



Western Australia

Motor Vehicle Drivers Instructors Act 1963

Reprinted as at 8 February 2002

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

Motor Vehicle Drivers Instructors Act 1963

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 8 February 2002

Motor Vehicle Drivers Instructors Act 1963

An Act to provide for the Licensing of Instructors engaged, for reward, in the teaching of persons to drive Motor Vehicles and for incidental and other purposes.

1. Short title

This Act may be cited as the *Motor Vehicle Drivers Instructors Act 1963*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

3. Interpretation

In this Act, unless the contrary intention appears —

“**Director General**” means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*;

“**driving instructor**” means a person who —

- (i) on his own account or in conjunction with another; or

(ii) as an employee, servant or agent of a person, for fee, reward, salary, wages or other remuneration or for any consideration whatever, by whomsoever paid or payable, gives advice, instructions or demonstrations to a person for the purposes of teaching him to drive a motor vehicle;

“license” means a valid and current license issued under this Act authorising the holder thereof to act as a driving instructor and any renewal of the license;

“motor vehicle” means any motor car, motor carriage, motor cycle, tractor or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and constructed for use upon a road, and includes a trailer but does not include any vehicle used on a railway or tramway;

“permit” means a valid and current permit issued under this Act authorising the holder thereof to act as a driving instructor and any renewal of the permit;

“road” includes a street, highway and thoroughfare that the public are allowed to use;

“section” means a section of this Act.

[Section 3 amended by No. 12 of 1973 s. 36; No. 58 of 1974 s. 23; No. 106 of 1981 s. 4; No. 76 of 1996 s. 32.]

4. Administration

Subject to any direction of the Minister, this Act shall be administered by the Director General.

[Section 4 inserted by No. 58 of 1974 s. 24; amended by No. 106 of 1981 s. 5; No. 76 of 1996 s. 35.]

4A. Director General’s functions

- (1) The Director General has the function given to the Director General by section 4.

- (2) Without limiting subsection (1), the functions of the Director General include the exercise and performance of all powers, duties and responsibilities vested in or imposed on the Director General by this Act.

[Section 4A inserted by No. 76 of 1996 s. 33.]

5. Driving instructors required to have licence or permit

- (1) After the expiration of 3 months from the coming into operation of this Act, a person shall not —
- (a) act as a driving instructor in respect of a motor vehicle of any class, unless he is the holder of a license or permit authorising him to so act in respect of that class;
 - (b) advertise, notify or state that he acts or is willing to act as a driving instructor unless the advertisement, notification or statement specifies the class of motor vehicle in respect of which the person acts or is willing to act as a driving instructor and the person is the holder of a license or permit authorising him to act as a driving instructor in respect of that class;
 - (c) if he is the holder of a license or permit, act as a driving instructor in contravention of any conditions attached to the license or permit; or
 - (d) while acting as a driving instructor, use upon a road a motor vehicle that is not equipped as required by the regulations or that does not comply with the provisions of the *Road Traffic Act 1974*, and the regulations made under that Act, applicable to the motor vehicle and relating to the construction and equipment of motor vehicles.
- (2) Without affecting the liability of any other person, where a person commits an offence under subsection (1) and that person is then acting as the employee, servant or agent of another person, that other person is guilty of an offence against this Act but if the offence committed by the employee, servant or agent

is an offence under paragraph (a), (b) or (c) of that subsection that other person is not guilty of an offence against this Act, if he proves to the satisfaction of the Court before which he is charged that he did not know and could not with reasonable diligence have discovered, as the case may be, that the employee, servant or agent —

- (a) was not the holder of a license or permit authorising him to act as a driving instructor in respect of the class of motor vehicles concerned; or
- (b) acted as a driving instructor in contravention of any conditions attached to the license or permit held by the employee, servant or agent.

Penalty: \$1 000.

- (3) A Court before whom a person is convicted of an offence against this Act shall cause particulars of the conviction to be forwarded to the Commissioner of Police.

[Section 5 amended by No. 113 of 1965 s. 8; No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 6; No. 49 of 1987 s. 3.]

6. Licences

- (1) A license shall be in the form prescribed.
- (2) A license may authorise the holder thereof to act as a driving instructor in respect of any class of motor vehicles specified therein, or in respect of all classes of motor vehicles.
- (3) Where no class of motor vehicles is specified in a license the license shall be deemed to authorise the holder thereof to act as a driving instructor in respect of all classes of motor vehicles.
- (4) A license remains in force for a period of 12 months from the date of its issue, unless sooner suspended or cancelled.

- (5) A license may be renewed and on each renewal the license remains in force for a further period of 12 months, unless sooner suspended or cancelled.

7. Application for licence

- (1) An application for a license or a renewal thereof shall be in the prescribed form and shall be lodged with the Director General together with the appropriate prescribed fee.
- (2) The Director General shall, upon the receipt of an application for a license, and may, upon receipt of an application for the renewal of a license, cause enquiries to be made as to the character of the applicant.
- (3) Subject to subsection (4), the Director General shall require the applicant for a license and may require the applicant for a renewal thereof to submit himself to a test —
- (a) of his competency as a driver of motor vehicles, or of motor vehicles of the class in respect of which he has applied for a license or renewal of a license; and
 - (b) of his knowledge of such of the provisions of the *Road Traffic Act 1974* and of the regulations made under that Act as relate to drivers of motor vehicles.
- (4) When an applicant for a license or the renewal thereof has duly obtained from a body prescribed for the purposes of this section a certificate that the applicant is competent to act as a driving instructor in respect of motor vehicles of the class for which he has applied for a license or a renewal thereof the Director General shall in respect of the applicant dispense with the tests referred to in subsection (3).
- (5) Where the Director General is satisfied that the applicant for a license —
- (a) has attained the age of 21 years;
 - (b) is a person of good character;

- (c) is a fit and proper person to act as a driving instructor;
- (d) is competent to teach persons to drive motor vehicles of the class in respect of which he has applied for a license or is the holder of the certificate referred to in subsection (4) or has such other qualifications and experience, as a driving instructor, as in the opinion of the Director General justifies a grant to him of a license without his having obtained that certificate; and
- (e) is the holder of a current and valid license under the *Road Traffic Act 1974*, to drive motor vehicles of the class in respect of which he has applied for a license and has held a license to the like effect, whether in this State or elsewhere for a continuous period of not less than 3 years, or such other period as the Director General may approve in a particular case, before the application was made,

the Director General shall grant the application.

- (6) A license may be issued subject to such conditions as the Director General may determine and as may be specified in the license.
- (7) The Director General may, by notice sent to the holder of a license, revoke or vary any conditions attached thereto or attach new conditions to the license.

[Section 7 amended by No. 113 of 1965 s. 8; No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 26 of 1982 s. 2; No. 76 of 1996 s. 35; No. 57 of 1997 s. 91(1); No. 39 of 2000 s. 61.]

8. Tests and course of training required to obtain certificate

- (1) A prescribed body referred to in subsection (4) of section 7 shall not grant the certificate referred to in that subsection to a person until he —
- (a) has passed such tests or course of training as the body may prescribe; and
 - (b) has paid to the body the prescribed fee for the tests or the course.
- (2) The tests and course of training referred to in subsection (1) —
- (a) may be written, oral or practical and shall in particular include examination in the following matters namely: such provisions of the *Road Traffic Act 1974*, and the regulations made thereunder as relate to drivers of motor vehicles, driving practices, vehicle manipulation and teaching technique; and
 - (b) shall be approved by the Director General.

[Section 8 amended by No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 76 of 1996 s. 35; No. 57 of 1997 s. 91(2).]

9. Cancellation and suspension of licences

- (1) The Director General may, by notice sent to the holder of a license, cancel or suspend the license if —
- (a) the license was issued erroneously or granted in consequence of a false or fraudulent document, statement or representation;
 - (b) any prescribed fee for the license is due and unpaid;
 - (c) the holder of the license is convicted of an offence against this Act; or
 - (d) the Director General is no longer satisfied that the holder of the license complies with any of the requirements applicable to him and specified in section 7(5).

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- (2) When a license is cancelled or suspended under this section the person to whom the license was issued shall deliver the license to the Director General within such period as may be specified in the notice referred to in subsection (1).
- (3) The Director General shall enter or cause to be entered in the record of licenses and permits referred to in section 12 particulars of the cancellation or suspension of a license under this section.

[Section 9 amended by No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 76 of 1996 s. 35.]

10. Appeal against decision of Director General

- (1) Where the Director General —
 - (a) refuses an application for a license;
 - (b) cancels or suspends a license;
 - (c) issues a license subject to any conditions;
 - (d) revokes or varies any conditions attached to a license; or
 - (e) attaches new conditions to a license,

the Director General shall notify in writing the person making the application or the person to whom the license was issued of that decision and of the grounds therefor.

- (2)
 - (a) The applicant or person to whom the license was issued may in the prescribed manner appeal to a Court of Petty Sessions against the decision of the Director General.
 - (b) The appellant shall lodge with —
 - (i) the Clerk of the Court of Petty Sessions to which the appeal is to be made; and
 - (ii) the Director General,

within one month after the applicant or person to whom the license was issued was notified of the decision of the

Director General as directed by subsection (1), a notice of appeal specifying the grounds of appeal.

- (3) Any report furnished under this Act to the Director General by any police officer in relation to the appellant is admissible in evidence in the appeal.
- (4) The decision of a Court of Petty Sessions in an appeal under this section is final and conclusive and the Director General shall give effect to the decision.
- (5) An appeal under this section shall be in the nature of a rehearing and shall be heard before a Court of Petty Sessions conducted by a stipendiary magistrate.

[Section 10 amended by No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 76 of 1996 s. 35.]

11. Permits

- (1) Where —
 - (a) an application is made for a license; and
 - (b) the Director General is making, but has not completed, enquiries for the purpose of being satisfied that the applicant complies with the requirements applicable to him and specified in section 7(5), or is not satisfied that the applicant complies with all or any of those requirements; and
 - (c) the applicant requests a permit and pays the prescribed fee therefor,

the Director General may issue to the applicant a permit authorising the holder thereof during the currency of the permit to act as a driving instructor.

- (2) The permit —
 - (a) is in force for such period, not exceeding 6 months, as the Director General determines and specifies in the permit;

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- (b) is subject to such conditions as may be so specified.
- (3) The Director General may at any time revoke the permit, vary any conditions attached to the permit or attach new conditions thereto.
- (4) The Director General shall, if a license is issued to the holder of a permit, revoke the permit and may refund to the holder such portion of the fee paid for the permit, as the Director General thinks fit.

[Section 11 amended by No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 76 of 1996 s. 35.]

12. Records and evidence

- (1) The Director General shall keep records of licenses and permits and of matters relating thereto including but without limiting the generality of the foregoing, particulars in relation to the grant, refusal, renewal, suspension and cancellation of licenses and the grant, refusal and revocation of permits.
- (2) A certificate purporting to be signed by the Director General or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1), did or did not appear on or from such records, is evidence of the particulars certified in and by the certificate without —
 - (a) proof of the signature or of the official character of the person purporting to have signed the certificate; and
 - (b) the production of any record or document upon which the certificate is founded.

[Section 12 amended by No. 12 of 1973 s. 39; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 76 of 1996 s. 35.]

[13. Repealed by No. 76 of 1996 s. 34.]

14. Regulations

- (1) The Governor may make regulations prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular regulations may be made for or with respect to —
- (aa) what is to be authorised by a licence or permit held by a person who, before an amendment to the regulations held a licence or permit that operated by reference to a vehicle classification that no longer exists, and, where anything that was formerly authorised by the licence or permit ceases to be authorised, making provision to facilitate the obtaining by the person of a licence or permit that authorises that thing;
 - (a) the renewal of licenses and permits and the return of expired licenses and permits;
 - (b) the display on or in any motor vehicle used by a driving instructor for the purpose of giving instruction in the driving of the motor vehicle, of the license or permit held by the driving instructor and of any means of identifying him;
 - (c) the production to prescribed persons of licenses and permits;
 - (d) regulating the method and manner in which a driving instructor may make known the place where and the fact that he is a driving instructor or is willing to give instruction in the driving of motor vehicles;
 - (e) the use of and the carriage of persons in any motor vehicles used for the purpose of giving instruction in the driving of motor vehicles;
 - (f) the provisions and use of special equipment on any motor vehicle used by a driving instructor upon any road for the purpose of giving instruction in the driving of that vehicle;

- (g) the production to the Director General, by an applicant for a license or a permit or by the holder of a license or permit of —
 - (i) evidence of the medical fitness of the applicant or holder to be the holder of a license or permit;
 - (ii) evidence of the fitness and qualifications of the applicant or holder to act as a driving instructor;
 - (iii) any prescribed means of identifying the applicant or holder;
 - (h) notification to the Director General and such other persons as may be prescribed by the regulations of any injuries sustained by any person or of any damage occasioned to any property during the course of driving instruction;
 - (i) the granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act;
 - (j) the granting of duplicate licenses or permits and matters connected with those licenses or permits; and
 - (k) imposing a penalty not exceeding \$500, for a breach of any regulation.
- (2) A regulation may be of general or of limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.

[Section 14 amended by No. 113 of 1965 s. 8; No. 12 of 1973 s. 38; No. 58 of 1974 s. 25; No. 106 of 1981 s. 5; No. 49 of 1987 s. 4; No. 76 of 1996 s. 35; No. 39 of 2000 s. 62.]



Notes

¹ This reprint is a compilation as at 8 February 2002 of the *Motor Vehicle Drivers Instructors Act 1963* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any previous reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Motor Vehicle Drivers Instructors Act 1963</i>	10 of 1963	15 Oct 1963	28 Feb 1964 (see s. 2 and <i>Gazette</i> 28 Feb 1964 p. 905-6)
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Acts Amendment (Road Safety and Traffic) Act 1973 Pt. IV</i>	12 of 1973	25 May 1973	26 Oct 1973 (see s. 2 and <i>Gazette</i> 26 Oct 1973 p. 4049)
<i>Acts Amendment (Road Traffic) Act 1974 Pt. IV</i>	58 of 1974	3 Dec 1974	29 Aug 1975 (see s. 2 and <i>Gazette</i> 29 Aug 1975 p. 3085)
Reprint of the <i>Motor Vehicle Drivers Instructors Act 1963</i> approved 12 Jul 1977 (includes amendments listed above)			
<i>Acts Amendment (Traffic Board) Act 1981 Pt. I</i>	106 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2 and <i>Gazette</i> 2 Feb 1982 p. 393)
<i>Motor Vehicle Drivers Instructors Amendment Act 1982</i>	26 of 1982	27 May 1982	27 May 1982
<i>Motor Vehicle Drivers Instructors Amendment Act 1987</i>	49 of 1987	3 Oct 1987	31 Oct 1987
<i>Road Traffic Amendment Act 1996 Pt. 3 Div. 4</i>	76 of 1996	14 Nov 1996	1 Feb 1997 (see s. 2 and <i>Gazette</i> 31 Jan 1997 p. 613)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 91</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2)

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Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment Act 2000 Pt. 3 Div. 2</i>	39 of 2000	10 Oct 2000	7 May 2001 (see s. 2 and <i>Gazette</i> 23 Mar 2001 p. 1665). (Proclamation in <i>Gazette</i> 9 Feb 2001 p. 767 revoked in <i>Gazette</i> 23 Mar 2001 p. 1665)