

WESTERN AUSTRALIA

**ROAD TRAFFIC AMENDMENT
ACT 1996**

No. 76 of 1996

AN ACT to amend the *Road Traffic Act 1974* and to make consequential amendments to other Acts and for related purposes.

[Assented to 14 November 1996.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Road Traffic Amendment Act 1996*.

Commencement

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

PART 2 — ROAD TRAFFIC ACT 1974

Principal Act

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

[* Reprinted as at 1 June 1995.
For subsequent amendments see 1995 Index to
Legislation of Western Australia, Table 1, pp. 191-3
and Act No. 14 of 1996 and Gazette 24 May 1996.]

Section 5 amended

4. (1) Section 5 (1) of the principal Act is amended by deleting the definitions of “Board” and “member”.

(2) Section 5 (1) of the principal Act is amended by inserting, in the appropriate alphabetical positions, the following definitions —

“

“**Council**” means the Road Safety Council established under section 9;

“**Director General**” means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*;

“**licensing provisions of this Act**” means —

- (a) Parts III, IV and IVA, section 76, section 82 and the First and Second Schedules;
- (b) regulations made for the purposes of the provisions mentioned in paragraph (a);

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- (c) regulations made under section 111 (2) (d) to (g), (i), (l) and (m), (2a) and (2b); and
- (d) regulations made under section 111 (2) (j), (k) and (n), (3), (4) and (5) for the purposes of the regulations referred to in paragraph (c);

“Minister” means the Minister administering the *Transport Co-ordination Act 1966*;

“traffic regulation provisions of this Act” means the provisions of this Act other than the licensing provisions of this Act;

”.

Part II repealed and Parts substituted

5. Part II of the principal Act is repealed and the following Parts are substituted —

“

PART II — ADMINISTRATION

Functions of the Commissioner of Police and the Director General

6. (1) The Commissioner of Police is responsible for the control and regulation of traffic in the State and for the enforcement of the traffic regulation provisions of this Act.

(2) The administration of the licensing provisions of this Act shall be carried out through the Director General who shall be responsible for the enforcement of those provisions.

(3) Without limiting subsection (2), the functions of the Director General include the exercise and performance of all powers, duties and responsibilities vested in or imposed on the Director General by this Act.

(4) Subsection (2) does not affect the powers of a member of the Police Force in relation to offences, or suspected offences, against the licensing provisions of this Act.

Wardens

7. (1) The Commissioner of Police may appoint wardens to perform —

- (a) duties relating to the controlling of vehicles and pedestrians at children's crossings and pedestrian crossings;
- (b) duties relating to the parking and standing of vehicles;
- (c) duties of such other nature relating to the traffic regulation provisions of this Act as the Minister administering the *Police Act 1892* may from time to time approve.

(2) The Director General may appoint wardens to perform duties of such nature relating to the licensing provisions of this Act as the Minister may from time to time approve.

(3) For the purposes of the performance of the duties for which a warden was appointed under this section —

- (a) the warden has such of the powers conferred by this Act on a member of the Police Force as may be prescribed; and
- (b) a reference in this Act to a member of the Police Force is to be read as including a warden if the regulations so provide.

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(4) A warden appointed under this section shall be issued with a certificate of appointment in the prescribed form which the warden shall carry whenever performing the duties of a warden, and shall, on reasonable demand, produce for inspection by any person.

Access to information

8. (1) In this section —

“**licence**” means a driver’s licence or vehicle licence under this Act or a licence under the *Motor Vehicle Drivers Instructors Act 1963*;

“**offence particulars**” means particulars of any offences of which a person has been convicted whether within the State or elsewhere and whether relating to road traffic matters or any other matters, including particulars of any penalties, suspensions, cancellations or disqualifications arising from any such convictions, and also particulars of instances in which a person has paid a penalty pursuant to a traffic infringement notice under this Act and particulars of any points recorded against a person under section 103;

“**permit**” means a permit under section 48C or a permit under the *Motor Vehicle Drivers Instructors Act 1963*;

“**supply**” includes provide or allow access at all times to.

(2) The Director General is to supply the Commissioner of Police with particulars of licences and permits held or issued and of the persons who hold licences or permits or to whom licences or permits have been issued.

(3) Particulars supplied to the Commissioner of Police under subsection (2) —

- (a) may be used in the performance of the functions of the Commissioner of Police, whether under this Act or otherwise; and
- (b) may be supplied by the Commissioner of Police to an officer, department or instrumentality of this State, another State, a Territory, the Commonwealth or another country for use in the performance of the functions of that officer, department or instrumentality.

(4) The Director General is to allow the Registrar appointed under section 7 (1) of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* to have access to records in relation to licences for the purposes of that Act.

(5) The Commissioner of Police is to supply the Director General with such offence particulars as are known to the Commissioner of Police concerning a person who has applied for the issue or grant of a licence or permit, or who holds a licence or permit, or to whom a licence or permit has been issued.

(6) Particulars supplied under subsection (5) may be used in the performance of the functions of the Director General under the licensing provisions of this Act.

(7) The supply of particulars under this section is to be free of charge.

PART IIA — ROAD SAFETY COUNCIL

Establishment and functions

9. (1) A body called the Road Safety Council is established.

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- (2) The Council's functions are —
- (a) to identify measures to —
 - (i) improve the safety of roads in the State; and
 - (ii) reduce the deaths of people, the injuries to people and the damage to property, resulting from incidents occurring on roads in the State;
 - (b) to recommend to relevant bodies and persons the action that should be taken to implement such measures;
 - (c) to co-ordinate the implementation of any such measures by relevant bodies and persons;
 - (d) to evaluate and monitor the effectiveness of any such measures;
 - (e) to evaluate and monitor the safety of roads in the State; and
 - (f) to recommend to the Minister how moneys standing to the credit of the Road Trauma Trust Fund should be spent to implement such measures and to facilitate the Council's functions.

Membership

- 10.** (1) The Council consists of 9 members appointed by the Minister, being —
- (a) a person to be the chairperson of the Council;
 - (b) a person to represent users of roads;

- (c) a person to represent local government, nominated by the Western Australian Municipal Association;
- (d) the Director General, or an officer in the department of the Public Service principally assisting the Minister in the administration of the licensing provisions of this Act whose duties relate to road safety;
- (e) a person nominated under subsection (2) by the Minister administering the *Police Act 1892*;
- (f) a person nominated under subsection (3) by the Minister administering the *Education Act 1928*;
- (g) a person nominated under subsection (3) by the Minister administering the *Health Act 1911*;
- (h) a person nominated under subsection (3) by the Minister administering the *Main Roads Act 1930*; and
- (i) a person nominated under subsection (4) by the Minister administering the *State Government Insurance Commission Act 1986*.

(2) For the purposes of subsection (1) (e) the person nominated by the relevant Minister must be either the Commissioner of Police, or an officer in the Police Force or in the department of the Public Service principally assisting that Minister in the administration of the *Police Act 1892* whose duties relate to road safety.

(3) For the purposes of subsection (1) (f) to (h) the person nominated by the relevant Minister must be either the chief executive officer of the department of the Public Service principally assisting that Minister in the administration of the relevant Act, or an officer in that department whose duties relate to road safety.

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(4) For the purposes of subsection (1) (i) the person nominated by the relevant Minister must be either the managing director of the State Government Insurance Commission, or an officer of the Commission whose duties relate to road safety.

(5) The Minister may appoint a deputy for each Council member, other than the chairperson, and for that purpose, subsections (1) to (4) apply with any necessary changes.

(6) The deputy of a Council member may act as the member at a meeting of the Council if the member is absent or if no-one is appointed as the member.

(7) Whenever it is necessary to appoint a Council member or a deputy on the nomination of a person, the Minister, in writing, is to request the person to submit the person's written nomination, and the Minister is not to appoint a person under the relevant paragraph of subsection (1) until such a nomination is received.

Members and deputies: term of office etc.

11. (1) A Council member appointed under section 10 (1) (a), (b) or (c), or a deputy of such a member —

- (a) is appointed for a term, not exceeding 3 years, determined by the Minister and specified in the instrument appointing the member or deputy, and is eligible for reappointment;
- (b) may resign by written notice given to the Minister.

(2) The Minister may revoke the appointment of a Council member appointed under section 10 (1) (a), (b) or (c), or a deputy of such a member, if the member or deputy —

- (a) becomes incapable of carrying out satisfactorily the duties of a Council member;

- (b) is absent without the leave of the Council from 3 consecutive meetings of the Council of which he or she has had notice; or
- (c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

(3) A Council member, or a deputy, who is a public service appointee ceases to be a member or deputy when he or she ceases to be eligible to be appointed under the paragraph of section 10 (1) under which he or she was appointed.

(4) The Minister may at any time revoke the appointment of a Council member, or a deputy, who is a public service appointee, but, except in the case of a member or a deputy appointed under section 10 (1) (d), may not do so unless requested to do so by the Minister empowered to nominate the member or deputy.

(5) Council members and deputies, who are not public service appointees, are entitled to the remuneration and allowances determined by the Minister from time to time on the recommendation of the Minister for Public Sector Management.

(6) In this section —

“public service appointee” means a person appointed under section 10 (1) (d), (e), (f), (g), (h) or (i).

Meetings

12. (1) Subject to this section the Council is to determine the procedure for convening and conducting its meetings.

(2) The chairperson is to preside at Council meetings.

(3) In the absence of the chairperson, a person elected by the Council members present is to preside.

(4) The Council is to keep accurate minutes of its meetings.

Road Trauma Trust Fund

12A. (1) An account called the "Road Trauma Trust Fund" and forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985* is to be established at the Treasury.

(2) These moneys are to be credited to 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) all interest derived from the investment of moneys standing to the credit of the Fund, despite section 39 of the *Financial Administration and Audit Act 1985*.

(3) For the purposes of the *Financial Administration and Audit Act 1985* the Fund is to be administered by the department of the Public Service principally assisting the Minister in the administration of the licensing provisions of this Act.

(4) The moneys standing to the credit of the Fund are to be applied for the purposes determined by the Minister on the recommendation of the Council.

Annual report

13. (1) As soon as practicable after 1 July each year the Council is to give the Minister a report on the activities of the Council in the previous financial year.

(2) The Minister is to cause the report to be tabled in each House of Parliament within 14 sitting days of that House after it is received from the Council.

”.

Section 29 amended

6. Section 29 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) The Minister may, in a notice under subsection (1), declare that the provisions of the notice —

- (a) apply in respect of vehicles generally or in respect of vehicles of a class specified in the notice;
- (b) apply throughout the State or in a part of the State specified in the notice;
- (c) do not apply in a case, or cases of a class, specified in the notice.

”.

Heading to Part IVA substituted

7. The Part heading before section 42 is deleted and the following heading is substituted —

“ **PART IVA — LICENSING OF DRIVERS** ”.

Section 42 amended

8. (1) Section 42 (2) (d) of the principal Act is amended by inserting after “State” the following —

“ and of safe driving techniques ”.

(2) Section 42 (3) of the principal Act is repealed and the following subsection is substituted —

“

(3) Without limiting subsection (2a), the Director General may, in satisfaction of the requirement imposed by subsection (2) (c), accept evidence from a body authorized by the Director General for that purpose.

”.

(3) After section 42 (3) of the principal Act the following subsections are inserted —

“

(3a) Subject to subsection (3b), the requirement imposed by subsection (2) (d) can only be satisfied by the production to the Director General of evidence of a prescribed kind showing that the applicant has undertaken and passed a course of instruction —

(a) conducted by a body authorized by the Director General for that purpose; and

(b) complying with syllabus and examination requirements imposed by the Director General.

(3b) In circumstances provided for in the regulations the Director General may accept other evidence in satisfaction of the requirement imposed by subsection (2) (d).

”.

(4) After section 42 (6) of the principal Act the following subsections are inserted —

“

(7) The Director General shall not issue a driver's licence to a person mentioned in section 51 (2), (3) or (3a), until that person has again complied with the requirements of subsection (2), and shall then issue the licence on probation only, 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.

(8) The Director General shall not issue a driver's licence to a person whose licence has been cancelled by force of section 75 (2a) or (2b) until that person has again complied with the requirements of subsection (2).

”.

Section 47 inserted

9. After section 46 of the principal Act the following section is inserted —

“

Fees for drivers' licences and renewals of drivers' licences

47. (1) There shall be payable on the issue, and renewal, of a driver's licence such fee as is prescribed.

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(2) The provisions of section 20 apply, with such adaptation as may be necessary, where the fee payable for the issue or renewal of a driver's licence is paid by a cheque.

”.

Sections 48A to 48F inserted

10. After section 48 of the principal Act the following sections are inserted in Part IVA —

“

Forfeited licence to be delivered up

48A. (1) When any driver's licence issued to a person is cancelled or suspended or a person who is the holder of a driver's licence is disqualified from holding or obtaining a driver's licence, the person shall, on demand made by an authorized person, deliver the licence to the authorized person.

(2) In subsection (1) —

“**authorized person**” means —

- (a) the Director General;
- (b) any person authorized by the Director General for the purposes of this section; or
- (c) any member of the Police Force.

Issue of duplicate licence

48B. (1) Whenever a driver's licence is lost or destroyed, a duplicate or certified copy of it shall, on payment of the prescribed fee, be issued by the Director General, and shall serve and be available in lieu of the original.

(2) In subsection (1) —

“duplicate” includes any form of licence approved by the Director General under section 42A, 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.

Learners' permits

48C. (1) The Director General may, subject to such conditions as the Director General sees fit to impose, issue a permit authorizing a person —

- (a) who has attained the age of 16 years, to drive a motor vehicle of the class specified in the permit in the course of driving instruction under a youth driver education course conducted or supervised by a body authorized by the Director General for that purpose;
- (b) who has attained the age of 16 years and 9 months, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by any holder of a licence issued under the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) who has attained the age of 17 years, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by any holder of a licence referred to in paragraph (b) or by a person who has held a driver's licence appropriate to the class of vehicle specified in the permit for at least 4 years and 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 approved by the Director General;

s. 10

- (d) who has not attained the age of 17 years and who is an applicant for a licence under section 44, to drive a motor vehicle of the class specified in the permit in the course of driving instruction by any holder of a licence referred to in paragraph (b) or by a person who has held a driver's licence appropriate to the class of vehicle specified in the permit for at least 4 years and 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 approved by the Director General; or
 - (e) who has attained the age of 16 years and who is an applicant for a licence under section 42 (2) (a) (ii), to drive a moped in the course of driving instruction by any holder of a licence referred to in paragraph (b) or by a person who has held an appropriate driver's licence for at least 2 years and 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 approved by the Director General.
- (2) The Director General shall cause a permit issued under this section to be endorsed with any conditions to which its issue is subject.
- (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.
- (4) The Director General may, at any time, by notice in writing given to the holder, cancel a permit issued under this section.
- (5) Where the Director General causes a person applying for a driver's licence to undergo a driving test for the purposes of satisfying the Director General of the applicant's ability to control the class of motor vehicle for

which the driver's licence is sought, the applicant is authorized to drive a motor vehicle during the conduct of the test as if the applicant were at that time the holder of the appropriate driver's licence.

Drivers' licences issued overseas

48D. (1) Subject to section 50A (2), where a person, who is not a permanent resident of any State or Territory and who is not disqualified from holding or obtaining a licence to drive a motor vehicle under this Act, is temporarily in this State and holds —

- (a) a licence to drive a motor vehicle;
- (b) the equivalent of a licence to drive a motor vehicle; or
- (c) an international driving permit,

issued in the country of which the person is a permanent resident, that licence, equivalent of a licence, or permit is to be regarded as a driver's licence issued under this Act authorizing the person to drive in this State any vehicle of the type or class to which the licence, equivalent of a licence, or permit is applicable until —

- (d) the expiration of one year after the holder's arrival in this State;
- (e) the licence, equivalent of a licence, or permit expires; or
- (f) the authority to drive is withdrawn by notice served pursuant to subsection (2),

whichever first occurs.

s. 10

(2) Where, in the opinion of the Director General, a person referred to in subsection (1) —

- (a) suffers from mental or physical disability likely to affect the person's ability to drive a motor vehicle efficiently, having regard to the safety of the public generally;
- (b) is otherwise unfit to drive a motor vehicle, or, having regard to the safety of the public generally, it is not desirable that the person should be permitted to drive a motor vehicle; or
- (c) has been convicted of an offence in connection with the driving of a motor vehicle,

the Director General may at any time by notice in writing served on the person, withdraw the authority conferred by subsection (1).

Drivers' licences issued elsewhere in Australia

48E. (1) Subject to section 50A (2) where a person usually resident in another State or a Territory —

- (a) is temporarily within this State;
- (b) holds a licence or permit to drive a vehicle, issued pursuant to the laws of the State or Territory in which the person usually resides;
- (c) has not been served with notice pursuant to subsection (2); and
- (d) is not otherwise disqualified from holding or obtaining a driver's licence in this State,

the licence or permit shall authorize the person to drive in this State any vehicle of the type or class to the driving of which the licence or permit is applicable until —

- (e) the expiration of one year after the holder's arrival in this State;
- (f) the licence or permit expires; or
- (g) the authority to drive is withdrawn by notice served pursuant to subsection (2),

whichever first occurs.

(2) Where, in the opinion of the Director General, a person referred to in subsection (1) —

- (a) suffers from mental or physical disability likely to affect the person's ability to drive a motor vehicle efficiently, having regard to the safety of the public generally;
- (b) is otherwise unfit to drive a motor vehicle, or, having regard to the safety of the public generally, it is not desirable that the person should be permitted to drive a motor vehicle; or
- (c) has been convicted of an offence in connection with the driving of a motor vehicle,

the Director General may at any time by notice in writing served on the person, withdraw the authority conferred by subsection (1).

Persons taking up residence

48F. A person who —

- (a) enters this State with the intention of permanently residing here; and

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- (b) but for that intention would be authorized to drive a motor vehicle pursuant to section 48D or 48E,

shall be taken to be similarly authorized as if the person were temporarily within this State, but for that purpose the reference to one year in section 48D (1) (d) or in section 48E (1) (e) shall be construed as a reference to 3 months.

”.

Heading to Part V inserted

11. Before section 49 of the principal Act the following heading is inserted —

“ **PART V — REGULATION OF TRAFFIC** ”.

Section 50 repealed and sections 50 and 50A substituted

12. Section 50 of the principal Act is repealed and the following sections are substituted —

“

Unauthorized driving by learner drivers

50. The holder of a permit issued under section 48C (1) shall not drive a motor vehicle except in conformity with any conditions endorsed on the permit under section 48C (2) and unless accompanied by a driving instructor with whom the holder is authorized to drive pursuant to section 48C (1) seated beside the holder or, in the case of a permit to drive a motor cycle, riding in a side car attached, or on a pillion seat fitted, to the motor cycle or riding on an accompanying motor cycle.

Penalty: \$150.

Unauthorized driving by drivers from outside the State

50A. (1) A person referred to in section 48D (1) or 48E (1) shall —

- (a) while driving a motor vehicle upon any road pursuant to the authority conferred by section 48D (1) or 48E (1), carry the licence, equivalent of a licence, or permit, as the case may be; and
- (b) produce the licence, equivalent of a licence, or permit, as the case may be, for inspection at the request of any member of the Police Force.

(2) A person referred to in section 48D (1) or 48E (1) who, being the holder of a licence, equivalent of a licence, or permit that is endorsed with or otherwise subject to conditions that can lawfully be complied with in this State, fails to comply with those conditions, or any of them, commits an offence and is liable, for a first offence, to a fine of \$200 and, for any subsequent offence, to a fine of \$400.

”.

Section 51 amended

13. Section 51 (4) of the principal Act is repealed.

Section 52 repealed

14. Section 52 of the principal Act is repealed.

Section 75 amended

15. Section 75 (5) of the principal Act is repealed.

s. 16**Section 78B inserted**

16. After section 78A of the principal Act the following section is inserted —

“

Representation in proceedings

78B. (1) In this section —

“**prescribed authority**” means the Commissioner of Police or the Director General.

(2) In any proceedings under section 48 (4) or (6), 76, 78 or 78A a prescribed authority has a right to be heard and may be represented by any person authorized by the prescribed authority for that purpose.

”.

Sections 79 to 81 repealed

17. Sections 79, 80 and 81 of the principal Act are repealed.

Sections 94 to 96 repealed

18. Sections 94, 95 and 96 of the principal Act are repealed.

Section 107 amended

19. Section 107 (3) of the principal Act is repealed and the following subsections are substituted —

“

(3) Proceedings for an offence against the traffic regulation provisions of this Act may be instituted by —

(a) a member of the Police Force;

- (b) a warden appointed by the Commissioner of Police; or
- (c) a person authorized in that behalf by the Commissioner of Police.

(3a) Proceedings for an offence against the licensing provisions of this Act may be instituted by —

- (a) a member of the Police Force;
- (b) a warden appointed by the Director General; or
- (c) a person authorized in that behalf by the Director General.

”.

Miscellaneous amendments

20. (1) The principal Act is amended as set out in the Table to this subsection —

Table

Provision amended	Amendment
s. 5 (1)	In the definition of “warden” delete “section 13.” and substitute — “ section 7. ”.
s. 18 (5) (a)	Delete “it has” and substitute — “ the Director General has ”.
s. 44 (1)	Delete “it thinks” and substitute — “ the Director General thinks ”.
s. 44 (1a)	Delete “it may” and substitute — “ the Director General may ”. Delete “it thinks” and substitute — “ the Director General thinks ”.

- s. 46 (3) Delete “satisfy it” and substitute —
“ satisfy the Director General ”.
- s. 48 (1) Delete “it has” and substitute —
“ the Director General has ”.
- s. 48 (1a) Delete “it may” and substitute —
“ the Director General may ”.
Delete “it thinks” and substitute —
“ the Director General thinks ”.
- s. 48 (2) Delete “it may” and substitute —
“ the Director General may ”.
Delete “it becomes” and substitute —
“ the Director General becomes ”.
- s. 48 (4) Delete “it shall” and substitute —
“ the Director General shall ”.
Delete “its reasons” and substitute —
“ the Director General’s reasons ”.
- s. 48 (7) Delete “satisfies it” and substitute —
“ satisfies the Director General ”.
- s. 49 (1) Delete “section 50” and substitute —
“ sections 48C to 48F ”.
- s. 75 (2) Delete “section 50” and substitute —
“ section 48C ”.
- s. 75 (2a) Delete “section 50” and substitute —
“ section 48C ”.
- s. 75 (2b) Delete “section 50” and substitute —
“ section 48C ”.

- s. 75 (3) Delete "section 50" and substitute —
" section 48C ".
 - s. 78A (3) Delete "its intention" and substitute —
" the Director General's intention ".
 - s. 83 (6) Delete "the Board, the Commissioner of Police or any
police officer" and substitute —
" the Commissioner of Police or any member
of the Police Force ".
 - s. 101 Delete "the Board, any member of the Board," and
substitute —
" the Director general, the Council, any
Council member or deputy of a Council
member, ".
- Delete "the Board" in the third place where it occurs and
substitute —
" the Council ".

(2) The principal Act is amended in the provisions set out in
the Table to this subsection by deleting "Board" in each place
where it occurs and substituting in each place the following —

" Commissioner of Police ".

Table

s. 81B (1)	s. 81C (1)	s. 81C (3)
s. 81B (2)	s. 81C (2)	s. 81C (4)

(3) The principal Act is amended in the provisions set out in
the Table to this subsection by deleting "Board" or "board" in
each place where it occurs and substituting in each place the
following —

" Director General ".

Table

s. 5 (4)	s. 27 (1)	s. 48 (1a)
s. 15 (5)	s. 28 (c)	s. 48 (2)
s. 16 (1)	s. 31	s. 48 (3)
s. 18 (1)	s. 33	s. 48 (4)
s. 18 (2)	s. 34	s. 48 (5)
s. 18 (3)	s. 35	s. 48 (6) (c)
s. 18 (4)	s. 38 (1)	s. 48 (7)
s. 18 (5)	s. 39 (2)	s. 53 (2)
s. 18 (6)	s. 40 (b)	s. 75 (1)
s. 18 (8)	s. 40 (c)	s. 75 (1a)
s. 18 (10)	s. 40 (f)	s. 76 (1)
s. 18 (11)	s. 42 (1)	s. 76 (3)
s. 18 (13)	s. 42 (2)	s. 76 (5) (b)
s. 19 (1)	s. 42 (2a)	s. 76 (6)
s. 19 (2)	s. 42 (4) (a)	s. 76 (7) (b)
s. 19 (3)	s. 42 (5)	s. 76 (9) (a)
s. 19 (17)	s. 42 (6)	s. 78 (7)
s. 19 (18)	s. 42A (1)	s. 78A (1)
s. 20 (2)	s. 42A (2)	s. 78A (3)
s. 22 (1)	s. 42A (3)	s. 78A (5)
s. 22 (2)	s. 42A (8)	s. 78A (6)
s. 23	s. 43 (1) (d)	s. 82 (1)
s. 23A	s. 44 (1)	s. 82 (2)
s. 24 (1) (a)	s. 44 (1a)	s. 98 (2)
s. 24 (1) (b)	s. 44 (1b)	s. 103 (6)
s. 24 (2)	s. 44 (1c)	s. 103 (8)
s. 24 (4)	s. 45 (3)	s. 111 (2) (da) (i)
s. 26 (1)	s. 46 (1a)	s. 111 (4)
s. 26 (2)	s. 46 (2)	s. 112 (7)
s. 26 (2a) (c)	s. 46 (3)	Second Schedule,
s. 26 (4)	s. 46 (5)	Part III,
s. 26 (5) (a)	s. 48 (1)	Division 1,
		Item 1 (1)

PART 3 — AMENDMENTS TO OTHER ACTS

Division 1 — Constitution Acts Amendment Act 1899

Act amended

21. The *Constitution Acts Amendment Act 1899** is amended in Part 3 of Schedule V by deleting “Traffic Board” and substituting the following —

“ Road Safety Council ”.

[* Reprinted as at 17 May 1995.

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 44-7 and Acts Nos. 26 and 78 of 1995 and 14 of 1996.]

Division 2 — Control of Vehicles (Off-road Areas) Act 1978

References to the Act

22. In this Division the *Control of Vehicles (Off-road Areas) Act 1978** is referred to as the Control of Vehicles Act.

[* Act No. 117 of 1978.

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, p. 49 and Act No. 14 of 1996.]

Section 3 amended

23. Section 3 (1) of the Control of Vehicles Act is amended by deleting the definition of “Traffic Board” and by inserting in the appropriate alphabetical position the following definition —

“ **“Director General”** means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966* and includes, where the circumstances so require, a public authority acting as the agent of the Director General in respect of the registration of a vehicle pursuant to regulations made under this Act;

”.

s. 24**Section 4A inserted**

24. After section 4 of the Control of Vehicles Act the following section is inserted —

“

Director General's functions

4A. The functions of the Director General include the exercise and performance of all powers, duties and responsibilities vested in or imposed on the Director General by this Act.

”.

Section 36A repealed

25. Section 36A of the Control of Vehicles Act is repealed.

Section 38 amended

26. After section 38 (2) (g) of the Control of Vehicles Act the following paragraph is inserted —

“ (ga) a warden, under the *Road Traffic Act 1974*; ”.

Amendment of references to Traffic Board

27. The Control of Vehicles Act is amended in the provisions set out in the Table to this section by deleting “Traffic Board” in each place where it occurs and substituting in each place the following —

“ Director General ”.

Table

s. 3 (2)	s. 29 (3)	s. 32 (1)
s. 5 (1)	s. 29 (5)	s. 32 (2)
s. 5 (2)	s. 29 (6)	s. 34 (2)
s. 9C (2)	s. 29 (7)	s. 38 (8) (b)
s. 11 (3)	s. 29 (8)	s. 38 (10)
s. 28 (1)	s. 29 (10) (a)	s. 38 (15)
s. 28 (2)	s. 29 (10) (b)	s. 42 (1)
s. 28 (4)	s. 29 (12) (a)	s. 42 (2)
s. 28 (5)	s. 29 (12) (b)	s. 43 (2)
s. 28 (6)	s. 30 (1)	s. 43 (3)
s. 29 (1)	s. 30 (2)	
s. 29 (2)	s. 31 (2)	

***Division 3 — Fines, Penalties and Infringement Notices
Enforcement Act 1994***

References to the Act

28. In this Division the *Fines, Penalties and Infringement Notices Enforcement Act 1994** is referred to as the Fines Enforcement Act.

[* *Act No. 93 of 1994.*

*For subsequent amendments see 1995 Index to
Legislation of Western Australia, Table 1, p. 80 and
Act No. 8 of 1996.]*

Section 3 amended

29. Section 3 (1) of the Fines Enforcement Act is amended by deleting the definition of “Traffic Board” and by inserting in the appropriate alphabetical position the following definition —

“ **“Director General”** means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*;
”.

s. 30

Amendment of references to Traffic Board

30. The Fines Enforcement Act is amended in the provisions set out in the Table to this section by deleting “Traffic Board” in each place where it occurs and substituting in each place the following —

“ Director General ”.

Table

s. 5 (4)	s. 20 (5)	s. 44 (5)
s. 10	s. 22 (4) (b) (ii)	
s. 19 (6) (b)	s. 43 (6) (b)	

Division 4 — Motor Vehicle Drivers Instructors Act 1963

References to the Act

31. In this Division the *Motor Vehicle Drivers Instructors Act 1963** is referred to as the MVDI Act.

[* *Reprint approved 12 July 1977.*
For subsequent amendments see 1995 Index to
Legislation of Western Australia, Table 1, p. 149.]

Section 3 amended

32. Section 3 of the MVDI Act is amended by deleting the definition of “Board” and substituting the following definition —

“**Director General**” means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*;

Section 4A inserted

33. After section 4 of the MVDI Act the following section is inserted —

“ **Director General’s functions**

4A. (1) The Director General has the function given to the Director General by section 4.

(2) Without limiting subsection (1), the functions of the Director General include the exercise and performance of all powers, duties and responsibilities vested in or imposed on the Director General by this Act.

”.

Section 13 repealed

34. Section 13 of the MVDI Act is repealed.

Miscellaneous amendments

35. (1) The MVDI Act is amended in the provisions set out in the Table to this subsection by deleting “Board” in each place where it occurs and substituting in each place the following —

“ Director General ”.

Table

s. 4	s. 9 (1)	s. 11 (2) (a)
s. 7 (1)	s. 9 (2)	s. 11 (3)
s. 7 (2)	s. 9 (3)	s. 11 (4)
s. 7 (3)	s. 10 (1)	s. 12 (1)
s. 7 (4)	s. 10 (2) (a)	s. 12 (2)
s. 7 (5)	s. 10 (2) (b)	s. 14 (1) (g)
s. 7 (6)	s. 10 (3)	s. 14 (1) (h)
s. 7 (7)	s. 10 (4)	
s. 8 (2) (b)	s. 11 (1)	

s. 36

(2) The MVDI Act is amended as set out in the Table to this subsection —

Table

Provision amended	Amendment
s. 10 (1)	Delete “it” and substitute — “ the Director General ”. Delete “its” and substitute — “ that ”.
s. 11 (1) (b)	Delete “satisfying itself” and substitute — “ being satisfied ”.

***Division 5 — Motor Vehicle (Third Party Insurance)
Act 1943***

References to the Act

36. In this Division the *Motor Vehicle (Third Party Insurance) Act 1943** is referred to as the MV(TPI) Act.

[* Reprinted as at 11 March 1992.

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 149-50 and Act No. 14 of 1996.]

Section 3 amended

37. Section 3 (1) of the MV(TPI) Act is amended by deleting the definition of “Board” and by inserting in the appropriate alphabetical position the following definition —

“**“Director General”** means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*;
”.

Section 3Q inserted

38. Before section 3R of the MV(TPI) Act the following section is inserted —

“

Director General’s functions

3Q. The functions of the Director General include the exercise and performance of all powers, duties and responsibilities vested in or imposed on the Director General by this Act.

”.

Section 32A repealed

39. Section 32A of the MV(TPI) Act is repealed.

Miscellaneous amendments

40. (1) The MV(TPI) Act is amended in the provisions set out in the Table to this subsection by deleting “Board” in each place where it occurs and substituting in each place the following —

“ Director General ”.

Table

s. 3R (2)	s. 3R (4) (b)	s. 12 (6)
s. 3R (3)	s. 4 (8) (a)	
s. 3R (4) (a)	s. 4 (9a) (a)	

(2) Section 12 (6) of the MV(TPI) Act is amended by deleting “its” and substituting the following —

“ the Director General’s ”.

Division 6 — Road Traffic Amendment (Random Breath Tests) Act 1988

Act amended

41. The *Road Traffic Amendment (Random Breath Tests) Act 1988** is amended —

- (a) by repealing section 5 (2) and substituting the following subsection —

“ (2) The review required by subsection (1) shall be carried out by the Road Safety Council established under section 9 of the principal Act. ”;

and

- (b) in section 5 (3) by deleting “Traffic Board” and substituting the following —

“ Road Safety Council ”.

[* *Act No. 16 of 1988.*

For subsequent amendments see Act No. 46 of 1989, s. 4.]

Division 7 — Sentencing Act 1995

Act amended

42. The *Sentencing Act 1995** is amended by repealing section 105 (3) and substituting the following subsection —

“ (3) The court must ensure that the details of the motor vehicle offence and the order are made known to the Director General of Transport (referred to in section 8 of the *Transport Co-ordination Act 1966*) for the purposes of administering the licensing provisions of the *Road Traffic Act 1974*. ”.

[* *Act No. 76 of 1995.*

For subsequent amendments see Act No. 59 of 1995.]

Division 8 — Stamp Act 1921

References to the Act

43. In this Division the *Stamp Act 1921** is referred to as the Stamp Act.

[* *Reprinted as at 23 January 1996.*
For subsequent amendments see Acts Nos. 14 and 20 of 1996.]

Section 76B amended

44. Section 76B of the Stamp Act is amended by deleting the definition of “Traffic Board” and by inserting in the appropriate alphabetical position the following definition —

“**Director General**” means the Director General of Transport referred to in section 8 of the *Transport Co-ordination Act 1966*;

Section 76C amended

45. (1) Section 76C (2) (a) and (b) and (3) of the Stamp Act are amended by deleting “Traffic Board” and substituting in each case the following —

“ Director General ”.

(2) Section 76C (18) and (19) of the Stamp Act are amended by deleting “Traffic Board” and substituting in each case the following —

“ Director General ”.

Division 9 — Transport Co-ordination Act 1966

References to the Act

46. In this Division the *Transport Co-ordination Act 1966** is referred to as the Transport Act.

[* *Reprinted as at 6 March 1987.*

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 225-6 and Act No. 14 of 1996.]

Section 15C inserted

47. After section 15B of the Transport Act the following section is inserted —

“

Functions under other Acts

15C. (1) As well as the functions referred to in section 15B the Director General also has the functions conferred on the Director General under —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978*;
- (b) the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943*; and
- (d) the *Road Traffic Act 1974*.

(2) The Minister, on the recommendation of the Director General, may enter into an agreement with the Commissioner of Police or any other person or body providing for such of the functions of the Director General under the Acts referred to in subsection (1) as are set out in the agreement to be performed for and on behalf of the Director General.

(3) A function set out in an agreement under subsection (2) may be performed —

- (a) in accordance with the agreement; and
- (b) on and subject to such terms and conditions as are set out in the agreement.

(4) Where the performance of a function set out in an agreement under subsection (2) is dependent upon the opinion, belief, or state of mind of the Director General it may, subject to the agreement, be performed upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.

(5) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person of a function of the Director General under an agreement under subsection (2) is as effectual as it would be if it were done by, to, by reference to, or in relation to, the Director General.

(6) This section does not limit the operation of section 5 (2) of the *Control of Vehicles (Off-road Areas) Act 1978* or of section 29 (12) of that Act or the regulations made under it.

”.

Section 47H amended

48. Section 47H (2) to (9) of the Transport Act are repealed.

Section 47ZD amended

49. Section 47ZD (4) of the Transport Act is amended by deleting “Traffic Board” and substituting the following —

“ Director General ”.

s. 50

Section 47ZF amended

50. Section 47ZF (1) (s) of the Transport Act is amended by deleting “or the Traffic Board constituted by the *Road Traffic Act 1974*”.

Section 62 amended

51. After section 62 (2) of the Transport Act the following subsection is inserted —

“

(2a) The reference in subsection (2) (b) to moneys appropriated by Parliament includes a reference to moneys paid or advanced under the authority of section 8A or 24 of the *Financial Administration and Audit Act 1985* or under the authority of a Treasurer’s Advance Authorization Act.

”.

PART 4 — VALIDATION

Actions of delegates validated

52. (1) Anything done before the commencement of this section by a person acting under any delegation purporting to have been made by the Traffic Board under any written law, is as valid and has the same force and effect, and is to be regarded as having always been as valid and had the same force and effect, as if it had been done by the Traffic Board.

(2) In subsection (1) —

“Traffic Board” means the Traffic Board constituted under section 6 of the *Road Traffic Act 1974* as it was before the commencement of this Act.

PART 5 — TRANSITIONAL

Traffic Board's final report

53. (1) In this section —

“**commencement**” means the day on which section 5 comes into operation;

“**former Board**” means the Traffic Board constituted under section 6 of the *Road Traffic Act 1974* as it was before the commencement of this Act.

(2) Within 6 months after commencement, a report on the activities of the former Board for the period beginning on 1 July immediately preceding commencement and ending on commencement is to be made and submitted by the former Board to the Minister.

(3) For that purpose the former Board, constituted by a person appointed by the Minister, continues in existence with the powers necessary or convenient for the purpose of making and submitting the report.

(4) The person referred to in subsection (3) holds office at the pleasure of the Minister and on such terms and conditions as the Minister determines.

(5) The department of the Public Service principally assisting the Minister in the administration of the licensing provisions of the *Road Traffic Act 1974* as amended by this Act is to provide any clerical or other assistance that the former Board reasonably needs in relation to making and submitting the report.