was received in a described condition from an identified person,

is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such Director, or was such a technologist, or was a medical practitioner.

- (3c) In any proceeding for an offence against section 67(2)(a) a certificate in the prescribed form purporting to be signed by the Director of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an authorized person is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such Director.
- (4) Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act.

[(5) repealed]

- (6) Except at the instance, or with the consent, of that person, evidence that a person provided a sample of his breath for a preliminary test and of any indication provided by such a test shall not be adduced, and if adduced shall not be admitted, in any proceedings other than proceedings for unlawful arrest or for an offence against section 67.

[Section 70 amended by No. 71 of 1979 s.12; No. 82 of 1982 s.18; No. 121 of 1987 s.9; No. 11 of 1988 s.13; No. 19 of 1990 s.8; No. 13 of 1992 s.12.]

71. Determination of percentage of alcohol in blood at material time

- (1) In any proceeding such as is mentioned in section 70(1), the percentage of alcohol present in the blood of a person at any time which is or may be material in the proceeding shall be calculated having regard to that time, the time of the person's last drink containing alcohol taken at or before the time which is or may be material in the proceeding, and the time at which the sample of the person's breath or blood was provided or taken for analysis, by varying the analysis result referred to in section 68 or section 69 by such amount, if any, necessary to give effect to the presumption that the percentage of alcohol in the blood of a person increases at the rate of 0.016% per hour for a period of 2 hours after his latest drink containing alcohol and, after that period, decreases at the rate of 0.016% per hour.
- (2) For the purpose of making a calculation under subsection (1) in any case where any one or more of the times referred to in that subsection can only be ascertained as falling within a period of time, the calculation shall be made taking such time within that period as produces the result most favourable to the person charged.
- (3) For the purpose of making a calculation under subsection (1) but subject to subsection (2), in any case where the time of a person's last drink containing alcohol is not ascertained, the

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time of the person's last drink containing alcohol shall be taken to have been such time as produces the result most favourable to the person charged.

- (4) In any proceeding such as is mentioned in section 70(1), the percentage of alcohol calculated to have been present in the blood of a person at any time under the preceding provisions of this section shall be conclusively presumed to have been present in the blood of that person at that time.

72. Regulations, etc.

- (1) The Governor may make regulations prescribing all matters that are necessary or convenient for the purpose of carrying out, or giving effect to, the provisions of sections 63 to 73 inclusive, and, in particular and without limiting the generality of the foregoing, may make regulations —
- (a) prescribing the manner of providing samples of breath and taking samples of blood, and regulating the manner of dealing with samples of breath, blood and urine;
 - (aa) prescribing equipment for use in the taking of samples of blood and the collection of samples of urine;
 - (ab) prescribing the manner and methods by which samples of blood may be analysed for alcohol;
 - (b) prescribing the manner of operation of breath analysing equipment and of determining breath analysing equipment, other than self-testing breath analysing equipment, to be in proper working order;
 - (ba) prescribing the manner of indication of a result for the purposes of section 68(7) and (8);
 - (c) prescribing forms, including any certificate required for the purposes of the sections herein mentioned; and
 - (d) prescribing the fees payable to a medical practitioner attending a person for the purpose of taking a sample of his blood or collecting a sample of his urine and those

payable in respect of the analysis of those samples and for the payment and recovery of those fees.

(2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of —

- (a) types of apparatus for ascertaining by analysis of a sample of a person's breath the percentage of alcohol present in his blood; and
- (b) types of apparatus for the purpose of conducting preliminary tests for the purposes of section 66,

and may, by notice so published, revoke any such approval.

(2a) Where approval is given under subsection (2)(a) in relation to a type of apparatus that, in the opinion of the Minister, does not need to be tested to determine whether it is in proper working order after each occasion on which it is used to make an analysis of a sample of breath, the Minister may, in the notice by which the approval is given, designate that type of apparatus as self-testing apparatus.

(3) The Director of the Chemistry Centre (WA) may, from time to time —

- (a) certify a person as being competent to determine the percentage of alcohol in bodily substances;
- (aa) certify a person as being competent to ascertain whether and to what extent drugs are present in bodily substances; and
- (b) certify a person as being competent to operate all types of breath analysing equipment,

and may rescind any certificate given under this subsection.

[Section 72 amended by No. 82 of 1982 s.19; No. 121 of 1987 s.10⁹; No. 19 of 1990 s.8.]

73. Certain offences extend to driving or attempting to drive in public places

In sections 59 to 72 inclusive, a reference, however expressed, to the driving of or attempting to drive a motor vehicle shall be construed as a reference to the driving of or attempting to drive a motor vehicle on a road or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have access, and a reference to a driver shall be construed accordingly.

[74. *Repealed by No 78 of 1995 s.114.*]

75. Notification and effect of disqualification

- (1) Where a person is convicted before a court of an offence against this or any other Act and is disqualified by the court from holding or obtaining a driver's licence the court shall cause particulars of the conviction and of the order made by the court to be sent to the Director General.
- (1a) Where an offence to which subsection (1) applies (in this subsection referred to as "**the present offence**") is a prescribed offence the court shall, in addition to causing the particulars required by that subsection to be sent, cause the Director General to be informed as to whether or not the offender has previously been convicted of a prescribed offence and, if he has and the present offence is against section 64, as to the date of his most recent previous conviction for a prescribed offence.
- (2) Where a person is disqualified from holding or obtaining a driver's licence —
 - (a) by order of a court other than upon being convicted of a prescribed offence;
 - (b) by order of a court upon being convicted of a prescribed offence, other than an offence against section 64, and the person has not previously been convicted of a prescribed offence;

- (c) by order of a court upon being convicted of an offence against section 64 (in this paragraph referred to as “**the present offence**”) and that person has not been convicted of a prescribed offence within the period of 5 years preceding his conviction for the present offence;
- (d) by operation of this Act; or
- (e) by a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*,

any driver’s licence or permit under section 48C held by that person shall by force of this section be suspended so long as the disqualification continues in force and during the period of suspension shall be of no effect, but the provisions of this subsection shall not operate so as to extend the period for which the licence may be valid or effective beyond the expiration of the period for which the licence was expressed to be issued or renewed or to extend the period for which the permit is valid or effective beyond the expiration of the period of 12 months from the date of its issue.

- (2a) Where a person is disqualified from holding or obtaining a driver’s licence upon being convicted of a prescribed offence, other than an offence against section 64, and that person has previously been convicted of a prescribed offence any driver’s licence or permit under section 48C held by that person shall by force of this section be cancelled.
- (2b) Where a person is disqualified from holding or obtaining a driver’s licence upon being convicted of an offence against section 64 (in this subsection referred to as “**the present offence**”) and that person has been convicted of a prescribed offence within the period of 5 years preceding his conviction for the present offence any driver’s licence or permit under section 48C held by that person shall by force of this section be cancelled.

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- (2c) A reference in subsection (2), (2a) or (2b) to a driver's licence held by a person —
- (a) does not include reference to a driver's licence issued on probation;
 - (b) includes reference to a driver's licence previously held by the person of which the operation is suspended.
- (3) A driver's licence (other than an extraordinary licence under section 76) or a permit under section 48C obtained by any person who is disqualified from holding or obtaining a driver's licence shall be of no effect.

[(4) and (5) repealed]

- (6) In this section “**prescribed offence**” means an offence against —
- (a) section 32 or 32AA of the repealed Act or section 63 or 64 of this Act;
 - (b) section 67 of this Act as enacted after the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹; or
 - (c) section 32B(9) of the repealed Act as in force after the coming into operation of the *Traffic Act Amendment Act (No. 2) 1968*⁶ or section 67 of this Act as in force before the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ being, in either case, an offence of failing to comply with a requirement to provide a sample of breath for analysis or to allow a sample of blood to be taken for analysis.

[Section 75 amended by No. 105 of 1981 s.19; No. 82 of 1982 s.20; No. 11 of 1988 s.14; No. 92 of 1994 s.37; No. 78 of 1995 s.115; No. 76 of 1996 ss.15, 20(1) and (3).]

76. Extraordinary licences

- (1) Subject to the provisions of this section, where under this or any other Act a person is disqualified from holding or obtaining a driver's licence, that person may apply to a court for an order directing the Director General to issue an extraordinary licence to him.
- (1aa) If under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* a licence suspension order is in force in respect of a person, no application under subsection (1) shall be made to, or heard by, any court in respect of that person.
- (1a) No application under subsection (1) shall be made to, or heard by, any court —
- (a) within 4 months after the applicant has been disqualified under section 63(2)(b) or (c) or section 67(3)(b) or (c);
 - (b) within 3 months after the applicant has been disqualified pursuant to section 63(2)(a) or section 67(3)(a) where the applicant has previously been convicted of an offence against section 32AA of the repealed Act, or section 32B(9) of the repealed Act as in force after the coming into operation of the *Traffic Amendment Act (No. 2) 1968*⁶ or section 64 or 67A of this Act or section 67 of this Act as in force before the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹;
 - (c) within 3 months after the applicant has been disqualified pursuant to section 64(2)(b) on conviction of an offence that is a third or subsequent offence for the purposes of section 64(2);
 - (d) within 3 months after the applicant has been disqualified pursuant to section 67A(3)(b) on conviction of an offence that is a third or subsequent offence for the purposes of section 67A(3);

- (e) within 2 months after the applicant has been disqualified pursuant to section 64(2)(b) on conviction of an offence that is a second offence for the purposes of section 64(2);
 - (f) within 2 months after the applicant has been disqualified pursuant to section 64(2)(a) where the applicant has previously been convicted of an offence against section 67A;
 - (g) within 2 months after the applicant has been disqualified pursuant to section 67A(3)(b) on conviction of an offence that is a second offence for the purposes of section 67A(3); or
 - (h) within 21 days after the applicant has been disqualified in any case not referred to in paragraph (a), (b), (c), (d), (e), (f) or (g).
- (2)
- (a) In the case of a disqualification imposed by the Supreme Court or The District Court of Western Australia any application under subsection (1) shall be made to the court by which the disqualification was imposed.
 - (b) In the case of a disqualification imposed by a court of petty sessions or which takes effect by operation of the provisions of this Act, any application under subsection (1) shall be made to the court by which the disqualification was imposed or to any court of petty sessions composed of a stipendiary magistrate except where the application is a special application in which case the application may be made to the court by which the disqualification was imposed, any court of petty sessions composed of a stipendiary magistrate or The District Court of Western Australia.
- (3) Subject to subsection (3a), the court may if it thinks proper having regard to —
- (a) the safety of the public generally;
 - (b) the character of the applicant;

- (c) the circumstances of the case;
- (d) the nature of the offence or offences giving rise to the disqualification;
- (e) the conduct of the applicant subsequent to the disqualification; and
- (f) the degree of hardship and inconvenience which would otherwise result to the applicant and his family, if it refrains from making the order,

either make an order directing the Director General, on payment of the prescribed fee, to issue to the applicant an extraordinary licence under this section for such period not exceeding 12 months from the date on which it is issued as the court thinks fit, or refuse the application.

- (3a) Where a court of petty sessions hears a special application the court shall not make an order directing the issue of an extraordinary driver's licence unless it is satisfied that the application is attended by circumstances of extreme hardship, but nothing in this subsection authorizes or requires the court to make such an order if, having regard to any of the matters referred to in subsection (3)(a), (b), (c), (d), or (e), it considers that the application should be refused.
- (3b) For the purposes of subsection (3a) an application is attended by circumstances of extreme hardship if the refusal of the application would —
 - (a) deprive the applicant of the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the applicant or a person who is a member of his family;
 - (b) place an undue financial burden on the applicant or his family, by depriving him of his principal means of obtaining income; or
 - (c) deprive the applicant or a person who is a member of his family of the only practicable means of travelling to and

from the place at which he or that person, as the case may be, is employed.

- (4) Where an application under subsection (1), not being a special application, is refused no further application under that subsection shall be heard if it is made within 6 months after the date of the refusal.
- (4a) Where a special application is refused no further special application shall be heard unless the first-mentioned application was refused by a court of petty sessions and the further application is made to The District Court of Western Australia.
- (5)
 - (a) An order directing the issue of an extraordinary licence under this section may impose —
 - (i) a condition requiring the applicant to comply with the requirements of section 42(2) before the extraordinary licence is issued to him;
 - (ii) such limitations and conditions as the court thinks proper subject to the observance of which the authority to drive pursuant to the licence may be exercised, including limitations and conditions as to the locality in which and roads on which the applicant is entitled to drive, the purposes for which the applicant is entitled to drive, the hours during which the applicant is entitled to drive, and the vehicle or class of vehicle that may be driven under the authority of the licence.
 - (b) The Director General shall give effect to the order according to its tenor and when issuing the licence shall specify therein any limitations and conditions imposed pursuant to paragraph (a)(ii).
- (6) The Director General shall from time to time, on payment of the prescribed fee, renew an extraordinary licence for any period not exceeding 12 months if during the currency of the licence the holder of the licence has not contravened any of the

limitations and conditions which the court imposed when directing the licence to be issued and has otherwise complied with the provisions of this Act, and the renewal thereof shall be endorsed thereon by the Director General.

- (7) (a) The holder of an extraordinary licence (whether issued before or after the coming into operation of this section) may from time to time during the currency of the licence apply to a court for an order varying the limitations and conditions to which the licence is for the time being subject or cancelling those limitations and conditions and substituting other limitations and conditions.
- (b) The Director General may from time to time during the currency of an extraordinary licence (whether issued before or after the coming into operation of this section) apply to a court for an order —
- (i) varying the limitations and conditions to which the licence is for the time being subject or cancelling those limitations and conditions and substituting other limitations and conditions; or
 - (ii) cancelling the licence.
- (8) (a) Any application under subsection (7) in relation to an extraordinary licence issued at the direction of the Supreme Court or The District Court of Western Australia shall be made to the court by which that direction was made.
- (b) Any application under subsection (7) in relation to an extraordinary licence issued at the direction of a court of petty sessions shall be made to the court by which that direction was made or to any court of petty sessions constituted by a stipendiary magistrate.
- (9) Where an application is made under subsection (7) —
- (a) if the court is of opinion that the limitations and conditions to which the extraordinary licence is then subject should be varied, or that those limitations and

conditions should be cancelled and other limitations or conditions substituted, for the reason that the holder of the licence has changed his place of residence, place of employment or hours of employment or for any other reason which the court considers sufficient, the court may order accordingly and when an order is so made, the Director General shall cause the limitations and conditions as so varied or substituted to be endorsed on the licence;

- (b) if the court is of the opinion that the holder of the extraordinary licence —
- (i) is addicted to alcohol or drugs to such an extent as to render him a danger to the public when in control of a motor vehicle on a road;
 - (ii) suffers from a mental disorder or from a physical disability that is likely to impair his ability to control a motor vehicle;
 - (iii) is no longer capable of controlling the class of motor vehicle which the licence authorizes him to drive;
 - (iv) is not of good character; or
 - (v) should not, by reason of the number or nature of his convictions for offences incurred since the granting of the extraordinary licence, being offences under this Act or the regulations or offences under the law in force in any other State or in a Territory or other country of which the driving or using of a motor vehicle was an element, be the holder of a driver's licence,
- the court may cancel the extraordinary licence.

- (10) An application under this section —
- (a) made to the Supreme Court or to The District Court of Western Australia shall be made in accordance with the rules of the court to which it is made;

- (b) made to a court of petty sessions shall be made in accordance with regulations made under the *Justices Act 1902*.
- (10a) For the purposes of this section the Children's Court is a court of petty sessions.
- (11) The court may order the applicant to pay the whole or any part of the costs of an application made under this section.
- (12) A reference in this section to a special application is a reference to an application made under subsection (1) —
 - (a) within 2 months after the applicant has been disqualified pursuant to section 63(2)(a) or 67(3)(a); or
 - (b) within one month after the applicant has been disqualified pursuant to section 64(2)(a) or 67A(3)(a).
- (12a) Nothing in subsection (12) shall be construed as enabling an application under subsection (1) to be made or heard at a time when the making or hearing of that application is prohibited by subsection (1a).
- (13) For the purposes of subsection (1a) and (12) —
 - (a) any period during which the applicant was imprisoned shall not be taken into account in determining whether a period of time has elapsed; and
 - (b) **“disqualified”** means disqualified from holding or obtaining a driver's licence.

[Section 76 amended by No. 48 of 1976 s.4; No. 71 of 1979 s.13; No. 105 of 1981 s.19; No. 82 of 1982 s.21¹⁰; No. 49 of 1988 s.53; No. 92 of 1994 s.38; No. 76 of 1996 s.20(3).]

77. Penalty for contravening conditions of extraordinary licence

- (1) Any person to whom an extraordinary licence has been issued pursuant to the provisions of section 76 shall not drive on a road any motor vehicle —
 - (a) at a time, for a purpose, or in a locality or on roads, other than as specified in the licence;

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- (b) other than the motor vehicle or the class of motor vehicles in respect of which the licence was issued;
- (c) otherwise than in compliance with such other limitations and conditions, if any, as are specified in the licence.

Penalty: 24 PU.

- (2) In addition to the penalty which may be imposed under the provisions of subsection (1), the court before which the defendant is convicted shall cancel the extraordinary licence unless the court thinks that, having regard to the special circumstances of the case, a fine would be an adequate punishment for the offence.

[Section 77 amended by No. 11 of 1988 s.24; No. 50 of 1997 s.13.]

78. Removal of disqualification

- (1) Subject to the succeeding provisions of this section, where under this or any other Act a person is disqualified by a court from holding or obtaining a driver's licence for a period exceeding 3 years, that person may apply to a court for an order removing the disqualification.
- (2)
 - (a) In the case of a disqualification imposed by the Supreme Court any application under subsection (1) shall be made to the Supreme Court.
 - (b) In the case of a disqualification imposed by any court other than the Supreme Court any application under subsection (1) shall be made to The District Court of Western Australia.
- (3) No application shall be made under subsection (1) for the removal of a disqualification before the expiration of whichever is relevant of the following periods from the date on which the disqualification took effect, that is to say —
 - (a) if the disqualification is for not more than 6 years: 3 years;

- (b) if the disqualification is for more than 6 years but not more than 20 years: one-half of the period of the disqualification;
 - (c) if the disqualification is for more than 20 years: 10 years.
- (4) For the purposes of subsection (3) the permanent disqualification of a person from holding or obtaining a driver's licence shall be regarded as a disqualification for more than 20 years.
- (5) The court may if it thinks proper having regard to —
 - (a) the safety of the public generally;
 - (b) the character of the applicant;
 - (c) the circumstances of the case;
 - (d) the nature of the offence or offences giving rise to the disqualification; and
 - (e) the conduct of the applicant subsequent to the disqualification,either make an order removing the disqualification as from such date as may be specified in the order or refuse the application.
- (6) Where an application under subsection (1) is refused no further application under that subsection shall be heard if it is made within one year after the date of the refusal.
- (7) If under this section a court orders a disqualification to be removed, the court shall cause particulars of the order to be sent to the Director General.
- (8) An application under this section shall be made in accordance with the rules of the court to which it is made.
- (9) The court may order the applicant to pay the whole or any part of the costs of an application under this section.

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- (10) Nothing in this section shall be construed as limiting or otherwise affecting any right that a person may have to appeal against an order or judgment of a court disqualifying him from holding or obtaining a driver's licence.

[Section 78 amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

78A. Impounding of vehicles

- (1) Subject to the provisions of this section, where a person is convicted of an offence to which this section applies the court convicting the person may, on the application of the Director General, order that the motor vehicle in which the offence was committed shall be impounded by the Director General for such period not exceeding 14 days, as is specified in the order.
- (2) Nothing in subsection (1) affects or in any way limits the power of a court to impose any other penalty or disqualification on a person convicted of an offence to which this section applies.
- (3) Where a person is convicted of an offence to which this section applies and —
- (a) from information contained in the records kept by the Director General;
 - (b) from information given by the person so convicted; or
 - (c) through any other cause,

the Director General has reason to believe that another person has or may have any legal or equitable interest, right or title in or to the ownership or possession of the motor vehicle in which the offence was committed, the Director General shall, before making an application under subsection (1), give notice to that other person of the Director General's intention to do so and shall, on making such an application, inform the court that such notice has been given.

- (4) A court shall not make an order under subsection (1) unless it has afforded any person to whom notice has been given under subsection (3), and who wishes to be heard on the application, a reasonable opportunity to show cause why the order should not be made.
- (5) The Director General may do all such things as are necessary for carrying into effect an order made under subsection (1).
- (6) Where a court makes an order under subsection (1) it shall assess the costs that may reasonably be incurred by the Director General in carrying the order into effect and the amount so assessed may be recovered from the person referred to in that subsection as if it were a fine imposed under this Act.
- (7) This section applies to —
 - (a) any offence against section 63 that is a second or subsequent offence for the purposes of that section;
 - (b) any offence against section 64 that is a second or subsequent offence for the purposes of that section;
 - (c) any offence against section 49(1)(a) where that offence is committed in circumstances mentioned in subsection (2)(b) or (c) of that section and the person convicted of the offence has previously been convicted of an offence against that paragraph committed in either of those circumstances.

[Section 78A inserted by No. 48 of 1976 s.5; amended by No. 105 of 1981 s.19; No. 76 of 1996 s.20(1) and (3).]

78B. Representation in proceedings

- (1) In this section —
“prescribed authority” means the Commissioner of Police or the Director General.

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- (2) In any proceedings under section 48(4) or (6), 76, 78 or 78A a prescribed authority has a right to be heard and may be represented by any person authorized by the prescribed authority for that purpose.

[Section 78B inserted by No. 76 of 1996 s.16.]

[79, 80, 81. Repealed by No. 76 of 1996 s.17.]

Part VA — Events on roads

[Heading inserted by No. 64 of 1988 s.4.]

81A. Definitions

In this Part, unless the contrary intention appears —

“event”—

- (a) includes a race meeting or speed test; and
- (b) does not include an event that is a public meeting or procession under the *Public Meetings and Processions Act 1984*;

“order” means an order granted under this Part;

“road” includes part of a road.

[Section 81A inserted by No. 64 of 1988 s.4.]

81B. Application for order

- (1) A person who, or body which, proposes to hold an event on a road, or to conduct an event which will proceed through a road, and wishes that road to be closed for the duration of the event, may make written application in the prescribed manner and form to the Commissioner of Police setting out the proposal and applying for an order in respect of a road closure for that event.
- (2) An application referred to in subsection (1) —
 - (a) shall be made not later than the prescribed time before the date of the proposed event or within such shorter period as may be agreed by the Commissioner of Police; and
 - (b) may be required to be verified in a manner acceptable to the Commissioner of Police.

[Section 81B inserted by No. 64 of 1988 s.4; amended by No. 76 of 1996 s.20(2).]

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81C. Order

- (1) The Commissioner of Police shall have regard to the information furnished in any application made under section 81B and any other information available to it in relation to the proposed event and may —
 - (a) subject to subsection (2), make an order directing the road to be closed; or
 - (b) refuse to make an order directing the road to be closed.
- (2) The Commissioner of Police shall not make an order for a road closure unless —
 - (a) the Commissioner of Police is satisfied that the prescribed conditions relating to an application for a road closure have been met;
 - (b) the approval of the local government of each district within which the road is situated has been obtained; and
 - (c) where the road is vested in the Commissioner of Main Roads, the approval of the Commissioner has been obtained.
- (3) An order made by the Commissioner of Police shall be subject to such conditions and limitations as are specified by the Commissioner of Police.
- (4) A copy of an order made by the Commissioner of Police shall be forwarded to —
 - (a) the applicant for the order;
 - (b) the local government of each district within which the road concerned is situated; and
 - (c) where a road to which the order relates is vested in the Commissioner of Main Roads, the Commissioner of Main Roads.

[Section 81C inserted by No. 64 of 1988 s.4; amended by No. 14 of 1996 s.4; No. 76 of 1996 s.20(2).]

81D. Road closure

A road closure under this Part shall be effected by the erection by the local government for the district within which the road concerned is situated of such barriers, signs and other equipment as are prescribed.

[Section 81D inserted by No. 64 of 1988 s.4; amended by No. 14 of 1996 s.4.]

81E. Effect of order

- (1) Subject to —
- (a) any directions given by a member of the Police Force under section 52 of the *Police Act 1892*; and
 - (b) the provisions of subsection (2),

where the holding or conduct of an event on a closed road substantially conforms with the terms of the order relating to it, a person participating in that event who observes such conditions and limitations as are specified in the order may position himself in, or proceed over, any road referred to in the order and is not, by reason of any thing done or omitted to be done by him for the purposes only of his participating in that event, guilty of any offence against the provisions of this Act or any other enactment regulating the movement of traffic and pedestrians, or relating to the obstruction of a street.

- (2) An order made under this Part shall be deemed to contain a condition requiring persons participating in the event on the closed road to which it relates not to obstruct the free passage of any ambulance, fire brigade vehicle or police vehicle, and where any person contravenes that condition the holding and conduct of that event shall be taken not to have conformed with the order.
- (3) Subject to the provisions of this Part and any order granted in relation to a road, a road closed pursuant to this Part remains a **“road”** for the purposes of this Act and any other enactment.

[Section 81E inserted by No. 64 of 1988 s.4.]

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81F. Offences

- (1) Where a person at, or in relation to, an event held on a road closed pursuant to an order under this Part —
- (a) obstructs the free passage of any ambulance, fire brigade vehicle or police vehicle or, otherwise than in the manner or to the extent authorized by the order relating to the road closed for that event, impedes or disrupts the use by members of the public in general of that road;
 - (b) otherwise than in the manner or to the extent authorized by the order relating to the road closed for that event, drives, takes or uses any vehicles on to or on that road; or
 - (c) incites any other person so to do,

commits an offence.

Penalty: 12 PU.

- (2) Where, in any proceeding for an offence against subsection (1), it is alleged on the complaint that —
- (a) an order had been granted under this Part to a person or body named in the order; or
 - (b) a road was closed pursuant to an order,
- it shall not be necessary for the complainant to prove the facts so alleged in the absence of evidence to the contrary.
- (3) When in any proceedings for an offence against this Act or any other enactment regulating the movement of traffic or pedestrians or relating to the obstruction of a road, the defendant satisfies the court that a road closure was authorized under this Part by an order purporting to relate to it, it shall be presumed, in the absence of evidence to the contrary, that —
- (a) no irregularity occurred on, or in relation to, the grant of the order; and
 - (b) the road closure substantially conformed with the terms of the order.

[Section 81F inserted by No. 64 of 1988 s.4; amended by No. 50 of 1997 s.13.]

Part VI — Miscellaneous

82. Substitution of vehicle in certain circumstances

- (1) Any omnibus licence, shall during any time that the omnibus is under repair, authorize the holder of the licence, with the previous consent of the Director General, to substitute another vehicle for the omnibus under repair, and to operate the same during such period as the first-mentioned omnibus is under repair and not being operated.
- (2) The consent in writing of the Director General referred to in subsection (1), shall only be given on payment by the licensee to the Director General of a fee of \$1.

[Section 82 inserted by No. 93 of 1975 s.7; amended by No. 71 of 1981 s.5; No. 105 of 1981 s.19; No. 76 of 1996 s.20(3).]

82A. Motor vehicle pools and insurance

- (1) For the purposes of any contract of insurance, a motor vehicle shall be deemed not to be used for the carriage of passengers for hire, fare or reward by reason only of the carriage of passengers if the carriage is pursuant to a motor vehicle pooling arrangement.
- (2) For the purposes of subsection (1), a carriage of passengers is pursuant to a motor vehicle pooling arrangement if the carriage is —
 - (a) incidental to the main purpose of the journey;
 - (b) not the result of touting for passengers by the driver or any other person on any road; and
 - (c) pursuant to an arrangement for the carriage of the passengers for a consideration limited to —
 - (i) an undertaking by or on behalf of the passenger to carry the driver or a member of the driver's family on a similar journey; or

- (ii) the payment of an amount which does not contain any element of profit in respect of the operation of the motor vehicle or the motor vehicle pool or any recompense for the time of the driver.

[Section 82A inserted by No. 48 of 1980 s.6.]

83. Temporary suspension of written law

- (1) Whenever any number of persons, or any club or clubs, for the purpose of enabling a race meeting or speed test to take place, request the Minister to temporarily suspend the operation of any provisions of, or regulations made under, this Act, the Minister may —
 - (a) refuse to suspend those provisions or regulations for such purpose; or
 - (b) subject to subsection (2), by notice published in the *Gazette* temporarily suspend those provisions or regulations for such purpose.
- (2) The Minister shall not temporarily suspend the operation of any provisions or regulations unless he has first obtained the consent of the local government for the district within which the race meeting or speed test will be held.
- (3) Any temporary suspension of provisions or regulations under this section shall be subject to such conditions and limitations as are specified by the Minister.
- (4) Where a person fails to observe a condition or limitation under which a provision or regulation is temporarily suspended under this section, that provision or regulation shall be taken to be in operation in relation to that person.
- (5) Notwithstanding subsection (4), a person who fails to observe a condition or limitation under which a provision or regulation is temporarily suspended under this section commits an offence.

Penalty: For a first offence, 6 PU.

For a subsequent offence, 12 PU.

- (6) The Minister may delegate to the Commissioner of Police or any member of the Police Force specified in the instrument of delegation of all or any of the powers conferred upon the Minister under subsection (1).

[Section 83 inserted by No. 64 of 1988 s.5; amended by No. 78 of 1995 s.147; No. 14 of 1996 s.4; No. 76 of 1996 s.20(1); No. 50 of 1997 s.13.]

84. Liability for damage to roads, etc.

- (1) The owner of a vehicle shall be liable in damages to a road authority for any expense or loss incurred by that road authority because of damage or injury to a road caused by, or happening as a result of —
- (a) the use of the vehicle on the road; or
 - (b) the passage along the road of the vehicle or of anything carried, drawn, or propelled by the vehicle,

and those damages may be recovered by proceedings in a court of competent jurisdiction.

- (2) If any damage or injury referred to in subsection (1) is caused to any bridge or culvert, the person in charge of the vehicle shall, if the damage or injury has caused the bridge or culvert to be hazardous to other vehicles or pedestrians, immediately place a conspicuous warning mark or sign on or near the bridge or culvert, and shall, in any event, forthwith inform the officer in charge of the nearest police station of the damage or injury.
- (3) In any proceedings for the recovery of damages under this section a certificate of the kind referred to in section 98(2b) is evidence for the purposes of proving the ownership of a vehicle as though the proceedings were proceedings for an offence under this Act.
- (4) In this section —
- “road”** has the meaning set out in the definition of “road” in section 6 of the *Main Roads Act 1930* and, without limiting

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that definition, includes trees, plants and shrubs appurtenant to a road;

“road authority” means a local government or the Commissioner of Main Roads.

[Section 84 amended by No. 77 of 1975 s.4; No. 105 of 1981 s.19; No. 95 of 1984 s.6; No. 11 of 1988 s.15; No. 14 of 1996 s.4.]

85. Power of local government to recover expenses of damage caused by heavy or extraordinary traffic

- (1) Where it appears to a local government which is liable or authorized or has undertaken to repair any road that, having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by such local government in repairing such road by reason of the damage caused by heavy traffic passing along the same, or extraordinary traffic thereon, such local government may recover in any court of competent jurisdiction from any person by or in consequence of whose order such traffic has been conducted, the amount of such expenses as may be proved to the satisfaction of the court having cognisance of the case to have been incurred by such local government by reason of the damage arising from such traffic as aforesaid.
- (2) Any person against whom expenses are or may be recoverable under this section may enter into an agreement with such local government as is mentioned in this section for the payment to it of a composition in respect of such traffic, and thereupon the person so paying the same shall not be subject to any proceedings under this section.
- (3) For the purposes of this section the Minister shall be deemed the local government which is liable or authorized or has undertaken to repair any Government road, and he may in his name of office bring an action for recovery of expenses under this section accordingly: provided that any moneys recovered by him shall be credited to the Consolidated Fund.

- (4) Proceedings for the recovery of any expenses hereunder shall be commenced within 12 months of the time when the damage has been done, or where the damage is the consequence of any particular building contract or work extending over a long period, shall be commenced not later than 6 months after the completion of the contract or work.

[Section 85 amended by No. 6 of 1993 s.11; No. 14 of 1996 s.4; No. 49 of 1996 s.64.]

86. No unauthorized parking in certain areas

- (1) In this section, “**prescribed area**” means —
- [(a) deleted]* and
 - (b) any area defined for the purposes of this section by the Governor by notice published in the *Gazette*.
- (2) No person shall, within a prescribed area, park a vehicle on land which is not a road, unless he has been authorized to do so by the owner, or person in possession of that land.

Penalty: 5 PU.

- (3) (a) Where a person parks a motor vehicle on land contrary to the provisions of subsection (2), and where the vehicle causes or is likely to cause an obstruction, or danger to traffic, a member of the Police Force or the owner, or the person in possession of the land, or an employee of the owner, or person in possession of the land, may —
- (i) direct the driver or person in charge of the vehicle to remove the vehicle from the place where it is parked; and
 - (ii) where no person appears to be in immediate charge of the vehicle, himself remove the vehicle from the place where it is parked and may move the vehicle either to a place where parking of vehicles is permitted, or the police station nearest to the land.

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- (b) Where a person in exercise of the power conferred on him by paragraph (a) removes and parks a vehicle, he shall forthwith give particulars to a member of the Police Force at the police station nearest to the place where he has parked the vehicle, of his name and address, the registered number of the vehicle, the place where the vehicle was parked, and the time that he removed the vehicle.
- (4) A person who disobeys or fails to comply with a direction made pursuant to subsection (3) commits an offence.
Penalty: 3 PU.
- (5) Where a person in exercise of the power conferred by subsection (3)(a) incurs costs in removing a vehicle, that person may recover those costs on complaint made in a court of petty sessions.
- (6) In any proceedings for a penalty under this section, the court, in addition to imposing a penalty, may award to a person any costs incurred by that person in the exercise of a power conferred on him by this section.

[Section 86 amended by No. 105 of 1981 ss.13 and 19; No. 11 of 1988 s.24; No. 50 of 1997 s.13; No. 16 of 1999 s.7(4).]

86A. Member of Police Force or warden may drive a vehicle used in an offence

Where a member of the Police Force or warden —

- (a) has reason to believe that a vehicle has been used in connection with an offence; or
- (b) has charged a person with an offence an element of which is the use or driving of a vehicle,

he may drive or convey the vehicle to any police station or other place for safe custody.

[Section 86A inserted by No. 89 of 1978 s.15; amended by No. 105 of 1981 s.19.]

87. Confusing lights affecting traffic on roads

- (1) For the purposes of this section —
- “Commissioner”** means the Commissioner of Main Roads;
- “light”** includes any fire, lamp, light, illuminated sign, street light, or other mechanical manufactured or constructed illumination, and also the glow from any such light;
- “owner”** includes the owner, lessee, tenant, purchaser, hirer, or other person in possession or entitled to the possession of a light, and, in the case of a street light, means the local government of the district in which such street light is erected or installed.
- (2) Where any light is used, kept, burnt, or exhibited at any place or in such a manner as in the opinion of the Commissioner to be likely to confuse or create circumstances or conditions likely to interfere with adversely or to cause risk of danger to the traffic of persons or vehicles on any road, the Commissioner may by notice in writing require the owner of or the person in charge of such light or the occupier of the place or premises where such light is used, kept, burnt, or exhibited within a time specified in the notice to take effectual means —
- (a) to extinguish the light; or
 - (b) to remove the light entirely or to some other position; or
 - (c) to modify the light or to alter its character or colour, or to screen the light to such an extent and in such manner as the Commissioner may direct; or
 - (d) to refrain from using, keeping, burning, or exhibiting the light either entirely or for such period or during such hours as the Commissioner may direct; or
 - (e) to do or refrain from doing such other act, matter, or thing in relation to using, keeping, burning, or exhibiting the light as the Commissioner may direct and in accordance with his directions.

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- (3) Any notice under subsection (2) may be served, either personally or by delivery, at the place of abode of the person to be served, or by affixing it in some conspicuous place on or near the place or premises upon or in which the light to which the notice relates is used, kept, burnt, or exhibited.
- (4) It shall be the duty of the owner or occupier or other person served with a notice under subsection (2) to comply with such notice.
- (5) Every owner, occupier, or other person on whom a notice is served under subsection (2) who fails without reasonable cause (proof whereof shall lie upon him) to comply in all respects with the directions contained in the notice shall be guilty of an offence against this Act.
Penalty: 8 PU, and, in addition, a daily penalty of 1 PU for every day or part of a day during which the directions contained in the notice are not complied with after the time specified in the notice for the compliance therewith.
- (6) If any owner, occupier, or other person served with a notice under subsection (2) fails in any respect to comply with the directions of such notice within the time specified in the notice for such compliance, the Commissioner or any person authorized in writing by the Commissioner may enter upon the place or premises whereon the light to which the notice relates is used, kept, burnt or exhibited, and forthwith take effectual means (but doing no unnecessary damage) to carry out and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.
- (7) Any expense incurred by the Commissioner or the person authorized by the Commissioner under subsection (6) shall be a debt owing to the Commissioner by the person upon whom the notice was served and shall be recoverable at the suit of the Commissioner in any court of competent jurisdiction.
- (8) If the owner, occupier, or other person upon whom the notice under subsection (2) has been served, or any other person

obstructs or hinders, prevents, or interferes with or attempts to obstruct, hinder, prevent, or interfere with the Commissioner or the person authorized by the Commissioner in the exercise of the power conferred by subsection (6), he shall be guilty of an offence against this Act.

Penalty: 8 PU.

- (9) Where any owner, occupier, or other person upon whom a notice under subsection (2) has been served has failed within the time specified in such notice to comply with the directions of such notice, and by reason of such non-compliance and by reason of the light to which the said notice relates confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of persons, animals, or vehicles on a road, any person suffers injury to the person or damage to his property, the non-compliance with the said notice shall, for the purpose of enabling the person who has suffered such injury or damage to recover compensation or damages in respect of the injury or damage suffered, be deemed to be a tort in the nature of a nuisance committed by the owner, occupier, or other person upon which an action for damages may be instituted.
- (10) The omission on the part of the Commissioner to give any notice under subsection (2), or the failure on the part of the Commissioner to exercise the power conferred by subsection (6) shall not make the Commissioner in any respect responsible or liable for any injury to the person or damage to property suffered as the result of any light confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of any person or vehicle on a road.

[Section 87 amended by No. 11 of 1988 s.24; No. 14 of 1996 s.4; No. 50 of 1997 s.13.]

[88. *Repealed by No. 50 of 1997 s.10.]*

89. Unauthorized use of vehicles

[(1) repealed]

- (2) Every person who, not being a member of the Police Force or warden acting in the execution of his duty, drives or uses, or attempts to drive or use, a vehicle that is not a motor vehicle, without previously obtaining the consent of the owner or person lawfully in charge of the vehicle, commits an offence.

Penalty: For a first offence, 20 PU.

For a second offence, 40 PU.

For a subsequent offence, 100 PU.

- (3) The court before which the person is convicted may, in addition to any other penalty which may be inflicted under this section, order the defendant to pay to the owner of the vehicle such sum as the court thinks proper by way of compensation for any loss or damage suffered by the owner.

[Section 89 amended by No. 105 of 1981 s.19; No. 121 of 1987 s.11; No. 11 of 1988 ss.23 and 24; No. 37 of 1991 s.21; No. 50 of 1997 s.13.]

90. Unlawful interference with mechanism of motor vehicles

Any person who unlawfully interferes with the mechanism or parts of any motor vehicle shall be guilty of an offence under this Act.

Penalty: For a first offence, 8 PU.

For a subsequent offence, 16 PU or imprisonment for 6 months.

[Section 90 amended by No. 11 of 1988 s.24; No. 78 of 1995 s.147; No. 50 of 1997 s.13.]

[91. Repealed by No. 50 of 1997 s.11.]

92. Roads may be closed

- (1) The Minister may, if he considers any road unsafe for public traffic, cause the same to be closed for such period as he considers necessary.

- (2) A local government for a period of one month may exercise a similar power with regard to any road under its control, but the exercise of such power shall not extend beyond such period, except with the approval in writing of the Minister.
- (3) No person shall drive, take, or use any vehicle on to or on any road while such road is closed under this section.

[Section 92 amended by No. 14 of 1996 s.4.]

93. Production of licences at hearings

A person who is the holder of a driver's licence shall, whenever he is charged with an offence under this Act, produce his licence on demand to the court hearing the charge.

[94, 95, 96. Repealed by No. 76 of 1996 s.18.]

97. Offences

A person shall not —

- (a) while disqualified from obtaining any particular licence apply for or obtain such a licence;
- (b) wilfully mislead a person in any particular likely to affect the discharge of that person's duty under this Act;
- (c) forge or fraudulently alter any licence, number plate or registration label;
- (d) use any forged or fraudulently altered licence, number plate or registration label, or use any licence, number plate or registration label to which he is not entitled;
- (e) fraudulently permit his licence, number plate or registration label to be used by any other person;
- (f) drive any vehicle or cause or permit any vehicle to be driven on any road while it has on it —
 - (i) any forged or fraudulently altered number plate or registration label;
 - (ii) any replica or imitation of a number plate or registration label; or

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- (iii) any number plate or registration label other than one issued for that vehicle;
- (g) without lawful excuse have in his possession a licence or any article resembling a licence or a registration label or any article resembling a registration label, and calculated to deceive;
- (h) lend or allow to be used by any other person any licence or any number plate or registration label.

[Section 97 amended by No. 71 of 1979 s.14; No. 81 of 1980 s.9.]

98. Proof of certain matters

- (1) In any prosecution or proceedings for an offence against this Act an averment in the complaint that any person is or was the owner of a vehicle or became the owner of a vehicle on any date or that any person is or was not the holder of any particular licence (either personal or in respect of any vehicle), or that the vehicle was driven or used on a road or any place to which the public is permitted, whether on payment of a fee or otherwise, to have access shall be deemed to be proved in the absence of proof to the contrary.
- (1a) In any prosecution or proceedings for an offence against this Act an averment in the complaint that the alleged offender did not hold, or had not previously held, an unrestricted licence or that the alleged offender had not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory, shall be deemed to be proved in the absence of proof to the contrary.
- (2) For the purposes of any prosecution or proceedings for an offence the Director General or any person authorized by the Director General for that purpose may issue a certificate which states —
 - (a) that on any date or during any period —
 - (i) a vehicle was registered; or

- (ii) a vehicle was not registered,
under this Act in the name of any person specified in the
certificate; or
- (b) that as at any date or during any period a person
specified in the certificate was —
 - (i) registered as the holder of a vehicle licence under
this Act in respect of; or
 - (ii) nominated pursuant to section 5(4) as the owner
of,
a vehicle specified in the certificate.

[(2a) repealed]

- (2b) In any prosecution or proceedings for an offence —
 - (a) a certificate issued or purporting to be issued pursuant to
subsection (2) is evidence of the facts stated in the
certificate;
 - (b) a certificate or other document issued or purporting to be
issued pursuant to a law of a State or Territory of the
Commonwealth (being a law in respect of which a
declaration under section 5(5) is in force) which states
that on any date or during any period —
 - (i) a vehicle was registered in the name of any person
specified in the certificate or document; or
 - (ii) a vehicle was not registered in the State or
Territory in respect of which the certificate or
other document is issued,is evidence of the facts stated in the certificate or other
document.
- (2c) In subsections (2) and (2b) **“offence”** means an offence against
this Act or any other Act or against any regulation, local law,
by-law or rule made under an Act.

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- (3) In any proceedings for an offence against this Act —
- (a) an averment in the complaint that the person by whom the proceedings were instituted is authorized to institute the proceedings shall be deemed to be proved in the absence of proof to the contrary.
- [(b) deleted]*
- (4) In any prosecution under this Act an averment in the complaint that an offence was committed within a local government district or any part of the State therein specified shall be deemed to be proved in the absence of proof to the contrary.
- (5) Where, in a complaint of an offence against this Act, the name of the person against whom the complaint is made is that given by the alleged offender at the time of, or immediately following, the occurrence giving rise to the complaint, there is a presumption, rebuttable by evidence to the contrary, that the person named in the complaint is the alleged offender.

[Section 98 amended by No. 71 of 1979 s.15; No. 105 of 1981 s.14; No. 13 of 1992 s.13; No. 14 of 1996 s.4; No. 76 of 1996 s.20(3); No. 57 of 1997 s.106(2).]

98A. Certain measuring equipment

- (1) In this section —
- “authorized person”** means —
- (a) in relation to distance measuring equipment —
- (i) a member of the Police Force; or
- (ii) a person certified by the Commissioner of Police as being competent to use the equipment;
- (b) in relation to speed measuring equipment —
- (i) a member of the Police Force; or
- (ii) a person certified by the Commissioner of Police as being competent to use the equipment;

“distance measuring equipment” means apparatus of a type approved by the Minister pursuant to subsection (2a);

“speed measuring equipment” means apparatus of a type approved by the Minister pursuant to subsection (2).

- (2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of types of apparatus for ascertaining the speed at which a vehicle is moving and may, by notice so published, revoke any such approval.
- (2a) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of types of apparatus for ascertaining distances on roads and may, by notice so published, revoke any such approval.
- (3) In any proceeding for an offence against this or any other Act or the regulations evidence may be given of the use of speed measuring equipment by an authorized person in relation to a vehicle and of the speed at which that vehicle was moving as ascertained by the use of that equipment, and that evidence is prima facie evidence of the speed at which that vehicle was moving at the time of the use of that equipment in relation to that vehicle.
- (3a) In any proceeding for an offence against this or any other Act or the regulations evidence may be given of the use of distance measuring equipment by an authorized person on a road, of the distance between 2 identified points on the road as ascertained by the use of that equipment and of the ascertainment of the speed at which a vehicle was moving by the measurement of the time taken by that vehicle to travel that distance, and that evidence is prima facie evidence of the speed at which that vehicle was moving when it travelled that distance.
- (4) In any proceeding such as is mentioned in subsection (3), evidence by an authorized person that apparatus used by him was speed measuring equipment within the meaning of this section is prima facie evidence of that fact.

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- (4a) In any proceeding such as is mentioned in subsection (3a), evidence by an authorized person that apparatus used by him was distance measuring equipment within the meaning of this section is prima facie evidence of that fact.
- (4b) In any proceeding such as is mentioned in subsection (3) or (3a), a certificate purporting to be signed by the Commissioner of Police certifying that a person named in the certificate is, or was at the material time, a person certified by the Commissioner as being competent to use distance measuring equipment or to use speed measuring equipment is prima facie evidence of the matters in the certificate, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.
- (5) Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act or the regulations.
- (6) The Commissioner of Police may, either generally or as provided by the instrument of delegation, delegate to any person the performance of the Commissioner's functions under this section, other than this power of delegation.
- (7) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by a person as a delegate of the Commissioner of Police was signed by the person in the performance of a function that at the time was delegated to the person by the Commissioner.

[Section 98A inserted by No. 135 of 1976 s.3; amended by No. 105 of 1981 s.19; No. 82 of 1982 s.24; No. 37 of 1996 s.4; No. 50 of 1997 s.12.]

99. Savings

Nothing in this Act shall take away or diminish any liability of the driver or owner of a vehicle by virtue of any other Act or at common law.

100. Application of Act to Crown and local governments

- (1) This Act applies to persons and vehicles in the public service of the Crown, or of any local government, but does not apply to any extent to a vehicle for the personal use of the Governor nor to a person in charge of the vehicle while carrying out the Governor's personal directions; and does not apply to any other vehicle or class of vehicle or person or class of person to the extent of such exemption as may from time to time be declared by the Governor by Order in Council, which the Governor may from time to time vary or cancel by further Order in Council, and section 72 of the *Justices Act 1902* applies in respect of complaints of offences against this Act as if the complaints negated exemptions under this section.
- (2) Notwithstanding the provisions of subsection (1), where the licence of a vehicle owned and used by the State Government (except vehicles used by Ministers of the Crown or heads of State Boards and Departments) is renewed, the provisions of this Act requiring the issue of a renewal of the licence or of a registration label shall not apply to such vehicle, but this subsection shall not render lawful the driving of a vehicle upon any road without having the prescribed number plates affixed thereto.

[Section 100 amended by No. 14 of 1996 s.4.]

101. Protection of Minister, the Director General and officers

No matter or thing done or omitted to be done by the Minister, the Director General, the Council, any Council member or deputy of a Council member, police officer, member of the Police Force, warden, inspector, or other person authorized to carry out the

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provisions of this Act in good faith under or for the purposes of this Act, or purportedly under or for the purposes of this Act shall subject the Crown, the Minister, the Council or any person hereinbefore referred to, to any liability in respect thereof.

[Section 101 amended by No. 105 of 1981 ss.15 and 19; No. 64 of 1988 s.6; No. 76 of 1996 s.20(1).]

102. Traffic infringement notices

- (1) Where a member of the Police Force or warden has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this section, he may serve on that person a notice, in the prescribed form, (in this section called a “**traffic infringement notice**”) informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to an officer specified in the notice, within the time therein specified, the amount of the penalty prescribed for the offence, if dealt with under this section.
- (2) A traffic infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, at the time of, or immediately following, the occurrence giving rise to the allegation of an offence, or as ascertained pursuant to an inquiry made under section 58; and, where the allegation is of an offence of which the standing, parking or leaving of a vehicle is an element and the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained, the traffic infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by leaving it in or upon, or attaching it to, the vehicle.
- (2a) If the offence against section 24(2c) is prescribed for the purposes of this section a traffic infringement notice issued for an alleged offence against that section, in addition to specifying the prescribed penalty for that offence, may specify —
 - (a) the prescribed transfer fee; and

(b) the amount payable under the *Stamp Act 1921* in respect of the transfer of the licence,

and, for the purposes of subsections (1), (4), (5), (6), (7) and (7a) and the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, a reference to the prescribed penalty is to be taken as being a reference to the sum of the prescribed penalty and those 2 other amounts.

(2b) A traffic infringement notice issued for an alleged offence against section 24(2c) may be served on the alleged offender personally or by posting it to the alleged offender's address as ascertained from a person under section 24(1) or otherwise.

(3) Where, under the provisions of subsection (2), a traffic infringement notice is addressed to the owner of a vehicle and served by leaving it in or upon, or attaching it to the vehicle, then, if —

(a) the prescribed penalty is not paid within the period specified in the notice; or

(b) the owner of the vehicle does not, within the period specified for the payment of the penalty —

(i) identify the person who was the driver or person in charge of the vehicle at the relevant time to a prescribed officer; or

(ii) satisfy a prescribed officer that, at the relevant time, the vehicle had been stolen or unlawfully taken or used,

the owner is, in the absence of proof to the contrary, deemed to have committed the offence.

(3a) Where —

(a) the belief referred to in subsection (1) is based on photographic evidence;

(b) the allegation is of an offence of which the driving or being in charge of a vehicle is an element;

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- (c) the identity of the vehicle can be ascertained from the photographic evidence; and
- (d) the name and address of the driver or person in charge of the vehicle are not known and cannot immediately be ascertained,

the traffic infringement notice may be addressed to the owner of the vehicle and may be served by serving it on the owner personally or by post.

- (3b) Where a traffic infringement notice is served under subsection (3a), then, unless within the period of 28 days after the day specified in the notice (being the day of the issue of the notice or a subsequent day) —

- (a) the prescribed penalty is paid to an officer specified in the notice; or
- (b) the person on whom the notice was served furnishes a statement in writing to the Commissioner of Police stating that he was not the driver or person in charge of the vehicle at the relevant time,

the person on whom the notice is served, in absence of a claim by that person —

- (c) to the contrary, or
- (d) that notwithstanding proper service of the notice the notice did not actually come to the attention of the person within the time for response or sufficiently within time to allow for response,

shall be presumed to have been the driver or person in charge of the vehicle at the relevant time for the purposes of the offence alleged in the notice.

- (3c) A traffic infringement notice served under subsection (3a) shall contain or be accompanied by a statement explaining the effect of subsection (3b).
- (3d) A statement in writing for the purposes of subsection (3b)(b) shall be accompanied by the traffic infringement notice to which

it relates and shall be posted to the Commissioner of Police or delivered personally to a prescribed officer or the officer in charge of a police station.

- (3e) In subsection (3a) “**photographic evidence**” means —
- (a) a photograph; or
 - (b) a cinematographic or other type of film, or video tape, video disc, slide or other form of recording, from which a visual image can be produced.
- (4) A person who receives a traffic infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed penalty within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under those provisions.
- (5) A traffic infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn by the sending of a notice, in the prescribed form, signed by a prescribed officer, to the alleged offender at his last known place of residence or business, advising the alleged offender that the traffic infringement notice has been withdrawn; and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.
- (5a) In subsection (5) “**alleged offender**”, in relation to a traffic infringement notice that is left in or upon, or attached to, a vehicle under subsection (2) or is served on the owner of a vehicle under subsection (3a), means the owner of the vehicle.
- (6) Where a prescribed penalty has been paid pursuant to a traffic infringement notice and the notice has not been withdrawn as provided by subsection (5), proceedings shall not be brought against any person with respect to the offence alleged in the notice.
- (7) The payment of the whole or a part of a penalty pursuant to a traffic infringement notice shall, for the purposes of sections 48, 51(1)(a) and 103, constitute a conviction of an offence, but shall

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not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence by reason of which the traffic infringement notice was given.

- (7a) Subsection (7) applies even if the payment is made by means of a dishonoured cheque.
- (8) The Governor may make regulations for any purpose for which regulations are contemplated or required by this section and, in particular, may make regulations —
 - (a) prescribing offences for the purposes of this section, not being offences punishable by imprisonment or offences in respect of which a court is required to disqualify the offender from holding or obtaining a driver's licence, by setting out the offences or by reference to the provision creating the offence or by reference to all or any offences in any one Part of any regulations made under this Act; and
 - (b) prescribing penalties not exceeding 20 PU for any prescribed offence or class of prescribed offence and prescribing different penalties for the one offence, according to the circumstances by which the offence is attended.

[Section 102 amended by No. 89 of 1978 (as amended by No. 82 of 1982 s.30) s.16; No. 105 of 1981 s.19; No. 11 of 1988 s.24; No. 60 of 1990 s.5; No. 13 of 1992 s.14; No. 92 of 1994 s.39; No. 57 of 1995 s.7; No. 50 of 1997 s.13; No. 24 of 1999 s.10.]

103. Disqualification from driving by reason of convictions

- (1) Subject to the succeeding provisions of this section, the Governor may make regulations providing —
 - (a) for a prescribed number of points to be recorded against every person convicted of any offence against this Act prescribed for the purposes of this section;
 - (b) that, upon the points recorded against a person pursuant to the regulations (including points accumulated

pursuant to regulations in force under the repealed Act) amounting to a prescribed aggregate, the person shall be disqualified from holding or obtaining a driver's licence, for a period not exceeding 3 months.

- (2) The regulations may prescribe the number of points to be recorded in respect of any prescribed offence or class of prescribed offence and may prescribe that a different number of points be recorded for the one offence, according to the circumstances by which the offence is attended.
- (3) An offence shall not be taken into account for the purposes of regulations made under this section, unless the driving or use of a motor vehicle was an element of the offence; and, in assessing an aggregate of points, only those recorded in respect of offences occurring within the period of 3 years immediately prior to the assessment shall be taken into account.
- (3a) Where a person is convicted of an offence and, in respect of that offence, the person is disqualified by the court, or by operation of a provision of this Act other than this section, from holding or obtaining a driver's licence, points shall not be recorded in respect of that offence.
- (4) Subject to this Act, disqualification shall take effect when notice thereof has been personally served on the person and no sooner.
- (4a) Where under this or any other Act a person —
 - (a) is or becomes disqualified from holding or obtaining a driver's licence or has the operation of his driver's licence suspended; and
 - (b) pursuant to this section becomes subject to a further period of disqualification,

the further period of disqualification to which he becomes subject shall be cumulative upon any earlier period of disqualification to which he is or becomes subject or upon any

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period for which the operation of his driver's licence is or may be suspended.

- (5) A person who has been served with notice of his disqualification from holding or obtaining a driver's licence shall deliver up his driver's licence, if then in his possession, to the person serving the notice, otherwise he shall deliver it up to the police station nearest to his place of residence together with the notice, as soon as may be practicable thereafter.

Penalty: 1 PU.

- (6) A person who is aggrieved by his disqualification from holding or obtaining a driver's licence, by operation of this section, may, within 30 days after the service on him of the notice of disqualification, apply to a court of petty sessions, by way of complaint against the Director General, for an order setting aside the disqualification.
- (7) The court hearing an application made under subsection (6) shall comprise a stipendiary magistrate and, if, after giving the parties an opportunity of being heard, the court is satisfied that the disqualification has been occasioned by an error in the number of points or in the computation of the number of points, recorded against the applicant, it shall grant the application, otherwise it shall dismiss the application.
- (8) The costs of an application made under subsection (6) shall be in the discretion of the court and, where the court grants the application, it shall direct that the number of points, or the computation of the number of points, recorded against the applicant, as the case may require, be revised in such manner as it may determine; and the Director General shall give effect to every such direction.

[Section 103 amended by No. 93 of 1975 s.8; No. 89 of 1978 s.17; No. 105 of 1981 s.19; No. 95 of 1984 s.7; No. 11 of 1988 s.16; No. 76 of 1996 s.20(3); No. 50 of 1997 s.13.]

Part VII — Offences and penalties

104. Offences against corresponding provisions of repealed Act to be taken into account as previous offences

- (1) Subject to subsection (2), where —
- (a) a person is convicted of an offence (in this subsection referred to as “**the present offence**”) against a provision of this Act; and
 - (b) the penalty or penalties which may or shall be imposed for the present offence vary according to whether the person has been convicted previously of such an offence,

any offence committed by the person against the repealed Act, the elements of which offence were substantially the same as those of the present offence shall be taken into account and deemed to have been an offence against that provision of this Act for the purposes of determining the penalty or penalties to be imposed for the present offence.

- (2) The provisions of subsection (1) —
- (a) shall not operate to limit the offences which might otherwise be regarded as previous offences against a provision of this Act; and
 - (b) do not apply to or in relation to an offence against section 60, 61, 63, 64, 67 or 67A.

[Section 104 amended by No. 82 of 1982 s.25.]

105. Limitation on period for which previous offences taken into account

Where —

- (a) a person is convicted of an offence (in this section referred to as “**the present offence**”) against this Act; and

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- (b) the penalty or penalties which may or shall be imposed for the present offence vary according to whether the person has been convicted previously of an offence against this Act or the repealed Act,

any such previous offence the conviction for which was recorded more than 20 years before the commission of the present offence shall not be taken into account for the purposes of determining the penalty or penalties to be imposed for the present offence.

106. Minimum penalties

- (1) In this section —

“minimum penalty” means a penalty provided for or in relation to an offence that is expressed to be a minimum penalty (including a minimum period of disqualification from holding or obtaining a driver’s licence), whether by use of the expression “minimum penalty” or “not less than” or by any other like expression.

- (2) Subject to subsection (3), a minimum penalty in this Act is irreducible in mitigation despite the *Sentencing Act 1995* and the *Young Offenders Act 1994*.
- (3) Despite subsection (2) and Part 5 of the *Sentencing Act 1995*, a court sentencing a person who has been convicted of —
 - (a) a first or second offence against section 63 or 67; or
 - (b) an offence against 64 or 67A,

may, instead of imposing a fine —

- (c) order the release of the offender and impose a community based order under Part 9 of the *Sentencing Act 1995* with at least the community service requirement as a primary requirement of the order; or
- (d) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under

that Act imposing at least community work conditions on the offender.

- (4) If a court deals with a person under subsection (3), it must also disqualify the offender from holding or obtaining a driver's licence for a period not less than the minimum period provided in relation to the offence concerned.

[Section 106 inserted by No. 78 of 1995 s.116.]

107. Offences generally

- (1) Any person who contravenes a provision of this Act commits an offence.
- (2) Any person who commits an offence against this Act for which no other penalty is provided is liable to a penalty of 32 PU.
- (3) Proceedings for an offence against the traffic regulation provisions of this Act may be instituted by —
- (a) a member of the Police Force;
 - (b) a warden appointed by the Commissioner of Police; or
 - (c) a person authorized in that behalf by the Commissioner of Police.
- (3a) Proceedings for an offence against the licensing provisions of this Act may be instituted by —
- (a) a member of the Police Force;
 - (b) a warden appointed by the Director General; or
 - (c) a person authorized in that behalf by the Director General.
- (4) A complaint for an offence against section 24, 49(1)(a), 53 or 97 may be made at any time within 2 years from the time when the matter of complaint arose.

[Section 107 amended by No. 71 of 1979 s.16; No. 105 of 1981 ss.16 and 19; No. 82 of 1982 s.27; No. 11 of 1988 s.24; No. 76 of 1996 s.19; No. 50 of 1997 s.13.]

Part VIII — Transitional provisions

108. Savings

Without affecting the application of the *Interpretation Act 1918*⁵, and particularly of sections 15 and 16 thereof, to the repeal and re-enactment by this Act of the provisions of the *Traffic Act 1919*, it is hereby declared that any regulation, by-law, order, vehicle licence, driver's licence, extraordinary driver's licence, permit or other document in force under any provision of the *Traffic Act 1919* repealed by this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when it was made or done, and it is hereby further declared that any suspension, disqualification or cancellation of a driver's licence ordered or made by or under the *Traffic Act 1919* or *The Criminal Code* shall continue and have effect as if it had been ordered or made by or under the provisions of this Act and as if this Act had been in force when it was ordered or made.

109. Powers of traffic inspectors

Where any provision of this Act is proclaimed to come into operation prior to the date fixed under section 4 for the repeal of section 22 of the *Traffic Act 1919*, any reference in the first-mentioned provisions of this Act (other than section 13) to a member of the Police Force shall, until section 22 of the *Traffic Act 1919* is repealed, be construed as including a reference to a traffic inspector or assistant inspector appointed under that section.

[Section 109 amended by No. 105 of 1981 s.19.]

110. Powers of certain traffic inspectors preserved

- (1) The provisions of this section apply to such districts as are from time to time specified by notice under subsection (2).

- (2) The Minister may from time to time by notice published in the *Gazette*—
- (a) specify the districts to which the provisions of this section apply; and
 - (b) vary or revoke any such notice.
- (3) In any district to which the provisions of this section apply —
- (a) the appointment of any person as a traffic inspector or assistant inspector under section 22 of the *Traffic Act 1919* which appointment was in force immediately prior to the repeal of that section shall, subject to paragraph (b), continue in force and effect; and
 - (b) the local government for the district may appoint and dismiss traffic inspectors and assistant inspectors as if section 22 of the *Traffic Act 1919* had not been repealed,

and any such traffic inspector or assistant inspector may, throughout the district of the local government by which he was appointed, exercise any power conferred by this Act or section 27 of the *Motor Vehicle Dealers Act 1973* on a member of the Police Force, and any reference in this Act or in section 27 of the *Motor Vehicle Dealers Act 1973* to a member of the Police Force shall be construed as including a reference to such a traffic inspector or assistant inspector.

[Section 110 amended by No. 105 of 1981 s.17; No. 14 of 1996 s.4.]

Part IX — Regulations

111. Regulations, etc.

- (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations —
 - (a) empowering an authority therein named to —
 - (i) prohibit, and to authorize and regulate, processions;
 - (ii) restrict or prohibit the use of such roads, for such periods, as it may specify;
 - (iii) erect traffic signs and traffic control signals and similar devices;
 - (iiia) authorize any person or body or class of person or body to erect traffic signs and traffic control signals and similar devices, or any class or type thereof, in accordance with the instrument of authorization;
 - (iv) seize, remove and detain obstructing or abandoned vehicles;
 - (aa) regulating or prohibiting stock on roads;
 - (b) relating to the duties, obligations, conduct and behaviour of owners, persons in charge, drivers and passengers of vehicles or of any class of vehicle;
 - (c) requiring the drivers and passengers of —
 - (i) motor vehicles;

- (ii) 2-wheeled or 3-wheeled vehicles that are designed to be propelled through a mechanism operated solely by human power; and
- (iii) 2-wheeled or 3-wheeled vehicles that are power assisted pedal cycles,
to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles;
- (d) prescribing the standards of, and equipment to be fitted to, vehicles for the purposes of road safety, the security of vehicles or any related matter relating to road traffic, and requiring vehicles or equipment to be maintained in the prescribed manner;
- (da) providing for the examination and testing of vehicles and without restricting the generality of the foregoing —
 - (i) empowering the Director General to authorize persons to examine and test vehicles and to cancel any such authorization;
 - (ii) requiring the payment of fees for the examination and testing of vehicles pursuant to any regulation;
 - (iii) empowering any person who is authorized to examine and test vehicles to issue or to refuse to issue a certificate of inspection in relation to the inspection of a vehicle;
 - (iv) empowering persons to control, prohibit or restrict the use of a vehicle that does not conform to any regulation or does not fit the purpose for which the vehicle is desired to be licensed;
- (e) prohibiting or regulating the manufacture, sale or supply of —
 - (i) replicas or imitations of number plates; or
 - (ii) articles similar to number plates,and providing for the confiscation and disposal of such replicas, imitations or articles;

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- (f) regulating, and prescribing the manner of determining, the mass of vehicles or any components thereof and their loads;
- (g) enabling vehicles to be driven and tested;
- (h) regulating or prohibiting the parking or standing of vehicles;
- (i) prescribing a minimum age at which an individual may apply for the issue of a vehicle licence and providing for an applicant for a vehicle licence to provide proof of age and identity;
- (j) prescribing matters for or in respect of which fees shall be charged or charges shall be made and prescribing the amounts of such fees or charges;
- (k) imposing penalties not exceeding 24 PU for a first offence, and not exceeding 48 PU for any subsequent offence, against any regulation made under this section, not being an offence referred to in paragraph (l) or (m);
- (l) imposing for offences against regulations made pursuant to paragraph (f) not being an offence referred to in paragraph (m) —
 - (i) minimum penalties not exceeding from 1 PU to 48 PU irreducible in mitigation notwithstanding the provisions of any other Act; and
 - (ii) maximum penalties not exceeding 120 PU, in accordance with a scale so prescribed according to the nature of the offences and the circumstances by which they are attended;
- (m) requiring the driver or person in charge of a vehicle to comply with any reasonable direction given by a member of the Police Force —
 - (i) for the purpose of determining the mass of a vehicle and the load carried thereon and on any component thereof including a direction that the

vehicle be taken to a police station or other suitable place specified by the member of the Police Force; and

- (ii) to remove or adjust the load carried by a vehicle, on any component of a vehicle or both by the vehicle and on any component thereof so that the load carried thereon does not exceed the maximum mass that is permitted to be carried under the regulations by a vehicle of that kind and on any component thereof,

and imposing with respect to any offence against any such regulations —

- (iii) penalties not exceeding 24 PU for a first offence; and
 - (iv) for any subsequent offence a minimum penalty irreducible in mitigation, notwithstanding the provisions of any other Act, of 48 PU and maximum penalties not exceeding 144 PU for any subsequent offence;
 - (n) defining the previous offences that shall be taken into account in determining whether an offence is a first or subsequent offence for the purpose of the regulations.
- (2a) The circumstances referred to in subsection (2)(l) may include a reference to the amount, calculated as a percentage or otherwise, by which the mass of a vehicle and the load carried by a component thereof exceeds the maximum mass that is permitted to be carried by a vehicle of that kind or a component thereof or both under regulations made pursuant to subsection (2)(f).
- (2b) Regulations made pursuant to subsection (2)(f) may provide that where a person drives, stands or uses a vehicle or permits a vehicle to be driven, stood or used, in contravention of a provision of those regulations, the owner of that vehicle shall be deemed to have also contravened that provision.

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- (3) The regulations may in respect of any fee or charge (whether prescribed by the Act or by the regulations) provide for —
- (a) exemptions from the requirement to pay the fee or charge;
 - (b) the fee or charge to be reduced or refunded (in whole or in part); or
 - (c) the payment of the fee or charge to be deferred.
- (4) The regulations may provide that the exemption, reduction, refund or deferral —
- (a) only applies in specified circumstances or in respect of specified classes of persons or vehicles;
 - (b) is at the discretion of the Director General or a specified person;
 - (c) applies subject to specified requirements being satisfied; or
 - (d) applies subject to conditions —
 - (i) specified in the regulations; or
 - (ii) imposed by the Director General or a specified person and specified in a licence or permit.
- (5) Without limiting subsection (4)(c), the regulations may require a matter to be verified by statutory declaration.

[Section 111 amended by No. 17 of 1976 s.4; No. 89 of 1978 s.19; No. 71 of 1979 s.17; No. 81 of 1980 s.10¹¹; No. 71 of 1981 s.6; No. 105 of 1981 ss.18 and 19; No. 82 of 1982 s.28; No. 95 of 1984 s.8; No. 11 of 1988 ss.17¹² and 24; No. 46 of 1991 s.3; No. 92 of 1994 s.40; No. 21 of 1995 s.12; No. 76 of 1996 s.20(3); No. 50 of 1997 s.13; No. 57 of 1997 s.106(3); No. 52 of 1998 s.5.]

112. Liability of director, etc., of a body corporate that is owner of a vehicle

- (1) In this section “**director**”, in relation to a body corporate, includes any person occupying the position of director of the body corporate by whatever name called and includes a person

in accordance with whose directions or instructions the directors of the body corporate are accustomed to act.

- (2) Where a corporation is the owner or one of the owners of a vehicle any reference in a regulation made pursuant to section 111(2)(f) to the owner of such a vehicle shall be construed as including a reference to every person who is a director of that corporation.
- (3) Where any person has, by reason only of being director of a corporation been required under this Act to discharge any obligation to pay any sum of money that the corporation was obliged to pay, whether pursuant to a judgment or order of a court or not, that person —
 - (a) is entitled to recover from the corporation any amount so paid as a civil debt due to the person by the corporation; and
 - (b) when any amount so paid cannot be recovered from the corporation, is entitled to recover contribution from any other director of the corporation who would have been liable in respect of the amount so paid except that the amount which may be recovered by a director from any other director shall not exceed that proportion of the total amount that he has paid as one bears to the total number of directors of that corporation.
- (4) Where pursuant to the provisions of subsection (2) more than one person is liable as owner of a vehicle, any obligation imposed upon the owner by or under this section shall be deemed to have been discharged, if the obligation is performed by any one of those persons.
- (5) A certificate purporting to be signed by —
 - (a) the Commissioner of Corporate Affairs appointed under section 4 of the *Companies (Administration) Act 1982*¹³; or

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- (b) a person holding or acting in the office of a member of the Corporate Affairs Commission or who is or is acting as the officer holding the corresponding office under any corresponding law relating to corporations for the time being in force in any State or Territory of the Commonwealth,

stating that it appears from a return or returns lodged with him pursuant to the relevant law relating to corporations that on any date, or during any period, any person specified therein was a director of a corporation specified in the certificate is prima facie evidence of the matters specified in the certificate.

- (6) For the purposes of subsection (5), a person who appears from any return lodged as provided in that subsection, to be a director of a corporation, shall be deemed to continue as such until by a subsequent return so lodged it appears that he has ceased to be such a director.
- (7) Nothing in this section affects the liability of a corporation that is the owner or one of the owners of a vehicle to pay any amount to the Director General in accordance with any of the provisions of this Act.

[Section 112 inserted by No. 89 of 1978 s.20; amended by No. 105 of 1981 s.19; No. 10 of 1982 s.28; No. 95 of 1984 s.9; No. 76 of 1996 s.20(3).]

First Schedule

[Section 15]

Vehicle	Description
Caravan (motor propelled)	A vehicle that is fitted or designed for habitation for a person in the course of a journey and which is capable of being propelled by its own power.
Caravan (trailer type) ...	A vehicle that is fitted or designed for habitation for a person in the course of a journey, and to be drawn by another vehicle or by any tractive unit.
Converter dolly trailer...	A vehicle having an axle or axle group the lower half of a 5th wheel coupling and a draw bar, which is designed and used for attachment towards the front of a semi-trailer.
External power vehicle	A vehicle that derives its motive power from a source external to the vehicle or from an electrical storage battery which is not connected to any source of power when the vehicle is in motion.
Fork lift truck	A vehicle that is constructed or designed and ordinarily used, for the loading, unloading and like movement of goods at a factory warehouse, wharf, railway station or similar place and is of such nature as to be generally unsuitable for use on roads.
Mobile crane	A vehicle that has a crane permanently affixed to it and is not suitable for carrying any load other than the accessories necessary for the operation of the vehicle.
Motor car	Any motor vehicle designed primarily for the carriage of persons, whether the vehicle is, or is not, provided with space for the carriage of personal luggage, including the class of motor vehicles some of

First Schedule

Vehicle	Description
Motor carrier	<p>which are known by the trade name, “Station Sedan” or “Station Wagon”, which class is provided with greater space for the carriage of personal luggage and other things than is provided in sedan cars, and including also the class of 3 wheeled vehicle which is designed and controlled in a manner similar to a 4 wheeled motor car, but excluding motor cycles, motor carriers, and motor omnibuses.</p> <p>A motor vehicle that is —</p> <ul style="list-style-type: none"><li data-bbox="746 795 1232 1086">(a) constructed for the carriage therein or thereon of passengers or goods, or both passengers and goods, designed to travel on 3 wheels and weighing, unladen, not more than 1 016 kilograms, not being a 3 wheeled vehicle designed and controlled in a manner similar to a 4 wheeled motor car; or<li data-bbox="746 1108 1232 1366">(b) a motorized wheel chair, being a chair-type vehicle that is fitted with 3 or more wheels and is fitted and designed for use of or by physically disabled persons only, not being a vehicle that is exempted from this paragraph by the regulations.
Motor cycle	<p>Subject to the provisions of the description of a “motor carrier”, a motor vehicle designed to travel on 2 wheels, or with a sidecar attached 3 wheels, or a motor vehicle having 3 wheels arranged in such a way that the axis of rotation of 2 wheels lies on the same straight line and each of those 2 wheels is equidistant from the</p>

First Schedule

Vehicle	Description
Motor Wagon	<p>3rd, and includes any such vehicle which is not equipped with a permanent cab and cab roof.</p> <p>Any motor vehicle (not being a motor carrier or a motor cycle or a locomotive or traction engine) that is constructed for the conveyance therein or thereon of goods or merchandise or for the conveyance therein or thereon of any kind of materials used in any trade, business or industry or for use in any work whatsoever other than for the conveyance of passengers and includes a wagon driven by steam if fitted with wheels similar to those of a motor vehicle or to those of a sentinel or a similar vehicle. The term also includes any vehicle that comes within the popular conception of a motor car but which is fitted or adapted for the conveyance of any such goods, merchandise, or materials and is in fact used for that purpose where the vehicle licence fee for the vehicle licensed as a motor car would be less than the vehicle licence fee for the same vehicle licensed as a motor wagon.</p>
Omnibus	<p>A vehicle used as a passenger vehicle to carry passengers at separate fares.</p>
Plant trailer	<p>A trailer to which there is permanently affixed plant such as an air compressor, concrete mixer or welder and which is not suitable for carrying any load other than the accessories necessary for the operation of the vehicle.</p>

First Schedule

Vehicle	Description
Trailer	A vehicle (not including a semi-trailer) drawn by another vehicle but not including a sidecar attachment to a motor cycle or any vehicle that comes within the description of a caravan.
Semi-trailer	A vehicle that is drawn by another vehicle, and that comes within the description of a trailer but which is so constructed and by partial superimposition attached to the vehicle drawing the same in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle drawing it; the term also includes a type of trailer known as a pole type jinker or pole type trailer.
Tow Motor	A vehicle that is constructed or designed, and ordinarily used for the towing of trailers at a factory, warehouse, wharf, railway station or similar place and is of such a nature as to be generally unsuitable for use on roads.
Tractor (prime mover type)	A motor vehicle that is a tractive unit designed for hauling a semi-trailer.
Tractor (other than prime mover type)	A motor vehicle that — (a) is not designed for use primarily for the carriage on roads of passengers or goods; (b) is designed for use primarily in industry (whether in the public or private sector) including, without limiting the meaning of the expression “industry”, agricultural pursuits, earth moving, forestry pursuits, and pursuits of a prescribed nature; and

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Vehicle	Description
Tractor plant	<p>(c) is designed to be driven or controlled by a person carried in or on the vehicle.</p> <p>A motor vehicle that —</p> <p>(a) is, or has permanently affixed to it, an excavator, road roller, road grader, bulldozer, mechanical shovel, plough, rotary hoe or similar or prescribed plant;</p> <p>(b) is not suitable for the carriage of any load other than accessories necessary for the operation of the vehicle; and</p> <p>(c) is designed to be driven or controlled by a person carried in or on the vehicle.</p>
Tow Truck	<p>A motor vehicle constructed and fitted with permanent hoisting equipment used or intended to be used for the lifting, partial lifting or towing of road vehicle and which is not suitable for the carrying of any load other than accessories necessary for the operation of the vehicle.</p>

[First Schedule amended by No. 93 of 1975 s.9; No. 89 of 1978 s.21; No. 60 of 1982 s.6; No. 11 of 1988 s.18; No. 21 of 1995 s.13.]

Second Schedule

[Parts I and II deleted]

Part III — Vehicle licence fees

[Sections 19(3), 28A]

Division 1 — General

1. Interpretation

- (1) In this Part —
“**heavy vehicle**” has the same meaning as in the *Road Traffic (Licensing) Regulations 1975*.
- (2) For the purposes of ascertaining a fee under this Part —
[(a) and (b) deleted]
 - (c) the tare weight of a vehicle shall —
 - (i) in the case of a new or unlicensed vehicle, be based on the manufacturer’s specification; and
 - (ii) in the case of a vehicle which has been previously licensed, be as shown on the licence.

Division 2 — Licence fees for vehicles other than heavy vehicles

1. Calculation of licence fees

The licence fee payable for a vehicle other than a heavy vehicle for a period of 12 months is calculated in accordance with this Division.

2. Caravan (motor propelled), motor car, motor carrier, motor wagon, omnibus and tow truck

- (1) For a caravan (motor propelled), motor car, motor carrier, motor wagon, omnibus or tow truck the fee is \$12.26 per 100 kg or part thereof of tare weight, subject to a maximum fee equal to the fee payable for licence class 1R2 under item 4 of Division 4 of this Schedule.

3. Tractor (prime mover type)

For a tractor (prime mover type) the fee is \$12.26 per 100 kg or part thereof of tare weight, subject to a maximum fee equal to the fee payable for licence class SP2 under item 5 of Division 4 of this Schedule.

4. Converter dolly trailer, semi-trailer or other trailer not being a plant trailer

For a converter dolly trailer, semi-trailer or any other trailer not being a plant trailer the fee is \$6.13 per 100 kg or part thereof of tare weight.

5. Caravan (trailer type), fork lift truck, mobile crane, plant trailer, tow motor, tractor (other than prime mover type) or tractor plant

For a caravan (trailer type), fork lift truck, mobile crane, plant trailer, tow motor, tractor (other than prime mover type) or tractor plant the fee is \$3.06 per 100 kg or part thereof of the tare weight, subject to a maximum fee equal to the fee payable for licence class 1SV under Division 4, item 7 of this Schedule.

6. Motor cycle

- (1) For a motor cycle with engine capacity not exceeding 250 cubic centimetres, the fee is \$24.52.
- (2) For a motor cycle with engine capacity exceeding 250 cubic centimetres, the fee is \$36.79.

[Division 3 deleted in Gazette 12 May 1998 p.2800.]

Division 4 — Licence fees for heavy vehicles

1. Interpretation

- (1) In this Division —
 - “**axle**” means the axis of rotation of a row of tyres;
 - “**licence class**” followed by a designation means the licence class so designated under regulation 9A of the *Road Traffic (Licensing) Regulations 1975*;

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- (2) For the purposes of this Division —
- (a) 2 axles not more than one metre apart shall be regarded as one axle;
 - (b) 3 axles, where the outside axles are not more than 2 metres apart, shall be regarded as 2 axles; and
 - (c) 4 axles, where the outside axles are not more than 3.2 metres apart, shall be regarded as 3 axles.

2. Calculation of licence fees

The licence fee payable for a heavy vehicle for a period of 12 months shall be calculated in accordance with this Division.

3. Motor car and omnibus

For a motor car or omnibus the fee is an amount corresponding to the licence class in the Table to this item.

Table

Licence Class	Fee
	\$
1B2	300
2B2	500
2B3	1 250
AB3	500

4. Motor wagon or caravan (motor propelled)

For a motor wagon, caravan (motor propelled) or tow truck the fee is an amount corresponding to the licence class in the Table to this item.

Table

Licence Class	Fee
	\$
1R2	300
2R2	500
1R3	600
2R3	800
1R4	900
2R4	2 000
1R5	2 000
2R5	2 000

Second Schedule

Licence Class	Fee
	\$
SR2	600
SR3	2 100
SR4	2 100
SR5	2 100
MR2	4 000
MR3	4 000
MR4	4 250
MR5	4 250
LR2	5 250
LR3	5 250
LR4	5 250
LR5	5 250

5. Tractor (prime mover type)

For a tractor (prime mover type) the fee is an amount corresponding to the licence class in the Table to this item.

Table

Licence Class	Fee
	\$
SP2	800
SP3	3 250
SP4	4 250
SP5	4 250
MP2	3 250
MP3	4 250
MP4	4 500
MP5	4 500
1LP2	4 750
1LP3	4 750
1LP4	4 750
1LP5	4 750
2LP2	5 250
2LP3	5 250
2LP4	5 500
2LP5	5 500

Second Schedule

6. Semi-trailer, converter dolly trailer or trailer

For a semi-trailer, converter dolly trailer or trailer, other than a plant trailer (licence class HT) the fee is \$250 for every axle fitted.

7. Caravan (trailer type), plant trailer, tractor (not prime mover type), tractor plant, forklift truck, tow motor, mobile crane

For a caravan (trailer type), plant trailer, tractor (not prime mover type), tractor plant, forklift truck, tow motor, or mobile crane the fee is an amount corresponding to the licence class in the Table to this item.

Table

Licence Class	Fee
	\$
1SV	75
2SV2	250
2SV3	500
2SV4	750
2SV5	1000
2SV6	1250
2SV7	1500
2SV8	1750
2SV9	2000

[Second Schedule amended by No. 4 of 1977 s.4; No. 89 of 1978 s.22; No. 10 of 1979 s.5; No. 71 of 1979 s.18; No. 42 of 1980 s.10; No. 39 of 1981 s.4; No. 60 of 1982 s.6; No. 76 of 1996 s.20(3).

Second Schedule amended in Gazette 6 June 1980 pp.1671-2; 29 May 1981 pp.1611-18; 28 May 1982 pp.1728-34; 20 May 1983 pp.1525-32; 28 June 1984 pp.1743-51; 30 May 1986 pp.1769-75; 29 May 1987 pp.2263-73; 11 August 1989 pp.2695-704; 22 September 1989 p.3463; 17 November 1989 pp.4161-5 (erratum 8 December 1989 p.4463); 29 August 1990 pp.4383-90 (erratum 7 December 1990 p.605); 23 November 1990 pp.5850-1; 23 August 1991 pp.4418-22; 22 November 1991 pp.5958-9; 21 August 1992 pp.4162-6; 13 November 1992 p.5592; 24 May 1996 pp.2181-9; 17 December 1996 p.7015; 13 May 1997 pp.2345-9; 12 May 1998 pp.2799-800; 3 July 1998 p.3604; 25 May 1999 pp.2070-1.]

Notes

¹ This reprint is a compilation as at 17 September 1999 of the *Road Traffic Act 1974* and includes the amendments effected by the other Acts referred to in Part I of the following Table and by the regulations referred to in Part II of the following Table ^{1a}.

Table of Acts and Regulations

Part I — Acts

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Act 1974</i>	59 of 1974	3 December 1974	Section 4: 3 December 1974 (see section 2(2)); sections 6, 7, 8, 9, 10 and 12: 21 February 1975 (see section 2(1) and <i>Gazette</i> 21 February 1975 p.633); balance: 1 June 1975 (see section 2(2) and <i>Gazette</i> 29 May 1975 p.1442)	
<i>Road Traffic Act Amendment Act 1975</i>	77 of 1975	14 November 1975	1 July 1976 (see section 2 and <i>Gazette</i> 12 December 1975 p.4481)	
<i>Road Traffic Act Amendment Act (No. 2) 1975</i>	93 of 1975	20 November 1975	20 February 1976 (see section 2 and <i>Gazette</i> 20 February 1976 p.445)	
<i>Road Traffic Act Amendment Act 1976</i>	17 of 1976	3 June 1976	21 August 1976 (see section 2 and <i>Gazette</i> 6 August 1976 p.2658)	

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Act Amendment Act (No. 2) 1976</i>	48 of 1976	10 September 1976	Sections 3 and 4(a), (b), (c), (d), (e), (f) and (h): 1 June 1977 (see section 2(2) and <i>Gazette</i> 20 May 1977 p.1490); balance: 10 September 1976	
<i>Road Traffic Act Amendment Act (No. 3) 1976</i>	135 of 1976	9 December 1976	9 December 1976	
<i>Road Traffic Act Amendment Act 1977</i>	4 of 1977	29 August 1977	29 August 1977	
<i>Road Traffic Act Amendment Act 1978</i>	89 of 1978	8 November 1978	Act other than sections 16(a), (b) and (c), 18 and 23: 25 May 1979 (see section 2 and <i>Gazette</i> 25 May 1979 p.1377); section 18: 1 January 1980 (see section 2 and <i>Gazette</i> 7 December 1979 p.3770)	Section 16(a), (b) and (c) deleted and section 23 repealed by the <i>Road Traffic Amendment Act (No. 2) 1982</i> (No. 82 of 1982 sections 30 and 31)
<i>Acts Amendment and Repeal (Road Maintenance) Act 1979, Part II</i>	9 of 1979	18 May 1979	1 July 1979 (see section 2(2))	
<i>Road Traffic Act Amendment Act 1979</i>	10 of 1979	18 May 1979	18 May 1979	Section 2: saving

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Act Amendment Act (No. 2) 1979</i>	71 of 1979	27 November 1979	Section 4: 15 February 1980 (see section 2(2) and <i>Gazette</i> 15 February 1980 p.456); section 5: 2 May 1980 (see section 2(2) and <i>Gazette</i> 2 May 1980 p.1405); sections 8, 9, 10, 11, 13, 14 and 18: 1 February 1980 (see section 2(2) and <i>Gazette</i> 1 February 1980 p.284); balance: 27 November 1979 (see section 2(1))	
<i>Road Traffic Amendment Act 1980</i>	42 of 1980	12 November 1980	Sections 3, 4, 5, 6, 8, 9(a) and 10: 1 January 1981 (see section 2(2)); balance: 12 November 1980 (see section 2(1))	
<i>Acts Amendment (Motor Vehicle Pools) Act 1980, Part II</i>	48 of 1980	19 November 1980	19 November 1980	
<i>Road Traffic Amendment Act (No. 2) 1980</i>	81 of 1980	5 December 1980	5 December 1980	Section 10(2): validation ¹¹
<i>Road Traffic Amendment Act 1981</i>	39 of 1981	25 August 1981	25 August 1981	Section 2: transitional

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Amendment Act (No. 2) 1981</i>	71 of 1981	30 October 1981	1 August 1982 (see section 2 and <i>Gazette</i> 23 July 1982 p.2842)	
<i>Road Traffic Amendment Act (No. 4) 1981</i>	105 of 1981	4 December 1981	2 February 1982 (see section 2 and <i>Gazette</i> 2 February 1982 p.393)	
<i>Companies (Consequential Amendments) Act 1982, section 28</i>	10 of 1982	14 May 1982	1 July 1982 (see section 2(1) and <i>Gazette</i> 25 June 1982 p.2079)	
<i>Acts Amendment (Motor Vehicle Fees) Act 1982, Part III</i>	25 of 1982	27 May 1982	1 July 1982 (see section 2)	
<i>Road Traffic Amendment Act 1982</i>	60 of 1982	24 September 1982	Sections 3 and 6(a): 1 November 1982; balance: 1 October 1982 (see section 2 and <i>Gazette</i> 1 October 1982 p.3885)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Amendment Act (No. 2) 1982</i>	82 of 1982	11 November 1982	Sections 5, 7, 9, 11, 12, 13, 14(b), 15(d), 16, 20(a), (b), (c) and (e), 21(1), 25 and 26: 9 December 1982 (see section 2(2)); sections 14(a), 15(e), (g), (j), (l), and (n), 17, 18(a)(ii), (b), (d) and (e) and 19: 1 March 1983 (see section 2(3) and <i>Gazette</i> 25 February 1983 p.638); balance: 11 November 1982 (see section 2(1))	Section 21(2): transitional ¹⁰
<i>Road Traffic Amendment Act 1984</i>	95 of 1984	7 December 1984	4 January 1985	
<i>Acts Amendment and Repeal (Credit) Act 1984, Part VII</i>	102 of 1984	19 December 1984	31 March 1985 (see section 2 and <i>Gazette</i> 8 March 1985 p.867)	
<i>Acts Amendment and Repeal (Transport Co-ordination) Act 1985, Part VI</i>	54 of 1985	28 October 1985	1 January 1986 (see section 2 and <i>Gazette</i> 20 December 1985 p.4822)	

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Amendment Act 1985</i>	89 of 1985	4 December 1985	4 December 1985 (see section 2)	
<i>Road Traffic Amendment Act (No. 2) 1986</i>	78 of 1986	4 December 1986	4 December 1986 (see section 2)	
<i>Road Traffic Amendment Act (No. 2) 1987</i> ^{1a}	121 of 1987	24 December 1987	Sections 3, 4, 5, 6, 8, 9 and 10: 24 December 1987 (see section 2 and <i>Gazette</i> 24 December 1987 p.4561); section 7: 1 October 1988 (see section 2 and <i>Gazette</i> 30 September 1988 p.3967); section 11(a): 21 December 1990 (see section 2 and <i>Gazette</i> 21 December 1990 p.6212); balance: to be proclaimed	Section 10(2): transitional ⁹

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Amendment Act 1988</i>	11 of 1988	6 September 1988	Sections 3, 20, 21 and 23: 28 October 1988 (see section 2 and <i>Gazette</i> 28 October 1988 p.4274); section 8(a) and (b): 4 November 1988 (see section 2 and <i>Gazette</i> 4 November 1988 p.4365); sections 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22 and 24: 16 November 1988 (see section 2 and <i>Gazette</i> 16 November 1988 p.4517); sections 8(c) and 18 (other than paragraph (b)): 21 July 1989 (see section 2 and <i>Gazette</i> 21 July 1989 p.2212); section 18(b): 19 September 1989 (see section 2 and <i>Gazette</i> 21 July 1989 p.2212)	Section 17(2) and (3): validation ¹²

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Amendment (Random Breath Tests) Act 1988</i>	16 of 1988	9 September 1988	1 October 1988 (see section 2 and <i>Gazette</i> 30 September 1988 p.3967)	Section 5: review; amended by the <i>Road Traffic Amendment (Random Breath Tests) Act 1989</i> (No. 46 of 1989) and repealed section 2(2). Further amended by the <i>Road Traffic Amendment Act 1996</i> (No. 76 of 1996 section 41)
<i>Road Traffic Amendment Act (No. 3) 1988</i>	32 of 1988	24 November 1988	21 July 1989 (see section 2 and <i>Gazette</i> 21 July 1989 p.2212)	
<i>Acts Amendment (Children's Court) Act 1988, Part 7</i>	49 of 1988	22 December 1988	1 December 1989 (see section 2 and <i>Gazette</i> 24 November 1989 p.4327)	
<i>Road Traffic Amendment Act (No. 2) 1988</i>	57 of 1988	8 December 1988	1 February 1989 (see section 2 and <i>Gazette</i> 23 December 1988 p.4937)	
<i>Acts Amendment (Events on Roads) Act 1988, Part 2</i>	64 of 1988	8 December 1988	1 February 1991 (see section 2 and <i>Gazette</i> 1 February 1991 p.511)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Chemistry Centre (WA)) Act 1990, Part 3</i>	19 of 1990	24 July 1990	9 August 1991 (see section 2 and <i>Gazette</i> 9 August 1991 p.4101)	Section 9: savings ¹⁴ ; Section 10: validation ¹⁵
<i>Road Traffic Amendment Act (No. 3) 1990</i>	60 of 1990	17 December 1990	21 December 1990 (see section 2 and <i>Gazette</i> 21 December 1990 p.6212)	Section 6: review
<i>Criminal Law Amendment Act 1991, sections 6(2) and 21</i>	37 of 1991	12 December 1991	Section 6: 12 December 1991 (see section 2(1)); section 21: 10 February 1992 (see section 2(2) and <i>Gazette</i> 31 January 1991 p.477)	Item 1(2) of Part A of Schedule: transitional ¹⁶
<i>Road Traffic (Bicycle Helmets) Amendment Act 1991</i>	46 of 1991	17 December 1991	17 December 1991	
<i>Road Traffic Amendment (Power Assisted Pedal Cycles) Act 1991</i>	50 of 1991	17 December 1991	24 December 1991 (see section 2 and <i>Gazette</i> 24 December 1991 p.6395)	
<i>Criminal Law Amendment Act 1992, Part 3</i>	1 of 1992	7 February 1992	9 March 1992 (see section 2)	
<i>Road Traffic Amendment Act 1992</i>	13 of 1992	16 June 1992	16 June 1993 (see section 2)	

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Financial Administration Legislation Amendment Act 1993</i> , sections 6 and 11	6 of 1993	27 August 1993	Section 6: 27 August 1993 (see section 2(2)); section 11: deemed operative 1 July 1993 (see section 2(1))	
<i>Acts Amendment (Vehicles on Roads) Act 1994</i> , Part 3	13 of 1994	15 April 1994	17 May 1994 (see section 2 and <i>Gazette</i> 17 May 1994 p.2065)	
<i>Taxi Act 1994</i> , section 48	83 of 1994	20 December 1994	10 January 1995 (see section 2 and <i>Gazette</i> 10 January 1995 p.73)	
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994</i> , Part 19	92 of 1994	23 December 1994	1 January 1995 (see section 2(1) and <i>Gazette</i> 30 December 1994 p.7211)	
<i>Road Traffic Amendment Act 1995</i>	21 of 1995	13 July 1995	25 November 1995 (see section 2 and <i>Gazette</i> 24 November 1995 p.5390)	
<i>Acts Amendment (Vehicle Licences) Act 1995</i> , Part 2	57 of 1995	20 December 1995	20 December 1995 (see section 2)	
<i>Sentencing (Consequential Provisions) Act 1995</i> , Part 71 and section 147	78 of 1995	16 January 1996	4 November 1996 (see section 2 and <i>Gazette</i> 25 October 1996 p.5632)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Local Government (Consequential Amendments) Act 1996</i> , section 4	14 of 1996	28 June 1996	1 July 1996 (see section 2)	
<i>Consumer Credit (Western Australia) Act 1996</i> , section 13	30 of 1996	10 September 1996	1 November 1996 (see section 2)	
<i>Road Traffic Amendment (Measuring Equipment) Act 1996</i>	37 of 1996	27 September 1996	27 September 1996 (see section 2)	
<i>Financial Legislation Amendment Act 1996</i> , sections 27(3) and 64	49 of 1996	25 October 1996	25 October 1996 (see section 2)	
<i>Road Traffic Amendment Act 1996</i> ^{1a}	76 of 1996	14 November 1996	Section 8(3): to be proclaimed; balance operative 1 February 1997 (see section 2 and <i>Gazette</i> 31 January 1997 p.613)	Amended by the <i>Financial Legislation Amendment Act 1996</i> (No. 49 of 1996, section 27(4)). Section 52: validation ¹⁷ ; section 53: transitional

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Road Traffic Amendment Act 1997</i>	50 of 1997	12 December 1997	1 January 1998 (see section 2 and <i>Gazette</i> 23 December 1997 p.7400)	The amendment to section 20(2) referred to in section 13 did not come into operation because of an error in the reference to the provision to be amended.
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 106</i>	57 of 1997	15 December 1997	15 December 1997 (see section 2)	
<i>Road Traffic Amendment Act 1998</i>	52 of 1998	7 December 1998	7 December 1998 (see section 2)	
<i>Perth Parking Management (Consequential Provisions) Act 1999, section 7(4)</i>	16 of 1999	19 May 1999	7 August 1999 (see section 2 and <i>Gazette</i> 6 August 1999 p.3727)	
<i>Revenue Laws Amendment (Assessment) Act 1999, Part 3</i>	24 of 1999	29 June 1999	1 July 1999 (see section 2(3))	

Part II — Regulations

Citation	Gazettal	Commencement	Miscellaneous
Amending Regulations	6 June 1980 pp.1671-2	6 June 1980	Regulation 2 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1981</i>	29 May 1981 pp.1611-18	29 May 1981	Regulation 3 specified day

Citation	Gazettal	Commencement	Miscellaneous
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1982</i>	28 May 1982 pp.1728-34	28 May 1982	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1983</i>	20 May 1983 pp.1525-32	20 May 1983	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1984</i>	28 June 1984 pp.1741-51	28 June 1984	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1986</i> (Erratum 13 June 1986 p.1979)	30 May 1986 pp.1769-75	30 May 1986	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1987</i>	29 May 1987 pp.2263-73	29 May 1987	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1989</i>	11 August 1989 pp.2695-704	11 August 1989	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1989</i>	22 September 1989 p.3463	22 September 1989	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 3) 1989</i> (Erratum 8 December 1989 p.4463)	17 November 1989 pp.4161-5	17 November 1989	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1990</i> (Erratum 7 December 1990 p.6051)	29 August 1990 pp.4383-90	29 August 1990	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1990</i>	23 November 1990 pp.5850-1	23 November 1990	Regulation 3 specified day

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Citation	Gazettal	Commencement	Miscellaneous
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1991</i>	23 August 1991 pp.4417-22	23 August 1991	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1991</i>	22 November 1991 pp.5958-9	22 November 1991	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1992</i>	21 August 1992 pp.4162-6	21 August 1992	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1992</i>	13 November 1992 pp.5591-2	13 November 1992	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1996</i>	24 May 1996 pp.2181-9	24 May 1996	Regulation 2 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1996</i>	17 December 1996 pp.7014-5	17 December 1996	Regulation 2 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1997</i>	13 May 1997 pp.2344-9	13 May 1997	Regulation 2 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1998</i>	12 May 1998 pp.2799-800	15 May 1998 (see regulation 2)	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1998</i>	3 July 1998 pp.3603-4	3 July 1998 (see regulation 2)	Regulation 3 specified day
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1999</i>	25 May 1999 pp.2070-1	25 May 1999	Regulation 3 specified day

N.B. The *Road Traffic Act 1974* was affected by the *Companies Act 1961*; *Transport Co-ordination Act 1966*; *The Criminal Code*; *Medical Act 1894*; *Traffic Act 1919* (see transitional provisions); *Repatriation Act 1920* of the Commonwealth; *National Health Act 1953* of the Commonwealth; *Social Services Act 1947* of the Commonwealth.

^{1a} As at the date of this reprint the provisions of section 11(b) of the *Road Traffic Amendment Act (No. 2) 1987* (No. 121 of 1987) were not in operation. Section 11(b) reads as follows —

“

11. Section 89 amended

Section 89 of the principal Act is amended —

[(a) . . .]

(b) by repealing subsection (3) and substituting the following subsections —

- “ (3) If a complaint of an offence under this section has been made by a member of the Police Force and the owner of the vehicle has informed a member of the Police Force of loss or damage arising out of the alleged offence, it shall be the duty of the member of the Police Force by whom the complaint was made to make application to the Court by which the complaint is heard for compensation under this section on behalf of the owner of the vehicle.
- (4) The Court shall enquire into such application and may, on or after conviction and in addition to any penalty imposed under this section, make such orders for compensation including loss of hire, time, fuel, or other loss and damage sustained by the owner and for the costs of the application against any or all persons convicted of an offence under this section in respect of the vehicle as seems just.
- (5) In determining the application, the Court shall take into account the circumstances of the offence and whether the owner had left the vehicle unlocked or otherwise unsecured and may reduce wholly or in part the amount of compensation accordingly.
- (6) Until the contrary is proved, any loss or damage sustained to the vehicle or by the owner shall be deemed for the purposes of this section to be the responsibility of the person or persons convicted of an offence under this section in respect of the vehicle.

- (7) In the exercise of its jurisdiction under this section —
- (a) the Court shall have the powers of a Local Court under the *Local Courts Act 1904* and all such orders that it shall make shall be final but the Court shall not make any order for compensation against any person unless an opportunity has been given to that person to show why the order should not be made;
 - (b) the Court shall not be bound by the strict rules of evidence and may receive any written affidavit or statutory declaration evidencing loss or damage as it considers to be reliable.
- (8) No order for compensation under this section shall affect the right of any person to recover by civil proceedings any sum in excess of the amount of the order, and refusal or reduction of compensation under this section shall be no bar to civil proceedings, but no order for compensation against a convicted person shall deprive that person of the right in civil proceedings to contribution from any tortfeasor.
- (9) In this section “**owner of the vehicle**”, in relation to an offence under this section, means the owner of the vehicle at the time of the offence and includes a person who was in lawful possession or charge of the vehicle at the time of the offence.
- (10) Section 719 of *The Criminal Code* does not apply to an offence under this section. ”.

As at the date of this reprint the provisions of section 8(3) of the *Road Traffic Amendment Act 1996* (No. 76 of 1996) was not in operation. Section 8(3) reads as follows —

“

- (3) After section 42(3) of the principal Act the following subsections are inserted —
- “ (3a) Subject to subsection (3b), the requirement imposed by subsection (2)(d) can only be

satisfied by the production to the Director General of evidence of a prescribed kind showing that the applicant has undertaken and passed a course of instruction —

- (a) conducted by a body authorized by the Director General for that purpose; and
 - (b) complying with syllabus and examination requirements imposed by the Director General.
- (3b) In circumstances provided for in the regulations the Director General may accept other evidence in satisfaction of the requirement imposed by subsection (2)(d). ”
”

² Short title (as changed by section 5 of the *Acts Amendment and Repeal (Transport Co-ordination) Act 1985*) substituted pursuant to section 7(3)(gb) of the *Reprints Act 1984*.

³ Short Title (as changed by section 5 of the *Acts Amendment (ICWA) Act 1996*) substituted pursuant to section 7(3)(gb) of the *Reprints Act 1984*.

⁴ Title (as changed by section 8 of the *Acts Amendment (ICWA) Act 1996*) substituted pursuant to section 7(3)(h) of the *Reprints Act 1984*.

⁵ Now see the *Interpretation Act 1984*.

⁶ The *Traffic Act Amendment Act (No. 2) 1968* (No. 59 of 1968) came into operation on 20 December 1968 (see s.2 and *Gazette* 19 December 1968 p.3885).

⁷ Section 5 of the *Road Traffic Amendment (Random Breath Tests) Act 1988* (No. 16 of 1988) as amended by the *Road Traffic Amendment (Random Breath Tests) Act 1989* (No. 46 of 1989), section 4, and the *Road Traffic Amendment Act 1996* (No. 76 of 1996), section 41, reads as follows —

“

5. Review of amendments relating to random breath tests

- (1) A review of the operation of subsections (1) and (1aa) of section 66 of the principal Act as enacted by section 4 of this Act, and of their effect on the operation and effectiveness of Part V of the principal Act, shall be carried out as soon as is practicable after the expiration of one year from the commencement of section 4 and thereafter at yearly intervals.
- (2) The review required by subsection (1) shall be carried out by the Road Safety Council established under section 6 of the principal Act.

- (3) When the Road Safety Council has carried out the review required by subsection (1) it shall prepare a report based on the review and submit that report to the Minister to whom the administration of Part V of the principal Act is for the time being committed by the Governor.
- (4) As soon as is practicable after receiving the report submitted under subsection (3) the Minister shall cause the report to be laid before each House of Parliament.

”

⁸ Name changed to the Health Department of Western Australia.

⁹ Section 10(2) of the *Road Traffic Amendment Act (No. 2) 1987* (No. 121 of 1987) reads as follows —

“

- (2) A certificate that was in force under section 72(3)(b) of the principal Act immediately before the commencement of subsection (1)(d) shall have effect after that commencement as if it certified the person named in the certificate as being competent to operate all types of breath analysing equipment.

”

¹⁰ Section 21(2) of the *Road Traffic Amendment Act (No. 2) 1982* (No. 82 of 1982) reads as follows —

“

- (2) Subsections (1a) and (12) of section 76 of the principal Act as in force before the date of the coming into operation of subsection (1) of this section shall apply to and in relation to an application made by a person under section 76 of the principal Act during a period of disqualification imposed on him, before, on or after that date, by a court convicting him of an offence against section 67 of the principal Act as in force before that date.

”

¹¹ Section 10(2) of the *Road Traffic Amendment Act (No. 2) 1980* (No. 81 of 1980) reads as follows —

“

- (2) A traffic sign or traffic control signal or similar device purported to have been erected for the purposes of the principal Act and the regulations made thereunder before the coming into operation of this section shall be and always have been a valid and effective traffic sign, traffic control signal, or device for those purposes.

”

¹² Section 17(2) and (3) of the *Road Traffic Amendment Act 1988* (No. 11 of 1988) reads as follows —

“

- (2) In subsection (3) “**the relevant regulations**” means any regulations purporting to have been made under the principal Act before 1 July 1984 that would have been authorized under section 43(7) or (8) of the *Interpretation Act 1984* if they had been made on or after 1 July 1984.
- (3) The principal Act as enacted from time to time before 1 July 1984 is deemed to have authorized the making of the relevant regulations and those regulations shall be deemed to have taken effect and had the force of law accordingly.

”

¹³ Superseded by Corporations Law, see *Corporations (Western Australia) Act 1990*. For more information, see 1990 Index to Legislation.

¹⁴ Section 9 of the *Acts Amendment (Chemistry Centre (WA)) Act 1990* (No. 19 of 1990) reads as follows —

“

9. Saving of certificates and labels

A certificate or label issued under the principal Act that purports to have been signed by the director of the Government Chemical Laboratories or prepared by the Government Chemical Laboratories before the commencement of this Act shall continue to have effect as if this Act had not come into operation.

”

¹⁵ Section 10 of the *Acts Amendment (Chemistry Centre (WA)) Act 1990* (No. 19 of 1990) reads as follows —

“

10. Validation

Every act or thing purporting to have been done by the Director or any other officer of the Chemistry Centre (WA) under the principal Act before the commencement of this Act that would have been lawful if this Act had been in force at the time when it was done is hereby validated and declared to have been lawfully done.

”

¹⁶ Item 1(2) of Part A of the Schedule to the *Criminal Law Amendment Act 1991* (No. 37 of 1991) reads as follows —

“

- (2) Notwithstanding subclause (1), section 59(2), as it was immediately before the commencement of this clause, continues to apply in relation to —
- (a) any death that occurred before the commencement of this clause; and
 - (b) any death that occurs after the commencement of this clause if the driving which directly or indirectly causes the death occurs not less than a year and a day before the commencement of this clause.

”

¹⁷ Section 52 (Part 4) of the *Road Traffic Amendment Act 1996* (No. 76 of 1996) reads as follows —

“

52. Actions of delegates validated

- (1) Anything done before the commencement of this section by a person acting under any delegation purporting to have been made by the Traffic Board under any written law, is as valid and has the same force and effect, and is to be regarded as having always been as valid and had the same force and effect, as if it had been done by the Traffic Board.
- (2) In subsection (1) —
- “**Traffic Board**” means the Traffic Board constituted under section 6 of the *Road Traffic Act 1974* as it was before the commencement of this Act.

”

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
agricultural implement	5(1)
alleged offender	102(5a)
analyst	65
authorized person	48A(2), 65, 98A(1)
axle	Sch. 2, Pt. III, Div. 4, cl. 1
bodily harm	57(2), 59A(2)(c)
breath analysing equipment	65
commencement day	28A(3)
commercial vehicle	16(2)(b)
Commissioner	87(1)
Council	5(1)
director	112(1)
Director General	5(1)
Disq	5(1a)(a)
disqualified	76(13)(b)
distance measuring equipment	98A(1)
district	5(1)
driver	5(1)
driver's licence	5(1)
drugs analyst	65
duplicate	48B(2)
event	81A
Government road	5(1)
grievous bodily harm	59(2)(d)
heavy vehicle	Sch. 2, Pt. III, Div. 1, cl. 1
licence	5(1), 8(1)
licence class	Sch. 2, Pt. III, Div. 4, cl. 1
licensing provisions of this Act	5(1)
light	87(1)
Max	5(1a)(a)
mechanical power	5(1)
medical practitioner	65
Min	5(1a)(a)
minimum penalty	106(1)
Minister	5(1)
moped	5(1)
motor vehicle	5(1)
number plate	5(1)
offence	98(2c)

Defined Terms

offence particulars.....	8(1)
omnibus.....	5(1)
order.....	81A
owner.....	5(1), 5(5), 87(1)
passenger vehicle.....	5(1)
percentage of alcohol.....	65
permit.....	5(1), 8(1)
photographic evidence.....	102(3e)
power assisted pedal cycle.....	5(1)
preliminary test.....	65
prescribed area.....	86(1)
prescribed authority.....	78B(1)
prescribed offence.....	75(6)
PU.....	5(1a)(a)
public service appointee.....	11(6)
recording fee.....	5(1)
regulation.....	5(1)
repealed Act.....	5(1)
requirement.....	67(1)
road.....	5(1), 81A, 81E(3), 84(4)
road authority.....	84(4)
self-testing breath analysing equipment.....	65
specified day.....	28A(3)
speed measuring equipment.....	98A(1)
stock.....	5(1)
supply.....	8(1)
the present offence.....	75(1a), 75(2)(c), 75(2b), 104(1)(a), 105(a)
this Act.....	5(1)
traffic infringement notice.....	102(1)
traffic regulation provisions of this Act.....	5(1)
unrestricted licence.....	5(1)
vehicle.....	5(1)
vehicle licence fee.....	5(1)
warden.....	5(1)