

Western Australia

Road Traffic Amendment Act 2000

As at 10 Oct 2000

No. 39 of 2000

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Road Traffic Amendment Act 2000

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Western Australia

Road Traffic Amendment Act 2000

No. 39 of 2000

An Act to —

- amend the *Road Traffic Act 1974*;
- consequentially amend the *Control of Vehicles (Off-road areas) Act 1978*, the *Motor Vehicle Drivers Instructors Act 1963*, the *Stamp Act 1921* and the *Transport Co-ordination Act 1966*;
- amend the *Road Traffic Amendment (Random Breath Tests) Act 1988*,

and for related purposes.

[Assented to 10 October 2000]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Road Traffic Amendment Act 2000*.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

Part 2 — Road Traffic Act 1974 amended

3. The Act amended

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

[* *Reprinted as at 17 September 1999.*]

4. Section 5 amended

- (1) Section 5(1) is amended by deleting the definitions of “district”, “moped”, “owner”, “regulation” and “this Act” and inserting into the appropriate alphabetical positions the following definitions —

“

“district” means a district under the *Local Government Act 1995*;

“owner”, in relation to a vehicle, means —

- (a) the person who is entitled to the immediate possession of the vehicle; or
- (b) if there are several persons entitled to its immediate possession, the person whose entitlement is paramount,

but if one of 2 or more persons fitting that description has been nominated for the purposes of section 5(4), it means only the person nominated;

“responsible person”, for a vehicle, means a person responsible for the vehicle under section 5A;

“traffic infringement notice” has the meaning given by section 102(1);

”.

- (2) Section 5(4) is amended as follows:
- (a) by deleting “as owner or otherwise, only one of those persons, to be” and inserting instead —
“ and one of those persons is ”;
 - (b) by inserting after “Director General” —
“ , the nominated person ”.
- (3) Section 5(5) is repealed.

5. Section 5A inserted

After section 5 the following section is inserted in Part 1 —

“

5A. Person responsible for a vehicle

- (1) For the purposes of this Act a person responsible for a vehicle is —
- (a) if the vehicle is licensed — any licence holder who has not given a notice as described in paragraph (b);
 - (b) if a licence holder has given notice under section 24(1), or a corresponding law of another State or Territory or the Commonwealth, of a change in ownership of the vehicle and subsection (2) does not apply — the new owner as specified in the notice or, if more than one is specified, each of them;
 - (c) if the vehicle is not licensed but was previously licensed and subsection (2) does not apply — a person responsible under paragraph (a) or (b) before the vehicle last ceased to be licensed; or

- (d) in any other case —
 - (i) the person who is entitled to the immediate possession of the vehicle; or
 - (ii) if there are several persons entitled to its immediate possession, the person whose entitlement is paramount.
- (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.

”.

6. Section 12A amended

Section 12A(2)(a) is amended by deleting “section 102(3a)” and inserting instead —

“ section 102B(1) or 102D(2) ”.

7. Section 15 amended

- (1) Section 15(3) is amended by deleting “the owner of” in both places where it occurs and inserting instead —
“ a responsible person for ”.
- (2) Section 15(6) is amended by deleting “of which the owner” and inserting instead —
“ for which each responsible person ”.

8. Section 16 amended

Section 16(1) is amended by deleting “the owner of” and inserting instead —
“ a responsible person for ”.

9. Section 17 inserted

After section 16 the following section is inserted —

“

17. Applications for issue, renewal and transfer of vehicle licences

- (1) An owner of a vehicle may apply for the issue, renewal or transfer of a licence for a vehicle by —
 - (a) submitting an application in a form approved by the Director General; and
 - (b) paying the amount of —
 - (i) any fee that would be required by section 19; and
 - (ii) in the case of an application for the issue or transfer of a licence, the stamp duty applying under Part IIIC of the *Stamp Act 1921* in respect of the transfer.

- (2) Upon an application under subsection (1), the Director General shall issue, renew or transfer a licence for a vehicle if —
 - (a) the vehicle meets the prescribed standards and requirements and is otherwise fit for the purpose for which the licence is required;
 - (b) in the case of an application by an individual, the applicant has attained any minimum age prescribed by regulations under section 111(2)(i) and provided any proof of age and identity required by those regulations; and
 - (c) the applicant has complied with any applicable provisions of the *Stamp Act 1921* relating to the issue or transfer of motor vehicles.
- (3) A vehicle cannot be licensed in the name of more than one person at a particular time.
- (4) Any one of 2 or more owners may apply for the issue or transfer of a licence and the application is to be signed by each of them.
- (5) An application under subsection (4) is to be regarded as notice of the nomination of the applicant for the purposes of section 5(4).
- (6) Nothing in this section authorizes or permits the Director General to issue or renew a vehicle licence contrary to any provision of the *Motor Vehicle (Third Party Insurance) Act 1943* or any other provision of this Act or the regulations.
- (7) The Director General shall refund any amount paid by a person in connection with —
 - (a) an application under this section that is refused;
 - or

- (b) an application for the transfer of a licence upon which the licence is not transferred but cancelled.

”.

10. Section 18 amended

Section 18(1) and (13) are repealed.

11. Section 23 repealed

Section 23 is repealed.

12. Section 23A amended

Section 23A(c) is amended by deleting “the owner has failed to present the vehicle” and inserting instead —

“

a responsible person for the vehicle has failed to present it

”.

13. Section 24 amended

- (1) Section 24(2) is amended by deleting “and apply for the transfer of the licence to the person”.
- (2) Section 24(2a) to (2d) are repealed and the following subsections are inserted instead —

“

- (2a) 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 —

- (a) 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

- (b) 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.

- (2b) 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.

- (2c) 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.

- (2d) 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 notice is issued, or any longer period that the Director General allows, unless it can be shown that —

- (a) the person did not agree to becoming an owner of the vehicle and has notified the Director General in writing accordingly;

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- (b) another person has been nominated for the purposes of section 5(4);
- (c) there is more than one owner of the vehicle and there is good reason why a person was not nominated under section 5(4); or
- (d) there was some other good reason why the application for the transfer of the licence was not made.

”.

- (3) Section 24(3) is amended by deleting “subsection (2c)” and inserting instead —

“ subsection (2d) ”.

- (4) Section 24(4) is repealed and the following subsection is inserted instead —

“

- (4) The other subsections of this section do not apply if a person to whom a licence in respect of a vehicle has been issued dies, and in that case the Director General shall on an application under section 17, if any, by the executor or administrator of the estate of that person endorse on the licence the transfer of the licence to that executor or administrator.

”.

- (5) Section 24(5) is repealed.

14. Section 24A amended

Section 24A(2) is amended by deleting “section 23(a)” and inserting instead —

“ section 17(2)(a) ”.

15. Section 24B inserted

After section 24A the following section is inserted —

“

24B. Change of nominated owner

- (1) If a person is the owner of a vehicle as the result of a nomination for the purposes of section 5(4), the person may apply to the Director General, in a form approved by the Director General, to cancel the nomination.
- (2) The application is to include a statement, signed by each person who would be an owner if there had been no nomination, to the effect that they agree to another of them being the owner of the vehicle for the purposes of this Act.
- (3) If the Director General approves the application and the applicant pays the prescribed fee, if any —
 - (a) the current nomination ceases to have effect;
 - (b) the statement under subsection (2) is to be treated as being a nomination for the purposes of section 5(4); and
 - (c) the Director General is to vary the licence by changing the name of the person to whom the licence is issued in accordance with the application.

”.

16. Section 25 amended

- (1) Section 25(1) is amended by deleting “a licence, or a transfer of a licence,” and inserting instead —

“

an application for the issue, renewal, transfer, or variation of a licence

”.

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- (2) Section 25(2) is amended by deleting “licence” and inserting instead —

“ application ”.

17. Section 27 amended

- (1) Section 27(1) is amended by deleting “by it”.
- (2) Section 27(3) is amended by deleting “Every owner” and inserting instead —

“ The licence holder ”.

18. Section 42 amended

- (1) Section 42(2) is amended as follows:

- (a) by deleting paragraph (a) and inserting instead —

“

- (a) has attained the minimum age of 17 years, or, in relation to a particular class of motor vehicle, any other age prescribed in the regulations for the purposes of this section, unless in the opinion of the Director General the denial of a licence to a person of a lesser age would occasion undue hardship;

”,

- (b) after “sought” in paragraph (c) by inserting —

“

and satisfied any other requirements prescribed by the regulations

”.

- (2) Section 42(2a), (3), (4), (5) and (6) are repealed and the following subsections are inserted instead —

“

- (3) The Director General may —
- (a) in satisfaction of the requirement under subsection (2)(c) that the applicant demonstrate an ability to control the class of vehicle for which the licence is sought, accept evidence other than that obtained from a driving test;
 - (b) in a particular case, waive any requirements prescribed by the regulations; and
 - (c) in satisfaction of any requirement imposed by or under subsection (2)(c), accept evidence from a body authorized by the Director General for that purpose.
- (4) Regulations may require the holder of a driver's licence to submit, as required by the regulations, to a medical practitioner approved by the Director General for examination as to the person's mental or physical fitness to drive.

”.

- (3) Section 42(7) is amended as follows:
- (a) in paragraph (a) by deleting “18 years” and inserting instead —
“ 19 years ”;
 - (b) in paragraph (b) by deleting “one year” and inserting instead —
“ 2 years ”.

19. Section 42A amended

- (1) Section 42A(3) is amended as follows:
 - (a) by deleting “may” and inserting instead —
“ is to ”;
 - (b) after “face of” by inserting —
“ , and signature of, ”.
- (2) Section 42A(4) to (9) are repealed.

20. Section 42B inserted

After section 42A the following section is inserted —

“

42B. Additional matters relating to identity

- (1) The Director General cannot issue or renew a driver’s licence until the applicant has provided, in support of the application, such evidence as is required by the regulations to establish the identity and residential address in this State of the applicant.
- (2) Except as prescribed in the regulations, the Director General cannot issue or renew a driver’s licence unless the applicant has, at the time of the application or before, provided the Director General with —
 - (a) a photograph for use on the driver’s licence, taken within 5 years of the application; and
 - (b) a signature for use on the driver’s licence, made within 5 years of the application.
- (3) The photograph and signature are to be provided in a manner and form approved by the Director General.
- (4) The Director General is to ensure that any photograph or signature provided under this section is destroyed if

it, or a copy of it, has not been used on a driver's licence in the preceding 5 years.

- (5) A person who, other than for the purposes of this Part, possesses a photograph or signature provided under this section that is not on a driver's licence commits an offence.

Penalty: Imprisonment for 2 years.

- (6) A person employed or engaged in connection with any aspect of the production of driver's licences or otherwise concerned in the administration of this Part, who, otherwise than in the administration of this Part —

(a) reproduces, by any means, a photograph or signature that appears, or is to appear, in a licence; or

(b) causes or permits another person to do so,

commits an offence.

Penalty: Imprisonment for 2 years.

- (7) In this section —

“destroyed” includes damaged so as to be unusable;

“photograph” includes a negative or an image stored electronically.

”.

21. Section 43 amended

- (1) Section 43(1) is amended as follows:

(a) by inserting after paragraph (a) —

“

(aa) excluding from the authority given by a licence the authority to drive for a purpose or in a

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manner set out in the regulations unless the licence is expressly endorsed to confer that authority, whether by reference to classes of endorsement described in the regulations or otherwise;

- (ab) prescribing classes of conditions or limitations to which a licence may be made subject by endorsing the licence with a reference to that class instead of setting out the conditions or limitations in full;

”;

- (b) by deleting paragraph (b) and inserting instead the following paragraph —

“

- (b) prescribing the minimum ages, subject to section 42, of persons —
 - (i) to whom a driver’s licence or permit appropriate to a particular description of motor vehicle may be issued; or
 - (ii) whose driver’s licences may be endorsed under paragraph (aa);

”;

- (c) after “driver’s licence” where it first occurs in paragraph (c), by inserting —

“ or permit ”;

- (d) after paragraph (c) by deleting “and”;

- (e) by deleting the full stop at the end of paragraph (d) and inserting instead —

“

; and

- (e) providing for what is to be authorized by a licence held by a person who, before an

amendment to the regulations, held a licence that operated by reference to a vehicle classification that no longer exists and, where anything that was formerly authorized by the licence ceases to be authorized, making provision to facilitate the obtaining by the person of a licence that authorizes that thing.

”.

- (2) Section 43(2) is repealed.

22. Section 44 amended

Section 44(3) is amended as follows:

- (a) by inserting before “endorsed” —
“ to be taken to be ”;
- (b) by deleting paragraph (b) and inserting instead the following paragraph —
“
 - (b) a prescribed notation is endorsed on the licence to show that the licence is subject to conditions or limitations set out in a notice under paragraph (a).”.

23. Section 45 amended

- (1) Section 45(1) is amended as follows:
- (a) in paragraph (a) by deleting “one year” and inserting instead —
“ 2 years ”;
 - (b) in paragraph (c) by deleting “one year” and inserting instead —
“ 2 years ”;

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- (c) in paragraph (d) by deleting “18 years” and inserting instead —
“ 19 years ”.
- (2) Section 45(1a) is amended by deleting “12 months” and inserting instead —
“ 2 years ”.
- (3) Section 45(3) is amended by deleting “one year” and inserting instead —
“ 2 years ”.
- (4) Section 45(4) is amended as follows:
 - (a) in paragraph (a) by deleting “18 years” and inserting instead —
“ 19 years ”;
 - (b) in paragraph (b) by deleting “one year” and inserting instead —
“ 2 years ”.

24. Section 46 amended

- (1) Section 46(1) is amended by inserting after “prescribed” in both places where it occurs —
“ or provided for in the regulations ”.
- (2) Section 46(5) is repealed.

25. Section 48 amended

After section 48(9) the following subsection is inserted —

“

(10) In this section —

- (a) a reference to refusing to issue a driver's licence includes a reference to refusing to endorse the licence under section 43(1)(aa);
- (b) a reference to cancelling or suspending a driver's licence includes a reference to cancelling or suspending an endorsement on the licence under section 43(1)(aa);
- (c) a reference to refusing to renew a driver's licence includes a reference to refusing to renew the licence as previously endorsed under section 43(1)(aa).

”.

26. Section 48B amended

Section 48B(2) is amended by deleting “, but the form of licence issued by the Director General shall not contain any photograph of the holder of the licence unless that person when applying under this section has applied for a licence containing such a photograph”.

27. Section 48C amended

Section 48C(1) is repealed and the following subsections are inserted instead —

“

- (1) The Director General may, subject to such conditions as the Director General sees fit to impose, issue a permit authorizing a person who has attained the

prescribed age, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by —

- (a) a holder of a licence issued under the *Motor Vehicle Drivers Instructors Act 1963*; or
 - (b) any other person prescribed in the regulations.
- (1a) The Director General may, in a particular case, issue a permit under this section to a person who has not attained the prescribed age if the denial of the permit would, in the opinion of the Director General, occasion undue hardship or inconvenience.
- (1b) In subsection (1) —
- “**prescribed age**” means the age of 16 years or, in relation to a particular description of motor vehicle, any other age prescribed in the regulations for the purposes of this section.

”.

28. Section 49 amended

After section 49(1) the following subsection is inserted —

“

- (1a) A person who drives a motor vehicle for a purpose or in a manner set out in regulations under section 43(1)(aa) without the authority to do so conferred by an endorsement on the licence under that section is not the holder of an appropriate, valid driver’s licence.

”.

29. Section 51 amended

Section 51(5) is repealed and the following subsection is inserted instead —

“

- (5) Subsection (5a) applies to a person who does not hold a driver’s licence under this Act and who, under this Act,

could not be issued with a driver's licence except on probation.

”.

30. Section 54 amended

Section 54(1) is amended by deleting “the owner of the vehicle,” and inserting instead —

“ a responsible person for the vehicle, ”.

31. Section 57 amended

Section 57(1) is amended by deleting “the owner of” and inserting instead —

“ a responsible person for ”.

32. Section 58 replaced

Section 58 is repealed and the following sections are inserted instead —

“

58. Duty to identify offending driver or person in charge of vehicle

(1) A responsible person for a vehicle commits an offence if —

- (a) 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;
- (b) 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;

- (c) the responsible person has, or could reasonably have ascertained, the information; and
- (d) the responsible person fails to give the information.

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.

- (2) A responsible person for a vehicle commits an offence if —

- (a) 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;
- (b) 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
- (c) the responsible person gives false information in response to the request.

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.

- (3) In subsections (1) and (2) —

“responsible person” includes a person to whom the possession or control of the vehicle was entrusted

at the time of the alleged offence referred to in
subsection (1)(a) or (2)(a), as the case may be.

- (4) Subsection (1) does not apply if the request for information was made in a notice under section 102C.
- (5) On a complaint charging a person with an offence against subsection (1) the person may be convicted of an offence against section 58A.

58A. Duty to take reasonable measures to be able to comply with a 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.

”.

33. Section 59 amended

- (1) Section 59(1a)(a) is amended by deleting “the owner or” and inserting instead —
“ a responsible person for, or a ”.
- (2) Section 59(3)(a) is amended by deleting “the owner or person in charge of” and inserting instead —
“ a responsible person for, or a person in charge of, ”.

34. Section 65 amended

Section 65 is amended by inserting after the definition of “preliminary test” —

“

“**registered nurse**” means a person registered in
division 1 of the register as defined in the *Nurses
Act 1992*;

”.

35. Section 70 amended

- (1) Section 70(2) is amended as follows:
 - (a) in paragraph (c) by deleting “the Public Health Department” and inserting instead —
“ a body approved by the Minister ”;
 - (b) by deleting “or analyst” and inserting instead —
“ , registered nurse or analyst ”.
- (2) Section 70(3b)(b) and (c) are amended by deleting “the Public Health Department” and inserting instead —
“ a body approved by the Minister ”.

(3) After section 70(6) the following subsection is inserted —

“

(7) In this section —

“**technologist**” means —

- (a) 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.

”.

36. Various references to “registered nurse” inserted

In each place listed in the Table to this section, after “medical practitioner” the following is inserted —

“ or registered nurse ”.

Table

s. 66(2)	s. 66(12) (3 places)	s. 68(3)
s. 66(5) (2 places)	s. 66(13) (7 places)	s. 68(7)
s. 66(6) (2 places)	s. 66(14) (2 places)	s. 69(1)
s. 66(6a) (2 places)	s. 66(15) (2 places)	s. 69A
s. 66(7) (2 places)	s. 66(16) (3 places)	s. 70(1)(d)
s. 66(8a) (3 places)	s. 66(17)	s. 70(2)(d)
s. 66(9) (6 places)	s. 67(2)(b)	s. 70(3a)(a)
s. 66(11)(c)	s. 67(2)(c)	s. 70(3b) (3 places)
s. 66(11)(d)	s. 67A(2)	s. 72(1)(d)

37. Section 82 amended

Section 82(1) is amended by deleting “Any omnibus licence,” and inserting instead —

“ A vehicle licence for an omnibus ”.

38. Section 84 amended

- (1) Section 84(1) is amended by deleting “The owner of a vehicle shall be” and inserting instead —
- “
- Each responsible person for a vehicle shall be jointly and severally
- ”.
- (2) Section 84(3) is amended by deleting “the ownership of a vehicle” and inserting instead —
- “ who is a responsible person for the vehicle ”.

39. Section 89 amended

- (1) Section 89(2) is amended by deleting “the owner or” and inserting instead —
- “ a responsible person for the vehicle or a ”.
- (2) Section 89(3) is amended as follows:
- (a) by deleting “the owner of” and inserting instead —
- “ a responsible person for ”;
- (b) by deleting “by the owner” and inserting instead —
- “ by the responsible person ”.

40. Section 98 amended

Section 98(1) is amended by deleting “the owner of” in both places where it occurs and inserting instead —

“ an owner of, or a responsible person for, ”.

41. Section 99 amended

Section 99 is amended by deleting “or owner of” and inserting instead —

“ of, an owner of, or a responsible person for, ”.

42. Section 100 amended

Section 100(2) is amended by deleting “owned” and inserting instead —

“ licensed in the name of ”.

43. Section 102 amended

- (1) Section 102(1) is amended by deleting “in this section called”.
- (2) Section 102(2) is amended by deleting “; and, where the allegation is of an offence of which the standing, parking or leaving of a vehicle is an element and the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained, the traffic infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by leaving it in or upon, or attaching it to, the vehicle”.
- (3) Section 102(2a) is amended by deleting “section 24(2c)” and inserting instead —
“ section 24(2d) ”.
- (4) Section 102(2b) is amended by deleting “section 24(2c)” and inserting instead —
“ section 24(2d) ”.
- (5) Section 102(3), (3a), (3b), (3c), (3d) and (3e) are repealed.

s. 44

- (6) Section 102(5a) is repealed and the following subsection is inserted instead —

“

- (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.

”.

44. Sections 102A to 102D inserted

After section 102 the following sections are inserted —

“

102A. Traffic infringement notices left on vehicles

- (1) Where —

- (a) an offence against this Act, of which the standing, parking or leaving of a vehicle is an element, is alleged to have occurred; and
- (b) the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained,

a traffic infringement notice for the alleged offence may be addressed to the responsible person for the vehicle, without naming the person or stating the person’s address, and may be served on the responsible person by leaving it in or upon, or attaching it to, the vehicle.

- (2) If a traffic infringement notice is served on a responsible person under subsection (1) and there is

more than one responsible person, the notice is to be regarded as having been served on —

- (a) if not more than one responsible person responds to the notice, that responsible person; or
 - (b) in any other case, not more than one responsible person chosen by the Commissioner of Police.
- (3) If a traffic infringement notice is served on a responsible person under subsection (1), the responsible person is to be presumed to have committed the offence alleged in the notice unless, within the period of 28 days after the day specified in the notice (being the day of the service of the notice or a subsequent day) —
- (a) the penalty prescribed under section 102(1) for the alleged offence is paid; or
 - (b) the responsible person informs an officer specified in the notice that the responsible person was not the driver or person in charge of the vehicle at the time of the alleged offence and supplies to the officer —
 - (i) the name and address of the driver or person in charge of the vehicle at that time; or
 - (ii) information showing that the vehicle was stolen or unlawfully taken or used at that time.
- (4) The presumption under subsection (3) applies even if the responsible person is not an individual.

- (5) A traffic infringement notice served under subsection (1) must contain or be accompanied by a statement explaining the operation of subsections (3) and (4).

102B. Traffic infringement notices issued on photographic evidence

- (1) Where —
- (a) an offence against this Act of which the driving or being in charge of a vehicle is an element is alleged to have occurred;
 - (b) the belief referred to in section 102(1) is based on photographic evidence;
 - (c) the name and address of the driver or person in charge of the vehicle are not known and cannot immediately be ascertained;
 - (d) the identity of the vehicle can be ascertained from the photographic evidence; and
 - (e) a responsible person for the vehicle is an individual,
- a traffic infringement notice for the alleged offence may be addressed to the responsible person and may be served on the responsible person, personally or by post.
- (2) If there is more than one responsible person referred to in subsection (1), a traffic infringement notice under that subsection may be addressed to and served on not more than one of those persons chosen by the Commissioner of Police.
- (3) If a traffic infringement notice is served on a responsible person under subsection (1) without enclosing the photographic evidence referred to in

subsection (1)(b) and, at the end of the period of 14 days after the day specified in the notice (being the day of the service of the notice or a subsequent day) —

- (a) the penalty prescribed under section 102(1) for the alleged offence has not been paid; and
- (b) the responsible person has not informed an officer specified in the notice that the responsible person was not the driver or person in charge of the vehicle at the time of the alleged offence and supplied to the officer —
 - (i) the name and address of the driver or person in charge of the vehicle at that time; or
 - (ii) information showing that the vehicle was stolen or unlawfully taken or used at that time,

a further traffic infringement notice may be served on the responsible person enclosing the photographic evidence.

- (4) If a traffic infringement notice enclosing photographic evidence is served on a responsible person under subsection (1) or (3), the responsible person is to be presumed to be the driver or person in charge of the vehicle at the time of the offence alleged in the notice unless, within the period of 28 days after the day specified in the notice (being the day of the service of the notice or a subsequent day) —
 - (a) the penalty prescribed under section 102(1) for the alleged offence is paid; or
 - (b) the responsible person informs an officer specified in the notice that the responsible

person was not the driver or person in charge of the vehicle at the time of the alleged offence and supplies to the officer —

- (i) the name and address of the driver or person in charge of the vehicle at that time;
 - (ii) information showing that the vehicle was stolen or unlawfully taken or used at that time; or
 - (iii) a statutory declaration that the responsible person did not know, and could not reasonably have ascertained, the name and address of the driver or person in charge of the vehicle at that time.
- (5) A traffic infringement notice enclosing photographic evidence served under subsection (1) or (3) must contain or be accompanied by a statement explaining the operation of subsection (4).
- (6) A statutory declaration under subsection (4)(b)(iii) must be contained in or accompanied by the traffic infringement 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.
- (7) In this section —
- “photographic evidence”** means —
- (a) a photograph; or
 - (b) a cinematographic or other type of film, or video tape, video disc, slide or digital, electronic or other form of recording, from which a visual image can be produced.

102C. Notices requesting information

- (1) If a traffic infringement notice could be addressed to and served on a responsible person under section 102B but for there not being any individual who is a responsible person for the vehicle, a member of the Police Force or warden may serve a notice on a responsible person for the vehicle —
 - (a) describing the offence that is alleged to have been committed; and
 - (b) requesting the name and address of the driver or person in charge of the vehicle at the time of the offence so described.
- (2) If a notice is served on a responsible person under subsection (1) without enclosing the photographic evidence referred to in section 102B(1)(b) and, at the end of 14 days after the day specified in the notice (being the day of the service of the notice or a subsequent day), the responsible person has not supplied to an officer specified in the notice —
 - (a) the name and address of the driver or person in charge of the vehicle at the time of the offence described in the notice; or
 - (b) information showing that the vehicle was stolen or unlawfully taken or used at that time,a further notice of the kind described in subsection (1) may be served on the responsible person enclosing the photographic evidence.
- (3) A responsible person on which a notice enclosing photographic evidence is served under subsection (1) or (2) commits an offence unless, within the period of 14 days after the day specified in the notice (being the

day of the service of the notice or a subsequent day) the responsible person supplies to an officer specified in the notice —

- (a) the name and address of the driver or person in charge of the vehicle at the time of the offence described in the notice;
- (b) information showing that the vehicle was stolen or unlawfully taken or used at the time of the offence described in the notice; or
- (c) a statutory declaration that the responsible person did not know, and could not reasonably have ascertained, the name and address of the driver or person in charge of the vehicle at the time of the offence described in the notice.

Penalty: Double the amount of the fine provided under this Act for the offence described in the notice or, if more than one amount is so provided, double the lower or lowest of those amounts.

- (4) On a complaint charging a person with an offence against subsection (3) the person may be convicted of an offence against section 58A.
- (5) A notice served on a person under subsection (1) or (2) may be withdrawn at any time before the end of the period referred to in subsection (2) or (3) respectively 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.
- (6) 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.

- (7) 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.
- (8) A notice served under subsection (2) must contain or be accompanied by a statement explaining the operation of subsection (3) and section 102D.
- (9) 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.

102D. Notice under section 102C may become a traffic infringement notice

- (1) An offence against section 102C(3) is prescribed for the purposes of section 102 and the penalty for that offence if dealt with under section 102 (the “**modified penalty**”) is an amount of double the penalty prescribed under section 102(1) for the offence described in the notice under subsection 102C(1).
- (2) If a person on which a notice is served under section 102C(2) fails to comply with the notice, the notice is to be regarded as also being a traffic infringement notice served on the person for the offence against section 102C(3) constituted by that failure to comply.
- (3) For the purposes of section 102(1) and (4) and any other enactment, the specified time for the payment of the modified penalty is the period of 14 days after the end of the period referred to in section 102C(3).

- (4) Subject to section 102C(5), if the amount of the modified penalty has been paid before the day on which a notice is to be regarded under this section as a traffic infringement notice, the amount may be held until that day and then treated as an amount received in payment of the modified penalty.
- (5) Despite section 102(7), the payment of the modified penalty does not constitute a conviction of an offence for any purpose.

”.

45. Section 103 amended

Section 103(4) is repealed and the following subsection is inserted instead —

“

- (4) Subject to this Act, disqualification shall take effect —
 - (a) when notice of the disqualification has been served on the person personally; or
 - (b) if the person has been served with a notice of the disqualification in the prescribed manner, on the day of that service or on the day specified in the notice, whichever is the later.

”.

46. Section 111 amended

- (1) Section 111(2) is amended as follows:
 - (a) in paragraph (b) by inserting after “owners,” —
“ responsible persons, ”;

(b) by deleting paragraph (i) and inserting instead —

“

- (i) prescribing a minimum age at which an individual may apply for the issue or transfer of a vehicle licence and providing for the applicant to provide proof of age and identity;

”.

(2) Section 111(2b) is amended by deleting “the owner of” and inserting instead —

“ a responsible person for ”.

47. Section 112 amended

(1) Section 112(2) is amended as follows:

(a) by deleting “the owner or one of the owners of” and inserting instead —

“ a responsible person for ”;

(b) by deleting “the owner of” and inserting instead —

“ a responsible person for ”.

(2) Section 112(4) is amended as follows:

(a) by deleting “one person” and inserting instead —

“ one director ”;

(b) by deleting “owner of” and inserting instead —

“ a responsible person for ”;

(c) by deleting “upon the owner” and inserting instead —

“ upon a responsible person ”;

(d) by deleting “those persons” and inserting instead —

“ those directors ”.

(3) Section 112(5) and (6) are repealed.

- (4) Section 112(7) is amended by deleting “the owner or one of the owners of” and inserting instead —

“ a responsible person for ”.

48. Savings and transitional

Schedule 1 has effect.

Part 3 — Miscellaneous Acts amended

Division 1 — *Control of Vehicles (Off-road areas) Act 1978* amended

49. The Act amended

The amendments in this Division are to the *Control of Vehicles (Off-road areas) Act 1978**.

[* Reprinted as at 5 March 1999.]

50. Section 3 amended

- (1) Section 3(1) is amended by deleting the definition of “owner” and inserting in the appropriate alphabetical positions the following definitions —

“

“owner”, in relation to a vehicle, means —

- (a) the person who is entitled to the immediate possession of the vehicle; or
- (b) if there are several persons entitled to its immediate possession, the person whose entitlement is paramount,

but if one of 2 or more persons fitting that description has been nominated for the purposes of section 3(2), it means only the person nominated;

“responsible person”, for a vehicle, means a person responsible for the vehicle under section 5A of the *Road Traffic Act 1974*;

”.

- (2) Section 3(2) is amended as follows:
- (a) by deleting “as owner or otherwise only one of those persons, to be” and inserting instead —
“ and one of those persons is ”;
 - (b) by deleting “shall be registered as the owner and that person” and inserting instead —
“ the nominated person ”.

51. Section 28 amended

- (1) Section 28(3) is repealed.
- (2) Section 28(4) is amended by deleting “, or renew” and inserting instead —
“ , renew or transfer ”.
- (3) Section 28(5) is amended by inserting after “renewal” —
“ or transfer ”.
- (4) Section 28(6) is amended by deleting “owner” and inserting instead —
“ person in whose name the vehicle is registered ”.
- (5) Section 28(8) is amended by deleting “owner” and inserting instead —
“ person in whose name the vehicle is registered ”.

52. Section 28A inserted

After section 28 the following section is inserted —

“

28A. Applications for issue, renewal and transfer of registration

- (1) An owner of a vehicle may apply for the registration, renewal of registration or transfer of registration of a vehicle under this Act by —
 - (a) submitting an application in a form approved by the Director General;
 - (b) providing a statutory declaration made pursuant to section 106 of the *Evidence Act 1906*, in a form approved by the Director General as to the compliance of the vehicle with the prescribed safety and noise requirements; and
 - (c) paying any fee that would be required by section 29.
- (2) Upon an application under subsection (1), the Director General shall —
 - (a) register, renew the registration of, or transfer the registration of, a vehicle; and
 - (b) issue to the owner a certificate of that registration, and on payment of the prescribed fee a number plate displaying the symbols or numbers or the symbols and numbers allotted to the vehicle by the Director General,if, in the case of an application by an individual the applicant has attained the age of 18 years.
- (3) A vehicle cannot be registered in the name of more than one person at a particular time.

- (4) Any one of 2 or more owners may apply for the issue or transfer of a registration and the application is to be signed by each of them.
- (5) An application under subsection (4) is to be regarded as notice of the nomination of the applicant for the purposes of section 3(2).
- (6) The Director General shall refund any amount paid by a person in connection with an application under this section that is refused.

”.

53. Section 29 amended

- (1) Section 29(1) and (2) are repealed.
- (2) Section 29(3) is amended as follows:
 - (a) by deleting “the subsection (2)” and inserting instead —
“ section 28A ”;
 - (b) by deleting “, and where a registration fee is payable on fee shall be such amount as is prescribed”.
- (3) Section 29(5) is amended as follows:
 - (a) after “made” by inserting —
“ under section 28A ”;
 - (b) by deleting “and the appropriate prescribed fee, if any, is paid and a statutory declaration furnished as to the compliance of the vehicle with the prescribed safety and noise requirements,”.
- (4) Section 29(7) to (10) are repealed.

54. Section 29A inserted

After section 29 the following section is inserted —

“

29A. Transfer of vehicle registrations

- (1) Where a person to whom a certificate of registration of a vehicle has been granted ceases to be the owner of the vehicle, the person shall —
 - (a) within 7 days of ceasing to be the owner give notice in writing to the Director General of the name and address of the new owner of the vehicle; and
 - (b) if the registration had, pursuant to the provisions of this Act, been granted or renewed without payment of a fee or on payment of a reduced registration fee which was less than the fee that would otherwise have been payable in relation to that vehicle had the particular circumstances not applied, and unless the provisions of section 30(1) have been complied with, within 7 days after ceasing to be the owner, return the certificate of registration and the number plate issued in respect of that vehicle to the Director General.
- (2) A person who becomes the owner of a vehicle in respect of which a certificate of registration has been granted shall, within 14 days after becoming the owner, give notice in writing to the Director General of that fact.
- (3) 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

certificate of registration has been granted, if the Director General is satisfied that the registration may be transferred under section 28A(2) and no application has been made under section 28A(1), the Director General may issue to the new owner a notice requiring that —

- (a) an application for the transfer of the registration to the new owner be made under section 28A; or
 - (b) the number plates issued in respect of the vehicle be delivered up to the Director General.
- (4) In subsection (3) —
 - “**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.
- (5) A person to whom a notice is issued under subsection (3)(b) commits an offence if an application for the transfer of the registration for the vehicle is not made within 28 days after the notice is issued, or any longer period that the Director General allows, unless it can be shown that —
 - (a) the person did not agree to becoming the owner of the vehicle and has notified the Director General in writing accordingly;
 - (b) another person has been nominated for the purposes of section 3(2);
 - (c) there is more than one owner of the vehicle and there is good reason why a person was not nominated under section 3(2); or

- (d) there was some other good reason why the application for the transfer of the registration was not made.
- (6) The other subsections of this section do not apply if a person to whom a certificate of registration in respect of a vehicle has been issued dies, and in that case the Director General shall on an application under section 28A, if any, by the executor or administrator of the estate of that person endorse on the certificate the transfer of the registration to that executor or administrator.

”.

55. Section 32A inserted

After section 32 the following section is inserted —

“

32A. Change of nominated owner

- (1) If a person is the owner of a vehicle as the result of a nomination for the purposes of section 3(2), the person may apply to the Director General, in a form approved by the Director General, to cancel the nomination.
- (2) The application is to include a statement, signed by each person who would be an owner if there had been no nomination, to the effect that they agree to another of them being the owner of the vehicle for the purposes of this Act.
- (3) If the Director General approves the application and the applicant pays the prescribed fee, if any —
 - (a) the current nomination ceases to have effect;

- (b) the statement under subsection (2) is to be treated as being a nomination for the purposes of section 3(2); and
- (c) the Director General is to vary the registration in accordance with the application by changing the name of the person in whose name the vehicle is registered.

”.

56. Section 35 amended

Section 35(c) is amended by deleting “owner of a vehicle which” and inserting instead —

“ person in whose name a vehicle ”.

57. Section 37 amended

(1) Section 37(2) is amended as follows:

- (a) by deleting “the owner of” in the first place where it occurs and inserting instead —
“ a responsible person for ”;
- (b) by deleting “, but where the identity of the driver or person in charge of a vehicle in respect of which an offence is alleged to have been committed is not known and cannot immediately be ascertained, an infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by attaching it to the vehicle or leaving it in or on the vehicle”.

(2) Section 37(3) is amended as follows:

- (a) by deleting “the owner of” in the first place where it occurs and inserting instead —
“ a responsible person for ”;

- (b) by deleting “owner of a vehicle” in the second place where it occurs and inserting instead —
“ responsible person ”;
 - (c) in paragraph (b) by deleting “owner of the vehicle” and inserting instead —
“ responsible person ”;
 - (d) by deleting “the owner is” and inserting instead —
“ the responsible person is ”.
- (3) After section 37(5) the following subsection is inserted —
- “
- (5a) In subsection (5) —
- “alleged offender”**, in relation to an infringement notice addressed to and served on a responsible person under subsection (3), means the responsible person.
- ”.
- (4) Section 37(8) is amended by deleting “the owner, driver or” and inserting instead —
- “ an owner of, a responsible person for, a driver of, or a ”.

58. Section 38 amended

- (1) Section 38(9) is amended as follows:
- (a) by deleting “of which he is not the owner” and inserting instead —
“ for which the driver is not a responsible person ”.
 - (b) by deleting “attention of the owner” and inserting instead —
“ attention of a responsible person ”.

- (2) Section 38(11)(b) is amended by deleting “the owner or driver of” and inserting instead —

“ a responsible person for, or a driver of, ”.

- (3) Section 38(16) is amended by deleting “the owner of” and inserting instead —

“ a responsible person for ”.

59. Various references to “owner” replaced

In each place listed in the Table to this section “the owner” is deleted and the following is inserted instead —

“ a responsible person ”.

Table

s. 38(14)

s. 42(2)(b)

s. 42(2)(a)

**Division 2 — *Motor Vehicle Drivers Instructors Act 1963*
amended**

60. The Act amended

The amendments in this Division are to the *Motor Vehicle Drivers Instructors Act 1963**.

[* *Reprinted as approved 12 July 1977.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 169-70.]

61. Section 7 amended

Section 7(5)(e) is amended by deleting “then last past;” and inserting instead —

“
 , or such other period as the Director General may approve in a particular case, before the application was made;
”.

62. Section 14 amended

Section 14(1) is amended by inserting before paragraph (a) the following paragraph —

“
 (aa) what is to be authorized 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 authorized by the licence or permit ceases to be authorized, making provision to facilitate the obtaining by the person of a licence or permit that authorizes that thing;
”.

Division 3 — Stamp Act 1921 amended

63. The Act amended

The amendments in this Division are to the *Stamp Act 1921**.

[* *Reprinted as at 22 October 1999.*]

64. Section 76B amended

Section 76B(1) is amended in the definition of “transfer” by deleting “section 24” and inserting instead —

“ section 17 ”.

65. Section 76C amended

- (1) Section 76C(10B) is amended by deleting “section 24(2c)” in the 3 places where it occurs and inserting instead —

“ section 24(2d) ”.

- (2) Section 76C(13C) is amended by deleting “section 24(2c)” and inserting instead —

“ section 24(2d) ”.

Division 4 — Transport Co-ordination Act 1966 amended

66. First Schedule amended

The First Schedule to the *Transport Co-ordination Act 1966** is amended after paragraph (c) by deleting “is registered as the owner of the vehicle” and inserting instead —

“ is the person in whose name the vehicle is licensed ”.

[* *Reprinted as at 9 September 1997.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 256 and Acts Nos. 32 of 1998 and 10 and 16 of 1999.]

**Division 5 — *Road Traffic Amendment (Random Breath Tests)*
Act 1988 amended**

67. Section 5 repealed

Section 5 of the *Road Traffic Amendment (Random Breath Tests) Act 1988** is repealed.

[* *Act No. 16 of 1988.*

*For subsequent amendments see Acts No. 46 of 1989 and
No. 76 of 1996.]*

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 use

If —

- (a) immediately before the commencement day, a person was the holder of a driver’s licence authorizing 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
- (b) on and after the commencement day the purpose or 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.

4. Section 23 amendments have effect only in relation to licences issued after commencement

The amendments made by section 23 have effect only in relation to a driver's licence issued after the commencement day.

5. Duplicate licences

If —

- (a) after the commencement day a person applies for a duplicate of a driver's licence under section 48B of the *Road Traffic Act 1974*; and
- (b) the licence was issued before the commencement day 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.

=====