

Road Safety Council Bill 2001

Explanatory Memorandum

Overview

This Bill will elevate the status of road safety in Government. It creates a stand-alone piece of legislation in recognition of the importance with which road safety is viewed by Government.

It recognises the importance of the across Government co-ordinating agency role offered by the Office of Road Safety and establishes a place for it on the Road Safety Council.

The Office of Road Safety will be organisationally located with the Department of Premier and Cabinet to give it a more independent, whole-of-government focus, in the same way that the Office of Crime Prevention, which is also based at Premier and Cabinet, gives an across-government focus to crime prevention. The Office of Road Safety will continue to service the Road Safety Council.

This will achieve two main outcomes –

1. Provide a more whole-of-government, across portfolio focus for road safety than if it was attached to Transport or Planning and Infrastructure; and
2. Increase the independence of the Road Safety Council by ensuring it is no longer linked with one of the portfolio's vying for Road Safety funding.

These changes will be implemented by two legislative changes –

- The repeal of those provisions of the Road Traffic Act which create the Road Safety Council and Road Trauma Trust Fund and enacting a new Road Safety Council Act containing largely mirror provisions; and
- Amending the Transport Co-ordination Act 1966 and the Road Traffic Act 1974 to break the nexus between the two Acts to allow the Government to allocate Ministerial and administrative responsibilities to different Ministers.

The Road Safety Council membership will be altered to reflect the key pieces of legislation related to road safety.

Development of the Bill is progressive and caters for the new departmental arrangements detailed in the Machinery of Government Report and any future adjustments that may be made.

Agencies with responsibility for these road safety related Acts will be represented on the Council.

The list of Acts related to road safety will also be expanded to include the Planning Act.

This legislation complements and builds upon the Machinery of Government recommendations by providing for a single Minister dedicated to road safety, while ensuring links to integrated transport and land use planning.

It enables all the proceeds from both red light and speed camera infringements to be put towards reducing the State's road toll.

These funds will be allocated not just through the Road Trauma Trust Fund, but also through a range of initiatives aimed at making our roads safer.

This Bill will ensure that monies allocated to reducing the State's road toll will indeed be dedicated to those activities that will have the greatest effect in reducing the trauma occurring on our roads.

Long Title

The long title sets out the purpose of the Bill, which is the establishment of the Road Safety Council, charged with responsibility to provide government with strategic advice on initiatives to reduce death and injury on West Australian roads.

CLAUSE 1 - Short Title

This is a formal clause titling the Bill.

CLAUSE 2 - Commencement

The Act will commence upon the publication of a proclamation to that effect in the *Government Gazette*.

A number of administrative mechanisms will need to put in place before the Act can come into operation. Hence, apart from clause 12(4), the commencement will be by way of proclamation rather than upon assent.

Clause 12(4) of this Bill cannot come into operation until section 44 of the *Road Traffic Amendment Act 2000*, which introduces measures colloquially known as "owner onus" for photographic infringement notices, is operational. If section 44 of *Road Traffic Amendment Act 2000* comes into operation prior to the commencement of this Bill, then clause 12(4) will apply as from the

date of proclamation of this Act. If section 44 of the *Road Traffic Amendment Act 2000* is not operational as at the date of commencement of this Bill, clause 12(4) will not apply until section 44 does become operational.

CLAUSE 3 - Meaning of terms used in this Act

Defines various terms and expressions used within this Bill. These are consistent with the current definitions contained in section 5 of the *Road Traffic Act*.

CLAUSE 4 - Establishment

Creates the Road Safety Council as a legal entity.

CLAUSE 5 - Functions

Prescribes functions of Road Safety Council and sets the parameters for the performance of those functions. The focus of Council will be the provision of advice to government for a comprehensive and coordinated, multifaceted attack on road trauma. The Council will achieve this through research, monitoring and evaluation of national and international road safety "best practice". The Council will recommend to the Minister the best application of Road Trauma Trust Fund monies.

CLAUSE 6 - Membership

The Council will consist of 12 members who combine to bring to it a special skill set considered essential if the Council is to achieve its objectives. Membership of the Council will be as follows:

- Chairman
- Road User Representative
- Local Government Representative
- Office of Road Safety
- Department responsible for driver and vehicle licensing
- WA Police Service
- Education Department
- Health Department
- Main Roads
- Department responsible for transport planning and co-ordination
- Department responsible for urban and regional planning
- Insurance Commission of WA

Each of the representatives of these organizations will bring to the Council specific skills and experience essential to a coordinated response to road

safety. Where the CEO of one of the government agencies does not sit on the Council themselves their representatives must be from areas within their organization which have relevance to the work of the Council i.e. driver and vehicle licensing, road safety, transport planning or urban and regional planning.

CLAUSE 7

Deputy of member

Empowers the Minister to appoint a person as a deputy to a member, other than the chairman.

A deputy member must be nominated by a person who is authorized to nominate a full member of the Council

Where membership of the Council is restricted to persons who have duties related to specific functions i.e. driver and vehicle licensing, road safety, transport planning or urban and regional planning a deputy must also meet those eligibility criteria.

A deputy may act as a member of the Council at any meeting where the member is absent or where a vacancy exists on the Council which is yet to be filled.

CLAUSE 8

Nomination for appointment

Where a vacancy exists for a member or a deputy, the Minister is required to request nominations from the appropriate organization and is restricted from making an appointment until a written nomination is received.

Where the Minister is the person required to make the nomination, a formal nomination in writing is not required however the appointee will still be required to meet any of the eligibility criteria set out in clause 6.

CLAUSE 9

Duration of appointment as member or deputy

The non "public officers" i.e. the Chairman, Road User Representative, Deputy Road User Representative, Local Government Representative and Deputy Local Government Representative can be appointed for a term not exceeding 3 years however they are eligible for reappointment.

Members or deputy members who are not public officers may resign by giving written notice to the Minister.

The Minister may revoke the appointment of a non public officer where:

- The person becomes incapable of satisfactorily carrying out duties as a member;
- The person is absent from three consecutive meetings for which they were given notice;
- The persons becomes bankrupt or seeks financial relieve from bankruptcy or insolvency.

If a public officer or their deputy ceases to be eligible for nomination then they cease to be a member.

Minister may revoke the appointment of a public officer but, if the member's successor must be nominated by another Minister, only at the request of that Minister. This is to ensure that the responsible Minister retains control over the tenure and appointment of those members who fall within their purview.

CLAUSE 10

Remuneration and allowances

Members and deputies who are not public officers are entitled to remuneration and allowances determined by the Minister, based on recommendations made by the Minister for the Public Sector Management.

CLAUSE 11

Meetings

The Council is to be chaired by the chairman and in his or her absence a member elected by the Council. The Council can determine the procedure for conducting its meetings, however it is required to keep accurate minutes

CLAUSE 12

Road Trauma Trust Fund

This creates the Account called the "Road Trauma Trust Fund".

Monies to be accredited to the account are:

- 1/3 of the infringement penalty paid on infringement notices generated from "multi nova" and "red light" cameras. The prescribed offences will be speeding and disobeying a red traffic control signal ;

- Monies appropriated by Parliament for the account;
- Any monies donated or otherwise lawfully obtained for the account. This will enable the Council to accept private sector funding for specific road safety initiatives;
- Any investment income;

The money in the Account can only be used for purposes determined by the Minister based on recommendations of the Council that are consistent with the objectives of the Act I.e. "the reduction of death, injury, and property damage resulting from incidents on roads".

CLAUSE 13

Annual report

The Council will be required to provide a report on its activities to the Minister at the end of each financial year, and the Minister must table that report in each House of the Parliament within 14 sitting days.

CLAUSE 14

Protection from liability for wrongdoing

This clause provides a statutory protection for all persons performing duties in good faith in their performance of a function under this Act.

This clause also relieves the Crown of any liability in relation to Acts done in good faith.

CLAUSE 15

Other Acts amended

The schedule details the amendments that must be made to other legislation to facilitate the proclamation of the *Road Safety Council Act 2001*. Currently the provisions creating the Road Safety Council sit within the *Road Traffic Act 1974*. This Bill removes the Road Safety Council from the *Road Traffic Act 1974* and creates a separate statute dedicated to the Road Safety Council and its functions. For this to occur, all references to the *Road Traffic Act 1974* as they relate to the Road Safety Council in various statutes must be replaced with references to the new legislation.

Constitutions Acts Amendment Act 1899

The *Constitutions Acts Amendment Act 1899* requires any member of a commission, council, board, committee, authority, trust or other body mentioned in Part 3 of Schedule V. to vacate that position on election to the legislature. This amendment reflects the revised legislative framework for the Council.

Financial Administration and Audit Act 1985

Section 39(4) of the *Financial Administration and Audit Act* provides for investment income earned on the Road Trauma Trust Fund to be paid to that Fund. This amendment continues that arrangement.

Road Traffic Act

Deletes the definition of "council". With the transfer of the legislative framework for the Road Safety Council from the *Road Traffic Act*, this definition is no longer required. Similarly Part IIA, which creates the Road Safety Council and reference to the Council in section 101 which provides protection of Council members from liability for Acts done in good faith are also repealed.

Road Traffic Amendment Act 2000

Section 12A(2)(a) of the *Road Traffic Act 1974*, provides for one third of the penalties for traffic infringement notices generated by red light and speed cameras be paid into the Road Trauma Trust Fund. Clause 6 of the *Road Traffic Amendment Act 2000* amends Section 12A and is a consequential amendment resulting from the renumbering of the provisions which provide for the issue of those infringement notices.

The provision for the Road Trauma Trust Fund is currently within the *Road Traffic Act 1974*. However, the *Road Safety Council Bill 2001* removes the Road Trauma Trust Fund from the *Road Traffic Act 1974*.

Therefore if the *Road Safety Council Bill 2001* comes into operation prior to the *Road Traffic Amendment Act 2000* Clause 6 of the *Road Traffic Amendment Bill 2000* will no longer be required. This is because the provisions relating to the Road Trauma Trust Fund will no longer sit within the *Road Traffic Act 1974*.