



Western Australia

## **Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015**

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As at 25 Feb 2015

No. 2 of 2015

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# Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015

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Western Australia

## **Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015**

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**No. 2 of 2015**

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***An Act to amend the *Road Traffic Act 1974*, the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Authorisation to Drive) Act 2008* and the *Road Traffic (Vehicles) Act 2012*.***

*[Assented to 25 February 2015]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015*.

### **2. Commencement**

- (1) This Act comes into operation as follows —
  - (a) Part 1 — on the day on which this Act receives the Royal Assent;
  - (b) the rest of the Act — subject to subsection (2), on a day fixed by proclamation, and different days may be fixed for different provisions.
- (2) No provision of Part 3 may come into operation before the day fixed under the *Road Traffic (Administration) Act 2008* section 2(b).

**Part 2 — Amendments which may be brought into  
operation on or after Royal Assent**

**3. Act amended**

This Part amends the *Road Traffic Act 1974*.

**4. Section 59 amended**

(1) Delete section 59(1)(a) and insert:

- (a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or
- (ba) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
- (bb) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or

(2) In section 59(3)(a) delete “subsection (1)(a),” and insert:

subsection (1)(a), (ba) or (bb),

**5. Section 59A amended**

(1) Delete section 59A(1)(a) and insert:

- (a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or

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- (ba) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
- (bb) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or

(2) In section 59A(3a) delete “subsection (1)(a),” and insert:

subsection (1)(a), (ba) or (bb),

**6. Section 63 amended**

(1) Delete section 63(1) and insert:

- (1) A person who drives or attempts to drive a motor vehicle —
  - (a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or
  - (b) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
  - (c) while under the influence of 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) In section 63(7):



- (a) delete “against this section if it is alleged or appears on the evidence that the accused was under the influence of drugs alone,” and insert:

against subsection (1)(b),

- (b) in paragraph (a) delete “those drugs” and insert:

the drugs, under the influence of which the accused is alleged or appears on the evidence to be,

**7. Section 64AA amended**

In section 64AA(2c) delete “section 63, 64, or 67” and insert:

section 63, 64, 64A or 67

**8. Section 66 amended**

In section 66(2)(ca)(i) delete “section 59(1)(a) or 59A(1)(a)” and insert:

section 59(1)(a), (ba) or (bb) or 59A(1)(a), (ba) or (bb)

**9. Section 97 amended**

Delete section 97(2)(a) and insert:

- (a) while disqualified from obtaining a driver’s licence apply for or obtain such a licence, except that a person may apply for such a licence during the last 6 weeks of the period of disqualification;

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- (ba) while disqualified from obtaining any particular licence other than a driver's licence apply for or obtain such a licence;

**Part 3 — Amendments which may be brought into operation on or after the day fixed under the *Road Traffic (Administration) Act 2008* section 2(b)**

**Division 1 — *Road Traffic Act 1974* amended**

**10. Act amended**

This Division amends the *Road Traffic Act 1974*.

**11. Section 49 amended**

- (1) In section 49(1) in the Penalty paragraph (c) delete “subsection (3)(a), (b), or (c)” and insert:

subsection (3)(a), (b), (c) or (da)

- (2) After section 49(3)(c) insert:

- (da) who is a member of a class of persons prescribed for the purposes of this paragraph by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A; or

**12. Section 64A amended**

In section 64A(2):

- (a) in paragraph (f) delete “driver.” and insert:

driver; or

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**Part 3** Amendments which may be brought into operation on or after the day fixed under the Road Traffic (Administration) Act 2008 section 2(b)

**Division 2** Road Traffic (Administration) Act 2008 amended

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(b) after paragraph (f) insert:

(g) is a member of a class of persons prescribed for the purposes of this paragraph by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A.

**13. Section 78A amended**

In section 78A in the definition of *impounding offence (driver's licence)* paragraph (a) delete “section 49(3)(a), (b) or (c); or” and insert:

section 49(3)(a), (b), (c) or (da); or

**Division 2 — Road Traffic (Administration) Act 2008 amended**

**14. Act amended**

This Division amends the *Road Traffic (Administration) Act 2008*.

**15. Section 36 amended**

Delete section 36(2)(a) and insert:

- (a) while disqualified from obtaining a driver's licence apply for or obtain such a licence, except that a person may apply for such a licence during the last 6 weeks of the period of disqualification;
- (ba) while disqualified from obtaining any particular licence other than a driver's licence apply for or obtain such a licence;

**Division 3 — Road Traffic (Authorisation to Drive)  
Act 2008 amended**

**16. Act amended**

This Division amends the *Road Traffic (Authorisation to Drive) Act 2008*.

**17. Section 5A inserted**

After section 4 insert:

**5A. Regulations for alcohol interlock scheme**

(1) In this section —

***alcohol interlock*** means a device which, when installed in a motor vehicle, prevents the vehicle from being operated unless a breath sample analysed by the device contains either no measurable concentration of alcohol or not more than a particular concentration of alcohol;

***alcohol offence*** means an offence under the *Road Traffic Act 1974* Part V, an element of which is —

- (a) being under the influence of alcohol; or
- (b) having a blood alcohol content of or above a stated level; or
- (c) failing to provide a sample of blood, breath or urine or to allow such a sample to be taken.

(2) The regulations may provide for an alcohol interlock scheme under which —

- (a) a driver's licence granted to or held by a person who has been convicted of a prescribed alcohol

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**Part 3** Amendments which may be brought into operation on or after the day fixed under the Road Traffic (Administration) Act 2008 section 2(b)

**Division 3** Road Traffic (Authorisation to Drive) Act 2008 amended  
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offence is to be subject to a condition that it authorises driving only a vehicle in which an alcohol interlock is installed; and

- (b) the requirement referred to in paragraph (a) ceases to apply if the person satisfies prescribed conditions.
- (3) The particular purposes for which this section provides that regulations may be made do not prevent anything in section 61 from applying to the making of regulations for the purposes of this section.
- (4) Regulations made for the purposes of this section may, in relation to persons who have been convicted of prescribed alcohol offences, make any provision of a kind referred to in section 4.

**18. Section 16 amended**

In section 16(1)(a)(iv) delete “90; or” and insert:

90, or any other section of that Act that may be prescribed for the purpose of this section by regulations made for the purposes of section 5A; or

**19. Sections 20, 21 and 22 replaced**

Delete sections 20, 21 and 22 and insert:

**20. Notice of disqualification**

If a person is convicted before a court of an offence against this or any other written law and is disqualified

by the court from holding or obtaining a driver's licence, the court must cause to be sent to the CEO —

- (a) particulars of the conviction and of the order made by the court; and
- (b) any other information or particulars prescribed for the purposes of this section.

**21. Effect of disqualification**

- (1) Regulations may provide that, if a person is disqualified from holding or obtaining a driver's licence —
  - (a) by order of a court; or
  - (b) by operation of a road law; or
  - (c) by a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*,

any driver's licence or learner's permit held by that person is —

- (d) cancelled; or
  - (e) suspended so long as the disqualification continues in force.
- (2) During a period of suspension imposed by regulations made under subsection (1)(e), a driver's licence or learner's permit is of no effect, but this section does not operate to extend the period for which the licence or permit may be valid or effective beyond the time when it would be due to expire.

**20. Section 26 amended**

- (1) In section 26 delete "To" and insert:

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**Division 3** Road Traffic (Authorisation to Drive) Act 2008 amended  
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(1) To

(2) At the end of section 26 insert:

(2) However, regulations made for the purposes of section 5A —

(a) may provide that an extraordinary licence is to be subject to a condition that it authorises driving only a vehicle in which an alcohol interlock is installed; and

(b) may make provision with respect to extraordinary licences to the same extent as they may make provision with respect to drivers' licences that are not extraordinary licences.

**21. Section 32 amended**

(1) In section 32 delete “An order” and insert:

(1) An order

(2) At the end of section 32 insert:

(2) Regulations made under section 5A providing for an alcohol interlock scheme may require or permit the holder of an extraordinary licence who is participating in the scheme to drive for the purposes of the scheme, notwithstanding any conditions imposed under subsection (1)(b).



**22. Section 38 amended**

- (1) In section 38(1) delete “A person” and insert:

Subject to any regulations referred to in section 32(2), a person

- (2) After section 38(2) insert:

- (3) Regulations made for the purposes of section 5A may provide that, if a person engages in a course of conduct which —

- (a) constitutes an offence under this section; and
- (b) constitutes an offence to which the *Road Traffic Act 1974* section 49(3)(da) applies,

the person is to be prosecuted for the offence to which the *Road Traffic Act 1974* section 49(3)(da) applies, and not for the offence under this section.

**23. Section 64A inserted**

After section 63 insert:

**64A. Review of certain amendments relating to alcohol offences**

- (1) In this section —

***review date*** means the fifth anniversary of the day on which the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* section 17 comes into operation.

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**Part 3** Amendments which may be brought into operation on or after the day fixed under the Road Traffic (Administration) Act 2008 section 2(b)

**Division 4** Road Traffic (Vehicles) Act 2012 amended

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- (2) As soon as practicable after the review date the Minister is to review the operation and effectiveness of —
  - (a) the amendments made to this Act by the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* Part 3 Division 3; and
  - (b) the amendments made to the *Road Traffic Act 1974* by the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* Part 2 and Part 3 Division 1; and
  - (c) the amendment made to the *Road Traffic (Administration) Act 2008* by the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* Part 3 Division 2.
- (3) The Minister is to cause a report of the review to be laid before each House of Parliament within 6 months after the review date.

**Division 4 — Road Traffic (Vehicles) Act 2012 amended**

**24. Act amended**

This Division amends the *Road Traffic (Vehicles) Act 2012*.

**25. Section 9 amended**

After section 9(2) insert:

- (3) If requested under the *Road Traffic Act 1974* section 79BD to do so, the CEO must, in accordance with the request —
  - (a) suspend the licence in respect of a vehicle; or

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the day fixed under the Road Traffic (Administration) Act 2008  
section 2(b)

**Part 3**

Road Traffic (Vehicles) Act 2012 amended

**Division 4**

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- (b) revoke the suspension of the licence in respect  
of a vehicle.

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