

Transport Legislation Amendment (Identity Matching Services) Bill 2020

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Western Australia

LEGISLATIVE ASSEMBLY

Transport Legislation Amendment (Identity Matching Services) Bill 2020

A Bill for

An Act to amend the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Authorisation to Drive) Act 2008* and the *Western Australian Photo Card Act 2014* principally to give effect to an intergovernmental agreement on identity matching services.

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Transport Legislation Amendment (Identity Matching Services) Act 2020*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the Royal Assent;

8

9

(b) the rest of the Act — on a day fixed by proclamation.

Part 2 — Road Traffic (Administration) Act 2008
amended

3. Act amended

This Part amends the *Road Traffic (Administration) Act 2008*.

4. Section 4 amended

In section 4 insert in alphabetical order:

photograph includes an electronic record of a
photograph;

signature includes an electronic record of a signature;

5. Section 11 amended

In section 11(5A):

- (a) delete “information” (1st occurrence);
- (b) delete “information” (2nd occurrence) and insert:

disclosure

- (c) in paragraph (e) delete “information.” and insert:

information;

- (d) after paragraph (e) insert:

- (f) photographs and signatures provided to the
CEO under the *Road Traffic (Authorisation to
Drive) Act 2008* Part 2.

s. 6

1 **6. Sections 16B and 16C inserted**

2 After section 16A insert:

3

4 **16B. Disclosure of information with consent**

5 The CEO may disclose information about a person
6 obtained in the administration of a road law to another
7 person with the consent of the person to whom the
8 information relates.

9 **16C. Disclosure by means of automated system**

- 10 (1) If the CEO is authorised to disclose a photograph,
11 signature or information under a road law, the
12 disclosure may, subject to the regulations, be made by
13 means of an automated system.
- 14 (2) The automated system must comply with any
15 requirements set out in the regulations.
- 16 (3) The automated system may, subject to the regulations,
17 allow relevant persons to retrieve data in the system
18 and to be sent alerts about data that has been modified
19 or added to the system.
- 20

21 **7. Section 36 amended**

22 In section 36(2) after each of paragraphs (a) and (ba) insert:

23

24 or

25

1 **Part 3 — Road Traffic (Authorisation to Drive) Act 2008**
2 **amended**

3 **8. Act amended**

4 This Part amends the *Road Traffic (Authorisation to Drive)*
5 *Act 2008*.

6 **9. Section 3 amended**

7 (1) In section 3(1) insert in alphabetical order:

8
9 *photograph* includes an electronic record of a
10 photograph;

11 *related Act* means —

12 (a) the *Western Australian Photo Card Act 2014*;
13 or

14 (b) an Act prescribed by the regulations;

15 *signature* includes an electronic record of a signature.
16

17 (2) In section 3(1) in the definition of *provisional licence* delete
18 “granted.” and insert:

19
20 granted;
21

22 **10. Section 9 amended**

23 (1) Delete section 9(1).

24 (2) In section 9(3) delete “regulations,” and insert:

25
26 regulations or subsection (5),
27

28 (3) Delete section 9(4A).

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1 (4) Delete section 9(5) to (8) and insert:

2

3 (5) The CEO is authorised to use on a driver's licence
4 document a photograph or signature provided by the
5 applicant under section 11A, or a related Act, within
6 the period of 10 years before the application.
7

8 **11. Section 11A amended**

9 (1) Delete section 11A(1).

10 (2) In section 11A(3) delete "regulations," and insert:

11

12 regulations or subsection (6),
13

14 (3) In section 11A(5) delete "10 years of" and insert:

15

16 the period of 10 years after
17

18 (4) Delete section 11A(6) to (9) and insert:

19

20 (6) The CEO is authorised to use on a learner's permit
21 document a photograph or signature provided by the
22 applicant under this Act, or a related Act, within the
23 period of 10 years before the application.
24

1 **12. Part 2 Division 3A replaced**

2 Delete Part 2 Division 3A and insert:

3

4 **Division 3A — Information management**

5 **11B. Terms used**

6 (1) In this Division —

7 *identifying information* means —

8 (a) a photograph of a person provided to or used by
9 the CEO under this Part; or

10 (b) a signature of a person provided to or used by
11 the CEO under this Part; or

12 (c) information associated with such a photograph
13 or signature to facilitate identification of the
14 person.

15 (2) A reference in this Division to a photograph or
16 signature provided to or used by the CEO under this
17 Part is a reference to a photograph or signature
18 provided to or used by the CEO under this Part whether
19 before or after the day fixed under the *Transport*
20 *Legislation Amendment (Identity Matching Services)*
21 *Act 2020* section 2(b).

22 **11C. Disclosure of identifying information to prescribed**
23 **person**

24 (1) In this section —

25 *authorised purpose* means —

26 (a) the purpose of performing functions under a
27 written law or a law of the Commonwealth,
28 another State or a Territory; or

s. 12

- 1 (b) a purpose related to the administration or
2 enforcement of a written law or a law of the
3 Commonwealth, another State or a Territory; or
4 (c) a purpose prescribed by the regulations for the
5 purposes of this definition;

6 ***prescribed person*** means a person prescribed, or a
7 person of a class prescribed, by the regulations for the
8 purposes of this section.

9 (2) The CEO may disclose identifying information to a
10 prescribed person if the CEO considers that the
11 information is required by the person for an authorised
12 purpose.

13 (3) The following persons must not use disclosed
14 identifying information for a purpose other than the
15 authorised purpose for which it was disclosed —

16 (a) a person to whom the information is disclosed
17 under subsection (2);

18 (b) a person who is employed or engaged by a
19 person to whom the information is disclosed
20 under subsection (2).

21 Penalty for this subsection: imprisonment for 2 years or
22 a fine of 480 PU.

23 **11D. Disclosure of identifying information with consent**

24 The CEO may disclose identifying information to
25 another person with the consent of the person to whom
26 the information relates.

27 **11E. Disclosure of photographs to police, ASIO and law
28 enforcement officials**

29 (1) In this section —

30 ***ASIO Act*** means the *Australian Security Intelligence
31 Organisation Act 1979* (Commonwealth);

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ASIO official means —

- (a) the Director-General of Security; or
- (b) an officer or employee of the Australian Security Intelligence Organisation (continued under the ASIO Act) who is authorised by the Director-General of Security for the purposes of this Division;

Director-General of Security means the Director-General of Security holding office under the ASIO Act;

law enforcement official means a person prescribed, or a person of a class prescribed, by the regulations for the purposes of this section;

police official means —

- (a) the Commissioner of Police; or
- (b) a member of the Police Force who is authorised by the Commissioner of Police for the purposes of this Division; or
- (c) a person employed or engaged in the department of the Public Service principally assisting in the administration of the *Police Act 1892* who is authorised by the Commissioner of Police for the purposes of this Division.

- (2) The CEO must disclose photographs provided to or used by the CEO under this Part to a police official for the purposes of the performance of the police official's functions under a road law or another written law.
- (3) The CEO must disclose photographs provided to or used by the CEO under this Part to an ASIO official for the purposes of the performance of the ASIO official's functions under the ASIO Act or another law of the Commonwealth.

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1 (4) The CEO may, with the prior approval of the
2 Commissioner of Police, disclose photographs
3 provided to or used by the CEO under this Part to a law
4 enforcement official if the CEO considers that the
5 photographs are required for the purposes of the
6 performance of the law enforcement official's
7 functions under a written law or a law of another
8 jurisdiction.

9 **11F. Disclosure of photographs to executor or**
10 **administrator**

11 If the person shown in a photograph provided to or
12 used by the CEO under this Part has died, the CEO
13 may disclose the photograph to an executor or
14 administrator of the person's estate.

15 **11G. Disclosure to CEO (road passenger services)**

16 (1) In this section —
17 *CEO (road passenger services)* means the CEO as
18 defined in the *Transport (Road Passenger Services)*
19 *Act 2018* section 4(1).

20 (2) The CEO may disclose photographs provided to or
21 used by the CEO under this Part to the CEO (road
22 passenger services) for the purposes of the performance
23 of the functions of the CEO (road passenger services)
24 under the *Transport (Road Passenger Services)*
25 *Act 2018*.

26 **11H. Photographs and signatures: possession and**
27 **reproduction**

28 (1) A person must not, other than for the purposes of this
29 Part or a related Act, possess a photograph or signature
30 provided to or used by the CEO under this Part that is

- 1 not on a driver's licence document or learner's permit
2 document.
3 Penalty for this subsection: imprisonment for 2 years or
4 a fine of 480 PU.
- 5 (2) Subsection (1) does not apply to a person who
6 possesses a photograph or signature as a result of its
7 disclosure under this Division.
- 8 (3) A person employed or engaged in connection with any
9 aspect of the production of driver's licence documents,
10 learner's permit documents or otherwise concerned in
11 the administration of this Part, must not, other than for
12 the purposes of this Part, a related Act or the *Transport*
13 (*Road Passenger Services*) Act 2018 Part 7 —
- 14 (a) reproduce a photograph or signature provided
15 to or used by the CEO under this Part by any
16 means; or
- 17 (b) cause or permit another person to reproduce a
18 photograph or signature provided to or used by
19 the CEO under this Part by any means.
- 20 Penalty for this subsection: imprisonment for 2 years or
21 a fine of 480 PU.

22 **11I. No subpoena or orders for disclosure of identifying**
23 **information**

24 Subject to the regulations, identifying information is
25 not to be compelled to be produced or disclosed in civil
26 proceedings by subpoena or otherwise.
27

1 **Part 4 — Western Australian Photo Card Act 2014**
2 **amended**

3 **13. Act amended**

4 This Part amends the *Western Australian Photo Card Act 2014*.

5 **14. Section 3 amended**

6 (1) In section 3 delete the definition of *photograph*.

7 (2) In section 3 insert in alphabetical order:

8

9 *photograph* includes an electronic record of a
10 photograph;

11 *related Act* means —

12 (a) the *Road Traffic (Authorisation to Drive)*
13 *Act 2008*; or

14 (b) a prescribed Act;

15 *signature* includes an electronic record of a signature.

16

17 (3) In section 3 in the definition of *prescribed* delete “regulations.”
18 and insert:

19

20 regulations;

21

22 **15. Section 6 amended**

23 (1) In section 6(3) and (4)(b) delete “Act.” and insert:

24

25 Act, or a related Act.

26

1 (2) After section 6(4) insert:
2

3 (5) The CEO is authorised to use on a photo card a
4 photograph or signature provided by the applicant
5 under this Act, or a related Act, within the period of
6 10 years before the application.
7

8 **16. Section 10 amended**

9 In section 10(3) in the Penalty delete “Penalty:” and insert:
10

11 Penalty for this subsection:
12

13 **17. Section 11 amended**

14 (1) At the end of section 11(1) insert:
15

16 Penalty for this subsection: a fine of \$2 500.
17

18 (2) At the end of section 11(2) insert:
19

20 Penalty for this subsection: a fine of \$2 500.
21

22 (3) At the end of section 11(3) insert:
23

24 Penalty for this subsection: a fine of \$2 500.
25

26 (4) At the end of section 11(4) insert:
27

28 Penalty for this subsection: a fine of \$2 500.
29

s. 18

1 (5) At the end of section 11 delete the Penalty and insert:

2

3 Penalty for this subsection: a fine of \$2 500.

4

5 **18. Section 12 replaced**

6 Delete section 12 and insert:

7

8 **12. Terms used**

9 (1) In this Part —

10 *identifying information* means —

11 (a) a photograph of a person provided to or used by
12 the CEO under this Act; or

13 (b) a signature of a person provided to or used by
14 the CEO under this Act; or

15 (c) information associated with such a photograph
16 or signature to facilitate identification of the
17 person.

18 (2) A reference in this Part to a photograph or signature
19 provided to or used by the CEO under this Act is a
20 reference to a photograph or signature provided to or
21 used by the CEO under this Act whether before or after
22 the day fixed under the *Transport Legislation*
23 *Amendment (Identity Matching Services) Act 2020*
24 section 2(b).

25 **12A. Disclosure by means of automated system**

26 (1) If the CEO is authorised to disclose a photograph,
27 signature or information under this Part, the disclosure
28 may, subject to the regulations, be made by means of
29 an automated system.

1 (2) The automated system must comply with any
2 requirements set out in the regulations.

3 (3) The automated system may, subject to the regulations,
4 allow relevant persons to retrieve data in the system
5 and to be sent alerts about data that has been modified
6 or added to the system.
7

8 **19. Section 14 amended**

9 (1) In section 14(2) and (3) before “photo” insert:
10

11 identifying information or
12

13 (2) In section 14(3) delete the Penalty and insert:
14

15 Penalty for this subsection: imprisonment for 2 years or
16 a fine of \$24 000.
17

18 Note: The heading to amended section 14 is to read:

19 **Disclosure of identifying or photo card information to prescribed**
20 **person**

21 **20. Section 14A inserted**

22 After section 14 insert:
23

24 **14A. Disclosure of identifying or photo card information**
25 **with consent**

26 The CEO may disclose identifying information or
27 photo card information to another person with the
28 consent of the person to whom the information relates.
29

s. 21

1 **21. Section 15 amended**

2 In section 15(2), (3) and (4) after “disclose photographs” insert:

3

4 provided to or used by the CEO under this Act

5

6 **22. Section 16 amended**

7 In section 16 after “photograph” (1st occurrence) insert:

8

9 provided to or used by the CEO under this Act

10

11 **23. Section 17 amended**

12 (1) Delete section 17(1) and (2) and insert:

13

14 (1) A person must not, other than for the purposes of this
15 Act, or a related Act, possess a photograph or signature
16 provided to or used by the CEO under this Act that is
17 not on a photo card.

18 Penalty for this subsection: imprisonment for 2 years or
19 a fine of \$24 000.

20

21 (2) In section 17(3) delete “as a result of its disclosure under
22 section 15 or 16.” and insert:

23

24 or signature as a result of its disclosure under this Part.

25

- 1 (3) In section 17(4):
2 (a) delete “Act —” and insert:
3
4 Act, or a related Act —
5
6 (b) in paragraph (a) delete “signature; or” and insert:
7
8 signature provided to or used by the CEO under this
9 Act; or
10
11 (c) delete the Penalty and insert:
12
13 Penalty for this subsection: imprisonment for 2 years or
14 a fine of \$24 000.
15

16 Note: The heading to amended section 17 is to read:
17 **Photographs and signatures: possession and reproduction**

18 **24. Section 17A inserted**

19 At the end of Part 3 insert:
20

21 **17A. No subpoena or order for disclosure of identifying**
22 **information**

23 Subject to the regulations, identifying information is
24 not to be compelled to be produced or disclosed in civil
25 proceedings by subpoena or otherwise.
26

s. 25

1 **25. Section 20 amended**

2 In section 20(5):

3 (a) after “disclose” insert:

4

5 photographs and signatures provided to the CEO under
6 this Act and

7

8 (b) delete “information” (2nd occurrence) and insert:

9

10 disclosure

11

12 **26. Section 21 amended**

13 In section 21(1) delete the Penalty and insert:

14

15 Penalty for this subsection: imprisonment for one year
16 or a fine of \$12 000.

17

18
