

Road Traffic Act 1974

Compare between:

[02 Apr 2015, 12-f0-01] and [27 Apr 2015, 12-g0-01]

Western Australia

Road Traffic Act 1974

An Act to consolidate make provision in relation to the driving and amenduse of vehicles, the law relating to road regulation of traffic; to repeal the *Traffic Act 1919* and for incidental and other purposes.

[Long title amended by No. 8 of 2012 s. 5.]

Part I — Preliminary

1. **Short title**

This Act may be cited as the *Road Traffic Act 1974* ¹.

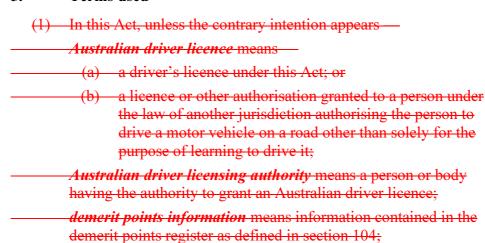
2. Commencement

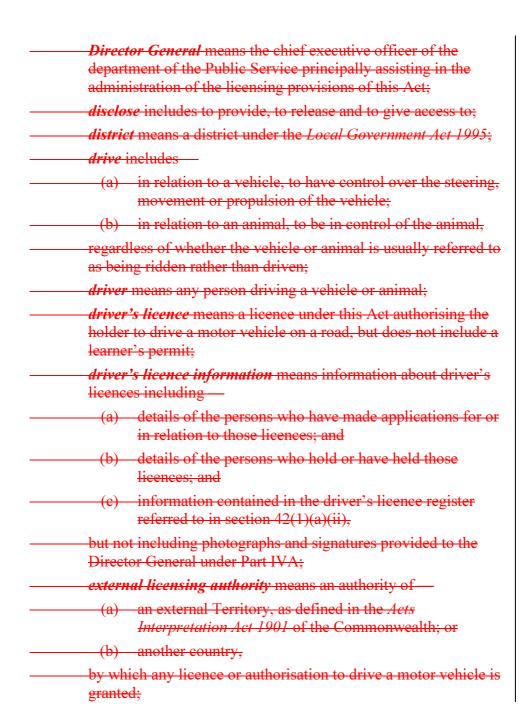
- Subject to subsection (2) the provisions of this Act shall come (1) into operation on such date or such dates as is or are, respectively, fixed by proclamation ¹.
- Section 4 shall come into operation on the day on which this (2) Act receives the Royal Assent ¹.
- Deleted by No. 82 of 1982 s. 4.] *[3.*

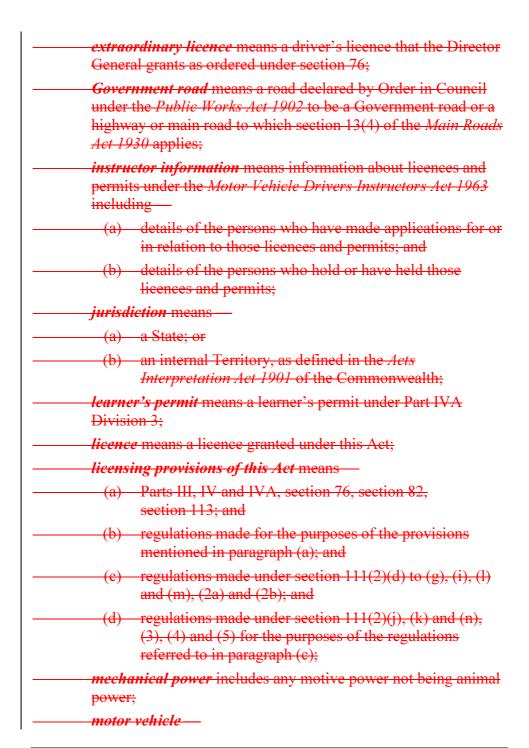
4. Repeal

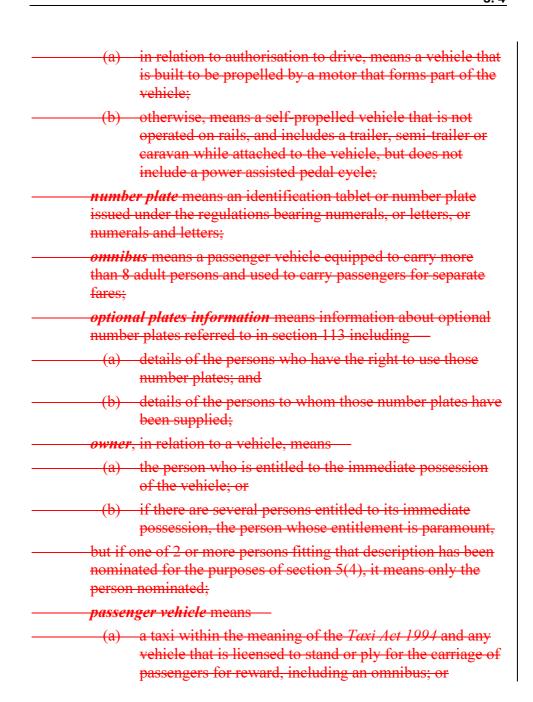
The provisions of the *Traffic Act 1919* shall be repealed on such date or such dates as is or are, respectively, fixed by proclamation.

5. Terms used

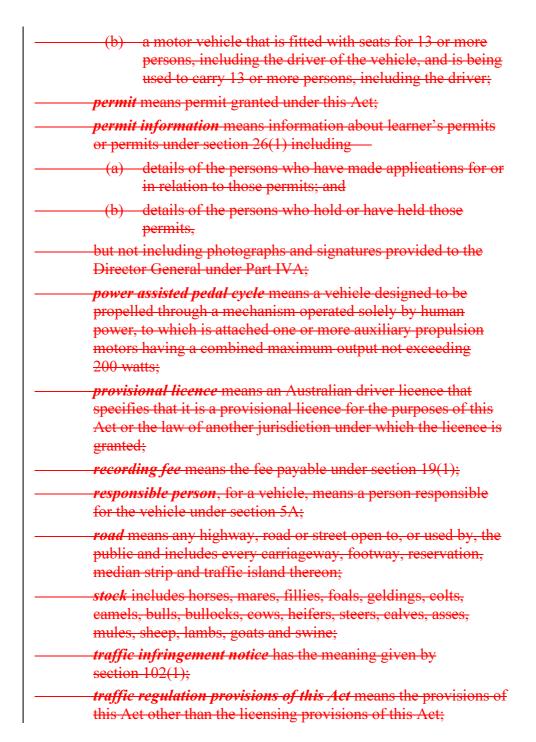


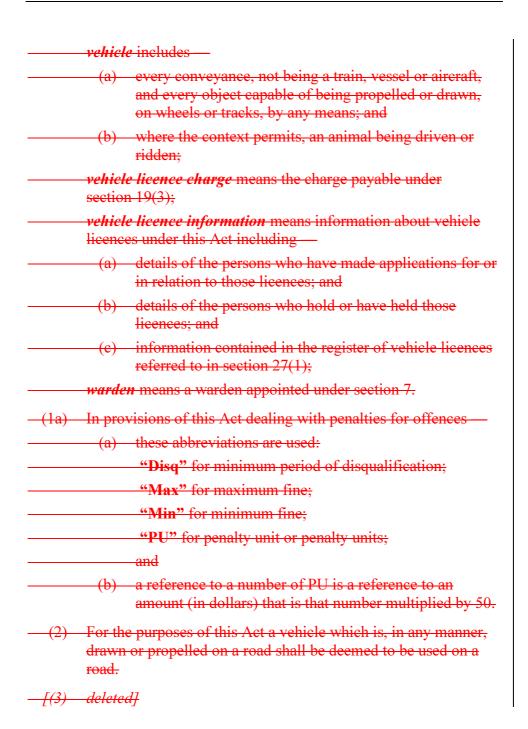




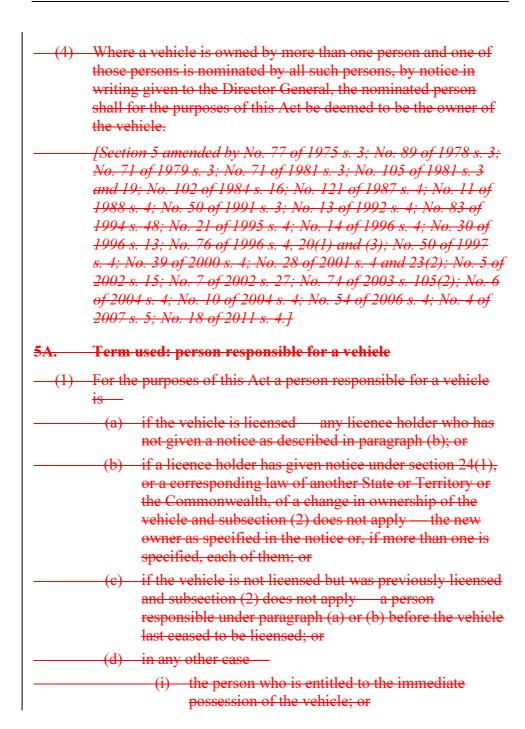


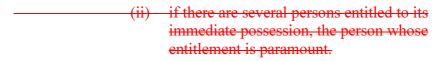
s. 4





s. 5A





- (2) Despite subsection (1), a person is not responsible for a vehicle under subsection (1)(b), if it can be shown that the person did not agree to becoming an owner of the vehicle and has notified the Director General in writing accordingly or has given a notice to a similar effect to a licensing authority of another State or Territory or the Commonwealth.
- (3) The Minister may by notice published in the Gazette declare a law of another State or Territory or the Commonwealth to be a corresponding law for the purposes of this section and may by subsequent notice so published vary or cancel any such declaration.
- (4) In this section

licence holder, in relation to a vehicle, means a person in whose name the vehicle is licensed;

licensed means 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.

[Section 5A inserted by No. 39 of 2000 s. 5.]

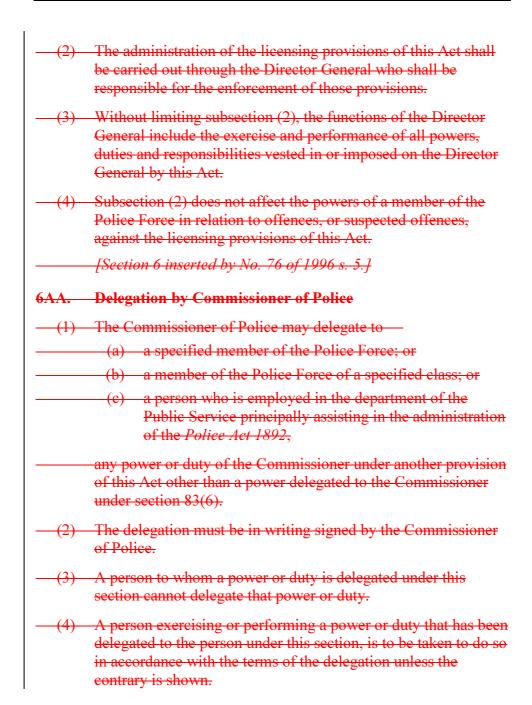
Part II — <u>Road Traffic (Administration) Act 2008 Part 1 Division 2</u> provides for the meanings of some terms and abbreviations in this Act.

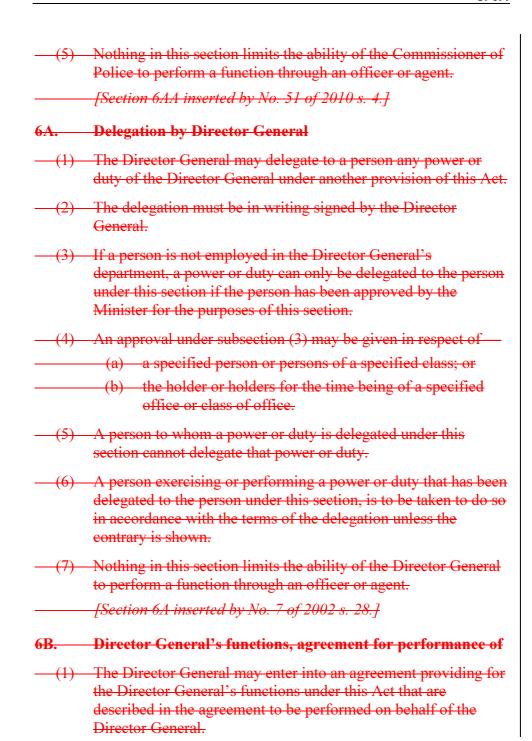
[Heading Section 5 inserted by No. 768 of 19962012 s. 5.]

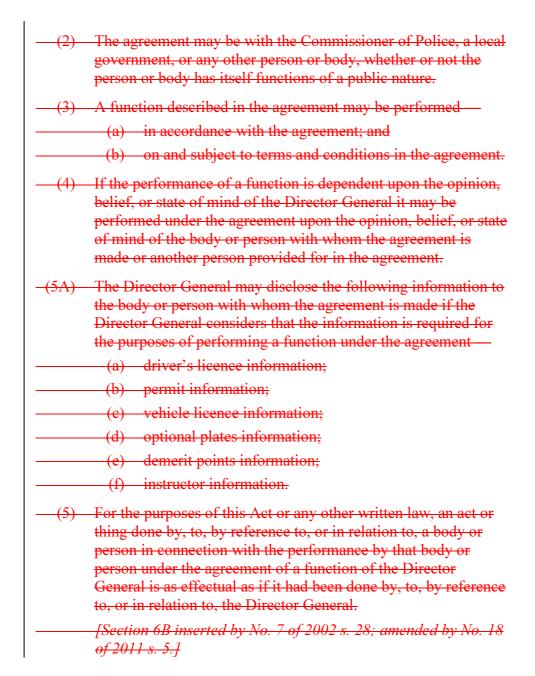
- 6. Commissioner of Police and Director General, functions of.]
- (1) The Commissioner of Police is responsible for the control and regulation of traffic in the State and for the enforcement of the traffic regulation provisions of this Act.

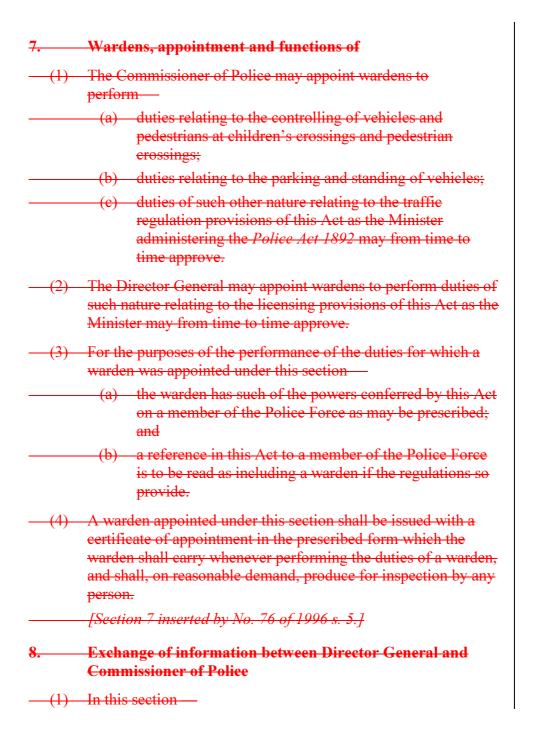
Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01]
Extract from www.slp.wa.gov.au, see that website for further information

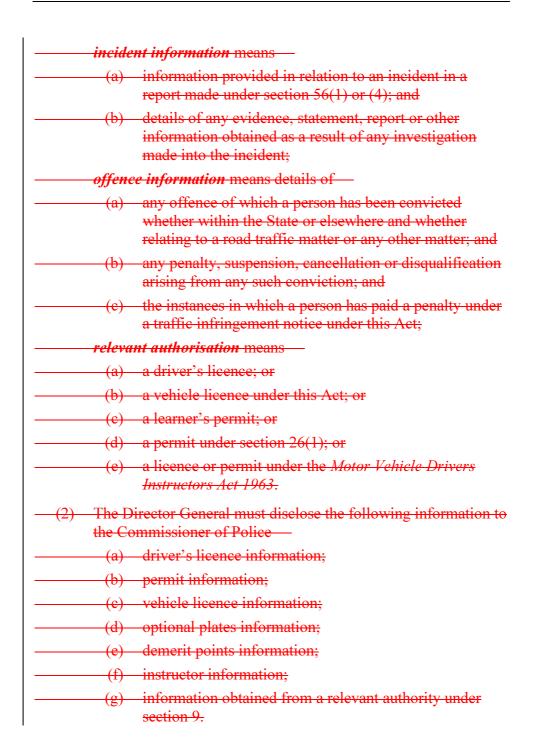
s. 6AA

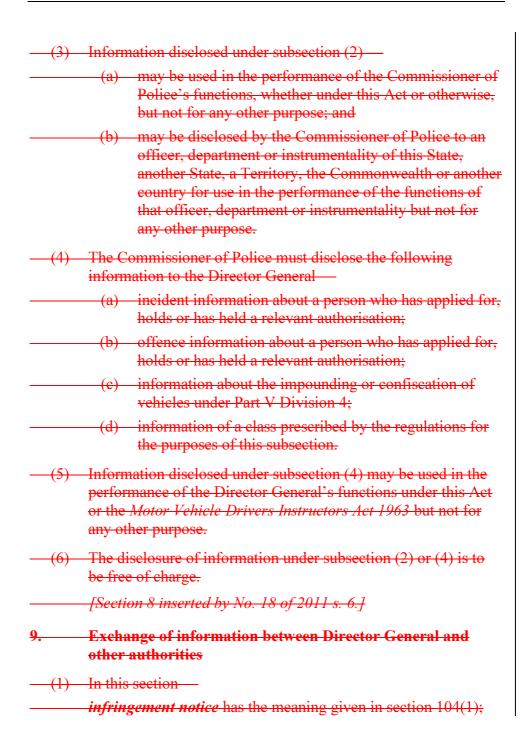


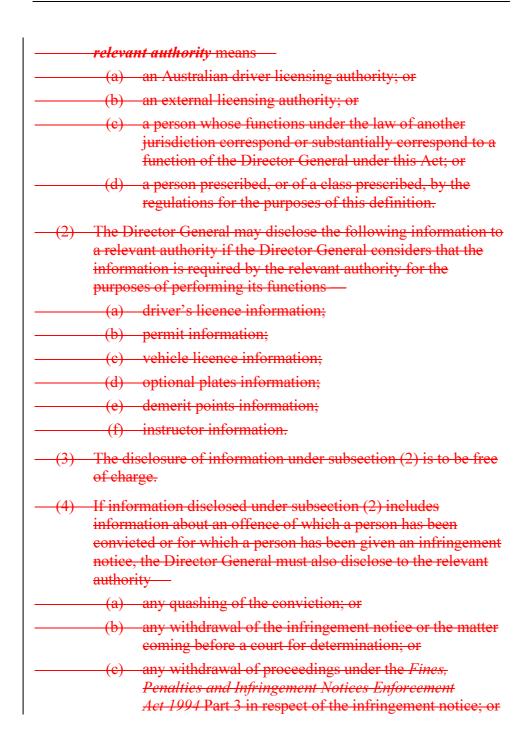


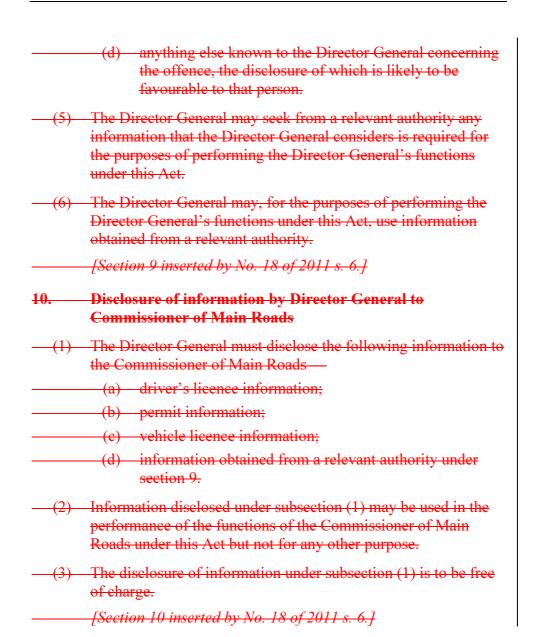


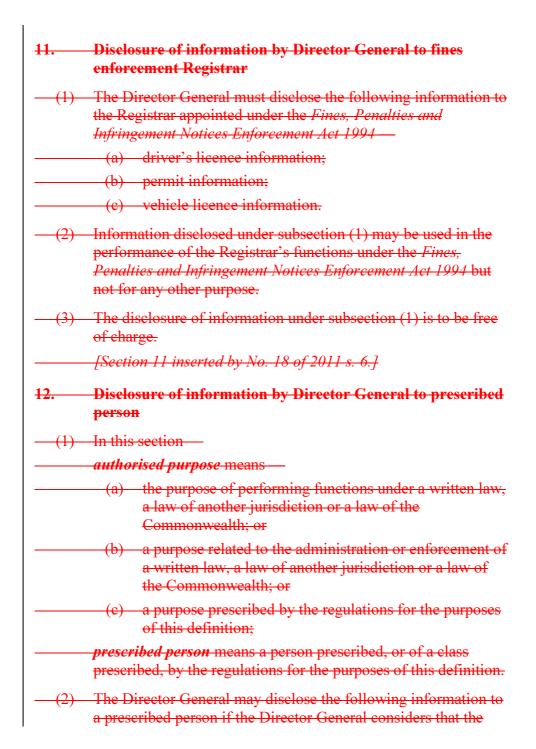


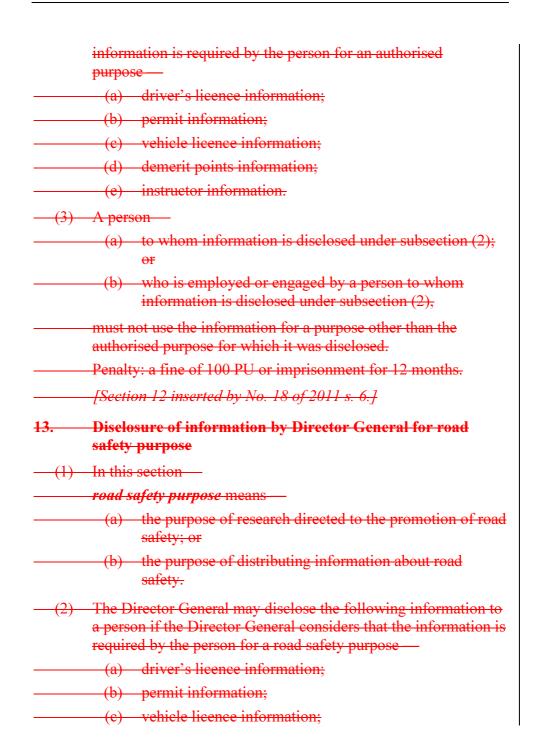




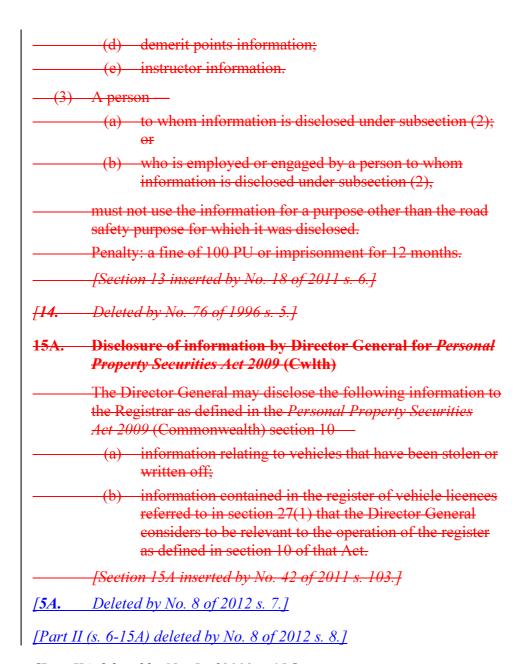








s. 15A



[Part IIA deleted by No. 5 of 2002 s. 15.]

[Part III—Licensing of vehicles

s. 15. Vehicle licence, when required; offence

- (1) A vehicle licence is required for a vehicle prescribed in the regulations.
- –, 17-20, 22, 23A-29 deleted<mark>}</mark>
- Where a vehicle for which there is not a valid vehicle licence granted under this Act is used on any road, a responsible person for the vehicle and any person so using the vehicle or causing or permitting such use commits an offence against this Act, but-
- (a) if the regulations provide that when a vehicle licence is renewed on an application made within a prescribed period after the expiry of the licence the renewal is to be regarded as having taken effect immediately after the licence expired, this subsection does not apply to the use of the vehicle within that prescribed period; and
- it is a defence to a charge of an offence against this subsection against any person other than a responsible person for the vehicle if the accused proves that he had no knowledge that a valid vehicle licence had not been granted in respect of the vehicle; and
- (c) a person shall not be convicted of an offence against this subsection if he has already been convicted, or charged and acquitted of an offence against section 4(3A) of the Motor Vehicle (Third Party Insurance) Act 1943, and both those offences or alleged offences were committed simultaneously.
- (4) A person who is convicted of an offence against this section shall be liable to a penalty not exceeding 10 PU, and in addition, the court shall order the accused to pay a further penalty equal to the charges payable under this Act for the grant of a vehicle licence for the vehicle concerned for a period of 6 months.

s. 17

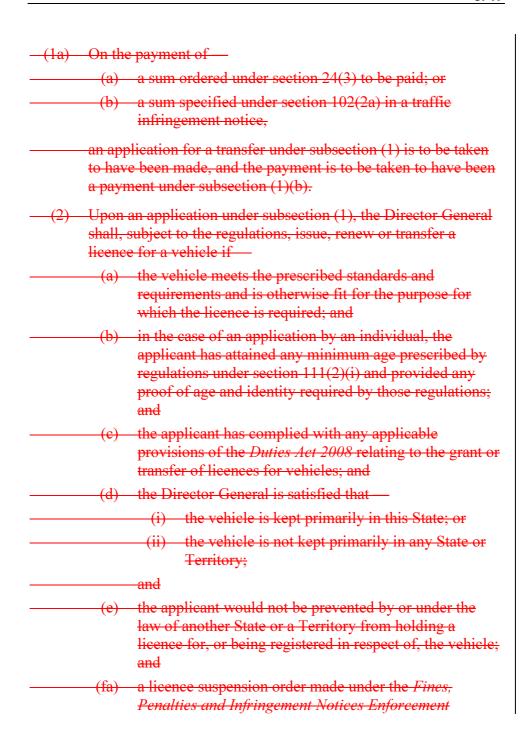
- Any person who has committed an offence against this section for which he has not been prosecuted shall be liable to pay to the Director General the charges which he might have been ordered to pay on conviction of such offence, and such charges shall be recoverable in any court of competent jurisdiction. For the purposes of the provisions of this section a vehicle licence document or equivalent document issued in any other
- State or Territory of the Commonwealth for a vehicle for which each responsible person is not ordinarily resident within the State of Western Australia shall, during the currency of the licence, be deemed to be a vehicle licence document under this Act in respect of the vehicle when used on any road within the State of Western Australia.

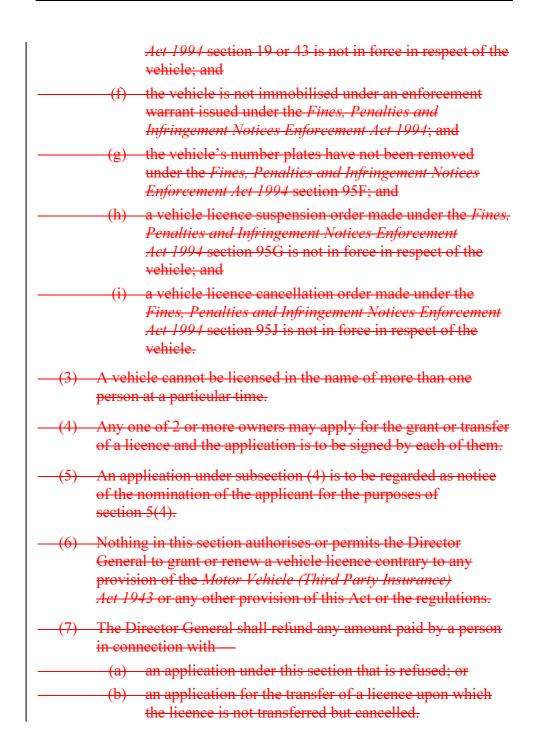
Section 15 amended by No. 105 of 1981 s. 19: No. 11 of 1988 s. 5 and 24; No. 13 of 1994 s. 12; No. 57 of 1995 s. 4; No. 76 of 1996 s. 20(3): No. 50 of 1997 s. 13: No. 39 of 2000 s. 7: No. 28 of 2001 s. 6 and 23(1); No. 84 of 2004 s. 80 and 82; No. 19 of 2010 s. 51.7

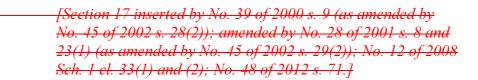
Deleted by No. 28 of 2001 s. 7.1

Vehicle licence, application for and issue etc. of

- An owner of a vehicle may apply for the grant, renewal or transfer of a licence for a vehicle by —
- (a) submitting an application in a form approved by the Director General; and
 - paying the amount of
 - (i) any fee or charge that would be required by section 19; and
 - the duty, and any penalty tax, payable under the Duties Act 2008 on the grant or transfer of the licence.







18. Regulations as to grant etc. of vehicle licences

- (1) The regulations may provide for the grant or renewal of a vehicle licence by the Director General to the extent that a matter is not provided for in section 17.
- (2) Without limiting subsection (1), the regulations may
- (a) fix the periods for which a vehicle licence may be granted or renewed; and
- (b) fix the period, whether before or after the expiry of a licence, within which the licence may be renewed; and
 - (c) if the regulations enable a licence to be renewed after its expiry, provide that renewal within a specified period after the expiry continues the licence, except that the licence is to be regarded as having been suspended on and from the day of its expiry to the day before the renewal; and
- (d) provide for 3 or more vehicle licences held by the same person to expire on the same day.
 - Section 18 inserted No. 28 of 2001 s. 9.7

19. Fees or charges for vehicle licence

- (1) The prescribed recording fee shall be paid to the Director General for the grant or renewal of any licence for a vehicle (other than under Part IV), irrespective of whether the whole or any part of a vehicle licence charge is also payable for the grant or renewal of the licence.
- (2) The prescribed transfer fee shall be paid to the Director General for effecting the transfer of any licence for a vehicle.

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

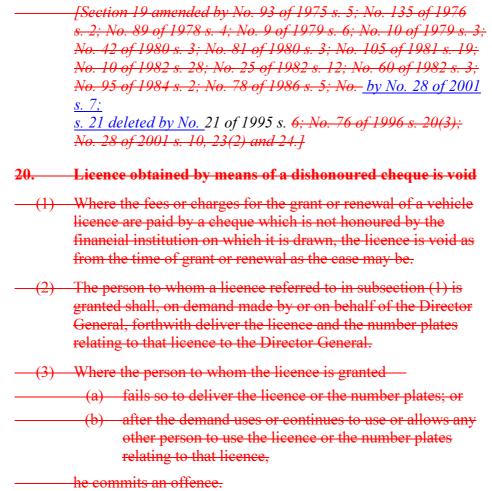
s. 19

Subject to any exemption, reduction, refund or deferral provided for in the regulations, the appropriate charge prescribed in the regulations shall be paid to the Director General for granting or renewing any licence for a vehicle.

f(4)-(16) by No. 8 of 2012 s. 8; s. 16 deleted

- Where a vehicle licence has been granted by the Director General without the payment of a vehicle licence charge, or upon the payment of a reduced vehicle licence charge, subject to conditions specified in the licence or in this Act or subject to the ownership or use of the vehicle, under the provisions of this Act, and the conditions are not observed or the ownership is changed to that of some person who would not be entitled to a licence granted, or the vehicle is put to some use that would not occasion the licence to be granted without payment of a vehicle licence charge or at a reduced vehicle licence charge, then, unless, or until the vehicle licence charge, or the difference between the vehicle licence charge and the reduced vehicle licence charge, has been paid in respect of that vehicle licence, every person using that vehicle on a road contravenes the provisions of section 15.
- Where a vehicle licence is granted pursuant to the provisions of this Act and the fees or charges paid in respect of the licence are subsequently found to be either in excess of or less than the fees or charges which are properly payable in respect of the licence, the Director General -
 - (a) shall forthwith upon demand refund the amount of the excess to the person to whom the licence was granted;
 - may recover the deficiency in a court of competent jurisdiction from the person to whom the licence was granted, if that person fails to pay the deficiency to the Director General within 7 days after the amount of the deficiency has been demanded in writing from him.

Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 26 Extract from www.slp.wa.gov.au, see that website for further information



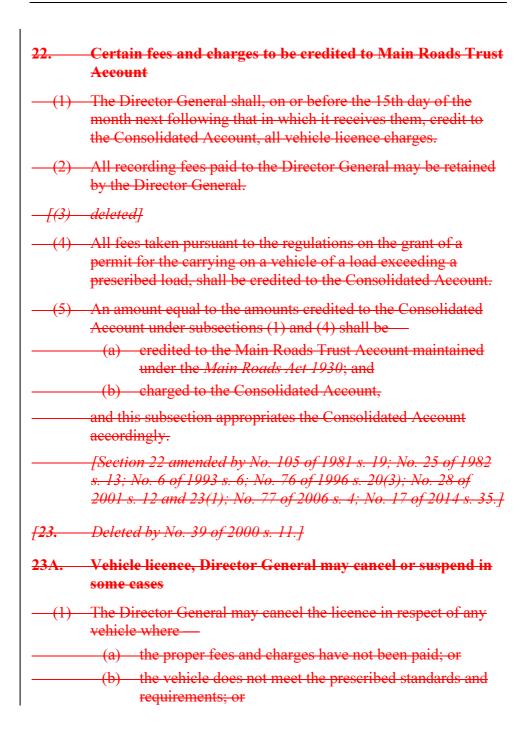
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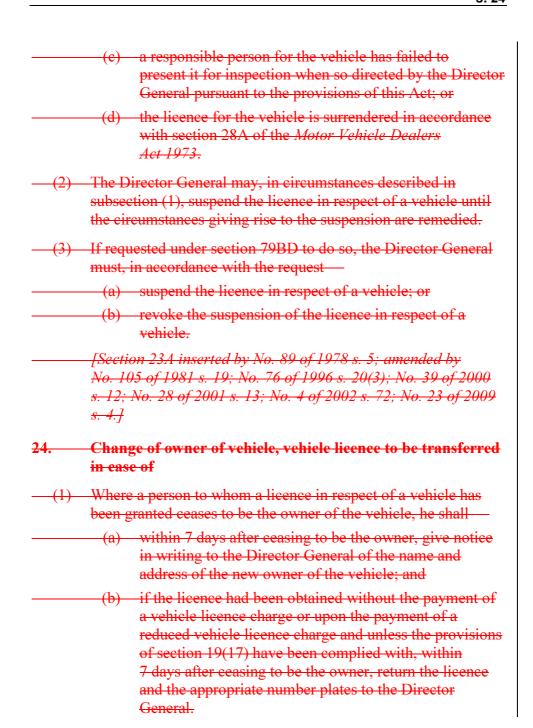
Penalty: For a first offence, 2 PU.

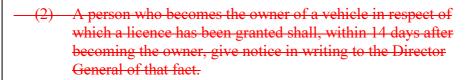
For a subsequent offence, 6 PU.

[Section 20 amended by No. 105 of 1981 s. 19; No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 76 of 1996 s. 20(3); No. 24 of 2000 s. 39(1) and 55; No. 28 of 2001 s. 11, 23(1) and (2).]

[21. Deleted by No. 21 of 1995 s. 7.]





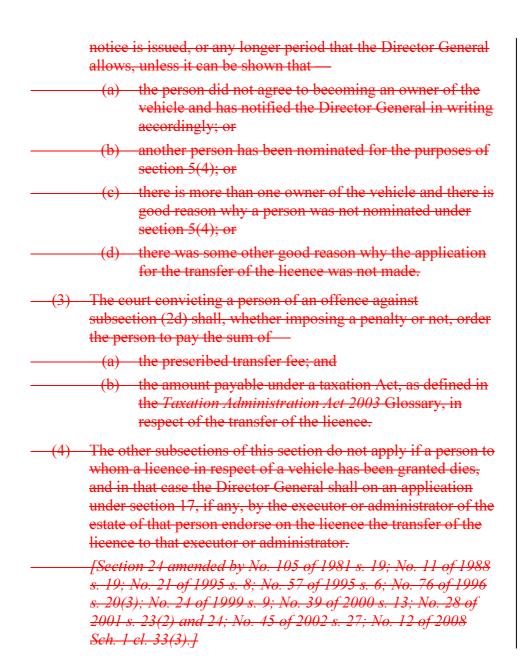


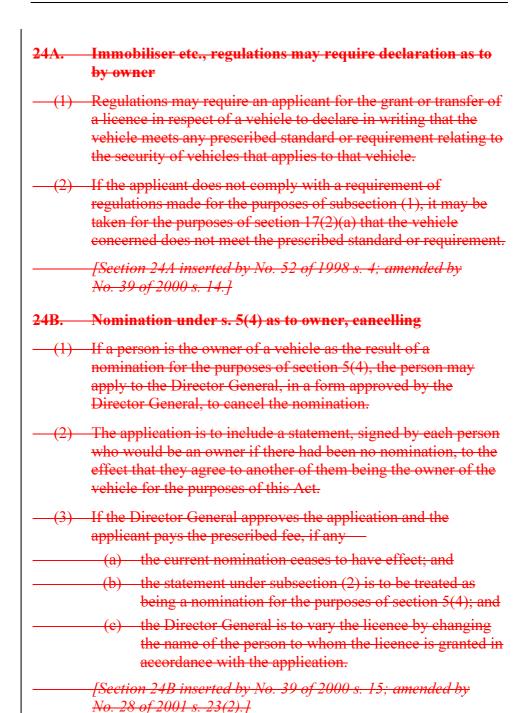
- As soon as practicable after receiving notice under subsection (1)(a) or (2), or otherwise, of a change in the ownership of a vehicle in respect of which a licence has been granted
 - if the Director General reasonably suspects that the vehicle does not meet a prescribed standard or requirement relating to the security of the vehicle, the Director General may issue to the new owner a notice requiring that the vehicle be modified so that it does meet the prescribed standard or requirement; or
 - if the Director General is satisfied that the licence may be transferred under section 17(2) and no application has been made under section 17(1), the Director General may issue to the new owner a notice requiring that an application for the transfer of the licence be made under section 17.

In subsection (2a)

- new owner, in relation to a vehicle, means a person who. according to the notice received by the Director General, has become a new owner of the vehicle and, if there is more than one such person, each or any of them.
- If a vehicle has not been modified in accordance with a notice issued under subsection (2a)(a) within 28 days after the notice is issued, or any longer period that the Director General allows, the Director General shall cancel the licence in respect of the vehicle.
- A person to whom a notice is issued under subsection (2a)(b) commits an offence if an application for the transfer of the licence for the vehicle is not made within 28 days after the

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SAT review of certain vehicle licensing decisions

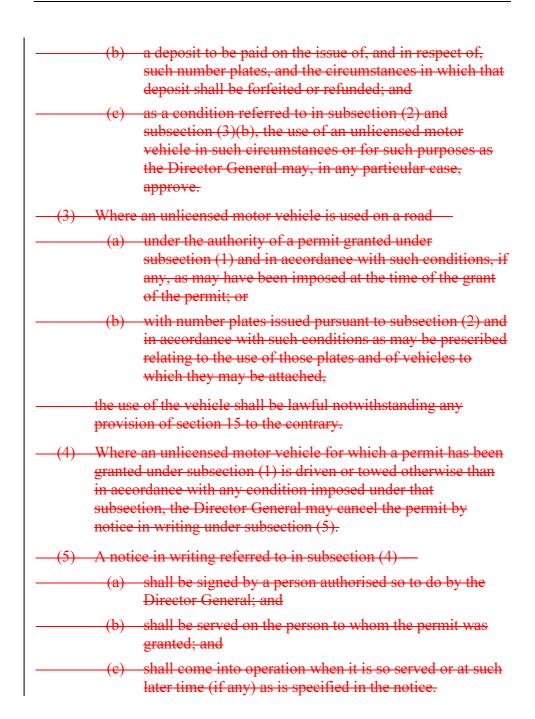
An application for review may be made to the State Administrative Tribunal in any case where an application for the grant, renewal, transfer, or variation of a licence under this Part is refused, or where a licence is cancelled or suspended under section 23A.

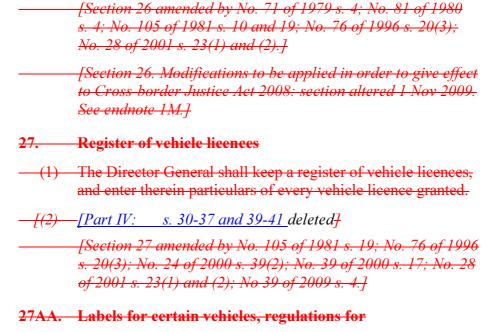
s. 23 deleted by No. 39 of 2000 s. 11.]

[Section 25 amended by No. 39 of 2000 s. 16(1); No. 28 of 2001 s. 14 and 23(1); No. 55 of 2004 s. 1062.1

Unlicensed vehicle, permit to drive etc.; regulations as to

- The Director General may, on payment of the prescribed fee, grant to a person a permit authorising, subject to such conditions as the Director General may impose, the driving of an unlicensed vehicle or the towing of an unlicensed vehicle
- (a) to or from any place at which the Director General grants vehicle licences or examines vehicles in connection with the granting of vehicle licences or to or from any place at which the vehicle is to be or has been repaired; or
- (b) for such other purposes as may be prescribed or approved by the Director General.
- The Director General may, on payment of the prescribed fee, assign and issue to a person of a prescribed class number plates which may be used, subject to such conditions as may be prescribed, on any unlicensed motor vehicle.
- Without limiting any power conferred upon him to make regulations under this Act, the Governor may make regulations prescribing
- (a) a fee to be paid from time to time for the use and possession of number plates issued under subsection (2); and





Regulations may provide for

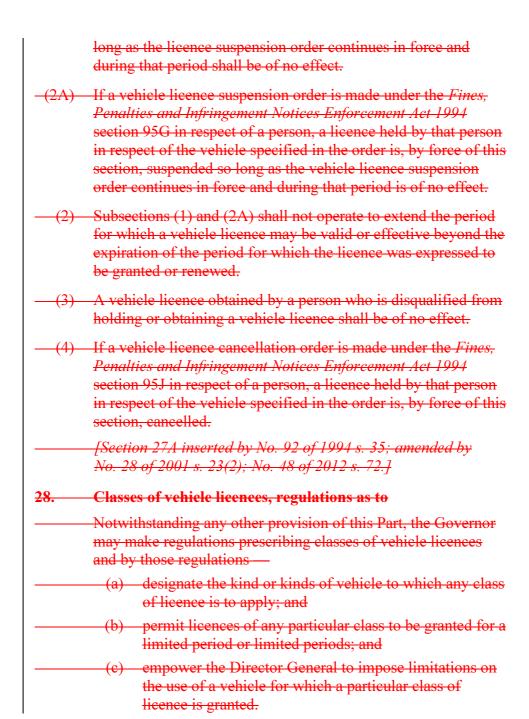
- (a) the Director General to issue a label (*label*) on the grant or renewal, under this Part, of a vehicle licence for a vehicle of a prescribed class; and
- (b) specified information about a vehicle to be contained in or on a label for the vehicle; and
- (c) matters relating to the affixing to vehicles, and display, of labels.

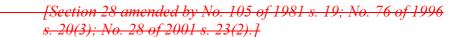
[Section 27AA inserted by No. 39 of 2009 s. 5.]

27A. Licence suspension order under FPINE Act, effect of

(1) Where a licence suspension order is made under the *Fines*,

Penalties and Infringement Notices Enforcement Act 1994 in
respect of a person, a licence held by that person in respect of a
vehicle specified in the order or in respect of any vehicle (as the
order directs), shall by force of this section be suspended so





Changes to regulations for s. 19(3), savings for previous **regulations**

f(1) by No. 8 of 2012 s. 8; s. 38 deleted by No. 39 of 2009 s. 6.]

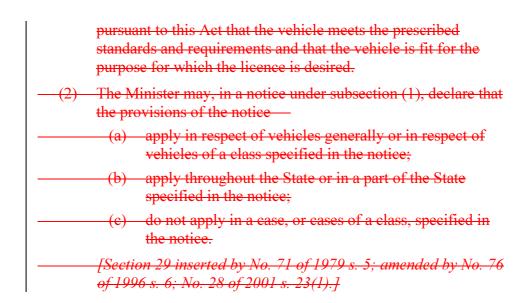
- Where regulations made under section 19(3) are amended or replaced, the regulations as in force immediately before the commencement day of the amending or replacing regulations shall continue to apply in relation to
- (a) the grant of a vehicle licence if that licence is granted before the specified day; and
- (b) the renewal of a vehicle licence if, in accordance with regulations made under section 18, that renewal has effect, or is deemed to have effect, on and from a day that precedes the specified day.
- (3) In this section
 - commencement day in relation to regulations, means the day from which, pursuant to section 41 of the Interpretation Act 1984, those regulations take effect and have the force of law:
 - specified day, in relation to regulations, means the day prescribed therein as the specified day for the purposes of this section, being a day not less than 30 days after the commencement day of those regulations.
- [Section 28A inserted by No. 10 of 1979 s. 4; amended by No. 28 of 2001 s. 15.1

29. Minister may require vehicles to be inspected

(1) The Minister may, by notice published in the Government Gazette, prohibit the grant, renewal or transfer of any vehicle licence, in respect of a vehicle unless and until the vehicle has been examined and a certificate of inspection has been issued

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s. 29



Part IV — Overseas motor vehicles when temporarily in Australia

Application of this Part

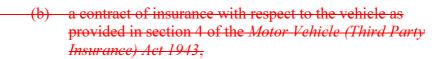
- (1) This Part applies to any motor vehicle which is imported for temporary use in the Commonwealth from any country outside the Commonwealth and is-
 - (a) landed in this State direct from that country; or
 - (b) brought to this State from any other State or a Territory of the Commonwealth.
- The provisions of this Part do not affect the other provisions of this Act or the provisions of the regulations made under this Act except to the extent expressly provided.

[Section 30 amended by No. 57 of 1997 s. 106(1).]

When owner of overseas vehicle entitled to free licence

Where a motor vehicle to which this Part applies and which is owned by a person who is not a permanent resident of any State or Territory of the Commonwealth is landed in this State direct from any country outside the Commonwealth, the owner of the vehicle is entitled, on application to the Director General and subject to the provisions of sections 34 and 35, to be granted a vehicle licence for that vehicle without payment of the vehicle licence charge, for a period not exceeding 12 months calculated from the date when the vehicle was landed in this State, if it appears to the Director General that there are in force

> (a) a vehicle licence or registration effected in relation to that vehicle under the law of the country of which the owner is a permanent resident; and



but the period for which the Director General grants a licence under this section shall not extend beyond the date of the expiry of the licence or registration effected under the law of that country nor beyond the date of the expiry of the contract of insurance.

Section 31 amended by No. 105 of 1981 s. 19: No. 21 of 1995 s. 9; No. 76 of 1996 s. 20(3); No. 28 of 2001 s. 16, 23(3) and 24.7

When vehicle licence etc. granted interstate is valid in WA

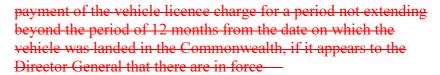
For the purpose of this Part a licence granted or a registration effected by any licensing or registering authority of another State or Territory of the Commonwealth in respect of a vehicle to which this Part applies is, during the currency of the licence or registration and so long as a contract of insurance with respect to that vehicle as provided in section 3(4), or in section 4, of the *Motor Vehicle (Third Party Insurance)* Act 1943 is in force, to be regarded as a vehicle licence under this Act in respect of the vehicle when it is used on any road within the State.

Section 32 amended by No. 28 of 2001 s. 23(2).]

When free licence etc. may be extended free of charge

Where a licence granted without payment of the vehicle licence charge under section 31, or a licence granted, or a registration effected, free of charge by any licensing or registering authority of another State or a Territory of the Commonwealth, in respect of a motor vehicle to which this Part applies, expires, the owner of the vehicle is, if the vehicle is being used in this State, on application to the Director General and subject to the provisions of sections 34 and 35, entitled to an extension or a renewal of the licence or registration by the Director General without

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- (a) a vehicle licence or registration effected in respect of that vehicle under the law of the country of which the owner is a permanent resident; and
- (b) a contract of insurance with respect to the vehicle as provided in section 3(4), or in section 4, of the Motor Vehicle (Third Party Insurance) Act 1943,
- but the period for which the Director General extends or renews the licence or registration under this section is not to extend beyond the date of the expiry of the licence or registration, as the case may be, effected under the law of that country nor beyond the date of the expiry of the contract of insurance.
- [Section 33 amended by No. 105 of 1981 s. 19; No. 21 of 1995 s. 9; No. 76 of 1996 s. 20(3); No. 28 of 2001 s. 23(2) and 24.1

Applicant under s. 31 or 33 to prove guarantee that vehicle will be taken out of Australia

The owner of the vehicle is not entitled to be granted a licence for the vehicle without payment of the vehicle licence charge under section 31 or to an extension or renewal of the licence or registration without payment of the vehicle licence charge under section 33, unless he produces for inspection by the Director General a document representing a valid Triptyque or Carnet de passages en douane relating to the vehicle, or such other documentary evidence as the Director General requires establishing that the owner has given to the Customs Department of the Commonwealth Government a guarantee that the vehicle is to be subsequently taken out of Australia.

> Section 34 amended by No. 105 of 1981 s. 19; No. 21 of 1995 s. 9: No. 76 of 1996 s. 20(3): No. 28 of 2001 s. 23(3) and 24.1

No licence to be granted or extended unless vehicle meets construction etc. requirements

The Director General shall not grant, extend or renew a licence in respect of a motor vehicle to which this Part applies. notwithstanding the provisions of section 31 or 33, unless it appears to a licensing officer of the Director General that the provisions of this Act relating to the construction, appliances, lamps and other equipment of motor vehicles have been complied with in regard to that motor vehicle.

Section 35 amended by No. 105 of 1981 s. 19; No. 76 of 1996 s. 20(3); No. 28 of 2001 s. 17.1

Free licence or renewal ceases to be valid if owner becomes, 36. or transfers vehicle to, permanent resident

When the owner of a vehicle to which this Part applies and in respect of which a vehicle licence is granted, extended or renewed without payment of the vehicle licence fee under this Part becomes, or transfers the vehicle to, a permanent resident of the Commonwealth of Australia, the licence so granted, extended or renewed becomes invalid.

[Section 36 amended by No. 21 of 1995 s. 9; No. 28 of 2001 s. 23(2).7

Vehicle not licenced etc. under this Part may be licensed under Part III

Where the owner of a vehicle to which this Part applies is not entitled to be granted with a licence for the vehicle without payment of the vehicle licence charge under section 31, or to an extension or renewal of the licence without payment of the vehicle licence charge under section 33, or where a licence granted without payment of the vehicle licence charge in respect of a vehicle to which this Part applies becomes invalid as provided by section 36, the vehicle may be licensed in accordance with the provisions of this Act as though this Part was not enacted.

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[Section 37 amended by No. 21 of 1995 s. 9; No. 28 of 2001 s. 23(2) and 24.1

138. Deleted by No. 39 of 2009 s. 6.7

39. Number plates on overseas vehicles

- (1) Where a motor vehicle, to which this Part applies and which is owned by a person who is not a permanent resident of any State or Territory of the Commonwealth, when landed in or brought to this State, is equipped with one or more number plates in accordance with the law of the country, or the States or Territory of the Commonwealth from which it was so landed or brought, those number plates are to be regarded, so long as the vehicle licence under this Act remains or is regarded to be in force and the vehicle is being used temporarily within the Commonwealth, as number plates issued under this Act.
- (2) Where the vehicle is not so equipped or where the number plate is so mutilated that any material part is obscured, obliterated or indistinct, the Director General shall, on payment of the prescribed charge, issue to the person a temporary plate or plates which he shall affix to the vehicle in the manner prescribed and which are to be regarded, so long as a vehicle licence or registration under this Act remains in force in respect of the vehicle and the vehicle is being used temporarily within the Commonwealth, as a number plate or plates issued under this Act.

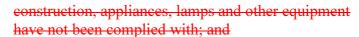
Section 39 amended by No. 105 of 1981 s. 19; No. 76 of 1996 s. 20(3).7

Regulations

The Governor may make such regulations as may be necessary or convenient for carrying out or giving effect to the provisions of this Part and, without limiting the generality of the foregoing, by such regulations may

(a)	prescribe the particulars to be stated in any application made under section 31 or 33; and
(b)	prescribe the type of temporary number plates to be issued by the Director General, the charge for temporary number plates and the conditions of their use, and provide for their surrender before the vehicles in respect of which they are issued are taken out of Australia; and
(c)	provide for the issue by the Director General at a prescribed charge of plates displaying the words "Left-Hand Drive" in letters at least 50 millimetres high to owners of vehicles to which this Part applies and which have the steering apparatus on the left-hand side of the vehicle; and
(d)	prescribe the charge for those plates; and
(ea)	provide for
	(i) the Director General to issue a label (<i>label</i>) on the grant, extension or renewal, under this Part, of a vehicle licence for a vehicle of a prescribed elass; and
	(ii) specified information about a vehicle to be contained in or on a label for the vehicle; and
	(iii) matters relating to the affixing to vehicles, and display, of labels;
	and
(e)	prescribe the conditions under which "Left-Hand Drive" vehicles to which this Part applies may be used on any road in this State; and
<u>(f)</u>	prescribe the nature and kind of information and particulars owners of vehicles to which this Part applies are to give the Director General at any specified time or from time to time; and
(g)	authorise the licensing under this Part and the use in this State of vehicles to which this Part applies notwithstanding that any regulations relating to the

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require every vehicle to which this Part applies and in respect of which any regulations referred to in paragraph (g) have not been complied with to be converted so as to comply with those regulations when the owner becomes, or the vehicle is transferred to, a permanent resident of the Commonwealth.

Section 40 amended by No. 105 of 1981 s. 19; No. 76 of 1996 s. 20(3); No 39 of 2009 s. 7.1

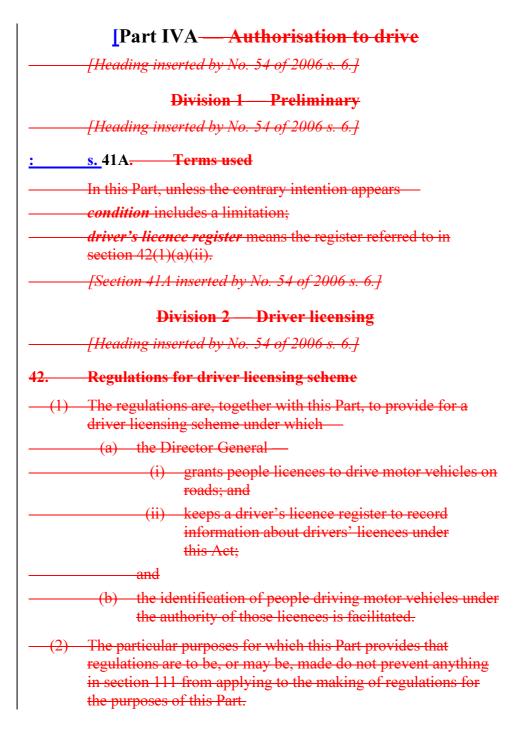
Transport Co-ordination Act 1966 not affected

The provisions of this Part do not affect any of the provisions of the Transport Co-ordination Act 1966.

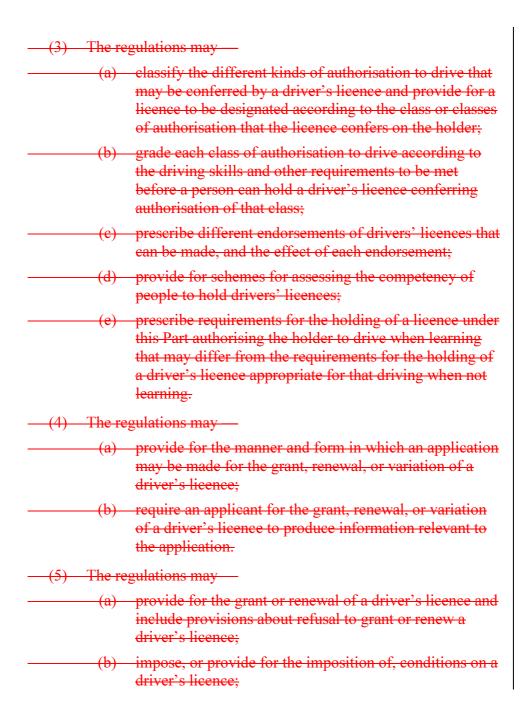
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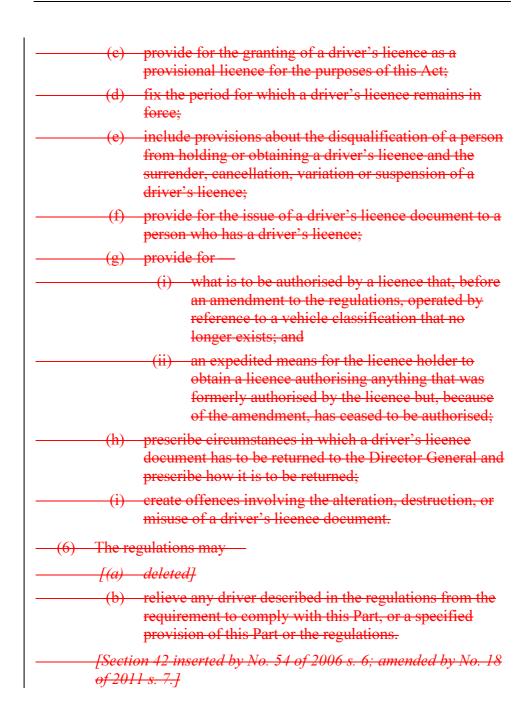
Division 1 Preliminary

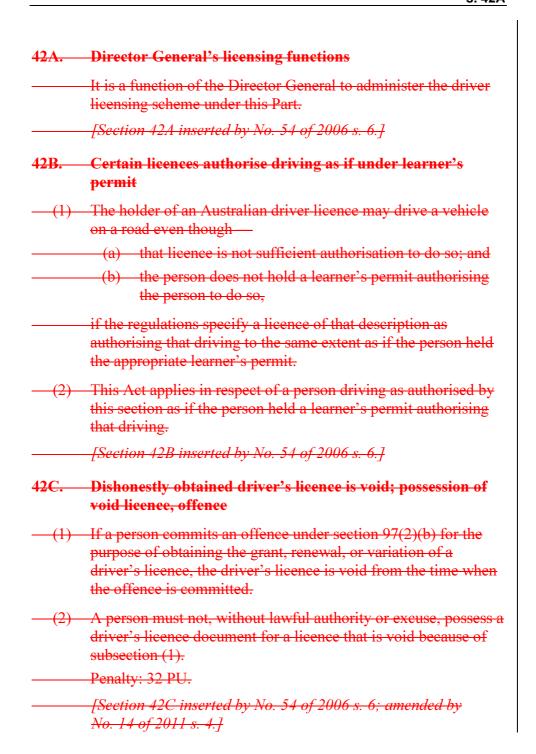
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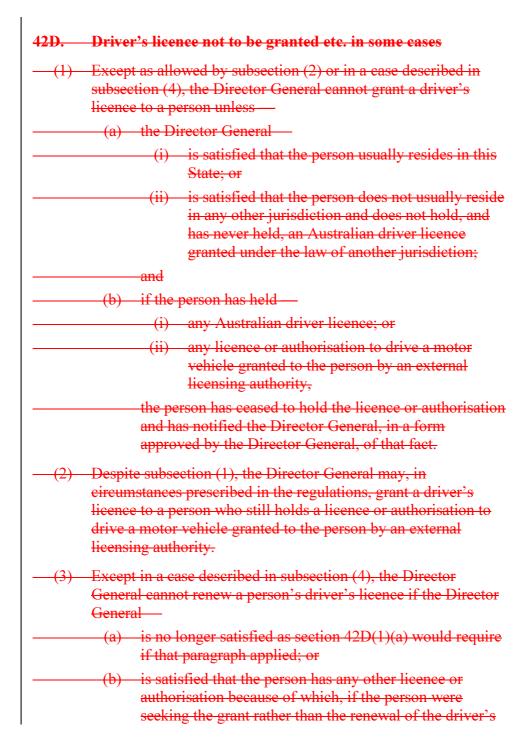


Division 2

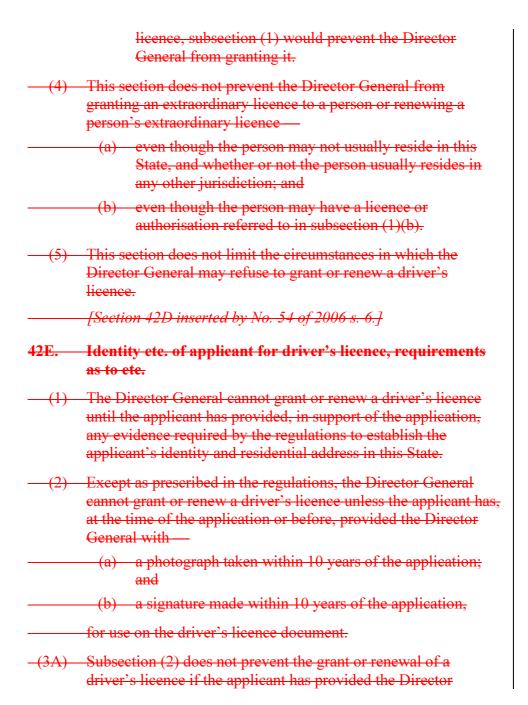


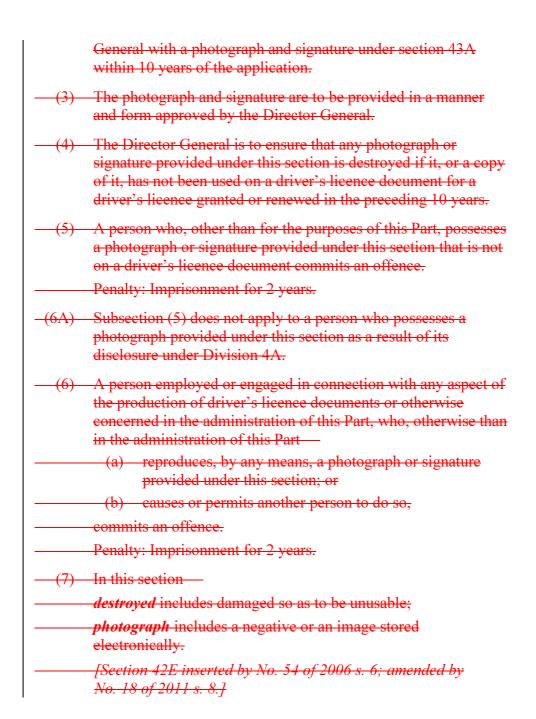


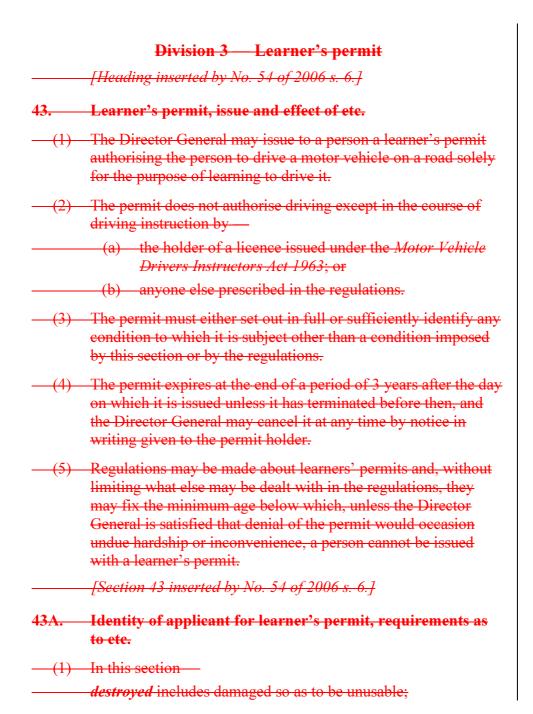


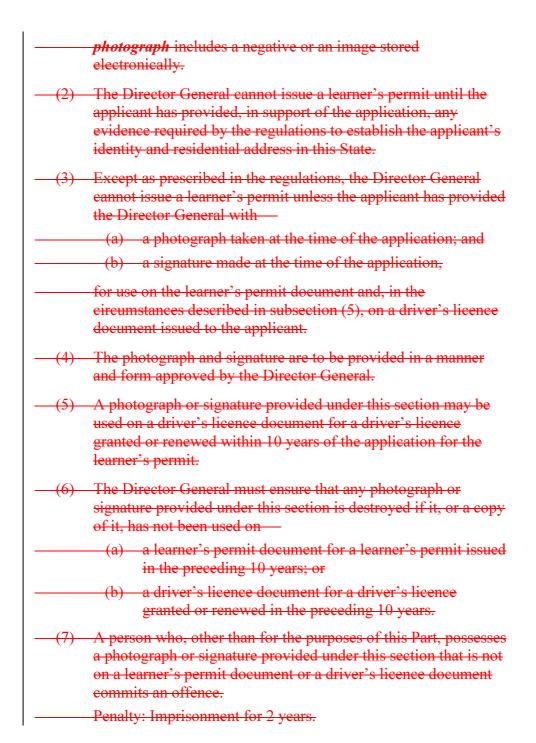


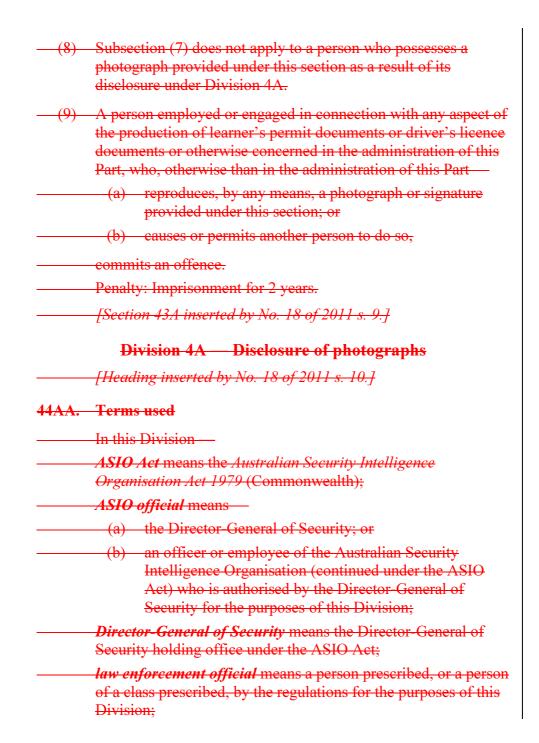
Division 2







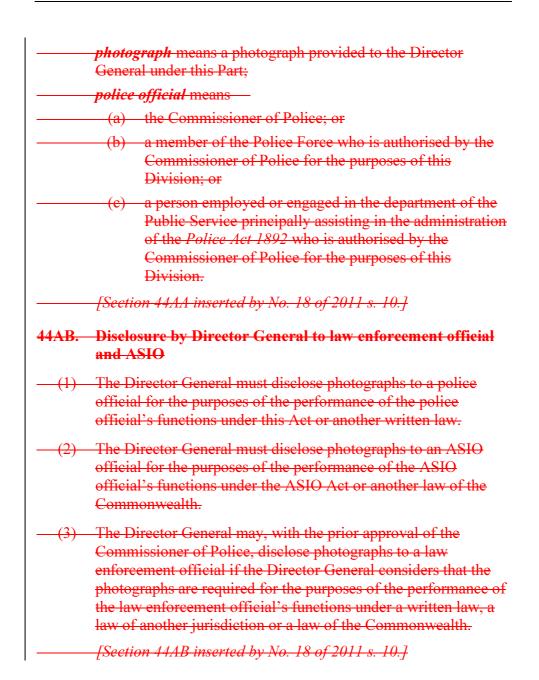




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s. 44AB



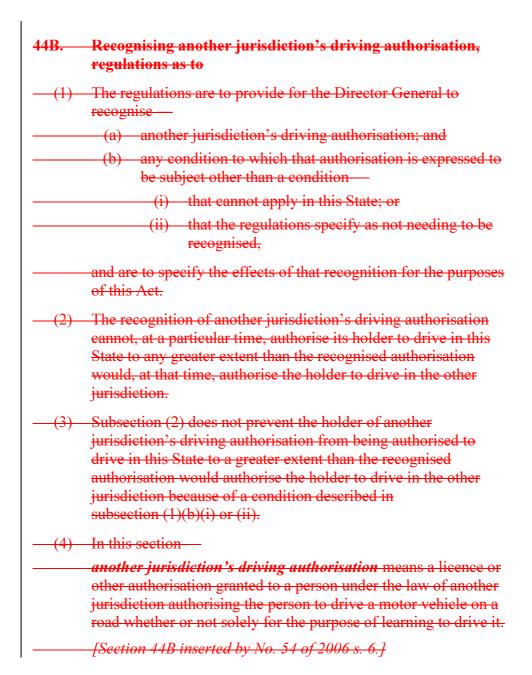
44AC. Disclosure by Director General of deceased's photograph to executor etc. If the person shown in a photograph has died, the Director General may disclose the photograph to an executor or administrator of the person's estate. [Section 44AC inserted by No. 18 of 2011 s. 10.] **Division 4— Other matters about driver authorisations** [Heading inserted by No. 54 of 2006 s. 6.] When driver's licence not required, regulations as to (1) The regulations may provide that a motor vehicle of a class or kind prescribed in the regulations may, either generally or in prescribed circumstances, be driven on roads without the driver holding a driver's licence. (2) The regulations may provide for the Director General to permit a person to drive without holding a driver's licence of a kind that would otherwise be required to authorise that driving, and may provide for the Director General to make the permission subject to conditions. [Section 44 inserted by No. 54 of 2006 s. 6.] 44A. Driving while doing driving test If the Director General causes a person applying for a driver's licence or an extension of the authority given by a driver's licence to undergo a driving test for the purposes of demonstrating the applicant's ability to drive, the applicant is authorised to drive in the course of the driving test as if the applicant were at that time the holder of the appropriate driver's

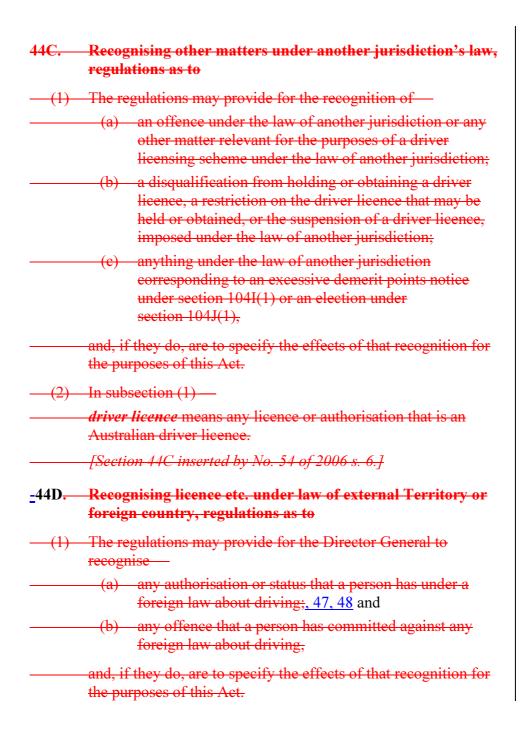
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Section 44A inserted by No. 54 of 2006 s. 6.1

licence.

s. 44B

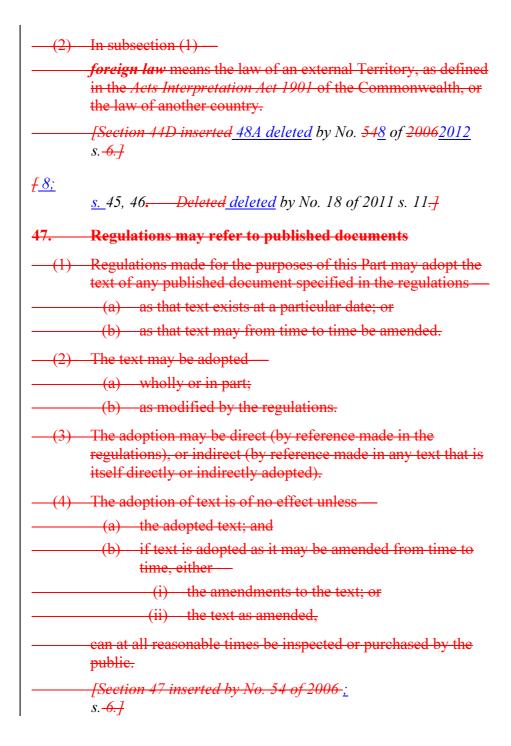


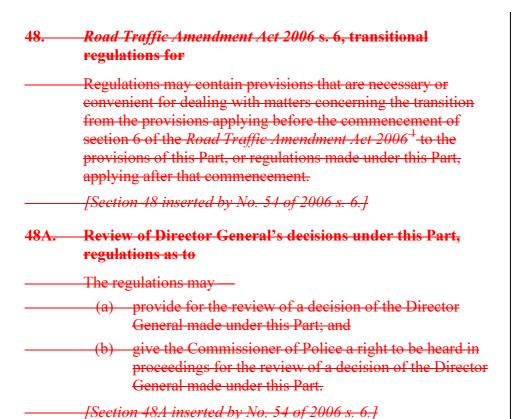


Part IV Authorisation to drive

Division 4 Other matters about driver authorisations

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48B-48F. Deleted deleted by No. 54 of 2006 s. 6.]

Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 61 s. 49AA

Part V — Regulation of traffic

[Heading inserted by No. 76 of 1996 s. 11.]

Division 1A — Terms used in this Part

[Heading inserted by No. 39 of 2007 s. 19.]

49AA. Terms used

In this Part —

bodily harm has the meaning given in *The Criminal Code* section 1(1);

grievous bodily harm has the meaning given in *The Criminal Code* section 1(1).

[Section 49AA inserted by No. 39 of 2007 s. 1919; amended by No. 8 of 2012 s. 9.]

Division 1 — Driving of vehicles: general offences

[Heading inserted by No. 10 of 2004 s. 6.]

49AB. Term used: circumstances of aggravation

- (1) For the purposes of this Division, a person commits an offence in *circumstances of aggravation* if at the time of the alleged offence
 - (a) the person was unlawfully driving the vehicle concerned without the consent of the owner or person in charge of the vehicle; or
 - (b) the person was driving the vehicle concerned on a road at a speed that exceeded the speed limit applicable to the vehicle, or the length of road where the driving occurred, by 45 km/h or more; or
 - (c) the person was driving the vehicle concerned to escape pursuit by a member of the Police Forcepolice officer.

For the purposes of subsection (1)(c) it does not matter whether (2) the pursuit was proceeding, or had been suspended or terminated, at the time of the alleged offence.

[Section 49AB inserted by No. 59 of 2012 s. 44; amended by No. 59 of 2012 s. 12.7

49. Driving while unlicensed or disqualified

- (1) A person who
 - drives a motor vehicle on a road while not authorised (a) under Part IVA the Road Traffic (Authorisation to Drive) Act 2008 Part 2 to do so; or
 - employs or permits another person to drive a motor (b) vehicle as described in paragraph (a),

commits an offence.

Penalty:

- unless subsection (3) applies (a)
 - (i) for a first offence, 6 PU;
 - for a subsequent offence, 12 PU;
- if subsection (3)(d), but no other paragraph of (b) subsection (3), applies —
 - (i) a fine of not less than 4 PU or more than 30 PU; and
 - imprisonment for not more than 12 months, and the court may order that the offender be disqualified from holding or obtaining a driver's licence for a period of not more than 3 years;
- if subsection (3)(a), (b), or (c) applies (c)
 - for a first offence, a fine of not less than 8 PU or more than 40 PU, and imprisonment for not more than 12 months;

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Driving of vehicles: general offences

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(ii) for a subsequent offence, a fine of not less than 20 PU or more than 80 PU, and imprisonment for not more than 18 months,

and the court shall order that the offender be disqualified from holding or obtaining a driver's licence for a period of not less than 9 months and not more than 3 years.

- (2) It is a defence to a charge of an offence under subsection (1) to prove that the motor vehicle was driven in accordance with
 - (a) regulations referred to in the *Road Traffic (Authorisation to Drive) Act 2008* section 4411(1); or
 - (b) a necessity permit under section 49A.
- (3) If an offence under subsection (1)(a) is committed by a person
 - (a) who has applied for, but has been refused, an Australian driver licence of a kind required; or
 - (b) who has never held an Australian driver licence of a kind required and is disqualified from holding or obtaining an Australian driver licence of a kind required other than for the reason described in paragraph (d) or who has held an Australian driver licence of a kind required but ceased to hold the licence of that kind most recently held other than
 - (i) because the person voluntarily surrendered the licence most recently held or it expired; or
 - (ii) for the reason described in paragraph (d);

or

(c) whose authority to drive, whether under an Australian driver licence or otherwise, is for the time being suspended other than for the reason described in paragraph (d); or

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who is no longer authorised to drive because of penalty enforcement laws, as described in subsection (9),

a member of the Police Force police officer may, without a warrant, arrest the person.

- A person who would only come within a description in (4) subsection (3)(a), (b), or (c) because of a decision for the review of which an application had been made to the State Administrative Tribunal is excluded from that description if the application had been made, but not determined, when the offence under subsection (1)(a) was committed.
- (5) If a person to whom the Director General CEO has been ordered under the Road Traffic (Authorisation to Drive) Act 2008 section $\frac{76(3)}{30(1)}$ to grant an extraordinary licence commits an offence under subsection (1)(a)
 - before the extraordinary licence is granted; or
 - when the extraordinary licence has expired and has not (b) been renewed.

neither the order nor any extraordinary licence granted affects subsection (3).

- An offence under subsection (1) is a subsequent offence if the (6) offender has previously been convicted of any offence under that subsection as in force at any time, except that, if subsection (3)(a), (b), or (c) applies to an offence under subsection (1)(a), the offence is a subsequent offence only if the person has previously been convicted of a relevant offence.
- In subsection (6) (7)

relevant offence means —

an offence under subsection (1)(a) as in force after the commencement of section 7 of the Road Traffic Amendment Act 2006 being an offence to which subsection (3)(a), (b), or (c) applied; or

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- an offence under subsection (1)(a) as in force at a time (b) before the commencement of section 7 of the Road Traffic Amendment Act 2006 being an offence that would have been taken into account in determining whether another offence committed before that commencement, in circumstances mentioned in section 49(2)(a)(ii) or (iii) or (2)(b) as then in force, would have been a first or subsequent offence.
- (8) A period of disqualification ordered under subsection (1) is cumulative upon –
 - any other period of disqualification to which the person (a) may then be subject; or
 - any period for which the operation of a driver's licence (b) held by the person may currently be suspended.
- (9) When subsection (3)(d) refers to a person who is no longer authorised to drive because of penalty enforcement laws, it means that the person
 - has been disqualified from holding or obtaining a driver's licence under section 19 or 43 of the *Fines*, Penalties and Infringement Notices Enforcement Act 1994; or
 - (b) is the subject of any disqualification or suspension under a law of another jurisdiction that is prescribed to be a corresponding law for the purposes of this subsection.

[Section 49 inserted by No. 54 of 2006 s. 77; amended by No. 8 of 2012 s. 10 and 37.1

- 49A. Person breaching s. 49(1)(a) having lost licence etc. due to penalty enforcement laws, police may caution etc.
 - This section applies if a police officer finds a person (the *driver*) (1) committing an offence under section 49(1)(a) in the circumstances referred to in section 49(3)(d).

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- If this section applies and the police officer suspects on reasonable grounds that, at the time of committing the offence, the driver —
 - (a) did not know of the circumstances referred to in section 49(3)(d); and
 - (b) had not been cautioned previously under this section since those circumstances came about.

the police officer may decline to charge the driver with an offence under section 49(1)(a) and may instead issue a caution to the driver.

- (3) The caution must be in a prescribed form.
- (4) If this section applies and it appears to the police officer that it would be impracticable, or may jeopardise the safety of any person, for the driver to immediately cease driving
 - if the police officer issues a caution, the caution must include a necessity permit; and
 - (b) in any other case, the police officer may grant the driver a necessity permit.
- (5) In subsection (4) —

necessity permit means a permit for the driver to drive by the shortest practicable route to a place specified in the permit.

[Section 49A inserted by No. 54 of 2006 s. 8.]

[Section 49A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

50. Learner driver, unauthorised driving by

The holder of a learner's permit shall not drive a motor vehicle except in conformity with any conditions to which the permit is subject and unless accompanied by a driving instructor under whose instruction the permit authorises the holder to drive seated beside the holder or, in the case of a permit to drive a motor cycle, riding in a side car attached, or on a pillion seat

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fitted, to the motor cycle or riding on an accompanying motor cycle.

Penalty: 6 PU.

[Section 50 inserted by No. 76 of 1996 s. 12; amended by No. 50 of 1997 s. 13; No. 28 of 2001 s. 23(2); No. 54 of 2006 s. 9; No. 39 of 2007 s. 25.7

50A. Driver using foreign country's driver's licence etc. to carry it etc.

- (1) A person whose authority to drive depends on a licence or authorisation granted under the law of an external licensing authority (as defined in the Road Traffic (Authorisation to Drive) Act 2008 section 3(1)) is required
 - while driving a motor vehicle on a road, to carry
 - the official document that is evidence of that licence or authorisation; and
 - (ii) if the official document is not in the English language, a translation of it into the English language verified by a person or body approved by the Director General CEO;

and

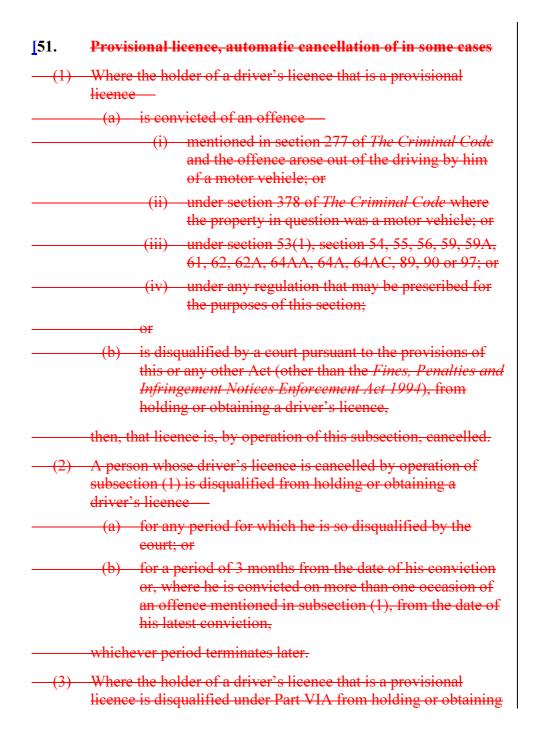
- to produce that document for inspection at the request of (b) any member of the Police Forcepolice officer.
- (2) If the person fails to comply with any condition to which the licence or authorisation is subject that can lawfully be complied with in this State, the person commits an offence.

Penalty:

- for a first offence, 8 PU; (a)
- for a subsequent offence, 16 PU.

[Section 50A inserted by No. 54 of 2006 s. 1010; amended by No. 8 of 2012 s. 11A (as amended by No. 10 of 2015 s. 14), 36 and 37.7

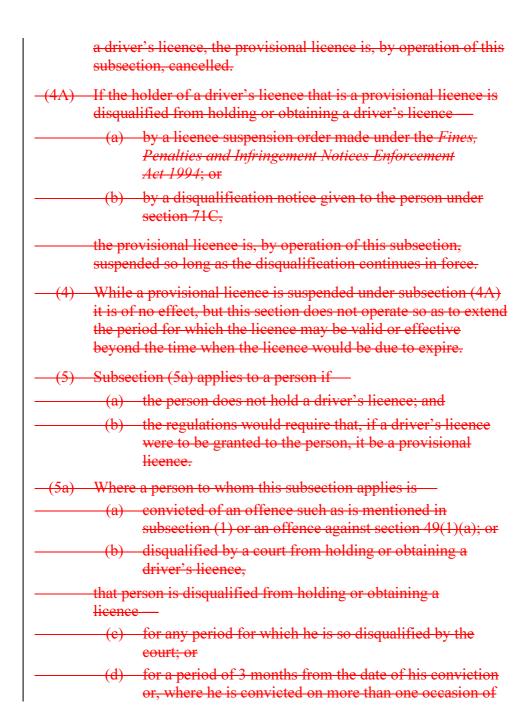
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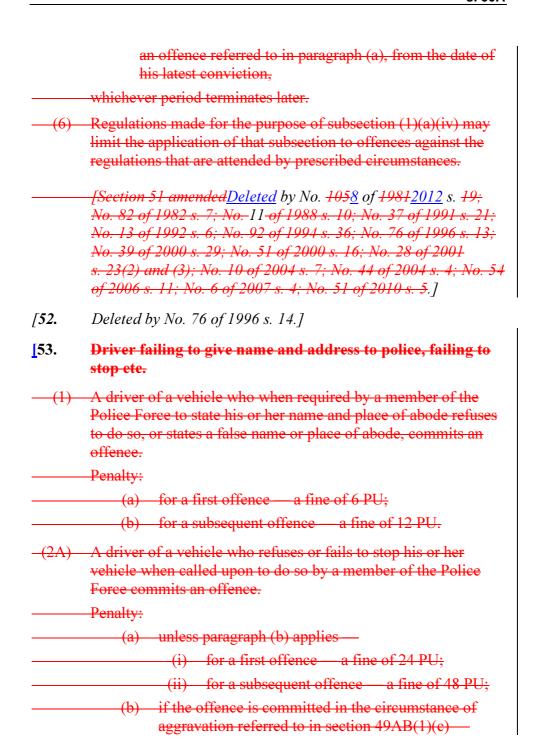


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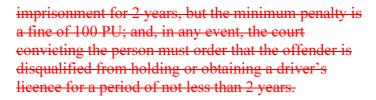
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- Any driver of a vehicle who, when required by any member of the Police Force, does not produce his driver's licence on demand, commits an offence against this Act and shall be liable to a penalty not exceeding 4 PU, but it shall not be an offence if the driver subsequently produces the licence, within a reasonable time after demand, to the Director General or to the officer-in-charge of any police station.
- Any person who was present at the scene of any accident in which a vehicle was involved, and who, in the opinion of a member of the Police Force, may be able to give information or evidence in relation to the accident, shall, if requested so to do by the member of the Police Force, furnish to him particulars of his name and place of abode, and if the person refuses to furnish any of those particulars when requested so to do, or furnishes particulars of his name or place of abode which are false or untrue in any respect he shall be guilty of an offence.

Penalty: 4 PU.

Where a member of the Police Force has reasonable grounds for believing that a person has committed an offence against this Act, he may require that person to furnish him with particulars of his name and place of abode, and a person who, when so required, refuses to furnish those particulars or furnishes particulars which are false or untrue in any respect commits an offence.

Penalty: For a first offence, 6 PU.

For a subsequent offence, 12 PU.

[Section 53 amended Deleted by No. 105 of 1981 s. 19; No. 11 of 1988 s. 24: No. 78 of 1995 s. 147: No. 76 of 1996 s. 20(3): No. 50 of 1997 s. 13; No. 598 of 2012 s. 5.7

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[Section 53. Modifications to be applied in order to to Cross border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M11.7

54. Driver in incident occasioning bodily harm to stop, ensure assistance and give information

- (1) If a vehicle driven by a person (the *driver*) is involved in an incident occasioning bodily harm to another person, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsections (2) and (6).
- If a vehicle driven by a person (the *driver*) is involved in an (2) incident occasioning bodily harm to another person (a victim), the driver must ensure that each victim receives all the assistance, including medical aid, that is necessary and practicable in the circumstances.
- A person who contravenes subsection (1) or (2) commits a (3) crime.

Penalty: imprisonment for —

- 20 years, if the incident occasioned death;
- (b) 14 years, if the incident occasioned grievous bodily harm but not death:
- 10 years, in any other case.

Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years.

- If in the opinion of the court an offence under subsection (3) is (4) of a sufficiently serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.
- It is a defence to a charge of an offence under subsection (3) for the accused to prove that the accused was not aware of the occurrence of the incident.

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(6) If a vehicle driven by a person (the *driver*) is involved in an incident occasioning bodily harm to another person (a victim), the driver must, if required to do so by a victim, a representative of a victim, or a member of the Police Force police officer, give the driver's name and address and, if known to the driver, the name and address of a responsible person for the vehicle. Penalty: a fine of 30 PU.

It is a defence to a charge of an offence under subsection (3) or (6) for the accused to prove that the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident.

[Section 54 inserted by No. 39 of 2007 s. 2020; amended by No. 8 of 2012 s. 37.]

55. Driver in incident occasioning property damage to stop and give information

- If a vehicle driven by a person (the *driver*) is involved in an (1) incident in which any property is damaged, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsection (4). Penalty: a fine of 30 PU.
- If in the opinion of the court an offence under subsection (1) is (2) of a sufficiently serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.
- It is a defence to a charge of an offence under subsection (1) for (3) the accused to prove that the accused was not aware of the occurrence of the incident.
- (4) If a vehicle driven by a person (the *driver*) is involved in an incident in which any property is damaged, the driver must, if required to do so by a person whose property was damaged in the incident or a representative of that person or a member of the Police Force police officer, give the driver's name and

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address and, if known to the driver, the name and address of a responsible person for the vehicle.

Penalty: a fine of 30 PU.

It is a defence to a charge of an offence under subsection (1) or (4) for the accused to prove that the accused could not comply with a requirement in that subsection because of an injury suffered by the accused in the incident.

[Section 55 inserted by No. 39 of 2007 s. 2020; amended by No. 8 of 2012 s. 37.1

56. Driver in incident occasioning bodily harm or property damage to report incident to police

- If a vehicle driven by a person (the *driver*) is involved in an (1) incident occasioning bodily harm to another person, the driver must report the incident forthwith to the officer in charge of a police station.
- If a person contravenes subsection (1) and the incident (2) occasioned death or grievous bodily harm, the person commits a crime.
 - Penalty: imprisonment for 10 years and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.
 - Summary conviction penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.
- If a person contravenes subsection (1) and the incident did not occasion death or grievous bodily harm, the person commits an offence.

Penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is

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disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

(4) If a vehicle driven by a person (the *driver*) is involved in an incident in which any property is damaged the driver must report the incident forthwith to the officer in charge of a police station.

Penalty:

- (a) for a first offence, a fine of 8 PU;
- (b) for a subsequent offence, a fine of 16 PU.
- (5) It is a defence to a charge of an offence under subsection (2), (3) or (4) for the accused to prove that
 - (a) the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident; or
 - (b) a member of the Police Forcepolice officer attended at the scene of the incident and took the necessary particulars of the incident.
- (6) It is a defence to a charge of an offence under subsection (4) for the accused to prove
 - (a) that the accused had reasonable cause for believing that the total value of the damage did not exceed the amount prescribed for the purposes of this subsection; and
 - (b) that the owner, in each case, of any property damaged was present or represented at the place where and at the time when, or immediately after, the incident occurred.

[Section 56 inserted by No. 39 of 2007 s. 2020; amended by No. 8 of 2012 s. 37.]

[Section 56. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

57. Owner etc. of vehicle occasioning bodily harm etc. to help police identify driver etc.

- Where the use of a motor vehicle has occasioned, or been an (1) immediate or proximate cause of, the death of a person or bodily harm to a person, a responsible person for the vehicle and any person to whom the possession or control of the vehicle was entrusted shall, if required by a member of the Police Forcepolice officer, give any information which it is in his power to give which may lead to the identification of the person who was driving or who was in charge or control of the vehicle at the time when the use of the vehicle occasioned or was an immediate or proximate cause of the death or bodily harm.
- (2) A person who is required under subsection (1) by a member of the Police Force police officer to give information must not in response to the request give false information.

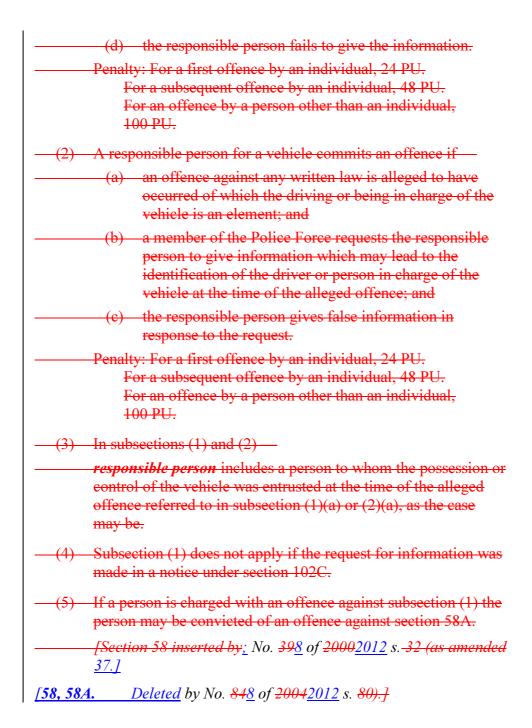
Penalty: applicable to subsections (1) and (2), a fine of 60 PU or imprisonment for 12 months.

[Section 57 amended by No. 105 of 1981 s. 19; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 31; No. 39 of 2007 s. 21.1

- Owner etc. of vehicle involved in offence to help police identify driver etc.
- A responsible person for a vehicle commits an offence if
 - an offence against any written law is alleged to have occurred of which the driving or being in charge of the vehicle is an element: and
- a member of the Police Force requests the responsible person to give information which may lead to the identification of the driver or person in charge of the vehicle at the time of the alleged offence; and
- the responsible person has, or could reasonably have ascertained, the information; and

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Owner etc. of vehicle to take measures to be able to comply with driver identity request

- (1) In this section
- driver identity request means a request made under this Act for information as to the identity of the person who was driving or in charge of a vehicle at any particular time.
- (2) A responsible person for a vehicle commits an offence if the responsible person fails to take reasonable measures, or make reasonable arrangements, to ensure that if a driver identity request is made in relation to the vehicle, the responsible person will be able to comply with it.
- Penalty: For a first offence by an individual, 24 PU. For a subsequent offence by an individual, 48 PU. For an offence by a person other than an individual, 100 PU.

[Section 58A inserted by No. 39 of 2000 s. 3212.]

59. Dangerous driving causing death or grievous bodily harm

- If a motor vehicle driven by a person (the *driver*) is involved in (1) an incident occasioning the death of, or grievous bodily harm to, another person and the driver was, at the time of the incident, driving the motor vehicle
 - while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or
 - in a manner (which expression includes speed) that is, (b) having regard to all the circumstances of the case, dangerous to the public or to any person,

the driver commits a crime and is liable to the penalty in subsection (3).

Summary conviction penalty in a case in which the incident does not occasion the death of another person: imprisonment for 3 years or a fine of 720 PU and in any

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event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- (2A) For an offence against this section that was committed before the day on which the Manslaughter Legislation Amendment Act 2011 section 6(1) came into operation amending subsection (1), subsection (1) applies as if that amendment had not been made.
 - For the purposes of this section (2)
 - $\int (a)$ deleted]
 - (b) it is immaterial that the death or grievous bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment; and
 - when an incident occasions grievous bodily harm to a person and that person receives surgical or medical treatment, and death results either from the harm or the treatment, the incident is deemed to have occasioned the death of that person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith.
 - (3) A person convicted on indictment of an offence against this section is liable
 - if the offence is against subsection (1)(a), or the offence is against subsection (1)(b) and is committed in circumstances of aggravation, to a fine of any amount and to imprisonment for —
 - 20 years, if the person has caused the death of another person; or
 - 14 years, if the person has caused grievous (ii) bodily harm to another person;

or

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- in any other circumstances, to a fine of any amount and to imprisonment for —
 - (i) 10 years, if the person has caused the death of another person; or
 - 7 years, if the person has caused grievous bodily (ii) harm to another person,

and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- (4A) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must
 - sentence the person to a term of imprisonment of at least 12 months; and
 - not suspend the term of imprisonment.
- Subsection (4A) applies whether the person was convicted on (4B) indictment or summarily and despite the Sentencing Act 1995 Part 5.
 - **(4)** On the summary trial of a person charged with an offence against this section the person may, instead of being convicted of that offence, be convicted of an offence against section 59A, 61 or 62.

[Section 59 amended by No. 89 of 1978 s. 12; No. 82 of 1982 s. 9; No. 11 of 1988 s. 24; No. 37 of 1991 s. 6(2); No. 1 of 1992 s. 6; No. 50 of 1997 s. 13; No. 4 of 2004 s. 58; No. 44 of 2004 s. 5; No. 39 of 2007 s. 22; No. 29 of 2008 s. 38; No. 58 of 2011 s. 6; No. 59 of 2012 s. 6.]

59A. Dangerous driving causing bodily harm

If a motor vehicle driven by a person (the *driver*) is involved in (1) an incident occasioning bodily harm to another person and the driver was, at the time of the incident, driving the motor vehicle —

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- while under the influence of alcohol, drugs, or alcohol (a) and drugs to such an extent as to be incapable of having proper control of the vehicle; or
- in a manner (which expression includes speed) that is, (b) having regard to all the circumstances of the case, dangerous to the public or to any person,

the driver commits an offence.

- (2) For the purposes of this section —
 - $\int (a)$ deleted]
 - (b) it is immaterial that the bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment.
- (3) Subject to subsection (3a), a person convicted of an offence against subsection (1) is liable
 - for a first offence, to a fine of 180 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;
 - for a second or subsequent offence, to a fine of 360 PU (b) or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.
- In the case of an offence under subsection (1)(a), or an offence (3a) under subsection (1)(b) committed in circumstances of aggravation, the offence is a crime and a person convicted of it is liable to a fine of any amount and imprisonment for 10 years and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- Summary conviction penalty: imprisonment for 3 years or a fine of 720 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.
- A court sentencing a person for an offence against this section (4A) committed in the circumstance of aggravation referred to in section 49AB(1)(c) must
 - sentence the person to a term of imprisonment of at least 6 months: and
 - not suspend the term of imprisonment. (b)
- (4B) Subsection (4A) applies whether the person was convicted on indictment or summarily and despite the Sentencing Act 1995 Part 5.
 - (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 61 or 62.

[Section 59A inserted by No. 89 of 1978 s. 13; amended by No. 82 of 1982 s. 10; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 44 of 2004 s. 6; No. 39 of 2007 s. 23; No. 59 of 2012 s. 7.]

59B. Section 59 and 59A offences, ancillary matters and defence

- (1) For the purposes of sections 59 and 59A, the circumstances in which a motor vehicle is involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, a person include those in which the death or harm is occasioned through
 - the motor vehicle overturning or leaving a road while (a) the person is being conveyed in or on the motor vehicle (whether as a passenger or otherwise); or
 - (b) the person falling from the motor vehicle while being conveyed in or on it (whether as a passenger or otherwise); or

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- an impact between any object or thing and the motor vehicle while the person is being conveyed in or on the motor vehicle (whether as a passenger or otherwise); or
- an impact between the person and the motor vehicle; or (d)
- an impact of the motor vehicle with another vehicle or (e) an object or thing in, on or near which the person is at the time of impact; or
- an impact with any object on or attached to the motor (f) vehicle; or
- an impact with any object that is in motion through (g) falling from the motor vehicle.
- For the purposes of sections 59 and 59A, a motor vehicle is also (2) involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, a person if the death or harm is occasioned through the motor vehicle
 - causing an impact between other vehicles or between another vehicle and any object, thing or person; or
 - causing another vehicle to overturn or leave a road; or (b)
 - causing a person being conveyed in or on another (c) vehicle to fall from that other vehicle.

[(3), (4)] deleted

- In any proceeding for an offence against section 59 or 59A a person who had at the time of the alleged offence a blood alcohol content of or above 0.15g of alcohol per 100ml of blood shall be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.
- (6) In any proceeding for an offence against section 59 or 59A it is a defence for the person charged to prove that the death, grievous bodily harm or bodily harm occasioned by the incident was not in any way attributable (as relevant)
 - to the fact that the person charged was under the influence of alcohol, drugs, or alcohol and drugs; or

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to the manner (which expression includes speed) in which the motor vehicle was driven.

[Section 59B inserted by No. 44 of 2004 s. 7; amended by No. 39 of 2007 s. 4; No. 59 of 2012 s. 8.1

60. Reckless driving

- (1) Every person who wilfully drives a motor vehicle in a manner (which expression includes speed) that is inherently dangerous or that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.
- (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.
- Despite subsections (1a) and (1b), the driver of a motor vehicle (1c) is not guilty of an offence under those subsections if
 - either (a)
 - the driver is on official duty as a member of the Police Force police officer and the driving is substantially in accordance with the Commissioner's policies and guidelines relating to driving, applicable at the time of the driving, and any direction given under such a policy or guideline; or
 - (ii) the driver is on official duty responding to a fire or fire alarm; or
 - (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
 - the motor vehicle is an ambulance and is being (iv) used to answer an urgent call or to convey a

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person to a place for the provision of urgent medical treatment;

and

- the driver is taking reasonable care; and (b)
- 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.
- (1D)A member of the Police Force police officer who reasonably suspects that a person has committed an offence against this section may, without a warrant, arrest the person.
 - A person charged with an offence against this section may, (2) instead of being convicted of that offence, be convicted of an offence against section 61 or 62 or, if the charge is of an offence against subsection (1), an offence against section 62A.
 - A person convicted of an offence against this section is liable (3)
 - for a first offence, to a fine of 120 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months; and
 - for a second offence, to a fine of 180 PU or to (b) imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months; and
 - for a third or subsequent offence, to a fine of 240 PU or to imprisonment for 12 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
 - (4) If an offence against this section is committed in the circumstance of aggravation referred to in section 49AB(1)(c), the offence is a crime.

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Penalty: imprisonment for 5 years.

Summary conviction penalty: imprisonment for 2 years.

- (5) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must
 - (a) sentence the person to a term of imprisonment of at least 6 months; and
 - (b) not suspend the term of imprisonment; and
 - (c) for a first or second offence order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 2 years; and
 - (d) for a third or subsequent offence order that the offender is permanently disqualified from holding or obtaining a driver's licence.
- (6) Subsection (5) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.
- (7) A reference in subsection (5)(c) or (d) to an offence is a reference to an offence against this section whether or not committed in the circumstance of aggravation referred to in section 49AB(1)(c).

[Section 60 amended by No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 10 of 2004 s. 8; No. 54 of 2006 s. 12; No. 24 of 2008 s. 4; No. 23 of 2009 s. 5; No. 8 of 2012 s. 37; No. 59 of 2012 s. 9.]

61. Dangerous driving

(1) Every person who drives a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.

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- (2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 62 or 62A.
- (3) A person convicted of an offence against this section is liable
 - (a) unless paragraph (b) applies
 - (i) for a first offence to a fine of 60 PU;
 - (ii) for a subsequent offence to a fine of 120 PU or to imprisonment for 9 months; and, in any event, the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;
 - (b) if the offence is committed in the circumstance of aggravation referred to in section 49AB(1)(c) to a fine of 720 PU or to imprisonment for 3 years; and, in any event, the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 59, 59A, or 60 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.

[Section 61 amended by No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 54 of 2006 s. 13; No. 23 of 2009 s. 6; No. 59 of 2012 s. 10.]

61A. Reckless or dangerous driving by police officer, defence for in certain circumstances

(1) It is a defence to a prosecution for an offence against section 59(1)(b), 59A(1)(b), 60(1) or 61(1) if the accused

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satisfies the court that, at the time of the alleged commission of the offence —

- (a) the accused was on official duty as a member of the Police Forcepolice officer; and
- the driving was substantially in accordance with the (b) Commissioner's policies and guidelines relating to driving, applicable at the time of the driving, and any direction given under such a policy or guideline; and
- having regard to all of the circumstances of the case, it was reasonable, and in the public interest, for the accused to have driven the motor vehicle in the manner that he or she did.
- (2) Subsection (1) does not affect the application of any other defence the accused may have.

[Section 61A inserted by No. 59 of 2012 s. 4411; amended by No. 59 of 2012 s. 12.1

62. Careless driving

Every person who drives a motor vehicle without due care and attention commits an offence.

Penalty: 12 PU.

[Section 62 amended by No. 11 of 1988 s. 24; No. 50 of 1997] s. 13.7

62A. Causing excessive noise or smoke from vehicle's tyres

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

- excessive noise to be made with one or more of the vehicle's tyres; or
- smoke to come from one or more of the vehicle's tyres or a substance on the driving surface,

commits an offence.

Penalty: 12 PU.

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s. 63

[Section 62A inserted by No. 10 of 2004 s. 9.]

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

[Heading inserted by No. 10 of 2004 s. 9.]

63. Driving under the influence of alcohol etc.

- (1) A person who drives or attempts to drive a motor vehicle while under the influence of alcohol, drugs, or 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) A person convicted of an offence against this section is liable
 - (a) for a first offence
 - (i) if the person has been previously convicted of an offence against section 64, to a fine of
 - (I) not less than the minimum fine that would apply if the offence were against that section instead of this section; and
 - (II) not more than 50 PU,
 - and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than the minimum period of disqualification that would apply if the offence were against that section instead of this section;
 - (ii) in any other case, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months;

and

- for a second offence, to a fine of not less than 42 PU or (b) more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and
- for a third or subsequent offence, to a fine of not less (c) than 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- For the purposes of subsection (2), where a person is convicted (3) of an offence against this section any offence previously committed by him against section 64AB or 67AA or section 67 as in force after the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 1 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.
- (4) The charging of a person with an offence against this section shall not limit the operation of section 66, but the person charged shall immediately be told by the person laying the charge that
 - he has the right to be examined by a medical practitioner (a) nominated by him, if one is available; and
 - he has the right to communicate with a legal practitioner (b) and another person nominated by him,
 - and if he desires to exercise any of those rights, every reasonable facility to do so shall be afforded him.
- (4a) The rights and requirements in subsection (4) do not apply unless the person is under arrest or otherwise in custody at the time of being charged.

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- The right in subsection (4)(a), and the requirements relating to (4b)it, do not apply if a sample of the person's blood has been taken pursuant to section 66, 66B or 66E before the person is charged.
- (5) In any proceeding for an offence against this section a person who had at the time of the alleged offence a blood alcohol content of or above 0.15g of alcohol per 100ml of blood shall be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.
- A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of
 - an offence against section 64, 64AA, 64AB or 64AC; or (a)
 - an offence against section 64A(1) or 64AAA(1) if, at the (b) time of the alleged offence, the person was a person to whom section 64A(1) applied; or
 - an offence against section 64A(4) or 64AAA(2) if, at the (c) time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.
- In any proceedings for an offence against this section if it is (7) alleged or appears on the evidence that the accused was under the influence of drugs alone, it is a defence for the accused to prove
 - that those drugs were (a)
 - taken by him pursuant to a prescription of a medical practitioner, nurse practitioner or dentist;
 - (ii) administered to him by a medical practitioner, nurse practitioner or dentist,

for therapeutic purposes; and

(b) that he was not aware, and could not reasonably have been expected to be aware, that those drugs were likely to render him incapable of having proper control of a motor vehicle.

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[Section 63 amended by No. 82 of 1982 s. 11; No. 11 of 1988 s. 24; No. 13 of 1992 s. 7; No. 50 of 1997 s. 13; No. 9 of 2003 s. 54; No. 50 of 2003 s. 92(2); No. 84 of 2004 s. 82; No. 50 of 2006 Sch. 3 cl. 20(2); No. 54 of 2006 s. 14 and 17(3) and (4); No. 6 of 2007 s. 5; No. 39 of 2007 s. 5 and 31; No. 35 of 2010 s. 151; No. 14 of 2011 s. 5.7

64. Driving with blood alcohol content of or above 0.08

- A person who drives or attempts to drive a motor vehicle while (1) having a blood alcohol content of or above 0.08g of alcohol per 100ml of blood commits an offence, and the offender may be arrested without warrant.
- If a court convicts a person of an offence against this section (2)
 - the person is liable to the relevant penalty in the Table to this subsection; and
 - (b) the court shall order that the person be disqualified from holding or obtaining a driver's licence for not less than the relevant minimum period of disqualification in the Table to this subsection.

Table

Blood alcohol content (g/100ml)		First offence	Second offence	Subsequent offence
≥ 0.08	Min:	10 PU	12 PU	12 PU
but	Max:	30 PU	30 PU	30 PU
< 0.09	Disq:	6 months	8 months	10 months
≥ 0.09	Min:	11 PU	18 PU	18 PU
but	Max:	30 PU	30 PU	30 PU
< 0.11	Disq:	7 months	10 months	13 months
≥ 0.11	Min:	13 PU	24 PU	24 PU
but	Max:	30 PU	40 PU	40 PU
< 0.13	Disq:	8 months	14 months	17 months
≥ 0.13	Min:	15 PU	32 PU	32 PU
	Max:	30 PU	50 PU	60 PU
	Disq:	9 months	18 months	30 months

Road Traffic Act 1974

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Note: \geq signifies of or above < signifies less than

- (2a) For the purposes of the Table to subsection (2), an offence is a second or subsequent offence against this section irrespective of the blood alcohol content on the occasion of the commission of any previous offence against this section.
- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by him against section 63 or 67 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of
 - (a) an offence against section 64AA; or
 - (b) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or
 - (c) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

[Section 64 amended by No. 71 of 1979 s. 9; No. 82 of 1982 s. 12; No. 11 of 1988 s. 24; No. 13 of 1992 s. 8; No. 50 of 1997 s. 6; No. 54 of 2006 s. 15 and 17(3) and (4); No. 39 of 2007 s. 6 and 32; No. 51 of 2010 s. 6; No. 14 of 2011 s. 6.]

64AA. Driving with blood alcohol content of or above 0.05

- (1) A person who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.05g of alcohol per 100ml of blood commits an offence.
- (2) If a court convicts a person of a first offence against this section the person is liable to a fine of not more than 10 PU.

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- If a court convicts a person of a second or subsequent offence against this section —
 - (a) the person is liable to the relevant penalty in the Table to this subsection; and
 - the court shall order that the person be disqualified from (b) holding or obtaining a driver's licence for not less than the relevant minimum period of disqualification in the Table to this subsection.

Table

Blood alcohol content (g/100ml)		Second offence	Subsequent offence
≥ 0.05	Min:	10 PU	10 PU
but	Max:	20 PU	20 PU
< 0.07	Disq:	6 months	8 months
≥ 0.07	Min:	12 PU	12 PU
	Max:	20 PU	20 PU
	Disq:	8 months	10 months

Note: \geq signifies of or above

< signifies less than

- (2b)For the purposes of this section, an offence is a second or subsequent offence against this section irrespective of the blood alcohol content on the occasion of the commission of any previous offence against this section.
- For the purposes of this section, where a person is convicted of (2c) an offence against this section any offence previously committed by the person against section 63, 64, or 67 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
 - A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of –

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- an offence against section 64A(1) or 64AAA(1) if, at the (a) time of the alleged offence, the person was a person to whom section 64A(1) applied; or
- an offence against section 64A(4) or 64AAA(2) if, at the (b) time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

[Section 64AA inserted by No. 13 of 1992 s. 9; amended by No. 50 of 1997 s. 7; No. 54 of 2006 s. 16, 17(3) and (4); No. 39 of 2007 s. 7, 17 and 33; No. 14 of 2011 s. 7.]

64A. Certain persons driving with blood alcohol content of or above 0.02

A person to whom this subsection applies who drives or (1) attempts to drive a motor vehicle while having a blood alcohol content of or above 0.02g of alcohol per 100ml of blood commits an offence.

Penalty: Not less than 3 PU or more than 6 PU; and, in any event, the court convicting a person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

- (2) Subsection (1) applies to a person who
 - is a novice driver as defined in the *Road Traffic* (Authorisation to Drive) Act 2008 section 10440(2); or
 - I(b)deleted]
 - (c) is subject to an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the Road Traffic Amendment Act 1997 ¹; or
 - does not hold a driver's licence because it has been (d) cancelled under the Road Traffic (Authorisation to *Drive*) Act 2008 section $\frac{75(2a^22(1))}{2a^2}$ or $(\frac{2b^2}{2a^2})$ as a result of an order disqualifying the person from holding or obtaining a driver's licence imposed on the person upon

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- being convicted of an offence committed after the commencement of the Road Traffic Amendment Act 1997 ¹: or
- holds an extraordinary licence; as defined in the Road Traffic (Authorisation to Drive) Act 2008 section 3(1);
- is a recently disqualified driver. (f)
- For the purpose of subsection (2), a person is a recently disqualified driver if, within the last 3 years, the person
 - has ceased to be subject to; or (a)
 - (b) has been granted a driver's licence in a case where the person did not hold a driver's licence because it had been cancelled under the Road Traffic (Authorisation to *Drive*) Act 2008 section $\frac{75(2a^22(1))}{2a^2}$ or $(\frac{2b^2}{2a^2})$ as a result of.

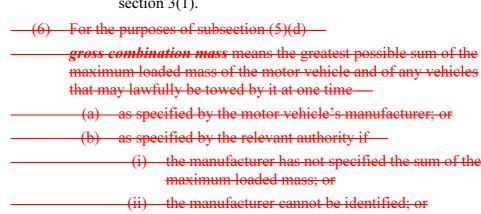
an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the Road Traffic Amendment Act 1997 ¹.

- A person who drives or attempts to drive a motor vehicle to (4) which this subsection applies while having a blood alcohol content of or above 0.02g of alcohol per 100ml of blood commits an offence.
 - Penalty: not less than 3 PU or more than 6 PU; and, in any event, the court convicting a person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.
- (4A) Subsection (4) does not apply to a person who drives or attempts to drive a motor vehicle described in subsection (5)(a) or (d) if the person
 - is a person of a class prescribed by the regulations for the purposes of this paragraph; and

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- is driving or attempting to drive the vehicle in the course of responding to an incident as defined in the Fire and Emergency Services Act 1998 section 3.
- (5) Subsection (4) applies to a motor vehicle
 - that is equipped to seat more than 12 adult persons (including the driver), if, at the relevant time, the vehicle is carrying passengers, whether or not the passengers are being carried for hire or reward; or
 - that is an omnibus as defined in the Transport (b) Co-ordination Act 1966 section 4(1), but is not a vehicle referred to in paragraph (a), if, at the relevant time, the vehicle is carrying passengers for hire or reward; or
 - on which taxi plates issued under the Taxi Act 1994 are (c) being used, or in respect of which a taxi-car licence has been issued under the Transport Co-ordination Act 1966 Part IIIB, if, at the relevant time, the vehicle is carrying passengers for hire or reward; or
 - (d) that has a gross combination massGCM exceeding 22.5 tonnes; or
 - that is of a class prescribed by the regulations for the (e) purposes of this paragraph, if, at the relevant time, the vehicle is being used to transport dangerous goods as defined in the Dangerous Goods Safety Act 2004 section 3(1).



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appropriate;

relevant authority means

- if the motor vehicle has never been licensed or registered but is used or is intended to be used in this State the Director General: or
- if the motor vehicle was last licensed in this State the Director General: or
 - if the motor vehicle was last licensed or registered in another State or a Territory the authority in that State or Territory whose functions most nearly correspond to those of the Director General.

I(6)deleted]

- A person charged with an offence against subsection (1) may, (7) instead of being convicted of that offence, be convicted of an offence against section 64AAA(1).
- (8) A person charged with an offence against subsection (4) may, instead of being convicted of that offence, be convicted of an offence against section 64AAA(2).

[Section 64A inserted by No. 82 of 1982 s. 13; amended by No. 11 of 1988 s. 22; No. 13 of 1992 s. 10; No. 50 of 1997 s. 8; No. 28 of 2001 s. 23(2); No. 54 of 2006 s. 17(1) and (2); No. 39 of 2007 s. 8 and 34; No. 14 of 2011 s. 8;8; No. 8 of 2012 s. 13 (as amended by No. 10 of 2015 s. 15); No. 22 of 2012 s. 138.]

64AAA. Certain persons driving with any blood alcohol content

A person to whom section 64A(1) applies who drives or attempts to drive a motor vehicle while having any blood alcohol content commits an offence.

Penalty: not less than 3 PU or more than 6 PU.

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(2) A person who drives or attempts to drive a motor vehicle to which section 64A(4) applies while having any blood alcohol content commits an offence.

Penalty: not less than 3 PU or more than 6 PU.

- (2A) Subsection (2) does not apply to a person who drives or attempts to drive a motor vehicle described in section 64A(5)(a) or (d) if the person
 - is a person of a class prescribed by the regulations for the purposes of this paragraph; and
 - (b) is driving or attempting to drive the vehicle in the course of responding to an incident as defined in the Fire and Emergency Services Act 1998 section 3.
 - It is a defence to a charge of an offence against subsection (1) or (3) (2) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following
 - the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);
 - (b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

[Section 64AAA inserted by No. 14 of 2011 s. 9; amended by No. 22 of 2012 s. 139.7

64AB. Driving while impaired by drugs

- (1) A person who drives or attempts to drive a motor vehicle while impaired by drugs commits an offence, and the offender may be arrested without warrant.
- A person convicted of an offence against this section is liable (2)
 - for a first offence, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months; and

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- for a second offence, to a fine of not less than 42 PU or (b) more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and
- for a third or subsequent offence, to a fine of not less than 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting the person shall order that the person be permanently disqualified from holding or obtaining a driver's licence.
- For the purposes of subsection (2), where a person is convicted (3) of an offence against this section any offence previously committed by the person against section 63 or 67AA or section 67 as in force after the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 1 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.
- Section 63(4) to (4b) extend to the charging of a person with an (4) offence against this section.
- The accused may be convicted of an offence against this section (5) if the prosecutor proves that
 - the accused drove or attempted to drive a motor vehicle; (a) and
 - one or more drugs were present in the accused's body at (b) the time of that driving or attempted driving; and
 - the conduct, condition or appearance of the accused at or (c) after the time of that driving or attempted driving, or during a driver assessment, was consistent with conduct, a condition or an appearance associated with a person who has consumed or used that drug or those drugs; and

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the conduct or condition associated with a person who has consumed or used that drug or those drugs would be inconsistent with the person being capable of having proper control of a motor vehicle.

- A person charged with an offence against this section may, (6) instead of being convicted of that offence, be convicted of an offence against section 63 or 64AC.
- If in any proceeding for an offence against this section it is (7) proved that a certain drug was present in the accused's body at any time within 4 hours after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence, the presence of that drug in the accused's body at the time of that driving or attempted driving is taken to be proved in the absence of proof to the contrary.
- In any proceeding for an offence against this section it is a (8) defence for the accused to prove in respect of the drug, or each drug, referred to in subsection (5)
 - that the drug was (a)
 - taken pursuant to a prescription of a medical practitioner, nurse practitioner or dentist; or
 - administered by a medical practitioner, nurse (ii) practitioner or dentist,

for therapeutic purposes; and

- (b) that where the drug was received or obtained by the accused in a packaged form, the packaging of the drug did not include a label advising that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle; and
- that the accused was not aware, and could not (c) reasonably have been expected to be aware, that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle.

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(9) Subsection (8) has effect despite subsection (5). [Section 64AB inserted by No. 6 of 2007 s. 6; amended by No. 35 of 2010 s. 152; No. 14 of 2011 s. 10.7

64AC. Driving with prescribed illicit drug in oral fluid or blood

- A person who drives or attempts to drive a motor vehicle while (1) a prescribed illicit drug is present in the person's oral fluid or blood commits an offence.
- A person convicted of an offence against this section is liable (2)
 - for a first offence, to a fine of not more than 10 PU; and
 - for a second or subsequent offence, to a fine of not less (b) than 10 PU or more than 20 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.
- For the purposes of subsection (2), where a person is convicted (3) of an offence against this section any offence previously committed by the person against section 67AB shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- If in any proceeding for an offence against this section it is (4) proved that a certain drug was present in the accused's body at any time within 4 hours after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence, the presence of that drug in the accused's body at the time of that driving or attempted driving is taken to be proved in the absence of proof to the contrary.
- (5) If a person takes a prescribed illicit drug mistakenly believing it to be another drug, that mistake is not a defence in any proceeding for an offence against this section if that other drug

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is also a drug within the meaning of paragraph (a) or (b) of the definition of drug in section 65.

[Section 64AC inserted by No. 6 of 2007 s. 6; amended by No. 14 of 2011 s. 11.]

65. Terms used in s. 59B(5) and 63 to 73

For the purposes of section 59B(5) and sections 63 to 73, inclusive -

analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to determine the concentration of alcohol in bodily substances;

approved device means a device of a type approved by the Minister under section 72(2)(c) for the purpose of ascertaining the presence of prescribed illicit drugs in a person's oral fluid;

authorised drug tester means a person authorised by the Commissioner of Police to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D;

authorised person means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to operate all types of breath analysing equipment;

blood alcohol content means the concentration of alcohol in a person's blood, expressed in grams of alcohol per 100ml of blood:

breath analysing equipment means apparatus of a type approved by the Minister for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of his breath;

conduct includes behaviour and demeanour;

dentist means a person registered under the Health Practitioner Regulation National Law (Western Australia) in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law;

driver assessment means an assessment of drug impairment required by a member of the Police Forcepolice officer under section 66A(1) or (2);

drug means —

- a drug to which the *Misuse of Drugs Act 1981* applies;
- (b) a substance that is included in the Poisons Act 1964 Schedule 4: or
- a substance (other than alcohol) that, when consumed or used by a person, deprives the person (temporarily or permanently) of any of the person's normal mental or physical faculties;

drug testing, in relation to oral fluid, means testing for the presence of prescribed illicit drugs;

drugs analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to ascertain whether and to what extent drugs are present in bodily substances:

medical practitioner means a person who is registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession;

nurse practitioner means a person registered under the Health Practitioner Regulation National Law (Western Australia) whose name is entered on the Register of Nurses kept under that Law as being qualified to practise as a nurse practitioner;

preliminary oral fluid test means a test of a sample of a person's oral fluid by means of a device of a type approved by the Minister under section 72(2)(d) for the purpose of providing a preliminary indication of the presence of prescribed illicit drugs in the oral fluid, and a person *undergoes* a preliminary oral fluid test if the person provides a sample of the person's oral fluid for a preliminary oral fluid test;

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preliminary test means a test of a sample of a person's breath by means of apparatus of a type approved by the Minister for the purpose of providing an indication of a person's blood alcohol content or an indication of whether or not a person's blood alcohol content is of or above a predetermined level or an indication of whether or not alcohol is present in the blood of a person;

prescribed illicit drug means a drug that is declared by the regulations to be a prescribed illicit drug;

registered nurse means a person who is registered under the Health Practitioner Regulation National Law (Western Australia) in the nursing and midwifery profession whose name is entered on Division 1 of the Register of Nurses kept under that Law as a registered nurse;

self-testing breath analysing equipment means breath analysing equipment of a type that is designated as self-testing apparatus under section 72(2a).

[Section 65 amended by No. 82 of 1982 s. 14; No. 121 of 1987 s. 5; No. 19 of 1990 s. 8; No. 39 of 2000 s. 34; No. 44 of 2004 s. 8; No. 50 of 2006 Sch. 3 cl. 20(3); No. 6 of 2007 s. 7; No. 10 of 2007 s. 43; No. 39 of 2007 s. 9; No. 22 of 2008 Sch. 3 cl. 51; No. 35 of 2010 s. 153; No. 8 of 2012 s. 37.7

[Section 65. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

65A. Using breath sample to find blood alcohol content

For the purposes of section 59B(5) and sections 63 to 73, (1) inclusive, if the concentration of alcohol in a person's breath is a particular number of grams of alcohol per 210 litres of breath the person's blood alcohol content is to be regarded as being that number of grams of alcohol per 100ml of blood.

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- For the purposes of section 72(2)(a) and the definition of **breath** analysing equipment in section 65, apparatus is to be regarded as being for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of the person's breath whether the apparatus gives the blood alcohol content directly as the analysis result or enables it to be derived under subsection (1).
- For the purposes of the definition of *preliminary test* in (3) section 65, apparatus is to be regarded as being for the purpose of providing an indication of the kind mentioned in that definition whether the apparatus gives the indication directly or enables it to be derived under subsection (1).

[Section 65A inserted by No. 39 of 2007 s. 10.]

66. Breath, blood or urine sample, police powers to require etc.

- A member of the Police Force police officer may require the (1) driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to provide a sample of his breath for a preliminary test in accordance with the directions of the member of the Police Force police officer, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.
- A member of the Police Force police officer may (1aa)
 - call upon the driver of a motor vehicle to stop the vehicle;
 - direct the driver of a motor vehicle to wait at a place (b) indicated by the member of the Police Force police officer.

in order that a requirement may be made under subsection (1).

- Where a member of the Police Force police officer (1a)
 - has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

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(b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the member of the Police Forcepolice officer may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to provide a sample of his breath for a preliminary test in accordance with the directions of the member of the Police Forcepolice officer, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

- (1b) Where a person required under subsection (1) or (1a) to provide a sample of breath for a preliminary test is in a motor vehicle, a member of the Police Forcepolice officer may require the person to leave the vehicle for the purpose of providing the sample.
 - (2) Where
 - (a) a person having provided a sample of his breath for a preliminary test
 - (i) it appears to a member of the Police Forcepolice officer that the preliminary test indicates that the person has a blood alcohol content of or above 0.05g of alcohol per 100ml of blood; or
 - (ii) it appears to a member of the Police Forcepolice officer that the preliminary test indicates that there is alcohol present in the blood of the person and the member of the Police Forcepolice officer has reasonable grounds to believe that the person is a person to whom section 64A(1) applies or that the motor vehicle concerned is a motor vehicle to which section 64A(4) applies;

or

(b) a person having been so required, refuses or fails to provide, or appears to a member of the Police Force

police officer to be incapable of providing a sample of his breath for a preliminary test or refuses or fails to provide, or appears to a member of the Police Forcepolice officer to be incapable of providing, a sample of his breath in sufficient quantity to enable a preliminary test to be carried out; or

- (c) a member of the Police Forcepolice officer has reasonable grounds to believe that a person has committed an offence against section 63; or
- (ca) a member of the Police Force police officer
 - (i) has reasonable grounds to believe that an offence against section 59(1)(a) or 59A(1)(a) has been committed; and
 - (ii) does not know, or has doubt as to, who was the driver of the motor vehicle concerned.

but has reasonable grounds to believe that a person may have been the driver of the motor vehicle; or

- (d) a member of the Police Force police officer
 - (i) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and
 - (ii) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe that a person may have been the driver or person in charge of the motor vehicle at that time and that, if he was, he has committed an offence against section 63,

a member of the Police Forcepolice officer may require that person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis or to allow a sample of blood to be so taken and to provide a sample of his urine for analysis, pursuant to the

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provisions of subsections (4), (5) and (6a), and for the purposes of this subsection may require that person to accompany a member of the Police Force police officer to a police station or some other place, and may require that person to wait at any such police station or place.

- (3) A person who is required to supply a sample of his breath for a preliminary test or for analysis shall comply with that requirement by providing the sample of his breath into approved apparatus in accordance with the directions of a member of the Police Force police officer or an authorised person, as the case may be.
- (4) A person shall not be required under subsection (2) to provide a sample of his breath for analysis if it appears to a member of the Police Force police officer that
 - deleted] $\int (a)$
 - the sample of breath could not be provided within (b) 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or
 - because of his physical condition he is incapable of (c) providing the specimen of breath or a specimen of breath in sufficient quantity for analysis.
- (5) Where
 - a member of the Police Force police officer might (a) require a person to provide a sample of his breath for analysis under subsection (2) but is precluded from so doing by subsection (4) or section 68(11); or
 - a member of the Police Force police officer might, by (b) virtue of subsection (1) or (1a), require a person to provide a sample of his breath for a preliminary test but it appears to the member of the Police Force police officer that the physical condition of the person is such as to render him incapable of providing a sample of his

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breath in accordance with the directions of the member of the Police Forcepolice officer for a preliminary test,

then the member of the Police Forcepolice officer may require the person to allow a medical practitioner or registered nurse nominated by the member of the Police Forcepolice officer to take a sample of the person's blood for analysis or where the person is incapable of complying with that requirement, that member of the Police Forcepolice officer may cause a medical practitioner or registered nurse to take a sample of the blood of the person for analysis.

- (6) A person shall not be required to allow a medical practitioner or registered nurse to take a sample of his blood, and a medical practitioner or registered nurse shall not be caused to take a sample of the blood of a person under subsection (5) if it appears to the member of the Police Forcepolice officer that the sample cannot be taken within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place.
- (6a) Where
 - (a) a member of the Police Force police officer might, by virtue of subsection (2)(c), (ca) or (d), require a person to provide a sample of his breath for analysis but is precluded from so doing by subsection (4); and
 - (b) under subsection (5), the member of the Police
 Forcepolice officer requires the person to allow a
 medical practitioner or registered nurse to take a sample
 of his blood for analysis,

the member of the Police Force police officer may also require the person to provide the medical practitioner or registered nurse with a sample of his urine for analysis.

[(7)-(9)] deleted

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- (10)Where a person is apparently unconscious or seriously injured a member of the Police Force police officer shall facilitate the provision of medical assistance for that person.
- (11)Where a person provides a sample of his breath for analysis pursuant to a requirement made under subsection (2)(c), (ca) or (d) and the analysis result obtained pursuant to section 68 indicates
 - that there is no alcohol present in the blood of the (a) person; or
 - (b) that the person's blood alcohol content is such that it does not reasonably explain the conduct, condition or appearance of the person by reason of which the requirement was made,

a member of the Police Forcepolice officer may require the person —

- (c) to allow a medical practitioner or registered nurse nominated by the member of the Police Forcepolice officer to take a sample of the person's blood for analysis; or
- (d) to provide a medical practitioner or registered nurse nominated by the member of the Police Force police officer with a sample of the person's urine for analysis,

or to do both of those things, and for the purposes of this subsection may require the person to accompany a member of the Police Force police officer to a place, and may require the person to wait at that place.

- (12)A person shall not be required
 - to allow a medical practitioner or registered nurse to take a sample of his blood; or
 - to provide a medical practitioner or registered nurse with (b) a sample of his urine,

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under subsection (11), and a medical practitioner or registered nurse shall not be caused to take a sample of the blood of a person under that subsection, if it appears to the member of the Police Force police officer that the sample cannot be taken or given, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66 amended by No. 71 of 1979 s. 10; No. 81 of 1980] s. 8; No. 105 of 1981 s. 12 and 19; No. 82 of 1982 s. 15; No. 121 of 1987 s. 6; No. 11 of 1988 s. 12; No. 16 of 1988 s. 4; No. 13 of 1992 s. 11; No. 50 of 1997 s. 9; No. 39 of 2000 s. 36; No. 44 of 2004 s. 9; No. 54 of 2006 s. 17(3); No. 6 of 2007 s. 8; No. 39 of 2007 s. 11 and 36; No. 51 of 2010 s. 7; No. 14 of 2011 s. 1212; No. 8 of 2012 s. 37.]

[Section 66. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66A. Drug impairment, police powers to require driver assessment for etc.

- A member of the Police Force police officer may require -(1)
 - the driver or person in charge of a motor vehicle; or (a)
 - any person the member of the Police Force police officer (b) has reasonable grounds to believe was the driver or person in charge of a motor vehicle,

to undergo an assessment of drug impairment if a member of the Police Force police officer has reasonable grounds to believe that the person is, or was while driving or attempting to drive the motor vehicle, impaired by something, other than alcohol alone, affecting the person's capacity to drive a motor vehicle.

- (2) Where a member of the Police Force police officer
 - has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an

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- immediate or proximate cause of, personal injury or damage to property; and
- (b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe —

- that the person may have been the driver or person in charge of the motor vehicle at that time; and
- that the person was at that time impaired by something, (d) other than alcohol alone, affecting the person's capacity to drive a motor vehicle,

a member of the Police Force police officer may require the person to undergo an assessment of drug impairment.

- (3) For the purposes of subsection (1) or (2) a member of the Police Force police officer may require a person who is required to undergo a driver assessment to wait at the place at which the requirement was made.
- (4) Where a person required under subsection (1) or (2) to undergo a driver assessment is in a motor vehicle, a member of the Police Force police officer may require the person to leave the vehicle for the purpose of undergoing the assessment.
- (5) A person who is required to undergo a driver assessment shall comply with that requirement by undergoing the assessment in accordance with the directions of a member of the Police Force police officer.
- (6) A person shall not be required to undergo a driver assessment if it appears to a member of the Police Force police officer that
 - the driver assessment could not be conducted within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

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- because of the person's physical condition the person is incapable of undergoing the driver assessment.
- A driver assessment shall be conducted by a member of the (7) Police Force police officer in accordance with regulations prescribing the procedure for assessing drug impairment. [Section 66A inserted by No. 6 of 2007 s. 99; amended by No. 8 of 2012 s. 37.]

66B. Blood or urine sample for drug analysis, police powers to require etc.

- Where (1)
 - a person having undergone a driver assessment, it (a) appears to a member of the Police Force police officer that the assessment indicates that the person is drug impaired; or
 - a person refuses or fails to undergo a driver assessment (b) having been required to do so; or
 - a member of the Police Force police officer might (c) require a person to undergo a driver assessment but is precluded from doing so by section 66A(6)(b),

a member of the Police Forcepolice officer may require the person —

- to allow a medical practitioner or registered nurse nominated by the member of the Police Forcepolice officer to take a sample of the person's blood for analysis; or
- to provide a medical practitioner or registered nurse (e) nominated by the member of the Police Force police officer with a sample of the person's urine for analysis,

or to do both of those things, and for the purposes of this subsection may require the person to accompany a member of the Police Force police officer to a place, and may require the person to wait at that place.

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- (2) Where a person is incapable of complying with a requirement under subsection (1)(d), a member of the Police Force police officer may cause a medical practitioner or registered nurse to take a sample of the person's blood for analysis.
- Where a person is apparently unconscious or seriously injured a (3) member of the Police Force police officer shall facilitate the provision of medical assistance for the person.
- (4) A person shall not be required
 - to allow a medical practitioner or registered nurse to take a sample of the person's blood; or
 - to provide a medical practitioner or registered nurse with (b) a sample of the person's urine,

under subsection (1), and a medical practitioner or registered nurse shall not be caused to take a sample of a person's blood under subsection (2), if it appears to the member of the Police Force police officer that the sample cannot be taken or provided, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66B inserted by No. 6 of 2007 s. 9; amended by No. 51 of 2010 s. <u>88; No. 8 of 2012 s. 37.</u>]

[Section 66B. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66C. Preliminary oral fluid test, police powers to require etc.

(1) A member of the Police Force police officer may require the driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to undergo a preliminary oral fluid test.

- A member of the Police Force police officer may
 - call upon the driver of a motor vehicle to stop the vehicle;
 - direct the driver of a motor vehicle to wait at a place (b) indicated by the member of the Police Force police officer,

in order that a requirement may be made under subsection (1).

- Where a member of the Police Forcepolice officer (3)
 - has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and
 - does not know, or has doubt as to, who was the driver or (b) person in charge of the motor vehicle at the time of that presence or use,

the member of the Police Force police officer may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to undergo a preliminary oral fluid test.

- For the purposes of subsection (1) or (3) a member of the Police (4) Force police officer may require a person who is required to undergo a preliminary oral fluid test to wait at the place at which the requirement was made.
- (5) Where a person required to undergo a preliminary oral fluid test is in a motor vehicle, a member of the Police Forcepolice officer may require the person to leave the vehicle for the purpose of undergoing the test.
- A person who is required to undergo a preliminary oral fluid test shall comply with that requirement by undergoing the test in accordance with the directions of a member of the Police Force police officer.

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A preliminary oral fluid test shall be conducted by a member of **(7)** the Police Force police officer in accordance with regulations prescribing the procedure for those tests.

[Section 66C inserted by No. 6 of 2007 s. 99; amended by No. 8 of 2012 s. 37.7

66D. Oral fluid sample, police powers to require etc.

- (1) Where
 - a person having undergone a preliminary oral fluid test, (a) it appears to a member of the Police Force police officer that the test indicates that the person's oral fluid contains a prescribed illicit drug; or
 - a person refuses or fails to undergo a preliminary oral (b) fluid test having been required to do so,

a member of the Police Force police officer may require the person to provide a sample of the person's oral fluid for drug testing, and for the purposes of this subsection may require the person to accompany a member of the Police Force police officer to a place, and may require the person to wait at that place.

- A person who is required under subsection (1) to provide a sample of oral fluid for drug testing shall comply with that requirement by providing the sample in accordance with the directions of an authorised drug tester.
- A person shall not be required under subsection (1) to provide a sample of oral fluid for drug testing if it appears to a member of the Police Force police officer that
 - the sample of oral fluid could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

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- because of the person's physical condition the person is incapable of providing the sample of oral fluid.
- (4) Where, under subsection (1), a person provides a sample of oral fluid for drug testing, an authorised drug tester shall
 - collect the sample in the manner prescribed by the regulations; and
 - (b) conduct drug testing of the sample by an approved device in accordance with the procedure prescribed by the regulations.

[Section 66D inserted by No. 6 of 2007 s. 99; amended by No. of 2012 s. 37.]

[Section 66D. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66E. Blood sample instead of oral fluid sample, police powers to require etc.

- (1) Where a member of the Police Force police officer might, under section 66D(1), require a person to provide a sample of oral fluid for drug testing but is precluded from doing so by section 66D(3)(b), a member of the Police Force police officer may require the person to allow a medical practitioner or registered nurse nominated by the member of the Police Force police officer to take a sample of the person's blood for analysis, and for the purposes of this subsection may require the person to accompany a member of the Police Force police officer to a place, and may require the person to wait at that place.
- Where a person is incapable of complying with a requirement (2) under subsection (1), a member of the Police Force police officer may cause a medical practitioner or registered nurse to take a sample of the person's blood for analysis.

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Where a person is apparently unconscious or seriously injured a (3) member of the Police Force police officer shall facilitate the provision of medical assistance for the person.

(4) A person shall not be required to allow a medical practitioner or registered nurse to take a sample of the person's blood under subsection (1), and a medical practitioner or registered nurse shall not be caused to take a sample of a person's blood under subsection (2), if it appears to the member of the Police Force police officer that the sample cannot be taken or provided, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66E inserted by No. 6 of 2007 s. 9; amended by No. 51 of 2010 s. 99; No. 8 of 2012 s. 37.]

[Section 66E. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

- 66F. Medical practitioners and registered nurses authorised to take blood samples for s. 66, 66B and 66E etc.
 - Where under section 66, 66B or 66E a member of the Police (1) Force police officer
 - requires a person to allow a medical practitioner or registered nurse nominated by the member of the Police Force police officer to take a sample of the person's blood for analysis; or
 - causes a medical practitioner or registered nurse to take (b) a sample of a person's blood for analysis,

this section authorises the medical practitioner or registered nurse to take that sample.

(2) No action lies against a person who is a medical practitioner or registered nurse by reason only of the person taking a sample of

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another person's blood for analysis under section 66, 66B or 66E.

[Section 66F inserted by No. 6 of 2007 s. <u>99</u>; amended by No. 8 of 2012 s. 37.]

67. Failure to comply with s. 66 requirement to provide breath, blood or urine sample

- (1) In this section *requirement* means a requirement of a member of the Police Force police officer made pursuant to section 66.
- (2) A person who fails to comply with a requirement
 - (a) to provide a sample of his breath for analysis; or
 - (b) to allow a medical practitioner or registered nurse to take a sample of his blood for analysis; or
 - (c) to provide a medical practitioner or registered nurse with a sample of his urine for analysis,

commits an offence, and the offender may be arrested without warrant.

- (3) Subject to subsection (3a), a person convicted of an offence against this section is liable
 - (a) for a first offence
 - (i) if the person has been previously convicted of an offence against section 64, to a fine of
 - (I) not less than the minimum fine that would apply if the offence were against that section instead of this section and the person's blood alcohol content were above 0.14g of alcohol per 100ml of blood; and
 - (II) not more than 50 PU,

and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a

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- period of not less than the minimum period of disqualification that would apply if the offence were against that section instead of this section and the person's blood alcohol content were above 0.14g of alcohol per 100ml of blood;
- (ii) in any other case, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months;
- for a second offence, to a fine of not less than 42 PU or (b) more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months;
- for any subsequent offence, to a fine of not less than (c) 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- If when a requirement is made a member of the Police (3a)Force police officer
 - advises the person concerned that the member of the Police Forcepolice officer believes that the motor vehicle of which the person was, or is believed to have been, the driver has been involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person; and
 - explains to the person the consequences under this (b) subsection of failure to comply with the requirement,

an offence against this section of failing to comply with that requirement is a crime and a person convicted of it is liable to a fine of any amount and imprisonment for 14 years and in any event the court convicting the person shall order that the person

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be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- Summary conviction penalty in a case in which the incident does not occasion the death of another person: imprisonment for 18 months or a fine of 160 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.
- For an offence against this section that was committed before (3B)the day on which the Manslaughter Legislation Amendment Act 2011 section 7(1) came into operation amending subsection (3a), subsection (3a) applies as if that amendment had not been made.
 - For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 63 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence but any offence committed by him against this section as in force before the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 ¹ shall not be taken into account for that purpose.
 - (5) It shall be a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.
 - (6) Without limiting the generality of subsection (5) it shall be a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the accused satisfies the court that he attempted to comply with the requirement.

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[Section 67 inserted by No. 82 of 1982 s. 16; amended by No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 36; No. 50 of 2003 s. 92(2); No. 44 of 2004 s. 10; No. 84 of 2004 s. 82; No. 54 of 2006 s. 18; No. 39 of 2007 s. 18; No. 51 of 2010 s. 10; No. 14 of 2011 s. 13; No. 58 of 2011 s. 77; No. 8 of 2012 s. 37.]

67AA. Failure to comply with s. 66A or 66B requirement to do driver assessment or provide blood or urine sample

(1) In this section —

requirement means a requirement of a member of the Police Force police officer made under section 66A or 66B.

- (2) A person who fails to comply with a requirement
 - (a) to undergo a driver assessment; or
 - (b) to allow a medical practitioner or registered nurse to take a sample of the person's blood for analysis; or
 - (c) to provide a medical practitioner or registered nurse with a sample of the person's urine for analysis,

commits an offence.

- (3) A person convicted of an offence against this section is liable
 - (a) for a first offence, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months; and
 - (b) for a second offence, to a fine of not less than 42 PU or more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and
 - (c) for any subsequent offence, to a fine of not less than 42 PU or more than 100 PU or to imprisonment for

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- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by the person against section 63 or 64AB or section 67 as in force after the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 1 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.
- (5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.
- (6) Without limiting the generality of subsection (5) it is a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the accused satisfies the court that the accused attempted to comply with the requirement.

[Section 67AA inserted by No. 6 of 2007 s. 10; amended by No. 14 of 2011 s. 4414; No. 8 of 2012 s. 37.]

67AB. Failure to comply with s. 66D or 66E requirement to provide oral fluid or blood sample

(1) In this section —

> requirement means a requirement of a member of the Police Force police officer made under section 66D or 66E.

- A person who fails to comply with a requirement (2)
 - to provide a sample of oral fluid for drug testing; or

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to allow a medical practitioner or registered nurse to take a sample of the person's blood for analysis,

commits an offence.

- A person convicted of an offence against this section is liable
 - for a first offence, to a fine of not more than 10 PU; and
 - for a second or subsequent offence, to a fine of not less (b) than 10 PU or more than 20 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by the person against section 64AC or 67AA or section 67 as in force after the coming into operation of section 16 of the Road Traffic Amendment Act (No. 2) 1982 1 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- (5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

[Section 67AB inserted by No. 6 of 2007 s. 10; amended by No. 14 of 2011 s. 1515; No. 8 of 2012 s. 37.]

- 67A. Failure to comply with other requirement made under s. 66 to 66E requirements of police officer
 - Subject to subsection (2), a person who fails to comply with any (1) requirement of a member of the Police Forcepolice officer made pursuant to any of sections 66 to 66E, other than a requirement

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- mentioned in section 66(1aa), 66C(2), 67(2), 67AA(2) or 67AB(2), commits an offence.
- (2) This section does not apply to a medical practitioner or registered nurse by reason of his failing to co-operate in the taking of a sample of a person's blood for analysis or in the collection of a sample of a person's urine for analysis.
- (3) A person convicted of an offence against this section is liable
 - for a first offence, to a fine of not less than 6 PU or more than 16 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;
 - for any subsequent offence, to a fine of not less than (b) 12 PU or more than 28 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.
- For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 63, 64, 64AB, 67, 67AA or 67AB shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.
- (5) It shall be a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.
- (6) Where a person is prosecuted for an offence against this section of failing to comply with a requirement to provide a sample of his breath for a preliminary test it shall be a defence to the prosecution if the accused satisfies the court that he complied, in

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accordance with section 66, with a requirement mentioned in section 67(2)(a) or 67(2)(b) that arose out of —

- his failure to comply with the first-mentioned requirement; or
- the circumstances that gave rise to the first-mentioned (b) requirement.

[Section 67A inserted by No. 82 of 1982 s. 16; amended by No. 121 of 1987 s. 7; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 36; No. 84 of 2004 s. 82; No. 54 of 2006 s. 19; No. 6 of 2007 s. 4411; No. 8 of 2012 s. 37.]

68. Breath sample, analysis of etc.

- (1) Where, pursuant to section 66, a person provides a sample of his breath for analysis the analysis shall be made by breath analysing equipment.
- (1a) If the breath analysing equipment is not self-testing breath analysing equipment subsections (1b) to (4) shall have effect in relation to the analysis.
- (1b)The breath analysing equipment shall be operated by an authorised person and shall be operated in accordance with the regulations relating to analysis by breath analysing equipment of the relevant type.
 - At the conclusion of the analysis the authorised person shall (2) determine in accordance with the regulations whether the breath analysing equipment is in proper working order.
- Subject to subsection (11), if the breath analysing equipment is (3) determined not to be in proper working order a member of the Police Forcepolice officer may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis under section 66(2).
- (4) If the breath analysing equipment is determined to be in proper working order -

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- the result indicated by the breath analysing equipment at the conclusion of the analysis shall be the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis result shall be deemed to be the person's blood alcohol content at the time the sample of breath was provided; and
- the authorised person shall complete, sign, and hand to (b) the person a statement in writing of the analysis result (which may be by way of an indication on a scale) and of the date and time of the analysis.
- If the breath analysing equipment is self-testing breath (5) analysing equipment subsections (6) to (10) shall have effect in relation to the analysis.
- The breath analysing equipment shall be operated by an (6) authorised person and shall be operated in accordance with the regulations relating to analysis by self-testing breath analysing equipment of the relevant type.
- Subject to subsection (11), if the breath analysing equipment (7) does not indicate a result in the prescribed manner at the conclusion of the analysis, a member of the Police Force police officer may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis under section 66(2).
- If the breath analysing equipment indicates a result in the (8) prescribed manner at the conclusion of the analysis, the result so indicated shall be the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis result shall be deemed to be the person's blood alcohol content at the time the sample of breath was provided.
- (9) Subject to subsection (10), the authorised person shall complete, sign, and hand to the person a statement in writing of the analysis result and of the date and time of the analysis.

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- (10)If the manner of indication of a result prescribed for the purposes of subsections (7) and (8) is the printing of a statement by the breath analysing equipment, the authorised person may comply with the requirements of subsection (9) by signing and dating the statement so printed and handing it to the person.
- (11)If the person has provided 2 samples of his breath for analysis under section 66(2) and the analysis of each sample has failed, the person shall not be required to provide another sample of his breath for analysis under section 66(2).
- For the purposes of subsection (11) an analysis of a sample of (12)breath shall be regarded as having failed if, and only if –
 - the analysis is made by breath analysis equipment that is not self-testing breath analysing equipment and the breath analysing equipment is determined not to be in proper working order; or
 - the analysis is made by self-testing breath analysing (b) equipment and the breath analysing equipment does not indicate a result in the prescribed manner.

[Section 68 amended by No. 121 of 1987 s. 8; No. 39 of 2000 s. 36; No. 39 of 2007 s. 1212; No. 8 of 2012 s. 37.]

69. Blood sample, taking and analysis of

(1) Where, pursuant to the provisions of section 66, 66B or 66E, a medical practitioner or registered nurse takes a sample of a person's blood for analysis the sample shall be taken in accordance with the regulations, or otherwise in a proper manner, and shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's blood for the purposes of this Act, and one of which shall be given to or retained for the person from whom it was taken, or shall be given to some other person on behalf of the first-mentioned person, and the other of which shall be given to a member of the Police Force police officer.

- (1a) If, instead of a sample of a person's blood being taken and divided into 2 parts, 2 samples of the person's blood are taken one immediately after the other, and in a manner prescribed in the regulations
 - the taking of those 2 samples is to be regarded as the taking of a single sample at the time at which the first of the 2 samples began to be taken; and
 - each of the 2 samples taken is to be regarded as a part (b) into which the single sample has been divided.
- Where a sample of blood is analysed for alcohol by an analyst (2) in accordance with the regulations the blood alcohol content of the sample shall be the analysis result and shall be deemed to be the person's blood alcohol content at the time the sample of blood was taken.

[Section 69 amended by No. 105 of 1981 s. 19; No. 39 of 2000 s. 36; No. 54 of 2006 s. 20; No. 6 of 2007 s. 12; No. 39 of 2007 s. 1313; No. 8 of 2012 s. 37.1

69A. Urine sample, taking of

Where pursuant to section 66 or 66B a person provides a medical practitioner or registered nurse with a sample of his urine for analysis the sample shall be collected in prescribed equipment and shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's urine for the purposes of this Act, and one of which shall be given to or retained for the person by whom it was provided, or shall be given to some other person on behalf of the first-mentioned person, and the other of which shall be given to a member of the Police Forcepolice officer.

[Section 69A inserted by No. 82 of 1982 s. 17; amended by No. 39 of 2000 s. 36; No. 6 of 2007 s. 1313; No. 8 of 2012 s. <u>37</u>.]

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69B. Oral fluid sample, taking of

If the drug testing of a sample of a person's oral fluid under section 66D(4)(b) indicates, in the opinion of the authorised drug tester who conducted the drug testing, that the person's oral fluid contains a prescribed illicit drug, the sample shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's oral fluid for the purposes of this Act, and one of which shall be given to or retained for the person by whom it was provided, or shall be given to some other person on behalf of the first-mentioned person, and the other of which shall be given to a member of the Police Force police officer.

[Section 69B inserted by No. 6 of 2007 s. 1414; amended by No. 8 of 2012 s. 37.1

70. **Evidentiary provisions**

- (1) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section 64, 64AA, 64A or 64AAA, or for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of alcohol at any material time is relevant, evidence may be given of—
 - (a) the provision of a sample of breath by the person for analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
 - the analysis of the sample of breath by breath analysing (b) equipment operated by an authorised person; and
 - (c) the determination that breath analysing equipment that was not self-testing breath analysing equipment was in proper working order; and
 - the manner in which self-testing breath analysing (ca) equipment indicated the result of an analysis; and
 - the taking of a sample of blood from the person by a (d)

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- medical practitioner or registered nurse, if taken within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
- the analysis of the sample of blood for alcohol by an (e) analyst; and
- the analysis result obtained pursuant to section 68 or 69. (f)
- In any proceeding such as is mentioned in subsection (1), a (2) certificate in the prescribed form —
 - (a) purporting to be signed by the chief executive officer of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an authorised person; or
 - purporting to be signed by the chief executive officer of (b) the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an analyst;
 - purporting to be signed by an authorised person (ba)
 - certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein; and
 - certifying that a sample of breath so provided (ii) was analysed by apparatus operated by him and that apparatus was breath analysing equipment, other than self-testing breath analysing equipment, within the meaning of section 65; and
 - (iii) certifying that the breath analysing equipment was operated by him in the prescribed manner and that all regulations relating to analysis by breath analysing equipment of the relevant type were complied with; and
 - setting out the analysis result obtained from the (iv) analysis; and

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- certifying that the breath analysing equipment (v) was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation; and
- certifying that in accordance with (vi) section 68(4)(b) he completed, signed, and handed to the person by whom the sample of breath was provided, a statement as required by that paragraph; and
- certifying that he was at the material time an (vii) authorised person;

or

- (bb) purporting to be signed by an authorised person
 - certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein; and
 - (ii) certifying that the sample of breath so provided was analysed by apparatus operated by him and that apparatus was self-testing breath analysing equipment within the meaning of section 65; and
 - certifying that the breath analysing equipment (iii) was operated by him in the prescribed manner and that the regulations relating to analysis by self-testing breath analysing equipment of the relevant type were complied with; and
 - (iv) certifying that the breath analysing equipment indicated a result in the prescribed manner at the conclusion of the analysis; and
 - setting out the analysis result obtained from the (v) analysis; and
 - certifying that in accordance with section 68(9) (vi) he completed, signed, and handed to the person by whom the sample of breath was provided, a statement as required by that subsection, or that

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rements of that

he complied with the requirements of that subsection by signing, dating, and handing to the person, a statement printed by the breath analysing equipment; and

(vii) certifying that he was at the material time an authorised person;

or

- (c) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date; or
- (d) purporting to be signed by a medical practitioner or registered nurse, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
- (e) purporting to be signed by an analyst, certifying either or both of the following, namely, that an identified sample of blood taken from a named person was analysed for alcohol in accordance with the regulations, and the analysis result obtained from the analysis,

is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such chief executive officer, or was an authorised person, or was such a technologist, or was a medical practitioner, registered nurse or analyst.

(2a) In any proceeding such as is mentioned in subsection (1), evidence by an authorised person that —

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- the apparatus operated by him pursuant to section 68 (a) was self-testing breath analysing equipment within the meaning of section 65; or
- (b) self-testing breath analysing equipment was operated by him in the prescribed manner and the regulations relating to analysis by self-testing breath analysing equipment of the relevant type were complied with; or
- self-testing breath analysing equipment indicated a result in the prescribed manner on the occasion of its operation,

is prima facie evidence of that fact.

- In any proceeding such as is mentioned in subsection (1), (3) evidence by an authorised person that
 - the apparatus operated by him pursuant to section 68 was breath analysing equipment, other than self-testing breath analysing equipment, within the meaning of section 65; or
 - breath analysing equipment was operated by him in the (b) prescribed manner and all regulations relating to analysis by breath analysing equipment of the relevant type were complied with; or
 - breath analysing equipment that was not self-testing breath analysing equipment and was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation,

is prima facie evidence of that fact.

Without affecting the admissibility of any other evidence that (3a) may then be given, in any proceeding for an offence against section 64AC, or for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of or impaired by drugs at any material time is relevant, evidence may be given of—

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- the taking of a sample of blood from the person by a medical practitioner or registered nurse, if taken within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
- the provision of a sample of urine by the person for (b) analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
- the analysis of a sample of blood or urine for drugs by a (c) drugs analyst and the result obtained from the analysis; and
- (d) the conduct, condition or appearance of the person at or after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence or during a driver assessment; and
- conduct, a condition or an appearance associated with a (e) person who has consumed or used a particular drug or particular drugs; and
- the usual effect that conduct or a condition associated (f) with a person who has consumed or used a particular drug or particular drugs has on a person's capacity to have proper control of a motor vehicle; and
- the provision of a sample of oral fluid by the person (g) under section 66D, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
- the analysis for drugs by a drugs analyst of a sample of (h) oral fluid provided under section 66D, and the result obtained from the analysis.
- In any proceedings such as is mentioned in subsection (3a), a (3b)certificate in the prescribed form
 - purporting to be signed by the chief executive officer of (a) the Chemistry Centre (WA) certifying that a person

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- named therein is, or was at the material time, a drugs analyst; or
- (b) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date; or
- purporting to be signed by a technologist of a body (c) approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of the collection of a sample of a person's urine for analysis if used not later than a specified date; or
- purporting to be signed by a medical practitioner or registered nurse, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
- purporting to be signed by a medical practitioner or registered nurse, certifying that an identified sample of urine was provided by a named person on a date and at a time therein specified and was collected using identified sampling equipment which was received in a described condition from an identified person; or
- (f) purporting to be signed by a drugs analyst certifying either or both of the following
 - that an identified sample of blood, urine or oral fluid taken from or provided by a named person was analysed for drugs;
 - the analysis result obtained from the analysis; (ii)

or

- purporting to be signed by an approved expert (g) describing conduct, a condition or an appearance associated with a person who has consumed or used a drug or drugs specified in the certificate; or
- purporting to be signed by an approved expert setting (h) out the usual effect that conduct or a condition associated with a person who has consumed or used a particular drug or particular drugs has on a person's capacity to have proper control of a motor vehicle; or
- purporting to be signed by a member of the Police (i) Force police officer describing the conduct, condition or appearance of a person at or after the time the person drove or attempted to drive a motor vehicle; or
- purporting to be signed by a member of the Police (j) Forcepolice officer certifying the following
 - that the **member**police officer conducted a driver assessment on a person named in the certificate on a date and at a time stated in the certificate;
 - (ii) that the assessment was conducted in accordance with the regulations,
 - and describing the conduct, condition or appearance of the person during the assessment; or
- (k) purporting to be signed by an authorised drug tester certifying that, under section 66D, an identified sample of oral fluid was collected by the authorised drug tester in accordance with the regulations from a named person on a date and at a time specified in the certificate using identified sampling equipment which was received in a described condition from an identified person,

is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such chief executive officer, or was such a technologist, or was a medical practitioner, registered nurse, drug analyst, approved expert,

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member of the Police Forcepolice officer or authorised drug tester.

- (3c) In any proceeding for an offence against section 67(2)(a) a certificate in the prescribed form purporting to be signed by the chief executive officer of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an authorised person is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such chief executive officer.
- In any proceeding for an offence against section 67A(1) of (3d)failing to comply with a requirement made pursuant to section 66D(1) a certificate in the prescribed form purporting to be signed by the Commissioner of Police certifying that a person therein named is, or was at the material time, an authorised drug tester is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner of Police.
 - Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act.
- Except at the instance, or with the consent, of the accused in any (5) proceeding such as is mentioned in subsection (3a), a certificate mentioned in subsection (3b)(f), (g) or (h) shall not be adduced, and if adduced shall not be admitted, in that proceeding unless a copy of the certificate is proved to have been served on the accused at least 28 days before the day on which the certificate is adduced.

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- If subsection (5) has been complied with in relation to a certificate, the accused shall not challenge or call into question any matter certified or set out in the certificate unless
 - notice of the accused's intention to do so is proved to have been served on the prosecutor at least 14 days before the day on which the certificate is adduced; or
 - the court, in the interests of justice, gives the accused (b) leave to do so.
- A notice under subsection (5a)(a) must specify the matter that is (5b)to be challenged or called into question.
- (5c)Except at the instance, or with the consent, of that person, evidence that a person underwent a preliminary oral fluid test and of any indication provided by such a test shall not be adduced, and if adduced shall not be admitted, in any proceedings other than proceedings for an offence against section 67AB or 67A.
- (5d)Except as provided by subsection (3a) or (3b) or at the instance, or with the consent, of that person, evidence that a person provided a sample of the person's oral fluid for drug testing shall not be adduced, and if adduced shall not be admitted, in any proceedings other than proceedings for an offence against section 67AB or 67A.
- Except at the instance, or with the consent, of that person, (5e) evidence of the result of the drug testing of a sample of a person's oral fluid by an approved device, shall not be adduced, and if adduced shall not be admitted, in any proceedings other than proceedings for an offence against section 67AB or 67A.
- Except at the instance, or with the consent, of that person, (6) evidence that a person provided a sample of his breath for a preliminary test and of any indication provided by such a test shall not be adduced, and if adduced shall not be admitted, in any proceedings other than proceedings for unlawful arrest or for an offence against section 64AB, 67, 67AA or 67A.

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(7) In this section —

approved expert means a qualified clinical pharmacologist approved by the Minister for the purpose of this section by notice published in the Gazette;

technologist means —

- a person registered as an analyst under section 203 of the Health Act 1911; or
- (b) a person approved, or belonging to a class of persons approved, by the Minister to prepare sampling equipment.

[Section 70 amended by No. 71 of 1979 s. 12; No. 82 of 1982 s. 18; No. 121 of 1987 s. 9; No. 11 of 1988 s. 13; No. 19 of 1990 s. 8; No. 13 of 1992 s. 12; No. 39 of 2000 s. 35 and 36; No. 6 of 2007 s. 15; No. 10 of 2007 s. 43; No. 39 of 2007 s. 3737; No. 8 of 2012 s. 37 and 38.]

71. Blood alcohol content at material time, how calculated

- In any proceeding such as is mentioned in section 70(1) a person's blood alcohol content at any time which is or may be material in the proceeding (the *material time*) shall be calculated having regard to
 - the time of the person's last drink containing alcohol taken at or before the material time; and
 - the material time; and (b)
 - (c) the time at which the sample of the person's breath or blood was provided or taken for analysis (the time of sampling); and
 - the person's blood alcohol content at the time of (d) sampling,

so as to give effect to the presumption that after a person's latest drink containing alcohol the person's blood alcohol content increases at the rate of 0.016g of alcohol per 100ml of blood per

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- hour for a period of 2 hours and, after that period, decreases at the rate of 0.016g of alcohol per 100ml of blood per hour.
- For the purpose of making a calculation under subsection (1) in (2) any case where any one or more of the times referred to in that subsection can only be ascertained as falling within a period of time, the calculation shall be made taking such time within that period as produces the result most favourable to the person charged.
- (3) For the purpose of making a calculation under subsection (1) but subject to subsection (2), in any case where the time of a person's last drink containing alcohol is not ascertained, the time of the person's last drink containing alcohol shall be taken to have been such time as produces the result most favourable to the person charged.
- In any proceeding such as is mentioned in section 70(1), the concentration of alcohol calculated to have been present in the blood of a person at any time under the preceding provisions of this section shall be conclusively presumed to have been present in the blood of that person at that time.

[Section 71 amended by No. 39 of 2007 s. 14.]

71A. Samples not to be used to obtain DNA

(1) In this section —

> sample means a sample of blood, urine or oral fluid taken from or provided by a person (the *subject*) and given to a member of the Police Forcepolice officer under section 69, 69A or 69B.

(2) A person must not use a sample to obtain the subject's DNA. Penalty: imprisonment for 12 months.

[Section 71A inserted by No. 6 of 2007 s. 4616; amended by No. 8 of 2012 s. 37.1

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- (1) If a member of the Police Force police officer has reason to suspect that a person (the *offender*) is driving, is attempting to drive, has driven or has attempted to drive a motor vehicle in contravention of section 63, 64, 64AA, 64A, 64AAA or 64AB, the member of the Police Force police officer may require the offender to immediately hand over all keys to any motor vehicle that are there and then in the offender's possession
 - to the member of the Police Forcepolice officer; or
 - to another person who is in the company of the offender if the member of the Police Force police officer is satisfied that the person
 - is authorised to drive the vehicle on a road; and
 - (ii) is responsible and is able to drive the vehicle properly.
- A member of the Police Force police officer may make a (2) requirement under subsection (1) if satisfied that the requirement is necessary in the circumstances and is in the interest of the offender, or of any other person or of the public, and may do so whether or not the offender has been or is to be charged with an offence.
- If keys to a motor vehicle are handed over under (3) subsection (1)(a), a member of the Police Force police officer may take any steps that, in the opinion of the member of the Police Force police officer, are appropriate and practicable in order to ensure that the vehicle is not causing any obstruction to traffic and is secure.
- (4) Those steps may include moving the vehicle to a more suitable place.
- (5) If a person requests a member of the Police Force police officer to hand over to the person keys to a motor vehicle that have been handed over under subsection (1)(a), the member of the Police Force police officer is to comply with the request if satisfied that the person -

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- is entitled to lawful possession of the vehicle or is in the (a) company of a person who is entitled to lawful possession of the vehicle; and
- is authorised to drive the vehicle on a road; and (b)
- (c) is responsible and able to drive the vehicle properly.
- Before keys to a motor vehicle are handed over to a person (6) under subsection (1)(b) or (5) a member of the Police Forcepolice officer may, for the purposes of subsection (1)(b)(ii) or (5)(c), require the person to provide a sample of the person's breath for a preliminary test in accordance with the directions of the member of the Police Force police officer.
- If keys to a motor vehicle are not handed over within 24 hours (7) after a request is made under subsection (5), the offender may apply to the Magistrates Court, in accordance with its rules of court, for an order for the keys to be handed over to a person named in the application.
- A person who (8)
 - contravenes any requirement made by a member of the Police Force police officer under subsection (1); or
 - (b) attempts in any manner to obstruct a member of the Police Force police officer in the exercise of any power conferred on the member of the Police Force police officer under subsection (1), (3) or (4),

commits an offence.

Penalty: 8 PU.

[Section 71B inserted by No. 6 of 2007 s. 16; amended by No. 39 of 2007 s. 38 (correction to reprint in Gazette 19 Oct 2010 p. 5202)...); No. 8 of 2012 s. 37.1

- 71C. Disqualifying alleged offender, Disqualification by police powers forofficer
 - (1) This section applies if —

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- (a) a police officer (the *police officer*), as a result of an analysis of a sample of a person's breath or blood, has reason to suspect that the person (the *alleged offender*) has committed an offence under section 63 or 64 (the *alleged offence*); or
- (b) a police officer (the *police officer*) has reason to suspect that a person (the *alleged offender*) has committed an offence against section 67 (the *alleged offence*).
- (2) If this section applies the police officer may give the alleged offender a notice that is in accordance with this section (a *disqualification notice*) by delivering the notice to the alleged offender personally.
- (3) The disqualification notice must contain a statement to the effect that the alleged offender is disqualified from holding or obtaining a driver's licence for a period commencing on receipt of the notice and ending on the day that is 2 months after the day the notice is received unless before the expiry of that period the notice is revoked under section 71E, 71F or 71G.
- (4) The disqualification notice must
 - (a) identify the provision under which the notice is given; and
 - (b) specify the grounds on which the notice is given; and
 - (c) identify the time and date on which the alleged offence was committed; and
 - (d) identify where the alleged offence was committed; and
 - (e) describe the alleged offence with reasonable clarity; and
 - (f) identify the provision that creates the alleged offence.
- (5) The disqualification notice must also include a statement to the effect that section 71F contains law about the circumstances in which the alleged offender may apply to a court for an order revoking the notice.

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- A disqualification notice cannot be given to an alleged offender —
 - (a) if the alleged offence is an offence under section 63 or 64, more than 10 days after the later of
 - the day of the alleged offence; or
 - (ii) if a sample of the alleged offender's blood was taken under section 66 in connection with the alleged offence, the day on which a police officer receives an analysis result of the sample;

or

- if the alleged offence is an offence under section 67, (b) more than 10 days after the day of the alleged offence.
- If a police officer gives a person a disqualification notice the (7) police officer must write on the notice the time and date when it was given and the time and date when the disqualification expires.
- (8) A police officer may, by written notice given to a person to whom a disqualification notice has been given, amend the disqualification notice to correct any error in the disqualification notice.
- (9) If a police officer gives a person a disqualification notice or a notice amending a disqualification notice in accordance with this section the police officer must, as soon as is practicable, cause particulars of the notice to be sent to the CEO.

[Section 71C inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 15.7

71D. Disqualification notice (s. 71C), consequences of

A person who is given a disqualification notice in accordance with section 71C is disqualified from holding or obtaining a driver's licence for the period set out in the notice unless the notice is sooner revoked.

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(2) The period of disqualification imposed under subsection (1) is concurrent with any other period for which the person is disqualified from holding or obtaining a driver's licence.

[Section 71D inserted by No. 51 of 2010 s. 11.]

71E. Disqualification Revocation of disqualification notice (s. 71C), by police to revoke in certain cases officer

- A police officer must immediately revoke a disqualification notice if
 - the police officer becomes aware that the breath (a) analysing equipment used to analyse the sample of the person's breath provided in connection with the offence to which the notice relates was faulty at the time of the analysis; or
 - (b) a charge for the offence to which the notice relates has not been laid within 10 days after the time when the notice was given; or
 - a charge for the offence to which the notice relates is (c) discontinued.
- (2) If under this section a police officer revokes a disqualification notice the police officer must, as soon as is practicable, cause notice of the revocation to be given to
 - the person to whom the disqualification notice was given under section 71C; and
 - (b) the CEO.

[Section 71E inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 16.7

71F. Disqualification notice (s. 71C), court may order police to revoke

A person to whom a disqualification notice is given under (1) section 71C may apply to the Magistrates Court or, if the person is under 18 years of age, to the Children's Court, for an order directing the Commissioner of Police to revoke the notice.

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- An application made under subsection (1) must
 - be made in accordance with any applicable rules of court; and
 - include particulars of the exceptional circumstances that (b) the applicant alleges justifies the making of the order; and
 - be served on the Commissioner of Police at least 14 days before it is heard and determined.
- The Commissioner of Police is entitled to be heard on an (3) application made under subsection (1).
- The court may either make an order directing the Commissioner (4) of Police to revoke the disqualification notice from the day specified in the order or refuse the application.
- The court must not make an order directing the Commissioner (5) of Police to revoke a disqualification notice unless it is satisfied that exceptional circumstances exist that justify the making of such an order.
- (6) If a court makes an order directing the Commissioner of Police to revoke a disqualification notice, the court is to cause a copy of the order to be sent to the CEO.

[Section 71F inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 17.]

71G. Disqualification notice (s. 71C) automatically revoked on acquittal etc.

- If a court (1)
 - acquits a person of an offence to which a disqualification notice relates; or
 - dismisses a charge for an offence to which a (b) disqualification notice relates,

the disqualification notice is revoked.

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If under this section a disqualification notice is revoked, the court is to cause particulars of the revocation to be sent to the CEO.

[Section 71G inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 18.7

71H. Period of disqualification under s. 71C notice to be taken into account in sentencing

- This section applies if a court convicts a person of the offence to (1) which a disqualification notice relates.
- If this section applies, the court is to take into account any (2) period of disqualification imposed under section 71D(1) in respect of the disqualification notice when making an order disqualifying the person from holding or obtaining a driver's licence.

[Section 71H inserted by No. 51 of 2010 s. 11.]

72. Regulations for s. 59B(5) and 63 to 73; approval of apparatus etc.

- The Governor may make regulations prescribing all matters that (1) are necessary or convenient for the purpose of carrying out, or giving effect to, the provisions of section 59B(5) and sections 63 to 73 inclusive, and, in particular and without limiting the generality of the foregoing, may make regulations
 - prescribing the manner of providing samples of breath (a) and oral fluid and taking samples of blood, and regulating the manner of dealing with samples of breath, blood, urine and oral fluid; and
 - prescribing equipment for use in the taking of samples (aa) of blood and the collection of samples of urine and oral fluid: and
 - prescribing the manner and methods by which samples (ab) of blood may be analysed for alcohol; and

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- prescribing the manner and methods by which samples (ac) of blood, urine and oral fluid may be analysed for drugs; and
- (b) prescribing the manner of operation of breath analysing equipment and of determining breath analysing equipment, other than self-testing breath analysing equipment, to be in proper working order; and
- prescribing the manner of indication of a result for the (ba) purposes of section 68(7) and (8); and
- (bb) prescribing the procedure for assessing whether a person is drug impaired; and
- prescribing the procedure for conducting preliminary (bc) oral fluid tests; and
- prescribing the procedure for drug testing samples of (bd) oral fluid by an approved device; and
 - prescribing forms, including any certificate required for (c) the purposes of the sections herein mentioned; and
- prescribing the fees payable to a medical practitioner or (d) registered nurse attending a person for the purpose of taking a sample of his blood or collecting a sample of his urine and those payable in respect of the analysis of a sample of blood by an analyst, or a sample of blood, urine or oral fluid by a drugs analyst, and for the payment and recovery of those fees.
- Without limiting subsection (1), procedures may be prescribed (1a) under subsection (1)(bc) or (bd) by reference to instructions provided by the manufacturer of a device of a type approved under subsection (2)(c) or (d).
- The Minister may, from time to time, by notice published in the (2) Government Gazette, approve of –
 - types of apparatus for the purpose of ascertaining a (a) person's blood alcohol content by analysis of a sample of the person's breath; and

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- types of apparatus for the purpose of conducting preliminary tests for the purposes of section 66; and
- (c) types of devices for the purpose of conducting drug testing of a sample of a person's oral fluid for the purposes of section 66D; and
- (d) types of devices for the purpose of conducting preliminary oral fluid tests for the purposes of section 66C.

and may, by notice so published, revoke any such approval.

- Where approval is given under subsection (2)(a) in relation to a (2a) type of apparatus that, in the opinion of the Minister, does not need to be tested to determine whether it is in proper working order after each occasion on which it is used to make an analysis of a sample of breath, the Minister may, in the notice by which the approval is given, designate that type of apparatus as self-testing apparatus.
- (3) The chief executive officer of the Chemistry Centre (WA) may, from time to time –
 - certify a person as being competent to determine the concentration of alcohol in bodily substances; and
 - certify a person as being competent to ascertain whether (aa) and to what extent drugs are present in bodily substances: and
 - certify a person as being competent to operate all types (b) of breath analysing equipment,

and may rescind any certificate given under this subsection.

- The Commissioner of Police may, from time to time, authorise a (4) person to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D.
- The Commissioner of Police must not authorise a person under (5) subsection (4) unless, in the opinion of the Commissioner of Police, the person has the appropriate training to collect, and

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conduct drug testing of, samples of oral fluid in accordance with the regulations.

[Section 72 amended by No. 82 of 1982 s. 19; No. 121 of 1987] s. 10; No. 19 of 1990 s. 8; No. 39 of 2000 s. 36; No. 44 of 2004 s. 11; No. 6 of 2007 s. 17; No. 10 of 2007 s. 43; No. 39 of 2007 s. 15.7

72A. Review of 2007 amendments to Act about drugs

(1) In this section —

> amended provisions means this Act as amended by the Road Traffic Amendment (Drugs) Act 2007 Part 2;

commencement day means the day of the coming into operation of the Road Traffic Amendment (Drugs) Act 2007 Part 2¹.

- (2) The Minister is to carry out a review of the operation and effectiveness of the amended provisions as soon as practicable after the end of the period of 12 months beginning on the commencement day.
- In the course of the review the Minister is to consider and have (3) regard to
 - the attainment of the objects of the amended provisions; (a) and
 - the need for the amended provisions to continue in (b) operation; and
 - (c) any other matters that appear to the Minister to be relevant.
- (4) The Minister is to prepare a report following the review and is to cause it to be laid before each House of Parliament before the end of the period of 18 months beginning on the commencement day.
- If a House of Parliament is not sitting, the Minister may (5) transmit a copy of the report to the Clerk of that House.
- A copy of the report transmitted to the Clerk of a House is to be (6) regarded as having been laid before the House.

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- The laying of a copy of the report before a House that is (7) regarded as having occurred under subsection (6) is to be reported to the House by the Clerk, and recorded in the Votes and Proceedings or Minutes of Proceedings, on the first sitting day of the House after the Clerk received the copy.
- (8) This section expires as soon as a copy of the report has been laid, or recorded under subsection (7) as having been laid, in each House.

[Section 72A inserted by No. 6 of 2007 s. 18.]

Division 3 — General matters as to driving offences

[Heading inserted by No. 10 of 2004 s. 10.]

73. Certain offences extend to driving or attempting to drive in public places

In sections 54, 55 and 56 and in sections 59 to 72 inclusive, but not in section 62A, a reference, however expressed, to the driving of or attempting to drive a motor vehicle shall be construed as a reference to the driving of or attempting to drive a motor vehicle on a road or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have access, and a reference to a driver shall be construed accordingly.

[Section 73 amended by No. 10 of 2004 s. 11; No. 39 of 2007 s. 24.1

74. Proceedings under s. 76 or 78 or Div. 4, rights of Commissioner of Police and Director General to be heard in

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

[(1), (2) deleted]

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Part V

Division 3

- (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.

[Section 74 inserted by No. 10 of 2004 s. 1212; amended by No. 8 of 2012 s. 19.]

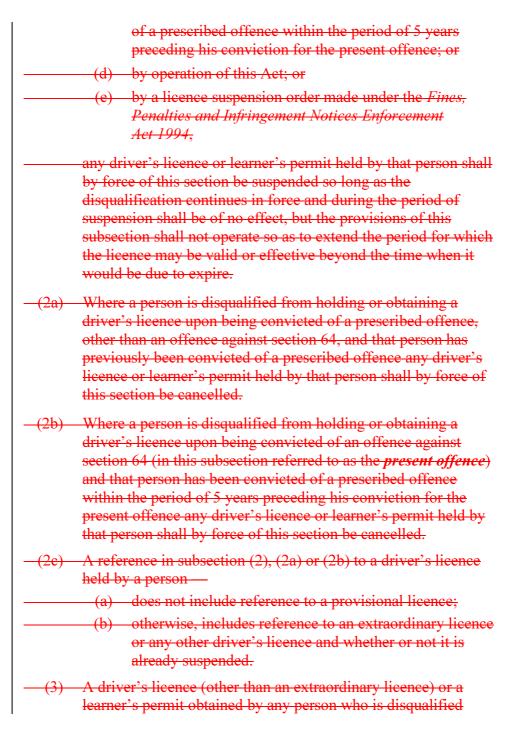
[75. Disqualification-78. Deleted by court, notice and effect of

- (1) Where a person is convicted before a court of an offence against this or any other Act and is disqualified by the court from holding or obtaining a driver's licence the court shall cause particulars of the conviction and of the order made by the court to be sent to the Director General.
- (1a) Where an offence to which subsection (1) applies (in this subsection referred to as the *present offence*) is a prescribed offence the court shall, in addition to causing the particulars required by that subsection to be sent, cause the Director General to be informed as to whether or not the offender has previously been convicted of a prescribed offence and, if he has and the present offence is against section 64, as to the date of his most recent previous conviction for a prescribed offence.
- (2) Where a person is disqualified from holding or obtaining a driver's licence
- (a) by order of a court other than upon being convicted of a prescribed offence; or
- (b) by order of a court upon being convicted of a prescribed offence, other than an offence against section 64, and the person has not previously been convicted of a prescribed offence; or
- (c) by order of a court upon being convicted of an offence against section 64 (in this paragraph referred to as the present offence) and that person has not been convicted

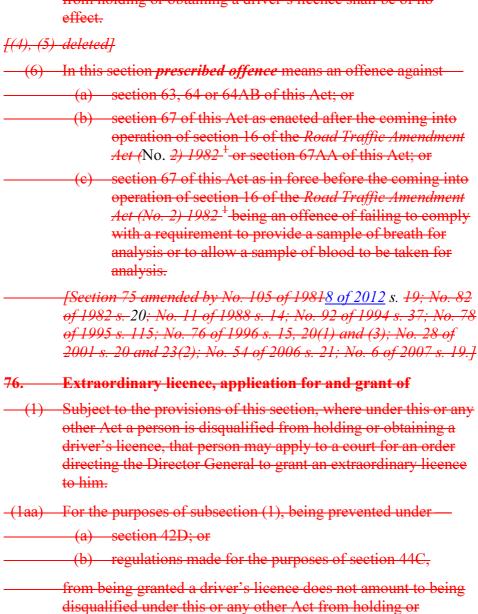
Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 155 Extract from www.slp.wa.gov.au, see that website for further information

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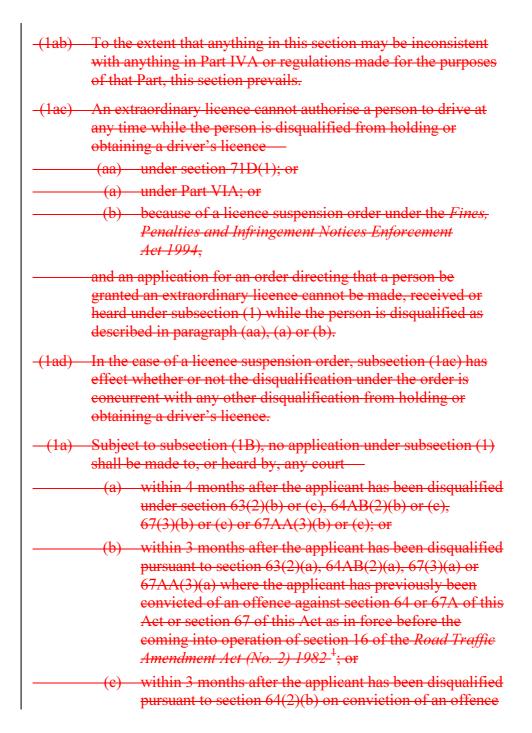


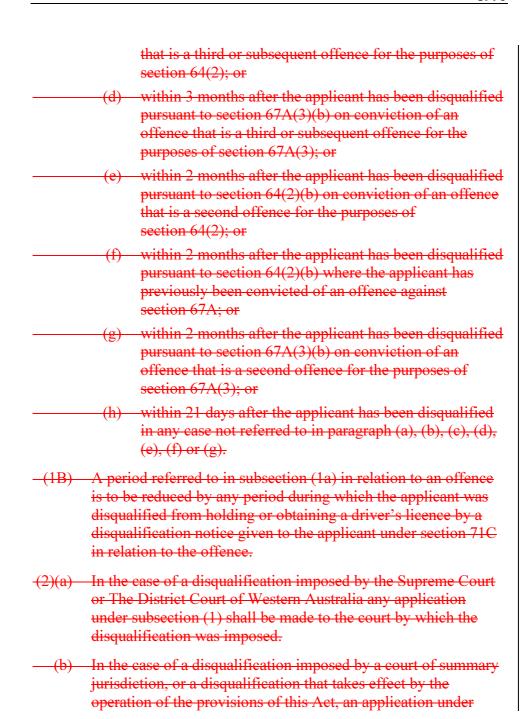
from holding or obtaining a driver's licence shall be of no



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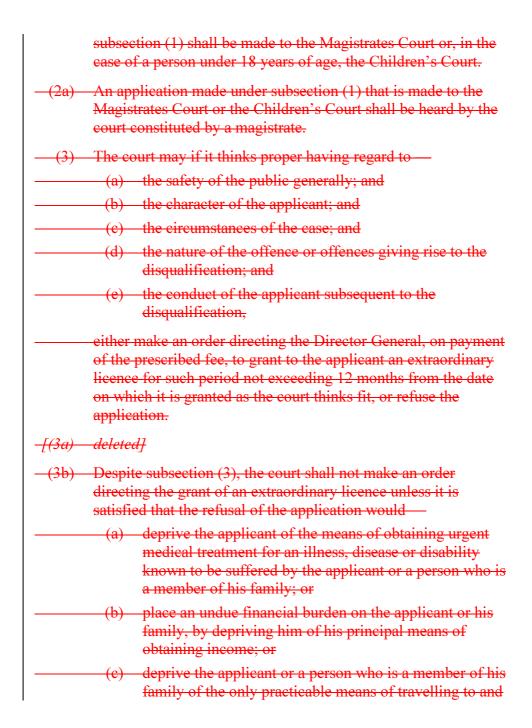
obtaining a driver's licence.

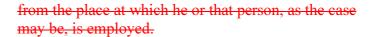




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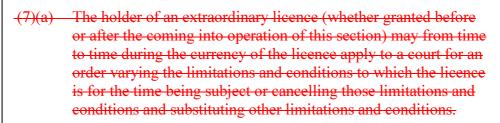


- (4) Where an application under subsection (1) is refused no further application under that subsection shall be heard if it is made within 6 months after the date of the refusal.
- (5)(a) An order directing the grant of an extraordinary licence may impose
- (i) a condition requiring the applicant to comply with the requirements of regulations under Part IVA about applying for a driver's licence before the extraordinary licence is granted to him;
- such limitations and conditions as the court thinks proper subject to the observance of which the authority to drive pursuant to the licence may be exercised, including limitations and conditions as to the locality in which and roads on which the applicant is entitled to drive, the purposes for which the applicant is entitled to drive, the hours during which the applicant is entitled to drive, and the vehicle or class of vehicle that may be driven under the authority of the licence.
- (b) The Director General shall give effect to the order according to its tenor and when issuing the licence shall specify therein any limitations and conditions imposed pursuant to paragraph (a)(ii).
- The Director General shall from time to time, on payment of the prescribed fee, renew an extraordinary licence for any period not exceeding 12 months if during the currency of the licence the holder of the licence has not contravened any of the limitations and conditions which the court imposed when directing the licence to be granted and has otherwise complied with the provisions of this Act, and the renewal thereof shall be endorsed thereon by the Director General.
- (6a) If there is no longer any disqualification referred to in subsection (1) still in effect, any extraordinary licence ceases to have effect despite subsections (3) and (6).

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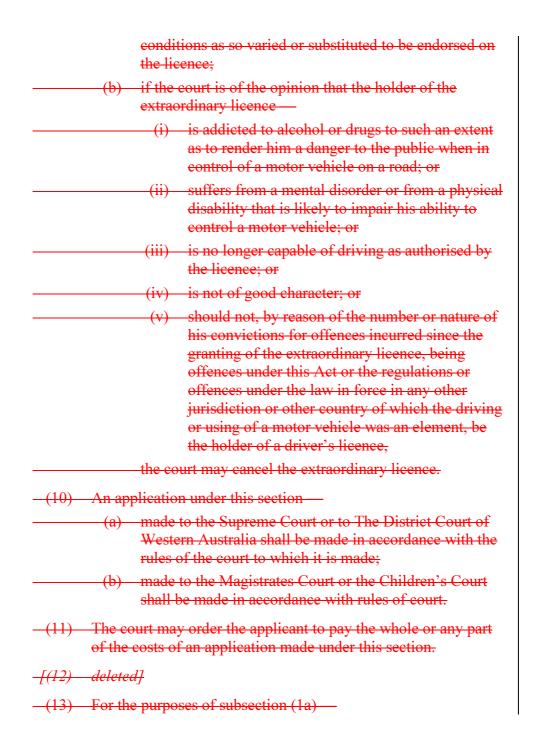
Division 3 General matters as to driving offences

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- The Director General may from time to time during the currency of an extraordinary licence (whether granted before or after the coming into operation of this section) apply to a court for an order
- varying the limitations and conditions to which the licence is for the time being subject or cancelling those limitations and conditions and substituting other limitations and conditions: or
- cancelling the licence.
- Any application under subsection (7) in relation to an extraordinary licence granted at the direction of the Supreme Court or The District Court of Western Australia shall be made to the court by which that direction was made.
- An application under subsection (7) in relation to an extraordinary licence granted at the direction of the Magistrates Court or the Children's Court shall be made to the court that made the direction, which shall be constituted by a magistrate.
- Where an application is made under subsection (7)
 - if the court is of opinion that the limitations and conditions to which the extraordinary licence is then subject should be varied, or that those limitations and conditions should be cancelled and other limitations or conditions substituted, for the reason that the holder of the licence has changed his place of residence, place of employment or hours of employment or for any other reason which the court considers sufficient, the court may order accordingly and when an order is so made, the Director General shall cause the limitations and

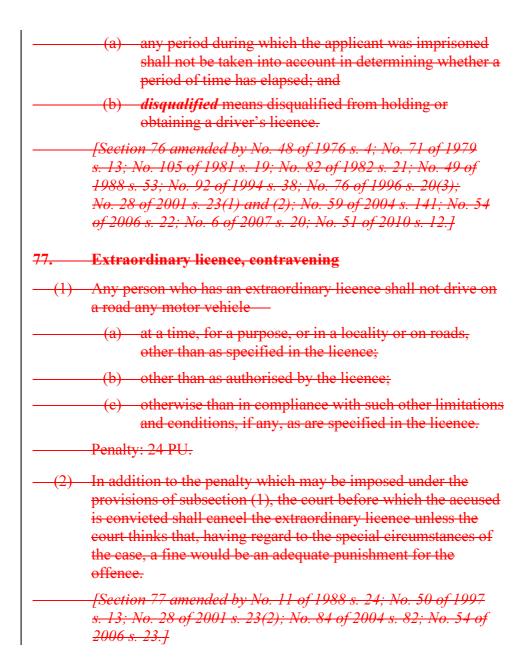
Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 162 Extract from www.slp.wa.gov.au, see that website for further information

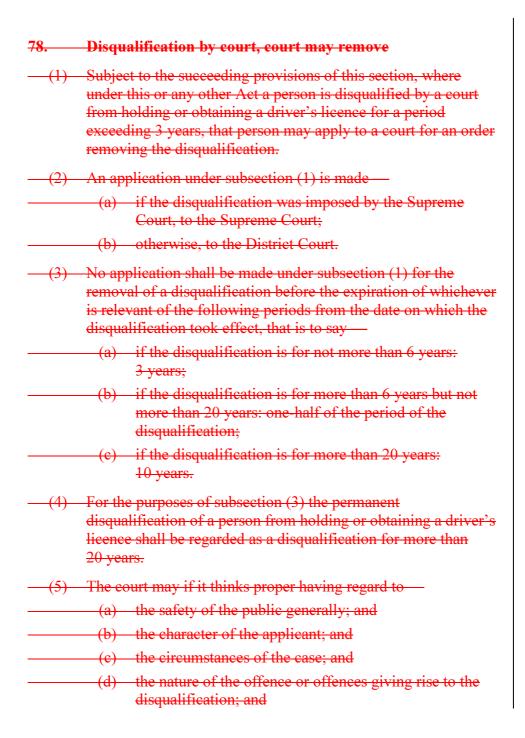


Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 163

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either make an order removing the disqualification as from such date as may be specified in the order or refuse the application.

- (6) Where an application under subsection (1) is refused no further application under that subsection shall be heard if it is made within one year after the date of the refusal.
- (7) If under this section a court orders a disqualification to be removed, the court shall cause particulars of the order to be sent to the Director General.
- (8) An application under this section shall be made in accordance with the rules of the court to which it is made.
- (9) The court may order the applicant to pay the whole or any part of the costs of an application under this section.
- (10) Nothing in this section shall be construed as limiting or otherwise affecting any right that a person may have to appeal against an order or judgment of a court disqualifying him from holding or obtaining a driver's licence.

<u>[Section 78 amended by No. 105 of 1981 s. 19; No. 76 of 1996 s. 20(3); No. 54 of 2006 s. 24.</u>]

Division 4 — Impounding and confiscation of vehicles for certain offences

[Heading inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 12.]

Subdivision 1 — Preliminary

[Heading inserted by No. 10 of 2004 s. 13.]

78A. Terms used

In this Division —

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approved means approved by the Commissioner;

Commissioner means the Commissioner of Police;

day of the offence means the day on which the relevant offence was committed;

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

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

impounding offence (driver's licence) means —

- an offence against section 49(1)(a) that is committed by (a) a person described in section 49(3)(a), (b) or (c); or
- an offence against the Road Traffic (Authorisation to (b) *Drive*) Act 2008 section 7738(1)(a); or
- (c) an offence committed before the coming into operation of the *Road Traffic Amendment Act 2008* section 5(a) that was an impounding offence (driver's licence) as defined in this section as in force when the offence was committed;

impounding offence (driving) means an offence against section 60 or 62A committed after the coming into operation of the Road Traffic Amendment (Hoons) Act 2009 section 7 or an offence committed before the coming into operation of that section that was an impounding offence (driving) as defined in this section as in force when the offence was committed:

impounding or confiscation order means a court order under section 80A(1), 80B(1), 80C(1), 80CA(1), 80CB(1) or 80FA;

impounding order means a court order under section 80B(1), 80CA(1) or 80FA:

impounding period means the period for which the vehicle is specified to be impounded;

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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 subject to a goods mortgage in connection with a credit contract within the meaning of the *National Credit Code* (Commonwealth);

road rage circumstances accompany the commission of an offence if —

- [(a) deleted]
- (b) the offence is committed as a reaction to, and is to a substantial extent motivated by, an occurrence that takes place on a road, or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have access, while
 - (i) the offender is driving a vehicle on the road or in the place; and
 - (ii) a victim of the offence is using the same road or place, whether as the driver of, or a passenger in, another vehicle or otherwise;

road rage offence means an offence the commission of which is accompanied by road rage circumstances, but only if it is —

- (a) an offence of which it is an element that the offender
 - (i) assaults a victim; or
 - (ii) damages property in the possession of, or under the control of, a victim;

or

(b) an offence against section 60 in circumstances that involve the offender driving in a manner that is dangerous to a particular victim;

senior police officer means a person appointed under the Police Act 1892 Part I to be a member of the Police Force of Western Australia police officer who is, or is acting as, an inspector or an officer of a rank more senior than an inspector;

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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:

vehicle referred to in section 80GA means a vehicle for the impounding or confiscation of which an application may be made in accordance with section 80GA.

[Section 78A inserted by No. 10 of 2004 s. 13; amended by No. 54 of 2006 s. 25; No. 4 of 2007 s. 4, 11, 13 and 30; No. 24 of 2008 s. 5; No. 23 of 2009 s. 7; No. 14 of 2010 s. 12.] 12; No. 8 of 2012 s. 21 (as amended by No. 10 of 2015 s. 17).]

[Section 78A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

78B. Penalties etc. not affected by impounding etc.

- (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.
- (2A) The impounding of a vehicle under Subdivision 2 is not relevant to the exercise by a court of its discretion under Subdivision 3 to impound or confiscate a vehicle.
 - (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.

[Section 78B inserted by No. 10 of 2004 s. 13; amended by No. 24 of 2008 s. 6.]

78C. Police powers for this Division

(1) A member of the Police Forcepolice officer and any person assisting a member of the Police Forcepolice officer in the exercise of a power under section 79(1) or 79A(1) may drive,

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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.
- (2A) A member of the Police Force police officer may take possession of a vehicle for the purpose of impounding it by operation of section 79BB(2), 79BCB(2) or 79BCE(2).
 - A member of the Police Force police officer and any person assisting a member of the Police Force police officer giving effect to the impounding of a vehicle by operation of section 79BB(2), 79BCB(2) or 79BCE(2) or an impounding or confiscation order may drive, tow or otherwise convey the vehicle concerned —
 - (a) to the place where the vehicle is to be stored; or
 - at the place where the vehicle is stored.
 - A member of the Police Force police officer may seize the keys (3) to a vehicle that is —
 - (a) impounded under section 79(1) or 79A(1); or
 - impounded, or to be impounded, by operation of (ba) section 79BB(2), 79BCB(2) or 79BCE(2); or
 - the subject of an impounding or confiscation order but (b) which is not surrendered to the Commissioner within the surrender period.
 - If a member of the Police Force police officer reasonably (4) suspects that the keys to a vehicle referred to in subsection (3)(ba) or (b) are, or the vehicle is, in any premises, the member police officer may, without a warrant, at any time, enter the premises for either or both of the following purposes
 - seizing the keys; (a)
 - driving, towing or otherwise conveying the vehicle to a place where the vehicle is to be stored.

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- (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 impounding or confiscation order; and
 - (b) in addition to the powers under section 86Aany other road law in relation to the moving of vehicles.

[Section 78C inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 14; No. 24 of 2008 s. 23 and 24(1); No. 23 of 2009 s. 8; No. 20 of 2010 s. 44; No. 8 of 2012 s. 22, 37 and 38.]

[Section 78C. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

78D. Contracts for conveying, storing etc. impounded etc. 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(1), 79A(1), 79BB, 79BCB or 79BCE or that are the subject of impounding or confiscation orders:
- (ba) the surrender of vehicles under this Division;
- (b) the storage and the release of vehicles that are, or have been, impounded or confiscated under this Division;
- (ca) the sale or other disposal of vehicles or items under section 80J;
- (c) otherwise assisting the Commissioner and members of the Police Forcepolice officers in the performance of their respective functions under this Division.

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[Section 78D inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 15; No. 24 of 2008 s. 23 and 24(2); No. 23 of 2009 s. 9; No. 20 of 2010 s. 55; No. 8 of 2012 s. 23.7

78E. Expenses owed to Commissioner, recovery of

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

[Section 78E inserted by No. 10 of 2004 s. 13; amended by No. 23 of 2009 s. 10.7

Subdivision 2 — Impounding of vehicles by police

[Heading inserted by No. 10 of 2004 s. 13.]

79. Impounding offence (driving), police powers to impound vehicle used in

In this section — (1A)

previous offender means a person —

- who has previously been convicted of an impounding offence (driving); or
- against whom a charge of an impounding offence (driving) is pending;

surrender notice has the meaning given in section 79BA.

- (1) If a member of the Police Forcepolice officer reasonably suspects that, while driving a vehicle, the driver has committed an impounding offence (driving), the member police officer must, unless in the circumstances it is impracticable to do so, impound the vehicle within a period of 28 days after the day of the offence.
- (2) The period for which the vehicle is impounded ends
 - unless the member of the Police Force police officer specifies a longer period under paragraph (b) or the

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- Commissioner extends the period under subsection (3), on the 28th day after the day on which the vehicle is impounded;
- if, under subsection (3A), the member of the Police (b) Force police officer specifies that the length of the impounding period is to be 3 months, on the last day of the period of 3 months commencing on the day after the day on which the vehicle was impounded;
- if the Commissioner extends the period under (c) subsection (3), on the last day of the period of 3 months commencing on the day after the day on which the vehicle was impounded.
- (3A)If, at the time of impounding the vehicle, the member of the Police Forcepolice officer reasonably believes that the driver of the vehicle is a previous offender, the member police officer must specify that the length of the impounding period is to be 3 months.
- An impounding period the length of which is specified as (3B)28 days or 3 months under this section, or in a surrender notice for which subsection (1) is the impounding provision, includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.
 - If the driver of the vehicle is a previous offender but the (3) member of the Police Force police officer does not specify under subsection (3A) that the length of the impounding period is to be 3 months, the Commissioner must, on being satisfied that the driver is a previous offender, extend the impounding period to end on the last day of the period of 3 months commencing on the day after the day on which the vehicle was impounded.
 - (4) The giving of a notice under section 79B(1) does not prevent the Commissioner from, under subsection (3), extending the period for which the vehicle is impounded.

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An extension under subsection (3) is of no effect unless, not less than 24 hours before the end of the initial period, notice of the extension is given under section 79B(3) to a responsible person. [Section 79 inserted by No. 10 of 2004 s. 13; amended by No. 24 of 2008 s. 7; No. 23 of 2009 s. 1111; No. 8 of 2012 s. 37 and 38.7

79A. Impounding offence (driver's licence), police powers to impound vehicle used in

- If a member of the Police Force police officer reasonably (1) suspects that, while driving a vehicle, the driver has committed an impounding offence (driver's licence), the member police officer must, unless in the circumstances it is impracticable to do so, impound the vehicle within a period of 28 days after the day of the offence.
- (2) The period for which the vehicle is impounded ends on the 28th day after the day on which the vehicle is impounded.

[Section 79A inserted by No. 23 of 2009 s. 1212; amended by No. 8 of 2012 s. 37 and 38.1

79BA. Notice to surrender vehicle for impoundment, issue of etc.

- (1) This section applies if
 - a member of police officer (the Police Force (the memberpolice officer) suspects that the driver of a vehicle (the vehicle) has committed an offence (the offence); and
 - the memberpolice officer (b)
 - would have been required by section 79(1) or 79A(1) (the *impounding provision*) to impound the vehicle if it had been practicable to do so but, because it was impracticable, the vehicle was not impounded; or
 - is required by section 79(1) or 79A(1) (the (ii) *impounding provision*) to impound the vehicle

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but by the time the memberpolice officer forms the necessary suspicion the impounding can most conveniently be achieved by giving a notice under this section.

- If this section applies the memberpolice officer may give to a (2) responsible person for the vehicle, personally or by registered post, a notice in accordance with this section (a surrender notice).
- The surrender notice cannot be given after the expiry of a period (3) of 28 days from the day of the offence.
- (4) The surrender notice must contain a statement to the effect that, because the vehicle was used in the commission of the offence, the vehicle is required to be surrendered to the Commissioner for impounding, and the notice must specify
 - sufficient details of the vehicle to identify it; and
 - the time and place at which the offence is suspected to (b) have been committed: and
 - sufficient other details of the offence to identify the (c) grounds for giving the notice; and
 - if known, the name of the person who was driving the (d) vehicle when the offence is suspected to have been committed: and
 - which of sections 79(1) and 79A(1) is the impounding (e) provision; and
 - if the impounding provision is section 79(1) and the notice is given on the basis that the driver is a previous offender as defined in section 79(1A), sufficient details to explain why the driver is regarded as a previous offender; and
 - the length of the impounding period, which is to be (g)
 - if section 79(1) is the impounding provision, either 28 days or 3 months according to which of those periods is the impounding period for which

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section 79(1) requires the vehicle to be impounded or would require the vehicle to be impounded if it applied; and

(ii) if section 79A(1) is the impounding provision, 28 days;

and

- (h) the place at which, and the time of day during which, the vehicle and its keys are required to be surrendered under this Division; and
- (i) the last day on or before which the vehicle and its keys are required to be surrendered, being the 7th day after the day on which the notice is given.
- (5) The surrender notice must also include
 - (a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and
 - (b) a statement as to the effect of section 79BB(5); and
 - (c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded by operation of section 79BB(2).

[Section 79BA inserted by No. 23 of 2009 s. 1212; amended by No. 8 of 2012 s. 24 and 38.]

79BB. Surrender notice, consequences of

- (1) If a responsible person for a vehicle who is given a surrender notice surrenders the vehicle according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when the vehicle is surrendered.
- (2) If a responsible person for a vehicle who is given a surrender notice fails to surrender the vehicle according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when a member of the Police Forcepolice officer takes possession of the vehicle for the purpose of impounding it.

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- The time when the period for which a vehicle is impounded by operation of subsection (1) or (2) commences is not required to be within a period of 28 days after the day of the offence.
- (4) The period for which a vehicle is impounded by operation of subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.
- (5) A responsible person for a vehicle who has been given a surrender notice relating to the vehicle commits an offence and is liable to a fine of 50 PU if, when the vehicle has not been impounded by operation of subsection (1) or (2) as a consequence of the notice, the person disposes of an interest that the person has in the vehicle.

[Section 79BB inserted by No. 23 of 2009 s. 4212; amended by No. 8 of 2012 s. 37.]

79BCA. Notice to surrender substitute vehicle for impoundment, issue of etc.

- (1) This section applies if
 - a vehicle (the *initially impounded vehicle*) is impounded under section 79, 79A or 79BB; and
 - under section 79D(2), the initially impounded vehicle is (b) released before the impounding period ends; and
 - the person (the *alleged offender*) who allegedly (c) committed the offence in respect of which the initially impounded vehicle was impounded (the offence) is a responsible person for one or more other vehicles.
- If this section applies, a member of the Police Force police (2) officer may give the alleged offender, personally or by registered post, a notice in accordance with this section (a surrender substitute vehicle notice).

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vehicle.

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- The surrender substitute vehicle notice cannot be given after
 - (4) The surrender substitute vehicle notice must contain a statement to the effect that, because the initially impounded vehicle has been released, a vehicle for which the alleged offender is a responsible person (the substitute vehicle) is required to be surrendered to the Commissioner for impounding instead of the initially impounded vehicle.

28 days after the date of the release of the initially impounded

- The surrender substitute vehicle notice must specify the (5) following –
 - (a) in relation to the offence, its details and the time and place at which it is suspected to have been committed;
 - which of sections 79(1) and 79A(1) is the provision that (b) authorised the impounding of the initially impounded vehicle (the *impounding provision*); and
 - sufficient details of the initially impounded vehicle to (c) identify it; and
 - (d) when the initially impounded vehicle was impounded;
 - (e) when the initially impounded vehicle was released under section 79D(2); and
 - (f) sufficient details of the substitute vehicle to identify it; and
 - if the impounding provision is section 79(1) and the (g) alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender; and
 - the length of the impounding period for the substitute (h) vehicle, which is to be
 - if section 79(1) was the impounding provision for the initially impounded vehicle, either

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if section 79A(1) was the impounding provision (ii) for the initially impounded vehicle, 28 days;

vehicle to be impounded; and

- and
- the place at which, and the time of day during which, the (i) vehicle and its keys are required to be surrendered under this Division; and
- the last day on or before which the vehicle and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.
- The surrender substitute vehicle notice must also include (6)
 - a statement to the effect that this Division contains law (a) about the notice and the impounding of the vehicle; and
 - (b) a statement as to the effect of section 79BCB(5); and
 - (c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded by operation of section 79BCB(2).
- (7) If the alleged offender is a responsible person for 2 or more other vehicles, the surrender substitute vehicle notice must specify only one of them as the substitute vehicle, being the one decided by the member of the Police Force police officer issuing the notice.

[Section 79BCA inserted by No. 20 of 2010 s. 66; amended by No. 8 of 2012 s. 37.]

79BCB. Surrender substitute vehicle notice, consequences of

If a responsible person who is given a surrender substitute (1) vehicle notice under section 79BCA surrenders the substitute vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a

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period that commences at the time when the vehicle is surrendered.

- (2) If a responsible person who is given a surrender substitute vehicle notice under section 79BCA fails to surrender the substitute vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when a member of the Police Force police officer takes possession of the vehicle for the purpose of impounding it.
- An impounding period the length of which is specified as 28 days or 3 months in a surrender substitute vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.
- The period for which a vehicle is impounded by operation of (4) subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.
- (5) A responsible person who is given a surrender substitute vehicle notice under section 79BCA commits an offence and is liable to a fine of 50 PU if, when the substitute vehicle specified in the notice has not been impounded by operation of subsection (1) or (2) as a consequence of the notice, the person disposes of an interest that the person has in the vehicle.

[Section 79BCB inserted by No. 20 of 2010 s. 66; amended by No. 8 of 2012 s. 37.]

79BCC. Notice under s. 79BA, 79BCA or 79BCD, cancelling

(1) In this section —

notice to surrender means —

a surrender notice given under section 79BA; or

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- a surrender substitute vehicle notice given under section 79BCA; or
- (c) a surrender alternative vehicle notice given under section 79BCD.
- If a senior police officer is satisfied that
 - a notice to surrender has been given to a person in respect of a vehicle; and
 - the vehicle has not been impounded under section 79BB, (b) 79BCB or 79BCE, as the case may be; and
 - either (c)
 - if the vehicle were so impounded, the vehicle would be a vehicle that could, under section 79D, be released before the impounding period ends;
 - (ii) the vehicle's condition is such that it no longer functions as a vehicle and a licence could not be issued for it under Part III,

the officer may cancel the notice to surrender.

As soon as is practicable after a senior police officer cancels a notice to surrender, the officer must give a written notice of the cancellation to the person to whom the notice to surrender was given.

[Section 79BCC inserted by No. 20 of 2010 s. 6.]

79BCD. Notice to surrender alternative vehicle for impoundment, issue of etc.

- (1) This section applies if
 - under section 79BA a surrender notice is given to a person responsible for a vehicle (vehicle A) the driver of which (the *alleged offender*) is suspected of having committed an offence (the offence); and

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- under section 79BCC the surrender notice is cancelled before vehicle A is impounded under section 79BB; and
- (c) the alleged offender is a responsible person for one or more other vehicles.
- If this section applies, a member of the Police Force police (2) officer may give the alleged offender, personally or by registered post, a notice in accordance with this section (a surrender alternative vehicle notice).
- (3) The surrender alternative vehicle notice cannot be given after 28 days after the date on which the surrender notice was cancelled.
- The surrender alternative vehicle notice must contain a (4) statement to the effect that, because vehicle A will not be impounded, a vehicle for which the alleged offender is a responsible person (the *alternative vehicle*) is required to be surrendered to the Commissioner for impounding instead of vehicle A.
- The surrender alternative vehicle notice must specify the (5) following
 - in relation to the offence, its details and the time and (a) place at which it is suspected to have been committed;
 - which of sections 79(1) and 79A(1) is the provision that (b) authorised the impounding of vehicle A (the impounding provision);
 - sufficient details of vehicle A to identify it; (c)
 - (d) when the surrender notice was cancelled under section 79BCC;
 - (e) sufficient details of the alternative vehicle to identify it;
 - if the impounding provision is section 79(1) and the (f) alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender;

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- the length of the impounding period for the alternative (g) vehicle, which is to be
 - if section 79(1) was the impounding provision for vehicle A, either 28 days or 3 months according to which of those periods was the impounding period for which section 79(1) required vehicle A to be impounded; and
 - if section 79A(1) was the impounding provision (ii) for vehicle A, 28 days;
- (h) the place at which, and the time of day during which, the alternative vehicle and its keys are required to be surrendered under this Division;
- the last day on or before which the alternative vehicle (i) and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.
- The surrender alternative vehicle notice must also include (6)
 - a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and
 - a statement as to the effect of section 79BCE(5); and (b)
 - a statement to the effect that failure to comply with the (c) notice will result in the vehicle being impounded by operation of section 79BCE(2).
- If the alleged offender is a responsible person for 2 or more (7) other vehicles, the surrender alternative vehicle notice must specify only one of them as the alternative vehicle, being the one decided by the member of the Police Force police officer issuing the notice.

[Section 79BCD inserted by No. 20 of 2010 s. 66; amended by No. 8 of 2012 s. 37.]

79BCE. Surrender alternative vehicle notice, consequences of

If a responsible person who is given a surrender alternative vehicle notice under section 79BCD surrenders the alternative Part V Regulation of traffic

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s. 79BC

vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when the vehicle is surrendered.

- (2) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when a member of the Police Force police officer takes possession of the vehicle for the purpose of impounding it.
- An impounding period the length of which is specified as (3) 28 days or 3 months in a surrender alternative vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.
- (4) The period for which a vehicle is impounded by operation of subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.
- A responsible person who is given a surrender alternative (5) vehicle notice under section 79BCD commits an offence and is liable to a fine of 50 PU if, when the alternative vehicle specified in the notice has not been impounded by operation of subsection (1) or (2) as a consequence of the notice, the person disposes of an interest that the person has in the vehicle.

[Section 79BCE inserted by No. 20 of 2010 s. 66; amended by No. 8 of 2012 s. 37.]

79BC. Acquittal etc. of pending charge of impounding offence (driving), effect of

- (1) This section applies if
 - because of a pending charge of an impounding offence (driving) against a person (the *driver*), the person has

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- been regarded under this Subdivision as a previous offender as defined in section 79(1A) (a previous offender); and
- the driver is acquitted of or discharged from the charge; (b) and
- (c) the driver would not otherwise have been a previous offender.
- (2) If the acquittal or discharge occurs when a vehicle has been impounded on the basis that the person is a previous offender but the impounding period that would have applied if the person had not been a previous offender (the shorter impounding *period*) has not yet elapsed, the impounding period is reduced by this section to the shorter impounding period.
- If the acquittal or discharge occurs when a vehicle has been (3) impounded on the basis that the person is a previous offender and the impounding period that would have applied if the person had not been a previous offender (the shorter *impounding period*) has already elapsed but the vehicle is still impounded, the impounding period is reduced by this section to end on the day on which the acquittal or discharge occurs.
- The Commissioner is to ensure that each person, other than the (4) Director General CEO, to whom a notice of the impounding of the vehicle has been given under section 79B is given a notice of a reduction of the impounding period by this section.
- (5) Whether the acquittal or discharge occurs while the vehicle is still impounded or not, for calculating a liability under this Division to pay an amount by reference to the expenses incurred by the Commissioner in impounding the vehicle those expenses are limited to expenses that would have been incurred in impounding the vehicle for the shorter impounding period.
- A person who has already paid under this Division an amount (6) that exceeds the amount calculated according to subsection (5) is entitled to a refund from the Commissioner of the amount of the excess.

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[Section 79BC inserted by No. 23 of 2009 s. 1212; amended by No. 8 of 2012 s. 36.]

79BD. Suspension of vehicle licence on Commissioner's request

- (1) If—
 - (a) a responsible person for a vehicle who is given a surrender notice under section 79BA fails to surrender the vehicle specified in the notice according to the notice; or
 - (b) a responsible person for a vehicle who is given a surrender substitute vehicle notice under section 79BCA fails to surrender the substitute vehicle specified in the notice according to the notice; or
 - (c) a responsible person for a vehicle who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice,

the Commissioner may request the <u>Director GeneralCEO</u> to suspend the licence in respect of the vehicle until the vehicle is impounded under this Division or the Commissioner requests the <u>Director GeneralCEO</u> to revoke the suspension.

- (2) The Commissioner is required, on being satisfied that a circumstance described in a paragraph of section 79D(2) exists, to request the <u>Director GeneralCEO</u> to revoke the suspension and may, if for any other reason the Commissioner considers it appropriate to do so, request the <u>Director GeneralCEO</u> to revoke the suspension.
- (3) While the licence in respect of a vehicle is suspended according to a request under this section
 - (a) the licence is of no effect; and
 - (b) an application to renew the licence cannot be granted, even if the application was made before the licence was suspended.

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(4) The suspension does not extend the period for which the licence may be valid or effective beyond the expiration of the period for which the licence was expressed to be granted or renewed.

[Section 79BD inserted by No. 23 of 2009 s. 12; amended by No. 20 of 2010 s. 7.17; No. 8 of 2012 s. 36.7

79B. Notice of impounding, police to issue etc.

- (1) The Commissioner is to ensure that, as soon as practicable after a vehicle is impounded under section 79(1), 79A(1) or 79BB, notice of the impounding is given to —
 - (a) each responsible person; and
 - if the driver is not a responsible person, the driver; and (b)
 - if the licence in respect of the vehicle is for the time (c) being suspended under section 79BD, the Director General CEO.
- (2) The notice of the impounding given under subsection (1) is to be in an approved form and contain details of
 - the time when the vehicle was impounded; and (a)
 - the address of the place where the vehicle is stored; and (b)
 - if under section 79(3A) the length of the impounding (ca) period is specified to be 3 months, the charge or previous conviction because of which the driver was a previous offender as defined in section 79(1A); and
 - the vehicle sufficient to identify it; and (cb)
 - the time and place at which the offence, in the (cc) commission of which the vehicle was used, is suspected to have been committed; and
 - the offence sufficient to identify the grounds on which (cd) the vehicle was impounded; and
 - (ce) if known, the person who was driving the vehicle when the offence is suspected to have been committed; and
 - the length of the impounding period, which is to be (cf)

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- if section 79(1) is the impounding provision, either 28 days or 3 months according to which of those periods is the impounding period for which section 79(1) requires the vehicle to be impounded or would require the vehicle to be impounded if it applied; and
- if section 79A(1) is the impounding provision, (ii) 28 days;

and

- (cg) the grounds on which the vehicle may be released under section 79D; and
- how, when and to whom the vehicle can be released; and (c)
- the powers of a court under sections 80A, 80B, 80C and (d) 80FA in relation to the impounding and confiscation of vehicles.
- (3A)The Commissioner is to ensure that, as soon as practicable after a vehicle (the *substitute vehicle*) is impounded under section 79BCB following the issue of a surrender substitute vehicle notice to a responsible person for the vehicle under section 79BCA, notice of the impounding is given to
 - each responsible person for the vehicle; and (a)
 - if the licence in respect of the vehicle is for the time being suspended under section 79BD, the Director General CEO.
- The notice of the impounding given under subsection (3A) is to (3B)be in an approved form and contain details of –
 - the time and place at which the offence, in the commission of which the initially impounded vehicle (as defined in section 79BCA(1)) was used, is suspected to have been committed; and
 - the offence sufficient to identify the grounds on which (b) the initially impounded vehicle was impounded; and

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- the person who was driving the initially impounded vehicle when the offence is suspected to have been committed; and
- the substitute vehicle sufficient to identify it; and (d)
- the time when the substitute vehicle was impounded; (e) and
- the address of the place where the substitute vehicle is (f) stored; and
- the length of the impounding period for the substitute (g) vehicle which is to be the period specified in the surrender substitute vehicle notice under section 79BCA(5)(h); and
- (h) the grounds on which the substitute vehicle may be released under section 79D; and
- how, when and to whom the substitute vehicle can be (i) released: and
- the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.
- (3C) The Commissioner is to ensure that, as soon as practicable after a vehicle (the *alternative vehicle*) is impounded under section 79BCE following the issue of a surrender alternative vehicle notice to a responsible person for the vehicle under section 79BCD, notice of the impounding is given to
 - each responsible person for the vehicle; and (a)
 - if the licence in respect of the vehicle is for the time (b) being suspended under section 79BD, the Director General CEO.
- (3D)The notice of the impounding given under subsection (3C) is to be in an approved form and contain details of
 - the offence referred to in section 79BCD(1)(a) including the time and place at which it is suspected to have been committed: and

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- the alternative vehicle sufficient to identify it; and
- the time when the alternative vehicle was impounded; (c) and
- (d) the address of the place where the alternative vehicle is stored; and
- the length of the impounding period for the alternative (e) vehicle which is to be the period specified in the surrender alternative vehicle notice under section 79BCD(5)(g); and
- the grounds on which the alternative vehicle may be released under section 79D; and
- how, when and to whom the alternative vehicle can be (g) released: and
- the powers of a court under sections 80A, 80B, 80C and (h) 80FA in relation to the impounding and confiscation of
- (3) The Commissioner is to ensure that, as soon as practicable after an impounding period is extended under section 79(3), notice of the extension is given to each responsible person and, if the driver is not a responsible person, the driver.
- (4) The notice of the extension is to be in an approved form and contain details of
 - the impounded vehicle; and (a)
 - (b) the time when the vehicle was impounded and when the impounding period would end if it were not extended; and
 - (c) the charge or previous conviction because of which the impounding period is extended; and
 - (d) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

[Section 79B inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 31(1); No. 24 of 2008 s. 9 and 23; No. 23 of 2009 s. 13; No. 20 of 2010 s. 88; No. 8 of 2012 s. 36.7

79C. Senior officer to be informed etc. if vehicle impounded

- A member of the Police Force police officer, other than a senior (1) police officer, who impounds a vehicle under section 79(1) or 79A(1) or gives a surrender notice under section 79BA or a surrender substitute vehicle notice under section 79BCA or a surrender alternative vehicle notice under section 79BCD is to inform a senior police officer, as soon as practicable after the vehicle is impounded or the notice is given, as the case requires, of—
 - (aa) the impounding, or the giving of the notice, as the case requires; and
 - the grounds on which the member police officer suspects (a) the matters mentioned in section 79(1) or 79A(1), as is relevant to the case; and
 - if the member police officer specified that the length of (b) the impounding period was to be 3 months, the charge or previous conviction because of which the driver of the vehicle was a previous offender as defined in section 79(1A).
- (2) A senior police officer who is informed under subsection (1) by a member of the Police Force police officer is to make enquiries so as to satisfy him or herself
 - that there are reasonable grounds for the memberpolice officer to suspect the matters mentioned in section 79(1) or 79A(1), as the case requires; and
 - if the member police officer specified that the length of (b) the impounding period was to be 3 months, that there are reasonable grounds for believing that the driver of the vehicle is a previous offender as defined in section 79(1A).

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- If a senior police officer is not satisfied as required by subsection (2)(a)
 - if the vehicle has been impounded under section 79, 79A or 79BB, the senior police officer and the member of the Police Force police officer are to take measures to ensure that the vehicle is released from impoundment and returned to a responsible person, or if no responsible person is available, to the driver of the vehicle;
 - if under section 79BA a surrender notice has been given but the vehicle has not yet been surrendered, the senior police officer is to cancel the notice and immediately notify the person to whom the notice was given that the notice has been cancelled;
 - if a substitute vehicle has been impounded under section 79BCB, or an alternative vehicle has been impounded under section 79BCE, the senior police officer and the member of the Police Force police officer are to take measures to ensure that the vehicle is released from impoundment and returned to a responsible person;
 - if under section 79BCA a surrender substitute vehicle (d) notice has been given, or under section 79BCD a surrender alternative vehicle notice has been given, but the vehicle has not yet been surrendered, the senior police officer is to cancel the notice and immediately notify the person to whom the notice was given that the notice has been cancelled.
- (4) If a senior police officer is satisfied as required by subsection (2)(a) but is not satisfied as required by subsection (2)(b), the senior police officer is to alter the impounding period to end on the 28th day after the day on which the vehicle is impounded and the Commissioner is to give notice of the variation to each person who has been given notice under section 79B of the impounding and, if the vehicle has not yet been impounded, to the person who was given the

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surrender notice or surrender substitute vehicle notice or surrender alternative vehicle notice, as the case may be.

[Section 79C inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 31; No. 24 of 2008 s. 10 and 23; No. 23 of 2009 s. 14; No. 20 of 2010 s. 9.19; No. 8 of 2012 s. 37 and 38.1

79D. Release of impounded vehicle

In this section — (1)

> *impounded vehicle* means a vehicle impounded under section 79(1), 79A(1), 79BB, 79BCB or 79BCE;

service, in relation to a vehicle, includes to clean, examine, improve, inspect, paint, park, repair, store and transport it;

taxi means a vehicle —

- on which taxi plates issued under the Taxi Act 1994 are being used; or
- (b) in respect of which a taxi-car licence has been issued under the Transport Co-ordination Act 1966 Part IIIB,

and it does not matter whether or not, at the relevant time, it is standing or plying for hire or carrying passengers for reward;

taxi operator, of a taxi, means a person who —

- under the Taxi Act 1994, owns or leases the taxi plates, issued under that Act, that are being used on the taxi; or
- holds the taxi-car licence issued under the Transport (b) Co-ordination Act 1966 in respect of the taxi;

vehicle service provider means a person who, for reward in the course of a business, services vehicles.

- The Commissioner is to ensure that an impounded vehicle is not (2) released before the impounding period ends unless
 - a member of the Police Force police officer 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; or

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- (b) a senior police officer is not satisfied as required by section 79C(2)(a); or
- (c) a senior police officer is satisfied that unless the vehicle is released, exceptional hardship will be suffered in the particular case; or
- (d) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed
 - the vehicle, with the consent of a person lawfully in possession of it, was in the possession of a vehicle service provider for the purposes of being serviced by the vehicle service provider; and
 - (ii) the person who allegedly committed the offence was the vehicle service provider or a person employed by, contracted to or acting with the authority of the vehicle service provider; and
 - (iii) the person who allegedly committed the offence was not a responsible person for the vehicle;

or

- (e) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed
 - (i) the vehicle had been lent by a vehicle service provider to the person who allegedly committed the offence for use while the vehicle service provider was servicing a vehicle for the person; and
 - (ii) the person who allegedly committed the offence was not a responsible person for the vehicle;

or

(f) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

- the vehicle was for sale; and (i)
- the person who allegedly committed the offence (ii) (the *alleged offender*) was test-driving the vehicle with the consent of the person selling it for the purpose of deciding whether to buy it;

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- (iii) the person who consented to the alleged offender test-driving the vehicle had complied with subsection (3); and
- (iv) the alleged offender was not employed by or contracted to the person selling the vehicle; and
- the alleged offender was not a responsible person (v) for the vehicle:

or

- a senior police officer is satisfied that, at the time the (g) offence in respect of which the vehicle was impounded was committed
 - the vehicle was used primarily in the course of a business conducted by a person (the business owner); and
 - the person who allegedly committed the offence (ii) (the *alleged offender*) was an employee or contractor of the business owner; and
 - the alleged offender was driving the vehicle with (iii) the consent of the business owner or an agent of the business owner; and
 - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4); and
 - the alleged offender was not a responsible person (v) for the vehicle:

or

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- a senior police officer is satisfied that, at the time the (h) offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle was a taxi; and
 - the person who allegedly committed the offence (ii) (the *alleged offender*) was driving the taxi under an agreement between him or her and the taxi operator of the taxi, or an agent of the taxi operator, under which the alleged offender pays the operator or agent in order to be allowed to drive the taxi for reward: and
 - the taxi operator or agent who entered into the (iii) agreement with the alleged offender had complied with subsection (5); and
 - the alleged offender was not a responsible person (iv) for the vehicle:

or

- a senior police officer is satisfied that, at the time the (i) offence in respect of which the vehicle was impounded was committed
 - the vehicle was licensed under the *Transport* Co-ordination Act 1966 to be operated as an omnibus: and
 - (ii) the person who allegedly committed the offence (the *alleged offender*) was an employee or contractor of the holder of that licence; and
 - the alleged offender was driving the vehicle with (iii) the consent of the holder of that licence; and
 - the person who consented to the alleged offender (iv) driving the vehicle had complied with subsection (4); and
 - (v) the alleged offender was not a responsible person for the vehicle:

or

- a senior police officer is satisfied that
 - the vehicle cannot be released under any of paragraphs (a) to (i) or under circumstances prescribed under paragraph (k); and
 - unless the vehicle is released, manifest injustice (ii) or manifest unfairness will be suffered by a person other than the alleged offender;

or

- circumstances prescribed by the regulations exist. (k)
- For the purposes of subsection (2)(f)(iii), a person who consents to a person test-driving a vehicle must
 - ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
 - (b) inform the driver that he or she must obey the law when test-driving the vehicle.
- For the purposes of subsection (2)(g)(iv) and (i)(iv), a person (4) who consents to an employee or contractor driving a vehicle must
 - ensure the driver has a driver's licence that authorises (a) him or her to drive the vehicle; and
 - ensure the driver has been instructed to obey the law (b) when driving the vehicle.
- (5) For the purposes of subsection (2)(h)(iii), a taxi operator or agent who enters into an agreement with a driver must
 - ensure the driver has a driver's licence that authorises (a) him or her to drive the vehicle; and
 - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- For the purposes of subsection (2)(j) none of these factors by (6) itself means manifest injustice or manifest unfairness will be suffered by a person —

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- (a) if the offence in respect of which the vehicle was impounded was an impounding offence (driver's licence), the fact that a person responsible for the vehicle concerned had no grounds to suspect the alleged offender was not authorised to drive the vehicle at the time of the offence;
- (b) the fact that, although a responsible person for the vehicle expressly or impliedly authorised the person who allegedly committed the offence in respect of which the vehicle was impounded (the *alleged offender*) to drive the vehicle, the responsible person had no grounds to suspect the alleged offender would drive in a manner that contravened this Act.
- (7) A member of the Police Forcepolice officer or a senior police officer may require a person seeking the release of an impounded vehicle to provide information to him or her for the purposes of this section in a statutory declaration.
- (8) Circumstances that may be prescribed by regulations made for the purposes of subsection (2)(k) are not limited by the circumstances described in the other paragraphs of subsection (2).

[Section 79D inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 6; No. 24 of 2008 s. 11 and 23; No. 23 of 2009 s. 15; No. 20 of 2010 s. 4010; No. 8 of 2012 s. 37.]

79E. Police expenses for impounding, liability for

If a vehicle is impounded under this Subdivision and a person is convicted of the offence for which the vehicle was impounded, that person is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle and any substitute vehicle impounded under section 79BCB and any alternative vehicle impounded under section 79BCE less —

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- any amount received by the Commissioner under section 80IB(1); and
- (b) any amount received by the Commissioner under section 80JA(8)(b),

in relation to impounding the vehicle or vehicles.

[Section 79E inserted by No. 23 of 2009 s. 16; amended by No. 20 of 2010 s. 11.]

Subdivision 3 — Impounding and confiscation of vehicles by court order

[Heading inserted by No. 10 of 2004 s. 13.]

[80.] Deleted by No. 23 of 2009 s. 17.]

80A. Impounding offence (driving) by previous offender, court may confiscate vehicle used in

- (1) A court that convicts a person of an impounding offence (driving) may, by order, confiscate the vehicle used in the offence.
- A court is not to make an order under subsection (1) unless it is (2) 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).

[Section 80A inserted by No. 10 of 2004 s. 13.]

80B. Impounding offence (driver's licence) by previous offender, court may impound vehicle of

- A court that convicts a person of an impounding offence (1) (driver's licence) may, by order, impound a vehicle referred to in section 80GA for a period starting on the date on which
 - the vehicle is surrendered; or (a)
 - under section 78C, the vehicle is conveyed to the place (b) where it is to be stored.

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

A court is not to make an order under subsection (1) unless it is (2) 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).

[Section 80B inserted by No. 10 of 2004 s. 13; amended by No. 24 of 2008 s. 12.1

80C. Impounding offence (driver's licence) by previous offender, court may confiscate vehicle of

- A court that convicts a person of an impounding offence (1) (driver's licence) may, by order, confiscate a vehicle referred to in section 80GA.
- (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).

[Section 80C inserted by No. 10 of 2004 s. 13; amended by No. 24 of 2008 s. 13.7

80CA. Road rage offence, court may impound offender's vehicle

- A court that convicts a person of a road rage offence may, by (1) order, impound a vehicle referred to in section 80GA for a period starting on the date on which —
 - (a) the vehicle is surrendered; or
 - under section 78C, the vehicle is conveyed to the place (b) where it is to be stored,

and being of the duration, not exceeding 6 months, specified in the order.

I(2)deleted]

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[Section 80CA inserted by No. 4 of 2007 s. 16; amended by No. 24 of 2008 s. 14.7

80CB. Road rage offence, court may confiscate offender's vehicle for

- A court that convicts a person of a road rage offence may, by (1) order, confiscate a vehicle referred to in section 80GA.
- I(2)deleted]

[Section 80CB inserted by No. 4 of 2007 s. 16; amended by No. 24 of 2008 s. 15.7

80D. Confiscation under s. 80A, 80C or 80CB, effect of

- (1) The property in a vehicle that is confiscated under section 80A(1), 80C(1) or 80CB(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).

[Section 80D inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 17.]

80E. Confiscation under s. 80A not to be of stolen, hired or lent vehicle

- A court is not to make an order under section 80A(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.
- A court is not to make an order under section 80A(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 80FA(2).

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[Section 80E inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 18; No. 24 of 2008 s. 16; No. 23 of 2009 s. 18.1

80FA. When court may order impounding instead of confiscation

- (1) In circumstances in which a court could, by order under section 80C(1) or 80CB(1), confiscate a vehicle, the court may instead, by order under this subsection, impound the vehicle for a period, not exceeding 6 months, specified in the order.
- In circumstances in which a court could, by order under (2) section 80A(1), confiscate a vehicle but for section 80E(2) and the fact that the vehicle was a lent vehicle at the relevant time, the court may instead, by order under this subsection, impound the vehicle for a period, not exceeding 6 months, specified in the order.
- The impounding period under subsection (1) or (2) starts on the (3) day on which -
 - (a) the vehicle is surrendered; or
 - under section 78C, the vehicle is conveyed to the place where it is to be stored.

[Section 80FA inserted by No. 24 of 2008 s. 17; amended by No. 23 of 2009 s. 19.7

80F. Impounding or confiscation order to specify time and place for surrender of vehicle

If a court makes an impounding or confiscation order in respect of a vehicle, the court is to specify in the order the time by which, and the place at which, a responsible person is to surrender the vehicle and its keys to the Commissioner.

[Section 80F inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 19 and 31(1); No. 24 of 2008 s. 18 and 24(1).1

[Section 80F. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

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Application for s. 80B to 80CB order, which vehicle can be subject of

- (1) The Commissioner cannot apply for an order under section 80B(1), 80C(1), 80CA(1) or 80CB(1) for the impounding or confiscation of a vehicle unless
 - the offender is a responsible person for the vehicle; and
 - (b) the vehicle is
 - in the case of an order under section 80B(1) or (i) 80C(1), the vehicle used in the offence or a substitute vehicle nominated by the Commissioner under subsection (2);
 - in the case of an order under section 80CA(1) or (ii) 80CB(1), the vehicle referred to in paragraph (b)(i) of the definition of *road rage* circumstances in section 78A or a substitute vehicle nominated by the Commissioner under subsection (2).
- If the alleged offender is not a responsible person for the vehicle (2) to which subsection (1)(b) would, if the Commissioner did not nominate a substitute vehicle, refer, the Commissioner may nominate as a substitute vehicle a motor vehicle for which the alleged offender is, at the time of applying for the order, a responsible person.
- The Commissioner cannot nominate a substitute vehicle unless (3) at least 14 days before the application is made the Commissioner gives to the alleged offender written notice of the intention to apply for the order in respect of that vehicle. [Section 80GA inserted by No. 24 of 2008 s. 19.]

80G. Application for s. 80A to 80CB order, procedure for

(1) In this section —

> **Commissioner** includes a person for the time being authorised by the Commissioner in writing to perform functions of the Commissioner under this section;

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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 80A(1), 80B(1), 80C(1), 80CA(1) or 80CB(1).

- (2) An application for an order
 - can only be made by the Commissioner; and (a)
 - is to be heard (b)
 - as part of the proceedings in which the person is convicted of the offence because of which the order is sought; or
 - in subsequent proceedings commenced no later (ii) than 3 months after the proceedings in respect of the conviction.
- A person is to be regarded as having sufficient notice of the (3) Commissioner's intention to make an application for an order in respect of a particular vehicle if
 - the Commissioner gives the person written notice of that intention at least 14 days before the application is made and the person is —
 - (i) the driver of the vehicle; or
 - (ii) a responsible person; or
 - any other person who the Commissioner is aware (iii) has or may have an interest in the vehicle;

in the case of a person not referred to in paragraph (a), (b) the Commissioner publishes notice of that intention at least 14 days before the application is made in a newspaper having State-wide circulation.

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- (4) Before a court makes an order it has to give a reasonable opportunity to show cause why the order should not be made to
 - (a) the driver of the vehicle; and
 - (b) if a person other than the driver is a responsible person for the vehicle, each responsible person; and
 - (c) each other person, if any, who has an interest in the vehicle.
- (5) In determining an application for an order other than an order under section 80A(1) the court may have regard to
 - (a) whether the offence because of which the order is sought was committed with the knowledge and acquiescence of a person who has an interest in the vehicle; and
 - (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.
- (6A) The court is required to grant an application for an order that it may make under section 80A(1) unless it is satisfied that the order would cause severe financial or physical hardship to a person, other than the driver of the vehicle, who has an interest in the vehicle or is the usual driver of the vehicle.
 - (6) A person
 - (a) who is given notice under subsection (3)(a); or
 - (b) who has satisfied the court that the person has an interest in the vehicle,

must not, before the application is decided, do a restricted act in respect of the vehicle unless a court has made an order approving of the proposed act.

Penalty: 50 PU.

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- (7A) A person does a restricted act in respect of the vehicle if the person —
 - (a) disposes of any interest that the person has in the vehicle: or
 - does anything, or causes or permits another person to do (b) anything, that results or will result in a reduction in the value of the vehicle.
 - If the Commissioner advises the Director General CEO in (7) writing that the Commissioner intends to apply for an order in respect of a particular vehicle, the Director General CEO must not, before the application is decided, transfer the licence of the vehicle if the vehicle is licensed.

[Section 80G inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 20, 31(1) and 32; No. 24 of 2008 s. 20; No. 23 of 2009 s. 2020; No. 8 of 2012 s. 36.]

80H. Police expenses for court-ordered impounding, liability for

- If a vehicle is impounded on an impounding order, the person (1) because of whose conviction 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.
- I(2)deleted]

[Section 80H inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 8 and 21; No. 24 of 2008 s. 25.]

Subdivision 4 — Miscellaneous provisions about impounded or confiscated vehicles

[Heading inserted by No. 10 of 2004 s. 13.]

80IA. Release of vehicle after impounding period

When a vehicle has been impounded under Subdivision 2 or on (1) an impounding order and the impounding period ends, the Commissioner is to ensure that the vehicle is released if a

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- responsible person applies in an approved manner for its release.
- (2) Subsection (1) does not prevent the Commissioner from refusing under subsection (3) or section 80IB or 80I(1) to release the vehicle.
- (3) The Commissioner may refuse to release the vehicle until the place where it is stored is open to the public.

[Section 80IA inserted by No. 4 of 2007 s. 9; amended by No. 24 of 2008 s. 21, 23 and 25; No. 23 of 2009 s. 21.]

80IB. Impounding expenses, payment of before vehicle released

- When a vehicle has been impounded under Subdivision 2 or on (1) an impounding order and the impounding period ends, the Commissioner may refuse to release the vehicle until the Commissioner has been paid an amount specified by the Commissioner as being equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle.
- If the vehicle impounded under Subdivision 2 is a substitute (2A) vehicle impounded under section 79BCB, the expenses referred to in subsection (1) are both the expenses incurred in impounding the substitute vehicle and any unpaid expenses incurred in impounding the initially impounded vehicle (as defined in section 79BCA(1)).
 - Subsection (1) applies even if the person seeking the release of (2) the vehicle is not the person suspected of having committed, or found to have committed, the offence for which the vehicle was impounded.
 - The Commissioner may release the vehicle without requiring payment of the amount described in subsection (1) if the Commissioner considers it appropriate in the circumstances to do so.
 - If payment of the amount described in subsection (1) is made (4) for the release of the vehicle, that payment extinguishes any

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liability under section 79E or 80H, as the case requires, to pay the Commissioner for expenses of the impounding even though the payment may not have been made by the person who was liable under that section.

- (5) In the case of a vehicle impounded under Subdivision 2 the Commissioner has to refund, to the person who made the payment, an amount described in subsection (1) that was paid to the Commissioner for the release of the vehicle if
 - no charge of committing the offence for which the vehicle was impounded is laid during the period of one year after the day on which the offence is suspected to have been committed; or
 - during the period described in paragraph (a) a person is (b) charged with committing the offence but the person is not convicted of that offence within that period or within an extension of that period ordered by the court.

[Section 80IB inserted by No. 4 of 2007 s. 9; amended by No. 24 of 2008 s. 23 and 25; No. 23 of 2009 s. 22; No. 20 of 2010 s. 12.7

80I. Storage expenses after impounding period, payment of before vehicle released

- The Commissioner may refuse to release a vehicle impounded (1) under Subdivision 2 or on an impounding order until the Commissioner is paid the expenses incurred in storing the vehicle after the impounding period ends.
- If the vehicle impounded under Subdivision 2 is a substitute (2A) vehicle impounded under section 79BCB, the expenses referred to in subsection (1) are both the expenses incurred in storing the substitute vehicle and any unpaid expenses incurred in storing the initially impounded vehicle (as defined in section 79BCA(1)).

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(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.

[Section 80I inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 22; No. 24 of 2008 s. 23 and 25; No. 23 of 2009 s. 23; No. 20 of 2010 s. 13.]

80JA. Vehicle impounded under s. 79A, sale of by police with consent of owner etc.

(1) In this section —

> impounded vehicle means a vehicle that is impounded under section 79A:

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.

- (2) If the Commissioner is satisfied that each person who has an interest in an impounded vehicle has, in accordance with subsection (4), consented to the Commissioner doing so, the Commissioner, on behalf of those persons, may sell or otherwise dispose of the vehicle.
- The Commissioner may sell or otherwise dispose of a vehicle (3) under subsection (2) —
 - (a) even if the impounding period has not elapsed; and
 - even if the Commissioner may sell the vehicle under (b) section 80J: and
 - whether or not a charge of an offence for which the vehicle was impounded has been heard or determined by a court: and
 - whether or not any appeal against the conviction for an (d) offence for which the vehicle was impounded or confiscated has been concluded.

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- (4) The consent of a person who has an interest in an impounded vehicle to the Commissioner selling or otherwise disposing of the vehicle has no effect unless
 - the person has been informed in accordance with subsection (5); and
 - the consent is in writing and signed by the person; and (b)
 - (c) the consent is given at least 48 hours after the vehicle is impounded.
- (5) The Commissioner must ensure a person who has an interest in an impounded vehicle is informed
 - of the effect of this Division in relation to impounding and selling vehicles; and
 - of the liabilities that this Division imposes on persons for the costs and expenses incurred by the Commissioner.
- The Commissioner may require a person who has an interest in (6) an impounded vehicle to provide information to the Commissioner for the purposes of this section in a statutory declaration.
- If the Commissioner sells or otherwise disposes of an impounded vehicle under subsection (2)
 - the Commissioner must release the vehicle to the buyer; and
 - (b) the buyer obtains a good title to the vehicle if the person acquires it in good faith and without notice of any failure to comply with this section in relation to the sale or disposal; and
 - the proceeds of the sale are to be paid in the order of priority provided by subsection (8).
- The proceeds of the sale or disposal of a vehicle under (8) subsection (2) are to be paid in the following order of priority
 - for expenses incurred in selling the vehicle;

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- for the expenses specified by the Commissioner as being (b) equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle;
- if the sale or disposal occurs after the impounding period (c) ends, for expenses (if any) incurred in storing the vehicle after that period ends;
- the balance (d)
 - if only one person has an interest in the vehicle, to that person;
 - (ii) if there are 2 or more persons who each have an interest in the vehicle, to each such person according to the proportion that the value of the person's interest bears to the value of the vehicle.
- If an impounded vehicle is sold or otherwise disposed of under (9) subsection (2) and
 - no charge is laid for the offence for which the vehicle was impounded within 3 months after the date of the offence; or
 - the charge for that offence is withdrawn or dismissed for (b) want of prosecution; or
 - the person charged with that offence is acquitted, (c)

the Commissioner must pay to the person or persons referred to in subsection (8)(d) in accordance with that paragraph an amount equal to the amounts paid under subsection (8)(a), (b) and (c).

[Section 80JA inserted by No. 23 of 2009 s. 24.]

80J. Confiscated and uncollected vehicles and contents, sale etc. of

(1) In this section —

> confiscated vehicle means a vehicle that is confiscated under section 80A(1), 80C(1) or 80CB(1);

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

- the vehicle was impounded under Subdivision 2; or
- the vehicle was surrendered; or (b)
- under section 78C, the vehicle was conveyed to a place (c) for storage,

as is relevant to the case;

uncollected vehicle means a vehicle that was impounded under Subdivision 2 or on an impounding order and not collected within 28 days after the end of the impounding period.

- The Commissioner may sell or otherwise dispose of a (2) 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
 - any appeal against the conviction for an offence in respect of which the vehicle was impounded or confiscated is determined: and
 - any appeal against an impounding or confiscation order (b) in respect of the vehicle is determined.
- The Commissioner is not to sell or otherwise dispose of an (4) uncollected vehicle or an item unless
 - each responsible person is given at least 14 days' written notice of the Commissioner's intention to sell or dispose of the vehicle or item; and
 - (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; and
 - in the case of an item, reasonable steps have been taken (c) to return the item to its owner; and
 - any proceedings under subsection (5) or (6) in relation to (d) the vehicle or item and any appeal in respect of those proceedings are determined.

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- (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.
- Proceeds of the sale or disposal under subsection (2) of a (7) vehicle or item are to be paid in the following order of priority
 - for expenses incurred in selling the vehicle or item; (a)
 - in the case of a confiscated vehicle, for expenses incurred consequent on the confiscation of the vehicle;
 - in satisfaction of an unpaid amount for which a person is liable under section 79E;
 - in satisfaction of an unpaid amount of a judgment debt (d) arising out of a liability under section 79E;
 - in satisfaction of an unpaid amount for which a person is (e) liable under section 80H;
 - in satisfaction of an unpaid amount of a judgment debt (f) arising out of a liability under section 80H;
 - for the expenses incurred in storing the vehicle after the (g) 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
 - for which the vehicle was nominated in writing as security for the payment of that amount; and
 - that, but for the confiscation of the vehicle, (ii) would have been payable to a person other than

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the person convicted of the offence in respect of which the vehicle was confiscated;

- (j) the balance, in the case of a confiscated vehicle
 - if the vehicle was confiscated under section 80A(1) or 80C(1), to the credit of the Road Trauma Trust Account established in accordance with the Road Safety Council Act 2002 section 12;
 - if the vehicle was confiscated under (ii) section 80CB(1), to the credit of the Confiscation Proceeds Account established in accordance with the Criminal Property Confiscation Act 2000 section 130:
- the balance, in the case of an uncollected vehicle or an (k) 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.

[Section 80J inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 10, 23 and 31(1); No. 24 of 2008 s. 22, 23, 24(1) and 25; No. 23 of 2009 s. 25.7

80K. Police expenses more than sale proceeds, liability for

(1) If a vehicle is sold under section 80JA(2) but the proceeds of the sale are insufficient to pay the expenses incurred in selling it, the person because of whose conviction the vehicle was impounded is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.

If a confiscated vehicle is sold under section 80J(2) but the proceeds of the sale are insufficient to pay the expenses incurred consequent on the confiscation of the vehicle and the expenses incurred in selling it, the person because of whose conviction 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.

[Section 80K inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 24; No. 23 of 2009 s. 26.]

80LA. Police expenses for uncollected vehicle more than sale proceeds, liability for

- This section applies if a vehicle is sold under section 80J(2) as (1) an uncollected vehicle and a person (the *offender*) has been convicted of the offence for which the vehicle was impounded.
- (2) If the proceeds of the sale are insufficient to pay the expenses reasonably incurred to sell the vehicle (the *selling expenses*), the offender is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to the selling expenses that remain to be recovered.

[Section 80LA inserted by No. 23 of 2009 s. 27.]

80L. Transfer of vehicle licence to State in some cases

- If a licensed vehicle is confiscated on an order under section 80A(1), 80C(1) or 80CB(1) or is to be sold as an uncollected vehicle under section 80J(2)
 - the Commissioner of Police is to give notice in writing to the Director General CEO of that fact; and
 - (b) the Director General CEO is to transfer the vehicle's licence to the State of Western Australia.
- Section 24The Road Traffic (Vehicles) (2) Act 2012 section 10(1)(a), (2), $(\frac{2a}{2b})$, (4) and $(\frac{2e}{2b})$ do not apply if the Director General CEO is given notice under subsection (1)(a).

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[Section 80L inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 25 and 33; No. 8 of 2012 s. 25 and 36.]

[81. Deleted by No. 76 of 1996 s. 17.]

Part VA

Part VA — Events on roads

[Heading inserted by No. 64 of 1988 s. 4.]

81A. Terms used

In this Part, unless the contrary intention appears event —

- includes a race meeting or speed test; and (a)
- does not include an event that is a public meeting or (b) procession under the *Public Order in Streets Act 1984*;

order means an order granted under this Part; *road* includes part of a road.

[Section 81A inserted by No. 64 of 1988 s. 4; amended by No. 70 of 2004 s. 82.]

81B. Order for road closure for event, application for

- (1) A person who, or body which, proposes to hold an event on a road, or to conduct an event which will proceed through a road, and wishes that road to be closed for the duration of the event, may make written application in the prescribed manner and form to the Commissioner of Police setting out the proposal and applying for an order in respect of a road closure for that event.
- An application referred to in subsection (1) (2)
 - shall be made not later than the prescribed time before the date of the proposed event or within such shorter period as may be agreed by the Commissioner of Police; and
 - may be required to be verified in a manner acceptable to the Commissioner of Police.

[Section 81B inserted by No. 64 of 1988 s. 4; amended by No. 76 of 1996 s. 20(2).]

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81C. Order for road closure for event, making

- (1) The Commissioner of Police shall have regard to the information furnished in any application made under section 81B and any other information available to it in relation to the proposed event and may
 - (a) subject to subsection (2), make an order directing the road to be closed; or
 - (b) refuse to make an order directing the road to be closed.
- (2) The Commissioner of Police shall not make an order for a road closure unless
 - (a) the Commissioner of Police is satisfied that the prescribed conditions relating to an application for a road closure have been met; and
 - (b) the approval of the local government of each district within which the road is situated has been obtained; and
 - (c) where the road is vested in the Commissioner of Main Roads, the approval of the Commissioner has been obtained.
- (3) An order made by the Commissioner of Police shall be subject to such conditions and limitations as are specified by the Commissioner of Police.
- (4) A copy of an order made by the Commissioner of Police shall be forwarded to
 - (a) the applicant for the order; and
 - (b) the local government of each district within which the road concerned is situated: and
 - (c) where a road to which the order relates is vested in the Commissioner of Main Roads, the Commissioner of Main Roads.

[Section 81C inserted by No. 64 of 1988 s. 4; amended by No. 14 of 1996 s. 4; No. 76 of 1996 s. 20(2).]

A road closure under this Part shall be effected by the erection by the local government for the district within which the road concerned is situated of such barriers, signs and other equipment as are prescribed.

[Section 81D inserted by No. 64 of 1988 s. 4; amended by No. 14 of 1996 s. 4.1

81E. Road closure order, effect of

- (1) Subject to
 - any directions given by a member of the Police Force under section 9A of the Public Order in Streets Act 1984; and
 - (b) the provisions of subsection (2),

where the holding or conduct of an event on a closed road substantially conforms with the terms of the order relating to it, a person participating in that event who observes such conditions and limitations as are specified in the order may position himself in, or proceed over, any road referred to in the order and is not, by reason of any thing done or omitted to be done by him for the purposes only of his participating in that event, guilty of any offence against the provisions of this Act or any other enactment regulating the movement of traffic and pedestrians, or relating to the obstruction of a street.

- An order made under this Part shall be deemed to contain a (2) condition requiring persons participating in the event on the closed road to which it relates not to obstruct the free passage of any ambulance, fire brigade vehicle or police vehicle, and where any person contravenes that condition the holding and conduct of that event shall be taken not to have conformed with the order.
- Subject to the provisions of this Part and any order granted in (3) relation to a road, a road closed pursuant to this Part remains a "road" for the purposes of this Act and any other enactment. [Section 81E inserted by No. 64 of 1988 s. 4; amended by No. 70 of 2004 s. 82.7

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Offences 81F.

- (1) Where a person at, or in relation to, an event held on a road closed pursuant to an order under this Part
 - obstructs the free passage of any ambulance, fire brigade vehicle or police vehicle or, otherwise than in the manner or to the extent authorised by the order relating to the road closed for that event, impedes or disrupts the use by members of the public in general of that road; or
 - otherwise than in the manner or to the extent authorised (b) by the order relating to the road closed for that event, drives, takes or uses any vehicles on to or on that road; or
 - incites any other person so to do,

commits an offence.

Penalty: 12 PU.

- Where, in any proceeding for an offence against subsection (1), (2) it is alleged in the charge that
 - an order had been granted under this Part to a person or (a) body named in the order; or
 - a road was closed pursuant to an order, (b)

it shall not be necessary for the prosecutor to prove the facts so alleged in the absence of evidence to the contrary.

- When in any proceedings for an offence against this Act or any (3) other enactment regulating the movement of traffic or pedestrians or relating to the obstruction of a road, the accused satisfies the court that a road closure was authorised under this Part by an order purporting to relate to it, it shall be presumed, in the absence of evidence to the contrary, that
 - no irregularity occurred on, or in relation to, the grant of the order; and
 - the road closure substantially conformed with the terms of the order.

[Section 81F inserted by No. 64 of 1988 s. 4; amended by No. 50 of 1997 s. 13; No. 84 of 2004 s. 80 and 82.1

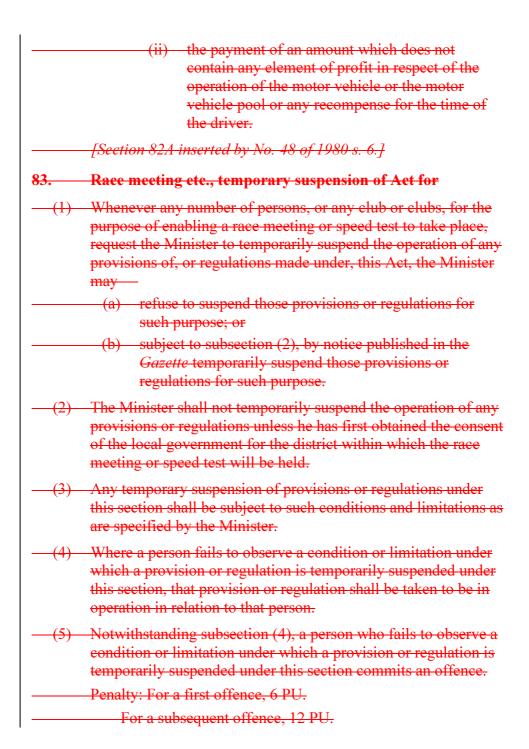
Licensed omnibus under repair, use of substitute vehicle in 82-case of A vehicle licence for an omnibus shall during any time that the omnibus is under repair, authorise the holder of the licence, with the previous consent of the Director General, to substitute another vehicle for the omnibus under repair, and to operate the same during such period as the first-mentioned omnibus is under repair and not being operated. (2) The consent in writing of the Director General referred to in subsection (1), shall only be given on payment by the licensee to the Director General of a fee of \$1. [Section 82 inserted-87. Deleted by No. 938 of 19752012 s. 7; amended by No. 71 of 1981 s. 5; No. 105 of 1981 s. 19; No. 76 of 1996 s. 20(3); No. 39 of 2000 s. 37.1 82A. Motor vehicle pooling arrangements, insurance for (1) For the purposes of any contract of insurance, a motor vehicle shall be deemed not to be used for the carriage of passengers for hire, fare or reward by reason only of the carriage of passengers if the carriage is pursuant to a motor vehicle pooling arrangement. For the purposes of subsection (1), a carriage of passengers is pursuant to a motor vehicle pooling arrangement if the carriage is (a) incidental to the main purpose of the journey; and (b) not the result of touting for passengers by the driver or any other person on any road; and (c) pursuant to an arrangement for the carriage of the

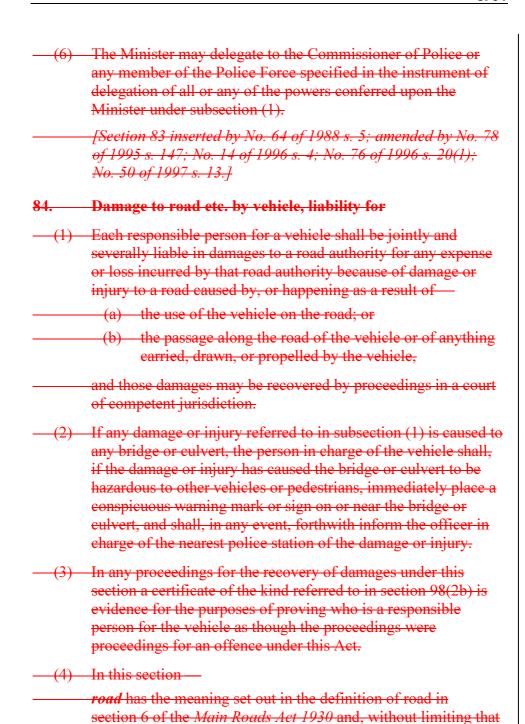
Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 221

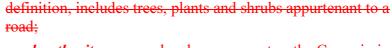
passengers for a consideration limited to

family on a similar journey; or

(i) an undertaking by or on behalf of the passenger to carry the driver or a member of the driver's







road authority means a local government or the Commissioner of Main Roads.

[Section 84 amended by No. 77 of 1975 s. 4: No. 105 of 1981 s. 19: No. 95 of 1984 s. 6: No. 11 of 1988 s. 15: No. 14 of 1996 s. 4; No. 39 of 2000 s. 38.7

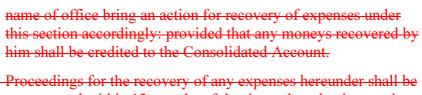
[Section 84. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

Damage to road by heavy traffic, local government may recover extraordinary expenses of repairing

- Where it appears to a local government which is liable or authorised or has undertaken to repair any road that, having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by such local government in repairing such road by reason of the damage caused by heavy traffic passing along the same, or extraordinary traffic thereon, such local government may recover in any court of competent jurisdiction from any person by or in consequence of whose order such traffic has been conducted, the amount of such expenses as may be proved to the satisfaction of the court having cognisance of the case to have been incurred by such local government by reason of the damage arising from such traffic as aforesaid.
- Any person against whom expenses are or may be recoverable under this section may enter into an agreement with such local government as is mentioned in this section for the payment to it of a composition in respect of such traffic, and thereupon the person so paying the same shall not be subject to any proceedings under this section.
- For the purposes of this section the Minister shall be deemed the local government which is liable or authorised or has undertaken to repair any Government road, and he may in his

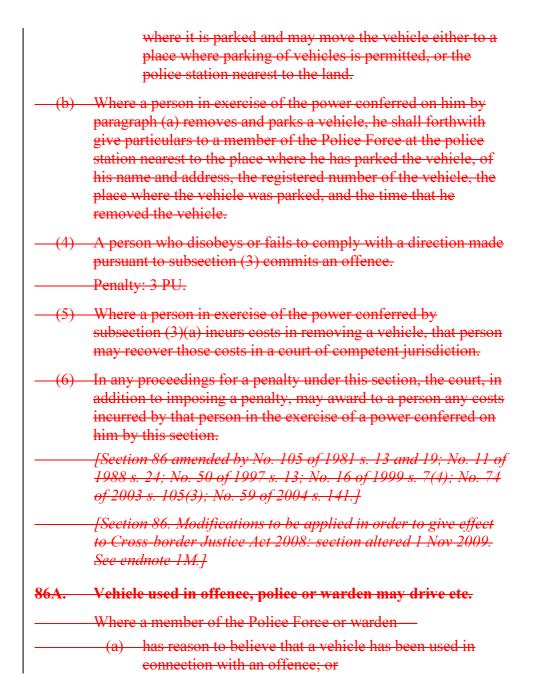
Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 224 Extract from www.slp.wa.gov.au, see that website for further information

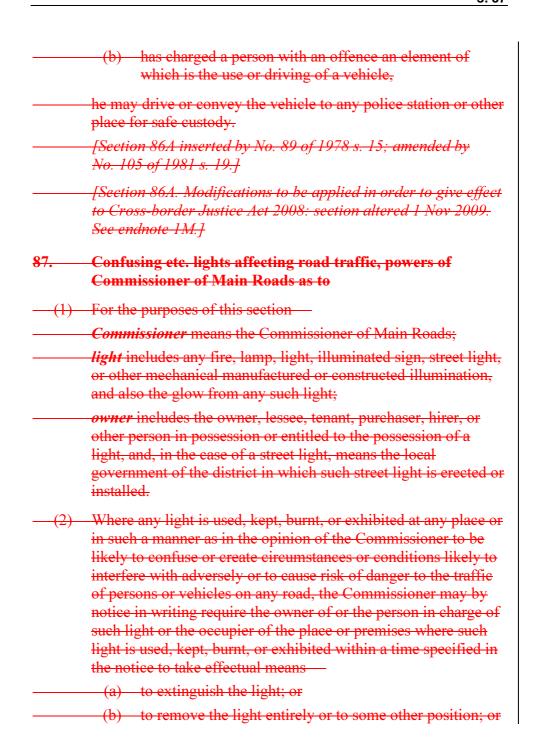
Miscellaneous

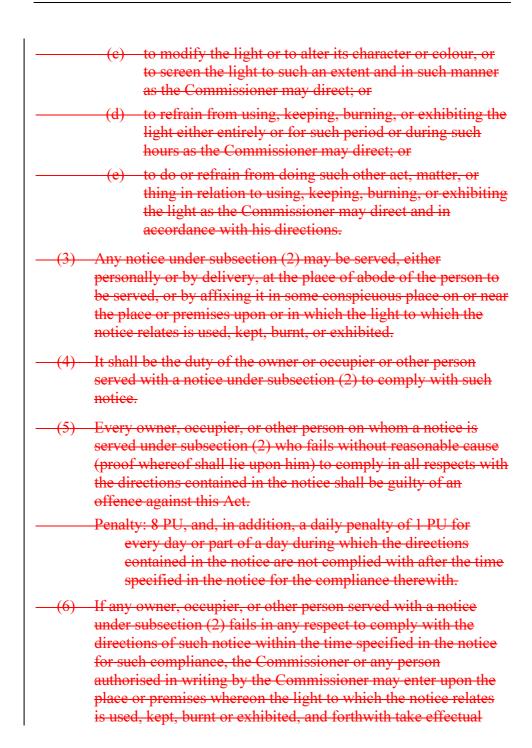


- commenced within 12 months of the time when the damage has been done, or where the damage is the consequence of any particular building contract or work extending over a long period, shall be commenced not later than 6 months after the completion of the contract or work.
- [Section 85 amended by No. 6 of 1993 s. 11; No. 14 of 1996] s. 4; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]
- Parking in prescribed area, offence and powers to remove vehicle etc.
- (1) In this section, prescribed area means
- I(a) deleted1
- (b) any area defined for the purposes of this section by the Governor by notice published in the Gazette.
- (2) No person shall, within a prescribed area, park a vehicle on land which is not a road, unless he has been authorised to do so by the owner, or person in possession of that land.
- Penalty: 5 PU.
- (3)(a) Where a person parks a motor vehicle on land contrary to the provisions of subsection (2), and where the vehicle causes or is likely to cause an obstruction, or danger to traffic, a member of the Police Force or the owner, or the person in possession of the land, or an employee of the owner, or person in possession of the land, may
- (i) direct the driver or person in charge of the vehicle to remove the vehicle from the place where it is parked; and
- where no person appears to be in immediate charge of the vehicle, himself remove the vehicle from the place

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- means (but doing no unnecessary damage) to carry out and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.
- Any expense incurred by the Commissioner or the person authorised by the Commissioner under subsection (6) shall be a debt owing to the Commissioner by the person upon whom the notice was served and shall be recoverable at the suit of the Commissioner in any court of competent jurisdiction.
- If the owner, occupier, or other person upon whom the notice under subsection (2) has been served, or any other person obstructs or hinders, prevents, or interferes with or attempts to obstruct, hinder, prevent, or interfere with the Commissioner or the person authorised by the Commissioner in the exercise of the power conferred by subsection (6), he shall be guilty of an offence against this Act.

Penalty: 8 PU.

- Where any owner, occupier, or other person upon whom a notice under subsection (2) has been served has failed within the time specified in such notice to comply with the directions of such notice, and by reason of such non-compliance and by reason of the light to which the said notice relates confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of persons, animals, or vehicles on a road, any person suffers injury to the person or damage to his property, the non-compliance with the said notice shall, for the purpose of enabling the person who has suffered such injury or damage to recover compensation or damages in respect of the injury or damage suffered, be deemed to be a tort in the nature of a nuisance committed by the owner, occupier, or other person upon which an action for damages may be instituted.
- (10) The omission on the part of the Commissioner to give any notice under subsection (2), or the failure on the part of the Commissioner to exercise the power conferred by subsection (6) shall not make the Commissioner in any respect responsible or

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liable for any injury to the person or damage to property suffered as the result of any light confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of any person or vehicle on a road.

[Section 87 amended by No. 11 of 1988 s. 24; No. 14 of 1996 s. 4; No. 50 of 1997 s. 1326.]

- **[88.** Deleted by No. 50 of 1997 s. 10.]
- [89. Deleted by No. 70 of 2004 s. 82.]

90. Unlawfully interfering with parts of motor vehicles

Any person who unlawfully interferes with the mechanism or parts of any motor vehicle shall be guilty of an offence under this Act.

Penalty: For a first offence, 8 PU.

For a subsequent offence, 16 PU.

[Section 90 amended by No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(3).]

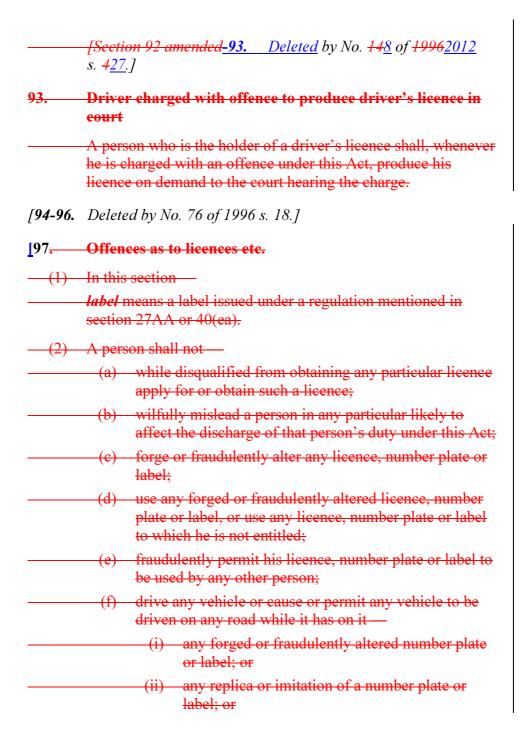
[**91.** Deleted by No. 50 of 1997 s. 11.]

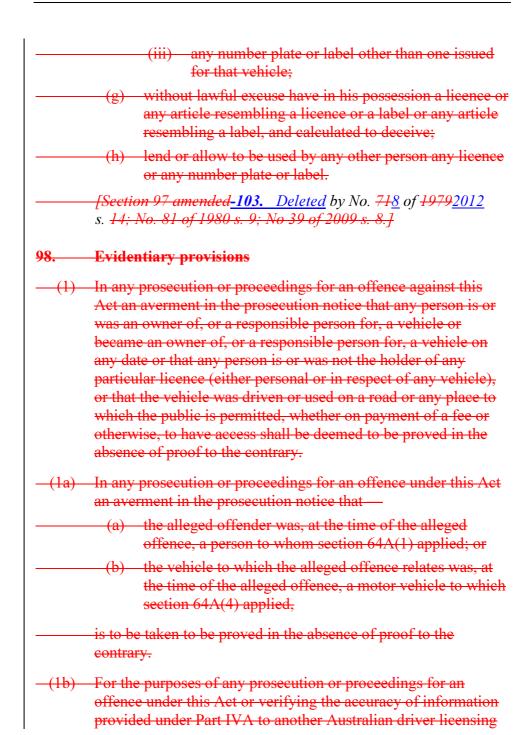
[92. Unsafe road, powers to close

- (1) The Minister may, if he considers any road unsafe for public traffic, cause the same to be closed for such period as he considers necessary.
- (2) A local government for a period of one month may exercise a similar power with regard to any road under its control, but the exercise of such power shall not extend beyond such period, except with the approval in writing of the Minister.
- (3) No person shall drive, take, or use any vehicle on to or on any road while such road is closed under this section.

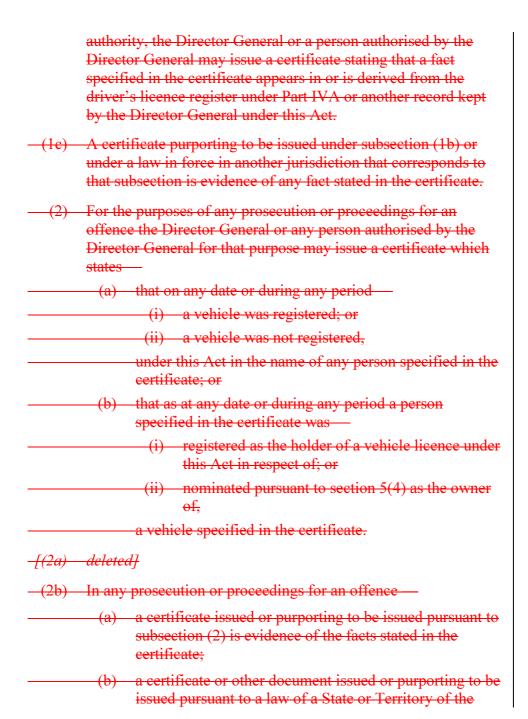
page 230 Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01]

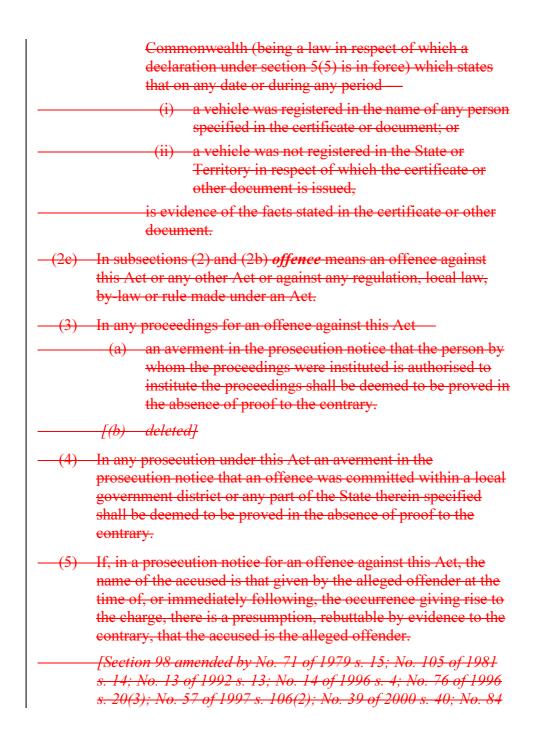
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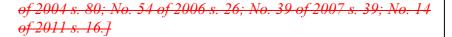


Part VI





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Speed etc. measuring equipment, approval of and evidentiary provisions for

- (1) In this section authorised person means (a) in relation to distance measuring equipment (i) a member of the Police Force; or (ii) a person certified by the Commissioner of Police as being competent to use the equipment; in relation to speed measuring equipment a member of the Police Force; or (ii) a person certified by the Commissioner of Police as being competent to use the equipment; distance measuring equipment means apparatus of a type approved by the Minister pursuant to subsection (2a); speed measuring equipment means apparatus of a type
- The Minister may, from time to time, by notice published in the Government Gazette, approve of types of apparatus for the purpose of ascertaining the speed at which a vehicle is moving and may, by notice so published, revoke any such approval.

approved by the Minister pursuant to subsection (2).

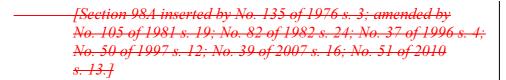
- (2a) The Minister may, from time to time, by notice published in the Government Gazette, approve of types of apparatus for the purpose of ascertaining distances on roads and may, by notice so published, revoke any such approval.
- In any proceeding for an offence against this or any other Act or the regulations evidence may be given of the use of speed measuring equipment by an authorised person in relation to a vehicle and of the speed at which that vehicle was moving as ascertained by the use of that equipment, and that evidence is

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s. 98A

- prima facie evidence of the speed at which that vehicle was moving at the time of the use of that equipment in relation to that vehicle.
- In any proceeding for an offence against this or any other Act or the regulations evidence may be given of the use of distance measuring equipment by an authorised person on a road, of the distance between 2 identified points on the road as ascertained by the use of that equipment and of the ascertainment of the speed at which a vehicle was moving by the measurement of the time taken by that vehicle to travel that distance, and that evidence is prima facie evidence of the speed at which that vehicle was moving when it travelled that distance.
- In any proceeding such as is mentioned in subsection (3), evidence by an authorised person that apparatus used by him was speed measuring equipment within the meaning of this section is prima facie evidence of that fact.
- In any proceeding such as is mentioned in subsection (3a), evidence by an authorised person that apparatus used by him was distance measuring equipment within the meaning of this section is prima facie evidence of that fact.
- In any proceeding such as is mentioned in subsection (3) or (3a), a certificate purporting to be signed by the Commissioner of Police certifying that a person named in the certificate is, or was at the material time, a person certified by the Commissioner as being competent to use distance measuring equipment or to use speed measuring equipment is prima facie evidence of the matters in the certificate, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.
- Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act or the regulations.

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Savings as to liability of drivers etc.

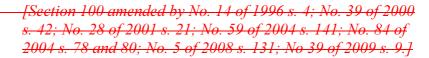
Nothing in this Act shall take away or diminish any liability of the driver of, an owner of, or a responsible person for, a vehicle by virtue of any other Act or at common law.

[Section 99 amended by No. 39 of 2000 s. 41.]

100. Crown and local governments, application of Act to

- This Act applies to persons and vehicles in the public service of the Crown, or of any local government, but does not apply to any extent to a vehicle for the personal use of the Governor nor to a person in charge of the vehicle while carrying out the Governor's personal directions; and does not apply to any other vehicle or class of vehicle or person or class of person to the extent of such exemption as may from time to time be declared by the Governor by Order in Council, which the Governor may from time to time vary or cancel by further Order in Council, and section 78 of the Criminal Procedure Act 2004 applies in respect of charges of offences against this Act as if the charges negatived exemptions under this section.
- (2) Notwithstanding the provisions of subsection (1), where the licence of a vehicle licensed in the name of and used by the State Government (except vehicles used by Ministers of the Crown or heads of State Boards and departments) is renewed, the provisions of this Act requiring the renewal of the licence or the issue of a label shall not apply to such vehicle, but this subsection shall not render lawful the driving of a vehicle upon any road without having the prescribed number plates affixed thereto.

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Protection from personal liability for officials

- (1) No matter or thing done or omitted to be done by the Minister, the Director General, or any warden, inspector, or other person authorised to carry out the provisions of this Act in good faith under or for the purposes of this Act, or purportedly under or for the purposes of this Act shall subject the Crown, the Minister, or any person hereinbefore referred to, to any liability in respect thereof.
- 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.
- In subsection (2)

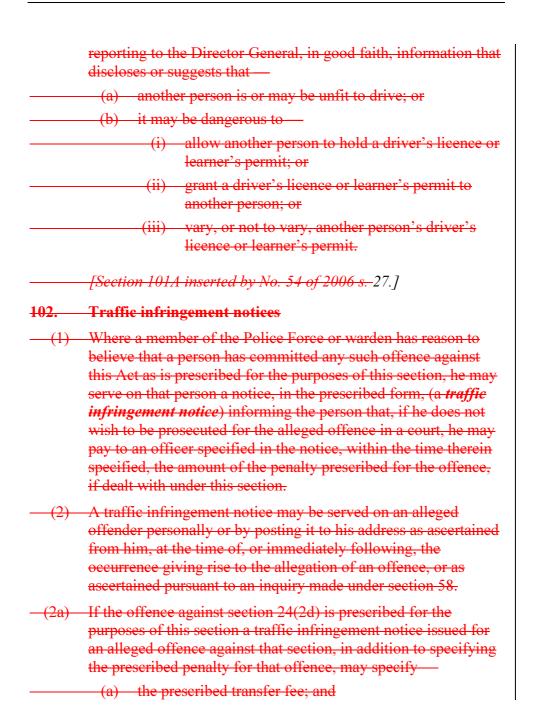
contractor means a person who has entered into a contract with the Commissioner of Police under section 78D.

[Section 101 amended by No. 105 of 1981 s. 15 and 19; No. 64] of 1988 s. 6; No. 76 of 1996 s. 20(1); No. 42 of 1999 s. 9; No. 5 of 2002 s. 15; No. 10 of 2004 s. 14.1

101A. Protection from personal liability for driving examiners etc.

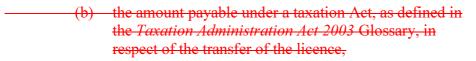
- The protection given by this section is in addition to any protection given by section 101.
- Proceedings for an offence are not to be brought against a person for expressing to the Director General, in good faith, an opinion formed as a result of having carried out a test or examination under this Act.
- An action in tort does not lie against a person, and proceedings for an offence are not to be brought against a person, for

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Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] page 239 Extract from www.slp.wa.gov.au, see that website for further information

s. 102

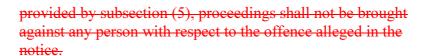


and, for the purposes of subsections (1), (4), (5), (6), (7) and (7a) and the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, a reference to the prescribed penalty is to be taken as being a reference to the sum of the prescribed penalty and those 2 other amounts.

- (2b) A traffic infringement notice issued for an alleged offence against section 24(2d) 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.
- $-\int (3) deleted$
- (4) A person who receives a traffic infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed penalty within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under those provisions.
- (5) A traffic infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn by the sending of a notice, in the prescribed form, signed by a prescribed officer, to the alleged offender at his last known place of residence or business, advising the alleged offender that the traffic infringement notice has been withdrawn; and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.
- (5a) In subsection (5)
 - alleged offender, in relation to a traffic infringement notice served on a responsible person under section 102A or 102B, means the responsible person.
- (6) Where a prescribed penalty has been paid pursuant to a traffic infringement notice and the notice has not been withdrawn as

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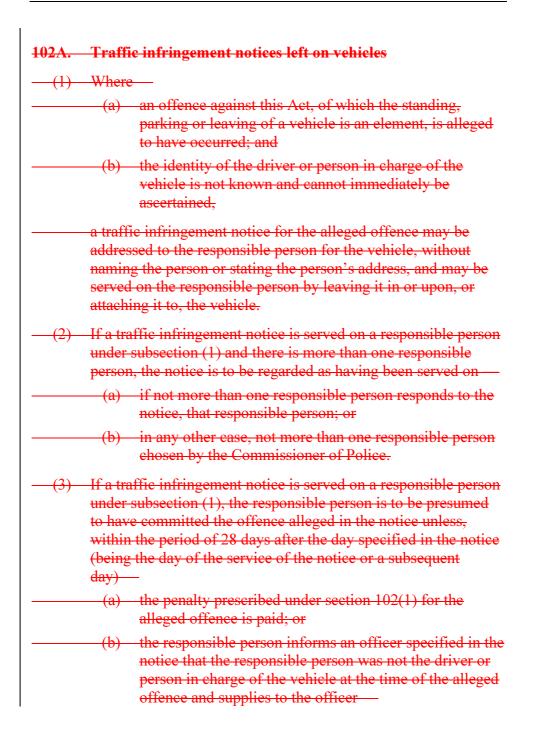
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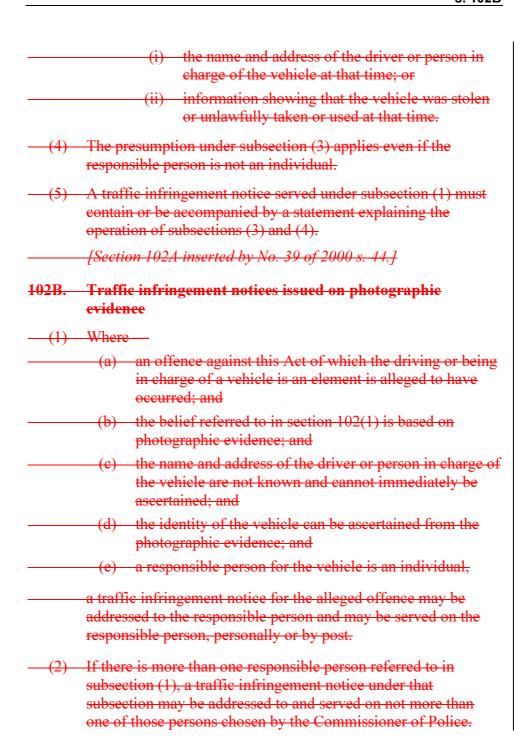


- The payment of the whole or a part of a penalty pursuant to a traffic infringement notice shall, for the purposes of sections 51(1)(a) and 76(9)(b), constitute a conviction of an offence, but shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence by reason of which the traffic infringement notice was given.
- (7a) Subsection (7) applies even if the payment is made by means of a dishonoured cheque.
- The Governor may make regulations for any purpose for which regulations are contemplated or required by this section and, in particular, may make regulations
 - prescribing offences for the purposes of this section, not being offences punishable by imprisonment or offences in respect of which a court is required to disqualify the offender from holding or obtaining a driver's licence, by setting out the offences or by reference to the provision creating the offence or by reference to all or any offences in any one Part of any regulations made under this Act: and
- prescribing penalties not exceeding 40 PU for any prescribed offence or class of prescribed offence and prescribing different penalties for the one offence, according to the circumstances by which the offence is attended.

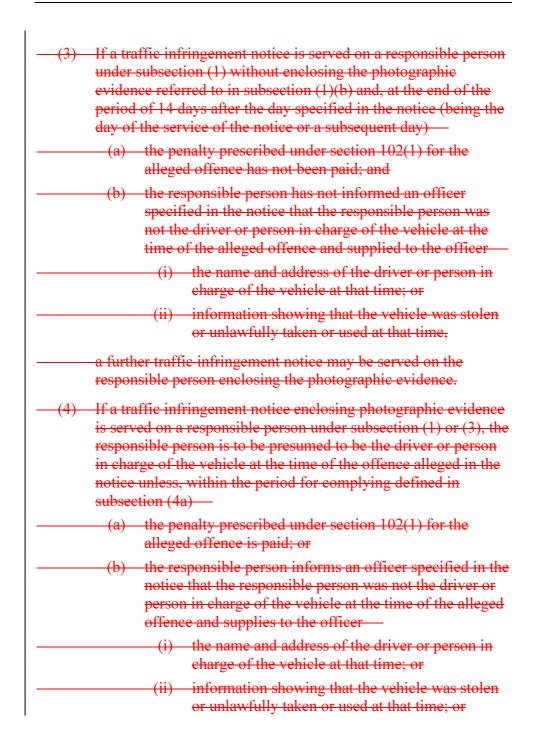
FSection 102 amended by No. 89 of 1978 s. 16 (as amended by No. 82 of 1982 s. 30); No. 105 of 1981 s. 19; No. 11 of 1988 s. 24: No. 60 of 1990 s. 5: No. 13 of 1992 s. 14: No. 92 of 1994 s. 39; No. 57 of 1995 s. 7; No. 50 of 1997 s. 13; No. 24 of 1999 s. 10; No. 39 of 2000 s. 43; No. 84 of 2004 s. 80; No. 54 of 2006 s. 28; No. 12 of 2008 Sch. 1 cl. 33(4); No. 10 of 2015 s. 4.1

s. 102A



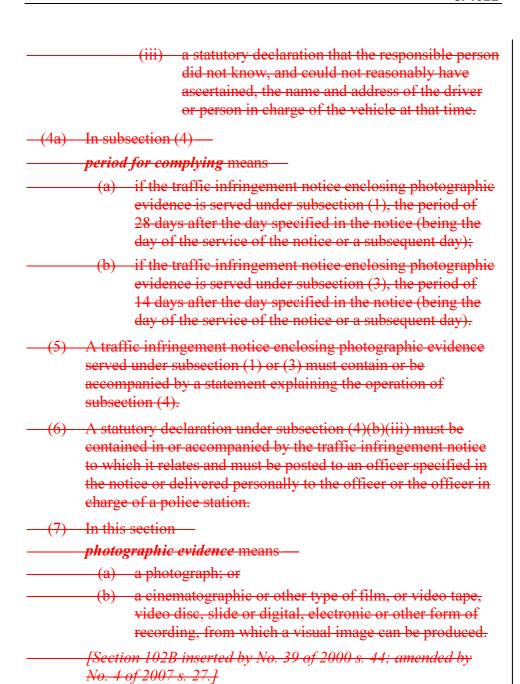


s. 102B

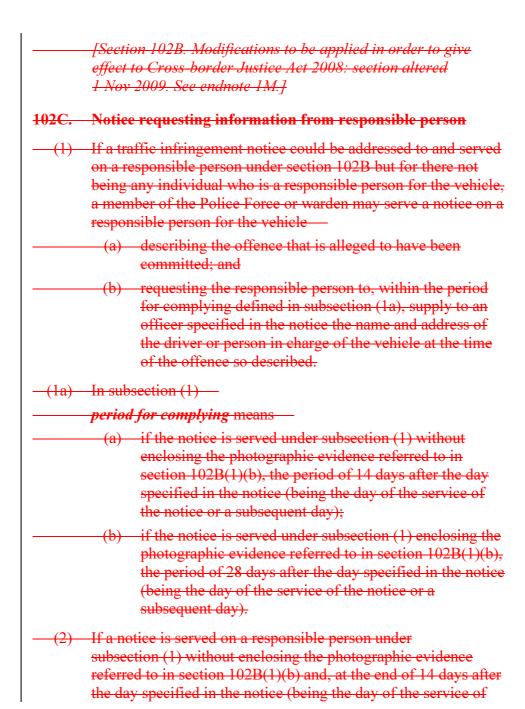


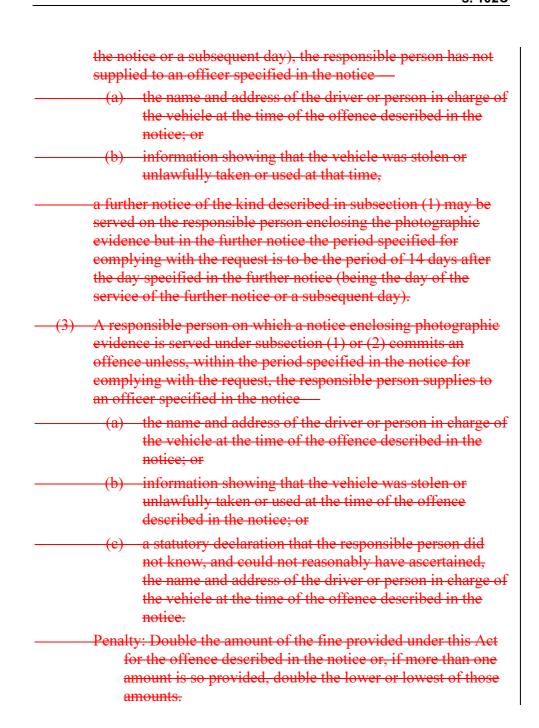
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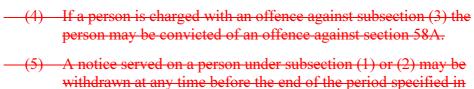


s. 102C





s. 102D

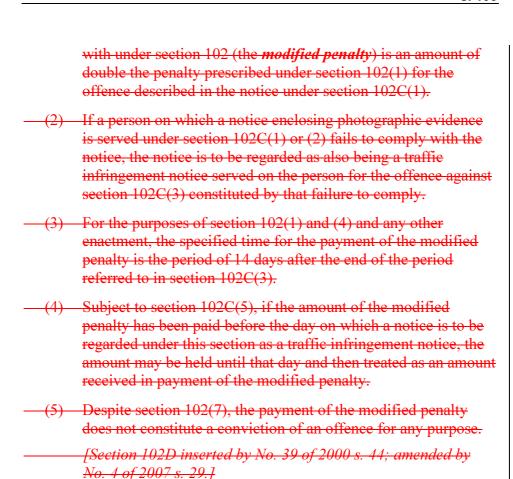


- the notice for complying with the request by sending a notice to that effect, in the prescribed form and signed by a prescribed officer, to the person at the person's last known place of business.
- If the amount of the modified penalty referred to in section 102D has been paid before a notice is withdrawn under subsection (5), any amount so paid is to be refunded.
- Subsections (5) and (6) do not affect the operation of section 102(5) in relation to a notice when it is regarded under section 102D(2) as a traffic infringement notice.
- A notice enclosing photographic evidence served under subsection (1) or (2) must contain or be accompanied by a statement explaining the operation of subsection (3) and section 102D.
- A statutory declaration under subsection (3)(c) must be contained in or accompanied by the notice to which it relates and must be posted to an officer specified in the notice or delivered personally to the officer or the officer in charge of a police station.
- [Section 102C inserted by No. 39 of 2000 s. 44 (as amended by No. 84 of 2004 s. 80); amended by No. 4 of 2007 s. 28.]
- [Section 102C. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.1

102D. Notice under s. 102C may become traffic infringement notice

An offence against section 102C(3) is prescribed for the purposes of section 102 and the penalty for that offence if dealt

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103. Disclosure etc. of information by officials restricted

- (1) A person who is or has been engaged in the performance of functions under this Act must not, directly or indirectly, record, disclose or make use of information obtained under this Act except
 - (a) for a purpose related to the administration or enforcement of this Act; or
- as required or authorised under this Act or another written law; or
- with the consent of the person to whom the information relates; or

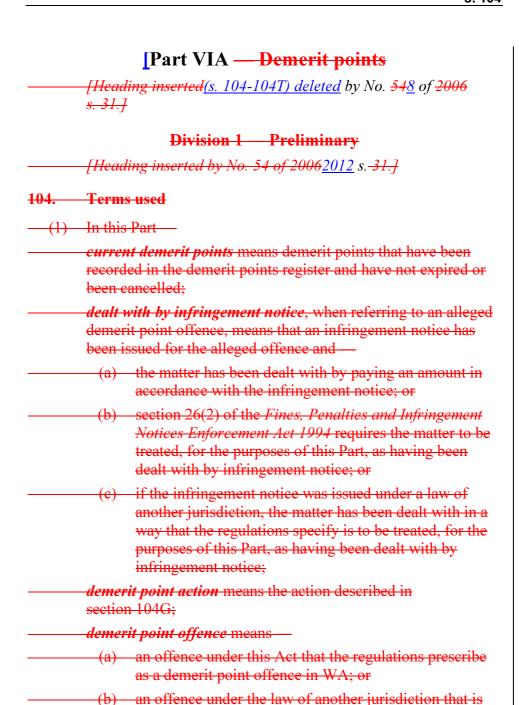
page 249 Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01]

	(d) in circumstances prescribed by the regulations.
	(a) In circumstances presented by the regulations.
	Penalty: a fine of 100 PU or imprisonment for 12 months.
	r and
$\frac{(2)}{}$	Subsection (1) does not prevent the disclosure of statistical or
	other information that could not reasonably be expected to lead
	to the identification of any person to whom it relates.
	no me memmeanon or any berson no whom a terates.

[103A, 103B. Deleted by No. 54 of 2006 s. 30.]

Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] Extract from www.slp.wa.gov.au, see that website for further information page 250

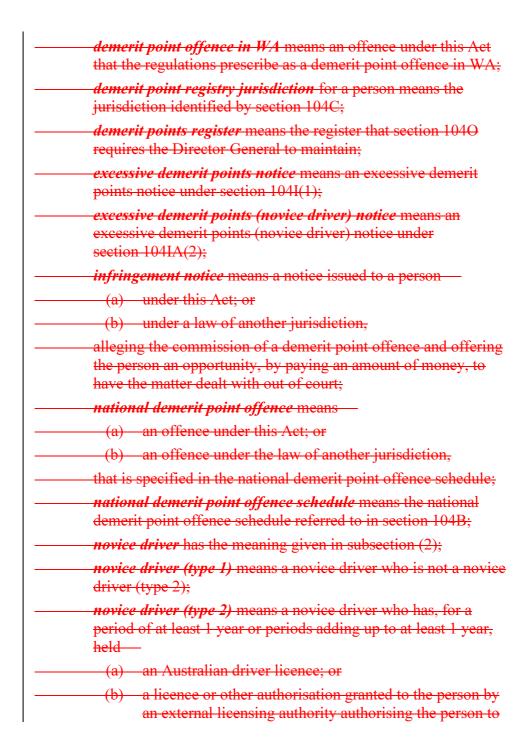
Part VI

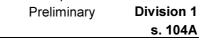


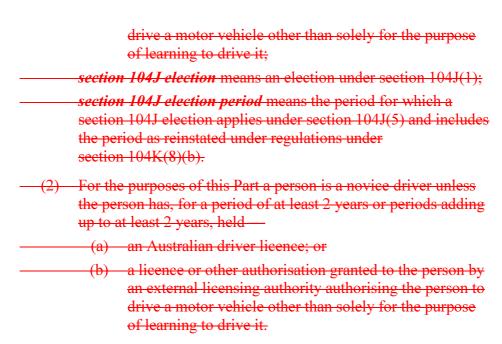
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specified in the national demerit point offence schedule;







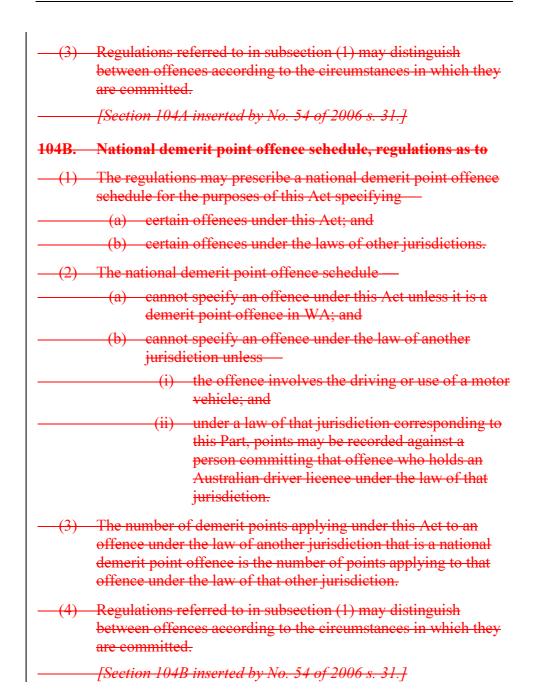
- When deciding whether a person is a novice driver, or which type of novice driver a person is, a period for which the person held an Australian driver licence or other authorisation is to be regarded as not including any period for which the person, although holding an Australian driver licence or other authorisation, was excluded by law from driving under that authorisation.
- [Section 104 inserted by No. 54 of 2006 s. 31; amended by No. 39 of 2007 s. 26.1

104A. Demerit point offences in WA, regulations as to

- The regulations may prescribe an offence under this Act as a demerit point offence in WA, and specify the number of demerit points applying to the offence.
- An offence cannot be a demerit point offence in WA unless it involves the driving or use of a motor vehicle.

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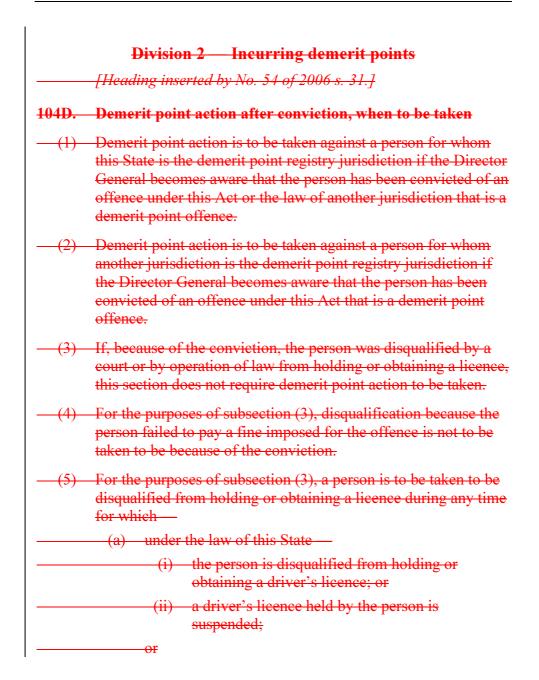
- (1) If a person holds a driver's licence or a learner's permit under this Act, this State is, for the purposes of this Act, the demerit point registry jurisdiction for that person.
- If a person holds a licence or other authorisation granted under the law of another jurisdiction authorising the person to drive a motor vehicle on a road, whether or not solely for the purpose of learning to drive it (another jurisdiction's driving authorisation), the demerit point registry jurisdiction for that person is, for the purposes of this Act, that other jurisdiction.
- If a person holds neither a driver's licence or a learner's permit under this Act (a WA driving authorisation) nor another jurisdiction's driving authorisation but has previously held a WA driving authorisation or another jurisdiction's driving authorisation, the demerit point registry jurisdiction for that person is, for the purposes of this Act
- (a) the jurisdiction under the law of which the person previously held one of those authorisations; or
- if paragraph (a) would identify 2 or more jurisdictions, the jurisdiction under the law of which the person most recently held one of those authorisations.
- If this section does not otherwise identify one, and only one, jurisdiction as the demerit point registry jurisdiction for a person, this State is, for the purposes of this Act, the demerit point registry jurisdiction for that person.
- A jurisdiction can be the demerit point registry jurisdiction even though that jurisdiction does not have a law corresponding to this Part under which points may be recorded for offences involving the driving or use of motor vehicles.

[Section 104C inserted by No. 54 of 2006 s. 31.]

Part VI Demerit points

Division 2 Incurring demerit points

s. 104D



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Part VI

	(b) under the law of another jurisdiction
	(i) the person is disqualified from holding or obtaining an Australian driver licence granted under the law of that jurisdiction; or
	(ii) an Australian driver licence granted to that person under the law of that jurisdiction is suspended.
	[Section 104D inserted by No. 54 of 2006 s. 31.]
104E.	Demerit point action after infringement notice, when to be taken
(1)	Demerit point action is to be taken against a person for whom this State is the demerit point registry jurisdiction if the Director General becomes aware that the person has been dealt with by infringement notice for an alleged offence under this Act or the law of another jurisdiction that is a demerit point offence.
(2)	Demerit point action is to be taken against a person for whom another jurisdiction is the demerit point registry jurisdiction if the Director General becomes aware that the person has been dealt with by infringement notice for an alleged offence under this Act that is a demerit point offence.
	[Section 104E inserted by No. 54 of 2006 s. 31.]
104F.	No demerit point action against body corporate
	Demerit point action can be taken only against an individual.
	[Section 104F inserted by No. 54 of 2006 s. 31.]
104G.	What demerit point action is to be taken
(1)	This section describes what is to happen if this Division requires that demerit point action be taken against a person for a demerit point offence.
200	

jurisdiction for the person, the Director General is to cause the

(2) Whether or not this State is the demerit point registry

Part VI Demerit points

Division 3 Consequences of demerit points

s. 104H

demerit point offence and the number of demerit points that apply to be recorded against that person in the demerit points register. If another jurisdiction is the demerit point registry jurisdiction for the person and the offence is a national demerit point offence, the Director General is to provide information about the offence to the Australian driver licensing authority for that

If the offence is an offence under this Act that is a national demerit point offence and it appears to the Director General that the person against whom demerit point action is required to be taken usually resides in a jurisdiction other than this State that is not the demerit point registry jurisdiction for the person, the Director General is to provide information about the offence to the Australian driver licensing authority for that jurisdiction as if it had sought the information under section 9.

jurisdiction as if it had sought that information under section 9.

This section does not prevent the Director General from providing information under section 9 in other circumstances.

[Section 104G inserted by No. 54 of 2006 s. 31; amended by No. 18 of 2011 s. 13.7

Division 3—Consequences of demerit points

[Heading inserted by No. 54 of 2006 s. 31.]

104H. Expiry of demerit points

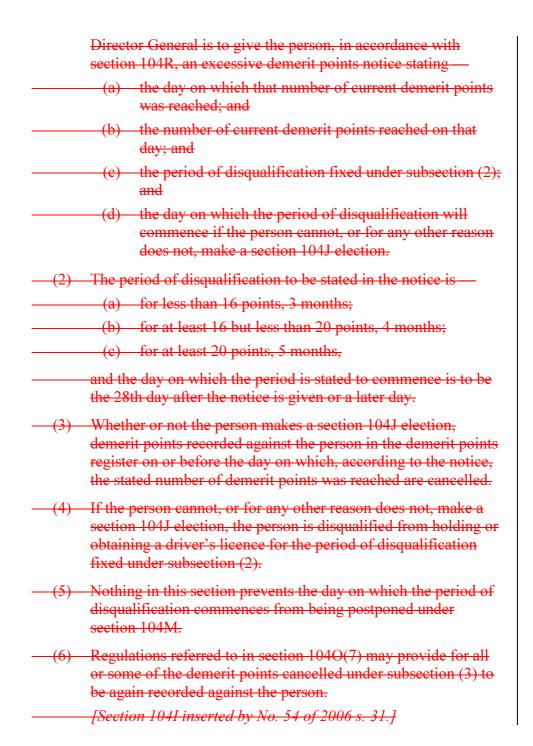
At the end of the period of 3 years after the day on which an offence was committed or allegedly committed, any demerit points applying to the offence expire.

[Section 104H inserted by No. 54 of 2006 s. 31.]

Excessive demerit points notice, issue of etc.

(1) If the number of current demerit points recorded against a person in the demerit points register reaches at least 12, the

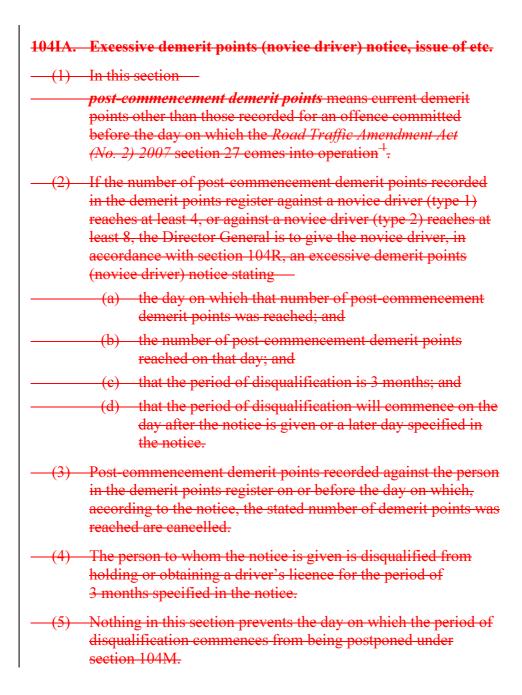
Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] Extract from www.slp.wa.gov.au, see that website for further information

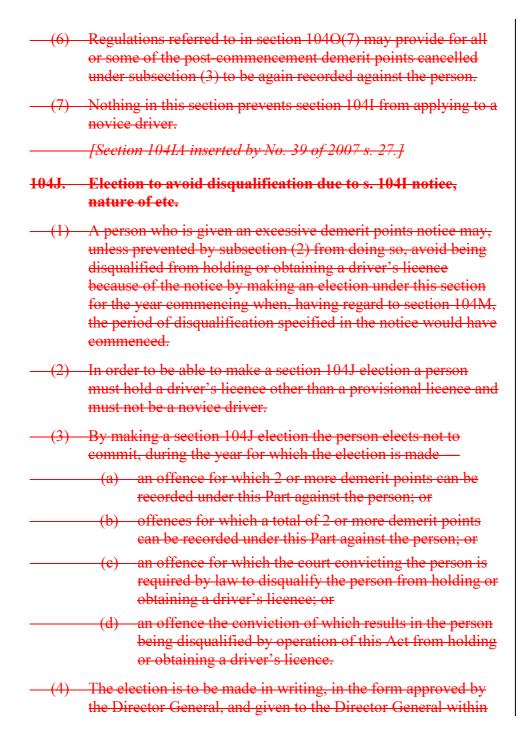


Part VI Demerit points

Division 3 Consequences of demerit points

s. 104IA

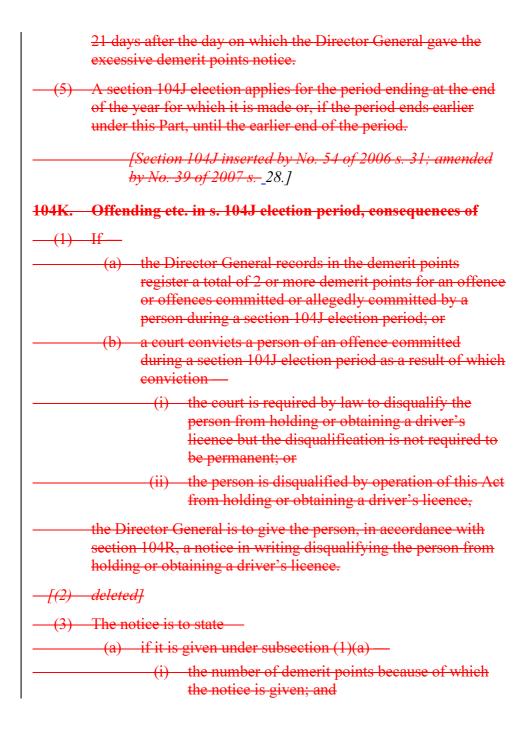


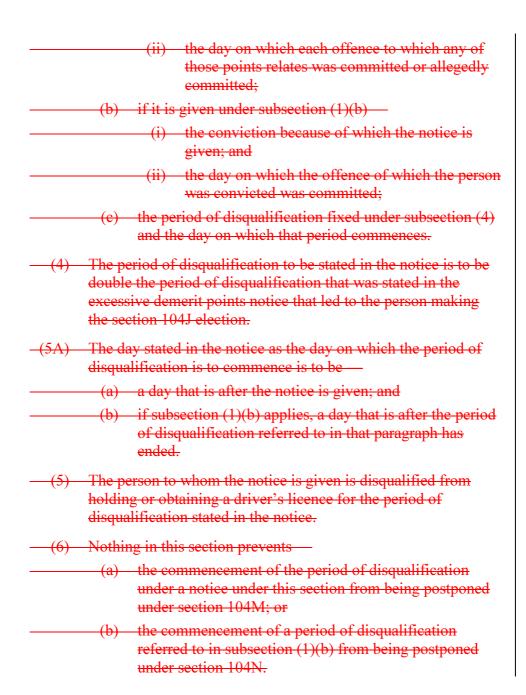


Part VI Demerit points

Division 3 Consequences of demerit points

s. 104K

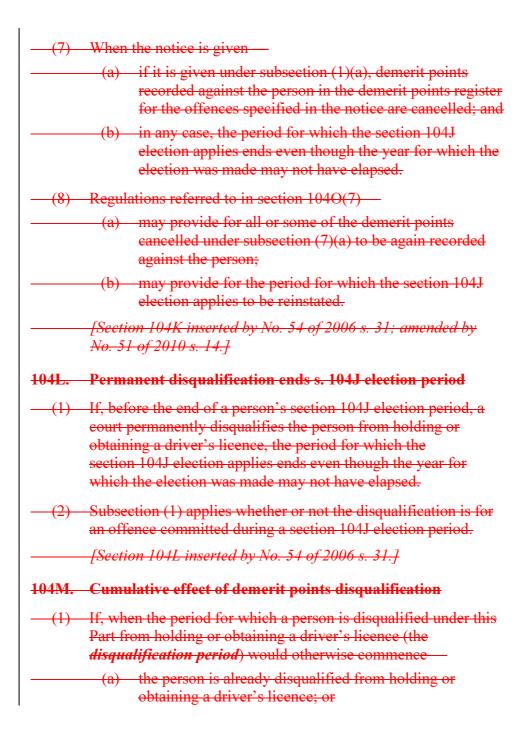


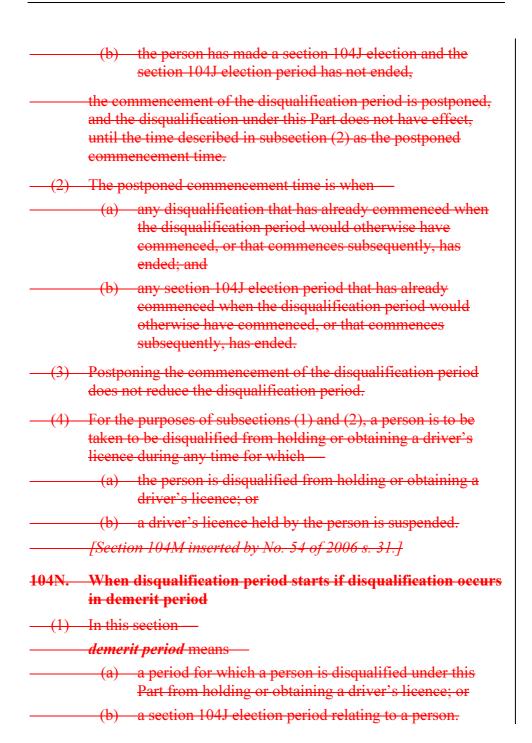


Part VI Demerit points

Division 3 Consequences of demerit points

s. 104L



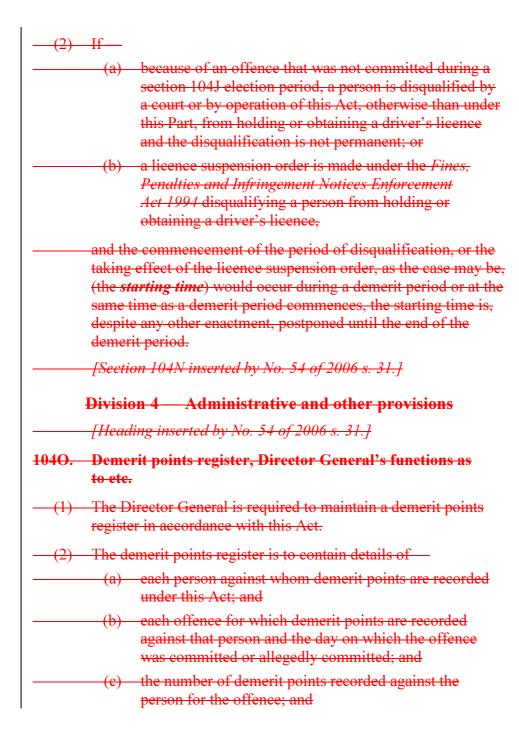


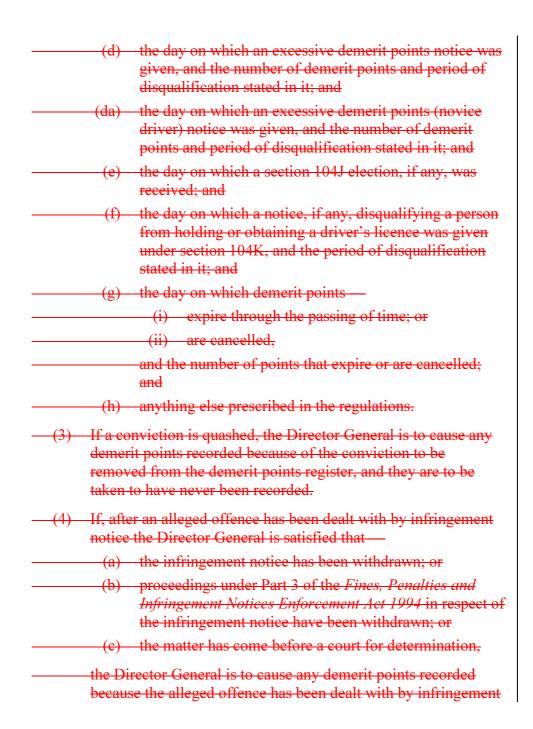
page 265 Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01]

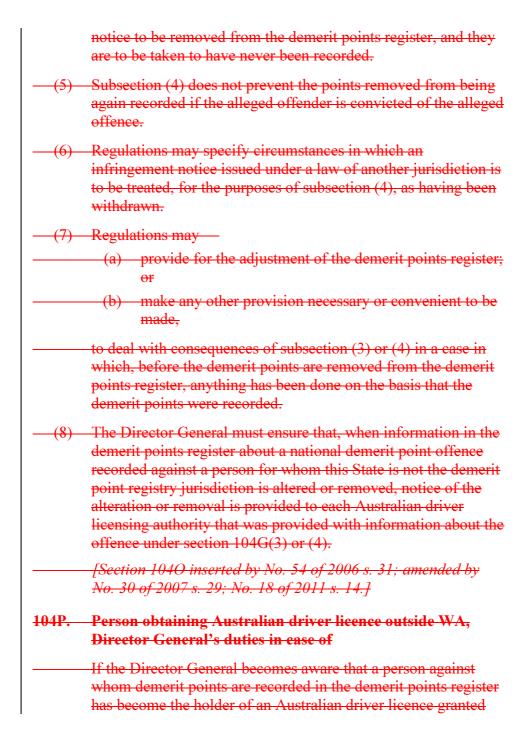
Division 4

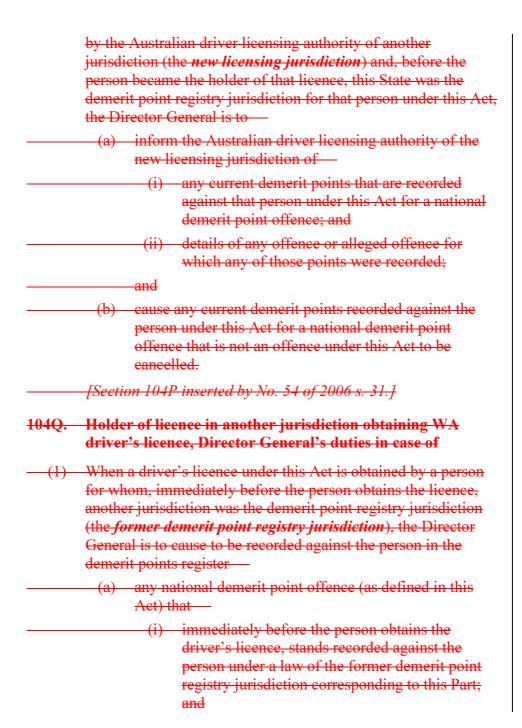
Administrative and other provisions

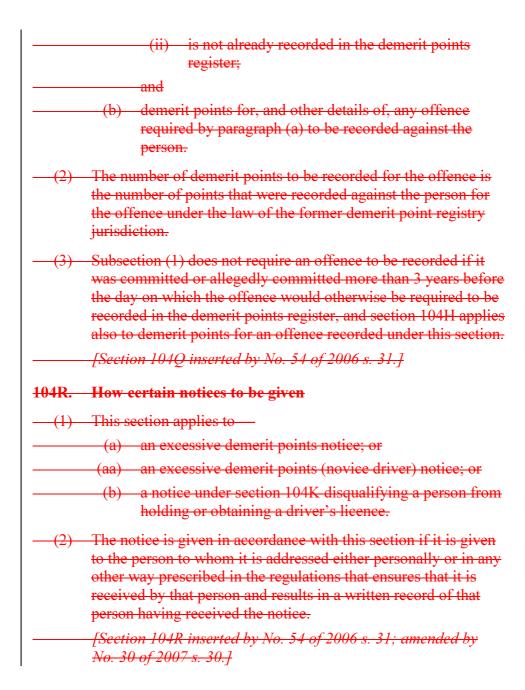
s. 1040

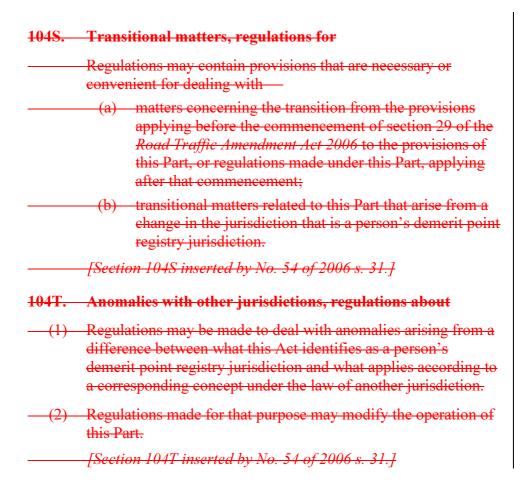












Part VII — Offences and penalties

- [104. Deleted by No. 54 of 2006 s. 32.]
- [105. Convictions over 20 years old to be disregarded

Where -

- (a) a person is convicted of an offence (in this section referred to as the *present offence*) against this Act; and
- (b) the penalty or penalties which may or shall be imposed for the present offence vary according to whether the person has been convicted previously of an offence against this Act,

any such previous offence the conviction for which was recorded more than 20 years before the commission of the present offence shall not be taken into account for the purposes of determining the penalty or penalties to be imposed for the present offence.

<u>[Section 105 amended Deleted</u> by No. <u>54</u> <u>8</u> of <u>20062012</u> s. <u>3329.</u>]

- 106. Sentencing for certain offences
- ([(1) In this section —

minimum fine means a pecuniary penalty provided for or in relation to an offence that is expressed to be a minimum penalty, whether by the use of the expression "minimum penalty" or "not less than" or another like expression.

- -), (2) Without limiting the Sentencing Act 1995, and despite any other written law, a minimum fine in this Act is irreducible in mitigation.deleted]
 - (3) A court sentencing a person who has been convicted of
 - (a) a first offence against section 63 or 67; or

- an offence against section 64 or 67A,
- may, instead of imposing a fine
 - order the release of the person and impose a community based order under Part 9 of the Sentencing Act 1995 with at least a community service requirement as a primary requirement of the order; or
 - if the offender is a young person under the Young (d) Offenders Act 1994, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least community work conditions on the offender.
- If a court sentencing a person who has been convicted of (4)
 - an offence against section 49 committed in the circumstances mentioned in section 49(3); or
 - a second or subsequent offence against section 63 or 67,
 - orders the release of the offender and imposes a community based order or an intensive supervision order under the Sentencing Act 1995, the court must impose at least a community service requirement as a primary requirement of the order.
- (5) If a court sentencing a person who has been convicted of
 - an offence against section 49 committed in the circumstances mentioned in section 49(3); or
 - (b) a second or subsequent offence against section 63 or 67,
 - orders the release of the offender and imposes a youth community based order or an intensive youth supervision order under the Young Offenders Act 1994, the court must impose community work conditions on the offender as part of the order.
- A court sentencing a person who has been convicted of an offence against section 64AB must order a pre-sentence report about the offender under the Sentencing Act 1995 Part 3 Division 3.

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- (7) A court sentencing a person who has been convicted of a first offence against section 64AB or 67AA must, instead of or in addition to imposing a fine
 - (a) order the release of the person and impose a community based order under the *Sentencing Act 1995* with at least a programme requirement as a primary requirement of the order; or
 - (b) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least attendance conditions on the offender.
- (8) A court sentencing a person who has been convicted of a second or subsequent offence against section 64AB or 67AA must, instead of or in addition to imposing a fine
 - (a) order the release of the person and impose a community based order under the *Sentencing Act 1995* with at least a supervision requirement and a programme requirement as primary requirements of the order; or
 - (b) order the release of the person and impose an intensive supervision order under the *Sentencing Act 1995* with at least a programme requirement as a primary requirement of the order; or
 - (c) if the offender is a young person under the *Young*Offenders Act 1994, subject to sections 50, 50A and 50B of that Act, make a youth community based order, or an intensive youth supervision order, under that Act imposing at least attendance conditions and supervision conditions on the offender.
- (9) Subsections (7) and (8) apply despite the *Sentencing Act 1995* section 39(3) and (4) and the *Young Offenders Act 1994* section 74.

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

(10)Subsection (8) does not apply if the court imposes a custodial sentence on the offender.

> [Section 106 inserted by No. 50 of 2003 s. 28; amended by No. 74 of 2003 s. 105(4); No. 54 of 2006 s. 34; No. 6 of 2007 s. 2121; No. 8 of 2012 s. 30.7

106A. **Mandatory disqualification**

- If this Act requires a court to disqualify an offender from (1) holding or obtaining a driver's licence
 - for a specific period provided in relation to the offence concerned (including permanent disqualification); or
 - for a period not less than a minimum period provided in (b) relation to the offence concerned; or
 - for a period not less than a minimum period, and not (c) more than a maximum period, provided in relation to the offence concerned,

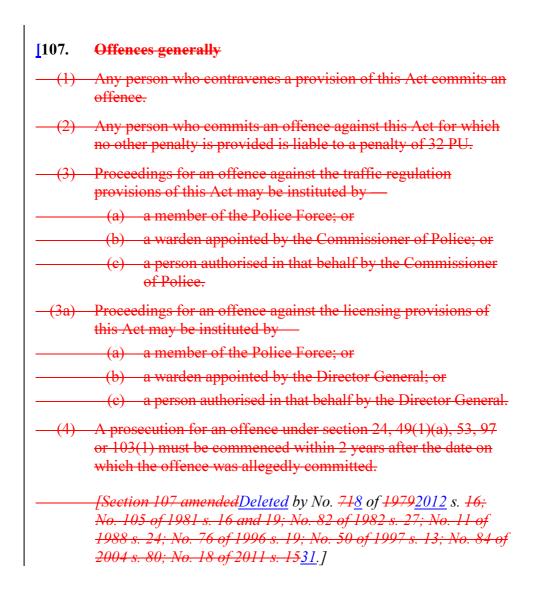
the requirement is irreducible in mitigation and, irrespective of any sentence the court imposes on the offender, the court must disqualify the offender —

- for that period; or
- for a period not less than that minimum period; or (e)
- (f) for a period not less than that minimum period and not more than that maximum period.
- (2) Subsection (1) has effect despite any other written law.
- Despite subsection (2), a period for which the court must, in accordance with subsection (1), disqualify an offender for an offence is to be reduced by any period during which the offender was disqualified by a disqualification notice given to the offender under section 71C in relation to the offence.

[Section 106A inserted by No. 50 of 2003 s. 28; amended by No. 51 of 2010 s. 15.7

page 275 Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01]

s. 106A



Part VIII — Transitional provisions

108. Savings as to Traffic Act 1919

Without affecting the application of the *Interpretation* Act 1918³, and particularly of sections 15 and 16 thereof, to the repeal and re-enactment by this Act of the provisions of the Traffic Act 1919, it is hereby declared that any regulation, by-law, order, vehicle licence, driver's licence, extraordinary driver's licence, permit or other document in force under any provision of the Traffic Act 1919 repealed by this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when it was made or done, and it is hereby further declared that any suspension, disqualification or cancellation of a driver's licence ordered or made by or under the Traffic Act 1919 or The Criminal Code shall continue and have effect as if it had been ordered or made by or under the provisions of this Act and as if this Act had been in force when it was ordered or made.

109-Traffic inspectors appointed under Traffic Act 1919 s. 22

Where any provision of this Act is proclaimed to come into operation prior to the date fixed under section 4 for the repeal of section 22 of the Traffic Act 1919, any reference in the first-mentioned provisions of this Act (other than section 13) to a member of the Police Force shall, until section 22 of the Traffic Act 1919 is repealed, be construed as including a reference to a traffic inspector or assistant inspector appointed under that section.

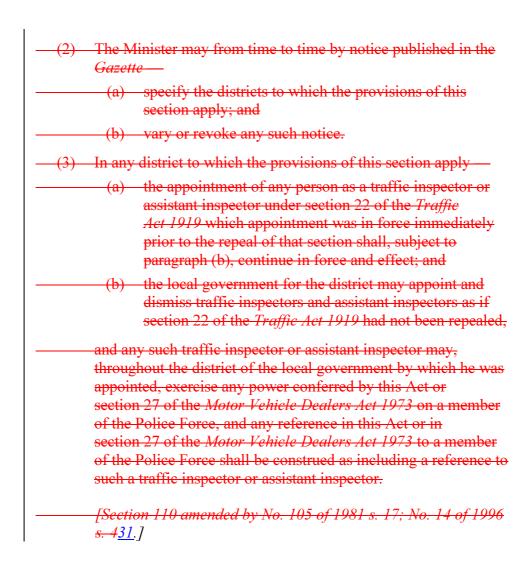
[Section 109 amended, 110. Deleted by No. 1058 of 1981 2012] s. 19.7

Traffic inspectors in certain districts

The provisions of this section apply to such distri time to time specified by notice under subsection (2).

page 277 Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01]

s. 110



Part IX — Regulations

111. Regulations etc.

- (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations
 - (a) empowering an authority therein named to
 - (i) prohibit, and to authorise and regulate, processions; or
 - (ii) restrict or prohibit the use of such roads, for such periods, as it may specify; or
 - (iii) erect, establish or display traffic or road signs and, road markings, traffic control signals and similar devices; or
 - (iiia) authorise any person or body or class of person or body to erect, establish or display traffic or road signs and, road markings, traffic control signals and similar devices, or any class or type thereof, in accordance with the instrument of authorisation;
 - (iv) seize, remove and detain obstructing or abandoned vehicles;
 - [(iv) deleted]
 - (aa) regulating or prohibiting stock on roads;
 - (b) relating to the duties, obligations, conduct and behaviour of owners, responsible persons, persons in charge,

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

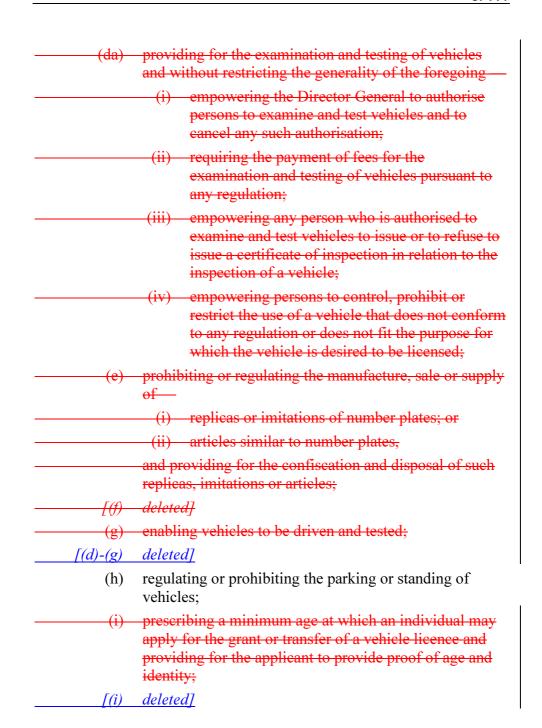
drivers and passengers of vehicles or of any class of vehicle;

- requiring the drivers and passengers of (c)
 - motor vehicles; and
 - 2-wheeled or 3-wheeled vehicles that are (ii) designed to be propelled through a mechanism operated solely by human power; and
 - 2-wheeled or 3-wheeled vehicles that are power (iii) assisted pedal cycles,

to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles:

1	and are items required to be fitted to the venicles,
	ribing standards or other requirements in respect of les, including standards or requirements relating
(i)	the design, construction, efficiency and performance of, and the equipment to be carried on, vehicles; and
——————————————————————————————————————	the attachment of operational or safety devices; and
(iii)	limits on the mass and dimensions of vehicles and their loads, the distribution of the mass over vehicle components, and how to measure the mass, dimensions or mass distribution; and
(iv)	roadworthiness; and
(v)	safety, emissions and noise; and
— (vi)	the coupling of trailers and motor vehicles; and
(vii)	the identification of vehicles or components of vehicles; and
(viii)	loading and unloading and securing of loads; and
(ix)	security of vehicles and the equipment to be fitted to vehicles for the purposes of security; and
(x)	the keeping and production of records;

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- prescribing matters for or in respect of which fees shall be charged or charges shall be made and prescribing the amounts of such fees or charges;
- imposing penalties not exceeding a fine of 64 PU for a (k) first offence, and not exceeding a fine of 96 PU for any subsequent offence, against any regulation made under this section, not being an offence referred to in paragraph (1) or (m);
- imposing for offences against regulations made pursuant to paragraph (d)(iii) or (viii) not being an offence referred to in paragraph (m)
 - minimum penalties not exceeding from 1 PU to 48 PU irreducible in mitigation notwithstanding the provisions of any other Act; and
 - maximum penalties not exceeding 120 PU. in accordance with a scale so prescribed according to the nature of the offences and the circumstances by which they are attended;
- requiring the driver or person in charge of a vehicle to comply with any reasonable direction given by a member of the Police Force
 - (i) for the purpose of determining the mass of a vehicle and the load carried thereon and on any component thereof including a direction that the vehicle be taken to a police station or other suitable place specified by the member of the Police Force: and
 - to remove or adjust the load carried by a vehicle, on any component of a vehicle or both by the vehicle and on any component thereof so that the load carried thereon does not exceed the maximum mass that is permitted to be carried under the regulations by a vehicle of that kind and on any component thereof,



- (iii) penalties not exceeding 24 PU for a first offence;
- (iv) for any subsequent offence a minimum penalty irreducible in mitigation, notwithstanding the provisions of any other Act, of 48 PU and maximum penalties not exceeding 144 PU for any subsequent offence;

[(l), (m) deleted]

- (n) defining the previous offences that shall be taken into account in determining whether an offence is a first or subsequent offence for the purpose of the regulations.
- (2a) The circumstances referred to in subsection (2)(l) may include a reference to the amount, calculated as a percentage or otherwise, by which the mass of a vehicle and the load carried by a component thereof exceeds the maximum mass that is permitted to be carried by a vehicle of that kind or a component thereof or both under regulations made pursuant to subsection (2)(d)(iii) or (viii).
- (2b) Regulations made pursuant to subsection (2)(d)(iii) or (viii) may provide that where a person drives, stands or uses a vehicle or permits a vehicle to be driven, stood or used, in contravention of a provision of those regulations, a responsible person for that vehicle shall be deemed to have also contravened that provision.

[(2a), (2b)] deleted

- (2c) The regulations may make it an offence to contravene a condition imposed by or under the regulations, but this subsection does not limit the other consequences that the regulations may attach to a contravention.
- (3) The regulations may in respect of any fee or charge (whether prescribed by the Act or by the regulations) provide for —

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

- exemptions from the requirement to pay the fee or (a) charge; or
- (b) the fee or charge to be reduced or refunded (in whole or in part); or
- the payment of the fee or charge to be deferred. (c)
- (4) The regulations may provide that the exemption, reduction, refund or deferral
 - only applies in specified circumstances or in respect of (a) specified classes of persons or vehicles; or
 - is at the discretion of the Director General CEO or a (b) specified person; or
 - applies subject to specified requirements being satisfied; (c)
 - applies subject to conditions (d)
 - (i) specified in the regulations; or
 - imposed by the Director General CEO or a (ii) specified person and specified in a licence or permit.
- (5) Without limiting subsection (4)(c), the regulations may require a matter to be verified by statutory declaration.

[Section 111 amended by No. 17 of 1976 s. 4; No. 89 of 1978 s. 19; No. 71 of 1979 s. 17; No. 81 of 1980 s. 10; No. 71 of 1981 s. 6; No. 105 of 1981 s. 18 and 19; No. 82 of 1982 s. 28; No. 95 of 1984 s. 8; No. 11 of 1988 s. 17 and 24; No. 46 of 1991 s. 3; No. 92 of 1994 s. 40; No. 21 of 1995 s. 12; No. 76 of 1996 s. 20(3); No. 50 of 1997 s. 13; No. 57 of 1997 s. 106(3); No. 52 of 1998 s. 5; No. 39 of 2000 s. 46; No. 27 of 2001 s. 5; No. 28 of 2001 s. 23(1); No. 39 of 2007 s. 40; No.-8 of 2012 s. 32 and 36; No. 10 of 2015 s.- 5.7

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[111AA. Application of certain regulations, Minister may extend to specified public areas

- (1) The Minister may declare that a regulation specified in the declaration applies to a specified area of the State that is open to or used by the public.
- (2) A declaration has effect for the period specified in it unless it is sooner revoked.

FSection 111AA inserted Deleted by No. 548 of 2006 2012 s. 35(1).]33.]

111AB. Exemption from specified regulations, regulations may allow grant of

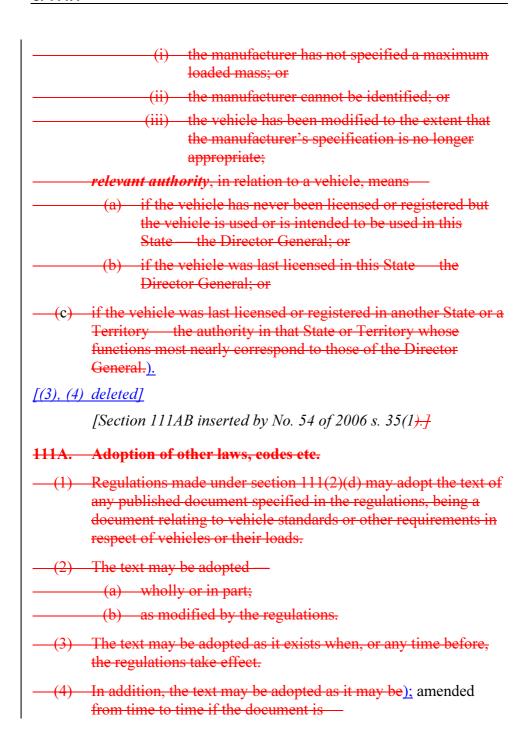
- The regulations may provide for the Minister to declare, in (1) writing in accordance with the regulations, that a specified requirement of the regulations does not apply to a specified person or vehicle.
- The regulations may provide for the Director General CEO to (2) grant exemptions from regulations made under section $111(2)(\frac{d}{d})$.
- The regulations may provide for the Commissioner of Main Roads
 - (a) to grant exemptions in respect of vehicles with a gross vehicle mass exceeding 4.5 tonnes from regulations made under section 111(2)(d)(iiiaa) or (viii); and
- to delegate to an officer of the Commissioner or a police officer the power to grant those exemptions.
- In this section

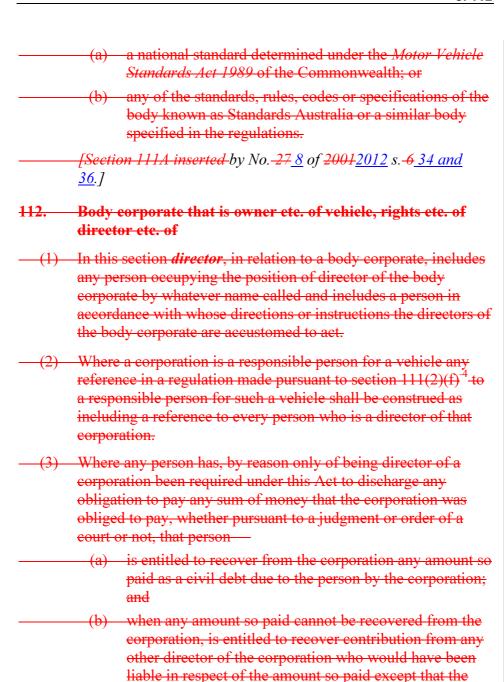
gross vehicle mass means the maximum loaded mass of a vehicle—

- (a) as specified by the manufacturer; or
- (b) as specified by the relevant authority if

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s. 111A





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amount which may be recovered by a director from any other director shall not exceed that proportion of the

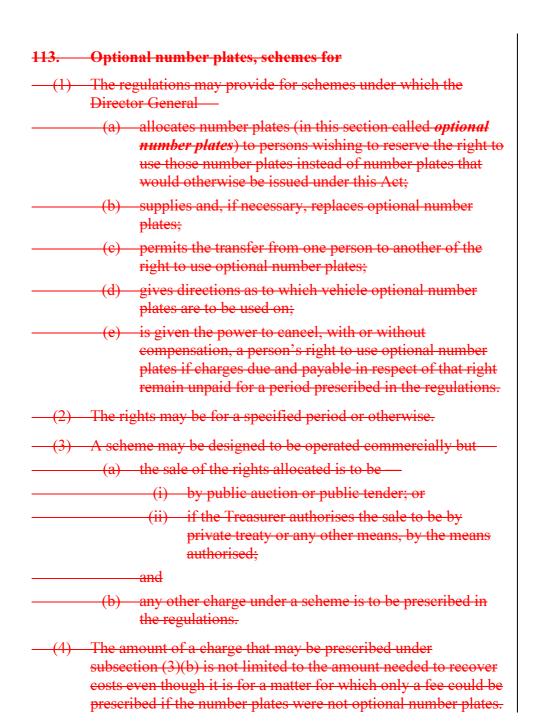
total amount that he has paid as one bears to the total number of directors of that corporation.

(4) Where pursuant to the provisions of subsection (2) more than one director is liable as a responsible person for a vehicle, any obligation imposed upon a responsible person by or under this section shall be deemed to have been discharged, if the obligation is performed by any one of those directors.

[(5), (6) deleted]

(7) Nothing in this section affects the liability of a corporation that is a responsible person for a vehicle to pay any amount to the Director General in accordance with any of the provisions of this Act.

[Section 112 inserted by No. 89 of 1978 s. 20; amended by No. 105 of 1981 s. 19; No. 10 of 1982 s. 28; No. 95 of 1984 s. 9; No. 76 of 1996 s. 20(3); No. 39 of 2000 s. 47.]



The regulations may deal with matters that it is necessary or convenient to deal with for the purposes of, or in connection with, schemes relating to optional number plates.

[Section 113 inserted by No. 6 of 2004 s. 5[111A-113. Deleted by No. 8 of 2012 s. 35.]

[First and Second Schedule deleted by No. 28 of 2001 s. 22.]

Notes

This is a compilation of the *Road Traffic Act 1974* and includes the amendments made by the other written laws referred to in the following table ^{1M, 1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
Road Traffic Act 1974	59 of 1974	3 Dec 1974	s. 4: 3 Dec 1974 (see s. 2(2)); s. 6-10 and 12: 21 Feb 1975 (see s. 2(1) and <i>Gazette</i> 21 Feb 1975 p. 633); Act other than s. 4, 6-10 and 12: 1 Jun 1975 (see s. 2(1) and <i>Gazette</i> 29 May 1975 p. 1442)
Road Traffic Act Amendment Act 1975	77 of 1975	14 Nov 1975	1 Jul 1976 (see s. 2 and <i>Gazette</i> 12 Dec 1975 p. 4481)
Road Traffic Act Amendment Act (No. 2) 1975	93 of 1975	20 Nov 1975	20 Feb 1976 (see s. 2 and <i>Gazette</i> 20 Feb 1976 p. 445)
Road Traffic Act Amendment Act 1976	17 of 1976	3 Jun 1976	21 Aug 1976 (see s. 2 and <i>Gazette</i> 6 Aug 1976 p. 2658)
Road Traffic Act Amendment Act (No. 2) 1976	48 of 1976	10 Sep 1976	Act other than s. 3 and 4(a)-(f) and (h): 10 Sep 1976 (see s. 2(1)); s. 3 and 4(a)-(f) and (h): 1 Jun 1977 (see s. 2(2) and Gazette 20 May 1977 p. 1490)
Road Traffic Act Amendment Act (No. 3) 1976	135 of 1976	9 Dec 1976	9 Dec 1976
Road Traffic Act Amendment Act 1977	4 of 1977	29 Aug 1977	29 Aug 1977
Road Traffic Act Amendment Act 1978 ⁵	89 of 1978 (as amended by No. 82 of 1982 s. 30 and 31)	8 Nov 1978	Act other than s. 16(a), (b) and (c), 18 and 23: 25 May 1979 (see s. 2 and <i>Gazette</i> 25 May 1979 p. 1377); s. 18: 1 Jan 1980 (see s. 2 and <i>Gazette</i> 7 Dec 1979 p. 3770)
Acts Amendment and Repeal (Road Maintenance) Act 1979 Pt. II	9 of 1979	18 May 1979	1 Jul 1979 (see s. 2(2))

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

Short title	Number	Assent	Commencement
Short title	and year	Assent	Commencement
Road Traffic Act Amendment Act 1979	10 of 1979	18 May 1979	18 May 1979
Road Traffic Act Amendment Act (No. 2) 1979	71 of 1979	27 Nov 1979	Act other than s. 4, 5, 8-11, 13, 14 and 18: 27 Nov 1979 (see s. 2(1)); s. 8-11, 13, 14 and 18: 1 Feb 1980 (see s. 2(2) and Gazette 1 Feb 1980 p. 284); s. 4: 15 Feb 1980 (see s. 2(2) and Gazette 15 Feb 1980 p. 456); s. 5: 2 May 1980 (see s. 2(2) and Gazette 2 May 1980 p. 1405)
Untitled regulations published p. 1671-2	ed in <i>Gazette</i> 6	Jun 1980	6 Jun 1980
Reprint of the Road Traffic above)	: Act 1974 app	roved 22 Jul 1	980 (includes amendments listed
Road Traffic Amendment Act 1980	42 of 1980	12 Nov 1980	Act other than s. 3-6, 8, 9(a) and 10: 12 Nov 1980 (see s. 2(1)); s. 3-6, 8, 9(a) and 10: 1 Jan 1981 (see s. 2(2))
Acts Amendment (Motor Vehicle Pools) Act 1980 Pt. II	48 of 1980	19 Nov 1980	19 Nov 1980
Road Traffic Amendment Act (No. 2) 1980 ⁶	81 of 1980	5 Dec 1980	5 Dec 1980
Road Traffic (Fees for Vehic Regulations 1981 published p. 1611-18		May 1981	29 May 1981
Road Traffic Amendment Act 1981	39 of 1981	25 Aug 1981	25 Aug 1981
Road Traffic Amendment Act (No. 2) 1981	71 of 1981	30 Oct 1981	1 Aug 1982 (see s. 2 and <i>Gazette</i> 23 Jul 1982 p. 2842)
Road Traffic Amendment Act (No. 4) 1981	105 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2 and <i>Gazette</i> 2 Feb 1982 p. 393)
Companies (Consequential Amendments) Act 1982 s. 28	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079)

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Short title	Number and year	Assent	Commencement
Acts Amendment (Motor Vehicle Fees) Act 1982 Pt. III	25 of 1982	27 May 1982	1 Jul 1982 (see s. 2)
Road Traffic (Fees for Vehi Regulations 1982 published p. 1728-34		May 1982	28 May 1982
Road Traffic Amendment Act 1982	60 of 1982	24 Sep 1982	Act other than s. 3 and 6(a): 1 Oct 1982 (see s. 2 and <i>Gazette</i> 1 Oct 1982 p. 3885); s. 3 and 6(a): 1 Nov 1982 (see s. 2 and <i>Gazette</i> 1 Oct 1982 p. 3885)
Road Traffic Amendment Act (No. 2) 1982 ⁷	82 of 1982	11 Nov 1982	Act other than s. 5, 7, 9, 11-14, 15(d), (e), (g), (j), (l) and (n), 16, 17, 18(a)(ii), (b), (d) and (e), 19, 20(a)-(c) and (e), 21(1), 25 and 26: 11 Nov 1982 (see s. 2(1)); s. 5, 7, 9, 11-13, 14(b), 15(d), 16, 20(a)-(c) and (e), 21(1), 25 and 26: 9 Dec 1982 (see s. 2(2)); s. 14(a), 15(e), (g), (j), (l), and (n), 17, 18(a)(ii), (b), (d) and (e) and 19: 1 Mar 1983 (see s. 2(3) and <i>Gazette</i> 25 Feb 1983 p. 638)
Road Traffic (Fees for Vehi Regulations 1983 published p. 1525-32		May 1983	20 May 1983
Reprint of the <i>Road Traffi</i> above)	<i>c Act 1974</i> app	roved 9 Jul 19	83 (includes amendments listed
Road Traffic (Fees for Vehicle Licences) Regulations 1984 published in Gazette 28 Jun 1984 p. 1741-51			28 Jun 1984
Road Traffic Amendment Act 1984	95 of 1984	7 Dec 1984	4 Jan 1985
Acts Amendment and Repeal (Credit) Act 1984 Pt. VII	102 of 1984	19 Dec 1984	31 Mar 1985 (see s. 2 and <i>Gazette</i> 8 Mar 1985 p. 867)

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Short title	Number and year	Assent	Commencement
Acts Amendment and Repeal (Transport Co-ordination) Act 1985 Pt. VI	54 of 1985	28 Oct 1985	1 Jan 1986 (see s. 2 and <i>Gazette</i> 20 Dec 1985 p. 4822)
Road Traffic Amendment Act 1985	89 of 1985	4 Dec 1985	4 Dec 1985 (see s. 2)
Road Traffic (Fees for Vehic Regulations 1986 published p. 1769-75 (erratum 13 Jun	in Gazette 30 N	May 1986	30 May 1986
Road Traffic Amendment Act (No. 2) 1986	78 of 1986	4 Dec 1986	4 Dec 1986 (see s. 2)
Road Traffic (Fees for Vehic Regulations 1987 published p. 2263-73		May 1987	29 May 1987
Road Traffic Amendment Act (No. 2) 1987 ^{8,9}	121 of 1987 (as amended by No. 84 of 2004 s. 80 cl. 123 and No. 8 of 2009 s. 112)	24 Dec 1987	s. 1 and 2: 24 Dec 1987; s. 3-6 and 8-10: 24 Dec 1987 (see s. 2 and <i>Gazette</i> 24 Dec 1987 p. 4561); s. 7: 1 Oct 1988 (see s. 2 and <i>Gazette</i> 30 Sep 1988 p. 3967); s. 11(a): 21 Dec 1990 (see s. 2 and <i>Gazette</i> 21 Dec 1990 p. 6212)
Road Traffic Amendment Act 1988 ¹⁰	11 of 1988	6 Sep 1988	s. 1 and 2: 6 Sep 1988; s. 3, 20, 21 and 23: 28 Oct 1988 (see s. 2 and <i>Gazette</i> 28 Oct 1988 p. 4274); s. 8(a) and (b): 4 Nov 1988 (see s. 2 and <i>Gazette</i> 4 Nov 1988 p. 4365); s. 4-7, 9-17, 19, 22 and 24: 16 Nov 1988 (see s. 2 and <i>Gazette</i> 16 Nov 1988 p. 4517); s. 8(c) and 18 (other than paragraph (b)): 21 Jul 1989 (see s. 2 and <i>Gazette</i> 21 Jul 1989 p. 2212); s. 18(b): 19 Sep 1989 (see s. 2 and <i>Gazette</i> 21 Jul 1989 p. 2212);

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Short title	Number and year	Assent	Commencement
Road Traffic Amendment (Random Breath Tests) Act 1988 ¹¹	16 of 1988 (as amended by No. 46 of 1989 s. 4; No. 76 of 1996 s. 41 and No. 39 of 2000 s. 67)	9 Sep 1988	s. 1 and 2: 9 Sep 1988; Act other than s. 1, 2 and 5: 1 Oct 1988 (see s. 2 and <i>Gazette</i> 30 Sep 1988 p. 3967)
Road Traffic Amendment Act (No. 3) 1988	32 of 1988	24 Nov 1988	s. 1 and 2: 24 Nov 1988; Act other than s. 1 and 2: 21 Jul 1989 (see s. 3 and <i>Gazette</i> 21 Jul 1989 p. 2212)
Road Traffic Amendment Act (No. 2) 1988	57 of 1988	8 Dec 1988	s. 1 and 2: 8 Dec 1988; Act other than s. 1 and 2: 1 Feb 1989 (see s. 2 and <i>Gazette</i> 23 Dec 1988 p. 4937)
Acts Amendment (Events on Roads) Act 1988 Pt. 2	64 of 1988	8 Dec 1988	1 Feb 1991 (see s. 2 and <i>Gazette</i> 1 Feb 1991 p. 511)
Acts Amendment (Children's Court) Act 1988 Pt. 7	49 of 1988	22 Dec 1988	1 Dec 1989 (see s. 2 and <i>Gazette</i> 24 Nov 1989 p. 4327)
Road Traffic (Fees for Vehic. Regulations 1989 published i p. 2695-704		Aug 1989	11 Aug 1989
Road Traffic (Fees for Vehic. (No. 2) 1989 published in Ga			22 Sep 1989
Road Traffic (Fees for Vehicle Licences) Regulations (No. 3) 1989 published in Gazette 17 Nov 1989 p. 4161-5 (erratum 8 Dec 1989 p. 4463)			17 Nov 1989
Acts Amendment (Chemistry Centre (WA)) Act 1990 Pt. 3 12	19 of 1990	24 Jul 1990	9 Aug 1991 (see s. 2 and <i>Gazette</i> 9 Aug 1991 p. 4101)
Road Traffic (Fees for Vehicle Licences) Regulations 1990 published in Gazette 29 Aug 1990 p. 4383-90 (erratum 7 Dec 1990 p. 6051)			29 Aug 1990
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1990 published in Gazette 23 Nov 1990 p. 5850-1			23 Nov 1990

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Short title	Number and year	Assent	Commencement
Road Traffic Amendment Act (No. 3) 1990	60 of 1990	17 Dec 1990	s. 1 and 2: 17 Dec 1990; Act other than s. 1 and 2: 21 Dec 1990 (see s. 2 and Gazette 21 Dec 1990 p. 6212)
Reprint of the Road Traffic except those in the Acts Ame			includes amendments listed above (A)) Act 1990)
Road Traffic (Fees for Vehic Regulations 1991 published p. 4417-22		Aug 1991	23 Aug 1991
Road Traffic (Fees for Vehic (No. 2) 1991 published in G			22 Nov 1991
Criminal Law Amendment Act 1991 s. 6(2) and 21 13	37 of 1991	12 Dec 1991	s. 6(2): 12 Dec 1991 (see s. 2(1)); s. 21: 10 Feb 1992 (see s. 2(2) and <i>Gazette</i> 31 Jan 1992 p. 477)
Road Traffic (Bicycle Helmets) Amendment Act 1991	46 of 1991	17 Dec 1991	17 Dec 1991 (see s. 2)
Road Traffic Amendment (Power Assisted Pedal Cycles) Act 1991	50 of 1991	17 Dec 1991	s. 1 and 2: 17 Dec 1991; Act other than s. 1 and 2: 24 Dec 1991 (see s. 2 and <i>Gazette</i> 24 Dec 1991 p. 6395)
Criminal Law Amendment Act 1992 Pt. 3	1 of 1992	7 Feb 1992	9 Mar 1992 (see s. 2)
Road Traffic Amendment Act 1992	13 of 1992	16 Jun 1992	16 Jun 1993 (see s. 2)
Road Traffic (Fees for Vehic Regulations 1992 published p. 4162-6		Aug 1992	21 Aug 1992
Road Traffic (Fees for Vehic (No. 2) 1992 published in G			13 Nov 1992
Financial Administration Legislation Amendment Act 1993 s. 6 and 11	6 of 1993	27 Aug 1993	s. 11: 1 Jul 1993 (see s. 2(1)); s. 6: 27 Aug 1993 (see s. 2(2))
Acts Amendment (Vehicles on Roads) Act 1994 Pt. 3	13 of 1994	15 Apr 1994	17 May 1994 (see s. 2 and <i>Gazette</i> 17 May 1994 p. 2065)
Taxi Act 1994 s. 48	83 of 1994	20 Dec 1994	10 Jan 1995 (see s. 2 and <i>Gazette</i> 10 Jan 1995 p. 73)

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Short title	Number and year	Assent	Commencement
Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994 Pt. 19	92 of 1994	23 Dec 1994	1 Jan 1995 (see s. 2(1) and <i>Gazette</i> 30 Dec 1994 p. 7211)
Reprint of the <i>Road Traffic</i> above)	<i>c Act 1974</i> as a	t 1 Jun 1995 (i	includes amendments listed
Road Traffic Amendment Act 1995	21 of 1995	13 Jul 1995	s. 1 and 2: 13 Jul 1995; Act other than s. 1 and 2: 25 Nov 1995 (see s. 2 and <i>Gazette</i> 24 Nov 1995 p. 5390)
Acts Amendment (Vehicle Licences) Act 1995 Pt. 2	57 of 1995	20 Dec 1995	20 Dec 1995 (see s. 2)
Sentencing (Consequential Provisions) Act 1995 Pt. 71 and s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
Road Traffic (Fees for Vehic Regulations 1996 published p. 2181-9		May 1996	24 May 1996
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Consumer Credit (Western Australia) Act 1996 s. 13	30 of 1996	10 Sep 1996	1 Nov 1996 (see s. 2)
Road Traffic Amendment (Measuring Equipment) Act 1996	37 of 1996	27 Sep 1996	27 Sep 1996 (see s. 2)
Financial Legislation Amendment Act 1996 s. 27(3) and 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2)
Road Traffic Amendment Act 1996 ^{14, 15}	76 of 1996 (as amended by No. 49 of 1996 s. 27(4); No. 54 of 2006 s. 43(2))	14 Nov 1996	s. 1 and 2: 14 Nov 1996; Act other than s. 1, 2 and 8(3): 1 Feb 1997 (see s. 2 and <i>Gazette</i> 31 Jan 1997 p. 613)
Road Traffic (Fees for Vehic (No. 2) 1996 published in Go p. 7014-15		17 Dec 1996	

Short title	Number and year	Assent	Commencement
Reprint of the <i>Road Traffic</i> above)	(includes amendments listed		
Road Traffic (Fees for Vehic Regulations 1997 published p. 2344-9		May 1997	13 May 1997
Road Traffic Amendment Act 1997 ¹⁶	50 of 1997	12 Dec 1997	s. 1 and 2: 12 Dec 1997; Act other than s. 1 and 2: 1 Jan 1998 (see s. 2 and <i>Gazette</i> 23 Dec 1997 p. 7400)
Statutes (Repeals and Minor Amendments) Act 1997 s. 106	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Road Traffic (Fees for Vehic Regulations 1998 published p. 2799-800		May 1998	15 May 1998 (see r. 2)
Road Traffic (Fees for Vehic (No. 2) 1998 published in G			3 Jul 1998 (see r. 2)
Road Traffic Amendment Act 1998	52 of 1998	7 Dec 1998	7 Dec 1998 (see s. 2)
Perth Parking Management (Consequential Provisions) Act 1999 s. 7(4)	16 of 1999	19 May 1999	7 Aug 1999 (see s. 2 and <i>Gazette</i> 6 Aug 1999 p. 3727)
Road Traffic (Fees for Vehicle Licences) Regulations 1999 published in Gazette 25 May 1999 p. 2070-1			25 May 1999 (see r. 2)
Revenue Laws Amendment (Assessment) Act 1999 Pt. 3	24 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(3))
Reprint of the <i>Road Traffic</i> above)	c Act 1974 as a	nt 17 Sep 1999	(includes amendments listed
School Education Act 1999 s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
Acts Amendment (Police Immunity) Act 1999 s. 9	42 of 1999	25 Nov 1999	25 Nov 1999 (see s. 2)
Road Traffic (Fees for Vehic Regulations 2000 published p. 2421-3		May 2000	31 May 2000 (see r. 2 and <i>Gazette</i> 17 May 2000 p. 2426)
Statutes (Repeals and Minor Amendments) Act 2000 s. 39 and 55	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)

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Short title	Number and year	Assent	Commencement
Road Traffic Amendment Act 2000 Pt. 2 17-20	39 of 2000 (as amended by No. 5 of 2002 s. 15; No. 45 of 2002 s. 28(2); No. 84 of 2004 s. 80 (cl. 124))	10 Oct 2000	s. 3, 17(1), 34-37 and 47(3): 30 Jan 2001 (see s. 2 and Gazette 30 Jan 2001 p. 615); s. 18, 23, 24, 27, 29 and 48 and Sch. 1 (except cl. 3 and 5): 5 Feb 2001 (see s. 2 and Gazette 30 Jan 2001 p. 615); s. 19-22, 25, 26, 28 and 45 and Sch. 1 cl. 3 and 5: 7 May 2001 (see s. 2 and Gazette 23 Mar 2001 p. 1665); Proclamation of 9 Feb 2001 p. 767 revoked (see Gazette 23 Mar 2001 p. 1665); s. 6 deleted by No. 5 of 2002 s. 15; s. 4, 5, 7-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4): 1 Jan 2006 (see s. 2 and Gazette 23 Dec 2005 p. 6244-5)
Acts Amendment (Fines Enforcement and Licence Suspension) Act 2000 Pt. 3	51 of 2000	28 Nov 2000	5 Feb 2001 (see s. 2 and <i>Gazette</i> 30 Jan 2001 p. 615)
Road Traffic (Fees for Vehic Regulations 2001 published p. 3247		un 2001	29 Jun 2001 (see r. 2)
Road Traffic (Fees for Vehic (No. 2) 2001 published in G			14 Aug 2001 (see r. 2)
		(includes amendments listed 00 s. 4-16, 17(2), 30-33, 38-44,	
Road Traffic Amendment Act 2001	27 of 2001	21 Dec 2001	s. 1 and 2: 21 Dec 2001; Act other than s. 1 and 2: 10 Aug 2002 (see s. 2 and Gazette 9 Aug 2002 p. 3853-4)
Road Traffic Amendment (Vehicle Licensing) Act 2001 Pt. 2	28 of 2001 (as amended by No. 45 of 2002 s. 29(2))	21 Dec 2001	4 Dec 2006 (see s. 2 and <i>Gazette</i> 28 Nov 2006 p. 4889)

Short title	Number and year	Assent	Commencement
Road Traffic (Fees for Vehic Regulations 2002 published p. 2558-60		May 2002	17 May 2002 (see r. 2)
Motor Vehicle Dealers Amendment Act 2002 s. 72	4 of 2002	4 Jun 2002	1 Sep 2002 (see s. 2 and <i>Gazette</i> 13 Aug 2002 p. 4151)
Road Safety Council Act 2002 s. 15	5 of 2002	4 Jun 2002	1 Jul 2002 (see s. 2(1) and <i>Gazette</i> 1 Jul 2002 p. 3205)
Machinery of Government (Planning and Infrastructure) Amendment Act 2002 Pt. 7 ²¹	7 of 2002	19 Jun 2002	1 Jul 2002 (see s. 2 and <i>Gazette</i> 28 Jun 2002 p. 3037)
Taxation Administration (Consequential Provisions) Act 2002 s. 27 ²²	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2(1) and (2) and <i>Gazette</i> 27 Jun 2003 p. 2383)
Nurses Amendment Act 2003 Pt. 3 Div. 7	9 of 2003	9 Apr 2003	9 Apr 2003 (see s. 2)
Road Traffic (Fees for Vehic Regulations 2003 published p. 1804-6		May 2003	31 May 2003 (see r. 2)
Sentencing Legislation Amendment and Repeal Act 2003 Pt. 3 and s. 92	50 of 2003	9 Jul 2003	Pt. 3: 30 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Aug 2003 p. 3833); s. 92: 15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
Statutes (Repeals and Minor Amendments) Act 2003 s. 105 ²³	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Criminal Code Amendment Act 2004 s. 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
Road Traffic (Fees for Vehic Regulations 2004 published p. 1843-5		May 2004	31 May 2004 (see r. 2)
Road Traffic Amendment Act 2004	6 of 2004	10 Jun 2004	10 Jun 2004 (see s. 2)
Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004	10 of 2004	23 Jun 2004	s. 1 and 2: 23 Jun 2004; Act other than s. 1 and 2: 4 Sep 2004 (see s. 2 and <i>Gazette</i> 3 Sep 2004 p. 3849)

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Short title	Number and year	Assent	Commencement		
Reprint 8: The Road Traffic Act 1974 as at 16 Jul 2004 (includes amendments listed above except those in the Road Traffic Amendment Act 2000 s. 4, 5, 7-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4), Road Traffic Amendment (Vehicle Licensing) Act 2001 and the Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004)					
Road Traffic Amendment (Dangerous Driving) Act 2004 ²⁴	44 of 2004	9 Nov 2004	s. 1 and 2: 9 Nov 2004; Act other than s. 1 and 2: 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7132)		
Courts Legislation Amendment and Repeal Act 2004 s. 141 ²⁵	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)		
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 115 ²⁶	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)		
Criminal Law Amendment (Simple Offences) Act 2004 s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)		
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and Gazette 31 Dec 2004 p. 7129 (correction in Gazette 7 Jan 2005 p. 53))		
Road Traffic (Fees for Vehic (No. 2) 2004 published in G			1 Feb 2005 (see r. 2)		
Road Traffic (Fees for Vehicle Licences) Regulations 2005 published in Gazette 27 May 2005 p. 2306-8 31 May 2005 (see r. 2)					
Reprint 9: The <i>Road Traffic Act 1974</i> as at 10 Mar 2006 (includes amendments listed above except those in the <i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i>)					
Road Traffic (Fees for Vehic Regulations 2006 published p. 1885-8		May 2006	31 May 2006 (see r. 2)		
Nurses and Midwives Act 2006 Sch. 3 cl. 20	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and <i>Gazette</i> 18 Sep 2007 p. 4711)		

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Short title	Number and year	Assent	Commencement
Road Traffic Amendment Act 2006 Pt. 2 (s. 3-35) ²⁷⁻²⁹	54 of 2006	26 Oct 2006	s. 27: 7 Jul 2007 (see s. 2 and Gazette 6 Jul 2007 p. 3385); s. 19: 11 Oct 2007 (see s. 2 and Gazette 11 Oct 2007 p. 5475); Pt. 2 (other than s. 19 and 27): 30 Jun 2008 (see s. 2 and Gazette 10 Jun 2008 p. 2471)
Financial Legislation Amendment and Repeal Act 2006 s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
Road Traffic Amendment Act 2007	4 of 2007	11 Apr 2007	s. 1 and 2: 11 Apr 2007; Act other than s. 1 and 2: 1 May 2007 (see s. 2 and Gazette 27 Apr 2007 p. 1831)
Road Traffic Amendment (Drugs) Act 2007 Pt. 2	6 of 2007	23 May 2007	12 Oct 2007 (see s. 2 and <i>Gazette</i> 11 Oct 2007 p. 5475)
Chemistry Centre (WA) Act 2007 s. 43	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2(1) and <i>Gazette</i> 27 Jul 2007 p. 3735)
Road Traffic Amendment Act (No. 2) 2007 Pt. 2 (s. 3-40)	39 of 2007	21 Dec 2007	Div. 6: 22 Dec 2007 (see s. 2(j)); s. 3-16 (other than s. 6(2)(b)(ii), 19-24, 27-30: 15 Mar 2008 (see s. 2(b)-(j) and <i>Gazette</i> 14 Mar 2008 p. 829); s. 6(2)(b)(ii): 15 Mar 2008 (see s. 2(c)); s. 17, 18 and 25: 30 Jun 2008 (see s. 2(d)-(f)); s. 26 and Div. 5: 1 Jul 2008 (see s. 2(g)-(i) and <i>Gazette</i> 27 Jun 2008 p. 3117); Div. 4 (other than s. 26): 1 Dec 2010 (see s. 2(g) and <i>Gazette</i> 12 Nov 2010 p. 5659)
Acts Amendment (Justice) Act 2008 s. 131	5 of 2008	31 Mar 2008	30 Sep 2008 (see s. 2(d) and <i>Gazette</i> 11 Jul 2008 p. 3253)
Duties Legislation Amendment Act 2008 Sch. 1 cl. 33	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))

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Short title	Number and year	Assent	Commencement	
Medical Practitioners Act 2008 Sch. 3 cl. 51	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and Gazette 25 Nov 2008 p. 4989)	
Road Traffic Amendment Act 2008	24 of 2008	13 Jun 2008	s. 1 and 2: 13 Jun 2008 (see s. 2(1)(a)); Act other than s. 1, 2, 5(a) and 8: 19 Jul 2008 (see s. 2(1)(b) and <i>Gazette</i> 18 Jul 2008 p. 3329); s. 5(a) and 8: 1 Jul 2009 (see s. 2(1)(b) and (2) and <i>Gazette</i> 23 Jun 2009 p. 2423)	
Criminal Law Amendment (Homicide) Act 2008 s. 38	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(d) and <i>Gazette</i> 22 Jul 2008 p. 3353)	
Reprint 10: The <i>Road Traffic Act 1974</i> as at 3 Oct 2008 (includes amendments listed above except those in the <i>Medical Practitioners Act 2008</i> , <i>Road Traffic Amendment Act (No. 2) 2007</i> Pt. 2 Div. 4 (other than s. 26) and the <i>Road Traffic Amendment Act 2008</i> s. 5(a) and 8) (correction in <i>Gazette</i> 19 Oct 2010 p. 5202)				
Road Traffic Amendment (Hoons) Act 2009 Pt. 2	23 of 2009	6 Oct 2009	1 Jan 2010 (see s. 2(1)(b) and (2) and <i>Gazette</i> 31 Dec 2009 p. 5421)	
Road Traffic Legislation Amendment (Registration Labels) Act 2009 Pt. 2	39 of 2009	3 Dec 2009	1 Jan 2010 (see s. 2(b))	
Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010 s. 12	14 of 2010	25 Jun 2010	1 Jul 2010 (see s. 2(b) and <i>Gazette</i> 30 Jun 2010 p. 3185)	
Standardisation of Formatting Act 2010 s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)	
Road Traffic Amendment Act 2010	20 of 2010	7 Jul 2010	s. 1 and 2: 7 Jul 2010 (see s. 2(a)); Act other than s. 1 and 2: 1 Sep 2010 (see s. 2(b) and Gazette 27 Aug 2010 p. 4105)	
Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 45	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)	

Short title	Number and year	Assent	Commencement	
Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010 Pt. 2 (other than s. 12(2)(c), (5)(d) and (7)(b)) ³⁰	51 of 2010 (as amended by No. 17 of 2014 s. 36)	8 Dec 2010	s. 3 and 6-10: 9 Dec 2010 (see s. 2(b)); s. 4 and 13: 9 Apr 2011 (see s. 2(c) and <i>Gazette</i> 8 Apr 2011 p. 1281); s. 12 (other than 12(2)(c), (5)(d) and (7)(b)): 4 Jul 2011 (see s. 2(c) and <i>Gazette</i> 20 May 2011 p. 1837); s. 5, 11, 14 and 15: 1 Aug 2012 (see s. 2(c) and <i>Gazette</i> 27 Jul 2012 p. 3664)	
		islation Amendi	1 (includes amendments listed ment (Disqualification by Notice)	
Road Traffic Amendment (Alcohol and Drug Related Offences) Act 2011 Pt. 2	14 of 2011	25 May 2011	1 Oct 2011 (see s. 2(b) and <i>Gazette</i> 30 Aug 2011 p. 3503)	
Road Traffic Legislation Amendment (Information) Act 2011 Pt. 2	18 of 2011	2 Jun 2011	Pt. 2 (other than s. 9): 30 Jun 2011 (see s. 2(b) and Gazette 29 Jun 2011 p. 2611); s. 9: 14 Jan 2013 (see s. 2(b) and Gazette 4 Jan 2013 p. 3)	
Personal Property Securities (Consequential Repeals and Amendments) Act 2011 Pt. 12 Div. 3	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)	
Manslaughter Legislation Amendment Act 2011 Pt. 3	58 of 2011	30 Nov 2011	17 Mar 2012 (see s. 2(b) and <i>Gazette</i> 16 Mar 2012 p. 1245)	
Road Traffic Legislation Amendment Act 2012 Pt. 3 (s. 15-184-38)	8 of 2012 (as amended by No. 10 of 2015 s. 14- 18)	21 May 2012	Pt. 3 (s. 15-18): 1 Aug 2012 (see-s. 2(c)(ii) and Gazette 27 Jul 2012 p. 3664); Pt. 3 (other than s. 15-18): 27 Apr 2015 (see s. 2(b)(i) and (d) and Gazette 17 Apr 2015 p. 1371)	
Fire and Emergency Services Legislation Amendment Act 2012 Pt. 7 Div. 13	22 of 2012	29 Aug 2012	1 Nov 2012 (see s. 2(b) and <i>Gazette</i> 31 Oct 2012 p. 5255)	

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Short title	Number and year	Assent	Commencement
Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012 Pt. 4 Div. 7	48 of 2012	29 Nov 2012	21 Aug 2013 (see s. 2(b) and <i>Gazette</i> 20 Aug 2013 p. 3815)
Road Traffic (Miscellaneous Amendments) Act 2012 PartPt. 2 (other than s. 12) ³⁶	59 of 2012 (as amended by No. 10 of 2015 s. 21)	11 Dec 2012	Pt. 2 (other than s. 12): 12 Dec 2012 (see s. 2(b))); s. 12: 27 Apr 2015 (see s. 2(c)(ii) and <i>Gazette</i> 17 Apr 2015 p. 1371)

Reprint 12: The Road Traffic Act 1974 as at 22 Mar 2013 (includes amendments listed above, except those in the Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012)

Statutes (Repeals and Minor Amendments) Act 2014 s. 35	17 of 2014	2 Jul 2014	6 Sep 2014 (see s. 2(b) and <i>Gazette</i> 5 Sep 2014 p. 3213)
Road Traffic Legislation Amendment Act- 2015 Pt. 2	10 of 2015	1Apr2015	2Apr2015 (see s2(b))

Under the Cross-border Justice Act 2008 section 14, in order to give effect to that Act, this Act must be applied with the modifications prescribed by the Cross-border Justice Regulations 2009 Part 3 Division 19 as if this Act had been altered in that way. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
Road Traffic Legislation Amendment Act 2012 Pt. 3 (other than s. 15-18) ³¹	8 of 2012 (as amended by No. 10 of 2015 s. 14-18)	21 May 2012	Operative on commencement of the Road Traffic (Administration) Act 2008 (see s. 2(b)(i) and (d))
Road Traffie	59 of 2012	11 Dec 2012	Operative on commencement of

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¹a On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

Short title	Number and year	Assent	Commencement
(Miscellaneous Amendments) Act 2012 s. 12 ³³	(as amended by No. 10 of 2015 Pt. 7)		the Road Traffic (Administration) Act 2008 s. 44 (see s. 2(c)(ii))
<i>Medicines and Poisons</i> <i>Act 2014</i> s. 188 ³⁴	13 of 2014	2 Jul 2014	To be proclaimed (see s. 2(b))
Taxi Drivers Licensing Act 2014 Pt. 10 Div. 1 32	18 of 2014	2 Jul 2014	To be proclaimed (see s. 2(c))
Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015 Pt. 2 and Pt. 3 Div. 1 35	2 of 2015	25 Feb 2015	To be proclaimed (see -s. 2(1)(b) and (2))

The name of the Main Roads Trust Fund was changed by the Financial Legislation Amendment and Repeal Act 2006 (now the Financial Management (Transitional Provisions) Act 2006) s. 17 to the Main Roads Trust Account.

- A traffic sign or traffic control signal or similar device purported to have been erected for the purposes of the principal Act and the regulations made thereunder before the coming into operation of this section shall be and always have been a valid and effective traffic sign, traffic control signal, or device for those purposes.
- The Road Traffic Amendment Act (No. 2) 1982 s. 21(2) is a transitional provision that is of no further effect.
- The Road Traffic Amendment Act (No. 2) 1987 s. 10(2) reads as follows:
 - A certificate that was in force under section 72(3)(b) of the principal Act immediately before the commencement of subsection (1)(d) shall have effect after that commencement as if it certified the person named in the certificate as being competent to operate all types of breath analysing equipment.

Repealed by the Interpretation Act 1984.

⁴ Section 111(2)(f) was deleted by the *Road Traffic Amendment Act 2001* s. 5(2).

The Road Traffic Amendment Act (No. 2) 1982 s. 30 and 31 deleted the Road Traffic Act Amendment Act 1978 s. 16(a), (b) and (c) and 23.

The Road Traffic Amendment Act (No. 2) 1980 s. 10(2) reads as follows:

- The Road Traffic Amendment Act (No. 2) 1987 s. 11(b) had not come into operation when it was deleted by the Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 112.
- 10 The Road Traffic Amendment Act 1988 s. 17(2) and (3) read as follows:
 - In subsection (3) *the relevant regulations* means any regulations purporting to have been made under the principal Act before 1 July 1984 that would have been authorised under section 43(7) or (8) of the Interpretation Act 1984 if they had been made on or after 1 July 1984.
 - The principal Act as enacted from time to time before 1 July 1984 is deemed to have authorised the making of the relevant regulations and those regulations shall be deemed to have taken effect and had the force of law accordingly.
- 11 The Road Traffic Amendment (Random Breath Tests) Act 1989 s. 4 and the Road Traffic Amendment Act 1996 s. 41 amended the Road Traffic Amendment (Random Breath Tests) Act 1988 s. 5 which was deleted by the Road Traffic Amendment Act 2000 s. 67.
- The Acts Amendment (Chemistry Centre (WA)) Act 1990 s. 9 and 10 read as follows:

9. Saving of certificates and labels

A certificate or label issued under the principal Act that purports to have been signed by the director of the Government Chemical Laboratories or prepared by the Government Chemical Laboratories before the commencement of this Act shall continue to have effect as if this Act had not come into operation.

10. Validation

Every act or thing purporting to have been done by the Director or any other officer of the Chemistry Centre (WA) under the principal Act before the commencement of this Act that would have been lawful if this Act had been in force at the time when it was done is hereby validated and declared to have been lawfully done.

- The Criminal Law Amendment Act 1991 it. 1(2) of Pt. A of the Sch. reads as follows:
 - Notwithstanding subclause (1), section 59(2), as it was immediately before the commencement of this clause, continues to apply in relation to –
 - (a) any death that occurred before the commencement of this clause; and

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- (b) any death that occurs after the commencement of this clause if the driving which directly or indirectly causes the death occurs not less than a year and a day before the commencement of this clause.
- ¹⁴ The *Road Traffic Amendment Act 1996* s. 52 reads as follows:

52. Actions of delegates validated

- (1) Anything done before the commencement of this section by a person acting under any delegation purporting to have been made by the Traffic Board under any written law, is as valid and has the same force and effect, and is to be regarded as having always been as valid and had the same force and effect, as if it had been done by the Traffic Board.
- (2) In subsection (1) *Traffic Board* means the Traffic Boar

Traffic Board means the Traffic Board constituted under section 6 of the *Road Traffic Act 1974* as it was before the commencement of this Act.

- The *Road Traffic Amendment Act 1996* s. 8(3) was deleted by the *Road Traffic Amendment Act 2006* s. 43(2).
- The amendment to s. 20(2) referred to in the *Road Traffic Amendment Act 1997* s. 13 did not come into operation because of an error in the reference to the provision to be amended.
- The *Road Traffic Amendment Act 2000* s. 48 and Sch. 1 read as follows:

48. Savings and transitional

Schedule 1 has effect.

Schedule 1 reads as follows:

Schedule 1 — Savings and transitional

[s. 48]

1. Interpretation

In this Part —

commencement day means the day on which this Act comes into operation under section 2.

2. Section 18 amendments have no effect in relation to certain applications

The amendments made by section 18 have no effect in relation to an application for a driver's licence by a person who holds a permit issued under section 48C of the Road Traffic Act 1974 before the commencement day.

3. Licences to drive vehicles formerly classified by reference to

If—

- immediately before the commencement day, a person (a) was the holder of a driver's licence authorising the person to drive a motor vehicle classified under section 43(2) by reference to the purpose for which or manner in which it is being used; and
- on and after the commencement day the purpose or (b) manner is prohibited by regulations under section 43(1)(aa) of the Road Traffic Act 1974,

the licence, or any new class of licence held by the person under section 43(1)(e) of the Road Traffic Act 1974, is to be regarded as having been endorsed to confer the authority to drive for that purpose or in that manner.

Section 23 amendments have effect only in relation to licences 4. issued after commencement

The amendments made by section 23 have effect only in relation to a driver's licence issued after the commencement day.

Duplicate licences 5.

If—

- after the commencement day a person applies for a (a) duplicate of a driver's licence under section 48B of the Road Traffic Act 1974; and
- the licence was issued before the commencement day (b) without the photograph and signature of the licence holder,

then section 42B of the Road Traffic Act 1974 applies to the issue of the duplicate as if it were the issue of a driver's licence.

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¹⁸ The amendment in the Road Traffic Amendment Act 2000 s. 16(2) to amend s. 25(2) is not included because the subsection it sought to amend had been deleted by the State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 s. 1062(2).

- 19 The amendment in the Road Traffic Amendment Act 2000
 - s. 33 to amend s. 59(1a) is not included because the subsection it sought to amend had been deleted by the Criminal Code Amendment Act 2004 Sch. 3 cl. 27(3);
 - s. 33 to amend s. 59(3) is not included because the subsection it sought to amend had been amended by the Road Traffic Amendment (Dangerous Driving) Act 2004 s. 5(3).
- 20 The amendment in the Road Traffic Amendment Act 2000 s. 39 to amend s. 89 is not included because the section it sought to amend had been deleted by the Criminal Law Amendment (Simple Offences) Act 2004 s. 82.
- 21 The Machinery of Government (Planning and Infrastructure) Amendment Act 2002 s. 67-69 read as follows:

67. Agreements under former Transport Co-ordination Act 1966 section 15C

- (1) To the extent that, immediately before the commencement of this Act, an agreement under the former section 15C made provision about the performance of functions of the former Director General under a relevant Act, the agreement continues, when this Act comes into operation, as an agreement under the new provision of the relevant Act.
- (2) To the extent that the agreement continues under subsection (1), it applies as if
 - instead of being made by the Minister referred to in the (a) former section 15C, the agreement had been made by the Director General referred to in the new provision of the relevant Act; and
 - (b) instead of providing for the performance of functions of the former Director General, the agreement made similar provision for the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act.
- In this section -(3)

former Director General means the Director General of Transport under the Transport Co-ordination Act 1966 section 8 as in force before it was repealed by this Act;

former section 15C means the Transport Co-ordination Act 1966 section 15C as in force before it was repealed by this Act;

new provision means —

- the Control of Vehicles (Off-road Areas) Act 1978 (a) section 4B;
- (b) the Motor Vehicle Drivers Instructors Act 1963 section 4A:
- the Motor Vehicle (Third Party Insurance) Act 1943 section 3QA; or
- the Road Traffic Act 1974 section 6B; (d)

relevant Act means —

- the Control of Vehicles (Off-road Areas) Act 1978;
- (b) the Motor Vehicle Drivers Instructors Act 1963;
- the Motor Vehicle (Third Party Insurance) Act 1943; or (c)
- the Road Traffic Act 1974. (d)

68. Delegations under former Transport Co-ordination Act 1966 section 18

- (1) To the extent that, immediately before the commencement of this Act, a delegation under the former section 18 applied to the performance of functions or powers of the former Director General under a relevant Act, the delegation continues, when this Act comes into operation, as a delegation under the new provision of the relevant Act.
- To the extent that the delegation continues under subsection (1), it applies as if
 - instead of being made by the former Director General, the delegation had been made by the Director General referred to in the new provision of the relevant Act;
 - instead of delegating the performance of functions of the (b) former Director General, the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act were delegated; and
 - any Ministerial approval that would have been required in order for the delegation to be made under the new provision of the relevant Act had been given.
- In this section —

former Director General means the Director General of Transport under the Transport Co-ordination Act 1966 section 8 as in force before it was repealed by this Act;

former section 18 means the Transport Co-ordination Act 1966 section 18 as in force before it was amended by this Act;

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new provision means —

- the Control of Vehicles (Off-road Areas) Act 1978 section 4A;
- (b) the Motor Vehicle Drivers Instructors Act 1963 section 4;
- the Motor Vehicle (Third Party Insurance) Act 1943 (c) section 3QB;
- the Rail Safety Act 1998 section 57A; (d)
- (e) the Road Traffic Act 1974 section 6A; or
- the Transport Co-ordination Act 1966 section 18; (f)

relevant Act means -

- the Control of Vehicles (Off-road Areas) Act 1978; (a)
- the Motor Vehicle Drivers Instructors Act 1963; (b)
- the Motor Vehicle (Third Party Insurance) Act 1943; (c)
- the Rail Safety Act 1998; (d)
- the Road Traffic Act 1974; or (e)
- the Transport Co-ordination Act 1966. (f)

69. Regulations about transitional matters

- If there is no sufficient provision in this Act for dealing with a (1) transitional matter, regulations under an Act amended by this Act may include any provision that is required, or is necessary or convenient, for dealing with the transitional matter.
- In subsection (1) (2)
 - transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the Acts amended by this Act as in force before this Act comes into operation to the provisions of those Acts as in force after this Act comes into operation.
- Regulations including a provision described in subsection (1) may (3) be expressed to have effect before the day on which they are published in the Gazette.
- To the extent that a regulation including a provision described in subsection (1) may have effect before the day of its publication in the Gazette, it does not
 - affect in a manner prejudicial to any person (other than the State or an agency of the State), the rights of that person existing before the day of its publication; or

- (b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of its publication.
- 22 The Taxation Administration (Consequential Provisions) Act 2002 s. 30 and 32 will not come into operation (see s. 2(2)).
- 23 The amendment in the Statutes (Repeals and Minor Amendments) Act 2003 s. 105(4) is not included because the section it sought to amend had been replaced by the Sentencing Legislation Amendment and Repeal Act 2003 s. 28.
- 24 The Road Traffic Amendment (Dangerous Driving) Act 2004 s. 12 reads as follows:

12. Review

- The Minister is to carry out a review of the operations and (1) effectiveness of the amendments made to the Road Traffic Act 1974 by this Act as soon as is practicable after the expiry of 18 months from the commencement of the Road Traffic Amendment (Dangerous Driving) Act 2004.
- (2) The Minister is to prepare a report based on the review carried out under subsection (1) and is to cause that report to be laid before each House of Parliament as soon as practicable.
- 25 The Courts Legislation Amendment and Repeal Act 2004 Sch. 2 cl. 46 was deleted by the Criminal Law and Evidence Amendment Act 2008 s. 77(13).
- The State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5, the State Administrative Tribunal Act 2004 s. 167 and 169, and the State Administrative Tribunal Regulations 2004 r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- 27 The amendment in the Road Traffic Amendment Act 2006
 - s. 15(a) to amend the Table to s. 64(2) is not included because the subsection it sought to amend had been amended by the Road Traffic Amendment Act (No. 2) 2007 s. 6.
 - s. 22(9) to amend s. 76 is not included because the subsection it sought to amend had been amended by the Road Traffic Amendment (Vehicle Licensing) Act 2001 s. 23.
- 28 The Road Traffic Amendment Act 2006 s. 35(2) and Pt. 3 read as follows:

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35. Sections 111AA and 111AB inserted and saving

(2) A declaration under section 103A of the *Road Traffic Act 1974* or regulation under section 103B of that Act made before the commencement of this section is to have effect after the commencement of this section as if it was made under section 111AA or 111AB, as the case requires, of that Act.

Part 3 — Transitional provision

36. Existing demerit points

Points currently recorded in respect of a person under section 103 of the *Road Traffic Act 1974* immediately before that section is repealed by section 29, and details of any offence in respect of which the points were recorded, are to be recorded as demerit points against the person in the demerit points register referred to in Part VIA of the *Road Traffic Act 1974* as inserted by section 31.

- The *Road Traffic Amendment Act 2006* Pt. 4 Div. 4 will not be included because the *Road Traffic Amendment (Vehicle Licensing) Act 2001* has already commenced (see s. 45-48).
- The Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010 s. 12(2)(c), (5)(d) and (7)(b) had not come into operation when it was deleted by the Statutes (Repeals and Minor Amendments) Act 2014 s. 36.
- On the date as at which this compilation was prepared, the *Road Traffie*Legislation Amendment Act 2012 Pt. 3 (other than s. 15-18) had not come into operation. It reads as follows:

Part 3 Consequential amendments to the Road Traffic Act 1974

4. Act amended
This Part amends the Road Traffic Act 1974.
5. Long title amended

In the long title delete "consolidate and amend the law relating to road traffic; to repeal the *Traffic Act 1919*" and insert:

make provision in relation to the driving and use of vehicles, the regulation of traffic

6.	Section 5 replaced
	Delete section 5 and insert:
	5. Terms used
	The <i>Road Traffic (Administration) Act 2008</i> Part 1 Division 2 provides for the meanings of some terms and abbreviations in this Act.
7.	Section 5A deleted
	Delete section 5A.
8.	Parts II to IVA deleted
	Delete Parts II to IVA.
9.	Section 49AA amended
	In section 49AA delete the definition of bodily harm.
10.	Section 49 amended
(1)	In section 49(1)(a) delete "Part IVA" and insert:
	the Road Traffic (Authorisation to Drive) Act 2008 Part 2
(2)	In section 49(2)(a) delete "section 44(1); or" and insert:
	the Road Traffic (Authorisation to Drive) Act 2008 section 11(1); or
(3)	In section 49(4) delete "to the State Administrative Tribunal".
(4)	In section 49(5) delete "Director General has been ordered under section 76(3)" and insert:
	CEO has been ordered under the Road Traffic (Authorisation to Drive) Act 2008 section 30(1)

HA.	Section 50A amended In section 50A(1) after "external licensing authority" insert: (as defined in the Road Traffic (Authorisation to Drive) Act 2008 section 3(1)) [Section 11A inserted by No. 10 of 2015 s. 14.]			
11.	Sections 51 and 53 deleted			
	Delete sections 51 and 53.			
12.	Sections 58 and 58A deleted			
	Delete sections 58 and 58A.			
13.	Section 64A amended			
(1)	In section 64A(2):			
	(a) in paragraph (a) delete "section 104(2); or" and inser			
	the Road Traffic (Authorisation to Drive) Act 2008 section 40(2); or			
	(b) in paragraph (d) delete "section 75(2a) or (2b)" and insert:			
	the Road Traffic (Authorisation to Drive) Act 2008 section 22(1) or (2)			
	(c) in paragraph (e) delete "licence; or" and insert:			
	licence as defined in the Road Traffic (Authorisation Drive) Act 2008 section 3(1); or			
(2)	In section 64A(3)(b) delete "section 75(2a) or (2b)" and insert			
	the <i>Road Traffic (Authorisation to Drive) Act 2008</i> section 22(1) or (2)			

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(4)	Delete section 64A(6).
	-{Section 13 amended by No. 10 of 2015 s. 15.}
[14.	Deleted by No. 10 of 2015 s. 16.]
19.	Section 74 amended
	Delete section 74(1) and (2).
20.	Sections 75 to 78 deleted
	Delete sections 75 to 78.
21.	Section 78A amended
(1)	In section 78A in the definition of <i>impounding offence (driver's licence)</i> delete paragraph (b) and insert:
	(b) an offence against the <i>Road Traffic (Authorisation to Drive) Act 2008</i> section 38(1)(a); or
(2)	In section 78A in the definition of senior police officer delete "person appointed under the Police Act 1892 Part I to be a memb of the Police Force of Western Australia" and insert:
	police officer
	-{Section 21 inserted by No. 10 of 2015 s. 17.}
22.	Section 78C amended
	In section 78C(6)(b) delete "section 86A." and insert:
	any other road law in relation to the moving of vehicles.
23.	Section 78D amended
	In section 78D(c) delete "members of the Police Force" and inser-
	— police officers

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24.	Section 79BA amended
	In section 79BA(1)(a) delete "member of the Police Force (the <i>member</i>)" and insert:
	police officer (the police officer)
25.	Section 80L amended
	Delete section 80L(2) and insert:
	(2) The <i>Road Traffic (Vehicles) Act 2012</i> section 10(1)(a), (2), (3), (4) and (5) do not apply if the CEO is given notice under subsection (1)(a).
26.	Sections 82 to 87 deleted
	Delete sections 82 to 87.
27	Sections 92 to 103 deleted
	Delete sections 92 to 103.
28.	Part VIA deleted
	Delete Part VIA.
29.	Section 105 deleted
	Delete section 105.
30.	Section 106 amended
	Delete section 106(1) and (2).
31	Sections 107, 109 and 110 deleted
	Delete sections 107, 109 and 110.
32.	Section 111 amended
(1)	In section 111(1) delete "licensing,".
(2)	In section 111(2):
	(a) in paragraph (a)(iii) and (iiia) delete "erect traffic sign and" and insert:
	erect, establish or display traffic or road signs road markings,
	(b) delete paragraph (a)(iv);

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		elete "owners, responsible persons,";
	— (d) delete paragraphs (· · · · · · · · · · · · · · · · · · ·
		elete "section, not being an offence
	referred to in parag	graph (l) or (m);" and insert:
	section;	
	— (f) delete paragraph (l) and (m);
	(g) after each of parag	raph (a)(i), (ii) and (iii) insert:
		
(3)	— Delete section 111(2a) and (2b).
33.	Section 111AA deleted	
	Delete section 111AA.	
34.	Section 111AB amended	
(1)	In section 111AB(2) delete	"section 111(2)(d)." and insert:
	section 111(2)(aa) or (c).	
(2)	Delete section 111AB(3) an	d (4).
35.	Sections 111A to 113 delet	ed
	Delete sections 111A to 113	.
36.	Various references to "Dir	rector General" amended
	In the provisions listed in the (each occurrence) and insert	e Table delete "Director General" ÷
	— CEO	
		Table
	s. 50A(1)(a)(ii)	s. 79BC(4)
	s. 79BD(1), (2)	s. 79B(1)(c), (3A)(b), (3C)(b)
	s. 80G(7)	s. 80L(1)(a) and (b)

s. 111(4)(b) and (d)(ii)	s. 111AB(2)
5. 111(1)(6) and (a)(11)	5. TTTTB(2)

37. Various references to "member of the Police Force" amended

In the provisions listed in the Table delete "member of the Police Force" (each occurrence) and insert:

police officer

Table

s. 49(3)	s. 50A(1)(b)
s. 54(6)	s. 55(4)
s. 56(5)(b)	s. 57(1), (2)
[deleted]	s. 60(1c)(a)(i), (1D)
s. 65 def. of driver assessment	s. 66(1), (1aa), (1a), (1b), (2), (3), (4), (5), (6), (6a), (10), (11), (12)
s. 66A(1), (2), (3), (4), (5), (6), (7)	s. 66B(1), (2), (3), (4)
s. 66C(1), (2), (3), (4), (5), (6), (7)	s. 66D(1), (3)
s. 66E(1), (2), (3), (4)	s. 66F(1)
s. 67(1), (3a)	s. 67AA(1) def. of requirement
s. 67AB(1) def. of requirement	s. 67A(1)
s. 68(3), (7)	s. 69(1)
s. 69A	s. 69B
s. 70(3b)	s. 71A(1) def. of sample

s. 71B(1), (2), (3), (5), (6), (8)	s. 78C(1), (2A), (2), (3), (4)
s. 79(1), (2), (3A), (3)	s. 79A(1)
s. 79BB(2)	s. 79BCA(2), (7)
s. 79BCB(2)	s. 79BCD(2), (7)
s. 79BCE(2)	s. 79C(1), (2), (3)
s. 79D(2)(a), (7)	

Note: The heading to amended section 67A is to read:

Failure to comply with other requirements of police officer

[Section 37 amended by No. 10 of 2015 s. 18.]

8. Various references to "the member" amended

In the provisions listed in the Table delete "the member" (each occurrence) and insert:

the police officer

Table

s. 70(3b)(j)(i)	s. 78C(4)
s. 79(1), (3A)	s. 79A(1)
s. 79BA(1)(b), (b)(ii) and (2)	s. 79C(1)(a) and (b), (2)(a) and (b)

Footnote no longer required.

Division 1 — Road Traffic Act 1974 amended

70. Act amended

This Division amends the Road Traffic Act 1974.

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On the date as at which this compilation was prepared, the *Taxi Drivers Licensing Act 2014* Pt. 10 Div. 1 had not come into operation. It reads as follows:

71. Section 42E amended

After section 42E(6) insert:

- (7A) Subsection (6) does not apply to a person who reproduces a photograph provided under this section
 - (a) as a result of its disclosure under section 44AD; and
 - (b) in the administration of the *Taxi Drivers Licensing Act 2014*.

72. Section 44AA amended

In section 44AA insert in alphabetical order:

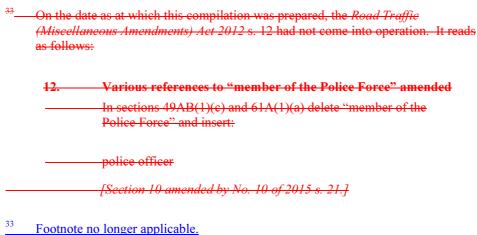
CEO (taxi drivers licensing) means the CEO as defined in the Taxi Drivers Licensing Act 2014 section 3(1);

73. Section 44AD inserted

At the end of Part IVA Division 4A insert:

44AD. Disclosure to CEO (taxi drivers licensing)

The Director General may disclose photographs to the CEO (taxi drivers licensing) for the purposes of the performance of the functions of the CEO (taxi drivers licensing) under the *Taxi Drivers Licensing Act 2014*.



roothote no longer applicable.

On the date as at which this compilation was prepared, the Medicines and Poisons Act 2014 s. 188 had not come into operation. It reads as follows:

188. Road Traffic Act 1974 amended

- This section amends the Road Traffic Act 1974.
- In section 65 in the definition of drug delete paragraph (b) and (2) insert:
 - (b) a Schedule 4 poison as defined in the Medicines and Poisons Act 2014 section 3; or
- On the date as at which this compilation was prepared, the Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015 Pt. 2 and Pt. 3 Div. 1 had not come into operation. They read as follows:

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
 - Delete section 59(1)(a) and insert: (1)
 - while under the influence of alcohol to such an extent as (a) to be incapable of having proper control of the vehicle; or
 - while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
 - while under the influence of alcohol and drugs to such an (bb) 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

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

Compare 02 Apr 2015 [12-f0-01] / 27 Apr 2015 [12-g0-01] Extract from www.slp.wa.gov.au, see that website for further information

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

Section 63 amended 6.

- (1) Delete section 63(1) and insert:
- A person who drives or attempts to drive a motor vehicle (1)
 - while under the influence of alcohol to such an extent as (a) 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
 - 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):
 - 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,

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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:

- 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;
- while disqualified from obtaining any particular licence (ba) 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

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

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

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

(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

- (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

The amendment in the *Road Traffic (Miscellaneous Amendments) Act 2012* s. 12 to amend s. 53(1) and (2A) is not included because the section it sought to amend had been deleted by the *Road Traffic Legislation Amendment Act 2015* s. 21.