

CONTROL OF VEHICLES (OFF-ROAD AREAS).

No. 12 of 1985.

AN ACT to amend the Control of Vehicles (Off-road areas) Act 1978.

[Assented to 12 April 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Control of Vehicles (Off-road areas) Amendment Act 1985*.

Short title
and principal
Act.

(2) In this Act, the Control of Vehicles (Off-road areas) Act 1978 is referred to as the principal Act.

Act No. 117
of 1978
amended by
Act No. 106
of 1981.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Section 3
amended.

3. Section 3 of the principal Act is amended in subsection (1)—

(a) by inserting after the definition of “Minister” the following definition—

“ “motor cycle” includes a motor cycle as described in the First Schedule to the Road Traffic Act 1974 and also includes any multi-wheeled open vehicle the driver of which sits astride the vehicle or part of the vehicle in a manner similar to that customary for the driver of a conventional motor cycle; ”;

and

(b) by inserting after the definition of “road” the following definitions —

“ “seat belt” means a belt or similar device that is fitted to a motor vehicle and designed to restrain or limit the movement of a person who is seated in the vehicle and wearing the belt or device if the vehicle suddenly accelerates or decelerates but does not include—

(a) a seat belt solely or principally designed to restrain or limit the movement of a person of less than 8 years of age; or

(b) a seat belt which is damaged, or which is defective and is not capable

of being worn or of being properly adjusted or securely fastened;

“seat position” in relation to a motor vehicle other than a motor cycle, means a seat position intended for one person and, in the case of contiguous seating positions intended for more than one person, means each complete space of not less than 410 mm measured along the front of the seat; ”.

4. Section 8 of the principal Act is amended— Section 8 amended.

(a) by inserting after subsection (1) the following subsection—

“ (1a) The driving or use of or travelling as a passenger in a vehicle in circumstances that would otherwise be contrary to the provisions of section 9A, 9B or 9C is permitted for purposes connected with the prevention, control or extinguishing of fires or for or in relation to the saving of life or the alleviation of injury or illness. ”;

(b) in subsection (2), by deleting “a vehicle in circumstances that would otherwise be contrary to the provisions of subsection (1) of section 6 of this Act” and substituting the following—

“ or travelling as a passenger in a vehicle in circumstances that would otherwise be contrary to section 6 (1), 9A, 9B or 9C ”; and

- (c) in subsection (4), by deleting “a vehicle in circumstances that would otherwise have been contrary to the provisions of subsection (1) or of subsection (2) of section 6 of this Act” and substituting the following—

“ or travelling as a passenger in a vehicle in circumstances that would otherwise have been contrary to section 6 (1) or (2), 9A, 9B or 9C ”.

Sections
9A to 9C
inserted.

5. After section 9 of the principal Act, the following sections are inserted—

Seat belts
to be fitted.

“ 9A. (1) A person shall not drive or use or permit to be driven or used a vehicle to which this section applies in an area to which this section applies unless the vehicle is equipped with—

- (a) a seat belt for every seat position in the vehicle conforming to the standards and specifications prescribed by regulations; and
- (b) seat belt anchorage points or seat belt anchorages in respect of every seat position in the vehicle conforming to the standards and specifications prescribed by regulations.

Penalty: \$200 for a first offence and \$400 for a second or subsequent offence.

(2) This section applies to motor cars, as described in the First Schedule to the Road Traffic Act 1974, and to off-road vehicles but does not apply to motor cycles.

(3) This section applies in every area of the State to which the provisions of this Act apply except—

(a) on a road; or

(b) on private land on which the vehicle is used by consent, being private land that is neither a permitted area nor a prohibited area.

9B. (1) A person shall not, while occupying a seat position in a motor vehicle to which this section applies and to which a seat belt has been fitted for that seat position, drive or travel as a passenger in an area to which this section applies unless he is wearing that seat belt and the seat belt is properly adjusted and securely fastened.

Seat belts
to be worn.

Penalty: \$400 for a first offence and \$800 for a second or subsequent offence.

(2) A person shall not, in a motor vehicle to which this section applies and to which seat belts have been fitted and in an area to which this section applies, travel as a passenger in or on any part of the vehicle other than in a seat position for which a seat belt has been fitted unless each seat position for which a seat belt is fitted is occupied.

Penalty: \$400 for a first offence and \$800 for a second or subsequent offence.

(3) This section applies to motor cars, as described in the First Schedule to the Road Traffic Act 1974, and to off-road vehicles but does not apply to motor cycles.

(4) This section applies in every area of the State to which the provisions of this Act apply except—

- (a) on a road; or
- (b) on private land on which the vehicle is used by consent, being private land that is neither a permitted area nor a prohibited area.

(5) Subject to subsection (6), it is a defence to a complaint against a person under subsection (1) or (2) that the person—

- (a) is driving or travelling in a motor vehicle that is travelling backwards;
- (b) is in possession of a certificate signed by a qualified medical practitioner certifying that the person is unable for medical reasons to wear a seat belt, or that because of the person's size, build or other physical characteristics, it would be unreasonable to require him to wear a seat belt, while driving or travelling in a motor vehicle;
- (c) is under the age of 3 years; or
- (d) is travelling as a passenger in a motor vehicle and is of or over the age of 70 years.

(6) Where a certificate of the kind referred to in subsection (5) (b) is expressed to be of effect for a specified period, the certificate shall cease to have effect for the purposes of that subsection at the expiration of the period so specified.

9C. (1) A person shall not drive or, being a person of not less than 6 years of age, travel as a passenger on a motor cycle in an area to which this section applies unless he is wearing securely on his head a protective helmet of a type and standard prescribed by regulations.

Motor
cyclists
to wear
protective
helmets.

Penalty: \$400 for a first offence and \$800 for a second or subsequent offence.

(2) Subsection (1) does not apply so as to require the wearing of a protective helmet by a person who has been exempted in writing by the Traffic Board from that requirement for a reason relating to the person's medical condition or for any other reason considered sufficient by the Traffic Board.

(3) This section applies in every area of the State to which the provisions of this Act apply except—

(a) on a road; or

(b) on private land on which the vehicle is used by consent, being private land that is neither a permitted area nor a prohibited area. ”.

6. Section 16 of the principal Act is amended by inserting after subsection (4) the following subsection—

Section 16
amended.

“ (4a) Where pursuant to subsection (1) any private land is included within a prohibited area for the purposes of this Act, a person who is the owner or an occupier normally

resident on that land, or who is engaged in the working of that land on behalf of any such owner or occupier, who drives or uses or travels as a passenger in a vehicle on that land in circumstances that but for this subsection would constitute an offence against section 9A, 9B or 9C shall not in such circumstances be taken to contravene section 9A, 9B or 9C as the case may be. ”.
