

Western Australia

**Road Traffic Amendment (Impounding and
Confiscation of Vehicles) Act 2004**

As at 23 Jun 2004

No. 10 of 2004

Extract from www.slp.wa.gov.au, see that website for further information

Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004

CONTENTS

1.	Short title	1
2.	Commencement	2
3.	The Act amended	2
4.	Section 5 amended	2
5.	Section 48 amended	2
6.	Division 1 heading inserted in Part V	3
	Division 1 — Driving of vehicles: general offences	
7.	Section 51 amended	3
8.	Section 60 amended	3
9.	Section 62A and Division 2 heading inserted in Part V	4
	62A. Causing excessive noise, smoke	4
	Division 2 — Driving of vehicles: alcohol and drug related offences	
10.	Division 3 heading inserted in Part V	5
	Division 3 — General matters as to driving offences	
11.	Section 73 amended	5
12.	Section 74 inserted	5
	74. Representation in proceedings under Part V	5
13.	Sections 78A and 78B replaced with Division 4 in Part V	6
	Division 4 — Impounding and confiscation of vehicles for driving offences	
	Subdivision 1 — Preliminary	
	78A. Interpretation of Division 4	6
	78B. Penalties etc. not affected	9

**Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act
2004**

Contents

	78C.	Powers for this Division	9
	78D.	Contracts for conveying, storing impounded or confiscated vehicles	10
	78E.	Recovery of impounding expenses	11
		Subdivision 2 — Impounding of vehicles by police	
	79.	Impounding of vehicles for racing etc.	11
	79A.	Impounding of vehicles for driving without driver's licence etc.	11
	79B.	Notice of impounding	12
	79C.	Senior officer to be informed if vehicle impounded	12
	79D.	Release of impounded vehicles	13
	79E.	Expenses of impounding under section 79 or 79A payable by convicted driver	13
		Subdivision 3 — Impounding and confiscation of vehicles by court order	
	80.	Impounding of vehicles for racing etc.	14
	80A.	Confiscation of vehicles for racing etc.	14
	80B.	Impounding of vehicles for driving without driver's licence etc.	15
	80C.	Confiscation of vehicles for driving without driver's licence etc.	15
	80D.	Effect of confiscation	15
	80E.	Stolen or hired vehicles not to be impounded, confiscated	16
	80F.	Licence holder to surrender impounded, confiscated vehicle at time and place ordered by court	16
	80G.	Applications for orders to impound or confiscate vehicles	16
	80H.	Expenses of court-ordered impounding payable by convicted driver	19
		Subdivision 4 — Miscellaneous provisions about impounded or confiscated vehicles	
	80I.	Before impounded vehicles released, costs of storage for post-impounding period may be payable	19
	80J.	Disposing of confiscated, uncollected vehicles and items therein	19
	80K.	Expenses of confiscation not obtained on sale payable by convicted driver	23
	80L.	Transfer of vehicle licence	23
14.		Section 101 amended	23
15.		<i>Unclaimed Money Act 1990</i> amended	24
16.		<i>Road Traffic (Drivers' Licences) Regulations 1975</i> amended	25

Western Australia

Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004

No. 10 of 2004

An Act to amend the *Road Traffic Act 1974* to enable the impounding and confiscation of vehicles in certain circumstances, and to make related amendments to the —

- *Unclaimed Money Act 1990*; and
- *Road Traffic (Drivers' Licences) Regulations 1975*.

[Assented to 23 June 2004]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004*.

2. Commencement

This Act comes into operation on a day fixed by proclamation.

3. The Act amended

The amendments in this Act, except in sections 15 and 16, are to the *Road Traffic Act 1974**.

[* *Reprinted as at 19 October 2001.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2003, Table 1, p. 338.]*

4. Section 5 amended

After section 5(5) the following subsection is inserted —

“

- (6) For the purposes of this Act, a person reasonably suspects that something is the case at a relevant time if —
- (a) the person, acting in good faith, of their own knowledge has grounds at the time for holding the suspicion; and
 - (b) it is reasonable, when judged objectively, for the person to hold the suspicion on those grounds at the time, even if the grounds are subsequently found to be false or non-existent at the time.

”.

5. Section 48 amended

After section 48(10) the following subsection is inserted —

“

- (11) Both the Commissioner of Police and the Director General have a right to be heard in proceedings in relation to an application under this section.

”.

6. Division 1 heading inserted in Part V

Before section 49 the following heading is inserted in Part V —

“

Division 1 — Driving of vehicles: general offences

”.

7. Section 51 amended

Section 51(1)(a)(iii) is amended by inserting after “62,” —

“ 62A, ”.

8. Section 60 amended

After section 60(1) the following subsections are inserted —

“

- (1a) A person who drives a motor vehicle at a speed of 155 km/h or more commits an offence.
- (1b) A person who drives a motor vehicle at a speed exceeding the speed limit set under this Act for that vehicle or the place where the driving occurs by 45 km/h or more commits an offence.
- (1c) Despite subsections (1a) and (1b), the driver of a motor vehicle is not guilty of an offence under those subsections if —
 - (a) either —
 - (i) the motor vehicle is being used to convey a member of the Police Force on official duty and the travelling at such speed is necessary to prevent the commission or continuation of an offence or to apprehend an offender or

- to assist a driver excused under subparagraphs (ii), (iii) or (iv);
- (ii) the driver is on official duty responding to a fire or fire alarm;
 - (iii) the driver is on official duty responding to an emergency or rescue operation where it is reasonable to assume that human life is likely to be in danger; or
 - (iv) the motor vehicle is an ambulance and is being used to answer an urgent call or to convey a person to a place for the provision of urgent medical treatment;
- (b) the driver is taking reasonable care; and
 - (c) the vehicle is displaying a blue or red flashing light or sounding an alarm unless, in the circumstances, it is reasonable for a light not to be displayed or an alarm not to be sounded.

”.

9. Section 62A and Division 2 heading inserted in Part V

After section 62 the following section and Division heading are inserted —

“

62A. Causing excessive noise, smoke

A person who wilfully drives a motor vehicle on a road or in a carpark so as to cause —

- (a) excessive noise to be made with one or more of the vehicle’s tyres; or

- (b) smoke to come from one or more of the vehicle's tyres or a substance on the driving surface,

commits an offence.

Penalty: 12PU.

Division 2 — Driving of vehicles: alcohol and drug related offences

”.

10. Division 3 heading inserted in Part V

After section 72 the following heading is inserted in Part V —

“

Division 3 — General matters as to driving offences

”.

11. Section 73 amended

Section 73 is amended by inserting after “inclusive,” the following —

“ but not in section 62A, ”.

12. Section 74 inserted

After section 73 the following section is inserted —

“

74. Representation in proceedings under Part V

- (1) Both the Commissioner of Police and the Director General have a right to be heard in proceedings under section 76.
- (2) The Director General has a right to be heard in proceedings under section 78.

s. 13

- (3) The Commissioner of Police has a right to be heard in proceedings under Division 4.
- (4) A person who, under this section, has a right to be heard in proceedings may be represented by any person he or she authorises for that purpose.

”.

13. Sections 78A and 78B replaced with Division 4 in Part V

Sections 78A and 78B are repealed and the following Division is inserted instead in Part V —

“

Division 4 — Impounding and confiscation of vehicles for driving offences

Subdivision 1 — Preliminary

78A. Interpretation of Division 4

In this Division —

“**approved**” means approved by the Commissioner;

“**circumstances of aggravation**” means circumstances in which —

- (a) the vehicle is being used to race another vehicle;
- (b) the vehicle is being used in an attempt to establish or break a speed record;
- (c) the speed, or the acceleration, braking or steering capability, of the vehicle is being tested or contested in any way;
- (d) the skill of the vehicle’s driver is being tested or contested in any way;
- (e) the vehicle is driven in a manner that causes smoke to come from one or more of the

vehicle's tyres or a substance on the driving surface; or

- (f) the vehicle is driven in a manner that causes one or more of the vehicle's driving wheels to lose traction with the driving surface;

“Commissioner” means the Commissioner of Police;

“hired”, in relation to a vehicle, means a vehicle that —

- (a) is owned by a person whose business is the short term hire of vehicles;
- (b) is part of the business's fleet; and
- (c) under a written agreement, is hired for the hirer's short term use;

“impounding offence (driver's licence)” means an offence against section 49(1)(a) that is committed in circumstances in which —

- (a) the driver had applied for a driver's licence and was refused the issue of the licence on a ground mentioned in section 48(1)(b), (c) or (f);
- (b) the driver had held a driver's licence that is cancelled on a ground mentioned in section 48(1)(b), (c) or (f); or
- (c) the driver had held a driver's licence the operation of which is suspended on a ground mentioned in section 48(1)(b), (c) or (f);

“impounding offence (driving)” means any of the following —

- (a) an offence against section 59, 59A, 60 or 61 that is committed in circumstances of aggravation;
- (b) an offence against section 62A;

“impounding period” —

- (a) in relation to a vehicle impounded under section 79 or 79A, means the period of 48 hours starting from the time when the vehicle was impounded;
- (b) in relation to a vehicle impounded on an order under section 80(1) or 80B(1), means the period of impoundment specified in the order;

“lent” in addition to the ordinary meaning of the word means hired in the ordinary meaning of that word, or subject to a hire purchase agreement within the meaning of that term in the *Hire Purchase Act 1959* or is subject to a goods mortgage in connection with a credit contract within the meaning of the Consumer Credit Code;

“licence holder”, in relation to a vehicle, means the person in whose name the vehicle is licensed under this Act, registered under the *Control of Vehicles (Off-road Areas) Act 1978* or licensed or registered under a corresponding law of another State or Territory or the Commonwealth;

“senior officer” means a member of the Police Force who has attained the rank of inspector or a rank higher than that of inspector if, for an impoundment that takes place outside the Perth Metropolitan Area, it is not reasonably practical for a member of the Police Force to inform a person of the rank of inspector or above for reasons that the member has recorded, then **“senior officer”** includes a member of the Police Force who has attained the substantive rank of sergeant;

“surrender period”, in relation to a vehicle, means the period specified under section 80F in an order as

the period in which the vehicle is to be surrendered to the Commissioner.

78B. Penalties etc. not affected

- (1) The impounding or confiscation of a vehicle under this Division does not affect or in any way limit a provision of this Act relating to the imposition of any penalty or disqualification on a person convicted of an offence in respect of which the vehicle was impounded or confiscated.
- (2) For the purposes of the *Sentencing Act 1995* section 8 the fact that a vehicle may be, or has been, impounded or confiscated under this Division is not a mitigating factor.

78C. Powers for this Division

- (1) A member of the Police Force and any person assisting a member of the Police Force in the exercise of a power under section 79 or 79A may drive, tow or otherwise convey a vehicle impounded under that section —
 - (a) to the place where the vehicle is to be stored; or
 - (b) at the place where the vehicle is stored.
- (2) A member of the Police Force and any person assisting a member of the Police Force giving effect to an order under section 80(1), 80A(1), 80B(1) or 80C(1) may drive, tow or otherwise convey a vehicle that is the subject of the order —
 - (a) to the place where the vehicle is to be stored; or
 - (b) at the place where the vehicle is stored.
- (3) A member of the Police Force may seize the keys to a vehicle that is —
 - (a) impounded under section 79 or 79A; or

s. 13

- (b) the subject of an order under section 80(1), 80A(1), 80B(1) or 80C(1) but which is not surrendered to the Commissioner within the surrender period.
- (4) A member of the Police Force may, without warrant, at any time, enter any premises for the purpose of —
 - (a) seizing the keys to a vehicle that is the subject of an order under section 80(1), 80A(1), 80B(1) or 80C(1) but which is not surrendered to the Commissioner within the surrender period; or
 - (b) driving, towing or otherwise conveying such a vehicle to a place where the vehicle is to be stored.
- (5) A person may use reasonable force to exercise a power given by this section.
- (6) The powers that may be exercised under this section are —
 - (a) subject to the provisions of an order under section 80(1), 80A(1), 80B(1) or 80C(1); and
 - (b) in addition to the powers under section 86A.

78D. Contracts for conveying, storing impounded or confiscated vehicles

The Commissioner may, on behalf of the State, enter into a written contract under which the contractor provides services in respect of any of the following —

- (a) the driving, towing or otherwise conveying of vehicles impounded under section 79 or 79A or that are the subject of orders under section 80(1), 80A(1), 80B(1) or 80C(1);
- (b) the storage of such vehicles;

- (c) otherwise assisting the Commissioner and members of the Police Force in the performance of their respective functions under this Division.

78E. Recovery of impounding expenses

The Commissioner may recover expenses for which a person is liable under section 79E, 80H or 80K from that person in a court of competent jurisdiction as a debt due to the Commissioner.

Subdivision 2 — Impounding of vehicles by police

79. Impounding of vehicles for racing etc.

A member of the Police Force may impound a vehicle for 48 hours if the member reasonably suspects that —

- (a) the driver of the vehicle has committed an impounding offence (driving); and
- (b) the vehicle was used in the commission of the offence.

79A. Impounding of vehicles for driving without driver's licence etc.

A member of the Police Force may impound a vehicle for 48 hours if the member reasonably suspects that —

- (a) the driver of the vehicle has committed an impounding offence (driver's licence);
- (b) the vehicle was used in the commission of the offence; and
- (c) the driver of the vehicle has previously been convicted of an impounding offence (driver's licence).

79B. Notice of impounding

- (1) The Commissioner is to ensure that, as soon as practicable after a vehicle is impounded under section 79 or 79A, notice of the impounding is given to the vehicle's licence holder and, if the driver is not the vehicle's licence holder, the driver.
- (2) The notice is to be in an approved form and contain the following information —
 - (a) the time when the vehicle was impounded;
 - (b) the address of the place where the vehicle is stored;
 - (c) how, when and to whom the vehicle can be released;
 - (d) the powers of a court under section 80, 80A, 80B and 80C in relation to the impounding and confiscation of vehicles.

79C. Senior officer to be informed if vehicle impounded

- (1) A member of the Police Force, other than a senior officer, who impounds a vehicle under section 79 or 79A is to inform a senior officer, as soon as practicable after the vehicle is impounded, of the grounds on which the member suspects the matters mentioned in section 79(a) and (b) or 79A(a) to (c), as is relevant to the case.
- (2) A senior officer who is informed by a member of the Police Force of a vehicle impoundment pursuant to subsection (1) is to make enquiries so as to satisfy him or herself in respect of the matters mentioned in section 79(a) and (b) or 79A(a) to (c) about which a member of the Police Force is required to have a suspicion, that there are reasonable grounds for the member to have that suspicion.

- (3) If a senior officer is not satisfied as required by subsection (2) the senior officer and the member of the Police Force are to take measures to ensure that the vehicle is released from impoundment and returned to the vehicle's licence holder, or if the licence holder is not available, to the driver of the vehicle.

79D. Release of impounded vehicles

- (1) In this section —
“impounded vehicle” means a vehicle impounded under section 79 or 79A.
- (2) The Commissioner is to ensure that an impounded vehicle is not released before the impounding period ends unless —
 - (a) a member of the Police Force is satisfied that, at the time that the offence in respect of which the vehicle was impounded was committed, the vehicle was a stolen vehicle or a hired vehicle;
 - (b) a senior officer is not satisfied as required by section 79C(2); or
 - (c) a senior officer is satisfied that unless the vehicle is released, exceptional hardship will be suffered in the particular case.
- (3) When the impounding period ends, the Commissioner is to ensure that an impounded vehicle is released on the application, in an approved manner, of the vehicle's licence holder.

79E. Expenses of impounding under section 79 or 79A payable by convicted driver

If a vehicle is impounded under section 79 or 79A, the person who is convicted of the impounding offence (driving) or the impounding offence (driver's licence)

in respect of which the vehicle was impounded is liable to pay to the Commissioner all expenses reasonably incurred by the Commissioner in impounding the vehicle.

Subdivision 3 — Impounding and confiscation of vehicles by court order

80. Impounding of vehicles for racing etc.

- (1) A court that convicts a person of an impounding offence (driving) may, by order, impound the vehicle used in the offence for a period starting on the date on which —
 - (a) the vehicle is surrendered; or
 - (b) under section 78C, the vehicle is conveyed to the place where it is to be stored,

and being such period, not exceeding 3 months, as is specified in the order.

- (2) A court is not to make an order under subsection (1) unless it is satisfied that in the 3 years before the day on which the offence was committed the person was convicted of a previous impounding offence (driving).

80A. Confiscation of vehicles for racing etc.

- (1) A court that convicts a person of an impounding offence (driving) may, by order, confiscate the vehicle used in the offence.
- (2) A court is not to make an order under subsection (1) unless it is satisfied that in the 5 years before the day on which the offence was committed the person was convicted of 2 previous impounding offences (driving).

80B. Impounding of vehicles for driving without driver's licence etc.

- (1) A court that convicts a person of an impounding offence (driver's licence) may, by order, impound the vehicle used in the offence for a period starting on the date on which —
 - (a) the vehicle is surrendered; or
 - (b) under section 78C, the vehicle is conveyed to the place where it is to be stored,

and being such period, not exceeding 3 months, as is specified in the order.

- (2) A court is not to make an order under subsection (1) unless it is satisfied that in the 3 years before the day on which the offence was committed the person was convicted of a previous impounding offence (driver's licence).

80C. Confiscation of vehicles for driving without driver's licence etc.

- (1) A court that convicts a person of an impounding offence (driver's licence) may, by order, confiscate the vehicle used in the offence.
- (2) A court is not to make an order under subsection (1) unless it is satisfied that in the 5 years before the day on which the offence was committed the person was convicted of 2 previous impounding offences (driver's licence).

80D. Effect of confiscation

- (1) The property in a vehicle that is confiscated under section 80A(1) or 80C(1) vests absolutely in the State when the order is made, free from all interests, rights,

titles or claims in or to the ownership or possession of the vehicle.

- (2) Subsection (1) does not operate to prevent proceeds from the sale or disposal of a confiscated vehicle from being paid in accordance with section 80J(7).

80E. Stolen or hired vehicles not to be impounded, confiscated

- (1) A court is not to make an order under section 80(1), 80A(1), 80B(1) or 80C(1) if it is satisfied that at the time that the offence for which the person is convicted was committed, the vehicle was a stolen vehicle or a hired vehicle.
- (2) A court is not to make an order under section 80A(1) or 80C(1) if it is satisfied that at the time the offence for which the person is convicted was committed, the vehicle was a lent vehicle and instead may make an order under section 80 or 80B for a period not exceeding 6 months.

80F. Licence holder to surrender impounded, confiscated vehicle at time and place ordered by court

If a court makes an order under section 80(1), 80A(1), 80B(1) or 80C(1) in respect of a vehicle, the court is to specify in the order the time by which, and the place at which, the vehicle's licence holder is to surrender the vehicle and its keys to the Commissioner.

80G. Applications for orders to impound or confiscate vehicles

- (1) In this section —
“**interest**”, in relation to a vehicle, means a legal or equitable interest, right or title in or to the ownership or possession of the vehicle;

“order” means an order under section 80(1), 80A(1), 80B(1) or 80C(1).

- (2) An application for an order —
- (a) can only be made by the Commissioner; and
 - (b) is to be heard —
 - (i) as part of the proceedings in which the driver of the vehicle that is the subject of the application is convicted of the impounding offence (driving) or the impounding offence (driver’s licence), as is applicable to the case; or
 - (ii) in subsequent proceedings brought no later than 3 months after the proceedings in respect of the conviction.
- (3) The Commissioner is to give at least 14 days’ written notice of the Commissioner’s intention to make an application for an order to —
- (a) the driver of the vehicle;
 - (b) the vehicle’s licence holder;
 - (c) the Director General;
 - (d) any other person whom the Commissioner is aware has or may have an interest in the vehicle; and
 - (e) the public generally, in a newspaper having State-wide circulation.
- (4) A court is not to make an order unless it has given the following persons a reasonable opportunity to show cause why the order should not be made —
- (a) each person who is given notice under subsection (3)(a), (b) or (d) and who wishes to be heard on the application;

- (b) any other person who satisfies the court that the person has an interest in the vehicle.
- (5) In determining an application for an order the court may have regard to —
- (a) whether the impounding offence (driving) or the impounding offence (driver's licence), as is applicable to the case, was committed with the knowledge and acquiescence of a person who has an interest in the vehicle;
 - (b) whether making the order will cause severe financial or physical hardship to a person who has an interest in the vehicle or the usual driver of the vehicle; and
 - (c) any other relevant matter.
- (6) A person —
- (a) who is given notice under subsection (3)(a), (b) or (d); or
 - (b) other than a person mentioned in subsection (3)(a), (b), (c) or (d), who has satisfied the court that the person has an interest in the vehicle,

must not, before the application is decided, dispose of any interest that the person has in the vehicle unless a court has made an order approving of the proposed disposal.

Penalty: 50 PU.

- (7) If the Director General is given notice under subsection (3), the Director General must not, before the application is decided, transfer the licence of the vehicle that is the subject of the application.

80H. Expenses of court-ordered impounding payable by convicted driver

- (1) If a vehicle is impounded on an order under section 80(1) or 80B(1), the person who is convicted of the impounding offence (driving) or the impounding offence (driver's licence) in respect of which the vehicle was impounded is liable to pay to the Commissioner all expenses reasonably incurred by the Commissioner by way of giving effect to the order.
- (2) When the impounding period ends, the Commissioner may refuse to release the vehicle to the person who is liable under subsection (1) to pay expenses in respect of the vehicle until those expenses are paid.

Subdivision 4 — Miscellaneous provisions about impounded or confiscated vehicles

80I. Before impounded vehicles released, costs of storage for post-impounding period may be payable

- (1) The Commissioner may refuse to release a vehicle impounded under section 79 or 79A or on an order under section 80(1) or 80B(1) until the Commissioner is paid the expenses incurred in storing the vehicle after the impounding period ends.
- (2) The expenses referred to in subsection (1) are not to include the costs of storing the vehicle for any 24 hour period during which the place where the vehicle is stored is not open to the public.

80J. Disposing of confiscated, uncollected vehicles and items therein

- (1) In this section —
“**confiscated vehicle**” means a vehicle that is confiscated under section 80A(1) or 80C(1);

“item” means an item that was in or on a confiscated vehicle or an uncollected vehicle at the time when —

- (a) the vehicle was impounded under section 79 or 79A;
- (b) the vehicle was surrendered; or
- (c) under section 78C, the vehicle was conveyed to a place for storage,

as is relevant to the case;

“uncollected vehicle” means a vehicle that was impounded under section 79 or 79A or on an order under section 80(1) or 80B(1) and not collected within 2 months after the end of the impounding period.

- (2) The Commissioner may sell or otherwise dispose of a confiscated vehicle, an uncollected vehicle or an item.
- (3) The Commissioner is not to sell or otherwise dispose of a confiscated vehicle, an uncollected vehicle or an item unless —
 - (a) any appeal against the conviction for an offence in respect of which the vehicle was impounded or confiscated is determined; and
 - (b) any appeal against an order under section 80(1), 80A(1), 80B(1) or 80C(1) in respect of the vehicle is determined.
- (4) The Commissioner is not to sell or otherwise dispose of an uncollected vehicle or an item unless —
 - (a) the vehicle’s licence holder is given at least 14 days’ written notice of the Commissioner’s intention to sell or dispose of the vehicle or item;

- (b) a notice of the intention to sell or dispose of the vehicle or item is published, at least 14 days before the proposed sale or disposal, in a newspaper having State-wide circulation;
 - (c) in the case of an item, reasonable steps have been taken to return the item to its owner; and
 - (d) any proceedings under subsection (5) or (6) in relation to the vehicle or item and any appeal in respect of those proceedings are determined.
- (5) The owner of an uncollected vehicle may apply to the Magistrates Court for an order that the sale or disposal of the vehicle under subsection (2) not take place until after such time as is specified in the order but no later than 3 months after the day of the order.
- (6) The owner of an item may apply to the Magistrates Court for an order that the item be returned.
- (7) Proceeds of the sale or disposal under subsection (2) of a vehicle or item are to be paid in the following order of priority —
 - (a) for expenses incurred in selling the vehicle or item;
 - (b) in the case of a confiscated vehicle, for expenses incurred in impounding the vehicle;
 - (c) in satisfaction of an unpaid amount for which a person is liable under section 79E but only if the person who is liable to pay that amount is also the vehicle's licence holder;
 - (d) in satisfaction of an unpaid amount of a judgment debt arising out of a liability under section 79E, but only if the person who is liable to pay that amount is also the vehicle's licence holder;

- (e) in satisfaction of an unpaid amount for which a person is liable under section 80H but only if the person who is liable to pay that amount is also the vehicle's licence holder;
- (f) in satisfaction of an unpaid amount of a judgment debt arising out of a liability under section 80H, but only if the person who is liable to pay that amount is also the vehicle's licence holder;
- (g) for the expenses incurred in storing the vehicle after the impounding period ends;
- (h) in the case of an uncollected vehicle, in satisfaction of any unpaid amount known to the Commissioner for which the vehicle is nominated in writing as security for the payment of that amount;
- (i) in the case of a confiscated vehicle, in satisfaction of any unpaid amount known to the Commissioner —
 - (i) for which the vehicle was nominated in writing as security for the payment of that amount; and
 - (ii) that, but for the confiscation of the vehicle, would have been payable to a person other than the person convicted of the offence in respect of which the vehicle was confiscated;
- (j) the balance, in the case of a confiscated vehicle, to the Treasurer of the State for the public uses of the State;
- (k) the balance, in the case of an uncollected vehicle or an item, to the Treasurer of the State to be dealt with under the *Unclaimed Money Act 1990* as prescribed retained money.

- (8) A person who acquires an uncollected vehicle or an item on a sale or disposal under subsection (2) of the vehicle or item obtains a good title to the vehicle or item if the person acquires it in good faith and without notice of any failure to comply with subsection (4) in relation to the sale or disposal.

80K. Expenses of confiscation not obtained on sale payable by convicted driver

If a confiscated vehicle is sold under section 80J(2) but the proceeds of the sale are insufficient to pay the expenses incurred in impounding and selling the vehicle, the person who is convicted of the impounding offence (driving) or the impounding offence (driver's licence) in respect of which the vehicle was confiscated is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.

80L. Transfer of vehicle licence

- (1) If a vehicle is confiscated on an order under section 80A(1) or 80C(1) or is to be sold as an uncollected vehicle under section 80J(2) —
- (a) the Commissioner of Police is to give notice in writing to the Director General of that fact; and
 - (b) the Director General is to transfer the vehicle's licence to the State of Western Australia.
- (2) Section 24(1)(a), (2), (2a), (2b) and (2c) do not apply if the Director General is given notice under subsection (1).

”.

14. Section 101 amended

Section 101 is amended as follows:

s. 15

- (a) by inserting before “No matter” the subsection designation “(1)”;
- (b) by inserting at the end of the section the following subsections —

“

- (2) Subsection (1) does not relieve a contractor of any liability that the contractor might otherwise have for anything done or omitted to be done, as described in that subsection, by the contractor or another person.
- (3) In subsection (2) —
“**contractor**” means a person who has entered into a contract with the Commissioner of Police under section 78D.

”.

15. Unclaimed Money Act 1990 amended

- (1) The amendment in this section is to the *Unclaimed Money Act 1990**.

[* Reprinted as at 5 November 1999.

For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 405.]

- (2) After section 9(1)(h) the following paragraph is inserted —

“

- (j) is the proceeds of a sale or disposal, under the *Road Traffic Act 1974* section 80J(2), of an uncollected vehicle or an item, as defined in section 80J(1) of that Act, which under section 80J(7)(k) of that Act is, or is liable to be, paid to the Treasurer;

”.

16. Road Traffic (Drivers' Licences) Regulations 1975 amended

- (1) The amendment in this section is to the *Road Traffic (Drivers' Licences) Regulations 1975**.

[* Reprinted as at 5 April 2002.

For amendments to 5 February 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 333.]

- (2) Schedule 9 is amended by inserting after item 2 the following item —

“

2A. 62A Causing excessive noise, smoke 3

”.

- (3) Nothing in this Act prevents any of the *Road Traffic (Drivers' Licences) Regulations 1975* from being amended in accordance with the *Road Traffic Act 1974*.

