



Western Australia

## **Road Safety Council Act 2002**



## Road Safety Council Act 2002

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### Defined terms



## Road Safety Council Act 2002

**An Act for a council with functions relating to road safety and the reduction of death, injury, and property damage, resulting from incidents on roads, and to amend certain other Acts <sup>2</sup>.**

**1. Short title**

This Act may be cited as the *Road Safety Council Act 2002* <sup>1</sup>.

**2. Commencement**

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

**3. Terms used**

In this Act, unless the contrary intention appears —

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

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

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

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

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

*[Section 3 amended by No. 77 of 2006 Sch. 1 cl. 151(1).]*

**4. Establishment**

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

**5. Functions**

The Council’s functions are —

- (a) to identify measures —
  - (i) to improve the safety of roads in the State; and
  - (ii) to reduce the deaths of people, the injuries to people, and the damage to property, resulting from incidents occurring on roads in the State;
- and
- (b) to recommend to relevant bodies and persons the action that should be taken to implement those measures; and
- (c) to coordinate the implementation of those measures by relevant bodies and persons; and
- (d) to evaluate and monitor the effectiveness of those measures; and
- (e) to evaluate and monitor the safety of roads in the State; and
- (f) to recommend to the Minister how money standing to the credit of the Account should be spent to implement those measures and to facilitate the performance of the Council’s functions; and
- (g) to make recommendations to the Minister in compliance with directions given by the Minister under section 6A.

*[Section 5 amended by No. 30 of 2011 s. 4.]*

**6A. Minister may give directions**

- (1) The Minister may give a written direction to the Council —
  - (a) specifying a proposal for how money standing to the credit of the Account should be spent to implement one or more measures of a kind referred to in section 5(a); and
  - (b) requiring the Council to make a recommendation to the Minister as to whether or not money standing to the credit of the Account should be spent in accordance with the proposal.
- (2) The Council must give effect to a direction given by the Minister under subsection (1) by recommending to the Minister that money standing to the credit of the Account —
  - (a) should or should not be spent in accordance with the proposal specified in the direction; or
  - (b) should be spent in accordance with the proposal if that proposal is modified as recommended by the Council.
- (3) The Minister must cause a copy of each direction given under subsection (1) to be laid before each House of Parliament within 14 days after the direction is given.

*[Section 6A inserted by No. 30 of 2011 s. 5.]*

**6. Membership**

- (1) The Council is to consist of 12 members appointed by the Minister, being —
  - (a) a person to be the chairman of the Council;
  - (b) a person to represent users of roads;
  - (c) a person to represent local government, nominated by the Western Australian Local Government Association;
  - (d) a person employed in the department of the Public Service principally assisting the Minister in the

- administration of this Act whose duties relate to road safety;
- (e) a person nominated under subsection (2) by the Minister administering the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the ***licensing provisions of this Act***;
  - (f) a person nominated under subsection (3) by the Minister administering the *Police Act 1892*;
  - (g) a person nominated under subsection (4) by the Minister administering the *School Education Act 1999*;
  - (h) a person nominated under subsection (4) by the Minister administering the *Health Act 1911*;
  - (i) a person nominated under subsection (4) by the Minister administering the *Main Roads Act 1930*;
  - (j) a person nominated under subsection (5) by the Minister administering the *Transport Co-ordination Act 1966*;
  - (k) a person nominated under subsection (6) by the Minister administering the *Planning and Development Act 2005*; and
  - (l) a person nominated under subsection (7) by the Minister administering the *Insurance Commission of Western Australia Act 1986*.
- (2) For the purposes of subsection (1)(e) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the ***licensing provisions of this Act*** or an officer in that department whose duties relate to driver or vehicle licensing.
- (3) For the purposes of subsection (1)(f) the person nominated by the relevant Minister must be either the Commissioner of Police or an officer in the Police Force or in the department of the Public Service principally assisting that Minister in the



administration of the *Police Act 1892* whose duties relate to road safety.

- (4) For the purposes of subsection (1)(g) to (i) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting that Minister in the administration of the relevant Act or an officer in that department whose duties relate to road safety.
- (5) For the purposes of subsection (1)(j) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting that Minister in the administration of the *Transport Co-ordination Act 1966* or an officer in that department whose duties relate to transport planning.
- (6) For the purposes of subsection (1)(k) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting that Minister in the administration of the *Planning and Development Act 2005* or an officer in that department whose duties relate to urban and regional planning.
- (7) For the purposes of subsection (1)(l) the person nominated by the relevant Minister must be either the managing director of the Insurance Commission of Western Australia or an officer of the Commission whose duties relate to road safety.

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

## **7. Deputy of member**

- (1) The Minister may appoint a person as a deputy for a Council member, other than the chairman.
- (2) If a Council member could only be appointed on the nomination of a person, only someone nominated by that person can be appointed as a deputy for the member.

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- (3) If section 6 restricts who could be appointed, or nominated for appointment, as the member, only someone who would be eligible to be appointed, or nominated for appointment, as the member can be appointed, or nominated for appointment, as the member's deputy.
- (4) The deputy of a Council member may act as the member at a meeting of the Council if the member is absent or if no-one is appointed as the member.

**8. Nomination for appointment**

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

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

- (1) A Council member who is not a public officer, or the deputy of such a member —
  - (a) is appointed for a term, not exceeding 3 years, determined by the Minister and specified in the instrument appointing the member or deputy;
  - (b) may resign by written notice given to the Minister.
- (2) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.
- (3) The Minister may revoke the appointment of a Council member who is not a public officer, or of a deputy of such a member, if the member or deputy —

- (a) becomes incapable of carrying out satisfactorily the duties of a Council member; or
  - (b) is absent without the leave of the Council from 3 consecutive meetings of the Council of which he or she has had notice; or
  - (c) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.
- (4) A Council member who is a public officer, or the deputy of such a member, ceases to be a member or deputy if he or she ceases to be eligible to be appointed or nominated for appointment as that member or deputy.
- (5) The Minister may at any time revoke the appointment of a Council member who is a public officer or of a deputy of such a member but, if another Minister's nomination is required for the appointment of a successor of that member or deputy, cannot do so unless requested to do so by that other Minister.

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

#### **10. Remuneration and allowances**

Council members who are not public officers, and their deputies, are entitled to the remuneration and allowances determined by the Minister from time to time on the recommendation of the Public Sector Commissioner.

*[Section 10 amended by No. 39 of 2010 s. 89.]*

#### **11. Meetings**

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

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**12. Road Trauma Trust Account**

- (1) An agency special purpose account called the Road Trauma Trust Account is established under the *Financial Management Act 2006* section 16.
- (2) There is to be credited to the Account —
  - (a) the following amounts —
    - (i) two-thirds of each prescribed penalty paid during the prescribed period pursuant to a photograph-based vehicle infringement notice for an offence to which the regulations specify that this paragraph applies;
    - (ii) the total amount of each prescribed penalty paid on or after 1 July 2012 pursuant to a photograph-based vehicle infringement notice for an offence to which the regulations specify that this paragraph applies;
  - and
  - (b) any money appropriated by Parliament for the purposes of the Account; and
  - (c) any money received by way of donation, or otherwise lawfully received, for the Account; and
  - (da) money that the *Road Traffic Act 1974* section 80J(7)(j)(i) requires to be paid to the credit of the Account; and
  - (d) the amount of any income determined by the Treasurer (at a rate determined by the Treasurer) to be attributable to the investment under the *Financial Management Act 2006* section 37 of money standing to the credit of the Account.
- (3) In subsection (2)(a) —

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

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

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

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

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

**prescribed period** means the period that begins on the later of the following days —

- (a) 1 July 2011;
- (b) the day on which the *Road Safety Council Amendment Act 2011* section 6 comes into operation,

and ends at the end of 30 June 2012.

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

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

- (5) For the purposes of the *Financial Management Act 2006* and the *Auditor General Act 2006* the Account is to be administered by the department of the Public Service principally assisting the Minister in the administration of this Act.

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- (6) Money standing to the credit of the Account is to be applied for the purposes determined by the Minister having regard to the recommendations of the Council.
- (7) The Governor may make regulations specifying offences to which subsection (2)(a) applies.

*[Section 12 amended by No. 77 of 2006 Sch. 1 cl. 151(2)-(4);  
No. 23 of 2009 s. 29; No. 30 of 2011 s. 6.]*

**13. Annual report**

- (1) As soon as practicable after 1 July each year the Council is to give the Minister a report on the activities of the Council in the previous financial year.
- (2) The Minister is to cause the report to be tabled in each House of Parliament within 14 sitting days of that House after it is received from the Council.

**14. Protection from liability for wrongdoing**

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

**15. Supplementary provision about laying directions before Parliament**

- (1) If —

- (a) at the commencement of the period referred to in section 6A(3) in respect of a direction a House of Parliament is not sitting; and
- (b) the Minister is of the opinion that that House will not sit before the end of that period,

the Minister must transmit a copy of the direction to the Clerk of that House.

- (2) A copy of a direction transmitted to the Clerk of a House is taken to have been laid before that House.
- (3) The laying of a copy of a direction that is taken to have occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

*[Section 15 inserted by No. 30 of 2011 s. 7.]*

**16. Transitional provision: credits of prescribed penalties to the Account**

- (1) In this section —  
*commencement day* means the day on which the *Road Safety Council Amendment Act 2011* section 6 comes into operation;  
*former section 12(2)(a)* means section 12(2)(a) as in force immediately before commencement day.
- (2) If —
  - (a) commencement day is after 1 July 2011; and
  - (b) in respect of the period —
    - (i) beginning on 1 July 2011; and
    - (ii) ending immediately before commencement day,one-third of a prescribed penalty has been or is to be credited to the Account under former section 12(2)(a),

**s. [Schedule 1 o**

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there is to be credited to the Account the amount that results in a total amount of two-thirds of that prescribed penalty being credited to the Account.

*[Section 16 inserted by No. 30 of 2011 s. 7.]*

*[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(e).]*

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## Notes

- <sup>1</sup> This is a compilation of the *Road Safety Council Act 2002* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Road Safety Council Act 2002</i>	5 of 2002	4 Jun 2002	s. 1 and 2: 4 Jun 2002; Act other than s. 1, 2 and 12(4): 1 Jul 2002 (see s. 2(1) and <i>Gazette</i> 1 Jul 2002 p. 3205); s. 12(4): 1 Jan 2006 (see s. 2(2) and <i>Gazette</i> 23 Dec 2005 p. 6244-5)
<i>Local Government Amendment Act 2004</i> s. 13	49 of 2004	12 Nov 2004	1 Apr 2005 (see s. 2 and <i>Gazette</i> 31 Mar 2005 p. 1029)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005</i> s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
<i>Financial Legislation Amendment and Repeal Act 2006</i> Sch. 1 cl. 151	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 76	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Road Traffic Amendment (Hoons) Act 2009</i> Pt. 3	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)
<b>Reprint 1: The Road Safety Council Act 2002 as at 16 Apr 2010</b> (includes amendments listed above)			
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<i>Road Safety Council Amendment Act 2011</i>	30 of 2011	16 Aug 2011	s. 1 and 2: 16 Aug 2011 (see s. 2(a)); Act other than s. 1 and 2: 17 Aug 2011 (see s. 2(b))

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

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**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Road Traffic Legislation Amendment Act 2012</i> Pt. 4 Div. 46 <sup>3</sup>	8 of 2012	21 May 2012	Operative on commencement of the <i>Road Traffic (Administration) Act 2008</i> (see s. 2(d))

<sup>2</sup> The provisions of this Act amending those Acts have been omitted under the *Reprints Act 1984* s. 7(4)(e).

<sup>3</sup> On the date as at which this compilation was prepared, the *Road Traffic Legislation Amendment Act 2012* Pt. 4 Div. 46 had not come into operation. It reads as follows:

**Division 46 — *Road Safety Council Act 2002* amended**

**170. Act amended**

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

**171. Section 3 amended**

In section 3 in the definition of **road** delete “*Road Traffic Act 1974*,” and insert:

*Road Traffic (Administration) Act 2008* section 4;

**172. Section 6 amended**

- (1) In section 6(1)(e) delete “provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the **licensing provisions of this Act**,” and insert:

*Road Traffic (Administration) Act 2008*;

- (2) In section 6(2) delete “must be either the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the **licensing provisions of this Act** or an officer in that department whose duties relate to driver or vehicle licensing.” and insert:

must be either —

- (a) the CEO as defined in the *Road Traffic (Administration) Act 2008* section 4; or
- (b) an officer in the department of the Public Service principally assisting in the administration of the *Road Traffic (Authorisation to Drive) Act 2008* whose functions relate to the licensing of drivers; or
- (c) an officer in the department of the Public Service principally assisting in the administration of the *Road Traffic (Vehicles) Act 2012* whose functions relate to the granting of licences in respect of vehicles.

**173. Section 12 amended**

- (1) In section 12(3) in the definition of ***photograph-based vehicle infringement notice***:

- (a) delete “a traffic infringement notice under the *Road Traffic Act 1974*” and insert:

an infringement notice as defined in the *Road Traffic (Administration) Act 2008* section 4

- (b) in paragraph (a) delete “against the *Road Traffic Act 1974*” and insert:

under a road law as defined in section 4 of that Act

- (c) in paragraph (b) delete “the provisions of the *Road Traffic Act 1974* about traffic infringement notices,” and insert:

section 90 of that Act,

- (2) In section 12(3) in the definition of ***prescribed penalty*** delete “the *Road Traffic Act 1974* for an offence if dealt with under section 102;” and insert:

a road law as defined in the *Road Traffic (Administration) Act 2008* section 4 for an offence if dealt with under section 79 of that Act;

- (3) In section 12(4) delete the definition of ***traffic infringement notice*** and insert:

***infringement notice*** includes a notice that, because of the *Road Traffic (Administration) Act 2008* section 104(2), is to be regarded as being an infringement notice.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

Defined term	Provision(s)
commencement day .....	16(1)
Council.....	3
former section 12(2)(a) .....	16(1)
officer.....	3
photograph-based vehicle infringement notice .....	12(3)
prescribed penalty .....	12(3)
prescribed period.....	12(3)
public officer.....	3
road .....	3
the Account .....	3
traffic infringement notice .....	12(4)