

WESTERN AUSTRALIA

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**ACTS AMENDMENT (VEHICLE  
LICENCES) ACT 1995**

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**No. 57 of 1995**

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**AN ACT to amend the —**

- *Road Traffic Act 1974*; and
- *Stamp Act 1921*,

**in relation to motor vehicle licences.**

*[Assented to 20 December 1995.]*

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Acts Amendment (Vehicle Licences) Act 1995*.

**Commencement**

2. This Act comes into operation on the day on which it receives the Royal Assent.

**PART 2 — ROAD TRAFFIC ACT 1974**

**Principal Act**

3. In this Part the *Road Traffic Act 1974*\* is referred to as the principal Act.

[\* *Reprinted as at 1 June 1995.*]

**Section 15 amended**

4. Section 15 (3) of the principal Act is amended —

- (a) by deleting “the owner is not the holder of a vehicle licence” and substituting the following —

“  
    there is not a valid vehicle licence granted  
    or issued  
”;  
and

- (b) in paragraph (b) by deleting “the owner was not the holder of the required vehicle licence;” and substituting the following —

“  
    a valid vehicle licence had not been granted  
    or issued in respect of the vehicle;  
”.

**Section 16 amended**

5. (1) Section 16 (1) of the principal Act is amended by deleting “of which the owner is not the holder of a valid vehicle licence granted” and substituting the following —

“  
    for which there is not a valid vehicle licence granted  
    or issued  
”.

(2) Section 16 (4) of the principal Act is amended by deleting “of which the owner was not the holder of the requisite vehicle licence” and substituting the following —

“

for which there was not a valid vehicle licence granted or issued

”.

### **Section 24 amended**

6. Section 24 (2) and (3) of the principal Act are repealed and the following subsections are substituted —

“

(2) A person who becomes the owner of a vehicle in respect of which a licence has been granted shall, within 28 days after the day on which the person becomes the owner, apply to the Board for the transfer of the licence to the person and pay —

- (a) the prescribed transfer fee; and
- (b) the stamp duty under the *Stamp Act 1921* in respect of the transfer of the licence.

(3) The court convicting a person of an offence against subsection (2) 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.

”.

**Section 102 amended**

7. Section 102 of the principal Act is amended by inserting after subsection (2) the following subsections —

“

(2a) If the offence against section 24 (2) 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 payable under that section; 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 (2) 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.

”

**PART 3 — STAMP ACT 1921****Principal Act**

8. In this Part the *Stamp Act 1921*\* is referred to as the principal Act.

[\* *Reprinted as at 21 March 1989.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 200-2 and Act No. 22 of 1995.]*

**Section 76C amended**

9. (1) Section 76C (10) of the principal Act is repealed and the following subsections are substituted —

“

(10) If it appears to a licensing authority that a person has contravened section 24 (2) of the *Road Traffic Act 1974* in respect of a motor vehicle and if the time for commencing proceedings for the offence has not elapsed, the authority may —

- (a) determine the market value of the motor vehicle as at the date the person became the owner of the motor vehicle;
- (b) assess the duty payable by the person as if the person had applied for and been granted a transfer; and
- (c) include a fine equal to the amount of duty assessed.

(10A) A licensing authority may remit the whole or part of any fine included under subsection (10).

(10B) The total amount of the duty assessed, and any fine included, under subsection (10) —

- (a) shall be paid by the person to a licensing authority before a transfer is granted; and
- (b) may be recovered —
  - (i) if the offence against section 24 (2) of the *Road Traffic Act 1974* is prescribed for the purposes of section 102 of that Act, by issuing a traffic infringement notice to the person for an alleged offence against section 24 (2) of that Act; or
  - (ii) on a complaint alleging that the person has committed an offence against section 24 (2) of that Act.

(10C) If it appears to the Commissioner that a person has contravened section 24 (2) of the *Road Traffic Act 1974* in respect of a motor vehicle, the Commissioner may —

- (a) determine the market value of the motor vehicle as at the date the person became the owner of the motor vehicle;
- (b) assess the duty payable by the person as if the person had applied for and been granted a transfer; and
- (c) serve a notice of the assessment on the person.

(10D) The Commissioner shall not take action to recover any duty or fine payable under this section if a licensing authority is taking action to recover the duty or fine, and vice versa.

(2) Section 76C (13A) of the principal Act is amended by deleting "(10)" and substituting the following —

" (10C)               ".

(3) After section 76C (13B) of the principal Act the following subsection is inserted —

"

(13C) If a traffic infringement notice issued under section 102 of the *Road Traffic Act 1974* for an alleged offence against section 24 (2) of that Act specifies the amount referred to in subsection (10B), the person to whom it is issued shall not object under section 32 to the assessment made under subsection (10) unless he has paid the total amount payable under and in respect of the infringement notice.

".

(4) After section 76C (17) of the principal Act the following subsections are inserted —

"

(18) If under the *Road Traffic Act 1974* a licence is issued to a person and, within 15 months after the date of the issue, the Traffic Board or a specified person under that Act —

- (a) determines that the person did not have to pay the vehicle licence fee at the time of the issue; and
- (b) refunds the whole of that vehicle licence fee paid by the person,

the Commissioner shall refund the whole of the duty paid by the person in respect of the issue of the licence.



(19) If under the *Road Traffic Act 1974* a licence is transferred to a person and, within 15 months after the date of the transfer, the Traffic Board or a specified person under that Act determines that had the person applied for the issue or renewal of a licence at the date of the transfer, he would not have had to pay a vehicle licence fee, the Commissioner shall refund the duty paid by the person in respect of the transfer.

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