



Western Australia

Road Traffic Act 1974

**Incorporating the amendments proposed
by the *Road Traffic Legislation Amendment
Bill (No. 2) 2015 Pt. 2 Div. 1, Pt. 3 Div. 1
Subdiv. 1, Div. 2, Div. 3 Subdiv. 1 and Div. 4
Subdiv. 1 (Bill No. 151-2)***

Legend:

Red and **Blue** amendments represent insertions/deletions made by the Bill.

Pink amendments represent insertions/deletions made by the Bill that are dependent on certain provisions of Part 3 Division 2 of the Bill having come into operation.

Green amendments represent insertions/deletions made by the Bill that are dependent on certain provisions of the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* having come into operation.

Note:

Sections 78B-90 have been omitted as they are not going to be amended by the Bill.

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An Act to make provision in relation to the driving and use of vehicles, the regulation of traffic and for incidental and other purposes.

[Long title amended by No. 8 of 2012 s. 5.]

Part I — Preliminary

1. Short title

This Act may be cited as the *Road Traffic Act 1974* ¹.

2. Commencement

- (1) Subject to subsection (2) the provisions of this Act shall come into operation on such date or such dates as is or are, respectively, fixed by proclamation ¹.
- (2) Section 4 shall come into operation on the day on which this Act receives the Royal Assent ¹.

[3. *Deleted by No. 82 of 1982 s. 4.*]

4. Repeal

The provisions of the *Traffic Act 1919* shall be repealed on such date or such dates as is or are, respectively, fixed by proclamation.

5. Terms used

The *Road Traffic (Administration) Act 2008* Part 1 Division 2 provides for the meanings of some terms and abbreviations in this Act.

[*Section 5 inserted by No. 8 of 2012 s. 6.*]

[5A. *Deleted by No. 8 of 2012 s. 7.*]

[*Part II (s. 6-15A) deleted by No. 8 of 2012 s. 8.*]

[*Part IIA deleted by No. 5 of 2002 s. 15.*]

[*Part III: s. 15, 17-20, 22, 23A-29 deleted by No. 8 of 2012 s. 8; s. 16 deleted by No. 28 of 2001 s. 7; s. 21 deleted by No. 21 of 1995 s. 7; s. 23 deleted by No. 39 of 2000 s. 11.*]

[*Part IV: s. 30-37 and 39-41 deleted by No. 8 of 2012 s. 8; s. 38 deleted by No. 39 of 2009 s. 6.*]

[*Part IVA: s. 41A-44D, 47, 48 and 48A deleted by No. 8 of 2012 s. 8; s. 45, 46 deleted by No. 18 of 2011 s. 11; s. 48B-48F deleted by No. 54 of 2006 s. 6.*]

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(b) if there is no seat directly beside the learner driver —

(i) seated in the seat nearest the learner driver that faces forward in a motor vehicle driven by the learner driver; or

(ii) standing near the learner driver in a motor vehicle driven by the learner driver;

or

(c) riding in a side car attached, or on a pillion seat fitted, to a motor cycle driven by the learner driver.

(2) Without limiting the circumstances in which a person is in charge of a motor vehicle, an instructor providing driving instruction to a learner driver is, for the purposes of this Part (other than sections 49AB and 66A), to be taken to be in charge of the motor vehicle driven by the learner driver.

(3) Subsection (2) does not affect any liability of a learner driver for any offence committed by that person while driving or being in charge of a vehicle.

[Section 49AA inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 42.]

~~Division 1A — Terms used in this Part~~

~~[Heading inserted by No. 39 of 2007 s. 19.]~~

~~49AA. Term used: grievous bodily harm~~

~~In this Part —~~

~~***grievous bodily harm*** has the meaning given in *The Criminal Code* section 1(1).~~

~~[Section 49AA inserted by No. 39 of 2007 s. 19; amended by No. 8 of 2012 s. 9.]~~

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[Heading inserted by No. 10 of 2004 s. 6.]

49AB. Term used: circumstances of aggravation

(1A) In this section an instructor providing driving instruction to a learner driver is not to be taken, under section 49AA, to be in charge of the motor vehicle driven by the learner driver.

- (1) For the purposes of this Division, a person commits an offence in *circumstances of aggravation* if at the time of the alleged offence —
- (a) the person was unlawfully driving the vehicle concerned without the consent of the owner or person in charge of the vehicle; or
 - (b) the person was driving the vehicle concerned on a road at a speed that exceeded the speed limit applicable to the vehicle, or the length of road where the driving occurred, by 45 km/h or more; or
 - (c) the person was driving the vehicle concerned to escape pursuit by a police officer.
- (2) For the purposes of subsection (1)(c) it does not matter whether the pursuit was proceeding, or had been suspended or terminated, at the time of the alleged offence.

[Section 49AB inserted by No. 59 of 2012 s. 4; amended by No. 59 of 2012 s. 12; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 43.](#)]

49. Driving while unlicensed or disqualified

- (1) A person who —
- (a) drives a motor vehicle on a road while not authorised under the *Road Traffic (Authorisation to Drive) Act 2008* Part 2 to do so; or
 - (b) employs or permits another person to drive a motor vehicle as described in paragraph (a),

commits an offence.

Penalty for this subsection: ~~Penalty:~~

- (a) unless subsection (3) applies —
 - (i) for a first offence, 6 PU;
 - (ii) for a subsequent offence, 12 PU;
- (b) if subsection (3)(d), but no other paragraph of subsection (3), applies —
 - (i) a fine of not less than 4 PU or more than 30 PU; and
 - (ii) imprisonment for not more than 12 months, and the court may order that the offender be disqualified from holding or obtaining a driver's licence for a period of not more than 3 years;

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- (c) if subsection (3)(a), (b), ~~(ca)~~, or (c) applies —
- (i) for a first offence, a fine of not less than 8 PU or more than 40 PU, and imprisonment for not more than 12 months;
 - (ii) for a subsequent offence, a fine of not less than 20 PU or more than 80 PU, and imprisonment for not more than 18 months,
- and the court shall order that the offender be disqualified from holding or obtaining a driver's licence for a period of not less than 9 months and not more than 3 years.

(2) It is a defence to a charge of an offence under subsection (1) to prove that the motor vehicle was driven in accordance with —

- (a) regulations referred to in the *Road Traffic (Authorisation to Drive) Act 2008* section 11(1); or
- (b) a necessity permit under section 49A.

(3) If an offence under subsection (1)(a) is committed by a person —

(a) who has applied for, but has been refused, an Australian driver licence of a kind required; or

(b) who, at the time of the commission of the offence, is disqualified from holding or obtaining an Australian driver licence of a kind required, other than for the reason described in paragraph (d), whether or not the person has ever held an Australian driver licence of the kind required; or

(ca) who has held an Australian driver licence of a kind required but ceased to hold the licence of that kind most recently held other than —

(i) because the person had, before the time of the commission of the offence, voluntarily surrendered the licence most recently held; or

(ii) because the licence expired; or

(iii) for the reason described in paragraph (d);

or

~~(b) who has never held an Australian driver licence of a kind required and is disqualified from holding or obtaining an Australian driver licence of a kind required other than for the reason described in paragraph (d) or who has held an Australian driver licence of a kind~~

~~required but ceased to hold the licence of that kind most recently held other than —~~

~~(i) because the person voluntarily surrendered the licence most recently held or it expired; or~~

~~(ii) for the reason described in paragraph (d);~~

~~or~~

(c) whose authority to drive, whether under an Australian driver licence or otherwise, is for the time being suspended other than for the reason described in paragraph (d); or

(d) who is no longer authorised to drive because of penalty enforcement laws, as described in subsection (9),

a police officer may, without a warrant, arrest the person.

(4) A person who would only come within a description in subsection (3)(a), (b), [\(ca\)](#) or (c) because of a decision for the review of which an application had been made is excluded from that description if the application had been made, but not determined, when the offence under subsection (1)(a) was committed.

(5) If a person to whom the CEO has been ordered under the *Road Traffic (Authorisation to Drive) Act 2008* section 30(1) to grant an extraordinary licence commits an offence under subsection (1)(a) —

(a) before the extraordinary licence is granted; or

(b) when the extraordinary licence has expired and has not been renewed,

neither the order nor any extraordinary licence granted affects subsection (3).

(6) An offence under subsection (1) is a subsequent offence if the offender has previously been convicted of any offence under that subsection as in force at any time, except that, if subsection (3)(a), (b), [\(ca\)](#) or (c) applies to an offence under subsection (1)(a), the offence is a subsequent offence only if the person has previously been convicted of a relevant offence.

(7) In subsection (6) —

relevant offence means —

(a) an offence under subsection (1)(a) as in force after the commencement of section 7 of the *Road Traffic*

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*Amendment Act 2006*¹ being an offence to which subsection (3)(a), (b), [\(ca\)](#) or (c) applied; or

- (b) an offence under subsection (1)(a) as in force at a time before the commencement of section 7 of the *Road Traffic Amendment Act 2006*¹ being an offence that would have been taken into account in determining whether another offence committed before that commencement, in circumstances mentioned in section 49(2)(a)(ii) or (iii) or (2)(b) as then in force, would have been a first or subsequent offence.
- (8) A period of disqualification ordered under subsection (1) is cumulative upon —
- (a) any other period of disqualification to which the person may then be subject; or
 - (b) any period for which the operation of a driver's licence held by the person may currently be suspended.
- (9) When subsection (3)(d) refers to a person who is no longer authorised to drive because of penalty enforcement laws, it means that the person —
- (a) has been disqualified from holding or obtaining a driver's licence under section 19 or 43 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*; or
 - (b) is the subject of any disqualification or suspension under a law of another jurisdiction that is prescribed to be a corresponding law for the purposes of this subsection.

[Section 49 inserted by No. 54 of 2006 s. 7; amended by No. 8 of 2012 s. 10 and 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 62.](#)]

49A. Person breaching s. 49(1)(a) having lost licence etc. due to penalty enforcement laws, police may caution etc.

- (1) This section applies if a police officer finds a person (the *driver*) committing an offence under section 49(1)(a) in the circumstances referred to in section 49(3)(d).
- (2) If this section applies and the police officer suspects on reasonable grounds that, at the time of committing the offence, the driver —
 - (a) did not know of the circumstances referred to in section 49(3)(d); and

- (b) had not been cautioned previously under this section since those circumstances came about,

the police officer may decline to charge the driver with an offence under section 49(1)(a) and may instead issue a caution to the driver.

- (3) The caution must be in a prescribed form.
- (4) If this section applies and it appears to the police officer that it would be impracticable, or may jeopardise the safety of any person, for the driver to immediately cease driving —
- (a) if the police officer issues a caution, the caution must include a necessity permit; and
- (b) in any other case, the police officer may grant the driver a necessity permit.
- (5) In subsection (4) —

necessity permit means a permit for the driver to drive by the shortest practicable route to a place specified in the permit.

[Section 49A inserted by No. 54 of 2006 s. 8.]

[Section 49A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

[\[50. Deleted by the Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 4.\]](#)

~~50. — Learner driver, unauthorised driving by~~

~~The holder of a learner's permit shall not drive a motor vehicle except in conformity with any conditions to which the permit is subject and unless accompanied by a driving instructor under whose instruction the permit authorises the holder to drive seated beside the holder or, in the case of a permit to drive a motor cycle, riding in a side car attached, or on a pillion seat fitted, to the motor cycle or riding on an accompanying motor cycle.~~

~~Penalty: 6 PU.~~

~~*[Section 50 inserted by No. 76 of 1996 s. 12; amended by No. 50 of 1997 s. 13; No. 28 of 2001 s. 23(2); No. 54 of 2006 s. 9; No. 39 of 2007 s. 25.]*~~

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50A. Driver using foreign country's driver's licence etc. to carry it etc.

- (1) A person whose authority to drive depends on a licence or authorisation granted under the law of an external licensing authority (as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1)) is required —
- (a) while driving a motor vehicle on a road, to carry —
 - (i) the official document that is evidence of that licence or authorisation; and
 - (ii) if the official document is not in the English language, a translation of it into the English language verified by a person or body approved by the CEO;
- and
- (b) to produce that document for inspection at the request of any police officer.
- (2) If the person fails to comply with any condition to which the licence or authorisation is subject that can lawfully be complied with in this State, the person commits an offence.

Penalty:

- (a) for a first offence, 8 PU;
- (b) for a subsequent offence, 16 PU.

[Section 50A inserted by No. 54 of 2006 s. 10; amended by No. 8 of 2012 s. 11A (as amended by No. 10 of 2015 s. 14), 36 and 37.]

[51. Deleted by No. 8 of 2012 s. 11.]

[52. Deleted by No. 76 of 1996 s. 14.]

[53. Deleted by No. 8 of 2012 s. 11.]

54. Driver in incident occasioning bodily harm to stop, ensure assistance and give information

- (1) If a vehicle driven by a person (the *driver*) is involved in an incident occasioning bodily harm to another person, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsections (2) and (6).

- (2) If a vehicle driven by a person (the *driver*) is involved in an incident occasioning bodily harm to another person (a *victim*), the driver must ensure that each victim receives all the assistance, including medical aid, that is necessary and practicable in the circumstances.
- (3) A person who contravenes subsection (1) or (2) commits a crime.

Penalty for this subsection: imprisonment for —

- (a) 20 years, if the incident occasioned death and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;
- (b) 14 years, if the incident occasioned grievous bodily harm but not death and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;
- (c) 10 years, in any other case and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

~~Penalty: imprisonment for —~~

- ~~(a) 20 years, if the incident occasioned death;~~
- ~~(b) 14 years, if the incident occasioned grievous bodily harm but not death;~~
- ~~(c) 10 years, in any other case.~~

~~Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years.~~

- ~~(4) If in the opinion of the court an offence under subsection (3) is of a sufficiently serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.~~

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- (5) It is a defence to a charge of an offence under subsection (3) for the accused to prove that the accused was not aware of the occurrence of the incident.
- (6) If a vehicle driven by a person (the **driver**) is involved in an incident occasioning bodily harm to another person (a **victim**), the driver must, if required to do so by a victim, a representative of a victim, or a police officer, give the driver's name and address and, if known to the driver, the name and address of a responsible person for the vehicle.

Penalty for this subsection: ~~Penalty:~~ a fine of 30 PU.

- (7) It is a defence to a charge of an offence under subsection (3) or (6) for the accused to prove that the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident.

[Section 54 inserted by No. 39 of 2007 s. 20; amended by No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 5.](#)]

55. Driver in incident occasioning property damage to stop and give information

- (1) If a vehicle driven by a person (the **driver**) is involved in an incident in which any property is damaged, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsection (4).
Penalty: a fine of 30 PU.
- (2) If in the opinion of the court an offence under subsection (1) is of a sufficiently serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.
- (3) It is a defence to a charge of an offence under subsection (1) for the accused to prove that the accused was not aware of the occurrence of the incident.
- (4) If a vehicle driven by a person (the **driver**) is involved in an incident in which any property is damaged, the driver must, if required to do so by a person whose property was damaged in the incident or a representative of that person or a police officer, give the driver's name and address and, if known to the driver, the name and address of a responsible person for the vehicle.
Penalty: a fine of 30 PU.

- (5) It is a defence to a charge of an offence under subsection (1) or (4) for the accused to prove that the accused could not comply with a requirement in that subsection because of an injury suffered by the accused in the incident.

[Section 55 inserted by No. 39 of 2007 s. 20; amended by No. 8 of 2012 s. 37.]

56. Driver in incident occasioning bodily harm or property damage to report incident to police

- (1) If a vehicle driven by a person (the *driver*) is involved in an incident occasioning bodily harm to [the driver or](#) another person, the driver must report the incident forthwith ~~to the officer in charge of a police station. to —~~

[\(a\) the officer in charge of a police station; or](#)

[\(b\) the Commissioner of Police in a manner approved by the Commissioner.](#)

- (2) If a person contravenes subsection (1) and the incident occasioned death or grievous bodily harm, the person commits a crime.

Penalty: imprisonment for 10 years and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

Summary conviction penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

- (3) If a person contravenes subsection (1) and the incident did not occasion death or grievous bodily harm, the person commits an offence.

Penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

- (4) If a vehicle driven by a person (the *driver*) is involved in an incident in which any property is damaged the driver must report the incident forthwith ~~to the officer in charge of a police station. to —~~

[\(a\) the officer in charge of a police station; or](#)

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(b) the Commissioner of Police in a manner approved by the Commissioner.

Penalty:

- (a) for a first offence, a fine of 8 PU;
 - (b) for a subsequent offence, a fine of 16 PU.
- (5) It is a defence to a charge of an offence under subsection (2), (3) or (4) for the accused to prove that —
- (a) the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident; or
 - (b) a police officer attended at the scene of the incident and took the necessary particulars of the incident.
- (6) It is a defence to a charge of an offence under subsection (4) for the accused to prove —
- (a) that the accused had reasonable cause for believing that the total value of the damage did not exceed the amount prescribed for the purposes of this subsection; and
 - (b) that the owner, in each case, of any property damaged was present or represented at the place where and at the time when, or immediately after, the incident occurred.

[Section 56 inserted by No. 39 of 2007 s. 20; amended by No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 6.](#)]

[Section 56. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

57. Owner etc. of vehicle occasioning bodily harm etc. to help police identify driver etc.

- (1) Where the use of a motor vehicle has occasioned, or been an immediate or proximate cause of, the death of a person or bodily harm to a person, a responsible person for the vehicle and any person to whom the possession or control of the vehicle was entrusted shall, if required by a police officer, give any information which it is in his power to give which may lead to the identification of the person who was driving or who was in charge or control of the vehicle at the time when the use of the vehicle occasioned or was an immediate or proximate cause of the death or bodily harm.

- (2) A person who is required under subsection (1) by a police officer to give information must not in response to the request give false information.

Penalty: applicable to subsections (1) and (2), a fine of 60 PU or imprisonment for 12 months.

[Section 57 amended by No. 105 of 1981 s. 19; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 31; No. 39 of 2007 s. 21; No. 8 of 2012 s. 37.]

[58, 58A. Deleted by No. 8 of 2012 s. 12.]

59. Dangerous driving causing death or grievous bodily harm

- (1) If a motor vehicle driven by a person (the *driver*) is involved in an incident occasioning the death of, or grievous bodily harm to, another person and the driver was, at the time of the incident, driving the motor vehicle —
- (a) while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or
 - (b) in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person,

the driver commits a crime and is liable to the penalty in subsection (3).

Summary conviction penalty in a case in which the incident does not occasion the death of another person:
imprisonment for 3 years or a fine of 720 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- (2A) For an offence against this section that was committed before the day on which the *Manslaughter Legislation Amendment Act 2011* section 6(1) came into operation¹ amending subsection (1), subsection (1) applies as if that amendment had not been made.
- (2) For the purposes of this section —
- [(a) deleted]*
 - (b) it is immaterial that the death or grievous bodily harm might have been avoided by proper precaution on the

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part of a person other than the person charged or might have been prevented by proper care or treatment; and

- (c) when an incident occasions grievous bodily harm to a person and that person receives surgical or medical treatment, and death results either from the harm or the treatment, the incident is deemed to have occasioned the death of that person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith.

- (3) A person convicted on indictment of an offence against this section is liable —
- (a) if the offence is against subsection (1)(a), or the offence is against subsection (1)(b) and is committed in circumstances of aggravation, to a fine of any amount and to imprisonment for —
- (i) 20 years, if the person has caused the death of another person; or
- (ii) 14 years, if the person has caused grievous bodily harm to another person;
- or
- (b) in any other circumstances, to a fine of any amount and to imprisonment for —
- (i) 10 years, if the person has caused the death of another person; or
- (ii) 7 years, if the person has caused grievous bodily harm to another person,

and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

- (4A) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must —
- (a) sentence the person to a term of imprisonment of at least 12 months; and
- (b) not suspend the term of imprisonment.
- (4B) Subsection (4A) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.

- (4) On the summary trial of a person charged with an offence against this section the person may, instead of being convicted of that offence, be convicted of an offence against section 59A, [59BA\(1\)](#), 61 or 62.

[Section 59 amended by No. 89 of 1978 s. 12; No. 82 of 1982 s. 9; No. 11 of 1988 s. 24; No. 37 of 1991 s. 6(2); No. 1 of 1992 s. 6; No. 50 of 1997 s. 13; No. 4 of 2004 s. 58; No. 44 of 2004 s. 5; No. 39 of 2007 s. 22; No. 29 of 2008 s. 38; No. 58 of 2011 s. 6; No. 59 of 2012 s. 6; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 23.](#)]

59A. Dangerous driving causing bodily harm

- (1) If a motor vehicle driven by a person (the **driver**) is involved in an incident occasioning bodily harm to another person and the driver was, at the time of the incident, driving the motor vehicle —

- (a) while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or
- (b) in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person,

the driver commits an offence.

- (2) For the purposes of this section —

[(a) deleted]

- (b) it is immaterial that the bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment.

- (3) Subject to subsection (3a), a person convicted of an offence against subsection (1) is liable —

- (a) for a first offence, to a fine of 180 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;
- (b) for a second or subsequent offence, to a fine of 360 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be

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disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

- (3a) In the case of an offence under subsection (1)(a), or an offence under subsection (1)(b) committed in circumstances of aggravation, the offence is a crime and a person convicted of it is liable to a fine of any amount and imprisonment for 10 years and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

Summary conviction penalty: imprisonment for 3 years or a fine of 720 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

- (4A) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must —
- (a) sentence the person to a term of imprisonment of at least 6 months; and
 - (b) not suspend the term of imprisonment.
- (4B) Subsection (4A) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.
- (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section [59BA\(1\)](#), 61 or 62.

[Section 59A inserted by No. 89 of 1978 s. 13; amended by No. 82 of 1982 s. 10; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 44 of 2004 s. 6; No. 39 of 2007 s. 23; No. 59 of 2012 s. 7; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 24.](#)]

59BA. Careless driving causing death, grievous bodily harm or bodily harm

- (1) If a motor vehicle driven by a person (the *driver*) is involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person and the driver was, at the time of the incident, driving the motor vehicle without due care and attention, the driver commits an offence.

Penalty for this subsection: imprisonment for 3 years or a fine of 720 PU and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

(2) For the purposes of subsection (1) —

(a) it is immaterial that the death, grievous bodily harm or bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment; and

(b) when an incident occasions grievous bodily harm to a person and that person receives surgical or medical treatment, and death results either from the harm or the treatment, the incident is deemed to have occasioned the death of that person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith.

(3) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against section 62.

[Section 59A inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 25.]

59B. Ancillary matters and defences for sections 59, 59A and 59BA~~Section 59 and 59A offences, ancillary matters and defence for~~

(1) For the purposes of sections 59, 59A and 59BA(1), ~~59 and 59A~~, the circumstances in which a motor vehicle is involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, a person include those in which the death or harm is occasioned through —

(a) the motor vehicle overturning or leaving a road while the person is being conveyed in or on the motor vehicle (whether as a passenger or otherwise); or

(b) the person falling from the motor vehicle while being conveyed in or on it (whether as a passenger or otherwise); or

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- (c) an impact between any object or thing and the motor vehicle while the person is being conveyed in or on the motor vehicle (whether as a passenger or otherwise); or
 - (d) an impact between the person and the motor vehicle; or
 - (e) an impact of the motor vehicle with another vehicle or an object or thing in, on or near which the person is at the time of impact; or
 - (f) an impact with any object on or attached to the motor vehicle; or
 - (g) an impact with any object that is in motion through falling from the motor vehicle.
- (2) For the purposes of sections [59, 59A and 59BA\(1\)](#), ~~59 and 59A~~, a motor vehicle is also involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, a person if the death or harm is occasioned through the motor vehicle —
- (a) causing an impact between other vehicles or between another vehicle and any object, thing or person; or
 - (b) causing another vehicle to overturn or leave a road; or
 - (c) causing a person being conveyed in or on another vehicle to fall from that other vehicle.

[(3), (4) deleted]

- (5) In any proceeding for an offence against section 59 or 59A a person who had at the time of the alleged offence a blood alcohol content of or above 0.15 g of alcohol per 100 ml of blood shall be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.
- (6) In any proceeding for an offence against section 59 or 59A it is a defence for the person charged to prove that the death, grievous bodily harm or bodily harm occasioned by the incident was not in any way attributable (as relevant) —
- (a) to the fact that the person charged was under the influence of alcohol, drugs, or alcohol and drugs; or
 - (b) to the manner (which expression includes speed) in which the motor vehicle was driven.

(7) [In any proceeding for an offence against section 59BA\(1\) it is a defence for the person charged to prove that the death, grievous bodily harm or bodily harm occasioned by the incident was not](#)

in any way attributable to the level of care and attention with which the motor vehicle was driven.

[Section 59B inserted by No. 44 of 2004 s. 7; amended by No. 39 of 2007 s. 4; No. 59 of 2012 s. 8; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 26.](#)]

60. Reckless driving

- (1) Every person who wilfully drives a motor vehicle in a manner (which expression includes speed) that is inherently dangerous or that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.
 - (1a) A person who drives a motor vehicle at a speed of 155 km/h or more commits an offence.
 - (1b) A person who drives a motor vehicle at a speed exceeding the speed limit set under this Act for that vehicle or the place where the driving occurs by 45 km/h or more commits an offence.
 - (1c) Despite subsections (1a) and (1b), the driver of a motor vehicle is not guilty of an offence under those subsections if —
 - (a) either —
 - (i) the driver is on official duty as a police officer and the driving is substantially in accordance with the Commissioner’s policies and guidelines relating to driving, applicable at the time of the driving, and any direction given under such a policy or guideline; or
 - (ii) the driver is on official duty responding to a fire or fire alarm; or
 - (iii) the driver is on official duty responding to an emergency or rescue operation where it is reasonable to assume that human life is likely to be in danger; or
 - (iv) the motor vehicle is an ambulance and is being used to answer an urgent call or to convey a person to a place for the provision of urgent medical treatment;
 - and
 - (b) the driver is taking reasonable care; and
 - (c) the vehicle is displaying a blue or red flashing light or sounding an alarm unless, in the circumstances, it is

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reasonable for a light not to be displayed or an alarm not to be sounded.

- (1D) A police officer who reasonably suspects that a person has committed an offence against this section may, without a warrant, arrest the person.
- (2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 61 or 62 or, if the charge is of an offence against subsection (1), an offence against section 62A.
- (3) A person convicted of an offence against this section is liable —
- (a) for a first offence, to a fine of 120 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months; and
 - (b) for a second offence, to a fine of 180 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months; and
 - (c) for a third or subsequent offence, to a fine of 240 PU or to imprisonment for 12 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- (4) If an offence against this section is committed in the circumstance of aggravation referred to in section 49AB(1)(c), the offence is a crime.
- Penalty: imprisonment for 5 years.
- Summary conviction penalty: imprisonment for 2 years.
- (5) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must —
- (a) sentence the person to a term of imprisonment of at least 6 months; and
 - (b) not suspend the term of imprisonment; and
 - (c) for a first or second offence — order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 2 years; and

- (d) for a third or subsequent offence — order that the offender is permanently disqualified from holding or obtaining a driver's licence.
- (6) Subsection (5) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.
- (7) A reference in subsection (5)(c) or (d) to an offence is a reference to an offence against this section whether or not committed in the circumstance of aggravation referred to in section 49AB(1)(c).

[Section 60 amended by No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 10 of 2004 s. 8; No. 54 of 2006 s. 12; No. 24 of 2008 s. 4; No. 23 of 2009 s. 5; No. 8 of 2012 s. 37; No. 59 of 2012 s. 9.]

61. Dangerous driving

- (1) Every person who drives a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.
- (2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 62 or 62A.
- (3) A person convicted of an offence against this section is liable —
 - (a) unless paragraph (b) applies —
 - (i) for a first offence — to a fine of 60 PU;
 - (ii) for a subsequent offence — to a fine of 120 PU or to imprisonment for 9 months; and, in any event, the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;
 - (b) if the offence is committed in the circumstance of aggravation referred to in section 49AB(1)(c) — to a fine of 720 PU or to imprisonment for 3 years; and, in any event, the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

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- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 59, 59A, or 60 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.

[Section 61 amended by No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 54 of 2006 s. 13; No. 23 of 2009 s. 6; No. 59 of 2012 s. 10.]

61A. Reckless or dangerous driving by police officer, defence for in certain circumstances

- (1) It is a defence to a prosecution for an offence against section 59(1)(b), 59A(1)(b), 60(1) or 61(1) if the accused satisfies the court that, at the time of the alleged commission of the offence —
- (a) the accused was on official duty as a police officer; and
 - (b) the driving was substantially in accordance with the Commissioner's policies and guidelines relating to driving, applicable at the time of the driving, and any direction given under such a policy or guideline; and
 - (c) having regard to all of the circumstances of the case, it was reasonable, and in the public interest, for the accused to have driven the motor vehicle in the manner that he or she did.
- (2) Subsection (1) does not affect the application of any other defence the accused may have.

[Section 61A inserted by No. 59 of 2012 s. 11; amended by No. 59 of 2012 s. 12.]

62. Careless driving

Every person who drives a motor vehicle without due care and attention commits an offence.

Penalty: a fine of 30 PU. ~~Penalty: 12 PU.~~

[Section 62 amended by No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 27.](#)]

62A. Causing excessive noise or smoke from vehicle's tyres

A person who wilfully drives a motor vehicle on a road or in a carpark so as to cause —

- (a) excessive noise to be made with one or more of the vehicle's tyres; or
- (b) smoke to come from one or more of the vehicle's tyres or a substance on the driving surface,

commits an offence.

Penalty: 12 PU.

[Section 62A inserted by No. 10 of 2004 s. 9.]

**Division 2A — Providing driving instruction to learner drivers:
alcohol and drug related offences**

*[Heading inserted by the Road Traffic Legislation Amendment
Bill (No. 2) 2015 cl. 44.]*

62B. Providing driving instruction: blood alcohol content

- (1) An instructor who provides driving instruction to a learner driver while having a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

- (2) Subsection (4) applies to an instructor who —

- (a) holds an extraordinary licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1); or
- (b) has, within the last 3 years, ceased to be subject to an order disqualifying the instructor from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*; or
- (c) has, within the last 3 years, been granted a driver's licence in a case where the instructor did not hold a driver's licence because it had been cancelled under a cancellation provision as a result of an order disqualifying the instructor from holding or obtaining a driver's licence imposed for an offence against

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section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*; ~~or 1997.~~

(d) is a member of a class of persons prescribed for the purposes of section 64A(2)(g) by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A.

(3) In subsection (2)(c) —

cancellation provision means —

(a) a provision of the *Road Traffic (Authorisation to Drive) Act 2008* Part 3 Division 2 under which a driver's licence may be cancelled; or

(b) section 75(2a) or (2b) of this Act as in force at any time before those provisions were deleted by the *Road Traffic Legislation Amendment Act 2012* section 20.

(4) An instructor to whom this subsection applies who provides driving instruction to a learner driver while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

(5) An instructor who provides driving instruction to a learner driver in respect of a motor vehicle that has a GCM that is 22.5 tonnes or more while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

(6) It is a defence to a charge of an offence against subsection (4) or (5) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following —

(a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);

(b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

(7) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against subsection (4) or (5) if, at the time of the alleged

offence, the person was a person to whom subsection (4) or (5) applied.

[Section 62B inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 44; amended by Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 45.]

62C. Providing driving instruction with prescribed illicit drug in oral fluid or blood

- (1) An instructor who provides driving instruction to a learner driver while a prescribed illicit drug is present in the instructor's oral fluid or blood commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

- (2) If in any proceeding for an offence against this section it is proved that a certain drug was present in the accused's body at any time within 4 hours, or 12 hours if the sample was taken under section 66(8B), ~~4 hours~~ after the time that the accused was providing the driving instruction, the presence of that drug in the accused's body at the time the accused was providing the driving instruction is to be taken to be proved in the absence of proof to the contrary.

- (3) If a person takes a prescribed illicit drug mistakenly believing it to be another drug, that mistake is not a defence in any proceeding for an offence against this section if that other drug is also a drug within the meaning of paragraph (a) or (b) of the definition of **drug** in section 65.

[Section 62C inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 44; amended by Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 46.]

Division 2 — Driving of vehicles: alcohol and drug related offences

[Heading inserted by No. 10 of 2004 s. 9.]

63. Driving under the influence of alcohol etc.

- (1) A person who drives or attempts to drive a motor vehicle while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle commits an offence, and the offender may be arrested without warrant.

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- (2) A person convicted of an offence against this section is liable —
- (a) for a first offence —
 - (i) if the person has been previously convicted of an offence against section 64, to a fine of —
 - (I) not less than the minimum fine that would apply if the offence were against that section instead of this section; and
 - (II) not more than 50 PU,and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than the minimum period of disqualification that would apply if the offence were against that section instead of this section;
 - (ii) in any other case, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months;
 - and
 - (b) for a second offence, to a fine of not less than 42 PU or more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and
 - (c) for a third or subsequent offence, to a fine of not less than 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by him against section 64AB or 67AA or section 67 as in force after the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.

- (4) The charging of a person with an offence against this section shall not limit the operation of section 66, but the person charged shall immediately be told by the person laying the charge that —
- (a) he has the right to be examined by a medical practitioner nominated by him, if one is available; and
 - (b) he has the right to communicate with a legal practitioner and another person nominated by him,
- and if he desires to exercise any of those rights, every reasonable facility to do so shall be afforded him.
- (4a) The rights and requirements in subsection (4) do not apply unless the person is under arrest or otherwise in custody at the time of being charged.
- (4b) The right in subsection (4)(a), and the requirements relating to it, do not apply if a sample of the person's blood has been taken pursuant to section 66, 66B or 66E before the person is charged.
- (5) In any proceeding for an offence against this section a person who had at the time of the alleged offence a blood alcohol content of or above 0.15 g of alcohol per 100 ml of blood shall be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.
- (6) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of —
- (a) an offence against section 64, 64AA, 64AB or 64AC; or
 - (b) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or
 - (c) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.
- (7) In any proceedings for an offence against this section if it is alleged or appears on the evidence that the accused was under the influence of drugs alone, it is a defence for the accused to prove —
- (a) that those drugs were —
 - (i) taken by him pursuant to a prescription of a medical practitioner, nurse practitioner or dentist;or

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- (ii) administered to him by a medical practitioner, nurse practitioner or dentist, for therapeutic purposes; and
- (b) that he was not aware, and could not reasonably have been expected to be aware, that those drugs were likely to render him incapable of having proper control of a motor vehicle.

[Section 63 amended by No. 82 of 1982 s. 11; No. 11 of 1988 s. 24; No. 13 of 1992 s. 7; No. 50 of 1997 s. 13; No. 9 of 2003 s. 54; No. 50 of 2003 s. 92(2); No. 84 of 2004 s. 82; No. 50 of 2006 Sch. 3 cl. 20(2); No. 54 of 2006 s. 14 and 17(3) and (4); No. 6 of 2007 s. 5; No. 39 of 2007 s. 5 and 31; No. 35 of 2010 s. 151; No. 14 of 2011 s. 5.]

64. Driving with blood alcohol content of or above 0.08

- (1) A person who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.08 g of alcohol per 100 ml of blood commits an offence, and the offender may be arrested without warrant.
- (2) If a court convicts a person of an offence against this section —
 - (a) the person is liable to the relevant penalty in the Table to this subsection; and
 - (b) the court shall order that the person be disqualified from holding or obtaining a driver's licence for not less than the relevant minimum period of disqualification in the Table to this subsection.

Table

Blood alcohol content (g/100 ml)		First offence	Second offence	Subsequent offence
≥ 0.08 but < 0.09	Min: Max: Disq:	10 PU 30 PU 6 months	12 PU 30 PU 8 months	12 PU 30 PU 10 months
≥ 0.09 but < 0.11	Min: Max: Disq:	11 PU 30 PU 7 months	18 PU 30 PU 10 months	18 PU 30 PU 13 months
≥ 0.11 but < 0.13	Min: Max: Disq:	13 PU 30 PU 8 months	24 PU 40 PU 14 months	24 PU 40 PU 17 months

Blood alcohol content (g/100 ml)		First offence	Second offence	Subsequent offence
≥ 0.13	Min: Max: Disq:	15 PU 30 PU 9 months	32 PU 50 PU 18 months	32 PU 60 PU 30 months

Note: ≥ signifies of or above
< signifies less than

- (2a) For the purposes of the Table to subsection (2), an offence is a second or subsequent offence against this section irrespective of the blood alcohol content on the occasion of the commission of any previous offence against this section.
- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by him against section 63 or 67 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- (4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of —
- (a) an offence against section 64AA; or
 - (b) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or
 - (c) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

[Section 64 amended by No. 71 of 1979 s. 9; No. 82 of 1982 s. 12; No. 11 of 1988 s. 24; No. 13 of 1992 s. 8; No. 50 of 1997 s. 6; No. 54 of 2006 s. 15 and 17(3) and (4); No. 39 of 2007 s. 6 and 32; No. 51 of 2010 s. 6; No. 14 of 2011 s. 6.]

64AA. Driving with blood alcohol content of or above 0.05

- (1) A person who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood commits an offence.
- (2) If a court convicts a person of a first offence against this section the person is liable to a fine of not more than 10 PU.

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- (2a) If a court convicts a person of a second or subsequent offence against this section —
- (a) the person is liable to the relevant penalty in the Table to this subsection; and
 - (b) the court shall order that the person be disqualified from holding or obtaining a driver's licence for not less than the relevant minimum period of disqualification in the Table to this subsection.

Table

Blood alcohol content (g/100 ml)		Second offence	Subsequent offence
≥ 0.05 but < 0.07	Min: Max: Disq:	10 PU 20 PU 6 months	10 PU 20 PU 8 months
≥ 0.07	Min: Max: Disq:	12 PU 20 PU 8 months	12 PU 20 PU 10 months

Note: ≥ signifies of or above
< signifies less than

- (2b) For the purposes of this section, an offence is a second or subsequent offence against this section irrespective of the blood alcohol content on the occasion of the commission of any previous offence against this section.
- (2c) For the purposes of this section, where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 64, or 67 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- (3) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of —
- (a) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or
 - (b) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

[Section 64AA inserted by No. 13 of 1992 s. 9; amended by No. 50 of 1997 s. 7; No. 54 of 2006 s. 16, 17(3) and (4); No. 39 of 2007 s. 7, 17 and 33; No. 14 of 2011 s. 7.]

64A. Certain persons driving with blood alcohol content of or above 0.02

(1A) In this section —

cancellation provision means —

- (a) a provision of the *Road Traffic (Authorisation to Drive) Act 2008* Part 3 Division 2 under which a driver's licence may be cancelled; or
- (b) section 75(2a) or (2b) of this Act as in force at any time before those provisions were deleted by the *Road Traffic Legislation Amendment Act 2012* section 20.

- (1) A person to whom this subsection applies who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.02 g of alcohol per 100 ml of blood commits an offence.

Penalty: Not less than 3 PU or more than 6 PU; and, in any event, the court convicting a person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

- (2) Subsection (1) applies to a person who —

(a) is a novice driver as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 40(2); or

[(b) deleted]

(c) is subject to an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*¹; or

(d) does not hold a driver's licence because it has been cancelled under a cancellation provision ~~the *Road Traffic (Authorisation to Drive) Act 2008* section 22(1) or (2)~~ as a result of an order disqualifying the person from holding or obtaining a driver's licence imposed on the person upon being convicted of an offence committed after the commencement of the *Road Traffic Amendment Act 1997*¹; or

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- (e) holds an extraordinary licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1); or
 - (f) is a recently disqualified driver.
- (3) For the purpose of subsection (2), a person is a recently disqualified driver if, within the last 3 years, the person —
- (a) has ceased to be subject to; or
 - (b) has been granted a driver's licence in a case where the person did not hold a driver's licence because it had been cancelled under [a cancellation provision the Road Traffic \(Authorisation to Drive\) Act 2008 section 22\(1\) or \(2\)](#) as a result of,

an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*¹.

- (4) A person who drives or attempts to drive a motor vehicle to which this subsection applies while having a blood alcohol content of or above 0.02 g of alcohol per 100 ml of blood commits an offence.

Penalty: not less than 3 PU or more than 6 PU; and, in any event, the court convicting a person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

- (4A) Subsection (4) does not apply to a person who drives or attempts to drive a motor vehicle described in subsection (5)(a) or (d) if the person —
- (a) is a person of a class prescribed by the regulations for the purposes of this paragraph; and
 - (b) is driving or attempting to drive the vehicle in the course of responding to an incident as defined in the *Fire and Emergency Services Act 1998* section 3.
- (5) Subsection (4) applies to a motor vehicle —
- (a) that is equipped to seat more than 12 adult persons (including the driver), if, at the relevant time, the vehicle is carrying passengers, whether or not the passengers are being carried for hire or reward; or

- (b) that is an omnibus as defined in the *Transport Co-ordination Act 1966* section 4(1), but is not a vehicle referred to in paragraph (a), if, at the relevant time, the vehicle is carrying passengers for hire or reward; or
- (c) on which taxi plates issued under the *Taxi Act 1994* are being used, or in respect of which a taxi-car licence has been issued under the *Transport Co-ordination Act 1966* Part IIIB, if, at the relevant time, the vehicle is carrying passengers for hire or reward; or
- (d) that has a [GCM that is 22.5 tonnes or more; or](#) ~~GCM exceeding 22.5 tonnes; or~~
- (e) that is of a class prescribed by the regulations for the purposes of this paragraph, if, at the relevant time, the vehicle is being used to transport dangerous goods as defined in the *Dangerous Goods Safety Act 2004* section 3(1).

[(6) *deleted*]

- (7) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against section 64AAA(1).
- (8) A person charged with an offence against subsection (4) may, instead of being convicted of that offence, be convicted of an offence against section 64AAA(2).

[Section 64A inserted by No. 82 of 1982 s. 13; amended by No. 11 of 1988 s. 22; No. 13 of 1992 s. 10; No. 50 of 1997 s. 8; No. 28 of 2001 s. 23(2); No. 54 of 2006 s. 17(1) and (2); No. 39 of 2007 s. 8 and 34; No. 14 of 2011 s. 8; No. 8 of 2012 s. 13 (as amended by No. 10 of 2015 s. 15); No. 22 of 2012 s. 138; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 7.](#)]

64AAA. Certain persons driving with any blood alcohol content

- (1) A person to whom section 64A(1) applies who drives or attempts to drive a motor vehicle while having any blood alcohol content commits an offence.
Penalty: not less than 3 PU or more than 6 PU.
- (2) A person who drives or attempts to drive a motor vehicle to which section 64A(4) applies while having any blood alcohol content commits an offence.
Penalty: not less than 3 PU or more than 6 PU.

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- (2A) Subsection (2) does not apply to a person who drives or attempts to drive a motor vehicle described in section 64A(5)(a) or (d) if the person —
- (a) is a person of a class prescribed by the regulations for the purposes of this paragraph; and
 - (b) is driving or attempting to drive the vehicle in the course of responding to an incident as defined in the *Fire and Emergency Services Act 1998* section 3.
- (3) It is a defence to a charge of an offence against subsection (1) or (2) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following —
- (a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);
 - (b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

[Section 64AAA inserted by No. 14 of 2011 s. 9; amended by No. 22 of 2012 s. 139.]

64AB. Driving while impaired by drugs

- (1) A person who drives or attempts to drive a motor vehicle while impaired by drugs commits an offence, and the offender may be arrested without warrant.
- (2) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months; and
 - (b) for a second offence, to a fine of not less than 42 PU or more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and
 - (c) for a third or subsequent offence, to a fine of not less than 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting the person shall order that the person be permanently disqualified from holding or obtaining a driver's licence.

- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by the person against section 63 or 67AA or section 67 as in force after the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.
- (4) Section 63(4) to (4b) extend to the charging of a person with an offence against this section.
- (5) The accused may be convicted of an offence against this section if the prosecutor proves that —
- (a) the accused drove or attempted to drive a motor vehicle; and
 - (b) one or more drugs were present in the accused's body at the time of that driving or attempted driving; and
 - (c) the conduct, condition or appearance of the accused at or after the time of that driving or attempted driving, or during a driver assessment, was consistent with conduct, a condition or an appearance associated with a person who has consumed or used that drug or those drugs; and
 - (d) the conduct or condition associated with a person who has consumed or used that drug or those drugs would be inconsistent with the person being capable of having proper control of a motor vehicle.
- (6) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 63 or 64AC.
- (7) If in any proceeding for an offence against this section it is proved that a certain drug was present in the accused's body at any time within 4 hours, or 12 hours if the sample was taken under section 66(8B), 4 hours after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence, the presence of that drug in the accused's body at the time of that driving or attempted driving is taken to be proved in the absence of proof to the contrary.

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- (8) In any proceeding for an offence against this section it is a defence for the accused to prove in respect of the drug, or each drug, referred to in subsection (5) —
- (a) that the drug was —
 - (i) taken pursuant to a prescription of a medical practitioner, nurse practitioner or dentist; or
 - (ii) administered by a medical practitioner, nurse practitioner or dentist, for therapeutic purposes; and
 - (b) that where the drug was received or obtained by the accused in a packaged form, the packaging of the drug did not include a label advising that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle; and
 - (c) that the accused was not aware, and could not reasonably have been expected to be aware, that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle.
- (9) Subsection (8) has effect despite subsection (5).

[Section 64AB inserted by No. 6 of 2007 s. 6; amended by No. 35 of 2010 s. 152; No. 14 of 2011 s. 10; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 31.](#)]

64AC. Driving with prescribed illicit drug in oral fluid or blood

- (1) A person who drives or attempts to drive a motor vehicle while a prescribed illicit drug is present in the person's oral fluid or blood commits an offence.
- (2) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of not more than 10 PU; and
 - (b) for a second or subsequent offence, to a fine of not less than 10 PU or more than 20 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.
- (3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by the person against section 67AB shall be taken into account and be deemed to have been an offence against this

section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.

- (4) If in any proceeding for an offence against this section it is proved that a certain drug was present in the accused's body at any time within 4 hours, or 12 hours if the sample was taken under section 66(8B), 4 hours after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence, the presence of that drug in the accused's body at the time of that driving or attempted driving is taken to be proved in the absence of proof to the contrary.
- (5) If a person takes a prescribed illicit drug mistakenly believing it to be another drug, that mistake is not a defence in any proceeding for an offence against this section if that other drug is also a drug within the meaning of paragraph (a) or (b) of the definition of **drug** in section 65.

[Section 64AC inserted by No. 6 of 2007 s. 6; amended by No. 14 of 2011 s. 11; Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 32.]

65. Terms used in s. 59 to 73 ~~Terms used in s. 59B(5) and s. 63 to 73~~

For the purposes of sections 59 ~~section 59B(5) and sections 63~~ to 73, inclusive —

analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to determine the concentration of alcohol in bodily substances;

approved device means a device of a type approved by the Minister under section 72(2)(c) for the purpose of ascertaining the presence of prescribed illicit drugs in a person's oral fluid;

authorised drug tester means a person authorised by the Commissioner of Police to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D;

authorised person means a person certified by the Commissioner of Police ~~chief executive officer of the Chemistry Centre (WA)~~ as being competent to operate all types of breath analysing equipment;

blood alcohol content means the concentration of alcohol in a person's blood, expressed in grams of alcohol per 100 ml of blood;

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breath analysing equipment means apparatus of a type approved by the Minister [under section 72\(2\)\(a\)](#) for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of his breath;

conduct includes behaviour and demeanour;

dentist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law;

driver assessment means an assessment of drug impairment required by a police officer under section 66A(1) or (2);

drug means —

- (a) a drug to which the *Misuse of Drugs Act 1981* applies; or
- (b) a substance that is included in the *Poisons Act 1964* Schedule 4; or
- (c) a substance (other than alcohol) that, when consumed or used by a person, deprives the person (temporarily or permanently) of any of the person's normal mental or physical faculties;

drug testing, in relation to oral fluid, means testing for the presence of prescribed illicit drugs;

drugs analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to ascertain whether and to what extent drugs are present in bodily substances;

medical practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

nurse practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* whose name is entered on the Register of Nurses kept under that Law as being qualified to practise as a nurse practitioner;

preliminary oral fluid test means a test of a sample of a person's oral fluid by means of a device of a type approved by the Minister under section 72(2)(d) for the purpose of providing a preliminary indication of the presence of prescribed illicit drugs in the oral fluid, and a person ***undergoes*** a preliminary oral fluid test if the person provides a sample of the person's oral fluid for a preliminary oral fluid test;

preliminary test means a test of a sample of a person's breath by means of apparatus of a type approved by the Minister [under section 72\(2\)\(b\)](#) for the purpose of providing an indication of a person's blood alcohol content or an indication of whether or not a person's blood alcohol content is of or above a predetermined level or an indication of whether or not alcohol is present in the blood of a person;

prescribed illicit drug means a drug that is declared by the regulations to be a prescribed illicit drug;

prescribed sample taker means —

- [\(a\) a medical practitioner or registered nurse; or](#)
- [\(b\) an appropriately qualified person prescribed for the purposes of the provision in which the term is used;](#)

registered nurse means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession whose name is entered on Division 1 of the Register of Nurses kept under that Law as a registered nurse;

self-testing breath analysing equipment means breath analysing equipment of a type that is designated as self-testing apparatus under section 72(2a).

[Section 65 amended by No. 82 of 1982 s. 14; No. 121 of 1987 s. 5; No. 19 of 1990 s. 8; No. 39 of 2000 s. 34; No. 44 of 2004 s. 8; No. 50 of 2006 Sch. 3 cl. 20(3); No. 6 of 2007 s. 7; No. 10 of 2007 s. 43; No. 39 of 2007 s. 9; No. 22 of 2008 Sch. 3 cl. 51; No. 35 of 2010 s. 153; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 8 and 33.](#)]

[Section 65. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

65A. Using breath sample to find blood alcohol content

- (1) For the purposes of [sections 59](#) ~~section 59B(5) and sections 63~~ to 73, inclusive, if the concentration of alcohol in a person's breath is a particular number of grams of alcohol per 210 litres of breath the person's blood alcohol content is to be regarded as being that number of grams of alcohol per 100 ml of blood.
- (2) For the purposes of section 72(2)(a) and the definition of ***breath analysing equipment*** in section 65, apparatus is to be regarded as being for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of the person's breath whether

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the apparatus gives the blood alcohol content directly as the analysis result or enables it to be derived under subsection (1).

- (3) For the purposes of the definition of *preliminary test* in section 65, apparatus is to be regarded as being for the purpose of providing an indication of the kind mentioned in that definition whether the apparatus gives the indication directly or enables it to be derived under subsection (1).

[Section 65A inserted by No. 39 of 2007 s. 10; amended by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 9.]

66. Breath, blood or urine sample, police powers to require etc.

- (1) A police officer may require the driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to provide a sample of his breath for a preliminary test in accordance with the directions of the police officer, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(1aa) A police officer may —

- (a) call upon the driver of a motor vehicle to stop the vehicle;
- (b) direct the driver of a motor vehicle to wait at a place indicated by the police officer,

in order that a requirement may be made under subsection (1).

(1a) Where a police officer —

- (a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and
- (b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the police officer may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to provide a sample of his breath for a preliminary test in accordance with the directions of the police officer, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

- (1b) Where a person required under subsection (1) or (1a) to provide a sample of breath for a preliminary test is in a motor vehicle, a police officer may require the person to leave the vehicle for the purpose of providing the sample.
- (2) Where —
- (a) a person having provided a sample of his breath for a preliminary test —
- (i) it appears to a police officer that the preliminary test indicates that the person has a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood; or
- (ii) it appears to a police officer that the preliminary test indicates that there is alcohol present in the blood of the person and the police officer has reasonable grounds to believe that the person is a person to whom [section 62B\(4\) or \(5\) or 64A\(1\)](#) ~~section 64A(1)~~ applies or that the motor vehicle concerned is a motor vehicle to which section 64A(4) applies;
- or
- (b) a person having been so required, refuses or fails to provide, or appears to a police officer to be incapable of providing a sample of his breath for a preliminary test or refuses or fails to provide, or appears to a police officer to be incapable of providing, a sample of his breath in sufficient quantity to enable a preliminary test to be carried out; or
- (c) a police officer has reasonable grounds to believe that a person has committed an offence against section 63; or
- (ca) a police officer —
- (i) has reasonable grounds to believe that an offence against section 59(1)(a) or 59A(1)(a) has been committed; and
- (ii) does not know, or has doubt as to, who was the driver of the motor vehicle concerned,
- but has reasonable grounds to believe that a person may have been the driver of the motor vehicle; or

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(cb) a police officer has reasonable grounds to believe that —

(i) an offence against section 59(1)(a), (ba) or (bb) or 59A(1)(a), (ba) or (bb) section 59(1)(a) or 59A(1)(a) has been committed by a learner driver; and

(ii) a person may have been an instructor providing driving instruction to that learner driver at the time of that offence;

or

(d) a police officer —

(i) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(ii) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe that a person may have been the driver or person in charge of the motor vehicle at that time and that, if he was, he has committed an offence against section 63; or~~63;~~

(e) a police officer has reasonable grounds to believe that —

(i) the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(ii) a learner driver was driving or attempting to drive the motor vehicle at the time of that presence or use; and

(iii) a person may have been an instructor providing driving instruction to the learner driver at that time; and

(iv) at that time, the person would have committed an offence against section 63 if the person had been driving a motor vehicle.

a police officer may require that person to provide a sample of his breath for analysis or to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of his

blood for analysis or to allow a sample of blood to be so taken and to provide a sample of his urine for analysis, pursuant to the provisions of subsections (4), (5) and (6a), and for the purposes of this subsection may require that person to accompany a police officer to a police station or some other place, and may require that person to wait at any such police station or place.

- (3) A person who is required to supply a sample of his breath for a preliminary test or for analysis shall comply with that requirement by providing the sample of his breath into approved apparatus in accordance with the directions of a police officer or an authorised person, as the case may be.
- (4) A person shall not be required under subsection (2) to provide a sample of his breath for analysis if it appears to a police officer that —
- [(a) deleted]*
 - (b) the sample of breath could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or
 - (c) because of his physical condition he is incapable of providing the specimen of breath or a specimen of breath in sufficient quantity for analysis.
- (5) Where —
- (a) a police officer might require a person to provide a sample of his breath for analysis under subsection (2) but is precluded from so doing by subsection (4) or section 68(11); or
 - (b) a police officer might, by virtue of subsection (1) or (1a), require a person to provide a sample of his breath for a preliminary test but it appears to the police officer that the physical condition of the person is such as to render him incapable of providing a sample of his breath in accordance with the directions of the police officer for a preliminary test,

then the police officer may require the person to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ nominated by the police officer to take a sample of the person's blood for analysis or where the person is incapable of complying with that requirement, that police officer may cause

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a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of the blood of the person for analysis.

- (6) A person shall not be required to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of his blood, and a prescribed sample taker ~~medical practitioner or registered nurse~~ shall not be caused to take a sample of the blood of a person under subsection (5) if it appears to the police officer that the sample cannot be taken within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place.

(6a) Where —

- (a) a police officer might, by virtue of subsection (2)(c), (ca), (cb), (d) or (e), ~~(ea) or (d)~~, require a person to provide a sample of his breath for analysis but is precluded from so doing by subsection (4); and
- (b) under subsection (5), the police officer requires the person to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of his blood for analysis,

the police officer may also require the person to provide the prescribed sample taker ~~medical practitioner or registered nurse~~ with a sample of his urine for analysis.

(7) Subsection (8B) applies if a police officer has reasonable grounds to believe that —

- (a) the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of serious bodily harm to, or the death of, a person; and
- (b) a person (*the person*) may have been the driver or person in charge of the motor vehicle at the time of that presence or use.

(8A) In subsection (7) —

serious bodily harm, in relation to a person, means bodily harm that the police officer has reasonable grounds to believe is likely to require the attendance of the person at a hospital (whether or not that is practicable).

(8B) If this subsection applies, a police officer may —

(a) require the person to do one or both of the following —

(i) allow a prescribed sample taker to take a sample of the person's blood for analysis;

(ii) provide a sample of the person's urine for analysis;

or

(b) where the person is incapable of complying with that requirement — cause a prescribed sample taker to take a sample of the person's blood for analysis.

(8C) For the purposes of subsection (8B), a police officer may require the person to accompany a police officer to a police station or some other place, and may require the person to wait at the police station or place.

(8) A police officer must not make a requirement under subsection (8B)(a), or cause a prescribed sample taker to take a sample under subsection (8B)(b), if it appears to the police officer that the sample cannot be taken or provided within 12 hours after the time of the presence or use of the motor vehicle referred to in subsection (7)(a).

[(7)-(9) deleted]

(10) Where a person is apparently unconscious or seriously injured a police officer shall facilitate the provision of medical assistance for that person.

(11) Where a person provides a sample of his breath for analysis pursuant to a requirement made under subsection (2)(c), (ca), ~~(cb), (d) or (e)~~ ~~(ca) or (d)~~ and the analysis result obtained pursuant to section 68 indicates —

(a) that there is no alcohol present in the blood of the person; or

(b) that the person's blood alcohol content is such that it does not reasonably explain the conduct, condition or appearance of the person by reason of which the requirement was made,

a police officer may require the person —

(c) to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ nominated by the police officer to take a sample of the person's blood for analysis; or

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- (d) to provide a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ nominated by the police officer with a sample of the person's urine for analysis, or to do both of those things, and for the purposes of this subsection may require the person to accompany a police officer to a place, and may require the person to wait at that place.
- (12) A person shall not be required —
- (a) to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of his blood; or
- (b) to provide a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ with a sample of his urine,

under subsection (11), and a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ shall not be caused to take a sample of the blood of a person under that subsection, if it appears to the police officer that the sample cannot be taken or given, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66 amended by No. 71 of 1979 s. 10; No. 81 of 1980 s. 8; No. 105 of 1981 s. 12 and 19; No. 82 of 1982 s. 15; No. 121 of 1987 s. 6; No. 11 of 1988 s. 12; No. 16 of 1988 s. 4; No. 13 of 1992 s. 11; No. 50 of 1997 s. 9; No. 39 of 2000 s. 36; No. 44 of 2004 s. 9; No. 54 of 2006 s. 17(3); No. 6 of 2007 s. 8; No. 39 of 2007 s. 11 and 36; No. 51 of 2010 s. 7; No. 14 of 2011 s. 12; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 34, 40 and 47.](#)]

[Section 66. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66A. Drug impairment, police powers to require driver assessment for etc.

[\(1A\) In this section an instructor providing driving instruction to a learner driver is not to be taken, under section 49AA, to be in charge of the motor vehicle driven by the learner driver.](#)

- (1) A police officer may require —
- (a) the driver or person in charge of a motor vehicle; or

- (b) any person the police officer has reasonable grounds to believe was the driver or person in charge of a motor vehicle,

to undergo an assessment of drug impairment if a police officer has reasonable grounds to believe that the person is, or was while driving or attempting to drive the motor vehicle, impaired by something, other than alcohol alone, affecting the person's capacity to drive a motor vehicle.

- (2) Where a police officer —
 - (a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and
 - (b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe —

- (c) that the person may have been the driver or person in charge of the motor vehicle at that time; and
- (d) that the person was at that time impaired by something, other than alcohol alone, affecting the person's capacity to drive a motor vehicle,

a police officer may require the person to undergo an assessment of drug impairment.

- (3) For the purposes of subsection (1) or (2) a police officer may require a person who is required to undergo a driver assessment to wait at the place at which the requirement was made.
- (4) Where a person required under subsection (1) or (2) to undergo a driver assessment is in a motor vehicle, a police officer may require the person to leave the vehicle for the purpose of undergoing the assessment.
- (5) A person who is required to undergo a driver assessment shall comply with that requirement by undergoing the assessment in accordance with the directions of a police officer.
- (6) A person shall not be required to undergo a driver assessment if it appears to a police officer that —
 - (a) the driver assessment could not be conducted within 4 hours after the time at which driving, attempted

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driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

- (b) because of the person's physical condition the person is incapable of undergoing the driver assessment.
- (7) A driver assessment shall be conducted by a police officer in accordance with regulations prescribing the procedure for assessing drug impairment.

[Section 66A inserted by No. 6 of 2007 s. 9; amended by No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 48.](#)]

66B. Blood or urine sample for drug analysis, police powers to require etc.

- (1) Where —
- (a) a person having undergone a driver assessment, it appears to a police officer that the assessment indicates that the person is drug impaired; or
 - (b) a person refuses or fails to undergo a driver assessment having been required to do so; or
 - (c) a police officer might require a person to undergo a driver assessment but is precluded from doing so by section 66A(6)(b),

a police officer may require the person —

- (d) to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ nominated by the police officer to take a sample of the person's blood for analysis; or
- (e) to provide a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ nominated by the police officer with a sample of the person's urine for analysis,

or to do both of those things, and for the purposes of this subsection may require the person to accompany a police officer to a place, and may require the person to wait at that place.

- (2) Where a person is incapable of complying with a requirement under subsection (1)(d), a police officer may cause a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of the person's blood for analysis.

- (3) Where a person is apparently unconscious or seriously injured a police officer shall facilitate the provision of medical assistance for the person.
- (4) A person shall not be required —
- (a) to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of the person's blood; or
 - (b) to provide a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ with a sample of the person's urine,

under subsection (1), and a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ shall not be caused to take a sample of a person's blood under subsection (2), if it appears to the police officer that the sample cannot be taken or provided, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66B inserted by No. 6 of 2007 s. 9; amended by No. 51 of 2010 s. 8; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 40.](#)]

[Section 66B. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66C. Preliminary oral fluid test, police powers to require etc.

- (1) A police officer may require the driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to undergo a preliminary oral fluid test.
- (2) A police officer may —
- (a) call upon the driver of a motor vehicle to stop the vehicle;
 - (b) direct the driver of a motor vehicle to wait at a place indicated by the police officer,
- in order that a requirement may be made under subsection (1).
- (3) Where a police officer —
- (a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an

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immediate or proximate cause of, personal injury or damage to property; and

- (b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the police officer may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to undergo a preliminary oral fluid test.

- (4) For the purposes of subsection (1) or (3) a police officer may require a person who is required to undergo a preliminary oral fluid test to wait at the place at which the requirement was made.
- (5) Where a person required to undergo a preliminary oral fluid test is in a motor vehicle, a police officer may require the person to leave the vehicle for the purpose of undergoing the test.
- (6) A person who is required to undergo a preliminary oral fluid test shall comply with that requirement by undergoing the test in accordance with the directions of a police officer.
- (7) A preliminary oral fluid test shall be conducted by a police officer in accordance with regulations prescribing the procedure for those tests.

[Section 66C inserted by No. 6 of 2007 s. 9; amended by No. 8 of 2012 s. 37.]

66D. Oral fluid sample, police powers to require etc.

- (1) Where —
- (a) a person having undergone a preliminary oral fluid test, it appears to a police officer that the test indicates that the person's oral fluid contains a prescribed illicit drug; or
- (b) a person refuses or fails to undergo a preliminary oral fluid test having been required to do so,

a police officer may require the person to provide a sample of the person's oral fluid for drug testing, and for the purposes of this subsection may require the person to accompany a police officer to a place, and may require the person to wait at that place.

- (2) A person who is required under subsection (1) to provide a sample of oral fluid for drug testing shall comply with that requirement by providing the sample in accordance with the directions of an authorised drug tester.
- (3) A person shall not be required under subsection (1) to provide a sample of oral fluid for drug testing if it appears to a police officer that —
 - (a) the sample of oral fluid could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or
 - (b) because of the person's physical condition the person is incapable of providing the sample of oral fluid.
- (4) Where, under subsection (1), a person provides a sample of oral fluid for drug testing, an authorised drug tester shall —
 - (a) collect the sample in the manner prescribed by the regulations; and
 - (b) conduct drug testing of the sample by an approved device in accordance with the procedure prescribed by the regulations.

[Section 66D inserted by No. 6 of 2007 s. 9; amended by No. 8 of 2012 s. 37.]

[Section 66D. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66E. Blood sample instead of oral fluid sample, police powers to require etc.

- (1) Where a police officer might, under section 66D(1), require a person to provide a sample of oral fluid for drug testing but is precluded from doing so by section 66D(3)(b), a police officer may require the person to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ nominated by the police officer to take a sample of the person's blood for analysis, and for the purposes of this subsection may require the person to accompany a police officer to a place, and may require the person to wait at that place.

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- (2) Where a person is incapable of complying with a requirement under subsection (1), a police officer may cause a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of the person's blood for analysis.
- (3) Where a person is apparently unconscious or seriously injured a police officer shall facilitate the provision of medical assistance for the person.
- (4) A person shall not be required to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of the person's blood under subsection (1), and a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ shall not be caused to take a sample of a person's blood under subsection (2), if it appears to the police officer that the sample cannot be taken or provided, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66E inserted by No. 6 of 2007 s. 9; amended by No. 51 of 2010 s. 9; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 40.](#)]

[Section 66E. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66F. [Prescribed sample takers authorised to take blood samples](#) ~~Medical practitioners and registered nurses authorised to take blood samples for s. 66, 66B and 66E etc.~~

- (1) Where under section 66, 66B or 66E a police officer —
 - (a) requires a person to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ nominated by the police officer to take a sample of the person's blood for analysis; or
 - (b) causes a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of a person's blood for analysis,

this section authorises the [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take that sample.

- (2) No action lies against a person who is a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ by reason only of the

person taking a sample of another person's blood for analysis under section 66, 66B or 66E.

[Section 66F inserted by No. 6 of 2007 s. 9; amended by No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 40.](#)]

67. Failure to comply with s. 66 requirement to provide sample, allow sample to be taken or to accompany police officer~~Failure to comply with s. 66 requirement to provide breath, blood or urine sample~~

- (1) In this section *requirement* means a requirement of a police officer made pursuant to section 66.
- (2) A person, other than a person to whom section 68A(3) applies,~~person~~ who fails to comply with a requirement —
 - (a) to provide a sample of his breath for analysis; or
 - (b) to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of his blood for analysis; or
 - (c) to provide a prescribed sample taker ~~medical practitioner or registered nurse~~ with a sample of his urine for analysis; or ~~analysis;~~
 - (d) to accompany a police officer to a police station or some other place, and to wait at that place,

commits an offence, and the offender may be arrested without warrant.

- (3) Subject to subsection (3a), a person convicted of an offence against this section is liable —
 - (a) for a first offence —
 - (i) if the person has been previously convicted of an offence against section 64, to a fine of —
 - (I) not less than the minimum fine that would apply if the offence were against that section instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood; and
 - (II) not more than 50 PU,
- and, in any event, the court convicting that person shall order that the person be disqualified

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from holding or obtaining a driver's licence for a period of not less than the minimum period of disqualification that would apply if the offence were against that section instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

- (ii) in any other case, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting that person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months;
 - (b) for a second offence, to a fine of not less than 42 PU or more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months;
 - (c) for any subsequent offence, to a fine of not less than 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.
- (3a) If when a requirement is made a police officer —
- (a) advises the person concerned that the police officer believes that the motor vehicle of which the person was, or is believed to have been, the driver has been involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person; and
 - (b) explains to the person the consequences under this subsection of failure to comply with the requirement,

an offence against this section of failing to comply with that requirement is a crime and a person convicted of it is liable to a fine of any amount and imprisonment for 14 years and in any event the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

Summary conviction penalty in a case in which the incident does not occasion the death of another person:
imprisonment for 18 months or a fine of 160 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

- (3B) For an offence against this section that was committed before the day on which the *Manslaughter Legislation Amendment Act 2011* section 7(1) came into operation¹ amending subsection (3a), subsection (3a) applies as if that amendment had not been made.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 63 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence but any offence committed by him against this section as in force before the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall not be taken into account for that purpose.
- (5) It shall be a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.
- (6) Without limiting the generality of subsection (5) it shall be a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the accused satisfies the court that he attempted to comply with the requirement.

[Section 67 inserted by No. 82 of 1982 s. 16; amended by No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 36; No. 50 of 2003 s. 92(2); No. 44 of 2004 s. 10; No. 84 of 2004 s. 82; No. 54 of 2006 s. 18; No. 39 of 2007 s. 18; No. 51 of 2010 s. 10; No. 14 of 2011 s. 13; No. 58 of 2011 s. 7; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 10, 40 and 49.](#)]

67AA. Failure to comply with s. 66A or 66B requirement to do driver assessment or provide blood or urine sample

- (1) In this section —
requirement means a requirement of a police officer made under section 66A or 66B.
- (2) A person who fails to comply with a requirement —
(a) to undergo a driver assessment; or

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- (b) to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of the person's blood for analysis; or
 - (c) to provide a prescribed sample taker ~~medical practitioner or registered nurse~~ with a sample of the person's urine for analysis,
- commits an offence.
- (3) A person convicted of an offence against this section is liable —
- (a) for a first offence, to a fine of not less than 18 PU or more than 50 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months; and
 - (b) for a second offence, to a fine of not less than 42 PU or more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and
 - (c) for any subsequent offence, to a fine of not less than 42 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting the person shall order that the person be permanently disqualified from holding or obtaining a driver's licence.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by the person against section 63 or 64AB or section 67 as in force after the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.
- (5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

- (6) Without limiting the generality of subsection (5) it is a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the accused satisfies the court that the accused attempted to comply with the requirement.

[Section 67AA inserted by No. 6 of 2007 s. 10; amended by No. 14 of 2011 s. 14; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 40.](#)]

67AB. Failure to comply with s. 66D or 66E requirement to provide oral fluid or blood sample

- (1) In this section —
requirement means a requirement of a police officer made under section 66D or 66E.
- (2) A [person, other than a person to whom section 68A\(3\) applies.](#) ~~person~~ who fails to comply with a requirement —
- (a) to provide a sample of oral fluid for drug testing; or
 - (b) to allow a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ to take a sample of the person's blood for analysis,
- commits an offence.
- (3) A person convicted of an offence against this section is liable —
- (a) for a first offence, to a fine of not more than 10 PU; and
 - (b) for a second or subsequent offence, to a fine of not less than 10 PU or more than 20 PU; and, in any event, the court convicting the person shall order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by the person against section 64AC or 67AA or section 67 as in force after the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.
- (5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some

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substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

[Section 67AB inserted by No. 6 of 2007 s. 10; amended by No. 14 of 2011 s. 15; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 40 and 50.](#)]

67A. Failure to comply with other requirements of police officer

- (1) Subject to subsection (2), a [person, other than a person to whom section 68A\(3\) applies](#), ~~person~~ who fails to comply with any requirement of a police officer made pursuant to any of sections 66 to 66E, other than a requirement mentioned in section 66(1aa), 66C(2), 67(2), 67AA(2) or 67AB(2), commits an offence.
- (2) This section does not apply to a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ by reason of his failing to co-operate in the taking of a sample of a person's blood for analysis or in the collection of a sample of a person's urine for analysis.
- (3) A person convicted of an offence against this section is liable —
 - (a) for a first offence, to a fine of not less than 6 PU or more than 16 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;
 - (b) for any subsequent offence, to a fine of not less than 12 PU or more than 28 PU; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.
- (4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 63, 64, 64AB, 67, 67AA or 67AB shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.
- (5) It shall be a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some

substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.

- (6) Where a person is prosecuted for an offence against this section of failing to comply with a requirement to provide a sample of his breath for a preliminary test it shall be a defence to the prosecution if the accused satisfies the court that he complied, in accordance with section 66, with a requirement mentioned in section 67(2)(a) or 67(2)(b) that arose out of —
- (a) his failure to comply with the first-mentioned requirement; or
 - (b) the circumstances that gave rise to the first-mentioned requirement.

[Section 67A inserted by No. 82 of 1982 s. 16; amended by No. 121 of 1987 s. 7; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 36; No. 84 of 2004 s. 82; No. 54 of 2006 s. 19; No. 6 of 2007 s. 11; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 40 and 51.](#)]

68A. Failure to comply with s. 66, 66C, 66D or 66E requirement: instructors

- (1) In this section —

requirement means a requirement of a police officer made under section 66, 66C, 66D or 66E.

- (2) Subsection (3) applies to a person of whom a requirement was made on the basis that the person was, or that there were reasonable grounds to believe that the person was, an instructor providing driving instruction to a learner driver.

- (3) A person to whom this subsection applies who fails to comply with a requirement commits an offence.

- (4) A person convicted of an offence against this section is liable to a fine of 20 PU.

- (5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

- (6) Without limiting the generality of subsection (5), it is a defence to a prosecution for failing to comply with a requirement under section 66, to provide a urine sample, if the accused satisfies the

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court that the accused attempted to comply with the requirement.

(7) Without limiting the generality of subsection (5), it is a defence to a prosecution for failing to comply with a requirement to provide a sample of breath for a preliminary test if the accused satisfies the court that the accused complied with a requirement under section 66, to provide a sample of breath for analysis or to allow a sample of blood to be taken for analysis, that arose out of —

(a) the accused's failure to comply with the requirement to provide a sample of breath for a preliminary test; or

(b) the circumstances that gave rise to the requirement to provide a sample of breath for a preliminary test.

[Section 68A inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 52.]

68. Breath sample, analysis of etc.

- (1) Where, pursuant to section 66, a person provides a sample of his breath for analysis the analysis shall be made by breath analysing equipment.
- (1a) If the breath analysing equipment is not self-testing breath analysing equipment subsections (1b) to (4) shall have effect in relation to the analysis.
- (1b) The breath analysing equipment shall be operated by an authorised person and shall be operated in accordance with the regulations relating to analysis by breath analysing equipment of the relevant type.
- (2) At the conclusion of the analysis the authorised person shall determine in accordance with the regulations whether the breath analysing equipment is in proper working order.
- (3) Subject to subsection (11), if the breath analysing equipment is determined not to be in proper working order a police officer may again require the person to provide a sample of his breath for analysis or to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of his blood for analysis under section 66(2).
- (4) If the breath analysing equipment is determined to be in proper working order —

- (a) the result indicated by the breath analysing equipment at the conclusion of the analysis shall be the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis result shall be deemed to be the person's blood alcohol content at the time the sample of breath was provided; and
 - (b) the authorised person shall complete, sign, and hand to the person a statement in writing of the analysis result (which may be by way of an indication on a scale) and of the date and time of the analysis.
- (5) If the breath analysing equipment is self-testing breath analysing equipment subsections (6) to (10) shall have effect in relation to the analysis.
- (6) The breath analysing equipment shall be operated by an authorised person and shall be operated in accordance with the regulations relating to analysis by self-testing breath analysing equipment of the relevant type.
- (7) Subject to subsection (11), if the breath analysing equipment does not indicate a result in the prescribed manner at the conclusion of the analysis, a police officer may again require the person to provide a sample of his breath for analysis or to allow a prescribed sample taker ~~medical practitioner or registered nurse~~ to take a sample of his blood for analysis under section 66(2).
- (8) If the breath analysing equipment indicates a result in the prescribed manner at the conclusion of the analysis, the result so indicated shall be the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis result shall be deemed to be the person's blood alcohol content at the time the sample of breath was provided.
- (9) Subject to subsection (10), the authorised person shall complete, sign, and hand to the person a statement in writing of the analysis result and of the date and time of the analysis.
- (10) If the manner of indication of a result prescribed for the purposes of subsections (7) and (8) is the printing of a statement by the breath analysing equipment, the authorised person may comply with the requirements of subsection (9) by signing and dating the statement so printed and handing it to the person.
- (11) If the person has provided 2 samples of his breath for analysis under section 66(2) and the analysis of each sample has failed,

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the person shall not be required to provide another sample of his breath for analysis under section 66(2).

- (12) For the purposes of subsection (11) an analysis of a sample of breath shall be regarded as having failed if, and only if —
- (a) the analysis is made by breath analysis equipment that is not self-testing breath analysing equipment and the breath analysing equipment is determined not to be in proper working order; or
 - (b) the analysis is made by self-testing breath analysing equipment and the breath analysing equipment does not indicate a result in the prescribed manner.

[Section 68 amended by No. 121 of 1987 s. 8; No. 39 of 2000 s. 36; No. 39 of 2007 s. 12; No. 8 of 2012 s. 37; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl.40.](#)]

69. Blood sample, taking and analysis of

- (1) Where, pursuant to the provisions of section 66, 66B or 66E, a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ takes a sample of a person's blood for analysis the sample shall be taken in accordance with the regulations, or otherwise in a proper manner, and shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's blood for the purposes of this ~~Act, Act, and one of which shall be given to or retained for the person from whom it was taken, or shall be given to some other person on behalf of the first mentioned person, and the other of which shall be given to a police officer.~~
- (1a) If, instead of a sample of a person's blood being taken and divided into 2 parts, 2 samples of the person's blood are taken one immediately after the other, and in a manner prescribed in the regulations —
- (a) the taking of those 2 samples is to be regarded as the taking of a single sample at the time at which the first of the 2 samples began to be taken; and
 - (b) each of the 2 samples taken is to be regarded as a part into which the single sample has been divided.

(2A) The prescribed sample taker must ensure that both samples are delivered to a police officer.

(2B) One of the samples must be delivered, on behalf of the person from whom the samples were taken, to the Chemistry Centre

(WA) by a police officer or a person appointed or engaged for that purpose.

- (2) Where a sample of blood is analysed for alcohol by an analyst in accordance with the regulations the blood alcohol content of the sample shall be the analysis result and shall be deemed to be the person's blood alcohol content at the time the sample of blood was taken.

[Section 69 amended by No. 105 of 1981 s. 19; No. 39 of 2000 s. 36; No. 54 of 2006 s. 20; No. 6 of 2007 s. 12; No. 39 of 2007 s. 13; No. 8 of 2012 s. 37; Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 35 and 40.]

69A. Urine sample, taking of

- (1) ~~Where pursuant~~ ~~Where pursuant~~ to section 66 or 66B a person provides a ~~prescribed sample taker~~ ~~medical practitioner or registered nurse~~ with a sample of his urine for analysis the sample shall be collected in prescribed equipment and shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's urine for the purposes of this ~~Act.~~ ~~Act, and one of which shall be given to or retained for the person by whom it was provided, or shall be given to some other person on behalf of the first mentioned person, and the other of which shall be given to a police officer.~~

- (2) The prescribed sample taker must ensure that both samples are delivered to a police officer.

- (3) One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

[Section 69A inserted by No. 82 of 1982 s. 17; amended by No. 39 of 2000 s. 36; No. 6 of 2007 s. 13; No. 8 of 2012 s. 37; Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 36 and 40.]

69B. Oral fluid sample, taking of

- (1) ~~If the drug~~ ~~If the drug~~ testing of a sample of a person's oral fluid under section 66D(4)(b) indicates, in the opinion of the authorised drug tester who conducted the drug testing, that the person's oral fluid contains a prescribed illicit drug, the sample shall be divided into 2 parts, each of which shall be deemed to be a sample of the person's oral fluid for the purposes of this ~~Act.~~ ~~Act, and one of which shall be given to or~~

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~~retained for the person by whom it was provided, or shall be given to some other person on behalf of the first mentioned person, and the other of which shall be given to a police officer.~~

(2) The authorised drug tester must ensure that both samples are delivered to a police officer.

(3) One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

[Section 69B inserted by No. 6 of 2007 s. 14; amended by No. 8 of 2012 s. 37; Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 37.]

70A. Blood, urine or oral fluid sample: delivery of person's sample to Chemistry Centre (WA)

(1) A sample of blood, urine or oral fluid delivered to the Chemistry Centre (WA) on behalf of a person under section 69(2B), 69A(3) or 69B(3) must be retained, and appropriately stored, by the Chemistry Centre (WA) until the person requests the sample.

(2) The person may, within 3 months after the day on which the sample was delivered to the Chemistry Centre (WA), request that the sample be delivered to an analyst (as defined in the *Misuse of Drugs Act 1981* section 3(1)) nominated by the person, for analysis.

(3) The cost of delivering the sample is to be paid for by the person.

(4) Despite subsection (1), the Chemistry Centre (WA) need not store the sample for more than 3 months.

[Section 70A inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 38.]

70B. Evidence of delivery of blood, urine or oral fluid samples

(1) In proceedings for an offence against section 62B, 62C, 63, 64, 64AA, 64A, 64AAA, 64AB or 64AC, evidence of the delivery of a sample to an analyst or drug analyst may be given in the form of a certificate in which a person who took delivery of the sample sets out the prescribed particulars of the delivery of the sample to the person together with their signature.

(2) In the absence of evidence to the contrary —

(a) it is to be presumed that each signature on the certificate is the signature of the person of whom it purports to be the signature; and

(b) the certificate is evidence of its contents.

(3) Except with the consent of the accused, evidence of the delivery of a sample to a person in the form of a certificate cannot be given in the proceedings and, if it is given, is not admissible, unless a copy of the certificate is given to the accused at least 28 days before the proceedings.

(4) If a copy of the certificate has been given as required by subsection (3), the accused cannot challenge or call into question a matter set out in the certificate unless —

(a) notice in writing of the accused's intention is given to the prosecutor at least 14 days before the proceedings; or

(b) the court, in the interests of justice, gives the accused leave to so do.

(5) A notice under subsection (4)(a) must specify the matter that is to be challenged or called into question.

[Section 70B inserted by the Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 38; amended by Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 53.]

70. Evidentiary provisions

(1) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section [62B](#), 64, 64AA, 64A or 64AAA, or for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of alcohol at any material time is relevant, evidence may be given of —

(a) the provision of a sample of breath by the person for analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and

(b) the analysis of the sample of breath by breath analysing equipment operated by an authorised person; and

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- (c) the determination that breath analysing equipment that was not self-testing breath analysing equipment was in proper working order; and
 - (ca) the manner in which self-testing breath analysing equipment indicated the result of an analysis; and
 - (d) the taking of a sample of blood from the person by a prescribed sample taker ~~medical practitioner or registered nurse~~, if taken within 4 hours, or 12 hours if the sample was taken under section 66(8B), ~~4 hours~~ after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
 - (e) the analysis of the sample of blood for alcohol by an analyst; and
 - (f) the analysis result obtained pursuant to section 68 or 69.
- (2) In any proceeding such as is mentioned in subsection (1), a certificate in the prescribed form —
- (a) purporting to be signed by the Commissioner of Police, ~~chief executive officer of the Chemistry Centre (WA)~~, certifying that a person therein named is, or was at the material time, an authorised person; or
 - (b) purporting to be signed by the chief executive officer of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an analyst; or
 - (ba) purporting to be signed by an authorised person —
 - (i) certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein; and
 - (ii) certifying that a sample of breath so provided was analysed by apparatus operated by him and that apparatus was breath analysing equipment, other than self-testing breath analysing equipment, within the meaning of section 65; and
 - (iii) certifying that the breath analysing equipment was operated by him in the prescribed manner and that all regulations relating to analysis by breath analysing equipment of the relevant type were complied with; and
 - (iv) setting out the analysis result obtained from the analysis; and

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- (c) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date; or
- (d) purporting to be signed by a [prescribed sample taker](#)~~medical practitioner or registered nurse~~, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
- (e) purporting to be signed by an analyst, certifying either or both of the following, namely, that an identified sample of blood taken from a named person was analysed for alcohol in accordance with the regulations, and the analysis result obtained from the analysis,

is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was [the Commissioner of Police, the chief executive officer of the Chemistry Centre \(WA\), an authorised person, a technologist, a prescribed sample taker](#)~~medical practitioner or registered nurse or an analyst (as is relevant), such chief executive officer, or was an authorised person, or was such a technologist, or was a medical practitioner, registered nurse or analyst.~~

- (2a) In any proceeding such as is mentioned in subsection (1), evidence by an authorised person that —
 - (a) the apparatus operated by him pursuant to section 68 was self-testing breath analysing equipment within the meaning of section 65; or
 - (b) self-testing breath analysing equipment was operated by him in the prescribed manner and the regulations relating to analysis by self-testing breath analysing equipment of the relevant type were complied with; or
 - (c) self-testing breath analysing equipment indicated a result in the prescribed manner on the occasion of its operation,

is prima facie evidence of that fact.

- (3) In any proceeding such as is mentioned in subsection (1), evidence by an authorised person that —
- (a) the apparatus operated by him pursuant to section 68 was breath analysing equipment, other than self-testing breath analysing equipment, within the meaning of section 65; or
 - (b) breath analysing equipment was operated by him in the prescribed manner and all regulations relating to analysis by breath analysing equipment of the relevant type were complied with; or
 - (c) breath analysing equipment that was not self-testing breath analysing equipment and was determined by him in accordance with the regulations to be in proper working order on the occasion of its operation,

is prima facie evidence of that fact.

- (3a) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section [62C](#) or [64AC](#), or for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the influence of or impaired by drugs at any material time is relevant, evidence may be given of —
- (a) the taking of a sample of blood from the person by a [prescribed sample taker](#)~~medical practitioner or registered nurse~~, if taken within [4 hours, or 12 hours if the sample was taken under section 66\(8B\)](#), ~~4 hours~~ after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
 - (b) the provision of a sample of urine by the person for analysis, if provided within [4 hours, or 12 hours if the sample was taken under section 66\(8B\)](#), ~~4 hours~~ after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
 - (c) the analysis of a sample of blood or urine for drugs by a drugs analyst and the result obtained from the analysis; and
 - (d) the conduct, condition or appearance of the person at or after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence or during a driver assessment; and

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- (e) conduct, a condition or an appearance associated with a person who has consumed or used a particular drug or particular drugs; and
 - (f) the usual effect that conduct or a condition associated with a person who has consumed or used a particular drug or particular drugs has on a person's capacity to have proper control of a motor vehicle; and
 - (g) the provision of a sample of oral fluid by the person under section 66D, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and
 - (h) the analysis for drugs by a drugs analyst of a sample of oral fluid provided under section 66D, and the result obtained from the analysis.
- (3b) In any proceedings such as is mentioned in subsection (3a), a certificate in the prescribed form —
- (a) purporting to be signed by the chief executive officer of the Chemistry Centre (WA) certifying that a person named therein is, or was at the material time, a drugs analyst; or
 - (b) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date; or
 - (c) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by him and are sterile and fit for the purpose of the collection of a sample of a person's urine for analysis if used not later than a specified date; or
 - (d) purporting to be signed by a [prescribed sample taker](#)~~medical practitioner or registered nurse~~, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or
 - (e) purporting to be signed by a [prescribed sample taker](#)~~medical practitioner or registered nurse~~, certifying

that an identified sample of urine was provided by a named person on a date and at a time therein specified and was collected using identified sampling equipment which was received in a described condition from an identified person; or

- (f) purporting to be signed by a drugs analyst certifying either or both of the following —
 - (i) that an identified sample of blood, urine or oral fluid taken from or provided by a named person was analysed for drugs;
 - (ii) the analysis result obtained from the analysis;or
- (g) purporting to be signed by an approved expert describing conduct, a condition or an appearance associated with a person who has consumed or used a drug or drugs specified in the certificate; or
- (h) purporting to be signed by an approved expert setting out the usual effect that conduct or a condition associated with a person who has consumed or used a particular drug or particular drugs has on a person's capacity to have proper control of a motor vehicle; or
- (i) purporting to be signed by a police officer describing the conduct, condition or appearance of a person at or after the time the person drove or attempted to drive a motor vehicle; or
- (j) purporting to be signed by a police officer certifying the following —
 - (i) that the police officer conducted a driver assessment on a person named in the certificate on a date and at a time stated in the certificate;
 - (ii) that the assessment was conducted in accordance with the regulations,

and describing the conduct, condition or appearance of the person during the assessment; or

- (k) purporting to be signed by an authorised drug tester certifying that, under section 66D, an identified sample of oral fluid was collected by the authorised drug tester in accordance with the regulations from a named person on a date and at a time specified in the certificate using identified sampling equipment which was received in a described condition from an identified person,

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is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such chief executive officer, or was such a technologist, or was a ~~prescribed sample taker, medical practitioner, registered nurse,~~ drug analyst, approved expert, police officer or authorised drug tester.

- (3c) In any proceeding for an offence against section 67(2)(a) [or 68A](#) a certificate in the prescribed form purporting to be signed by the [Commissioner of Police](#), ~~chief executive officer of the Chemistry Centre (WA)~~, certifying that a person therein named is, or was at the material time, an authorised person is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was [the Commissioner of Police](#).~~such chief executive officer.~~
- (3d) In any proceeding for an offence against section 67A(1) [or 68A](#) of failing to comply with a requirement made pursuant to section 66D(1) a certificate in the prescribed form purporting to be signed by the Commissioner of Police certifying that a person therein named is, or was at the material time, an authorised drug tester is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner of Police.
- (4) Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act.
- (5) Except at the instance, or with the consent, of the accused in any proceeding such as is mentioned in subsection (3a), a certificate mentioned in subsection (3b)(f), (g) or (h) shall not be adduced, and if adduced shall not be admitted, in that proceeding unless a copy of the certificate is proved to have been served on the accused at least 28 days before the day on which the certificate is adduced.

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technologist means —

- (a) a person registered as an analyst under section 203 of the *Health Act 1911*; or
- (b) a person approved, or belonging to a class of persons approved, by the Minister to prepare sampling equipment.

[Section 70 amended by No. 71 of 1979 s. 12; No. 82 of 1982 s. 18; No. 121 of 1987 s. 9; No. 11 of 1988 s. 13; No. 19 of 1990 s. 8; No. 13 of 1992 s. 12; No. 39 of 2000 s. 35 and 36; No. 6 of 2007 s. 15; No. 10 of 2007 s. 43; No. 39 of 2007 s. 37; No. 8 of 2012 s. 37 and 38; [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 11, 39, 40 and 54.](#)]

71. Blood alcohol content at material time, how calculated

- (1) In any proceeding such as is mentioned in section 70(1) a person's blood alcohol content at any time which is or may be material in the proceeding (the *material time*) shall be calculated having regard to —
 - (a) the time of the person's last drink containing alcohol taken at or before the material time; and
 - (b) the material time; and
 - (c) the time at which the sample of the person's breath or blood was provided or taken for analysis (the *time of sampling*); and
 - (d) the person's blood alcohol content at the time of sampling,

so as to give effect to the presumption that after a person's latest drink containing alcohol the person's blood alcohol content increases at the rate of 0.016 g of alcohol per 100 ml of blood per hour for a period of 2 hours and, after that period, decreases at the rate of 0.016 g of alcohol per 100 ml of blood per hour.

- (2) For the purpose of making a calculation under subsection (1) in any case where any one or more of the times referred to in that subsection can only be ascertained as falling within a period of time, the calculation shall be made taking such time within that period as produces the result most favourable to the person charged.
- (3) For the purpose of making a calculation under subsection (1) but subject to subsection (2), in any case where the time of a person's last drink containing alcohol is not ascertained, the

time of the person's last drink containing alcohol shall be taken to have been such time as produces the result most favourable to the person charged.

- (4) In any proceeding such as is mentioned in section 70(1), the concentration of alcohol calculated to have been present in the blood of a person at any time under the preceding provisions of this section shall be conclusively presumed to have been present in the blood of that person at that time.

[Section 71 amended by No. 39 of 2007 s. 14.]

71A. Samples not to be used to obtain DNA

- (1) In this section —

sample means a sample of blood, urine or oral fluid taken from or provided by a person (the **subject**) and given to a police officer under section 69, 69A or 69B.

- (2) A person must not use a sample to obtain the subject's DNA.

Penalty: imprisonment for 12 months.

[Section 71A inserted by No. 6 of 2007 s. 16; amended by No. 8 of 2012 s. 37.]

71B. Preventing use of vehicle by alleged offender, police powers for

- (1) If a police officer has reason to suspect that a person (the **offender**) is driving, is attempting to drive, has driven or has attempted to drive a motor vehicle in contravention of section 63, 64, 64AA, 64A, 64AAA or 64AB, the police officer may require the offender to immediately hand over all keys to any motor vehicle that are there and then in the offender's possession —

- (a) to the police officer; or
- (b) to another person who is in the company of the offender if the police officer is satisfied that the person —
 - (i) is authorised to drive the vehicle on a road; and
 - (ii) is responsible and is able to drive the vehicle properly.

- (2) A police officer may make a requirement under subsection (1) if satisfied that the requirement is necessary in the circumstances and is in the interest of the offender, or of any other person or of the public, and may do so whether or not the offender has been or is to be charged with an offence.

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- (3) If keys to a motor vehicle are handed over under subsection (1)(a), a police officer may take any steps that, in the opinion of the police officer, are appropriate and practicable in order to ensure that the vehicle is not causing any obstruction to traffic and is secure.
- (4) Those steps may include moving the vehicle to a more suitable place.
- (5) If a person requests a police officer to hand over to the person keys to a motor vehicle that have been handed over under subsection (1)(a), the police officer is to comply with the request if satisfied that the person —
 - (a) is entitled to lawful possession of the vehicle or is in the company of a person who is entitled to lawful possession of the vehicle; and
 - (b) is authorised to drive the vehicle on a road; and
 - (c) is responsible and able to drive the vehicle properly.
- (6) Before keys to a motor vehicle are handed over to a person under subsection (1)(b) or (5) a police officer may, for the purposes of subsection (1)(b)(ii) or (5)(c), require the person to provide a sample of the person's breath for a preliminary test in accordance with the directions of the police officer.
- (7) If keys to a motor vehicle are not handed over within 24 hours after a request is made under subsection (5), the offender may apply to the Magistrates Court, in accordance with its rules of court, for an order for the keys to be handed over to a person named in the application.
- (8) A person who —
 - (a) contravenes any requirement made by a police officer under subsection (1); or
 - (b) attempts in any manner to obstruct a police officer in the exercise of any power conferred on the police officer under subsection (1), (3) or (4),

commits an offence.

Penalty: 8 PU.

[Section 71B inserted by No. 6 of 2007 s. 16; amended by No. 39 of 2007 s. 38 (correction to reprint in Gazette 19 Oct 2010 p. 5202); No. 8 of 2012 s. 37.]

71C. Disqualification by police officer

- (1) This section applies if —
 - (a) a police officer (the *police officer*), as a result of an analysis of a sample of a person's breath or blood, has reason to suspect that the person (the *alleged offender*) has committed an offence under section 63 or 64 (the *alleged offence*); or
 - (b) a police officer (the *police officer*) has reason to suspect that a person (the *alleged offender*) has committed an offence against section 67 (the *alleged offence*).
- (2) If this section applies the police officer may give the alleged offender a notice that is in accordance with this section (a *disqualification notice*) by delivering the notice to the alleged offender personally.
- (3) The disqualification notice must contain a statement to the effect that the alleged offender is disqualified from holding or obtaining a driver's licence for a period commencing on receipt of the notice and ending on the day that is 2 months after the day the notice is received unless before the expiry of that period the notice is revoked under section 71E, 71F or 71G.
- (4) The disqualification notice must —
 - (a) identify the provision under which the notice is given; and
 - (b) specify the grounds on which the notice is given; and
 - (c) identify the time and date on which the alleged offence was committed; and
 - (d) identify where the alleged offence was committed; and
 - (e) describe the alleged offence with reasonable clarity; and
 - (f) identify the provision that creates the alleged offence.
- (5) The disqualification notice must also include a statement to the effect that section 71F contains law about the circumstances in which the alleged offender may apply to a court for an order revoking the notice.
- (6) A disqualification notice cannot be given to an alleged offender —
 - (a) if the alleged offence is an offence under section 63 or 64, more than 10 days after the later of —
 - (i) the day of the alleged offence; or

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- (ii) if a sample of the alleged offender's blood was taken under section 66 in connection with the alleged offence, the day on which a police officer receives an analysis result of the sample;
 - or
 - (b) if the alleged offence is an offence under section 67, more than 10 days after the day of the alleged offence.
- (7) If a police officer gives a person a disqualification notice the police officer must write on the notice the time and date when it was given and the time and date when the disqualification expires.
- (8) A police officer may, by written notice given to a person to whom a disqualification notice has been given, amend the disqualification notice to correct any error in the disqualification notice.
- (9) If a police officer gives a person a disqualification notice or a notice amending a disqualification notice in accordance with this section the police officer must, as soon as is practicable, cause particulars of the notice to be sent to the CEO.

[Section 71C inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 15.]

71D. Disqualification notice (s. 71C), consequences of

- (1) A person who is given a disqualification notice in accordance with section 71C is disqualified from holding or obtaining a driver's licence for the period set out in the notice unless the notice is sooner revoked.
- (2) The period of disqualification imposed under subsection (1) is concurrent with any other period for which the person is disqualified from holding or obtaining a driver's licence.

[Section 71D inserted by No. 51 of 2010 s. 11.]

71E. Revocation of disqualification notice by police officer

- (1) A police officer must immediately revoke a disqualification notice if —
 - (a) the police officer becomes aware that the breath analysing equipment used to analyse the sample of the person's breath provided in connection with the offence to which the notice relates was faulty at the time of the analysis; or

- (b) a charge for the offence to which the notice relates has not been laid within 10 days after the time when the notice was given; or
 - (c) a charge for the offence to which the notice relates is discontinued.
- (2) If under this section a police officer revokes a disqualification notice the police officer must, as soon as is practicable, cause notice of the revocation to be given to —
- (a) the person to whom the disqualification notice was given under section 71C; and
 - (b) the CEO.

[Section 71E inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 16.]

71F. Disqualification notice (s. 71C), court may order police to revoke

- (1) A person to whom a disqualification notice is given under section 71C may apply to the Magistrates Court or, if the person is under 18 years of age, to the Children’s Court, for an order directing the Commissioner of Police to revoke the notice.
- (2) An application made under subsection (1) must —
 - (a) be made in accordance with any applicable rules of court; and
 - (b) include particulars of the exceptional circumstances that the applicant alleges justifies the making of the order; and
 - (c) be served on the Commissioner of Police at least 14 days before it is heard and determined.
- (3) The Commissioner of Police is entitled to be heard on an application made under subsection (1).
- (4) The court may either make an order directing the Commissioner of Police to revoke the disqualification notice from the day specified in the order or refuse the application.
- (5) The court must not make an order directing the Commissioner of Police to revoke a disqualification notice unless it is satisfied that exceptional circumstances exist that justify the making of such an order.

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- (6) If a court makes an order directing the Commissioner of Police to revoke a disqualification notice, the court is to cause a copy of the order to be sent to the CEO.

[Section 71F inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 17.]

71G. Disqualification notice (s. 71C) automatically revoked on acquittal etc.

- (1) If a court —
- (a) acquits a person of an offence to which a disqualification notice relates; or
 - (b) dismisses a charge for an offence to which a disqualification notice relates,

the disqualification notice is revoked.

- (2) If under this section a disqualification notice is revoked, the court is to cause particulars of the revocation to be sent to the CEO.

[Section 71G inserted by No. 51 of 2010 s. 11; amended by No. 8 of 2012 s. 18.]

71H. Period of disqualification under s. 71C notice to be taken into account in sentencing

- (1) This section applies if a court convicts a person of the offence to which a disqualification notice relates.
- (2) If this section applies, the court is to take into account any period of disqualification imposed under section 71D(1) in respect of the disqualification notice when making an order disqualifying the person from holding or obtaining a driver's licence.

[Section 71H inserted by No. 51 of 2010 s. 11.]

72. Taking and testing samples: regulations for s. 59 to 73, and approval of apparatus and persons ~~Regulations for s. 59B(5) and 63 to 73; approval of apparatus etc.~~

- (1) The Governor may make regulations prescribing all matters that are necessary or convenient for the purpose of carrying out, or giving effect to, the provisions of sections 59 ~~section 59B(5) and sections 63~~ to 73 inclusive, and, in particular and without limiting the generality of the foregoing, may make regulations —

- (a) prescribing the manner of providing samples of breath and oral fluid and taking samples of blood, and regulating the manner of dealing with samples of breath, blood, urine and oral fluid; and
 - (aa) prescribing equipment for use in the taking of samples of blood and the collection of samples of urine and oral fluid; and
 - (ab) prescribing the manner and methods by which samples of blood may be analysed for alcohol; and
 - (ac) prescribing the manner and methods by which samples of blood, urine and oral fluid may be analysed for drugs; and
 - (b) prescribing the manner of operation of breath analysing equipment and of determining breath analysing equipment, other than self-testing breath analysing equipment, to be in proper working order; and
 - (ba) prescribing the manner of indication of a result for the purposes of section 68(7) and (8); and
 - (bb) prescribing the procedure for assessing whether a person is drug impaired; and
 - (bc) prescribing the procedure for conducting preliminary oral fluid tests; and
 - (bd) prescribing the procedure for drug testing samples of oral fluid by an approved device; and
 - (c) prescribing forms, including any certificate required for the purposes of the sections herein mentioned; and
 - (d) prescribing the fees payable to a [prescribed sample taker](#) ~~medical practitioner or registered nurse~~ attending a person for the purpose of taking a sample of his blood or collecting a sample of his urine and those payable in respect of the analysis of a sample of blood by an analyst, or a sample of blood, urine or oral fluid by a drugs analyst, and for the payment and recovery of those fees.
- (1a) Without limiting subsection (1), procedures may be prescribed under subsection (1)(bc) or (bd) by reference to instructions provided by the manufacturer of a device of a type approved under subsection (2)(c) or (d).

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Part V Regulation of traffic

Division 2 Driving of vehicles: alcohol and drug related offences

s. 72

- (2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of—
- (a) types of apparatus for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of the person's breath; and
 - (b) types of apparatus for the purpose of conducting preliminary tests for the purposes of section 66; and
 - (c) types of devices for the purpose of conducting drug testing of a sample of a person's oral fluid for the purposes of section 66D; and
 - (d) types of devices for the purpose of conducting preliminary oral fluid tests for the purposes of section 66C,

and may, by notice so published, revoke any such approval.

- (2a) Where approval is given under subsection (2)(a) in relation to a type of apparatus that, in the opinion of the Minister, does not need to be tested to determine whether it is in proper working order after each occasion on which it is used to make an analysis of a sample of breath, the Minister may, in the notice by which the approval is given, designate that type of apparatus as self-testing apparatus.

(3A) In subsections (2) and (2a) —

Minister means the Minister to whom the administration of the *Police Act 1892* is committed.

- (3) The chief executive officer of the Chemistry Centre (WA) may, from time to time —
- (a) certify a person as being competent to determine the concentration of alcohol in bodily substances; and
 - (aa) certify a person as being competent to ascertain whether and to what extent drugs are present in bodily substances, substances; and
 - ~~(b) certify a person as being competent to operate all types of breath analysing equipment;~~

and may rescind any certificate given under this subsection.

(4) The Commissioner of Police may, from time to time —

(a) certify a person as being competent to operate all types of breath analysing equipment; and

(b) authorise a person to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D; and

(c) rescind or revoke a certificate or an authorisation.

(5) The Commissioner of Police must not certify a person under subsection (4)(a) unless, in the Commissioner's opinion, the person has the appropriate training to operate all types of breath analysing equipment.

(6) The Commissioner of Police must not authorise a person under subsection (4)(b) unless, in the Commissioner's opinion, the person has the appropriate training to collect, and conduct drug testing of, samples of oral fluid in accordance with the regulations.

(7) If the certification of a person by the chief executive officer of the Chemistry Centre (WA) under subsection (3)(b) was in effect immediately before commencement day, the certification has effect, on and after commencement day, as if it were the certification of the person by the Commissioner of Police under subsection (4)(a) (including for the purposes of section 70(2)(a)).

(8) In subsection (7) —

commencement day means the day on which the *Road Traffic Legislation Amendment Act (No. 2) 2015* section 12 comes into operation.

~~(4) The Commissioner of Police may, from time to time, authorise a person to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D.~~

~~(5) The Commissioner of Police must not authorise a person under subsection (4) unless, in the opinion of the Commissioner of Police, the person has the appropriate training to collect, and conduct drug testing of, samples of oral fluid in accordance with the regulations.~~

[Section 72 amended by No. 82 of 1982 s. 19; No. 121 of 1987 s. 10; No. 19 of 1990 s. 8; No. 39 of 2000 s. 36; No. 44 of 2004 s. 11; No. 6 of 2007 s. 17; No. 10 of 2007 s. 43; No. 39 of 2007 s. 15; Road Traffic Legislation Amendment Bill (No. 2) 2015 cl. 12 and 40.]

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Part V Regulation of traffic

Division 3 General matters as to driving offences

s. 72A

72A. Review of 2007 amendments to Act about drugs

(1) In this section —

amended provisions means this Act as amended by the *Road Traffic Amendment (Drugs) Act 2007* Part 2;

commencement day means the day of the coming into operation of the *Road Traffic Amendment (Drugs) Act 2007* Part 2¹.

- (2) The Minister is to carry out a review of the operation and effectiveness of the amended provisions as soon as practicable after the end of the period of 12 months beginning on the commencement day.
- (3) In the course of the review the Minister is to consider and have regard to —
- (a) the attainment of the objects of the amended provisions; and
 - (b) the need for the amended provisions to continue in operation; and
 - (c) any other matters that appear to the Minister to be relevant.
- (4) The Minister is to prepare a report following the review and is to cause it to be laid before each House of Parliament before the end of the period of 18 months beginning on the commencement day.
- (5) If a House of Parliament is not sitting, the Minister may transmit a copy of the report to the Clerk of that House.
- (6) A copy of the report transmitted to the Clerk of a House is to be regarded as having been laid before the House.
- (7) The laying of a copy of the report before a House that is regarded as having occurred under subsection (6) is to be reported to the House by the Clerk, and recorded in the Votes and Proceedings or Minutes of Proceedings, on the first sitting day of the House after the Clerk received the copy.
- (8) This section expires as soon as a copy of the report has been laid, or recorded under subsection (7) as having been laid, in each House.

[Section 72A inserted by No. 6 of 2007 s. 18.]

Division 3 — General matters as to driving offences

[Heading inserted by No. 10 of 2004 s. 10.]

73. Certain offences extend to driving or attempting to drive in public places

In sections 54, 55 and 56 and in sections 59 to 72 inclusive, but not in section 62A, a reference, however expressed, to the driving of or attempting to drive a motor vehicle shall be construed as a reference to the driving of or attempting to drive a motor vehicle on a road or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have access, and a reference to a driver shall be construed accordingly.

[Section 73 amended by No. 10 of 2004 s. 11; No. 39 of 2007 s. 24.]

74. Right of Commissioner of Police to be heard in proceedings under Div. 6

[(1), (2) deleted]

- (3) The Commissioner of Police has a right to be heard in proceedings under Division 4.
- (4) A person who, under this section, has a right to be heard in proceedings may be represented by any person he or she authorises for that purpose.

[Section 74 inserted by No. 10 of 2004 s. 12; amended by No. 8 of 2012 s. 19.]

[75-78. Deleted by No. 8 of 2012 s. 20.]

Division 4 — Impounding and confiscation of vehicles for certain offences

[Heading inserted by No. 10 of 2004 s. 13; amended by No. 4 of 2007 s. 12.]

Subdivision 1 — Preliminary

[Heading inserted by No. 10 of 2004 s. 13.]

78A. Terms used

In this Division —

approved means approved by the Commissioner;

Commissioner means the Commissioner of Police;

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Part V Regulation of traffic

Division 4 Impounding and confiscation of vehicles for certain offences

s. 78A

day of the offence means the day on which the relevant offence was committed;

hired, in relation to a vehicle, means a vehicle that —

- (a) is owned by a person whose business is the short term hire of vehicles; and
- (b) is part of the business's fleet; and
- (c) under a written agreement, is hired for the hirer's short term use;

impounding offence (driver's licence) means —

- (a) an offence against section 49(1)(a) that is committed by a person described in section 49(3)(a), (b), [\(ca\)](#), or (c); or
- (b) an offence against the *Road Traffic (Authorisation to Drive) Act 2008* section 38(1)(a); or
- (c) an offence committed before the coming into operation of the *Road Traffic Amendment Act 2008* section 5(a) that was an impounding offence (driver's licence) as defined in this section as in force when the offence was committed;

impounding offence (driving) means an offence against section 60 or 62A committed after the coming into operation of the *Road Traffic Amendment (Hoons) Act 2009* section 7 or an offence committed before the coming into operation of that section that was an impounding offence (driving) as defined in this section as in force when the offence was committed;

impounding or confiscation order means a court order under section 80A(1), 80B(1), 80C(1), 80CA(1), 80CB(1) or 80FA;

impounding order means a court order under section 80B(1), 80CA(1) or 80FA;

impounding period means the period for which the vehicle is specified to be impounded;

lent in addition to the ordinary meaning of the word means hired in the ordinary meaning of that word, or subject to a hire purchase agreement within the meaning of that term in the *Hire-Purchase Act 1959* or subject to a goods mortgage in connection with a credit contract within the meaning of the *National Credit Code* (Commonwealth);

road rage circumstances accompany the commission of an offence if —

[(a) deleted]

- (b) the offence is committed as a reaction to, and is to a substantial extent motivated by, an occurrence that takes place on a road, or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have access, while —
 - (i) the offender is driving a vehicle on the road or in the place; and
 - (ii) a victim of the offence is using the same road or place, whether as the driver of, or a passenger in, another vehicle or otherwise;

road rage offence means an offence the commission of which is accompanied by road rage circumstances, but only if it is —

- (a) an offence of which it is an element that the offender —
 - (i) assaults a victim; or
 - (ii) damages property in the possession of, or under the control of, a victim;

or

- (b) an offence against section 60 in circumstances that involve the offender driving in a manner that is dangerous to a particular victim;

senior police officer means a police officer who is, or is acting as, an inspector or an officer of a rank more senior than an inspector;

surrender period, in relation to a vehicle, means the period specified under section 80F in an order as the period in which the vehicle is to be surrendered to the Commissioner;

vehicle referred to in section 80GA means a vehicle for the impounding or confiscation of which an application may be made in accordance with section 80GA.

[Section 78A inserted by No. 10 of 2004 s. 13; amended by No. 54 of 2006 s. 25; No. 4 of 2007 s. 4, 11, 13 and 30; No. 24 of 2008 s. 5; No. 23 of 2009 s. 7; No. 14 of 2010 s. 12; No. 8 of 2012 s. 21 (as amended by No. 10 of 2015 s. 17); [Road Traffic Legislation Amendment Bill \(No. 2\) 2015 cl. 63.](#)]

[Section 78A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

[s. 78B-90 have been omitted as they are not going to be amended by the Bill.]

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Part V Regulation of traffic

Division 4 Impounding and confiscation of vehicles for certain offences

s. 78A

[91. Deleted by No. 50 of 1997 s. 11.]

[92-93. Deleted by No. 8 of 2012 s. 27.]

[94-96. Deleted by No. 76 of 1996 s. 18.]

[97-103. Deleted by No. 8 of 2012 s. 27.]

[103A, 103B. Deleted by No. 54 of 2006 s. 30.]

[Part VIA (s. 104-104T) deleted by No. 8 of 2012 s. 28.]

Part VII — Offences and penalties

[104. Deleted by No. 54 of 2006 s. 32.]

[105. Deleted by No. 8 of 2012 s. 29.]

106. Sentencing for certain offences

[(1), (2) deleted]

- (3) A court sentencing a person who has been convicted of —
- (a) a first offence against section 63 or 67; or
 - (b) an offence against section 64 or 67A,
- may, instead of imposing a fine —
- (c) order the release of the person and impose a community based order under Part 9 of the *Sentencing Act 1995* with at least a community service requirement as a primary requirement of the order; or
 - (d) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least community work conditions on the offender.
- (4) If a court sentencing a person who has been convicted of —
- (a) an offence against section 49 committed in the circumstances mentioned in section 49(3); or
 - (b) a second or subsequent offence against section 63 or 67,
- orders the release of the offender and imposes a community based order or an intensive supervision order under the *Sentencing Act 1995*, the court must impose at least a community service requirement as a primary requirement of the order.
- (5) If a court sentencing a person who has been convicted of —
- (a) an offence against section 49 committed in the circumstances mentioned in section 49(3); or
 - (b) a second or subsequent offence against section 63 or 67,
- orders the release of the offender and imposes a youth community based order or an intensive youth supervision order under the *Young Offenders Act 1994*, the court must impose community work conditions on the offender as part of the order.

s. 106

- (6) A court sentencing a person who has been convicted of an offence against section 64AB must order a pre-sentence report about the offender under the *Sentencing Act 1995* Part 3 Division 3.
- (7) A court sentencing a person who has been convicted of a first offence against section 64AB or 67AA must, instead of or in addition to imposing a fine —
 - (a) order the release of the person and impose a community based order under the *Sentencing Act 1995* with at least a programme requirement as a primary requirement of the order; or
 - (b) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least attendance conditions on the offender.
- (8) A court sentencing a person who has been convicted of a second or subsequent offence against section 64AB or 67AA must, instead of or in addition to imposing a fine —
 - (a) order the release of the person and impose a community based order under the *Sentencing Act 1995* with at least a supervision requirement and a programme requirement as primary requirements of the order; or
 - (b) order the release of the person and impose an intensive supervision order under the *Sentencing Act 1995* with at least a programme requirement as a primary requirement of the order; or
 - (c) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order, or an intensive youth supervision order, under that Act imposing at least attendance conditions and supervision conditions on the offender.
- (9) Subsections (7) and (8) apply despite the *Sentencing Act 1995* section 39(3) and (4) and the *Young Offenders Act 1994* section 74.

- (10) Subsection (8) does not apply if the court imposes a custodial sentence on the offender.

[Section 106 inserted by No. 50 of 2003 s. 28; amended by No. 74 of 2003 s. 105(4); No. 54 of 2006 s. 34; No. 6 of 2007 s. 21; No. 8 of 2012 s. 30.]

106A. Mandatory disqualification

- (1) If this Act requires a court to disqualify an offender from holding or obtaining a driver's licence —
- (a) for a specific period provided in relation to the offence concerned (including permanent disqualification); or
 - (b) for a period not less than a minimum period provided in relation to the offence concerned; or
 - (c) for a period not less than a minimum period, and not more than a maximum period, provided in relation to the offence concerned,

the requirement is irreducible in mitigation and, irrespective of any sentence the court imposes on the offender, the court must disqualify the offender —

- (d) for that period; or
 - (e) for a period not less than that minimum period; or
 - (f) for a period not less than that minimum period and not more than that maximum period.
- (2) Subsection (1) has effect despite any other written law.
- (3) Despite subsection (2), a period for which the court must, in accordance with subsection (1), disqualify an offender for an offence is to be reduced by any period during which the offender was disqualified by a disqualification notice given to the offender under section 71C in relation to the offence.

[Section 106A inserted by No. 50 of 2003 s. 28; amended by No. 51 of 2010 s. 15.]

[107. Deleted by No. 8 of 2012 s. 31.]

Part VIII — Transitional provisions

108. Savings as to *Traffic Act 1919*

Without affecting the application of the *Interpretation Act 1918*², and particularly of sections 15 and 16 thereof, to the repeal and re-enactment by this Act of the provisions of the *Traffic Act 1919*, it is hereby declared that any regulation, by-law, order, vehicle licence, driver's licence, extraordinary driver's licence, permit or other document in force under any provision of the *Traffic Act 1919* repealed by this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when it was made or done, and it is hereby further declared that any suspension, disqualification or cancellation of a driver's licence ordered or made by or under the *Traffic Act 1919* or *The Criminal Code* shall continue and have effect as if it had been ordered or made by or under the provisions of this Act and as if this Act had been in force when it was ordered or made.

~~[109, 110.~~ Deleted by No. 8 of 2012 s. 31.]

110. Transitional provisions for the *Road Traffic Legislation Amendment Act (No. 2) 2015*

(1) Until the *Road Traffic Legislation Amendment Act (No. 2) 2015* section 62(2) comes into operation, section 49(1) has effect as if paragraph (c) of the Penalty also referred to the application of subsection (3)(ca).

(2) Until the *Road Traffic Legislation Amendment Act (No. 2) 2015* section 63 comes into operation, the definition of *impounding offence (driver's licence)* paragraph (a) in section 78A, has effect as if it also referred to section 49(3)(ca).

[Section 110 inserted by the *Road Traffic Legislation Amendment Bill (No. 2) 2015* cl. 64.]

Part IX — Regulations

111. Regulations etc.

- (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the equipment and use of vehicles and for the regulation of traffic, generally.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations —
 - (a) empowering an authority therein named to —
 - (i) prohibit, and to authorise and regulate, processions; or
 - (ii) restrict or prohibit the use of such roads, for such periods, as it may specify; or
 - (iii) erect, establish or display traffic or road signs, road markings, traffic control signals and similar devices; or
 - (iiia) authorise any person or body or class of person or body to erect, establish or display traffic or road signs, road markings, traffic control signals and similar devices, or any class or type thereof, in accordance with the instrument of authorisation;
 - (aa) regulating or prohibiting stock on roads;
 - (b) relating to the duties, obligations, conduct and behaviour of persons in charge, drivers and passengers of vehicles or of any class of vehicle;
 - (c) requiring the drivers and passengers of —
 - (i) motor vehicles; and
 - (ii) 2-wheeled or 3-wheeled vehicles that are designed to be propelled through a mechanism operated solely by human power; and
 - (iii) 2-wheeled or 3-wheeled vehicles that are power assisted pedal cycles,to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles;

[(d)-(g) deleted]

s. 111

(h) regulating or prohibiting the parking or standing of vehicles;

[(i) deleted]

(j) prescribing matters for or in respect of which fees shall be charged or charges shall be made and prescribing the amounts of such fees or charges;

(k) imposing penalties not exceeding a fine of 64 PU for a first offence, and not exceeding a fine of 96 PU for any subsequent offence, against any regulation made under this section;

[(l), (m) deleted]

(n) defining the previous offences that shall be taken into account in determining whether an offence is a first or subsequent offence for the purpose of the regulations.

[(2a), (2b) deleted]

(2c) The regulations may make it an offence to contravene a condition imposed by or under the regulations, but this subsection does not limit the other consequences that the regulations may attach to a contravention.

(3) The regulations may in respect of any fee or charge (whether prescribed by the Act or by the regulations) provide for —

(a) exemptions from the requirement to pay the fee or charge; or

(b) the fee or charge to be reduced or refunded (in whole or in part); or

(c) the payment of the fee or charge to be deferred.

(4) The regulations may provide that the exemption, reduction, refund or deferral —

(a) only applies in specified circumstances or in respect of specified classes of persons or vehicles; or

(b) is at the discretion of the CEO or a specified person; or

(c) applies subject to specified requirements being satisfied; or

(d) applies subject to conditions —

(i) specified in the regulations; or

(ii) imposed by the CEO or a specified person and specified in a licence or permit.

s. 111AB

- (5) Without limiting subsection (4)(c), the regulations may require a matter to be verified by statutory declaration.

[Section 111 amended by No. 17 of 1976 s. 4; No. 89 of 1978 s. 19; No. 71 of 1979 s. 17; No. 81 of 1980 s. 10; No. 71 of 1981 s. 6; No. 105 of 1981 s. 18 and 19; No. 82 of 1982 s. 28; No. 95 of 1984 s. 8; No. 11 of 1988 s. 17 and 24; No. 46 of 1991 s. 3; No. 92 of 1994 s. 40; No. 21 of 1995 s. 12; No. 76 of 1996 s. 20(3); No. 50 of 1997 s. 13; No. 57 of 1997 s. 106(3); No. 52 of 1998 s. 5; No. 39 of 2000 s. 46; No. 27 of 2001 s. 5; No. 28 of 2001 s. 23(1); No. 39 of 2007 s. 40; No. 8 of 2012 s. 32 and 36; No. 10 of 2015 s. 5.]

[111AA. Deleted by No. 8 of 2012 s. 33.]

111AB. Exemption from specified regulations, regulations may allow grant of

- (1) The regulations may provide for the Minister to declare, in writing in accordance with the regulations, that a specified requirement of the regulations does not apply to a specified person or vehicle.
- (2) The regulations may provide for the CEO to grant exemptions from regulations made under section 111(2)(aa) or (c).

[Section 111AB inserted by No. 54 of 2006 s. 35(1); amended by No. 8 of 2012 s. 34 and 36.]

[111A-113. Deleted by No. 8 of 2012 s. 35.]

[First and Second Schedule deleted by No. 28 of 2001 s. 22.]

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Notes

¹ This is a compilation of the *Road Traffic Act 1974* and includes the amendments made by the other written laws referred to in the following table ^{1M, 1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Road Traffic Act 1974</i>	59 of 1974	3 Dec 1974	s. 4: 3 Dec 1974 (see s. 2(2)); s. 6-10 and 12: 21 Feb 1975 (see s. 2(1) and <i>Gazette</i> 21 Feb 1975 p. 633); Act other than s. 4, 6-10 and 12: 1 Jun 1975 (see s. 2(1) and <i>Gazette</i> 29 May 1975 p. 1442)
<i>Road Traffic Act Amendment Act 1975</i>	77 of 1975	14 Nov 1975	1 Jul 1976 (see s. 2 and <i>Gazette</i> 12 Dec 1975 p. 4481)
<i>Road Traffic Act Amendment Act (No. 2) 1975</i>	93 of 1975	20 Nov 1975	20 Feb 1976 (see s. 2 and <i>Gazette</i> 20 Feb 1976 p. 445)
<i>Road Traffic Act Amendment Act 1976</i>	17 of 1976	3 Jun 1976	21 Aug 1976 (see s. 2 and <i>Gazette</i> 6 Aug 1976 p. 2658)
<i>Road Traffic Act Amendment Act (No. 2) 1976</i>	48 of 1976	10 Sep 1976	Act other than s. 3 and 4(a)-(f) and (h): 10 Sep 1976 (see s. 2(1)); s. 3 and 4(a)-(f) and (h): 1 Jun 1977 (see s. 2(2) and <i>Gazette</i> 20 May 1977 p. 1490)
<i>Road Traffic Act Amendment Act (No. 3) 1976</i>	135 of 1976	9 Dec 1976	9 Dec 1976
<i>Road Traffic Act Amendment Act 1977</i>	4 of 1977	29 Aug 1977	29 Aug 1977
<i>Road Traffic Act Amendment Act 1978</i> ³	89 of 1978 (as amended by No. 82 of 1982 s. 30 and 31)	8 Nov 1978	Act other than s. 16(a), (b) and (c), 18 and 23: 25 May 1979 (see s. 2 and <i>Gazette</i> 25 May 1979 p. 1377); s. 18: 1 Jan 1980 (see s. 2 and <i>Gazette</i> 7 Dec 1979 p. 3770)
<i>Acts Amendment and Repeal (Road Maintenance) Act 1979 Pt. II</i>	9 of 1979	18 May 1979	1 Jul 1979 (see s. 2(2))
<i>Road Traffic Act Amendment Act 1979</i>	10 of 1979	18 May 1979	18 May 1979

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Short title	Number and year	Assent	Commencement
<i>Road Traffic Act Amendment Act (No. 2) 1979</i>	71 of 1979	27 Nov 1979	Act other than s. 4, 5, 8-11, 13, 14 and 18: 27 Nov 1979 (see s. 2(1)); s. 8-11, 13, 14 and 18: 1 Feb 1980 (see s. 2(2) and <i>Gazette</i> 1 Feb 1980 p. 284); s. 4: 15 Feb 1980 (see s. 2(2) and <i>Gazette</i> 15 Feb 1980 p. 456); s. 5: 2 May 1980 (see s. 2(2) and <i>Gazette</i> 2 May 1980 p. 1405)
Untitled regulations published in <i>Gazette</i> p. 1671-2			6 Jun 1980
Reprint of the Road Traffic Act 1974 approved 22 Jul 1980 (includes amendments listed above)			
<i>Road Traffic Amendment Act 1980</i>	42 of 1980	12 Nov 1980	Act other than s. 3-6, 8, 9(a) and 10: 12 Nov 1980 (see s. 2(1)); s. 3-6, 8, 9(a) and 10: 1 Jan 1981 (see s. 2(2))
<i>Acts Amendment (Motor Vehicle Pools) Act 1980 Pt. II</i>	48 of 1980	19 Nov 1980	19 Nov 1980
<i>Road Traffic Amendment Act (No. 2) 1980</i> ⁴	81 of 1980	5 Dec 1980	5 Dec 1980
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1981</i> published in <i>Gazette</i> p. 1611-18			29 May 1981
<i>Road Traffic Amendment Act 1981</i>	39 of 1981	25 Aug 1981	25 Aug 1981
<i>Road Traffic Amendment Act (No. 2) 1981</i>	71 of 1981	30 Oct 1981	1 Aug 1982 (see s. 2 and <i>Gazette</i> 23 Jul 1982 p. 2842)
<i>Road Traffic Amendment Act (No. 4) 1981</i>	105 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2 and <i>Gazette</i> 2 Feb 1982 p. 393)
<i>Companies (Consequential Amendments) Act 1982</i> s. 28	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079)
<i>Acts Amendment (Motor Vehicle Fees) Act 1982 Pt. III</i>	25 of 1982	27 May 1982	1 Jul 1982 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1982</i> published in <i>Gazette</i> p. 1728-34			28 May 1982

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Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment Act 1982</i>	60 of 1982	24 Sep 1982	Act other than s. 3 and 6(a): 1 Oct 1982 (see s. 2 and <i>Gazette</i> 1 Oct 1982 p. 3885); s. 3 and 6(a): 1 Nov 1982 (see s. 2 and <i>Gazette</i> 1 Oct 1982 p. 3885)
<i>Road Traffic Amendment Act (No. 2) 1982</i> ⁵	82 of 1982	11 Nov 1982	Act other than s. 5, 7, 9, 11-14, 15(d), (e), (g), (j), (l) and (n), 16, 17, 18(a)(ii), (b), (d) and (e), 19, 20(a)-(c) and (e), 21(1), 25 and 26: 11 Nov 1982 (see s. 2(1)); s. 5, 7, 9, 11-13, 14(b), 15(d), 16, 20(a)-(c) and (e), 21(1), 25 and 26: 9 Dec 1982 (see s. 2(2)); s. 14(a), 15(e), (g), (j), (l), and (n), 17, 18(a)(ii), (b), (d) and (e) and 19: 1 Mar 1983 (see s. 2(3) and <i>Gazette</i> 25 Feb 1983 p. 638)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1983</i> published in <i>Gazette</i> p. 1525-32			20 May 1983
Reprint of the Road Traffic Act 1974 approved 9 Jul 1983 (includes amendments listed above)			
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1984</i> published in <i>Gazette</i> p. 1741-51			28 Jun 1984
<i>Road Traffic Amendment Act 1984</i>	95 of 1984	7 Dec 1984	4 Jan 1985
<i>Acts Amendment and Repeal (Credit) Act 1984</i> Pt. VII	102 of 1984	19 Dec 1984	31 Mar 1985 (see s. 2 and <i>Gazette</i> 8 Mar 1985 p. 867)
<i>Acts Amendment and Repeal (Transport Co-ordination) Act 1985</i> Pt. VI	54 of 1985	28 Oct 1985	1 Jan 1986 (see s. 2 and <i>Gazette</i> 20 Dec 1985 p. 4822)
<i>Road Traffic Amendment Act 1985</i>	89 of 1985	4 Dec 1985	4 Dec 1985 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1986</i> published in <i>Gazette</i> p. 1769-75 (erratum 13 Jun 1986 p. 1979)			30 May 1986
<i>Road Traffic Amendment Act (No. 2) 1986</i>	78 of 1986	4 Dec 1986	4 Dec 1986 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1987</i> published in <i>Gazette</i> p. 2263-73			29 May 1987

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Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment Act (No. 2) 1987</i> ^{6,7}	121 of 1987 (as amended by No. 84 of 2004 s. 80 cl. 123 and No. 8 of 2009 s. 112)	24 Dec 1987	s. 1 and 2: 24 Dec 1987; s. 3-6 and 8-10: 24 Dec 1987 (see s. 2 and <i>Gazette</i> 24 Dec 1987 p. 4561); s. 7: 1 Oct 1988 (see s. 2 and <i>Gazette</i> 30 Sep 1988 p. 3967); s. 11(a): 21 Dec 1990 (see s. 2 and <i>Gazette</i> 21 Dec 1990 p. 6212)
<i>Road Traffic Amendment Act 1988</i> ⁸	11 of 1988	6 Sep 1988	s. 1 and 2: 6 Sep 1988; s. 3, 20, 21 and 23: 28 Oct 1988 (see s. 2 and <i>Gazette</i> 28 Oct 1988 p. 4274); s. 8(a) and (b): 4 Nov 1988 (see s. 2 and <i>Gazette</i> 4 Nov 1988 p. 4365); s. 4-7, 9-17, 19, 22 and 24: 16 Nov 1988 (see s. 2 and <i>Gazette</i> 16 Nov 1988 p. 4517); s. 8(c) and 18 (other than paragraph (b)): 21 Jul 1989 (see s. 2 and <i>Gazette</i> 21 Jul 1989 p. 2212); s. 18(b): 19 Sep 1989 (see s. 2 and <i>Gazette</i> 21 Jul 1989 p. 2212)
<i>Road Traffic Amendment (Random Breath Tests) Act 1988</i> ⁹	16 of 1988 (as amended by No. 46 of 1989 s. 4; No. 76 of 1996 s. 41 and No. 39 of 2000 s. 67)	9 Sep 1988	s. 1 and 2: 9 Sep 1988; Act other than s. 1, 2 and 5: 1 Oct 1988 (see s. 2 and <i>Gazette</i> 30 Sep 1988 p. 3967)
<i>Road Traffic Amendment Act (No. 3) 1988</i>	32 of 1988	24 Nov 1988	s. 1 and 2: 24 Nov 1988; Act other than s. 1 and 2: 21 Jul 1989 (see s. 3 and <i>Gazette</i> 21 Jul 1989 p. 2212)
<i>Road Traffic Amendment Act (No. 2) 1988</i>	57 of 1988	8 Dec 1988	s. 1 and 2: 8 Dec 1988; Act other than s. 1 and 2: 1 Feb 1989 (see s. 2 and <i>Gazette</i> 23 Dec 1988 p. 4937)
<i>Acts Amendment (Events on Roads) Act 1988 Pt. 2</i>	64 of 1988	8 Dec 1988	1 Feb 1991 (see s. 2 and <i>Gazette</i> 1 Feb 1991 p. 511)
<i>Acts Amendment (Children's Court) Act 1988 Pt. 7</i>	49 of 1988	22 Dec 1988	1 Dec 1989 (see s. 2 and <i>Gazette</i> 24 Nov 1989 p. 4327)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1989</i> published in <i>Gazette</i> p. 2695-704		11 Aug 1989	11 Aug 1989

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Short title	Number and year	Assent	Commencement
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1989</i> published in <i>Gazette</i> 22 Sep 1989 p. 3463			22 Sep 1989
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 3) 1989</i> published in <i>Gazette</i> 17 Nov 1989 p. 4161-5 (erratum 8 Dec 1989 p. 4463)			17 Nov 1989
<i>Acts Amendment (Chemistry Centre (WA)) Act 1990</i> Pt. 3 ¹⁰	19 of 1990	24 Jul 1990	9 Aug 1991 (see s. 2 and <i>Gazette</i> 9 Aug 1991 p. 4101)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1990</i> published in <i>Gazette</i> 29 Aug 1990 p. 4383-90 (erratum 7 Dec 1990 p. 6051)			29 Aug 1990
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1990</i> published in <i>Gazette</i> 23 Nov 1990 p. 5850-1			23 Nov 1990
<i>Road Traffic Amendment Act (No. 3) 1990</i>	60 of 1990	17 Dec 1990	s. 1 and 2: 17 Dec 1990; Act other than s. 1 and 2: 21 Dec 1990 (see s. 2 and <i>Gazette</i> 21 Dec 1990 p. 6212)
Reprint of the Road Traffic Act 1974 as at 4 Apr 1991 (includes amendments listed above except those in the <i>Acts Amendment (Chemistry Centre (WA)) Act 1990</i>)			
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1991</i> published in <i>Gazette</i> 23 Aug 1991 p. 4417-22			23 Aug 1991
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1991</i> published in <i>Gazette</i> 22 Nov 1991 p. 5958-9			22 Nov 1991
<i>Criminal Law Amendment Act 1991</i> s. 6(2) and 21 ¹¹	37 of 1991	12 Dec 1991	s. 6(2): 12 Dec 1991 (see s. 2(1)); s. 21: 10 Feb 1992 (see s. 2(2) and <i>Gazette</i> 31 Jan 1992 p. 477)
<i>Road Traffic (Bicycle Helmets) Amendment Act 1991</i>	46 of 1991	17 Dec 1991	17 Dec 1991 (see s. 2)
<i>Road Traffic Amendment (Power Assisted Pedal Cycles) Act 1991</i>	50 of 1991	17 Dec 1991	s. 1 and 2: 17 Dec 1991; Act other than s. 1 and 2: 24 Dec 1991 (see s. 2 and <i>Gazette</i> 24 Dec 1991 p. 6395)
<i>Criminal Law Amendment Act 1992</i> Pt. 3	1 of 1992	7 Feb 1992	9 Mar 1992 (see s. 2)
<i>Road Traffic Amendment Act 1992</i>	13 of 1992	16 Jun 1992	16 Jun 1993 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1992</i> published in <i>Gazette</i> 21 Aug 1992 p. 4162-6			21 Aug 1992
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1992</i> published in <i>Gazette</i> 13 Nov 1992 p. 5591-2			13 Nov 1992
<i>Financial Administration Legislation Amendment Act 1993</i> s. 6 and 11	6 of 1993	27 Aug 1993	s. 11: 1 Jul 1993 (see s. 2(1)); s. 6: 27 Aug 1993 (see s. 2(2))

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Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Vehicles on Roads) Act 1994 Pt. 3</i>	13 of 1994	15 Apr 1994	17 May 1994 (see s. 2 and <i>Gazette</i> 17 May 1994 p. 2065)
<i>Taxi Act 1994 s. 48</i>	83 of 1994	20 Dec 1994	10 Jan 1995 (see s. 2 and <i>Gazette</i> 10 Jan 1995 p. 73)
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994 Pt. 19</i>	92 of 1994	23 Dec 1994	1 Jan 1995 (see s. 2(1) and <i>Gazette</i> 30 Dec 1994 p. 7211)
Reprint of the Road Traffic Act 1974 as at 1 Jun 1995 (includes amendments listed above)			
<i>Road Traffic Amendment Act 1995</i>	21 of 1995	13 Jul 1995	s. 1 and 2: 13 Jul 1995; Act other than s. 1 and 2: 25 Nov 1995 (see s. 2 and <i>Gazette</i> 24 Nov 1995 p. 5390)
<i>Acts Amendment (Vehicle Licences) Act 1995 Pt. 2</i>	57 of 1995	20 Dec 1995	20 Dec 1995 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 71 and s. 147</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1996</i> published in <i>Gazette</i> 24 May 1996 p. 2181-9			24 May 1996
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Consumer Credit (Western Australia) Act 1996 s. 13</i>	30 of 1996	10 Sep 1996	1 Nov 1996 (see s. 2)
<i>Road Traffic Amendment (Measuring Equipment) Act 1996</i>	37 of 1996	27 Sep 1996	27 Sep 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 27(3) and 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2)
<i>Road Traffic Amendment Act 1996</i> ^{12, 13}	76 of 1996 (as amended by No. 49 of 1996 s. 27(4); No. 54 of 2006 s. 43(2))	14 Nov 1996	s. 1 and 2: 14 Nov 1996; Act other than s. 1, 2 and 8(3): 1 Feb 1997 (see s. 2 and <i>Gazette</i> 31 Jan 1997 p. 613)
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1996</i> published in <i>Gazette</i> 17 Dec 1996 p. 7014-15			17 Dec 1996
Reprint of the Road Traffic Act 1974 as at 25 Mar 1997 (includes amendments listed above)			
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1997</i> published in <i>Gazette</i> 13 May 1997 p. 2344-9			13 May 1997

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Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment Act 1997</i> ¹⁴	50 of 1997	12 Dec 1997	s. 1 and 2: 12 Dec 1997; Act other than s. 1 and 2: 1 Jan 1998 (see s. 2 and <i>Gazette</i> 23 Dec 1997 p. 7400)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 106	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1998</i> published in <i>Gazette</i> 12 May 1998 p. 2799-800			15 May 1998 (see r. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1998</i> published in <i>Gazette</i> 3 Jul 1998 p. 3603-4			3 Jul 1998 (see r. 2)
<i>Road Traffic Amendment Act 1998</i>	52 of 1998	7 Dec 1998	7 Dec 1998 (see s. 2)
<i>Perth Parking Management (Consequential Provisions) Act 1999</i> s. 7(4)	16 of 1999	19 May 1999	7 Aug 1999 (see s. 2 and <i>Gazette</i> 6 Aug 1999 p. 3727)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 1999</i> published in <i>Gazette</i> 25 May 1999 p. 2070-1			25 May 1999 (see r. 2)
<i>Revenue Laws Amendment (Assessment) Act 1999</i> Pt. 3	24 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(3))
Reprint of the Road Traffic Act 1974 as at 17 Sep 1999 (includes amendments listed above)			
<i>School Education Act 1999</i> s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Acts Amendment (Police Immunity) Act 1999</i> s. 9	42 of 1999	25 Nov 1999	25 Nov 1999 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2000</i> published in <i>Gazette</i> 17 May 2000 p. 2421-3			31 May 2000 (see r. 2 and <i>Gazette</i> 17 May 2000 p. 2426)
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 39 and 55	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment Act 2000 Pt. 2</i> ¹⁵⁻¹⁹	39 of 2000 (as amended by No. 5 of 2002 s. 15; No. 45 of 2002 s. 28(2); No. 84 of 2004 s. 80 (cl. 124))	10 Oct 2000	s. 3, 17(1), 34-37 and 47(3): 30 Jan 2001 (see s. 2 and <i>Gazette</i> 30 Jan 2001 p. 615); s. 18, 23, 24, 27, 29 and 48 and Sch. 1 (except cl. 3 and 5): 5 Feb 2001 (see s. 2 and <i>Gazette</i> 30 Jan 2001 p. 615); s. 19-22, 25, 26, 28 and 45 and Sch. 1 cl. 3 and 5: 7 May 2001 (see s. 2 and <i>Gazette</i> 23 Mar 2001 p. 1665); Proclamation of 9 Feb 2001 p. 767 revoked (see <i>Gazette</i> 23 Mar 2001 p. 1665); s. 6 deleted by No. 5 of 2002 s. 15; s. 4, 5, 7-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4): 1 Jan 2006 (see s. 2 and <i>Gazette</i> 23 Dec 2005 p. 6244-5)
<i>Acts Amendment (Fines Enforcement and Licence Suspension) Act 2000 Pt. 3</i>	51 of 2000	28 Nov 2000	5 Feb 2001 (see s. 2 and <i>Gazette</i> 30 Jan 2001 p. 615)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2001</i> published in <i>Gazette</i> p. 3247			29 Jun 2001 (see r. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 2001</i> published in <i>Gazette</i> p. 4256-8			14 Aug 2001 (see r. 2)
Reprint of the Road Traffic Act 1974 as at 19 Oct 2001 (includes amendments listed above except those in the <i>Road Traffic Amendment Act 2000</i> s. 4-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4))			
<i>Road Traffic Amendment Act 2001</i>	27 of 2001	21 Dec 2001	s. 1 and 2: 21 Dec 2001; Act other than s. 1 and 2: 10 Aug 2002 (see s. 2 and <i>Gazette</i> 9 Aug 2002 p. 3853-4)
<i>Road Traffic Amendment (Vehicle Licensing) Act 2001 Pt. 2</i>	28 of 2001 (as amended by No. 45 of 2002 s. 29(2))	21 Dec 2001	4 Dec 2006 (see s. 2 and <i>Gazette</i> 28 Nov 2006 p. 4889)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2002</i> published in <i>Gazette</i> p. 2558-60			17 May 2002 (see r. 2)
<i>Motor Vehicle Dealers Amendment Act 2002</i> s. 72	4 of 2002	4 Jun 2002	1 Sep 2002 (see s. 2 and <i>Gazette</i> 13 Aug 2002 p. 4151)
<i>Road Safety Council Act 2002</i> s. 15	5 of 2002	4 Jun 2002	1 Jul 2002 (see s. 2(1) and <i>Gazette</i> 1 Jul 2002 p. 3205)

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Short title	Number and year	Assent	Commencement
<i>Machinery of Government (Planning and Infrastructure) Amendment Act 2002 Pt. 7</i> ²⁰	7 of 2002	19 Jun 2002	1 Jul 2002 (see s. 2 and <i>Gazette</i> 28 Jun 2002 p. 3037)
<i>Taxation Administration (Consequential Provisions) Act 2002 s. 27</i> ²¹	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2(1) and (2) and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Nurses Amendment Act 2003 Pt. 3 Div. 7</i>	9 of 2003	9 Apr 2003	9 Apr 2003 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2003</i> published in <i>Gazette</i> 20 May 2003 p. 1804-6			31 May 2003 (see r. 2)
<i>Sentencing Legislation Amendment and Repeal Act 2003 Pt. 3 and s. 92</i>	50 of 2003	9 Jul 2003	Pt. 3: 30 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Aug 2003 p. 3833); s. 92: 15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 105</i> ²²	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Criminal Code Amendment Act 2004 s. 58</i>	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2004</i> published in <i>Gazette</i> 28 May 2004 p. 1843-5			31 May 2004 (see r. 2)
<i>Road Traffic Amendment Act 2004</i>	6 of 2004	10 Jun 2004	10 Jun 2004 (see s. 2)
<i>Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004</i>	10 of 2004	23 Jun 2004	s. 1 and 2: 23 Jun 2004; Act other than s. 1 and 2: 4 Sep 2004 (see s. 2 and <i>Gazette</i> 3 Sep 2004 p. 3849)
Reprint 8: The Road Traffic Act 1974 as at 16 Jul 2004 (includes amendments listed above except those in the <i>Road Traffic Amendment Act 2000</i> s. 4, 5, 7-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4), <i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i> and the <i>Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004</i>)			
<i>Road Traffic Amendment (Dangerous Driving) Act 2004</i> ²³	44 of 2004	9 Nov 2004	s. 1 and 2: 9 Nov 2004; Act other than s. 1 and 2: 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7132)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> ²⁴	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 115</i> ²⁵	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)

Short title	Number and year	Assent	Commencement
<i>Criminal Law Amendment (Simple Offences) Act 2004 s. 82</i>	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 2004</i> published in <i>Gazette</i> 24 Dec 2004 p. 6255			1 Feb 2005 (see r. 2)
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2005</i> published in <i>Gazette</i> 27 May 2005 p. 2306-8			31 May 2005 (see r. 2)
Reprint 9: The Road Traffic Act 1974 as at 10 Mar 2006 (includes amendments listed above except those in the <i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i>)			
<i>Road Traffic (Fees for Vehicle Licences) Regulations 2006</i> published in <i>Gazette</i> 26 May 2006 p. 1885-8			31 May 2006 (see r. 2)
<i>Nurses and Midwives Act 2006</i> Sch. 3 cl. 20	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and <i>Gazette</i> 18 Sep 2007 p. 4711)
<i>Road Traffic Amendment Act 2006</i> Pt. 2 (s. 3-35) ²⁶⁻²⁸	54 of 2006	26 Oct 2006	s. 27: 7 Jul 2007 (see s. 2 and <i>Gazette</i> 6 Jul 2007 p. 3385); s. 19: 11 Oct 2007 (see s. 2 and <i>Gazette</i> 11 Oct 2007 p. 5475); Pt. 2 (other than s. 19 and 27): 30 Jun 2008 (see s. 2 and <i>Gazette</i> 10 Jun 2008 p. 2471)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Road Traffic Amendment Act 2007</i>	4 of 2007	11 Apr 2007	s. 1 and 2: 11 Apr 2007; Act other than s. 1 and 2: 1 May 2007 (see s. 2 and <i>Gazette</i> 27 Apr 2007 p. 1831)
<i>Road Traffic Amendment (Drugs) Act 2007</i> Pt. 2	6 of 2007	23 May 2007	12 Oct 2007 (see s. 2 and <i>Gazette</i> 11 Oct 2007 p. 5475)
<i>Chemistry Centre (WA) Act 2007</i> s. 43	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2(1) and <i>Gazette</i> 27 Jul 2007 p. 3735)
<i>Road Traffic Amendment Act (No. 2) 2007</i> Pt. 2 (s. 3-40)	39 of 2007	21 Dec 2007	Div. 6: 22 Dec 2007 (see s. 2(j)); s. 3-16 (other than s. 6(2)(b)(ii), 19-24, 27-30: 15 Mar 2008 (see s. 2(b)-(j) and <i>Gazette</i> 14 Mar 2008 p. 829); s. 6(2)(b)(ii): 15 Mar 2008 (see s. 2(c)); s. 17, 18 and 25: 30 Jun 2008 (see s. 2(d)-(f)); s. 26 and Div. 5: 1 Jul 2008 (see s. 2(g)-(i) and <i>Gazette</i>

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Short title	Number and year	Assent	Commencement
			27 Jun 2008 p. 3117); Div. 4 (other than s. 26): 1 Dec 2010 (see s. 2(g) and <i>Gazette</i> 12 Nov 2010 p. 5659)
<i>Acts Amendment (Justice) Act 2008</i> s. 131	5 of 2008	31 Mar 2008	30 Sep 2008 (see s. 2(d) and <i>Gazette</i> 11 Jul 2008 p. 3253)
<i>Duties Legislation Amendment Act 2008</i> Sch. 1 cl. 33	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
<i>Medical Practitioners Act 2008</i> Sch. 3 cl. 51	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
<i>Road Traffic Amendment Act 2008</i>	24 of 2008	13 Jun 2008	s. 1 and 2: 13 Jun 2008 (see s. 2(1)(a)); Act other than s. 1, 2, 5(a) and 8: 19 Jul 2008 (see s. 2(1)(b) and <i>Gazette</i> 18 Jul 2008 p. 3329); s. 5(a) and 8: 1 Jul 2009 (see s. 2(1)(b) and (2) and <i>Gazette</i> 23 Jun 2009 p. 2423)
<i>Criminal Law Amendment (Homicide) Act 2008</i> s. 38	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(d) and <i>Gazette</i> 22 Jul 2008 p. 3353)
Reprint 10: The Road Traffic Act 1974 as at 3 Oct 2008 (includes amendments listed above except those in the <i>Medical Practitioners Act 2008</i> , <i>Road Traffic Amendment Act (No. 2) 2007</i> Pt. 2 Div. 4 (other than s. 26) and the <i>Road Traffic Amendment Act 2008</i> s. 5(a) and 8) (correction in <i>Gazette</i> 19 Oct 2010 p. 5202)			
<i>Road Traffic Amendment (Hoons) Act 2009</i> Pt. 2	23 of 2009	6 Oct 2009	1 Jan 2010 (see s. 2(1)(b) and (2) and <i>Gazette</i> 31 Dec 2009 p. 5421)
<i>Road Traffic Legislation Amendment (Registration Labels) Act 2009</i> Pt. 2	39 of 2009	3 Dec 2009	1 Jan 2010 (see s. 2(b))
<i>Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010</i> s. 12	14 of 2010	25 Jun 2010	1 Jul 2010 (see s. 2(b) and <i>Gazette</i> 30 Jun 2010 p. 3185)
<i>Standardisation of Formatting Act 2010</i> s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Road Traffic Amendment Act 2010</i>	20 of 2010	7 Jul 2010	s. 1 and 2: 7 Jul 2010 (see s. 2(a)); Act other than s. 1 and 2: 1 Sep 2010 (see s. 2(b) and <i>Gazette</i> 27 Aug 2010 p. 4105)
<i>Health Practitioner Regulation National Law (WA) Act 2010</i> Pt. 5 Div. 45	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)

Short title	Number and year	Assent	Commencement
<i>Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010</i> Pt. 2 (other than s. 12(2)(c), (5)(d) and (7)(b)) ²⁹	51 of 2010 (as amended by No. 17 of 2014 s. 36)	8 Dec 2010	s. 3 and 6-10: 9 Dec 2010 (see s. 2(b)); s. 4 and 13: 9 Apr 2011 (see s. 2(c) and <i>Gazette</i> 8 Apr 2011 p. 1281); s. 12 (other than 12(2)(c), (5)(d) and (7)(b)): 4 Jul 2011 (see s. 2(c) and <i>Gazette</i> 20 May 2011 p. 1837); s. 5, 11, 14 and 15: 1 Aug 2012 (see s. 2(c) and <i>Gazette</i> 27 Jul 2012 p. 3664)
Reprint 11: The Road Traffic Act 1974 as at 28 Jan 2011 (includes amendments listed above except those in the <i>Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010</i> s. 4, 5 and 11-15)			
<i>Road Traffic Amendment (Alcohol and Drug Related Offences) Act 2011</i> Pt. 2	14 of 2011	25 May 2011	1 Oct 2011 (see s. 2(b) and <i>Gazette</i> 30 Aug 2011 p. 3503)
<i>Road Traffic Legislation Amendment (Information) Act 2011</i> Pt. 2	18 of 2011	2 Jun 2011	Pt. 2 (other than s. 9): 30 Jun 2011 (see s. 2(b) and <i>Gazette</i> 29 Jun 2011 p. 2611); s. 9: 14 Jan 2013 (see s. 2(b) and <i>Gazette</i> 4 Jan 2013 p. 3)
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011</i> Pt. 12 Div. 3	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)
<i>Manslaughter Legislation Amendment Act 2011</i> Pt. 3	58 of 2011	30 Nov 2011	17 Mar 2012 (see s. 2(b) and <i>Gazette</i> 16 Mar 2012 p. 1245)
<i>Road Traffic Legislation Amendment Act 2012</i> Pt. 3 (s. 4-38)	8 of 2012 (as amended by No. 10 of 2015 s. 14-18)	21 May 2012	Pt. 3 (s. 15-18): 1 Aug 2012 (see s. 2(c)(ii) and <i>Gazette</i> 27 Jul 2012 p. 3664); Pt. 3 (other than s. 15-18): 27 Apr 2015 (see s. 2(b)(i) and (d) and <i>Gazette</i> 17 Apr 2015 p. 1371)
<i>Fire and Emergency Services Legislation Amendment Act 2012</i> Pt. 7 Div. 13	22 of 2012	29 Aug 2012	1 Nov 2012 (see s. 2(b) and <i>Gazette</i> 31 Oct 2012 p. 5255)
<i>Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012</i> Pt. 4 Div. 7	48 of 2012	29 Nov 2012	21 Aug 2013 (see s. 2(b) and <i>Gazette</i> 20 Aug 2013 p. 3815)
<i>Road Traffic (Miscellaneous Amendments) Act 2012</i> Pt. 2	59 of 2012 (as amended by No. 10 of 2015 s. 21)	11 Dec 2012	Pt. 2 (other than s. 12): 12 Dec 2012 (see s. 2(b)); s. 12: 27 Apr 2015 (see s. 2(c)(ii) and <i>Gazette</i> 17 Apr 2015 p. 1371)

Road Traffic Act 1974

Short title	Number and year	Assent	Commencement
Reprint 12: The Road Traffic Act 1974 as at 22 Mar 2013 (includes amendments listed above except those in the <i>Road Traffic Legislation Amendment Act 2012</i> Pt. 3 (other than s. 15-18), the <i>Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012</i> and the <i>Road Traffic (Miscellaneous Amendments) Act 2012</i> s. 12)			
<i>Statutes (Repeals and Minor Amendments) Act 2014</i> s. 35	17 of 2014	2 Jul 2014	6 Sep 2014 (see s. 2(b) and <i>Gazette</i> 5 Sep 2014 p. 3213)
<i>Road Traffic Legislation Amendment Act 2015</i> Pt. 2	10 of 2015	1 Apr 2015	2 Apr 2015 (see s. 2(b))
Reprint 13: The Road Traffic Act 1974 as at 12 Jun 2015 (includes amendments listed above)			
Road Traffic Legislation Amendment Bill (No. 2) 2015 Pt. 2 Div. 1, Pt. 3 Div. 1 Subdiv. 1, Div. 3 Subdiv. 1 and Div. 4 Subdiv. 1	Current Bill No. 151-2		

^{1M} Under the *Cross-border Justice Act 2008* section 14, in order to give effect to that Act, this Act must be applied with the modifications prescribed by the *Cross-border Justice Regulations 2009* Part 3 Division 19 as if this Act had been altered in that way. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

^{1a} On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Medicines and Poisons Act 2014</i> s. 188 ³⁰	13 of 2014	2 Jul 2014	To be proclaimed (see s. 2(b))
<i>Taxi Drivers Licensing Act 2014</i> Pt. 10 Div. 1 ³¹	18 of 2014	2 Jul 2014	To be proclaimed (see s. 2(c))
<i>Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015</i> Pt. 2 and Pt. 3 Div. 1 ^{32, 33}	2 of 2015	25 Feb 2015	To be proclaimed (see s. 2(1)(b) and (2))

² Repealed by the *Interpretation Act 1984*.

³ The *Road Traffic Amendment Act (No. 2) 1982* s. 30 and 31 deleted the *Road Traffic Act Amendment Act 1978* s. 16(a), (b) and (c) and 23.

⁴ The *Road Traffic Amendment Act (No. 2) 1980* s. 10(2) reads as follows:

- (2) A traffic sign or traffic control signal or similar device purported to have been erected for the purposes of the principal Act and the regulations made thereunder before the coming into operation of this section shall be and always have been a valid and effective traffic sign, traffic control signal, or device for those purposes.

⁵ The *Road Traffic Amendment Act (No. 2) 1982* s. 21(2) is a transitional provision that is of no further effect.

⁶ The *Road Traffic Amendment Act (No. 2) 1987* s. 10(2) reads as follows:

- (2) A certificate that was in force under section 72(3)(b) of the principal Act immediately before the commencement of subsection (1)(d) shall have effect after that commencement as if it certified the person named in the certificate as being competent to operate all types of breath analysing equipment.

⁷ The *Road Traffic Amendment Act (No. 2) 1987* s. 11(b) had not come into operation when it was deleted by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 112.

⁸ The *Road Traffic Amendment Act 1988* s. 17(2) and (3) read as follows:

- (2) In subsection (3) ***the relevant regulations*** means any regulations purporting to have been made under the principal Act before 1 July 1984 that would have been authorised under section 43(7) or (8) of the *Interpretation Act 1984* if they had been made on or after 1 July 1984.
- (3) The principal Act as enacted from time to time before 1 July 1984 is deemed to have authorised the making of the relevant regulations and those regulations shall be deemed to have taken effect and had the force of law accordingly.

⁹ The *Road Traffic Amendment (Random Breath Tests) Act 1989* s. 4 and the *Road Traffic Amendment Act 1996* s. 41 amended the *Road Traffic Amendment (Random Breath Tests) Act 1988* s. 5, which was deleted by the *Road Traffic Amendment Act 2000* s. 67.

¹⁰ The *Acts Amendment (Chemistry Centre (WA)) Act 1990* s. 9 and 10 read as follows:

9. Saving of certificates and labels

A certificate or label issued under the principal Act that purports to have been signed by the director of the Government Chemical Laboratories or prepared by the Government Chemical Laboratories before the commencement of this Act shall continue to have effect as if this Act had not come into operation.

10. Validation

Every act or thing purporting to have been done by the Director or any other officer of the Chemistry Centre (WA) under the principal Act before the commencement of this Act that would have been

lawful if this Act had been in force at the time when it was done is hereby validated and declared to have been lawfully done.

¹¹ The *Criminal Law Amendment Act 1991* it. 1(2) of Pt. A of the Sch. reads as follows:

- (2) Notwithstanding subclause (1), section 59(2), as it was immediately before the commencement of this clause, continues to apply in relation to —
- (a) any death that occurred before the commencement of this clause; and
 - (b) any death that occurs after the commencement of this clause if the driving which directly or indirectly causes the death occurs not less than a year and a day before the commencement of this clause.

¹² The *Road Traffic Amendment Act 1996* s. 52 reads as follows:

52. Actions of delegates validated

- (1) Anything done before the commencement of this section by a person acting under any delegation purporting to have been made by the Traffic Board under any written law, is as valid and has the same force and effect, and is to be regarded as having always been as valid and had the same force and effect, as if it had been done by the Traffic Board.
- (2) In subsection (1) —
Traffic Board means the Traffic Board constituted under section 6 of the *Road Traffic Act 1974* as it was before the commencement of this Act.

¹³ The *Road Traffic Amendment Act 1996* s. 8(3) was deleted by the *Road Traffic Amendment Act 2006* s. 43(2).

¹⁴ The amendment to s. 20(2) referred to in the *Road Traffic Amendment Act 1997* s. 13 did not come into operation because of an error in the reference to the provision to be amended.

¹⁵ The *Road Traffic Amendment Act 2000* s. 48 and Sch. 1 read as follows:

48. Savings and transitional
Schedule 1 has effect.

Schedule 1 reads as follows:

Schedule 1 — Savings and transitional

[s. 48]

1. Interpretation

In this Part —

commencement day means the day on which this Act comes into operation under section 2.

2. Section 18 amendments have no effect in relation to certain applications

The amendments made by section 18 have no effect in relation to an application for a driver's licence by a person who holds a permit issued under section 48C of the *Road Traffic Act 1974* before the commencement day.

3. Licences to drive vehicles formerly classified by reference to use

If —

- (a) immediately before the commencement day, a person was the holder of a driver's licence authorising the person to drive a motor vehicle classified under section 43(2) by reference to the purpose for which or manner in which it is being used; and
- (b) on and after the commencement day the purpose or manner is prohibited by regulations under section 43(1)(aa) of the *Road Traffic Act 1974*,

the licence, or any new class of licence held by the person under section 43(1)(e) of the *Road Traffic Act 1974*, is to be regarded as having been endorsed to confer the authority to drive for that purpose or in that manner.

4. Section 23 amendments have effect only in relation to licences issued after commencement

The amendments made by section 23 have effect only in relation to a driver's licence issued after the commencement day.

5. Duplicate licences

If —

- (a) after the commencement day a person applies for a duplicate of a driver's licence under section 48B of the *Road Traffic Act 1974*; and
- (b) the licence was issued before the commencement day without the photograph and signature of the licence holder,

then section 42B of the *Road Traffic Act 1974* applies to the issue of the duplicate as if it were the issue of a driver's licence.

¹⁶ The amendment in the *Road Traffic Amendment Act 2000* s. 16(2) to amend s. 25(2) is not included because the subsection it sought to amend had been deleted by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 1062(2).

¹⁷ The amendment in the *Road Traffic Amendment Act 2000* s. 33 to amend s. 59(1a) is not included because the subsection it sought to amend had been deleted by the *Criminal Code Amendment Act 2004* Sch. 3 cl. 27(3);

¹⁸ The amendment in the *Road Traffic Amendment Act 2000* s. 33 to amend s. 59(3) is not included because the subsection it sought to amend had been amended by the *Road Traffic Amendment (Dangerous Driving) Act 2004* s. 5(3).

¹⁹ The amendment in the *Road Traffic Amendment Act 2000* s. 39 to amend s. 89 is not included because the section it sought to amend had been deleted by the *Criminal Law Amendment (Simple Offences) Act 2004* s. 82.

²⁰ The *Machinery of Government (Planning and Infrastructure) Amendment Act 2002* s. 67-69 read as follows:

67. Agreements under former *Transport Co-ordination Act 1966* section 15C

- (1) To the extent that, immediately before the commencement of this Act, an agreement under the former section 15C made provision about the performance of functions of the former Director General under a relevant Act, the agreement continues, when this Act comes into operation, as an agreement under the new provision of the relevant Act.
- (2) To the extent that the agreement continues under subsection (1), it applies as if —
 - (a) instead of being made by the Minister referred to in the former section 15C, the agreement had been made by the Director General referred to in the new provision of the relevant Act; and
 - (b) instead of providing for the performance of functions of the former Director General, the agreement made similar provision for the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act.

- (3) In this section —

former Director General means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;

former section 15C means the *Transport Co-ordination Act 1966* section 15C as in force before it was repealed by this Act;

new provision means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4B;
- (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4A;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QA; or
- (d) the *Road Traffic Act 1974* section 6B;

relevant Act means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978*;
- (b) the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943*; or
- (d) the *Road Traffic Act 1974*.

68. Delegations under former *Transport Co-ordination Act 1966* section 18

- (1) To the extent that, immediately before the commencement of this Act, a delegation under the former section 18 applied to the

performance of functions or powers of the former Director General under a relevant Act, the delegation continues, when this Act comes into operation, as a delegation under the new provision of the relevant Act.

- (2) To the extent that the delegation continues under subsection (1), it applies as if —
- (a) instead of being made by the former Director General, the delegation had been made by the Director General referred to in the new provision of the relevant Act;
 - (b) instead of delegating the performance of functions of the former Director General, the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act were delegated; and
 - (c) any Ministerial approval that would have been required in order for the delegation to be made under the new provision of the relevant Act had been given.

- (3) In this section —

former Director General means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;

former section 18 means the *Transport Co-ordination Act 1966* section 18 as in force before it was amended by this Act;

new provision means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4A;
- (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QB;
- (d) the *Rail Safety Act 1998* section 57A;
- (e) the *Road Traffic Act 1974* section 6A; or
- (f) the *Transport Co-ordination Act 1966* section 18;

relevant Act means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978*;
- (b) the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943*;
- (d) the *Rail Safety Act 1998*;
- (e) the *Road Traffic Act 1974*; or
- (f) the *Transport Co-ordination Act 1966*.

69. Regulations about transitional matters

- (1) If there is no sufficient provision in this Act for dealing with a transitional matter, regulations under an Act amended by this Act may include any provision that is required, or is necessary or convenient, for dealing with the transitional matter.
- (2) In subsection (1) —
- transitional matter** means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the Acts amended by this Act as in force before this Act comes into

operation to the provisions of those Acts as in force after this Act comes into operation.

- (3) Regulations including a provision described in subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.
- (4) To the extent that a regulation including a provision described in subsection (1) may have effect before the day of its publication in the *Gazette*, it does not —
 - (a) affect in a manner prejudicial to any person (other than the State or an agency of the State), the rights of that person existing before the day of its publication; or
 - (b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of its publication.

²¹ The *Taxation Administration (Consequential Provisions) Act 2002* s. 30 and 32 will not come into operation (see s. 2(2)).

²² The amendment in the *Statutes (Repeals and Minor Amendments) Act 2003* s. 105(4) is not included because the section it sought to amend had been replaced by the *Sentencing Legislation Amendment and Repeal Act 2003* s. 28.

²³ The *Road Traffic Amendment (Dangerous Driving) Act 2004* s. 12 reads as follows:

12. Review

- (1) The Minister is to carry out a review of the operations and effectiveness of the amendments made to the *Road Traffic Act 1974* by this Act as soon as is practicable after the expiry of 18 months from the commencement of the *Road Traffic Amendment (Dangerous Driving) Act 2004*.
- (2) The Minister is to prepare a report based on the review carried out under subsection (1) and is to cause that report to be laid before each House of Parliament as soon as practicable.

²⁴ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 46 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

²⁵ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

²⁶ The amendment in the *Road Traffic Amendment Act 2006* s. 15(a) to amend the Table to s. 64(2) is not included because the subsection it sought to amend had been amended by the *Road Traffic Amendment Act (No. 2) 2007* s. 6.

²⁷ The amendment in the *Road Traffic Amendment Act 2006* s. 22(9) to amend s. 76 is not included because the subsection it sought to amend had been amended by the *Road Traffic Amendment (Vehicle Licensing) Act 2001* s. 23.

²⁸ The *Road Traffic Amendment Act 2006* s. 35(2) and Pt. 3 read as follows:

35. Sections 111AA and 111AB inserted and saving

- (2) A declaration under section 103A of the *Road Traffic Act 1974* or regulation under section 103B of that Act made before the commencement of this section is to have effect after the commencement of this section as if it was made under section 111AA or 111AB, as the case requires, of that Act.

Part 3 — Transitional provision

36. Existing demerit points

Points currently recorded in respect of a person under section 103 of the *Road Traffic Act 1974* immediately before that section is repealed by section 29, and details of any offence in respect of which the points were recorded, are to be recorded as demerit points against the person in the demerit points register referred to in Part VIA of the *Road Traffic Act 1974* as inserted by section 31.

²⁹ The *Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010* s. 12(2)(c), (5)(d) and (7)(b) had not come into operation when they were deleted by the *Statutes (Repeals and Minor Amendments) Act 2014* s. 36.

³⁰ On the date as at which this reprint was prepared, the *Medicines and Poisons Act 2014* s. 188 had not come into operation. It reads as follows:

188. Road Traffic Act 1974 amended

- (1) This section amends the *Road Traffic Act 1974*.
- (2) In section 65 in the definition of **drug** delete paragraph (b) and insert:
- (b) a Schedule 4 poison as defined in the *Medicines and Poisons Act 2014* section 3; or

³¹ The *Taxi Drivers Licensing Act 2014* Pt. 10 Div. 1 cannot come into operation because the sections it seeks to amend were deleted by the *Road Traffic Legislation Amendment Act 2012* s. 8.

³² On the date as at which this reprint was prepared, the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* Pt. 2 (s. 3-9) and Pt. 3 Div. 1 (s. 10-13) had not come into operation. They read as follows:

Part 2 — Amendments which may be brought into operation on or after Royal Assent

3. Act amended

This Part amends the *Road Traffic Act 1974*.

4. Section 59 amended

- (1) Delete section 59(1)(a) and insert:
 - (a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or
 - (ba) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
 - (bb) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or

- (2) In section 59(3)(a) delete “subsection (1)(a),” and insert:

subsection (1)(a), (ba) or (bb),

5. Section 59A amended

- (1) Delete section 59A(1)(a) and insert:
 - (a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or
 - (ba) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
 - (bb) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or

- (2) In section 59A(3a) delete “subsection (1)(a),” and insert:

subsection (1)(a), (ba) or (bb),

6. Section 63 amended

- (1) Delete section 63(1) and insert:
 - (1) A person who drives or attempts to drive a motor vehicle —
 - (a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or
 - (b) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or
 - (c) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle,commits an offence, and the offender may be arrested without warrant.

- (2) In section 63(7):
- (a) delete “against this section if it is alleged or appears on the evidence that the accused was under the influence of drugs alone,” and insert:

against subsection (1)(b),
 - (b) in paragraph (a) delete “those drugs” and insert:

the drugs, under the influence of which the accused is alleged or appears on the evidence to be,

7. Section 64AA amended

In section 64AA(2c) delete “section 63, 64, or 67” and insert:

section 63, 64, 64A or 67

8. Section 66 amended

In section 66(2)(ca)(i) delete “section 59(1)(a) or 59A(1)(a)” and insert:

section 59(1)(a), (ba) or (bb) or 59A(1)(a), (ba) or (bb)

9.³³ Section 97 amended

Delete section 97(2)(a) and insert:

- (a) while disqualified from obtaining a driver’s licence apply for or obtain such a licence, except that a person may apply for such a licence during the last 6 weeks of the period of disqualification;
- (ba) while disqualified from obtaining any particular licence other than a driver’s licence apply for or obtain such a licence;

Part 3 — Amendments which may be brought into operation on or after the day fixed under the *Road Traffic (Administration) Act 2008* section 2(b)

Division 1 — *Road Traffic Act 1974* amended

10. Act amended

This Division amends the *Road Traffic Act 1974*.

11. Section 49 amended

- (1) In section 49(1) in the Penalty paragraph (c) delete “subsection (3)(a), (b), or (c)” and insert:

subsection (3)(a), (b), (c) or (da)
- (2) After section 49(3)(c) insert:

- (da) who is a member of a class of persons prescribed for the purposes of this paragraph by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A; or

12. Section 64A amended

In section 64A(2):

- (a) in paragraph (f) delete “driver.” and insert:

driver; or

- (b) after paragraph (f) insert:

- (g) is a member of a class of persons prescribed for the purposes of this paragraph by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A.

13. Section 78A amended

In section 78A in the definition of *impounding offence (driver’s licence)* paragraph (a) delete “section 49(3)(a), (b) or (c); or” and insert:

section 49(3)(a), (b), (c) or (da); or

³³ The *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* s. 9 cannot come into operation because the section it seeks to amend was deleted by the *Road Traffic Legislation Amendment Act 2012* s. 8.