



PARLIAMENT OF WESTERN AUSTRALIA

**JOINT STANDING COMMITTEE
ON
DELEGATED LEGISLATION**

FORTY-FIRST REPORT:

Road Traffic (Licensing) Amendment Regulations 1999
Road Traffic (Vehicle Standards) Amendment Regulations 1999

Presented by the Hon R L Wiese MLA (Chairman)
and
the Hon N D Griffiths MLC (Deputy Chairman)

June 1999

Joint Standing Committee on Delegated Legislation

Members

Hon Bob Wiese MLA (Chairman)
Hon Nick Griffiths MLC (Deputy Chairman)
Hon Simon O'Brien MLC
Hon Ray Halligan MLC
Hon Jim Scott MLC
Mr Bill Thomas MLA
Mr Iain MacLean MLA
Mr Norm Marlborough MLA

Advisory/Research Officers

Nigel Pratt
Frank van der Kooy

Committee Clerk

Jan Paniperis

Terms of Reference

It is the function of the Committee to consider and report on any regulation that:

- (a) appears not to be within power or not to be in accord with the objects of the Act pursuant to which it purports to be made;*
- (b) unduly trespasses on established rights, freedoms or liberties;*
- (c) contains matter which ought properly to be dealt with by an Act of Parliament; or*
- (d) unduly makes rights dependent upon administrative, and not judicial, decisions.*

If the Committee is of the opinion that any other matter relating to any regulation should be brought to the notice of the House, it may report that opinion and matter to the House.

ISBN No: 0 7309 8930 5

Report of the Joint Standing Committee on Delegated Legislation

in relation to

Road Traffic (Licensing) Amendment Regulations 1999 ***Road Traffic (Vehicle Standards) Amendment Regulations 1999***

1 Executive Summary

1.1 The Committee recognises that the *Road Traffic (Licensing) Amendment Regulations 1999* (“Licensing Regulations”) and *Road Traffic (Vehicle Standards) Amendment Regulations 1999* (“Vehicle Standards Regulations”) are within power and has resolved not to recommend disallowance after:

- (a) hearing evidence from officers of the Department of Transport - Mr Trevor Halliday, Executive Director, Licensing; Mr John Dombrose, Manager, Vehicle Standards; and Mr Trevor Maughan, Manager Legislative and Legal Services; and
- (b) reviewing the letter from Hon Murray Criddle, Minister for Transport dated 31 May 1999.

1.2 The Committee identified three issues of importance after reviewing the Licensing and Vehicle Standards Regulations and hearing the evidence from officers of the Department of Transport these being:

- (a) the testing and approval process for immobilisers;
- (b) the training and qualification requirements of the people who will be fitting the immobilisers; and
- (c) the apparent lack of accreditation of the installation training course.

- 1.3 After reviewing the letter from the Minister for Transport, the Committee is generally satisfied with the approval process for immobilisers and the Minister's advice that an accredited training course is now available. However, other issues relating to (b) and (c) in sub-paragraph 1.2 above were identified by the Committee and the Committee is of the opinion that all of these matters should be reported to the House. The other issues are:
- (a) the absence of a regulatory basis under the *Road Traffic (Vehicle Standards) Regulations 1977* for approving qualified installers to fit approved immobilisers under the compulsory scheme; and
 - (b) the apparent lack of accredited courses and registered providers to train installers so that adequate numbers of qualified installers are available to meet the expected increase in demand for the installation of approved immobilisers when the compulsory scheme commences on 1 July 1999.

2 Introduction

- 2.1 In the exercise of its scrutiny function the Committee reviewed the Licensing Regulations and the Vehicle Standards Regulations created pursuant to the *Road Traffic Act 1974* ("Act"). Copies of the Licensing Regulations and the Vehicle Standards Regulations have been attached to this report and marked "Annexure A" and "Annexure B" respectively.
- 2.2 Under the Committee's Joint Rules, if the Committee is of the opinion that a matter relating to any regulation should be brought to the notice of the House, it may report that opinion and matter to the House. It is also the function of the Committee to consider and report on any regulation that appears not to be within power.
- 2.3 As both the Licensing Regulations and the Vehicle Standards Regulations are part of an integral regulatory scheme, they will be dealt with together in this report.
- 2.4 According to the Department of Transport's explanatory memorandum¹ in support of these regulations, the Licencing Regulations and the Vehicle Standards Regulations were promulgated to provide the mechanisms through regulatory processes for the compulsory fitment of motor vehicle immobilisers on registration and transfer of passenger vehicles

¹ Explanatory Memorandum attached to a letter by Trevor Maughan, addressed to the Chairman of the Committee and dated 5 February 1999 ("Explanatory Memorandum").

with a tare weight not exceeding 3 tonnes and a manufacturer's gross vehicle mass not exceeding 4.5 tonnes.²

- 2.5 These Amendment Regulations are viewed as the next step following the voluntary engine immobiliser scheme introduced in 1997. This scheme offered a \$30.00 rebate to motorists who voluntarily fitted an immobiliser to their vehicle. This rebate was increased to \$40.00 from 1 February 1999. Although the voluntary scheme has been successful (over 69,000 approved immobilisers have been installed) the continued incidence of vehicle theft has led to an action plan to significantly increase the number of vehicles fitted with an immobiliser.
- 2.6 From 1 July 1999, the Vehicle Standards Regulations (see Annexure B) will require an immobiliser, of a type approved by the Director General of Transport, to be fitted to a motor car, a motor wagon with a manufacturer's gross vehicle mass not exceeding 4.5 tonnes and an omnibus when the tare of those vehicles does not exceed 3 tonnes, at the time of application for a licence or transfer of the licence.
- 2.7 There are a number of exceptions provided to this requirement to fit an immobiliser. It will not apply in respect of:
- a vehicle acquired by a dealer, as defined in section 76B of the *Stamp Act 1921*, for the purpose of resale, and for which a declaration has been completed pursuant to section 76C of the *Stamp Act 1921*. This exception was inserted because many dealers trade a vehicle and then on-sell that vehicle to another dealer. Sometimes the vehicle does not enter the original dealer's premises and may be sold between a number of dealers in a relatively short period of time. To require dealers to fit immobilisers before effecting transfer of the vehicle licence into their name and on-selling the vehicle would severely impact on their business operations;
 - a vehicle not less than 25 years old prior to the application for the issue or transfer of the vehicle licence. The design technology of these vehicles significantly limits the effectiveness of an immobiliser;
 - a vehicle licenced pursuant to regulation 21D of the *Road Traffic (Licensing) Regulations 1975* as a farm vehicle. These vehicles are only permitted to be

² Explanatory Memorandum, page 1.

used on roads to travel from one portion of an owner's farm to another, or to travel between the farm and some other place to fight a fire;

- a vehicle where the Director General of Transport is satisfied that the fitment of an immobiliser would be impracticable. This allows the Director General to exempt a particular class of vehicles or an individual case, such as a person living in a remote area who cannot access a facility to have an immobiliser fitted;
- a transfer which is subject to an order of a Court; and
- a transfer which is as a consequence of a bequest from a deceased estate.

2.8 The Licensing Regulations (see Annexure A) require that the applicant for the issue or transfer of a vehicle licence of a class of vehicle specified in the Vehicle Standards Regulations declare in their written application whether or not the vehicle is fitted with an approved immobilising device. Failing to complete the declaration may result in refusal of the application to licence or transfer the vehicle. Making a false declaration that a vehicle is fitted with an approved immobiliser may result in the offence of wilfully misleading an officer under the provisions of the *Road Traffic Act 1974* and the declarant may incur a penalty not exceeding \$1 000.

2.9 The development of the compulsory immobiliser scheme followed consultation with a number of parties including the Offices of the Minister for Transport and the Minister for Police, the Ministry of Premier and Cabinet, Western Australia Police Service - Crime Prevention Unit, industry representatives from the Western Australian motor vehicle industry, Motor Trades Association, Insurance Council of Australia Ltd, Royal Automobile Club of Western Australia Inc, Immobiliser Installation Industry and the Federal Chamber of Automotive Industries.

2.10 The Department of Transport envisages that the majority of vehicles in the target group will be fitted with immobilisers within five years. The Department contends that this should play a major role in the Government's Safer WA programme through a significant reduction in vehicle theft and associated crimes, such as ram raids and high speed pursuits.

2.11 The Committee first considered the Licensing and Vehicle Standards Regulations at its meeting on 19 April 1999 and resolved to hear evidence from officers of the Department of Transport. On 3 May 1999, Mr Trevor Halliday, Executive Director, Licensing; Mr John Dombrose, Manager, Vehicle Standards; and Mr Trevor Maughan, Manager, Legislative and Legal Services, from the Department of Transport appeared before the

Committee. At the conclusion of the hearing, the Committee resolved that, although it would not recommend disallowance of the Licensing and Vehicle Standards Regulations, there were a number of issues of concern it wanted to bring to the attention of the Minister for Transport. A copy of a letter from the Chairman of the Committee to the Minister for Transport dated 11 May 1999 has been attached to this report and marked “Annexure C”.

- 2.12 The Licensing and Vehicle Standards Regulations were published in the *Government Gazette* on 29 January 1999 and tabled in the Parliament on 9 March 1999.

3 Legislative Background

- 3.1 The *Road Traffic Amendment Act 1998* was passed by Parliament last year to give effect to the Government’s compulsory fitment of immobilisers scheme. Section 24A of the *Road Traffic Act 1974* (“Act”) sets out the requirement to make a declaration on applying for grant or transfer of a vehicle licence as follows:

“(1) Regulations may require an applicant for the grant or transfer of a licence in respect of a vehicle to declare in writing that the vehicle meets any prescribed standard or requirement relating to the security of vehicles that applies to that vehicle.

(2) If the applicant does not comply with a requirement of regulations made for the purposes of subsection (1), it may be taken for the purposes of section 23(a) that the vehicle concerned does not meet the prescribed standard or requirement.”

- 3.2 Section 111 of the Act provides for the creation of regulations. As well as permitting the creation of regulations in general terms “for giving full effect to the provisions of, and for the due administration of, this Act” in section 111(1), section 111(2)(d) specifically permits regulations to be created:

“prescribing the standards of, and equipment to be fitted to, vehicles for the purposes of road safety, the security of vehicles or any related matter relating to road traffic, and requiring vehicles or equipment to be maintained in the prescribed manner.”

- 3.3 The Committee recognises that the Vehicles Standards Regulations and the Licensing Regulations are within power. However, the Committee has a number of other concerns regarding the way in which the industry will be regulated after 1 July 1999.

4 The Committee's concerns

4.1 The Committee's particular concerns are summarised as follows:

- (a) the testing and approval process for immobilisers;
- (b) the training and qualification requirements of the people who will be fitting the immobilisers; and
- (c) the accreditation of the installation training course.

The testing and approval process for immobilisers

4.2 The Committee was concerned that there appeared to be no statute based approval process for immobilisers beyond certification by one of the State's insurers. This exchange between one of the members of the Committee and one of the Department of Transport officers sets out the current approval process:

“Hon J.A. SCOTT: My family has two vehicles with different types of immobilisers. A lot of people already have other types of immobilisers in their cars. What happens to those and what is the approval process for new immobilisers?”

Mr DOMBROSE: We accept immobilisers that were accepted by the voluntary scheme standards existing prior to the legislation being put in place. The greater majority of immobilisers have been approved by the RAC, with vehicles in situ, testing immobilisers against the standards that were created for the voluntary standard. The RAC will for the time being continue to do that.

Hon J.A. SCOTT: How does the RAC work out the effectiveness of immobilisers: Is it the difficulty involved or the time it takes to start up a car?

Mr DOMBROSE: At the moment the RAC does not work to a time factor. RAC mechanics test immobilisers against the specifications in their standards, so they will make sure an immobiliser has two points of immobilisation, that it has all black wires, and a whole lot of other things like that. They will test

the immobiliser to make sure that it works in practice. There are a number of ways to test the immobiliser into making sure that it does the job.”³

- 4.3 The Committee is of the view that if the Government is making it compulsory to fit immobilisers, then the product itself should, at the very least, meet an Australian Standards requirement and should have to go through a statutory certification process. Approval by the RAC should not be sufficient.

The training and qualification requirements of the people who will be fitting the immobilisers

- 4.4 The Committee has reservations about the training and qualification requirements of persons who will be fitting immobilisers as demonstrated below:

“The CHAIRMAN: We spoke about the accreditation of immobilisers and the fact they must be approved. Is it correct that the installers are also required to be appropriately licensed and approved?”

Mr HALLIDAY: That is correct.

Mr DOMBROSE: We do not have a licensing process for them but the system is not unlike the system in the voluntary scheme, whereby installers must meet certain standards. As the scheme develops and with the assistance of industry, we are now developing a couple of educational training programs which will be an alternative way for people to be certified. There will be some sort of training program with a practical component attached to it. We needed to do that to cover the big expected jump in the number of installations after 1 July. Installers are still covered and they must pass a police check before they become installers.

Mr HALLIDAY: It is specified that the proprietor of the business must have experience of at least two years in the industry.

Mr DOMBROSE: Yes, that is under the current scheme.

Mr MARLBOROUGH: We are not seeking automotive electricians to fit these immobilisers.

³

Transcript of evidence, 3 May 1999, page 4-5.

Mr DOMBROSE: They would be good candidates.

Mr MARLBOROUGH: Absolutely, but installers could come directly off the street into the automotive industry, pick up expertise by working on the job and be encouraged under your scheme to do a form of training.

Mr DOMBROSE: If they have worked for two years under supervision, they can become authorised installers under the present scheme or alternatively they can go on about a 40-hour theory course. They must then be supervised for another 40 hours and complete at least eight installations successfully.”⁴

- 4.5 As expressed above, the Committee has concerns that in a compulsory immobiliser scheme, the installers can become qualified by completing a 40 hour theory course and 40 hours of practical experience. In other words, in two weeks a person with no previous experience in automotive electrics can be qualified to install immobilisers.

The accreditation of the installation training course

- 4.6 Directly related to this issue is the accreditation of the installation training course. At present, the training is reluctantly undertaken by one of the State’s immobiliser installers.

“Mr MARLBOROUGH: Who does the training of the theory at present; is it TAFE?

Mr DOMBROSE: At the moment only one organisation does it: Marlows is doing it and has opened its doors to anyone who wishes to participate.

Mr MARLBOROUGH: So the training scheme you are talking about will be generated by the private sector and run by it and have no supervision from your department?

Mr DOMBROSE: It will only be in the sense that we must look at the training model and put some of our people through it to make sure that it works. It is not that Marlows is developing a private sector scheme of its own. It will be one we have looked at and whose outcome we will be happy with.

Mr HALLIDAY: It will be accredited.

Mr DOMBROSE: We also demanded that the course have the ability to fail people. With all the courses that were run previously, people did the courses and received a little certificate saying "Charlie Brown has completed the course". Here people can fail the course and be thrown out of it. Quite a few people have already failed it.

The CHAIRMAN: Is there a mechanism in place to ensure that before people take part in the course they must have a police check?

Mr DOMBROSE: Yes, that is another thing that we ask. We did not want to get involved in training the wrong kind of people.

Mr MARLBOROUGH: You are saying that the course presently provided by Marlows is the only one of this standard in this State. It is not presently an accredited course but is seeking Australian standard accreditation. Have you any idea when that is likely to be? Will it be by 1 July?

Mr DOMBROSE: From what Marlows has told me, I would say that it will happen before then, but I cannot speak for Marlows.

Hon SIMON O'BRIEN: Are you working with the Automotive Training Association, which is the nearest the industry has to an industry training council, or some other body like that for the provision of training to potential installers?

Mr DOMBROSE: We have spoken to the association. We are not closely involved with it at this time. We have had only one course delivered to us. We have asked for others because we prefer to have more than one course available. We have not worked directly with the association but left the industry to work its way through the courses.

Mr HALLIDAY: Marlows did not really wish to be in the training business. It is trying to have somebody else take over the training course. Marlows did it on the basis that when we have compulsory immobilisers, the success of its industry will to a large extent depend on the number and quality of installers. Marlows was keen to set some standards and get things moving. Marlows has

talked to a number of bodies, including TAFE, about taking over the training courses and totally removing itself from them.”⁵

- 4.7 The Committee has concerns about immobiliser installation training being provided by one of the installers in an industry which is set for an explosion in demand following 1 July 1999. The concerns are highlighted by the evidence that Marlows apparently has no real desire to be the provider of the training course. In the Committee’s view, this type of training should be undertaken at an accredited course by registered providers, preferably administered by a public educational institution, for example TAFE. Further courses could be conducted within the industry by the Motor Traders Industry Association.

5 The Minister’s Reply to the Committee

- 5.1 The Minister for Transport, Hon Murray Criddle MLC, replied to the Committee by letter dated 31 May 1999. A copy of the Minister’s letter to the Chairman of the Committee has been attached to this report and marked “Annexure D”.

- 5.2 Referring to the Committee’s concerns regarding the testing and approval process for immobilisers the Minister stated:

“Since the announcement of the compulsory scheme in 1998, Transport has been working with industry representatives in an endeavour to convert the voluntary standards into a package suitable for a compulsory scheme. As part of this process, Transport has now become involved in the preparation of an Australian Standard for immobilisers. This standard is now approaching its conclusion and is expected to be ready for publication late in 1999.

Once this standard is approved, industry will be given a reasonable period to submit their existing products for approval by Standards Australia, after which the voluntary standard will be replaced by the Australian Standard. The voluntary standard will be demoted to have only retrospective effect on mobilisers already fitted.”

- 5.3 The Committee notes the Minister’s comments that other published standards have recently been specified for after-market installation of approved immobilisers. These standards were introduced under the *Road Traffic (Vehicle Standards) Regulations*

⁵

Transcript of evidence, 3 May 1999, pages 7-8.

1977 (“Regulations”) by notice in the *Government Gazette* dated 26 March 1999 which define an “approved device” that is designed to secure a vehicle against theft.

- 5.4 An approved immobiliser under the Regulations includes not only those immobilisers approved under the previous voluntary scheme but also a United Nations Economic Commission for Europe Standard which according to the Minister aligns with the proposed Australian Design Rule and an existing Australian Standard for alarm systems which have an immobiliser feature (AS 3749.1 1997).
- 5.5 The Committee welcomes the introduction of specific standards applying to approved immobilisers and urges the introduction of an appropriate Australian Standard within the time frame advised by the Minister. The Committee’s view is that the introduction of a universal Australian Standard will reduce possible confusion for industry and applicants for the transfer or licensing of vehicles from 1 July 1999 (who must complete a declaration) that may arise as a result of the existence of other specified or voluntary standards.
- 5.6 Referring to the Committee’s concerns regarding the training and qualification requirements of people who will be fitting immobilisers the Minister stated:

“The course run by Marlows was presented to industry for comment and was subsequently presented to Transport for review to ensure that it contained Transport’s expected standards for installers. The course included a pre-requisite which demanded a Police Clearance for each student before being admitted to the course, the requirement for an assessment process which would see inadequate performers fail the course and the inclusion of a course segment which dealt with the dangers associated with installing immobilisers in vehicles fitted with airbags and other devices capable of causing injury.

It is Transport’s view that this training programme provides a higher level of installer expertise. Under the voluntary scheme, there was no account of the actual experience obtained within the two year period and installers had little or no knowledge about regulatory or vehicle safety requirements.”

- 5.7 The Vehicle Standards Regulations do not specify that an approved immobiliser be installed by an approved installer. The Committee requests that the Minister give consideration to amending the Vehicle Standards Regulations to include this prescription and to specify the minimum qualification requirements for approved installers.

- 5.8 The Committee is of the view that a compulsory scheme should ensure that only properly qualified and approved installers fit approved immobilisers, that this requirement be specified in the Regulations governing the scheme and that a person who installs an immobiliser who is not an approved installer be subject to penalty. The Committee is of the view that these suggested amendments will not only encourage compliance with the Regulations but also increase public confidence in the compulsory scheme.
- 5.9 In addressing the Committee's concerns regarding the apparent lack of an accredited installation course the Minister stated:
- “I have been informed that the Marlows' course has now been accredited by the Training Accreditation Council of Western Australia and meets the requirements of Section 27 of the *Vocational Education and Training Act 1997*.
- ...Transport is keen to have more programs available. Providing the courses have the necessary content and structure, Transport is comfortable with industry running their own accredited courses.”
- 5.10 The Committee is satisfied that the Marlows' course is now properly accredited. However, the Committee notes that the Marlows' course is the only one currently offered. The Committee is concerned that adequate numbers of qualified installers are available when the scheme becomes compulsory on 1 July 1999. The Committee is also concerned that the only accredited course is conducted by one of the installers in an industry which on the available evidence has no real desire to be the provider of the training course.
- 5.11 The Committee is also concerned that these accredited courses be conducted by registered providers.
- 5.12 In the likely event that the present course offered by Marlows is not capable of producing sufficient numbers of qualified installers, the Department of Transport should ensure that an adequate number of registered providers are available. Having other registered providers available to conduct the accredited course either within industry or preferably at a public education facility such as TAFE colleges will, in the Committee's view, assist in ensuring sufficient numbers of qualified installers are available to meet the expected increased demand for the installation of approved immobilisers.

6 Conclusion

6.1 The Committee recognises that the Licensing and Vehicle Standards Regulations are within power and has resolved not to recommend disallowance.

6.2 As a result of the response from the Minister for Transport to the Committee’s letter outlined above, the Committee is generally satisfied with the approval process for immobilisers and the progress towards an Australian Standard for approved immobilisers and the fact that an accredited training course is now available. However, the Committee has two remaining concerns which are:

- (a) that the *Road Traffic (Vehicle Standards) Regulations 1977* do not specify that approved immobilisers be installed by approved installers or include any minimum requirements for approved installers; and
- (b) that there are a sufficient number of registered providers to train installers so that adequate numbers of qualified installers are available to meet the expected increase in demand for the installation of approved immobilisers when the compulsory scheme commences on 1 July 1999.

6.3 On this basis, the Committee recommends that the Minister for Transport give consideration to:

- (a) amending the *Road Traffic (Vehicle Standards) Regulations 1977* to specify that an approved immobiliser be installed by an approved installer and to also specify the minimum qualification requirements for approved installers; and
- (b) taking urgent action to facilitate the establishment of an appropriate number of registered providers to ensure that there is an adequate number of qualified installers available to meet the needs of the community.

.....
Hon R L Wiese MLA
Chairman

June 17, 1999

ANNEXURE A

TRANSPORT

TR301*

Road Traffic Act 1974

**Road Traffic (Licensing) Amendment
Regulations 1999**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Road Traffic (Licensing) Amendment Regulations 1999*.

2. Commencement

These regulations come into operation on 1 July 1999.

3. Regulation 4A inserted

After regulation 4 of the *Road Traffic (Licensing) Regulations 1975** the following regulation is inserted —

“

4A. Applicant for grant or transfer of vehicle licence to declare whether vehicle is fitted with immobilizer

- (1) Except as stated in subregulation (2), an applicant —
- (a) for the grant of a licence for a vehicle under section 18 of the Act; or

2 February 1999]

GOVERNMENT GAZETTE, WA

353

- (b) for the transfer of the licence for a vehicle under section 24 of the Act,

in respect of a motor vehicle to which regulation 1017B of the Vehicle Standards Regulations applies, shall declare in writing, at the time of making the application, whether the vehicle meets the requirement prescribed by regulation 1017A(1) of those regulations for the vehicle to be fitted with an approved device.

- (2) Subregulation (1) does not apply if the application is referred to in regulation 1017A(2) of the Vehicle Standards Regulations.

- (3) In this regulation —

“**approved device**” has the meaning given by regulation 1017A(4) of the Vehicle Standards Regulations;

“**Vehicle Standards Regulations**” means the *Road Traffic (Vehicle Standards) Regulations 1977*.

”.

[* Reprinted as at 5 October 1994.

For amendments to 15 January 1999 see 1997 Index to Legislation of Western Australia, Table 4, pp. 235-7, and Gazette 12 May and 4 August 1998.]

By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.

ANNEXURE B

TR302*

Road Traffic Act 1974

Road Traffic (Vehicle Standards) Amendment Regulations 1999

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Road Traffic (Vehicle Standards) Amendment Regulations 1999*.

2. The regulations amended

The amendments in these regulations are to the *Road Traffic (Vehicle Standards) Regulations 1977**.

[* Reprinted as at 29 July 1996.
For amendments to 15 January 1999 see 1997 Index to
Legislation of Western Australia, Table 4, pp. 237-8, and
Gazette 12 May, 23 June and 17 November 1998.]

3. Regulation 103B amended

Regulation 103B(b) is amended by inserting after "1008," —
" 1017A, 1017B, ".

4. Regulations 1017A and 1017B inserted

After regulation 1017 the following regulations are inserted —

“

1017A. Requirement to fit immobilizers

- (1) A motor vehicle to which regulation 1017B applies shall be fitted with an approved device at the time the first application is made on or after 1 July 1999 —
 - (a) under section 18 of the Act for the grant of a licence for the vehicle; or
 - (b) under section 24 of the Act for the transfer of the licence for the vehicle,whichever occurs first.
- (2) An application is not a “**first application**” for the purposes of subregulation (1) if it is made —
 - (a) for —
 - (i) the transfer of a licence referred to in section 76C(6)(a) of the *Stamp Act 1921*; or
 - (ii) the issue of a licence referred to in section 76C(6)(b) of that Act,and the certification required by section 76C(7) of that Act has been given in relation to the transfer or issue of the licence; or
 - (b) for the transfer of the licence for a vehicle and the licence is to be transferred —
 - (i) under a testamentary instrument, or on an intestacy, to a person who is entitled to that vehicle in terms of the instrument or on the intestacy; or
 - (ii) to comply with a judgment or order of a court.
- (3) If a vehicle is required under subregulation (1) to be fitted with an approved device at the time an application is made, that requirement continues in force from that time.

- (4) In this regulation and regulation 1017B —
“**approved device**” means a device, approved by the Director General by notice published in the *Gazette*, that is designed to secure a vehicle against theft.

1017B. Classes of vehicles to be fitted with immobilizers

- (1) Except as stated in subregulation (2), this regulation applies to a motor vehicle —
- (a) that is —
 - (i) a motor car;
 - (ii) a motor wagon that has a manufacturer’s gross vehicle mass that does not exceed 4.5 tonnes; or
 - (iii) an omnibus;and
 - (b) that has a tare that does not exceed 3 tonnes.
- (2) This regulation does not apply to a motor vehicle —
- (a) manufactured 25 years or more before the time the first application referred to in regulation 1017A(1) is made in relation to the vehicle;
 - (b) to which regulation 21D of the *Road Traffic (Licensing) Regulations 1975* applies; or
 - (c) exempted by the Director General, by notice published in the *Gazette* or notice in writing given to the owner of the vehicle, from the requirement to be fitted with an approved device.

”.

By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.

ANNEXURE C



Joint Standing Committee on Delegated Legislation

11 May 1999

The Hon M J Criddle MLC
Minister for Transport
12th Floor
Dumas House
2 Havelock Street
West Perth WA 6005

By facsimile: (08) 9321 7370

Dear Minister

Road Traffic (Licencing) Amendment Regulations 1999
Road Traffic (Vehicle Standards) Amendment Regulations 1999

I refer to the Department of Transport's letter to the Joint Standing Committee on Delegated Legislation ('Committee') dated 5 February 1999 which enclosed copies of the above Amendment Regulations and an explanatory memorandum, noted by you.

On Monday 3 May 1999, the Committee invited officers from the Department to appear before the Committee to assist the Committee in its investigations into the *Road Traffic (Licencing) Amendment Regulations 1999* and the *Road Traffic (Vehicle Standards) Amendment Regulations 1999* ('Amendment Regulations'). The officers that appeared before the Committee were Mr Trevor Maughan, Manager, Legislative and Legal Services, Department of Transport; Mr Trevor Halliday, Executive Director, Licensing, Department of Transport, and Mr John Dombrose, Manager, Vehicle Standards, Department of Transport.

The Committee heard evidence from these officers and resolved at the conclusion of the hearing that although they would not recommend disallowance of the Amendment Regulations, there were a number of issues of concern they wanted to bring to the attention of the Minister for Transport. In summary, these issues are:

- (1) the testing and approval process for immobilisers;
- (2) the training and qualification requirements of the people who will be fitting the immobilisers; and
- (3) the lack of an accredited installation course.

This letter will cite portions of the uncorrected transcript of evidence from the hearing on 3 May 1999 to demonstrate the Committee's concerns in regard to these issues.

PARLIAMENT HOUSE PERTH WA 6000 TELEPHONE +61 8 9222 7222 FACSIMILE +61 8 9222 7809
E-MAIL(GENERAL OFFICE): council@parliament.wa.gov.au

Minister for Transport

2

The testing and approval process for immobilisers

The Committee is concerned that there appears to be no statute based licencing process for immobilisers beyond certification by one of the State's insurers. This exchange sets out the current approval process:

'Hon J.A. SCOTT: My family has two vehicles with different types of immobilisers. A lot of people already have other types of immobilisers in their cars. What happens to those and what is the approval process for new immobilisers?

Mr DOMBROSE: We accept immobilisers that were accepted by the voluntary scheme standards existing prior to the legislation being put in place. The greater majority of immobilisers have been approved by the RAC, with vehicles in situ, testing immobilisers against the standards that were created for the voluntary standard. The RAC will for the time being continue to do that.

Hon J.A. SCOTT: How does the RAC work out the effectiveness of immobilisers: Is it the difficulty involved or the time it takes to start up a car?

Mr DOMBROSE: At the moment the RAC does not work to a time factor. RAC mechanics test immobilisers against the specifications in their standards, so they will make sure an immobiliser has two points of immobilisation, that it has all black wires, and a whole lot of other things like that. They will test the immobiliser to make sure that it works in practice. There are a number of ways to trick the immobiliser into making sure that it does the job.¹

The Committee is of the view that if the Government is making it compulsory to fit immobilisers, then the product itself should meet an Australian Standard requirement and should have to go through a statutory certification process. Approval by the RAC should not be sufficient.

The training and qualification requirements of the people who will be fitting the immobilisers

The Committee has reservations about the training and qualification requirements of persons who will be fitting immobilisers as demonstrated below:

'The CHAIRMAN: We spoke about the accreditation of immobilisers and the fact they must be approved. Is it correct that the installers are also required to be appropriately licensed and approved?

Mr HALLIDAY: That is correct.

Mr DOMBROSE: We do not have a licensing process for them but the system is not unlike the system in the voluntary scheme, whereby installers must meet certain standards as the scheme develops. With the assistance of industry, we are now developing a couple of educational training type programs which will be an alternative way for people to be certified.

¹

Uncorrected transcript of evidence, 3 May 1999, page 6.

Minister for Transport

3

There will be some sort of training program with a practical component attached to it. We needed to do that to cover the big expected jump in the number of installations after 1 July. Installers are still covered and they must pass a police check before they become installers.

Mr HALLIDAY: It is specified that the proprietor of the business must have experience of at least two years in the industry.

Mr DOMBROSE: Yes, that is under the current scheme.

Mr MARLBOROUGH: We are not seeking automotive electricians to fit these immobilisers.

Mr DOMBROSE: They would be good candidates.

Mr MARLBOROUGH: Absolutely, but installers could come directly off the street into the automotive industry, pick up expertise by working on the job and be encouraged under your scheme to do a form of training.

Mr DOMBROSE: If they have work for two years under supervision, they can become authorised installers under the present scheme or alternatively they can go on about a 40-hour theory course. They must then be supervised for another 40 hours and complete at least eight installations successfully.²

As expressed above, the Committee has concerns that in a compulsory immobiliser scheme, the installers can become qualified by completing a 40 hour theory course and 40 hours of practical experience. In other words, in two weeks a person with no previous experience in automotive electrics can be qualified to install immobilisers.

The lack of an accredited installation course

Directly related to this issue is the current lack of an accredited installation course. At present, the training is reluctantly undertaken by one of the State's immobiliser installers.

Mr MARLBOROUGH: Who does the training of the theory at present; is it TAFE?

Mr DOMBROSE: At the moment only one organisation does it: Marlows is doing it and has opened its doors to anyone who wishes to participate.

Mr MARLBOROUGH: So the training scheme you are talking about will be generated by the private sector and run by it and have no supervision from your department?

Mr DOMBROSE: It will only be in the sense that we must look at the training model and put some of our people through it to make sure that it works. It is not that Marlows is developing a private sector scheme of its own. It will be one we have looked at and whose outcome we will be happy with.

Mr HALLIDAY: It will be accredited.

2

Uncorrected transcript of evidence, 3 May 1999, pages 8 -9.

G:\DL\DLRP\99051001.DLD

Minister for Transport

4

Mr DOMBROSE: We also demanded that the course have the ability to fail people. With all the courses that were run previously, people did the courses and received a little certificate saying "Charlie Brown has completed the course". Here people can fail the course and be thrown out of it. Quite a few people have already failed it.

The CHAIRMAN: Is there a mechanism in place to ensure that before people take part in the course they must have a police check?

Mr DOMBROSE: Yes, that is another thing that we ask. We did not want to get involved in training the wrong kind of people.

Mr MARLBOROUGH: You are saying that the course presently provided by Marlows is the only one of this standard in this State. It is not presently an accredited course but is seeking Australian standard accreditation. Have you any idea when that is likely to be? Will it be by 1 July?

Mr DOMBROSE: From what Marlows has told me, I would say that it will happen before then, but I cannot speak for Marlows.

Hon SIMON O'BRIEN: Are you working with the Automotive Training Association, which is the nearest the industry has to an industry training council, or some other body like that for the provision of training to potential installers?

Mr DOMBROSE: We have spoken to the association. We are not closely involved with it at this time. We have had only one course delivered to us. We have asked for others because we prefer to have more than one course available. We have not worked directly with the association but left the industry to work its way through the courses.

Mr HALLIDAY: Marlows did not really wish to be in the training business. It is trying to have somebody else take over the training course. Marlows did it on the basis that when we have compulsory immobilisers, the success of its industry will to a large extent depend on the number and quality of installers. Marlows was keen to set some standards and get things moving. Marlows has talked to a number of bodies, including TAFE, about taking over the training courses and totally removing itself from them.³

The Committee has real concerns about immobiliser installation training being provided by one of the installers in an industry which is set for an explosion in demand following 1 July 1999. Particularly in light of the fact that the Marlows has no real desire to be the provider of the training course. In the Committee's view, this type of training should be undertaken at an accredited course preferably administered by a public educational institution, for example TAFE.

In summary, the Committee is supportive of the policy reasons for promulgating legislation which makes the fitment of immobilisers compulsory. However, the Committee has real concerns about the manner in which the industry will be regulated after 1 July 1999.

3

Uncorrected transcript of evidence, 3 May 1999, pages 9 - 10.

G:\DL\DLRP\DL041.DLD

Minister for Transport

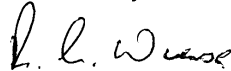
5

For the reasons outlined above, the Committee is concerned about the approval process for immobilisers, the qualifications required for those who will be fitting immobilisers and the lack of an accredited training course. The Committee asks that the Minister give consideration to:

- (1) setting minimum statutory standards and a system for the approval of immobilisers;
- (2) requiring comprehensive training courses for immobiliser installers; and
- (3) establishing an accredited immobiliser installation course administered by TAFE colleges in WA.

The Committee is preparing to table a report on this issue and your response to the matters raised in this letter would be appreciated as a matter of urgency.

Yours sincerely



Hon Bob Wiese MLA
Chairman
Joint Standing Committee on Delegated Legislation

G:\DL\DLRP\DL041.DLD

ANNEXURE D



MINISTER FOR TRANSPORT
WESTERN AUSTRALIA

31 MAY 1999

My ref: 70336

CHAIRMAN
JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Road Traffic (Licensing) Amendment Regulations 1999
Road Traffic (Vehicle Standards) Amendment Regulations 1999

I refer to your letter dated 11 May 1999 concerning the findings of the Joint Standing Committee on Delegated Legislation following the hearing on amendments to regulations giving effect to the compulsory installation of immobilisers on certain vehicles.

The following information addresses the issues of concern raised by the Committee.

(1) The testing and approval process for immobilisers

The proposal for compulsory installation of immobilisers on certain vehicles is essentially a law and order initiative designed to reduce the incidence of vehicle theft and the likelihood of injury to both individuals and property resulting from the unlawful use of stolen vehicles.

The initiative was based on the success of the Vehicle Engine Immobiliser Scheme, which currently offers a Government Subsidy of \$40 for approved immobiliser installations.

This is a voluntary scheme which was created by the joint efforts of the Police Service, the Insurance Council of Australia, the RAC and many other technical industry representatives in response to Government's publicly stated willingness to subsidise the installation of engine immobilisers. Since no Australian Standards existed for immobilisation devices, the organising committee developed its own specifications and guidelines for both the device and its installation.

In view of Government's desire to implement this initiative urgently, it was decided to continue to accept immobilisers built and installed to the voluntary scheme standards, until such time as other standards were available. Essentially this means that organisations such as the RAC will continue to perform the functions they performed under the voluntary arrangements. Hence, the RAC continues, for the time being, to assess immobilisers to the voluntary standard. However, it is important to note that the RAC will not approve new devices not covered by the voluntary standard. These devices will be assessed by Transport's vehicle safety engineers.

Since the announcement of the compulsory scheme late in 1998, Transport has been working with industry representatives in an endeavour to convert the voluntary standards into a package suitable for a compulsory scheme. As part of this process, Transport has now become involved in the preparation of an Australian Standard for immobilisers. This standard is now approaching its conclusion and is expected to be ready for publication late in 1999.

Once this standard is approved, industry will be given a reasonable period to submit their existing products for approval by Standards Australia, after which the voluntary standard will be replaced by the Australian Standard. The voluntary standard will be demoted to have only a retrospective effect on immobilisers already fitted.

You will note in the attached Gazettal Notice dated 26 March 1999, other published standards are already specified for after-market installations. These include a United Nations Economic Commission for Europe standard (this aligns with the proposed Australian Design Rule) and an Australian Standard for alarm systems which have an immobiliser feature.

You may also be interested to note that as from 1 January 2001, a new Australian Design Rule will apply to all new passenger vehicles, off road passenger vehicles (light four wheel drives) and forward control passenger vehicles. This rule will require these vehicles to be fitted with an immobiliser before they are sold into transport.

(2) The training and qualification requirements of the people who will be fitting the immobilisers

The course run by Marlows was presented to industry for comment and was subsequently presented to Transport for review to ensure it contained Transport's expected standards for installers. The course included a pre-requisite which demanded a Police Clearance for each student before being admitted to the course, the requirement for an assessment process which would see inadequate performers fail the course and the inclusion of a course segment which dealt with the dangers associated with installing immobilisers in vehicles fitted with airbags and other devices capable of causing injury.

It is Transport's view that this training program provides a higher level of installer expertise. Under the voluntary scheme, there was no account of the actual experience obtained within the two year period and installers had little or no knowledge about regulatory or vehicle safety requirements.

(3) The lack of an accredited installation course

I have been informed that the Marlows' course has now been accredited by the Training Accreditation Council of Western Australia and meets the requirements of Section 27 of the Vocational Education and Training Act 1997. Marlows received support from industry representatives, the Automotive Training Council and Transport in its submission for accreditation.

As stated during the hearing, Transport is keen to have more programs made available. Providing the courses have the necessary content and structure, Transport is comfortable with industry running their own accredited courses.

In setting these standards for both immobilisers and the installations, Transport has been mindful of the fact that obligations exist under the National Competition Policy Agreements and, as a consequence, has not attempted to over-regulate the industry. To this extent Transport has endeavoured to ensure that the competition policy objectives are met without compromising vehicle safety.



MINISTER FOR TRANSPORT

enc.

26 March 1999

GOVERNMENT GAZETTE, WA

1299

TRANSPORT

ROAD TRAFFIC ACT 1974
ROAD TRAFFIC (VEHICLE STANDARDS) REGULATIONS 1977
Notice of Approved Immobilizers

Pursuant to regulation 1017A(4) of the Road Traffic (Vehicle Standards) Regulations 1977, an "approved device" that is designed to secure a vehicle against theft means -

- 1 An immobilizer fitted by the vehicle manufacturer as original equipment, or by an agent authorised by the vehicle manufacturer; or

an immobilizer approved under the Western Australian "Vehicle Engine Immobilizer Scheme" and eligible for Western Australian Government subsidy; or

an immobilizer fitted to a vehicle which complies with Part 3 "Approval of Immobilizers and Approval of a Vehicle With Regard to its Immobilizer" of ECE 97 "Vehicle Alarm Systems" published by the United Nations Economic Commission for Europe; and

an immobilizer fitted as an integral part of an alarm system complying with Australian Standard AS 3749.1 1997 "Intruder Alarm Systems - Road Vehicles" published by Standards Australia.
- 2 Further, where a vehicle has been fitted with an immobilizer prior to the commencement of the Road Traffic (Vehicle Standards) Amendment Regulations 1999;

any immobilizer which is self arming and immobilizes the engine, by either interrupting the fuel, ignition, starter or engine management system.

M L HARRIS, Acting Director General of Transport.

(An excerpt taken from: Government Gazette, WA, issue 1299, dated 26 March 1999)

