

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

AMENDMENTS AND SCHEDULES

Supplementary Notice Paper No. 266
Issue No. 3

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FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT AMENDMENT BILL 2012 [266-1]

When in committee on the *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012*:

Clause 4

Attorney General: To move —

2/4 Page 3, lines 17 and 18 — To delete the lines and insert —

number plate —

- (a) before the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — has the meaning given in the *Road Traffic Act 1974* section 5(1); or
- (b) after the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — has the meaning given in that section;

Clause 5**Attorney General:** To move –

9/5 Page 4, lines 8 to 13 — To delete the lines and insert —

(2) Delete section 5(4) and insert:

(4) For the purposes of the service of any document under this Act, a person's last known address may be taken to be the person's current address shown in the records of —

- (a) the Director General; or
- (b) the Electricity Retail Corporation.

Clause 7**Attorney General:** To move –3/7 Page 5, line 6 — To insert after “*Road Traffic Act 1974*” —or, after the *Road Traffic (Administration) Act 2008* section 4 comes into operation, a road law**New Clause 23A****Attorney General:** To move –

10/NC23A Page 17, after line 24 — To insert —

23A. Section 48A inserted

After section 47B insert:

48A. Order to attend for work and development: cancellation

- (1) If —
 - (a) an order to attend for work and development is issued under section 47 or 47A; and
 - (b) it is not reasonably practicable to serve the order on the offender personally,

the Registrar may cancel the order to attend for work and development and make or again make a licence suspension order in respect of the offender.
- (2) For the purposes of subsection (1), section 43(2) to (9) (but not section 43(4)), with any necessary changes, apply and a licence suspension order may be made even if section 42 has not been complied with.

New Clause 23B**Attorney General:** To move –

11/NC23B Page 17, after line 24 — To insert —

23B. Section 53A inserted

After section 52 insert:

53A. WDO: effect of cancellation

- (1) If a WDO is cancelled under section 52, the Registrar may make or again make a licence suspension order in respect of the offender.
- (2) For the purposes of subsection (1), section 43(2) to (9) (but not section 43(4)), with any necessary changes, apply and a licence suspension order may be made even if section 42 has not been complied with.

Clause 26**Attorney General:** To move –

4/26 Page 23, after line 20 — To insert —

vehicle licensing law —

- (a) before the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — means the *Road Traffic Act 1974*; or
- (b) after the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — means that Act;

Clause 28**Attorney General:** To move –

12/28 Page 25, after line 7 — To insert —

- (2) After section 68A(4) insert:
 - (5A) If the Sheriff cancels an arrangement made under subsection (1) and a licence suspension order is not in force in respect of the debtor and the amount specified in the warrant under section 21A(3) or 45(4), as the case requires, the Registrar may make or again make a licence suspension order in respect of the debtor.
 - (5B) For the purposes of subsection (5A) —
 - (a) if the cancelled arrangement related to a warrant issued under section 21A — section 19(2) to (9), with any necessary changes, apply and a licence suspension order may be made without the issue of a further order to pay or elect under section 17 or further notice of intention to enforce under section 18; or

- (b) if the cancelled arrangement related to a warrant issued under section 45 — section 43(2) to (9), with any necessary changes, apply and a licence suspension order may be made without the issue of a further notice of intention to enforce under section 42.

Clause 32

Attorney General: To move –

5/32 Page 32, lines 18 and 19 — To delete “the *Road Traffic Act 1974*,” and insert —

a vehicle licensing law,

Attorney General: To move –

6/32 Page 35, lines 21 and 22 — To delete “the *Road Traffic Act 1974*,” and insert —

a vehicle licensing law,

Clause 36

Attorney General: To move –

13/36 Page 42, lines 11 to 28 — To delete the lines and insert —

36. Section 101C amended

- (1) In section 101C(1)(d) and (e) after “issued” insert:

by the Registrar

- (2) After section 101C(1) insert:

(2A) Evidence —

- (a) that a vehicle licence suspension order was made under section 95G or a vehicle licence cancellation order was made under section 95J;
- (b) of the details of a vehicle licence suspension order made under section 95G, or a vehicle licence cancellation order made under section 95J, and of the matter to which it relates;
- (c) that a vehicle licence suspension order made under section 95G had not, at a particular time, been cancelled;
- (d) that a vehicle licence cancellation order made under section 95J had not, at a particular time, been cancelled to the extent that the order would disqualify a person from holding or obtaining a vehicle licence;
- (e) that a document issued by the Sheriff under this Act has been served on a person in accordance with section 5;
- (f) of any matter relevant to the service of a document issued by the Sheriff under this Act,

may be given by tendering a certificate to that effect in the prescribed form signed by the Sheriff.

(3) After section 101C(3) insert:

(4) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the Sheriff was signed by a person who at the time was the Sheriff.

Clause 69

Attorney General: To move –

7/69 Page 65, after line 8 — To insert —

(fa) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and

New Part 4 Division 7A

Attorney General: To move –

8/NP4 Page 66, after line 16 — To insert —

Division 7A — *Road Traffic (Vehicles) Act 2012* amended

70A. Act amended

This Division amends the *Road Traffic (Vehicles) Act 2012*.

70B. Section 5 amended

In section 5(3):

(a) in paragraph (e) delete “vehicle.” and insert:

vehicle; and

(b) after paragraph (e) insert:

(f) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and

(g) the vehicle is not immobilised under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95C; and

(h) the vehicle’s number plates have not been removed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95F; and

(i) a vehicle licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G is not in force in respect of the vehicle; and

- (j) a vehicle licence cancellation order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J is not in force in respect of the vehicle.

70C. Section 16 amended

- (1) After section 16(1) insert:
- (2A) If a vehicle licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, suspended so long as the vehicle licence suspension order continues in force and during that period is of no effect.
- (2) In section 16(2) delete “Subsection (1) does” and insert:
- Subsections (1) and (2A) do
- (3) After section 16(3) insert:
- (4) If a vehicle licence cancellation order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, cancelled.

70D. Section 125 amended

In section 125(8) delete “section 19 or 43.” and insert:

section 19, 43, 95G or 95J.

New Clause 74

Hon Giz Watson: To move –

1/NC74 Page 66, after line 27 — To insert —

74. Monitoring of Act by Ombudsman

- (1) For the period of 3 years after the commencement of this section, the Ombudsman is to keep under scrutiny the operation of the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* and the *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Act 2012* and enforcement fees pursuant to regulations made under those Acts and the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.
- (2) The scrutiny referred to in subsection (1) is to include review of the impact of the operation of the provisions referred to in that subsection on Aboriginal and Torres Strait Islander communities.

- (3) For that purpose, the Ombudsman may require the Commissioner of Police or any public authority to provide information about police or the public authority's participation in the operation of the provisions referred to in subsection (1).
- (4) The Ombudsman must, as soon as practicable after the expiration of that 3 year period, prepare a report on the Ombudsman's work and activities under this section and furnish a copy of the report to the Attorney General and the Minister for Police and the Commissioner of Police.
- (5) The Ombudsman may identify, and include recommendations in the report to be considered by the Attorney General about, amendments that might appropriately be made with respect to the operation of the provisions referred to in subsection (1).
- (6) The Attorney General is to lay (or cause to be laid) a copy of the report furnished to the Attorney General under this section before both Houses of Parliament as soon as practicable after the Attorney General receives the report.

