

ROAD TRAFFIC AMENDMENT ACT (No. 3)

No. 60 of 1990

AN ACT to amend the *Road Traffic Act 1974* and for related purposes.

[Assented to 17 December 1990.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Road Traffic Amendment Act (No. 3) 1990*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Road Traffic Act 1974** is referred to as the principal Act.

[*Reprinted as approved 19 July 1983 and amended by Acts Nos. 95 and 102 of 1984; 54 and 89 of 1985, 78 of 1986, 121 of 1987, 11, 16 (as amended by Act No. 46 of 1989), 32, 49 and 57 of 1988.]

Section 12A inserted

4. After section 12 of the principal Act the following section is inserted—

Road Trauma Trust Fund

“ 12A. (1) There shall be an account at the Treasury called the “Road Trauma Trust Fund” (“the Fund”).

(2) The following moneys shall be paid into and placed to the credit of the Fund—

- (a) one-third of each prescribed penalty paid pursuant to a traffic infringement notice served under section 102 (3a);
- (b) any moneys appropriated by Parliament for the purposes of the Fund;
- (c) notwithstanding section 39 of the *Financial Administration and Audit Act 1985*, all interest derived from the investment of moneys standing to the credit of the Fund.

(3) Moneys standing to the credit of the Fund shall be administered in accordance with the directions of the Board, and shall be used for the purposes of the Board’s functions in relation to—

- (a) the prevention of road accidents and injuries resulting from them; and
- (b) the education and training of road users. ”.

Section 102 amended**5. Section 102 of the principal Act is amended—****(a) by inserting before subsection (4) the following subsections—****“ (3a) Where—**

- (a) the belief referred to in subsection (1) is based on photographic evidence;**
- (b) the allegation is of an offence of which the driving or being in charge of a vehicle is an element;**
- (c) the identity of the vehicle can be ascertained from the photographic evidence; and**
- (d) the name and address of the driver or person in charge of the vehicle are not known and cannot immediately be ascertained,**

the traffic infringement notice may be addressed to the owner of the vehicle and may be served by serving it on the owner personally or by post.

(3b) Where a traffic infringement notice is served under subsection (3a), then, unless within the period of 28 days after the day specified in the notice (being the day of the issue of the notice or a subsequent day)—

- (a) the prescribed penalty is paid to an officer specified in the notice; or**
- (b) the person on whom the notice was served furnishes a statement in writing to the Commissioner of Police stating that he was not the driver or person in charge of the vehicle at the relevant time,**

the person on whom the notice is served, in absence of a claim by that person—

- (c) to the contrary, or**

- (d) that notwithstanding proper service of the notice the notice did not actually come to the attention of the person within the time for response or sufficiently within time to allow for response,

shall be presumed to have been the driver or person in charge of the vehicle at the relevant time for the purposes of the offence alleged in the notice.

(3c) A traffic infringement notice served under subsection (3a) shall contain or be accompanied by a statement explaining the effect of subsection (3b).

(3d) A statement in writing for the purposes of subsection (3b) (b) shall be accompanied by the traffic infringement notice to which it relates and shall be posted to the Commissioner of Police or delivered personally to a prescribed officer or the officer in charge of a police station.

(3e) In subsection (3a) “photographic evidence” means—

- (a) a photograph; or
 - (b) a cinematographic or other type of film, or video tape, video disc, slide or other form of recording, from which a visual image can be produced. ”;
- (b) in subsection (5) by deleting “, at any time within twenty-eight days after the service of the notice,”; and
- (c) by inserting after subsection (5) the following subsection—
- “ (5a) in subsection (5) “alleged offender”, in relation to a traffic infringement notice that is left in or upon, or attached to, a vehicle under subsection (2) or is served on the owner of a vehicle under subsection (3a), means the owner of the vehicle. ”.

**Review of amendments relating
to photographic evidence**

6. (1) A review of the operation and effectiveness of—

- (a) section 12A of the principal Act as enacted by section 4 of this Act; and
- (b) section 102 (3a) to (3e) of the principal Act as enacted by section 5 (a) of this Act,

shall be carried out within 5 years after the commencement of section 5 (a).

(2) The review required by subsection (1) shall be carried out by the Traffic Board constituted under section 6 of the principal Act.

(3) When the Traffic Board has carried out the review required by subsection (1) it shall prepare a report based on the review and submit that report to the Minister to whom the administration of Part V of the principal Act is for the time being committed by the Governor.

(4) As soon as practicable after receiving the report submitted under subsection (3) the Minister shall cause the report to be laid before each House of Parliament.
