

WESTERN AUSTRALIA

ROAD TRAFFIC AMENDMENT ACT

No. 11 of 1988

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

[Assented to 6 September 1988]

The Parliament of Western Australia enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Road Traffic Amendment Act 1988*.

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 and 121 of 1987.]

PART II—AMENDMENTS GENERALLY

Section 5 amended

4. Section 5 of the principal Act is amended in subsection (1)—

(a) by inserting after the definition of “municipality” the following definition—

“ “number plate” means an identification tablet or number plate issued under the regulations bearing numerals, or letters, or numerals and letters; ”;

(b) by deleting the definition of “passenger vehicle” and substituting the following definition—

“ “passenger vehicle” means—

(a) a motor vehicle that is licensed to stand or ply for the carriage of passengers for reward, and includes an omnibus; or

(b) a motor vehicle that is fitted with seats for 13 or more persons, including the driver of the vehicle, and is being used to carry 13 or more persons, including the driver; ”; and

(c) by deleting the definitions of “Schedule” and “section”.

Section 15 amended

5. Section 15 of the principal Act is amended by inserting after subsection (2) the following subsection—

- “ (2a) A vehicle licence is not required for a vehicle that is drawn by an animal. ”.

Section 43 amended

6. Section 43 of the principal Act is amended—

- (a) by inserting after the section designation “43.” the subsection designation “(1)”; and
- (b) by inserting the following subsection—

- “ (2) Without limiting the generality of paragraph (a) of subsection (1), a vehicle may be classified by regulations under that paragraph by reference to the purpose for which or manner in which it is being used. ”.

Section 45 amended

7. Section 45 of the principal Act is amended—

- (a) in subsection (1) by deleting paragraphs (a) and (b) and substituting the following paragraph—

- “ (a) has not previously held a driver’s licence under this Act and has not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory; ”;

and

- (b) by repealing subsection (4) and substituting the following subsection—

- “ (4) For the purposes of this Act a driver’s licence issued on probation shall be deemed to be an unrestricted licence if and when the holder of the licence has—

- (a) attained the age of 18 years; and

- (b) been the holder of a valid driver’s licence issued on probation for a period of, or periods amounting in the aggregate to, one year. ”.

Section 49 amended

8. Section 49 of the principal Act is amended—

- (a) in subsection (1) by deleting “subsection (2)” and substituting the following—

“ subsections (2) and (3) ”;

- (b) by repealing subsection (2) other than the penalty provision and substituting the following—

“ (2) Where—

(a) a person—

(i) having applied for a driver's licence and having been refused the issue of the licence under section 48;

(ii) having held a driver's licence that is cancelled or of which the operation is suspended; or

(iii) having been disqualified from holding or obtaining a driver's licence,

commits, whilst still legally disentitled to hold a driver's licence, an offence against subsection (1)(a); or

(b) a person in respect of whom an order is made under section 76(3) commits an offence against subsection (1)(a) before a licence has been issued pursuant to that order or when any licence so issued has expired and has not been renewed,

the person may be arrested without warrant by a member of the Police Force and is liable, instead of to the penalties provided by subsection (1), to those provided by this subsection. ”; and

- (c) by inserting after subsection (3) the following subsection—

“ (4) Subsection (1) does not apply to the driving of a vehicle that is exempted by the regulations from paragraph (b) of the description of “Motor carrier” in the First Schedule if the vehicle is being driven by a physically disabled person. ”.

Section 50 amended**9. Section 50 of the principal Act is amended—**

- (a) in subsection (1) by deleting “who is” in paragraph (c) and in the second place where it occurs in paragraphs (d) and (e) and substituting in each case, the following—

“ who, in the case of a permit issued to a person who has an incapacity of the kind mentioned in section 44 (1) (a), is ”;

and

- (b) by repealing subsection (3) and substituting the following subsection—

“ (3) Subject to section 75 (2) a permit issued under this section is valid for a period of 12 months from the date of issue unless it is sooner cancelled. ”.

Section 51 amended**10. Section 51 of the principal Act is amended—**

- (a) in subsection (2) by deleting “a licence” and substituting the following—

“ a driver’s licence ”;

- (b) in subsection (4) by inserting after “only” the following—

“ , unless the person has then—

(a) attained the age of 18 years; and

(b) been the holder of a valid driver’s licence issued on probation for a period of, or periods amounting in the aggregate to, one year ”; and

- (c) by repealing subsection (5) and substituting the following subsections—

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

(a) has not previously held a driver’s licence under this Act and has not, during a period of one year or more, been authorized to drive a motor vehicle under the law in force in another State or country or in a Territory;

- (b) having been the holder of a driver's licence issued on probation, has not been the holder of a valid driver's licence so issued for a period of, or for periods amounting in the aggregate to, one year; or
- (c) is under the age of 18 years.

(5a) Where a person to whom this subsection applies is—

- (a) convicted of an offence such as is mentioned in subsection (1) or an offence against section 49 (1) (a); or
- (b) disqualified by a court from holding or obtaining a driver's licence,

that person is disqualified from holding or obtaining a licence—

- (c) for any period for which he is so disqualified by the court; or
- (d) for a period of 3 months from the date of his conviction or, where he is convicted on more than one occasion of an offence referred to in paragraph (a), from the date of his latest conviction,

whichever period terminates later. ”.

Section 55 amended

11. Section 55 of the principal Act is amended in subsection (1) by deleting “three hundred dollars” and substituting the following—

“ \$1 000 ”.

Section 66 amended

12. Section 66 of the principal Act is amended—

- (a) in subsection (2)(d) by deleting “where”;
- (b) in subsection (2)—

(i) by inserting after “blood for analysis” the following—

“ or to allow a sample of blood to be so taken and to provide a sample of his urine for analysis ”; and

(ii) by deleting “(5) and (7) of this section” and substituting the following—

“ (5), (6a), (7) and (8a) ”;

(c) by inserting after subsection (6) the following subsection—

“ (6a) Where—

- (a) a member of the Police Force might, by virtue of subsection (2)(c) or (d), require a person to provide a sample of his breath for analysis but is precluded from so doing by subsection (4); and
- (b) under subsection (5), the member of the Police Force requires the person to allow a medical practitioner nominated by the person to take a sample of his blood for analysis,

the member of the Police Force may also require the person to provide the medical practitioner with a sample of his urine for analysis. ”;

(d) by inserting after subsection (8) the following subsection—

“ (8a) Where—

- (a) a person might be required under subsection (2)(c) or (d) to provide a sample of his breath for analysis and, under subsection (7), the person himself requires that he be permitted to allow a medical practitioner nominated by him to take a sample of his blood for analysis; or
- (b) a person has been required under subsection (2)(c) or (d) to provide a sample of his breath for analysis and, under subsection (7), the person requires that, instead of so doing, he be permitted to allow a medical practitioner nominated by him to take a sample of his blood for analysis,

a member of the Police Force may require the person to also provide the medical practitioner with a sample of his urine for analysis. ”;

(e) in subsection (9), by inserting after “analysis” where it last occurs, the following—

“ and, where a requirement has been made under subsection (6a) or (8a), provide the medical practitioner with a sample of his urine for analysis ”;

- (f) in subsection (11) by deleting “paragraph (c) or (d) of subsection (2) of this section” and substituting the following—

“ subsection (2) (c) or (d), or pursuant to his own requirement made under subsection (7), ”;

and

- (g) in subsection (15) by deleting “subsection” and substituting the following—

“ subsections (9) and ”.

Section 70 amended

13. Section 70 of the principal Act is amended by repealing subsection (5).

Section 75 amended

14. Section 75 of the principal Act is amended—

- (a) in subsection (2)—

- (i) by inserting after “driver’s licence” in the second place where it occurs the following—

“ or permit under section 50 ”; and

- (ii) by inserting after “renewed” the following—

“ or to extend the period for which the permit is valid or effective beyond the expiration of the period of 12 months from the date of its issue ”;

- (b) in subsection (2a), by inserting after “driver’s licence” in the second place where it occurs the following—

“ or permit under section 50 ”;

- (c) in subsection (2b), by inserting after “driver’s licence” in the second place where it occurs the following—

“ or permit under section 50 ”; and

- (d) in subsection (5), by deleting “mentioned in” and substituting the following—

“ whose licence has been cancelled by force of ”.

Section 84 amended

15. Section 84 of the principal Act is amended—

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) The owner of a vehicle shall be liable in damages to a road authority for any expense or loss incurred by that road authority because of damage or injury to a road caused by, or happening as a result of—

- (a) the use of the vehicle on the road; or
- (b) the passage along the road of the vehicle or of anything carried, drawn, or propelled by the vehicle,

and those damages may be recovered by proceedings in a court of competent jurisdiction. ”; and

- (b) by inserting after subsection (2) the following subsections—

“ (3) In any proceedings for the recovery of damages under this section a certificate of the kind referred to in section 98 (2b) is evidence for the purposes of proving the ownership of a vehicle as though the proceedings were proceedings for an offence under this Act.

(4) In this section—

“road” has the meaning set out in the definition of “road” in section 6 of the *Main Roads Act 1930* and, without limiting that definition, includes trees, plants and shrubs appurtenant to a road;

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

Section 103 amended

16. Section 103 of the principal Act is amended by inserting after subsection (3) the following subsection—

- “ (3a) Where a person is convicted of an offence and, in respect of that offence, the person is disqualified by the court, or by operation of a provision of this Act other than this section, from holding or obtaining a driver’s licence, points shall not be recorded in respect of that offence. ”.

Section 111 amended and validation

17. (1) Section 111 of the principal Act is amended—

(a) by inserting after subsection (2) (da) the following paragraph—

“ (e) prohibiting or regulating the manufacture, sale or supply of—

(i) replicas or imitations of number plates; or

(ii) articles similar to number plates,

and providing for the confiscation and disposal of such replicas, imitations or articles; ”;

(b) by deleting subsection (2) (i); and

(c) in subsection (2a) by deleting “that paragraph” and substituting the following—

“ subsection (2) (f) ”.

(2) In subsection (3) “the relevant regulations” means any regulations purporting to have been made under the principal Act before 1 July 1984 that would have been authorized under section 43 (7) or (8) of the *Interpretation Act 1984* if they had been made on or after 1 July 1984.

(3) The principal Act as enacted from time to time before 1 July 1984 is deemed to have authorized the making of the relevant regulations and those regulations shall be deemed to have taken effect and had the force of law accordingly.

First Schedule amended**18. The First Schedule to the principal Act is amended—**

- (a) under the column headed "Description" opposite and corresponding to the item "Motor carrier" by deleting the description and substituting the following description—

" A motor vehicle that is—

- (a) constructed for the carriage therein or thereon of passengers or goods, or both passengers and goods, designed to travel on 3 wheels and weighing, unladen, not more than 1016 kilograms, not being a 3 wheeled vehicle designed and controlled in a manner similar to a 4 wheeled motor car; or
- (b) a motorized wheel chair, being a chair-type vehicle that is fitted with 3 or more wheels and is fitted and designed for use of or by physically disabled persons only, not being a vehicle that is exempted from this paragraph by the regulations. "

and

- (b) by deleting the items "Tractor (other than prime mover type)" and "Tractor plant" and substituting the following items—

" Tractor (other than prime mover type)	<p>A motor vehicle that—</p> <ul style="list-style-type: none"> (a) is not designed for use primarily for the carriage on roads of passengers or goods; (b) is designed for use primarily in industry (whether in the public or private sector) including, without limiting the meaning of the expression "industry", agricultural pursuits, earth moving, forestry pursuits, and pursuits of a prescribed nature; and (c) is designed to be driven or controlled by a person carried in or on the vehicle.
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Tractor plant	<p>A motor vehicle that—</p> <ul style="list-style-type: none"> (a) is, or has permanently affixed to it, an excavator, road roller, road grader, bulldozer, mechanical shovel, plough, rotary hoe or similar or prescribed plant; (b) is not suitable for the carriage of any load other than accessories necessary for the operation of the vehicle; and (c) is designed to be driven or controlled by a person carried in or on the vehicle. "
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PART III—AMENDMENTS TO PENALTIES

Section 24 amended

19. Section 24 of the principal Act is amended by inserting after subsection (2) the following—

“ Penalty: \$500. ”.

Section 49 amended

20. Section 49 of the principal Act is amended in subsection (2) by deleting the penalty provision and substituting the following—

“ Penalty:

- (i) if the offence is committed in the circumstances mentioned in paragraph (a)(i): a fine of not less than \$100 or more than \$750 or imprisonment for a term not exceeding 12 months;
- (ii) if the offence is committed in the circumstances mentioned in paragraph (a)(ii) or (iii) or (b): for a first offence, a fine of not less than \$200 or more than \$1 000, or imprisonment for a term not exceeding 12 months, or both the fine and the imprisonment; and for any subsequent offence committed in any of those circumstances, a fine of not less than \$500 or more than \$2 000, or imprisonment for a term not exceeding 18 months, or both the fine and the imprisonment. ”.

Section 54 amended

21. Section 54 of the principal Act is amended—

(a) by inserting after subsection (1) the following—

“ Penalty: \$750; and, if the offence relates to an accident whereby a person was injured, the court may in addition impose an additional fine of not more than \$1 250 or a sentence of imprisonment for a term not exceeding 12 months, or both the fine and the imprisonment. ”;

(b) by repealing subsections (2) and (3); and

- (c) in subsection (6) by deleting the penalty provision and substituting the following—

“ Penalty: \$750; and, if in the opinion of the court the offender has shown a callous disregard for the injured person, the court may in addition impose an additional fine of not more than \$1 250 or a sentence of imprisonment for a term not exceeding 12 months, or both the fine and the imprisonment. ”.

Section 64A amended

22. Section 64A of the principal Act is amended by deleting “\$100” and substituting the following—

“ Not less than \$100 or more than \$300 ”.

Section 89 amended

23. Section 89 of the principal Act is amended in subsection (1) by deleting the penalty provision and substituting the following—

“ Penalty: For a first offence. A fine of not less than \$400 or more than \$2 000 or imprisonment for a term not exceeding 2 years, or both the fine and the imprisonment; and for any subsequent offence, a fine of not less than \$800 or more than \$5 000 or imprisonment for a term not exceeding 2 years, or both the fine and the imprisonment. ”.

Various penalties amended

24. The principal Act is amended by deleting from each of the provisions referred to in column 1 of the table hereunder the amount or amounts set out in column 2 and substituting in each case the amount or amounts set out in column 3.

TABLE

<i>Column 1</i> <i>Provision</i>	<i>Column 2</i> <i>Amount deleted</i>	<i>Column 3</i> <i>Amount substituted</i>
S.15(4)	two hundred dollars	\$250
S.20(3)	forty dollars	\$50
	one hundred dollars	\$150
S.44(2)	one hundred dollars	\$150
	two hundred dollars	\$300
S.49(1)	one hundred dollars	\$150
	two hundred dollars	\$300
S.50(2)	One hundred dollars	\$150
S.53(1)	one hundred dollars	\$150
	two hundred dollars	\$300
S.53(2)	fifty dollars	\$100
S.53(3)	Fifty dollars	\$100

TABLE—continued

S.53(4)	one hundred dollars	\$150
	two hundred dollars	\$300
S.55(1)	one hundred dollars	\$200
	two hundred dollars	\$400
S.56(1)	two hundred dollars	\$400
	four hundred dollars	\$800
S.57(1)	One thousand dollars	\$1 500
S.58	two hundred dollars	\$300
	four hundred dollars	\$600
S.59(3)(a)	five thousand dollars	\$10 000
S.59(3)(b)	two thousand dollars	\$4 000
S.59A(3)(a)	one thousand dollars	\$2 000
S.59A(3)(b)	two thousand dollars	\$4 000
S.60(3)(a)	three hundred dollars	\$500
S.60(3)(b)	five hundred dollars	\$600
S.60(3)(c)	one thousand dollars	\$1 200
S.61(3)(a)	two hundred dollars	\$400
S.61(3)(b)	four hundred dollars	\$1 000
S.62	Two hundred dollars	\$300
S.63(2)(a)	\$400	\$500
	\$1 000	\$1 200
S.63(2)(b)	\$800	\$1 000
	\$1 500	\$1 800
S.63(2)(c)	\$1 000	\$1 200
	\$2 000	\$2 500
S.64(2)(a)	\$200	\$300
	\$600	\$800
S.64(2)(b)	\$400	\$600
	\$1 000	\$1 200
S.67(3)(a)	\$400	\$500
	\$1 000	\$1 200
S.67(3)(b)	\$800	\$1 000
	\$1 500	\$1 800
S.67(3)(c)	\$1 000	\$1 200
	\$2 000	\$2 500
S.67A(3)(a)	\$100	\$150
	\$300	\$400
S.67A(3)(b)	\$200	\$300
	\$500	\$700
S.77(1)	Four hundred dollars	\$600
S.83(2)	one hundred dollars	\$150
	two hundred dollars	\$300
S.86(2)	ten dollars	\$20
	twenty dollars	\$40
S.86(4)	Twenty dollars	\$60
S.87(8)	One hundred dollars	\$200
S.89(2)	fifty dollars	\$100
	one hundred dollars	\$200
S.90	one hundred dollars	\$200
	two hundred dollars	\$400
S.91	Fifty dollars	\$100
S.102(8)(b)	two hundred dollars	\$500
S.107(2)	\$400	\$800
S.111(2)(k)	\$400	\$600
	\$800	\$1 200
S.111(2)(l)(i)	ten dollars	\$40
	one thousand dollars	\$1 200
S.111(2)(m)(iii)	five hundred dollars	\$600
S.111(2)(m)(iv)	one thousand dollars	\$1 200
	three thousand dollars	\$3 600.