

COMMITTEE STAGE NOTES

***ROAD TRAFFIC AMENDMENT
(VEHICLE LICENSING) BILL 2000***

HON MINISTER FOR TRANSPORT

EXPLANATORY NOTES

CLAUSE 1

Short title

This is the formal clause titling the Bill.

CLAUSE 2

Commencement

As regulations are required to underpin some of the amendments contained in this Act, the date of commencement will be fixed by proclamation. The date of proclamation cannot be before the *Road Traffic Amendment Bill 2000* comes into operation.

CLAUSE 3

The Act amended

The *Road Traffic Act 1974* is the principal Act referred to in this Bill and in particular reference is made to the copy as printed at 17 September 1999.

CLAUSE 4

Section 5 amended

The National Registration Scheme changes the emphasis of vehicle licensing by requiring all vehicles used on a road to be licensed unless specifically exempted by regulation. This will provide a simpler mechanism for coping with changing vehicle configurations and a more flexible approach for dealing with special purpose vehicles which are specifically constructed to meet industry needs such as towed agricultural implements.

In line with this approach, the clause deletes the definition of "agricultural implement". For some considerable time requests have been received from Local Authorities in rural areas that consideration be given to removing the requirement to license towed farming/agricultural trailers. The definition of an "agricultural implement" was originally inserted in the *Traffic Act 1959* (repealed).

With new and improved technology several types of farming equipment and machinery do not fall within the current definition of an "agricultural implement". These include farming implements such as sheep feeder trailers, mobile sheep yard trailers, fire fighting trailers or fuel trailers etc. An expanded definition of "agricultural implements" will be contained in regulation and exempted from the licensing requirements of the Act.

The definition of "vehicle licence charge" replaces the definition of "vehicle licence fee". The new definition is consistent with national provisions and is considered to be a more appropriate term.

In the definition of "licensing provisions of this Act" the reference to the First and Second Schedules will be deleted. The First and Second Schedules will be provided for in regulation enabling more flexible registration options to keep pace with the introduction of new vehicles into the marketplace.

CLAUSE 5

Section 8 amended

Section 8(5) of the Act empowers the Commissioner of Police to supply the Director General with information relating to traffic offences of a person who has applied for the issue or grant of a licence or permit, or to whom a licence or permit has been issued.

In this clause and elsewhere throughout the Act, the term "issue" has been deleted and where appropriate replaced with the term "grant". It is considered the appropriate distinction between these terms is that "issue" refers to the licence document while "grant" refers to the authorisation conferred by the licence (as evidence of which a licence document is "issued" to a person).

CLAUSE 6

Section 15 amended

Section 15 provides that a vehicle licence is required for every vehicle described in the First Schedule whilst the vehicle is used on a road. This Bill repeals the First Schedule to the Act and regulations will be put in place to exempt vehicles, which are not required to be licensed from the licensing requirements of the Act.

As previously identified this amendment will remove inconsistencies between the current legislation and provide the flexibility needed to be able to vary licensing requirements in line with changing industry requirements.

Section 15(3) provides for an offence of using a vehicle on a road whilst it is not licensed. However, section 15(3)(a) provides a statutory defence for driving a vehicle on a road within 15 days following the expiry of the licence.

The national scheme provides no such "grace" period. To maintain a consistent approach with the national scheme, the current provision has been redrafted and the 15 day grace period will be included in regulation. There is no intention to remove the existing 15 day "grace" period.

Section 15(4) provides that where a person is convicted of an offence of driving an unlicensed vehicle on a road, the person is liable to a penalty of not more than 10 penalty units (\$500). In addition, the court shall order that the defendant pay a further penalty equal to the fees payable for a six months licence, if at the time of conviction the licence had not been renewed.

Reference to the licence fee in the penalty is intended to provide equity. If the penalty were cast at a level to deter an owner of a truck from operating an unlicensed vehicle, it would be manifestly too severe for a person using an unlicensed garden trailer.

As currently drafted, this provision is inequitable in that a person who renews the vehicle licence prior to the matter proceeding to court is not subject to the penalty. However, a person who pays the vehicle licence renewal after a conviction, would be subject to six months licence fee by way of a penalty and then be required to pay the full licence fee.

This clause removes an anomaly that allows unscrupulous operators driving vehicles where the registration has expired to avoid a substantial proportion of the penalty by renewing the registration retrospectively.

The amendment to section 15(6) corrects a drafting anomaly.

CLAUSE 7

Section 16 repealed

The *Road Traffic Act* in this State recognises a vehicle registration issued in another State or Territory of the Commonwealth where the owner is not ordinarily resident in this State, but is visiting.

However, section 16 of the Act specifically exempts a "commercial" vehicle from this recognition, unless the vehicle is being used in the course of interstate trade, or with the prior approval of the Director General. This has meant that interstate transporters are not able to transport goods within our State, unless it is a commencement or continuation of the interstate movement of those goods.

To comply with its mutual recognition obligations, Western Australia has for some time removed any restriction on the issue of these permits, which are given free of charge to any operator who applies.

Western Australia is the only State that does not recognise these visiting commercial vehicles. All states have adopted the proposed uniform Heavy Vehicle Registration Module, which is aimed at providing uniform and consistent legislation in regard to vehicle registration matters.

The repeal of section 16 of the Act will provide for recognition of vehicles registered in another state, irrespective of the purpose for which they are being used and avoid unnecessary paper work in the existing system.

CLAUSE 8

Section 17 amended

The amendment to section 17(1) of the Act is necessary as both sections 24(3) and 102(2a) contemplate the payment of transfer fees for the purposes of a transfer and is not intended as a further penalty. This clause will provide the necessary framework to achieve this.

The proposed section 17(2) provides that the Director General must not licence a vehicle unless he is satisfied that the vehicle is kept primarily in this State and the applicant for the licence is not prevented from holding a vehicle licence in another State or Territory.

This clause has been drafted in line with Commonwealth definition of "garage address" which is defined as the principal depot or base of operations of the vehicle.

The provision is designed to ensure that the registration charges collected for the vehicle use are retained by the State in which the vehicle is principally based.

CLAUSE 9

Section 18 replaced

Section 18 of the Act currently contains provisions that relate to applications for the renewal and issue of vehicle licences. These provisions are antiquated, difficult to interpret and in urgent need of amendment to reflect current administrative practice. This clause repeals this section and replaces it with provisions that will enable the making of regulations to prescribe the administrative arrangements for the licensing of vehicles.

The regulations will allow more flexible registration options to be offered to operators including seasonal registrations. This will allow a farmer to license a vehicle that is only used for relatively short periods (e.g. for the time it is used for the cartage of grain).

CLAUSE 10

Section 19 amended

This amendment will provide the necessary regulation making power to prescribe vehicle licence charges in regulation. The clause removes the reference to the fee specified in Part III of the Second Schedule of the Act and replaces it with the reference to “charges prescribed in the regulations”.

This will address concerns by the Joint Standing Committee on Delegated Legislation that the current provisions are a “Henry VIII” provision whilst providing more flexibility in the setting of vehicle licence fees.

CLAUSE 11

Section 20 amended

This clause provides for the inclusion of words to reflect the change in terminology consistent with the National Vehicle Licensing Scheme and corrects a text error.

CLAUSE 12

Section 22 amended

This clause deletes the reference to “fees received for the issue and renewal of motor vehicle licences”, and replaces it with the term “vehicle licence charges” to reflect the change in terminology consistent with the national framework.

CLAUSE 13

Section 23A of the Act empowers the Director General to cancel a vehicle licence under certain circumstances. This amendment will provide the Director General with the option of suspending the operation of a licence until such times as the circumstance that gave rise to the suspension is remedied.

For example, the Director General may suspend a vehicle licence where a vehicle defect notice relating to the vehicle has not been complied with and the date for compliance specified in the notice has expired.

This clause also contains minor amendments to reflect the change in terminology consistent with the national framework.

CLAUSE 14

This clause provides appeal rights where a vehicle licence has been suspended or cancelled by the Director General under section 23A.

CLAUSE 15

Section 28A amended

The Governor may currently make regulations amending or substituting Part III of the Second Schedule of vehicle licence fees in the Act. This clause deletes the reference to the Second Schedule of fees and provides for the vehicle licence charges to be transferred to the regulations.

The amendment to section 28A(3) is necessary to reflect the current provisions of the *Interpretation Act 1984*.

CLAUSE 16

Section 31 amended

The word “issues” has been deleted with the word “grants”. It is considered the appropriate distinction between these terms is that “issue” refers to the licence document while “grant” refers to the authorisation conferred by the licence (as evidence of which a licence document is “issued” to a person).

CLAUSE 17

Section 35 amended

This clause deletes the word “issue”. Refer to clause 5 for explanation.

CLAUSE 18

Section 48C amended

This clause deletes the word “issued”. Refer to clause 5 for explanation.

CLAUSE 19

Section 49 amended

This clause provides an exemption from holding a driver licence for a person with a physical disability who operates a Motor Carrier. This exemption will be provided for in regulation.

CLAUSE 20

Section 75 amended

This clause replaces the words “of its issue’ with “it was granted”. Refer to clause 5 for explanation.

CLAUSE 21

Section 100 amended

This clause corrects a minor drafting anomaly and provides clarity in respect to the renewal of a vehicle licence and as opposed to the issue of a vehicle registration label.

CLAUSE 22

First and Second Schedules repealed

The clause repeals the First and Second Schedules of the Act, which will be transferred to the regulations. This will address concerns by the Joint Standing Committee on Delegated Legislation, that the current provisions are a “Henry VIII” provision whilst providing more flexibility in the setting of vehicle licence fees.

CLAUSE 23

Various references to “issue” changed to “grant”

In this clause and elsewhere throughout the Act, the term “issue” has been deleted and where appropriate replaced with the term “grant”. It is considered the appropriate distinction between these terms is that “issue” refers to the licence document while “grant” refers to the authorisation conferred by the licence (as evidence of which a licence document is “issued” to a person).

CLAUSE 24

Various reference to “fee” changed to “charge”

The reference to “charge” replaces the reference to “fee” in various section of the Act. The new definition is consistent with national provisions and is considered to be a more appropriate term.

PART 3 – CONSEQUENTIAL AMENDMENTS

Division 1 Chattel Securities Act 1987 amended

CLAUSE 25

The Act amended

The Act referred to in this part is the *Chattel Securities Act 1981*.

CLAUSE 26

Section 3 amended

It is necessary to insert the definition of “trailer” as this Act refers to the definition as prescribed in the First Schedule of the *Road Traffic Act 1974*, which will be repealed.

CLAUSE 27

Section 7 amended

This clause deletes the reference to vehicles described in the First Schedule to the *Road Traffic Act 1974* as a result of its repeal by this Act.

CLAUSE 28

Section 13 amended

This clause deletes the reference to vehicles described in the First Schedule to the *Road Traffic Act 1974* as a result of its repeal by this Act.

Division 2 – *Control of Vehicles (Off-road areas) Act 1978* amended

CLAUSE 29

The Act amended

The Act referred to in this part is the *Control of Vehicles (Off-road areas) Act 1978*.

CLAUSE 30

Section 3 amended

This amendment is necessary as the definitions of “motor car” and “motor cycle” refer to their description in the First Schedule to the *Road Traffic Act 1974*, which will be repealed by this Act. These definitions will be provided for in regulations.

CLAUSE 31

Section 9A amended

This clause deletes the reference to vehicles described in the First Schedule to the *Road Traffic Act 1974* as a result of its repeal by this Act.

CLAUSE 32

Section 9B amended

This clause deletes the reference to vehicles described in the First Schedule to the *Road Traffic Act 1974* as a result of its repeal by this Act.

Division 3 – *Local Government Act 1995* amended

CLAUSE 33

Section 3.38 amended

This clause amends the definition of a “vehicle” as a result of the repeal of the First Schedule to the *Road Traffic Act 1974*.

Division 4 – *Stamp Act 1921* amended

CLAUSE 34

Section 76CB amended

This amendment is necessary as the definitions of “eligible vehicle” and “specialised equipment” refers to their description in the First Schedule to the *Road Traffic Act 1974*, which will be repealed by this Act. These definitions will be provided for in regulations.