

## ROAD TRAFFIC (No. 2).

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No. 71 of 1979.

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### AN ACT to amend the Road Traffic Act, 1974-1979.

[Assented to 27th November, 1979.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Road Traffic Act Amendment Act (No. 2), 1979*.

Short title  
and citation.

(2) In this Act the Road Traffic Act, 1974-1979 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Road Traffic Act, 1974-1979.

Act No. 59  
of 1974.  
Amended by  
Acts Nos. 77  
and 93 of  
1975, 17, 48,  
and 135 of  
1976, 4 of  
1977, 89 of  
1978 and 9  
and 10 of  
1979.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The provisions of sections 4, 5, 8, 9, 10, 11, 13, 14 and 18 of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 5  
amended.

3. Subsection (1) of section 5 of the principal Act is amended by inserting before the interpretation "road" an interpretation as follows—

"repealed Act" means the Act repealed by section 4; .

Section 26  
amended.

4. Section 26 of the principal Act is amended—

(a) as to subsection (2), by deleting the passage "together with any other fee that may be prescribed for the issue of number plates, generally," in lines two, three and four; and

(b) by adding immediately after subsection (2), the following subsection—

(2a) Without limiting any power conferred upon him to make regulations under this Act, the Governor may make regulations prescribing—

(a) a fee to be paid from time to time for the use and possession of number plates issued under subsection (2) of this section; and

(b) a deposit to be paid on the issue of, and in respect of, such number plates, and the circumstances in which that deposit shall be forfeited or refunded. .

5. Section 29 of the principal Act is repealed and re-enacted as follows—

Section 29  
repealed and  
re-enacted.

29. (1) The Minister may, by notice published in the *Government Gazette*, prohibit the issue, renewal or transfer of any vehicle licence, in respect of a vehicle unless and until the vehicle has been examined and a certificate of inspection has been issued pursuant to this Act that the vehicle meets the prescribed standards and requirements and that the vehicle is fit for the purpose for which the licence is desired.

Minister  
may require  
vehicles to  
be inspected.

(2) The Minister may in any notice given pursuant to subsection (1) of this section declare that the provisions of the notice apply—

(a) in respect of vehicles generally or in respect of vehicles of a class specified in the notice;

(b) throughout the State or in a part of the State specified in the notice. .

6. Subsection (2) of section 46 of the principal Act is amended by deleting the words “that period of twelve months” in lines four and five and substituting the words “the period for which the renewal would have had effect had it been effected prior to the expiry”.

Section 46  
amended.

7. Subsection (1) of section 48 of the principal Act is amended by deleting the passage “prescribed for the purposes of” in lines three and four of paragraph (e) and substituting the words “for which demerit points have been recorded pursuant to”.

Section 48  
amended.

8. Subsection (1) of section 55 of the principal Act is amended by deleting the word “one” in line eleven and substituting the word “three”.

Section 55  
amended.

Section 64  
amended.

9. Subsection (3) of section 64 of the principal Act is amended by deleting the passage "section 32AA of the repealed Act or section 63" in lines four and five and substituting the passage "32AA of the repealed Act, or subsection (9) of section 32B of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2), 1968 or section 63 or 67".

Section 66  
amended.

10. Subsection (4) of section 66 of the principal Act is amended by deleting paragraph (a) and the word "or" following that paragraph.

Section 67  
amended.

11. Subsection (1) of section 67 of the principal Act is amended by deleting the penalty clause in lines eight to thirteen (both inclusive) and substituting the following subsections—

(1a) A person convicted of an offence against this section is liable—

(a) for a first offence, to a fine of not less than one hundred dollars or more than three hundred dollars and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than three months;

(b) for any subsequent offence, to a fine of not less than two hundred dollars or more than five hundred dollars and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than six months.

(1b) For the purposes of subsection (1a) of this section, where a person is convicted of an offence against this section any offence previously committed by him against section

32 or 32AA of the repealed Act, or subsection (9) of section 32B of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2), 1968 or section 63 or 64 of this Act shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that firstmentioned offence is a first or subsequent offence. .

12. Subsection (2) of section 70 of the principal Act is amended— Section 70  
amended.

(a) by adding after paragraph (b) the following paragraph—

(ba) purporting to be signed by an authorised person—

- (i) certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein;
- (ii) certifying that the sample of breath so provided was analysed by apparatus operated by him and that apparatus was breath analysing equipment within the meaning of section 65;
- (iii) certifying that the breath analysing equipment was operated by him in the prescribed manner and that all regulations relating to analysis by breath analysing equipment were complied with;
- (iv) setting out the analysis result obtained from the analysis;

- (v) certifying that the breath analysing equipment was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation; and
  - (vi) certifying that in accordance with paragraph (b) of subsection (4) of section 68 he completed, signed, and handed to the person by whom the sample of breath was provided, a statement as required by that paragraph;
- ; and
- (b) by inserting before the word “such” in the penultimate line the passage “an authorized person, or was”.

Section 76  
amended.

13. Section 76 of the principal Act is amended—

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

(1a) No application under subsection (1) of this section shall be made to, or heard by, any court—

- (a) within four months after the applicant has been disqualified under paragraph (b) or (c) of subsection (2) of section 63;
- (b) within three months after the applicant has been disqualified pursuant to paragraph (a) of subsection (2) of section 63 where the applicant has previously been convicted of an offence against section 32AA of the repealed Act, or subsection (9) of section 32B of the repealed Act as in force after the coming into operation of the Traffic Act Amendment Act (No. 2), 1968 or section 64 or 67 of this Act;

- (c) within three months after the applicant has been disqualified pursuant to paragraph (b) of subsection (2) of section 64 on conviction of an offence that is a third or subsequent offence for the purposes of that subsection;
  - (d) within three months after the applicant has been disqualified pursuant to subsection (1a) of section 67 on conviction of an offence that is a third or subsequent offence for the purposes of that subsection;
  - (e) within two months after the applicant has been disqualified pursuant to paragraph (b) of subsection (2) of section 64 on conviction of an offence that is a second offence for the purposes of that subsection;
  - (f) within two months after the applicant has been disqualified pursuant to paragraph (b) of subsection (1a) of section 67 on conviction of an offence that is a second offence for the purposes of that subsection; or
  - (g) within twenty-one days after the applicant has been disqualified in any case not referred to in paragraph (a), (b), (c), (d), (e) or (f) of this subsection.;
- (b) as to paragraph (b) of subsection (9)—
- (i) by deleting the word “or” after subparagraph (ii);
  - (ii) by deleting the passage “drive,” in line three of subparagraph (iii) and substituting the passage “drive:”; and

(iii) by adding after subparagraph (iii), the following subparagraphs—

(iv) is not of good character; or

(v) should not, by reason of the number or nature of his convictions for offences incurred since the granting of the extraordinary licence, being offences under this Act or the regulations or offences under the law in force in any other State or in a Territory or other country of which the driving or using of a motor vehicle was an element, be the holder of a driver's licence, ;  
and

(c) by adding after the passage "section 64" in the last line of subsection (12) the passage "or paragraph (a) of subsection (1a) of section 67".

(d) by adding after subsection (12) the following subsection—

(12a) Nothing in subsection (12) of this section shall be construed as enabling an application under subsection (1) of this section to be made or heard at a time when the making or hearing of that application is prohibited by subsection (1a) of this section. .

Section 97  
amended.

14. Section 97 of the principal Act is amended by deleting paragraph (f) and substituting the following paragraph—

(f) drive any vehicle or cause or permit any vehicle to be driven on any road while it has on it—

(i) any forged or fraudulently altered number plate or registration label;



- (ii) any replica or imitation of a number plate or registration label; or
- (iii) any number plate or registration label other than one issued for that vehicle; .

15. Section 98 of the principal Act is amended— Section 98  
amended.

- (a) as to subsection (1), by adding after the word “vehicle” in line four the words “or became the owner of a vehicle on any date”;
- (b) by repealing subsection (2) and substituting the following subsections—

(2) For the purposes of any prosecution or proceedings for an offence the chief executive officer of the Authority or any person authorized by him for that purpose may issue a certificate which states—

- (a) that on any date or during any period—

- (i) a vehicle was registered;

- or

- (ii) a vehicle was not registered,

under this Act in the name of any person specified in the certificate; or

- (b) that as at any date or during any period a person specified in the certificate was—

- (i) registered as the holder of a vehicle licence under this Act in respect of; or

- (ii) nominated pursuant to subsection (4) of section 5 as the owner of,

a vehicle specified in the certificate.

(2a) In subsection (2) of this section “the chief executive officer of the Authority” means the person appointed under and subject to the Public Service Act, 1978 to be the permanent head of the Department established by paragraph (b) of subsection (4) of section 6, or, where that office is vacant, the person for the time being discharging the duties of that office.

(2b) In any prosecution or proceedings for an offence—

(a) a certificate issued or purporting to be issued pursuant to subsection (2) of this section is evidence of the facts stated in the certificate;

(b) a certificate or other document issued or purporting to be issued pursuant to a law of a State or Territory of the Commonwealth, (being a law in respect of which a declaration under subsection (5) of section 5 is in force) which states that on any date or during any period—

(i) a vehicle was registered in the name of any person specified in the certificate or document; or

(ii) a vehicle was not registered in the State or Territory in respect of which the certificate or other document is issued,

is evidence of the facts stated in the certificate or other document.

(2c) In subsections (2) and (2b) of this section “offence” means an offence

against this Act or any other Act or against any regulation, by-law or rule made under an Act. ; and

(c) by deleting the passage "or the regulations," in lines one and two of subsection (4).

16. Section 107 of the principal Act is amended by adding after subsection (3) the following subsection—

Section 107  
amended.

(4) A complaint for an offence against section 24 or 97 may be made at any time within two years from the time when the matter of complaint arose. .

17. Section 111 of the principal Act is amended—

Section 111  
amended.

(a) by inserting before the word "drivers" in line two of paragraph (b) of subsection (2) the passage "owners, persons in charge," ;

(b) by adding after paragraph (d) of subsection (2) the following paragraph—

(da) providing for the examination and testing of vehicles and without restricting the generality of the foregoing—

(i) empowering the Authority to authorize persons, whether officers of the Authority or not, to examine and test vehicles and to cancel any such authorization;

(ii) requiring the payment of fees for the examination and testing of vehicles pursuant to any regulation;

(iii) empowering any person who is authorized to examine and test vehicles to issue or to

refuse to issue a certificate of inspection in relation to the inspection of a vehicle;

- (iv) empowering persons, whether officers of the Authority or not, to control, prohibit or restrict the use of a vehicle that does not conform to any regulation or does not fit the purpose for which the vehicle is desired to be licensed; ;and

- (c) by adding after subsection (2a) the following subsection—

(2b) Regulations made pursuant to paragraph (f) of subsection (2) of this section may provide that where a person drives, stands or uses a vehicle, or permits a vehicle to be driven, stood or used, in contravention of a provision of those regulations, the owner of that vehicle shall be deemed to have also contravened that provision. .

Second  
Schedule  
amended.

18. Part IV of the Second Schedule to the principal Act is amended by deleting paragraphs (b) and (c) and substituting the following paragraph—

- (b) on the issue or renewal of a driver's licence for each period of twelve months for which the licence is issued or renewed .... 7.00.

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