



Western Australia

## **Road Safety Council Act 2002**

Compare between:

[17 Sep 2009, 00-f0-03] and [06 Oct 2009, 00-g0-03]



Western Australia

## **Road Safety Council Act 2002**

**An Act for a council with functions relating to road safety and the reduction of death, injury, and property damage, resulting from incidents on roads, and to amend certain other Acts.**

**1. Short title**

This Act may be cited as the *Road Safety Council Act 2002*.

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**2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation except as otherwise stated in subsection (2).
- (2) Section 12(4) comes into operation when the *Road Traffic Amendment Act 2000* section 44 comes into operation unless that is before it would come into operation under subsection (1).

**3. Meanings of terms used in this Act**

In this Act, unless the contrary intention appears —

**Council** means the Road Safety Council referred to in section 4;

**officer** includes a person employed in a department of the Public Service;

**public officer** means a Council member appointed under section 6(1), other than under section 6(1)(a), (b), or (c);

**road** has the same meaning as it has in the *Road Traffic Act 1974*;

**the Account** means the account called the “Road Trauma Trust Account” that is referred to in section 12.

*[Section 3 amended by No. 77 of 2006 s. 17.]*

**4. Establishment**

There is to be a body called the Road Safety Council.

**5. Functions**

The Council’s functions are —

- (a) to identify measures —
  - (i) to improve the safety of roads in the State; and
  - (ii) to 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 those measures;
- (c) to coordinate the implementation of those measures by relevant bodies and persons;
- (d) to evaluate and monitor the effectiveness of those measures;
- (e) to evaluate and monitor the safety of roads in the State; and
- (f) to recommend to the Minister how money standing to the credit of the Account should be spent to implement those measures and to facilitate the performance of the Council's functions.

**6. Membership**

- (1) The Council is to consist of 12 members appointed by the Minister, being —
  - (a) a person to be the chairman of the Council;
  - (b) a person to represent users of roads;
  - (c) a person to represent local government, nominated by the Western Australian Local Government Association;
  - (d) a person employed in the department of the Public Service principally assisting the Minister in the administration of this Act whose duties relate to road safety;
  - (e) a person nominated under subsection (2) by the Minister administering the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act”;
  - (f) a person nominated under subsection (3) by the Minister administering the *Police Act 1892*;
  - (g) a person nominated under subsection (4) by the Minister administering the *School Education Act 1999*;

- (h) a person nominated under subsection (4) by the Minister administering the *Health Act 1911*;
  - (i) a person nominated under subsection (4) by the Minister administering the *Main Roads Act 1930*;
  - (j) a person nominated under subsection (5) by the Minister administering the *Transport Co-ordination Act 1966*;
  - (k) a person nominated under subsection (6) by the Minister administering the *Planning and Development Act 2005*; and
  - (l) a person nominated under subsection (7) by the Minister administering the *Insurance Commission of Western Australia Act 1986*.
- (2) For the purposes of subsection (1)(e) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act” or an officer in that department whose duties relate to driver or vehicle licensing.
- (3) For the purposes of subsection (1)(f) 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.
- (4) For the purposes of subsection (1)(g) to (i) 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.
- (5) For the purposes of subsection (1)(j) 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 *Transport Co-ordination Act 1966* or an officer in that department whose duties relate to transport planning.

- (6) For the purposes of subsection (1)(k) 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 *Planning and Development Act 2005* or an officer in that department whose duties relate to urban and regional planning.
- (7) For the purposes of subsection (1)(l) the person nominated by the relevant Minister must be either the managing director of the Insurance Commission of Western Australia or an officer of the Commission whose duties relate to road safety.

*[Section 6 amended by No. 49 of 2004 s. 13; No. 38 of 2005 s. 15.]*

## **7. Deputy of member**

- (1) The Minister may appoint a person as a deputy for a Council member, other than the chairman.
- (2) If a Council member could only be appointed on the nomination of a person, only someone nominated by that person can be appointed as a deputy for the member.
- (3) If section 6 restricts who could be appointed, or nominated for appointment, as the member, only someone who would be eligible to be appointed, or nominated for appointment, as the member can be appointed, or nominated for appointment, as the member's deputy.
- (4) 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.

**8. Nomination for appointment**

- (1) Whenever it is necessary to appoint a Council member or a deputy on the nomination of a person, the Minister is to request the person, in writing, to submit the person's written nomination and the Minister is not to make the appointment until the nomination is received.
- (2) If the Minister is the person whose nomination would otherwise be required for an appointment, the requirement for a nomination does not apply but the Minister can only appoint someone who would have been eligible to be nominated.

**9. Duration of appointment as member or deputy**

- (1) A Council member who is not a public officer, or the 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;
  - (b) may resign by written notice given to the Minister.
- (2) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.
- (3) The Minister may revoke the appointment of a Council member who is not a public officer, or of a deputy of such a member, if the member or deputy —
  - (a) becomes incapable of carrying out satisfactorily the duties of a Council member; or
  - (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) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.



- (4) A Council member who is a public officer, or the deputy of such a member, ceases to be a member or deputy if he or she ceases to be eligible to be appointed or nominated for appointment as that member or deputy.
- (5) The Minister may at any time revoke the appointment of a Council member who is a public officer or of a deputy of such a member but, if another Minister's nomination is required for the appointment of a successor of that member or deputy, cannot do so unless requested to do so by that other Minister.

*[Section 9 amended by No. 18 of 2009 s. 76.]*

**10. Remuneration and allowances**

Council members who are not public officers, and their deputies, 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.

**11. Meetings**

- (1) Subject to this section the Council is to determine the procedure for convening and conducting its meetings.
- (2) The chairman is to preside at Council meetings.
- (3) In the absence of the chairman, a person elected by the Council members present is to preside.
- (4) The Council is to keep accurate minutes of its meetings.

**12. Road Trauma Trust Fund**

- (1) An agency special purpose account called the Road Trauma Trust Account is established under the *Financial Management Act 2006* section 16.
- (2) There is to be credited to the Account —
  - (a) one-third of each prescribed penalty paid pursuant to a photograph-based vehicle infringement notice for an

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offence to which the regulations specify that this paragraph applies;

- (b) any money appropriated by Parliament for the purposes of the Account;
- (c) any money received by way of donation, or otherwise lawfully received, for the Account; and
- (d) the amount of any income determined by the Treasurer (at a rate determined by the Treasurer) to be attributable to the investment under the *Financial Management Act 2006* section 37 of money standing to the credit of the Account.

- (3) In subsection (2)(a) —

**photograph-based vehicle infringement notice** means a traffic infringement notice under the *Road Traffic Act 1974* that —

- (a) alleges that an offence against the *Road Traffic Act 1974* has occurred of which the driving or being in charge of a vehicle is an element; and
- (b) is founded on a belief based on evidence that is defined as “photographic evidence” in the provisions of the *Road Traffic Act 1974* about traffic infringement notices,

and is addressed to and served on a person in circumstances where —

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

**prescribed penalty** means the penalty prescribed under the *Road Traffic Act 1974* for an offence if dealt with under section 102.

- (4) In the definition of “photograph-based vehicle infringement notice” in subsection (3) —

*traffic infringement notice* includes a notice that, because of the *Road Traffic Act 1974* section 102D(2), is to be regarded as being a traffic infringement notice.

- (5) For the purposes of the *Financial Management Act 2006* and the *Auditor General Act 2006* the Account is to be administered by the department of the Public Service principally assisting the Minister in the administration of this Act.
- (6) Money standing to the credit of the Account is to be applied for the purposes determined by the Minister on the recommendation of the Council.
- (7) The Governor may make regulations specifying offences to which subsection (2)(a) applies.

*[Section 12 amended by No. 77 of 2006 s. 17.]*

### **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.

### **14. Protection from liability for wrongdoing**

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The Crown is also relieved of any liability that it might otherwise have had for a person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.

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- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

**15. Other Acts amended**

Other Acts are amended as described in Schedule 1.

## Schedule 1 — Amendments to other Acts

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### Division 1 — *Constitution Acts Amendment Act 1899*

**1. The Act amended**

The amendments in this Division are to the *Constitution Acts Amendment Act 1899*\*.

[\* Reprinted 8 June 2001.

For subsequent amendments see Act No. 12 of 2001.]

**2. Schedule V Part 3 amended**

Schedule V Part 3 is amended in the item relating to The Road Safety Council by deleting “*Road Traffic Act 1974*.” and inserting instead —

“ *Road Safety Council Act 2002*. ”.

### Division 2 — *Financial Administration and Audit Act 1985*

**3. The Act amended**

The amendments in this Division are to the *Financial Administration and Audit Act 1985*\*.

[\* Reprinted 24 November 2000.

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 150-7, and Act No. 10 of 2001.]

**4. Section 39 amended**

Section 39(4) is repealed and the following subsection is inserted instead —

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- (4) The amount of investment income to which the *Road Safety Council Act 2002* section 12(2)(d) applies is to be credited in accordance with that provision.

”.

**Schedule 1      Amendments to other Acts**

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**Division 3 — *Road Traffic Act 1974***

**5.      The Act amended**

The amendments in this Division are to the *Road Traffic Act 1974*\*.

[\* *Reprinted 19 October 2001.*]

**6.      Section 5 amended**

In section 5(1), the definition of “Council” is deleted.

**7.      Part IIA repealed**

Part IIA is repealed.

**8.      Section 101 amended**

Section 101 is amended as follows:

- (a) by deleting “the Council, any Council member or deputy of a Council member,” and inserting instead the following —  
“ or any ”;
- (b) by deleting “the Council” in the second place where it occurs.

**Division 4 — *Road Traffic Amendment Act 2000***

**9.      The Act amended**

The amendments in this Division are to the *Road Traffic Amendment Act 2000*\*.

[\* *Act 39 of 2000.*]

**10.     Section 6 repealed**

Section 6 is repealed if it has not come into operation when section 15 of this Act comes into operation.

## Notes

<sup>1</sup> This is a compilation of the *Road Safety Council Act 2002* and includes the amendments made by the other written laws referred to in the following table [1a](#).

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Road Safety Council Act 2002</i>	5 of 2002	4 Jun 2002	Act other than s. 12(4): 1 Jul 2002 (see s. 2 and <i>Gazette</i> 1 Jul 2002 p. 3205); s. 12(4): 1 Jan 2006 (see s. 2(2) and <i>Gazette</i> 23 Dec 2005 p. 6244-5)
<i>Local Government Amendment Act 2004</i> s. 13	49 of 2004	12 Nov 2004	1 Apr 2005 (see s. 2 and <i>Gazette</i> 31 Mar 2005 p. 1029)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005</i> s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 76	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

<sup>1a</sup> [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

### Provisions that have not come into operation

<u>Short title</u>	<u>Number and year</u>	<u>Assent</u>	<u>Commencement</u>
<a href="#">Road Traffic Amendment (Hoons) Act 2009</a> Pt. 3 <sup>2</sup>	<a href="#">23 of 2009</a>	<a href="#">6 Oct 2009</a>	<a href="#">To be proclaimed (see s. 2(1)(b) and (2))</a>

<sup>2</sup> [On the date as at which this compilation was prepared, the Road Traffic Amendment \(Hoons\) Act 2009 Pt. 3 had not come into operation. It reads as follows:](#)

**Part 3 — Road Safety Council Act 2002 amended**

**28. Act amended**

This Part amends the *Road Safety Council Act 2002*.

**29. Section 12 amended**

(1) After section 12(2)(c) insert:

(da) money that the *Road Traffic Act 1974* section 80J(7)(j)(i) requires to be paid to the credit of the account; and

(2) After each of section 12(2)(a) and (b) insert:

and