

**JOINT STANDING COMMITTEE ON
DELEGATED LEGISLATION**

**ROAD TRAFFIC (FEES FOR VEHICLE LICENCES) REGULATIONS (NO. 2) 2004
AND
ROAD TRAFFIC (LICENSING) AMENDMENT REGULATIONS (NO. 4) 2004**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH,
WEDNESDAY, 29 JUNE 2005**

Members

**Mr Peter Watson (Chairman)
Hon Ray Halligan (Deputy Chairman)
Hon Shelley Archer
Hon Vincent Catania
Mrs Judy Hughes
Dr Graham Jacobs
Hon Barbara Scott
Mr Anthony Simpson**

Hearing commenced at 9.00 am

MAUGHAN, MR TREVOR
Manager, Policy and Standards,
Department for Planning and Infrastructure,
441 Murray Street,
Perth 6000, examined:

The CHAIRMAN: Good morning. On behalf of the committee, I welcome you to the meeting. You signed a document entitled "Information for Witnesses". Have you read and understood it?

Mr Maughan: I have.

The CHAIRMAN: These proceedings are being reported by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones, and try to talk into them and to ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement at today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that the premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee?

Mr Maughan: Yes, please, Mr Chairman. In his third public sector review, the Auditor General identified that the level of a number of agencies' fees were over-recovering the cost of the provision of services. One of those fees was the vehicle licence recording fee, which is provided under section 19 of the Road Traffic Act. The amount of over-recovery was indicated at a sum of about 125 per cent. Government took the view that this was not appropriate, and that the fee should be reduced to reflect the actual cost of the provision of service. However, at the same time, although section 22 of the act enables that fee to be retained by the Director General of the Department for Planning and Infrastructure, the practice is that the whole of the fee is remitted to the consolidated fund for use by government. The department is then funded for the provision of the licensing services from the consolidated fund. It was a requirement that in reducing the recording fee, there be no change to the bottom line of government. The \$3.9 million, I think, that was to result from the reduction was not to be removed from the bottom line. Therefore, it was determined the most appropriate and fairest way to do that was to decrease the recording fee and to provide a similar increase in the vehicle licensing fee. That was the government's decision, and it was the way it was progressed. That is the thrust of the amendments before the committee this morning.

The CHAIRMAN: What input did your department have to the Auditor General's "Third Public Sector Performance Report 2004"? Did your department make a detailed submission about how the recording fees are calculated?

Mr Maughan: My understanding is that the department made submissions. We worked fully and cooperatively with the Office of the Auditor General in its calculation of the fee for service.

Hon RAY HALLIGAN: Based on the Auditor General's comment in his report, will you be reporting the department's basis for determining fees and cost recovery in the department's annual report for 2004-05?

Mr Maughan: I really cannot answer that, Mr Halligan. I am not privy to the preparation of the departmental report. In fact, the report is still at draft stage. I can certainly check and make sure and report back to the committee.

Hon SHELLEY ARCHER: Since the Auditor General's report, has the Department of Treasury and Finance increased its scrutiny of your department's cost-recovery process as part of the budgetary process?

Mr Maughan: The department itself is going through a massive exercise in mapping the costs of the licensing business unit. Recently, the department took the view that the licensing function should form a separate business unit within the department, and should provide for proper full cost recovery. The business unit is in the process of going through all its cost mechanisms to clearly identify, first, the cost of the provision of the service, and, second, whether the cost levied for the provision of the service adequately recoups those costs.

Dr GRAHAM JACOBS: Following the amendment to the regulations, what is the current extent of the cost recovery associated with motor vehicle licence fees?

Mr Maughan: That will not be known finally until the end of financial year accounts are done. The indication is that they are pitched at the appropriate level to recover the cost of the provision of the service.

Mr ANTHONY SIMPSON: Has your department sought legal advice on whether the department's recording fee on motor vehicle licences is a tax?

Mr Maughan: Yes, we sought that advice in previous times, and the view is that it is not a tax.

The CHAIRMAN: What methodology is used to determine motor vehicle licence recording fees? Is it traditional costing methods or activity-based costing?

Mr Maughan: We use activity-based costing to determine the fees. Factored into that is the overall cost of the infrastructure provided as part of the provision of those services.

Hon RAY HALLIGAN: When determining a motor vehicle licence recording fee, do you consider comparative fees in other states?

Mr Maughan: No.

The CHAIRMAN: Is there any reason for not doing that?

Mr Maughan: The purpose of the fee is to recover the cost of the provision of the service in Western Australia. What the cost structure may be in another jurisdiction is not an issue for us.

Mr ANTHONY SIMPSON: Would it not be worth looking into their way of doing things? Obviously, you are trying to get the best service for the cost.

Mr Maughan: There are massive differences between the jurisdictions. For example, Western Australia has compulsory third party insurance through a single provider. Other states allow private third party insurance. Therefore, the cost structure in running those types of licensing schemes is vastly different from ours.

Hon SHELLEY ARCHER: Is there any cross-subsidisation of recording fees for the various licences issued by your department?

Mr Maughan: I take it that you are referring to vehicle licences. No, there is not. The recording fee is standard, with the exception of heavy vehicles. They have a higher recording fee. That was not reduced because the amount of work required in that type of licensing is considerably more than with the light vehicle fleet.

Mr ANTHONY SIMPSON: As vehicle licensing applies to heavy vehicles and trucks, does it not go on the vehicle's weight?

Mr Maughan: It goes on a number of factors. Let us take a car licence. There is a set fee for car licences at the moment. The owner are sent out an invoice. That is paid and the owner gets a sticker, and blah, blah - everybody is a happy chappie. With heavy vehicles and the prime movers, the vehicle licensing fee depends on the configuration the vehicle will be used in; hence the requirement for owners of heavy vehicles to nominate the configuration of the vehicle's use. Therefore, another process is involved. The registration label must contain certain information such as the configuration and weight of the trailers that can be attached. That must be manually added to the licence sticker that is placed on the windscreen. Although the process seems similar, it is markedly different and much more expensive.

Mr ANTHONY SIMPSON: Would you not look at simplifying that? Given the way the industry is heading, could a better system than manual input not apply?

Mr Maughan: Western Australia is subject to an intergovernmental agreement with the national government about heavy vehicle charges, which are determined by the Australian Transport Council and implemented by each jurisdiction. A uniform set of charges applies across Australia. If we move any of those charges, it would need to be done through negotiation with other jurisdictions.

Mr ANTHONY SIMPSON: You are uniform with heavy vehicles, but you stand alone in recovering fees.

Dr GRAHAM JACOBS: In your introductory comments, you talked about over-recovery of the recording fee. You talked about reducing one fee and increasing another. If the motor vehicle licence recording fee and the annual motor vehicle licence fee are two separately calculated fees, why did the annual fee increase as soon as the recording fee was decreased?

Mr Maughan: I am sorry; I do not get the thrust of the question. We did it simultaneously so that the government's bottom line would not change. That was the government's requirement in changing the fee structures; namely, the bottom line of government was not to change.

Dr GRAHAM JACOBS: Although you recognised there was an over-recovery in one component, you decreased that, but you also increased the other component. Of course, if there was over-recovery in one component, you reduced that aspect. You then increased the other component. It could be said that that then was an over-recovery.

Mr Maughan: In fact, no. Although the Road Traffic Act empowers vehicle licence fees to be paid to the Main Roads trust fund for the construction and maintenance of the road network, the amounts recovered from licence fees are far less than the cost of the provision of the road infrastructure. In other words, at all stages the vehicle licence fee was under-recovering the cost of the road infrastructure. By increasing it, it was only narrowing the gap of under-recovery.

Hon RAY HALLIGAN: That is an extremely interesting argument. I will look into that further. That gives you enormous flexibility, does it not? I understand what you say about the cost of the road infrastructure, which is enormous. Therefore, you could charge anything you like at any point in time. I am not sure that that was the original intent of cost recovery in this instance. You mentioned the surplus and that it went to the consolidated fund. Funds that normally go to the consolidated fund are taxes. If the department has recovered more than its costs and has surpluses to provide to government to place in the consolidated fund, to my mind, that is a tax. That being the case, that type of increase through regulation is inappropriate.

[9.15 am]

Mr Maughan: There is no doubt that there is an element of taxation in the vehicle licensing fee. It is a fee that is hypothecated to the Main Roads trust fund. It is very clear in an earlier *Hansard* that

the purpose of that licensing fee was to recover the cost of the provision of road infrastructure. With the effluxion of time, those fees have simply never been able to keep up with the actual cost to government. The road traffic amendment act of, I think 2001, has a taxing act associated with it, which clarifies that any fee for vehicle licences was in fact a tax. That has been well and truly appreciated.

Hon RAY HALLIGAN: That is fine in itself if it is in the primary legislation. It is government policy and it is debated in the house.

Mr Maughan: That taxing act went through Parliament in 2001.

Hon RAY HALLIGAN: That is fine; I understand that. I said that anything over and above cost recovery that is prescribed by regulation is inappropriate. It should be cost recovery alone.

Mr Maughan: Although the vehicle licensing fees are varied by the regulation, they are in fact a schedule to the Road Traffic Act. On previous occasions, the committee has commented on the mechanism by which the second schedule to the Road Traffic Act is amended.

Hon RAY HALLIGAN: That may be the case, and it is something I will need to explore later. You mentioned that the recovery of fees goes towards the cost of infrastructure. Have you any comparative figures?

Mr Maughan: No, I do not.

Hon RAY HALLIGAN: Does the department have that information? If we are going to recover costs, we must know what the costs are.

Mr Maughan: We have the information for the recording fee. The vehicle licensing costs are calculated by Main Roads WA. As I said, the provisions of the act hypothecate those fees to the Main Roads trust fund.

Hon RAY HALLIGAN: Who calculated these fees - Main Roads WA or DPI?

Mr Maughan: The increase to the licence fee was calculated by DPI on the basis of direction from Treasury that the overall bottom line was not to be affected. The original setting of the fee - the dollars per 100 weight of axle - was determined by Main Roads WA

Hon RAY HALLIGAN: You are the meat in the sandwich to some extent. You did as directed by Treasury after it had asked Main Roads WA to calculate a figure.

Mr Maughan: Yes.

Dr GRAHAM JACOBS: The vehicle licensing fee and what Mr Halligan has outlined concern me because the basis on which the vehicle licence fee is set is very generally termed "recovery of road infrastructure", and it might possibly not do that. In fact, it leaves a lot of leeway and it is very difficult to get accountabilities. Essentially this is what has happened: it seems that one component was over-recovered, so the department said, "Oops, we'll bring it back but we'll actually increase the vehicle licensing fee." I have trouble trying to determine the formula for that increase in that vehicle licensing component. You mentioned the schedule in the Road Traffic Act, but it appears that it leaves a lot of room for movement without much tangible guideline under which one can check an account and, in fact, justify that component. Otherwise, I believe that adjustments can be made at any future time. As does Hon Ray Halligan, I have trouble putting my head around a calculation of that.

Mr Maughan: Road funding is a very complex issue. Funding for the provision of the road infrastructure does not come from one individual source. Funding comes from the commonwealth and the vehicle licensing fee through the consolidated fund and directly from the consolidated fund. Black spots funding is also provided. A whole mishmash of sources of revenue are used for road funding. I honestly do not think we could reach a point at which they could all be equated. That is why, in 2001, Parliament passed a taxing bill to clearly identify that the vehicle licensing fee was a

tax. It was a tax for the purpose of contributing to the consolidated fund, part of which is for the maintenance of roads. Once nominated as a tax, it could be used for hospitals, police or any other purpose of government. That is the importance of that legislation. It broke the nexus that it was some sort of fee as described in the Interpretation Act, which has a very narrow meaning attached to the purpose of those moneys.

Hon RAY HALLIGAN: There maybe some confusion about our question. We are in no way trying to suggest that moneys should not be obtained in these matters by way of a recording fee or licence. We are asking about the methodology. Our concern is that any taxes should be included in primary legislation, which has parliamentary scrutiny. Admittedly, we as a committee are part of that Parliament and we report to that Parliament. This Joint Standing Committee on Delegated Legislation looks purely at subsidiary legislation. I believe that moneys obtained through subsidiary legislation should provide for only cost recovery. If the government wishes to increase fees of any description, it is entirely up to the government. However, if an increase in fees is regulated and surpluses become part of the consolidated fund, that is a back-door approach as far as I am concerned. Those fee increases should be included in primary legislation, thereby allowing Parliament to scrutinise them.

Mr Maughan: It is a philosophical question that I cannot answer. I can say that the fees for vehicle licences are contained within the second schedule of the Road Traffic Act, which is the primary legislation. There are provisions within the act that allow the schedule to be varied by regulation. It is not for me to comment on whether that is philosophically a good thing or a bad thing, but that is the legislative structure under which the fees are set at the moment. Theoretically, the taxing component - the vehicle licence fee - is contained within the primary legislation, albeit the schedule can be amended by regulation.

Hon RAY HALLIGAN: I accept your point, but I can assure you that it is in more legislation than the department's primary legislation. Any increases should reflect increases in costs rather than just be based on a figure plucked out of the air because that is what the department would like. An increase must be associated with the costs. In this example, the explanation was that the bottom line was not to decrease and, therefore, when it was determined that there was an overcharge on the recording fee, it was automatically increased in the licence fee so that the bottom line would not change. There was no association with the increase in the licensing fee and an increase in cost, other than the one you explained; namely, that the cost of road infrastructure is enormous and cannot be recovered. I do not accept that. It is something I will look into further.

Mr ANTHONY SIMPSON: The amended regulations increase the annual motor vehicle licence fee by \$13.20 and a discount equal to the half-year increase is provided to people who pay their licence for 12 months. Your explanatory memorandum states that there will be no increase to the public in overall licensing fees. However, the increase in licence fee will result in recovery by the department of more funds than it recovered previously. Is it correct that not all people will be able to pay a 12-month licence fee and, therefore, fail to benefit from the discount?

Mr Maughan: Yes. We spent many hours trying to ensure that no person would pay more for their vehicle licence than they did before the amendments came into place. Hence, we doubled the increase and gave a discount for 12-monthly renewals. Therefore, the person who paid one recording fee a year paid \$6.60 less and paid \$6.60 more, so it equalled out. We then had to fiddle around with the half-yearly renewal, hence the doubling up of that figure. The end result is that no person pays more now than he or she did prior to the amendments being implemented.

Hon RAY HALLIGAN: That makes everyone feel comfortable, even though, previously, owners were paying more than they should have been. That is exactly what happens in the retail industry: the retailer increases the price and then gives a discount to come back to a figure that the retailer is happy with. The customer believes the retailer has done the right thing by him because he has

provided a discount even though the customer is still paying far too much. However, that is not the issue here.

The CHAIRMAN: The department is correcting a mistake made previously.

Hon RAY HALLIGAN: That is fine. Why provide a discount if it was a matter of correcting a mistake? Discounts are provided for prompt payment and things of that nature to maintain cash flow. I do not know whether that is what government agencies do or are even able to do. Mr Maughan, I would like you to obtain some information if it is available to you. You mentioned that Main Roads WA incurs costs associated with road infrastructure. One hopes that because the department charges the fees that contribute towards the costs, the department may have some of the relevant figures. It should also have the total revenues obtained for different licences through DPI. I would like to see some of the figures relating to light and heavy vehicles, if I may.

Given that you know how much money goes into the consolidated fund, you will no doubt know the estimated cost of providing those licences.

Mr Maughan: I can certainly make that information available.

The CHAIRMAN: Thank you very much for coming in this morning, Mr Maughan.

Mr Maughan: My pleasure.

Hearing concluded at 9.31 am