



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 14 of 1976

An Act to amend the Motor Vehicles Act, 1959-1975.

[Assented to 4th March, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Motor Vehicles Act Amendment Act, 1976".

(2) The Motor Vehicles Act, 1959-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Motor Vehicles Act, 1959-1976".

Commence-
ment.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation made for the purposes of subsection (1) of this section, suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of
principal Act,
s. 4—
Arrangement
of Act.

3. Section 4 of the principal Act is amended by inserting after the item:

PART III_B—Points Demerit Scheme. Section 98b

the item:

PART III_C—Towtrucks. Sections 98c-98n.

Amendment of
principal Act,
s. 5—
Interpretation.

4. Section 5 of the principal Act is amended—

(a) by inserting after the definition of "articulated motor vehicle" in subsection (1) the following definitions:—

"authorized examiner" means—

(a) a member of the police force appointed by the Commissioner of Police for the purpose of conducting practical driving tests;

(b) a person appointed by the Registrar for the purpose of conducting practical driving tests;

or

(c) a person appointed by some public authority, and approved by the Registrar, for the purpose of conducting practical driving tests:

“the balance of the prescribed registration fee” in relation to a motor vehicle registered under this Act at a reduced registration fee, means an amount arrived at by multiplying one-twelfth of the difference between the amount of the registration fee actually paid and the amount of the prescribed registration fee by the number of months of the registration period that remain unexpired; for the purposes of this definition, a portion of a month shall be treated as a whole month;;

(b) by inserting in the definition of “mobile crane” in subsection (1) after the passage “a motor vehicle” the passage “(other than a towtruck)”;

(c) by inserting in subsection (1) after the definition of “premium” the following definition:—

“prescribed registration fee” in relation to a motor vehicle means the registration fee for that motor vehicle prescribed by, or computed in accordance with, the regulations;;

(d) by inserting after the definition of “primary producer” in subsection (1) the following definition:—

“reduced registration fee” in relation to a motor vehicle means a fee payable for the registration of a motor vehicle under this Act that is less than the prescribed registration fee in relation to that motor vehicle;;

(e) by striking out from subsection (1) the definition of “towtruck” and inserting in lieu thereof the following definitions:—

“towtruck” means a motor vehicle designed, adapted or intended to lift and carry, or to lift partially and tow, a motor vehicle that is incapable, by reason of damage or malfunction, of being operated properly under its own motive power:

“towtruck certificate” means a certificate issued by the Registrar under Part IIIC of this Act;;

(f) by striking out from subsection (1) the definition of “tractor”;

and

(g) by striking out from subsection (1) the definition of “weight” and inserting in lieu thereof the following definition:—

“weight” of a vehicle includes the weight of any prescribed accessories or equipment carried (either habitually or intermittently) upon the vehicle:.

Amendment of principal Act, s. 17—
Permits for unregistered vehicles not normally used on roads.

5. Section 17 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “of a fee” and inserting in lieu thereof the passage “of the prescribed fee”;

and

(b) by striking out subsection (2).

Amendment of principal Act s. 19—
General provisions as to permits.

6. Section 19 of the principal Act is amended by inserting after subsection (3) the following subsection:—

(4) A person shall not contravene a term or condition inserted in a permit under this section.

Penalty: One hundred dollars.

Amendment of principal Act, s. 20—
Application for registration.

7. Section 20 of the principal Act is amended by striking out paragraph (a) of subsection (2) and inserting in lieu thereof the following paragraph:—

(a) the registration fee;

Repeal of ss. 27 to 30 of principal Act and enactment of section in their place—

8. Sections 27 to 30 (inclusive) of the principal Act are repealed and the following section is enacted and inserted in their place:—

27. The Governor may by regulation—

(a) prescribe a scale of registration fees, or provide for the computation or assessment of registration fees, in respect of motor vehicles, or any class of motor vehicles;

(b) make any provision necessary or expedient in relation to the computation or assessment of registration fees or the resolution of any dispute between the Registrar and an applicant for registration as to the appropriate registration fee to be paid upon an application for registration of a motor vehicle;

and

(c) provide for the public exhibition of lists containing the specifications of motor vehicles of standard models or kinds and any other information relevant to the computation of registration fees.

Amendment of principal Act, s. 31—
Registration without fee.

9. Section 31 of the principal Act is amended—

(a) by inserting after paragraph (p) the following paragraph:—

(q) any motor vehicle that is to be registered without fee by virtue of the regulations.;

and

(b) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Where—

(a) a motor vehicle has been registered under this section;

(b) an application for registration of the motor vehicle otherwise than under this section is made;

and

(c) the motor vehicle has not previously been registered under this Act upon an application by the present applicant in respect of which stamp duty has been paid,

the Registrar shall treat the application as if the vehicle had not previously been registered under this Act, and registration fees and stamp duty shall be payable on the application accordingly.

10. Section 33 of the principal Act is amended—

(a) by striking out from paragraph (b) the passage “unless the balance of the registration fee as defined in section 40 of this Act is paid”;

and

(b) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Where—

(a) a motor vehicle has been registered under this section;

(b) an application for registration of the motor vehicle otherwise than under this section is made;

and

(c) the motor vehicle has not previously been registered under this Act upon an application by the present applicant in respect of which stamp duty has been paid,

the Registrar shall treat the application as if the vehicle had not previously been registered under this Act, and registration fees and stamp duty shall be payable on the application accordingly.

Amendment of principal Act, s. 33—
Registration for vehicles used in interstate trade.

11. Section 34 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) the passage “registration fee as defined in section 40 of this Act” and inserting in lieu thereof the passage “prescribed registration fee”;

and

(b) by striking out from subsection (1) the passage “amount prescribed by section 29 of this Act” and inserting in lieu thereof the passage “prescribed registration fee”.

Amendment of principal Act, s. 34—
Registration fees for primary producers' commercial vehicles.

Amendment of principal Act, s. 35—
Registration fees for primary producers' tractors.

12. Section 35 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) the passage "registration fee as defined in section 40 of this Act" and inserting in lieu thereof the passage "prescribed registration fee";

and

(b) by striking out from subsection (1) the passage "amount prescribed by section 29 of this Act" and inserting in lieu thereof the passage "prescribed registration fee".

Amendment of principal Act, s. 36—
Registration fees for prospectors' vehicles.

13. Section 36 of the principal Act is amended—

(a) by striking out from paragraph (b) the passage "registration fee as defined in section 40 of this Act" and inserting in lieu thereof the passage "prescribed registration fee";

and

(b) by striking out the passage "registration for the vehicle shall be one-half of the amount prescribed by section 29 of this Act" and inserting in lieu thereof the passage "registration fee for the vehicle shall be one-half of the prescribed registration fee".

Amendment of principal Act, s. 37—
Registration fees for vehicles in outer areas.

14. Section 37 of the principal Act is amended—

(a) by striking out from subsection (2) the passage "registration fee as defined in section 40 of this Act" and inserting in lieu thereof the passage "prescribed registration fee";

and

(b) by striking out from subsection (2) the passage "amount prescribed by section 29 of this Act" and inserting in lieu thereof the passage "prescribed registration fee".

Amendment of principal Act, s. 38—
Registration fees for incapacitated ex-servicemen.

15. Section 38 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "amount prescribed by section 29 of this Act" and inserting in lieu thereof the passage "prescribed registration fee";

and

(b) by striking out from subsection (3) the passage "registration fee, as defined in section 40 of this Act," and inserting in lieu thereof the passage "prescribed registration fee".

Amendment of principal Act, s. 38a—
Registration fees for certain pensioners.

16. Section 38a of the principal Act is amended—

(a) by striking out from subsection (1) the passage "be reduced by thirty per cent of the amount prescribed by section 29 of this Act in respect of that motor vehicle" and inserting in lieu thereof the passage "be seventy per centum of the prescribed registration fee";

and

(b) by striking out from subsection (3) the passage "registration fee, as defined in section 40 of this Act," and inserting in lieu thereof the passage "prescribed registration fee".

Amendment of principal Act, s. 38ab—
Registration fee for trailers owned by certain pensioners.

17. Section 38ab of the principal Act is amended—

(a) by striking out from subsection (1) the passage "be reduced by twenty per cent of the amount prescribed by section 29 of this

Act in respect of that trailer” and inserting in lieu thereof the passage “be eighty per centum of the prescribed registration fee”;

and

- (b) by striking out from subsection (3) the passage “registration fee, as defined in section 40 of this Act,” and inserting in lieu thereof the passage “prescribed registration fee”.

18. Section 38b of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “be reduced by thirty per cent of the amount prescribed by section 29 of this Act in respect of that motor vehicle” and inserting in lieu thereof the passage “be seventy per centum of the prescribed registration fee”;

and

- (b) by striking out from subsection (3) the passage “registration fee, as defined in section 40 of this Act,” and inserting in lieu thereof the passage “prescribed registration fee”.

Amendment of principal Act, s. 38b—
Registration fee for certain incapacitated persons.

19. Section 39 of the principal Act is repealed.

Repeal of s. 39 of principal Act.

20. Section 40 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 40 of principal Act and enactment of section in its place—

40. (1) Subject to subsection (2) of this section, where a vehicle has been registered at a reduced registration fee, the owner of the vehicle may, at any time while that registration is in force, pay to the Registrar the balance of the prescribed registration fee, and thereafter during the balance of the period for which it was registered, the vehicle may be used as if it had been registered upon payment of the prescribed registration fee.

Balance of registration fee.

(2) This section does not apply to a vehicle registered under section 33 of this Act.

21. Section 40a of the principal Act is amended by striking out the passage “the full registration fee” and inserting in lieu thereof the passage “the prescribed registration fee”.

Amendment of principal Act, s. 40a—
Refund of part of registration fee on eligibility for reduced fee.

22. Section 41 of the principal Act is amended—

- (a) by striking out from paragraph (a) of subsection (1) the passage “at a reduced fee” and inserting in lieu thereof the passage “at a reduced registration fee”;

- (b) by striking out from paragraph (b) of subsection (1) the passage “the registration fee as mentioned in section 40” and inserting in lieu thereof the passage “the prescribed registration fee”;

and

- (c) by inserting in subsection (2) after the passage “for registration” the passage “, or transfer of registration,”.

Amendment of principal Act, s. 41—
Misuse of vehicles registered at reduced fees or without fee.

23. Section 42 of the principal Act is amended by striking out the passage “at a reduced fee” and inserting in lieu thereof the passage “at a reduced registration fee”.

Amendment of principal Act, s. 42—
Registration not transferable where vehicle registered at a reduced fee or for no fee.

Amendment of principal Act, s. 44—
Duty to notify changes in vehicles and tyres to Registrar.

24. Section 44 of the principal Act is amended—

- (a) by striking out from paragraph (a) of subsection (2) the word “horsepower” and inserting in lieu thereof the word “power”;
and
(b) by striking out from subsection (3) the word “owner” and inserting in lieu thereof the passage “registered owner”.

Amendment of principal Act, s. 46—
Number plates.

25. Section 46 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “complying with every requirement of this section and the regulations” and inserting in lieu thereof the passage “, or bears a number marked thereon, in accordance with the regulations”;
(b) by striking out paragraph (c) and the word “and” immediately preceding that paragraph from subsection (1);
and
(c) by striking out subsections (2), (3), (4), (5), (6) and (7).

Amendment of principal Act, s. 50—
Permit to drive where label lost or destroyed.

26. Section 50 of the principal Act is amended by striking out from paragraph (b) of subsection (1) the passage “the proper fee” and inserting in lieu thereof the passage “the prescribed fee”.

Amendment of principal Act, s. 51—
Issue of new label on loss or destruction.

27. Section 51 of the principal Act is amended by striking out from subsection (1) the passage “the proper fee” and inserting in lieu thereof the passage “the prescribed fee”.

Amendment of principal Act, s. 54—
Cancellation of registration and refund.

28. Section 54 of the principal Act is amended by striking out from subsection (2) the passage “cancellation fee” and inserting in lieu thereof the passage “prescribed cancellation fee”.

Amendment of principal Act, s. 55—
Amount of prescribed refund.

29. Section 55 of the principal Act is amended by striking out from subsection (2) the passage “A cancellation fee of one dollar” and inserting in lieu thereof the passage “The prescribed cancellation fee”.

Amendment of principal Act, s. 57—
Duty of transferee on transfer of vehicle.

30. Section 57 of the principal Act is amended by striking out from subsection (1) the passage “and a fee of four dollars” and inserting in lieu thereof the passage “and the prescribed fee”.

Amendment of principal Act, s. 58—
Transfer of registration.

31. Section 58 of the principal Act is amended by striking out the passage “and a transfer fee of four dollars” and inserting in lieu thereof the passage “and the prescribed transfer fee”.

Amendment of principal Act s. 60—
Registration void if not cancelled or transferred within 14 days of transfer of ownership.

32. Section 60 of the principal Act is amended by striking out from subsection (2) the passage “an amount of four dollars” and inserting in lieu thereof the passage “the prescribed amount”.

Amendment of principal Act, s. 62—
Issue of trader's plates.

33. Section 62 of the principal Act is amended by inserting in subsection (2) after the passage “the Registrar may” the passage “, upon payment of the prescribed fee,”.

34. Section 63 of the principal Act is repealed.

Repeal of
s. 63 of
principal Act.

35. Section 64 of the principal Act is amended by striking out the passage “as the Minister from time to time directs by notice in the *Gazette*” and inserting in lieu thereof the passage “as the Registrar may determine”.

Amendment of
principal Act,
s. 64—
Specifications
of plates.

36. Section 66 of the principal Act is amended—

Amendment of
principal Act,
s. 66—
Use of general
trader's plates.

(a) by striking out from subsection (2) the passage “, other than a caravan or trailer, bearing general trader's plates or a motor vehicle being a caravan or trailer bearing a trader's plate” and inserting in lieu thereof the passage “to which a general trader's plate, or general trader's plates are affixed in accordance with the regulations”;

and

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) Where a motor vehicle to which a general trader's plate or general trader's plates are affixed is driven otherwise than in accordance with subsection (2) of this section—

(a) the driver of the vehicle;

and

(b) where the driver of the vehicle is not the trader, the trader,

shall both be guilty of an offence and each liable to a penalty not exceeding one hundred dollars.

37. Section 67 of the principal Act is amended—

Amendment of
principal Act,
s. 67—
Cases in which
vehicle may be
driven with
limited trader's
plates.

(a) by striking out from subsection (2) the passage “, other than a caravan or trailer, bearing limited trader's plates or a motor vehicle, being a caravan or trailer, bearing a limited trader's plate” and inserting in lieu thereof the passage “to which a limited trader's plate or limited trader's plates are affixed in accordance with the regulations”;

and

(b) by striking out subsections (3), (3a) and (4) and inserting in lieu thereof the following subsections:—

(3) A motor vehicle to which a limited trader's plate or limited trader's plates are affixed shall not be driven on a road—

(a) except in the course of a business carried on by the trader being—

(i) a business of manufacturing, repairing, or dealing in, motor vehicles;

(ii) a business of manufacturing agricultural machinery;

or

(iii) a business of manufacturing or repairing mechanical or electrical goods carried on in conjunction with a business of manufacturing, repairing, or dealing in, motor vehicles;

and

(b) except for the purpose of—

- (i) proceeding to a workshop for painting or repairs, or returning from a workshop after painting or repairs;
- (ii) trial during, or immediately after, construction or repairs for the purpose of ascertaining whether it is in proper working condition;
- (iii) trial for the benefit of a prospective purchaser, or a person genuinely interested in the sale or exchange of the vehicle;
- (iv) proceeding to, or returning from, a prospective purchaser for or after trial;
- (v) proceeding for delivery to a purchaser, or being driven by a purchaser resident in another State to a place within that State;
- (vi) proceeding to a railway station or a wharf for entraining or shipment;
- (vii) proceeding from a railway station or wharf to the premises of a manufacturer or dealer;
- (viii) proceeding to an exhibition or show for display or trial, or returning therefrom;
- (ix) proceeding to, or returning from, any garage, auction room, or other place at which vehicles are stored, or offered for sale, and at which the vehicle is to be, or has been, stored, or is to be, or has been, offered for sale;

or

- (x) proceeding to, returning from, or towing a motor vehicle that has become incapable of proceeding under its own motive power.

(4) A motor vehicle to which a limited trader's plate, or limited trader's plates, are affixed shall not be driven on a road—

- (a) on a public holiday for any purpose other than a purpose permitted by the regulations;

or

- (b) on any day for any purpose prohibited by the regulations.

(5) Where a motor vehicle to which a limited trader's plate, or limited trader's plates, are affixed is driven in contravention of any provision of this section—

- (a) the driver of the vehicle;

and

(b) where the driver of the vehicle is not the trader, the trader,

shall both be guilty of an offence and each liable to a penalty not exceeding one hundred dollars.

38. Sections 68, 69 and 69a of the principal Act are repealed.

Repeal of ss. 68, 69 and 69a of principal Act.

39. Section 71 of the principal Act is amended by striking out from subsection (2) the passage "a transfer fee of one dollar" and inserting in lieu thereof the passage "the prescribed fee".

Amendment of principal Act, s. 71—
Transfer of trader's plates.

40. Section 71aa of the principal Act is repealed.

Repeal of s. 71aa of principal Act.

41. Section 72a of the principal Act is repealed.

Repeal of s. 72a of principal Act.

42. Section 74 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "A person" and inserting in lieu thereof the passage "Subject to this Act, a person";

and

(b) by striking out the proviso to subsection (1).

Amendment of principal Act, s. 74—
Duty to hold licence or learner's permit.

43. Sections 74a, 74b and 74c of the principal Act are repealed.

Repeal of ss. 74a, 74b and 74c of principal Act.

44. Section 75 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) the passage "the fee fixed by this Act" and inserting in lieu thereof the passage "the prescribed fee";

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) A licence—

(a) shall be in a form determined by the Minister;

and

(b) shall contain such conditions as the Registrar thinks fit to include in the licence.;

and

(c) by inserting after subsection (3) the following subsection:—

(4) A person shall not contravene a condition inserted in a licence pursuant to this section.

Penalty: Two hundred dollars.

Amendment of principal Act, s. 75—
Issue and renewal of licences.

45. Section 75a of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) the passage "the fee fixed by this Act" and inserting in lieu thereof the passage "the prescribed fee";

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 75a—
Learners' permits.

(3) A learner's permit shall be subject to—

(a) the prescribed conditions and restrictions as varied (if at all) by the Registrar;

and

(b) such further conditions and restrictions as the Registrar thinks fit to insert in the learner's permit.;

and

(c) by striking out from subsection (5) the passage "Penalty: One hundred dollars" and inserting in lieu thereof the passage "Penalty: Two hundred dollars".

Repeal of
s. 76 of
principal Act.

46. Section 76 of the principal Act is repealed.

Amendment of
principal Act,
s. 79—
Examination of
applicants for
driver's licence
or learner's
permit.

47. Section 79 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Subject to this Act, the Registrar shall not issue a licence or a learner's permit to—

(a) an applicant who has not previously held a licence;

or

(b) an applicant who has not held a licence at some time during the period of three years immediately preceding the date of his application,

unless the applicant produces to him a certificate signed by an examiner certifying that the applicant has passed an examination conducted by that examiner, in the rules required by law to be observed by drivers of motor vehicles.;

and

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) The following persons are examiners for the purposes of this section:—

(a) every member of the police force;

and

(b) any other person appointed by the Registrar to be an examiner for the purposes of this section.

Repeal of
ss. 79a and 79b
of principal
Act and
enactment of
section in
their place—
Practical
driving tests.

48. Sections 79a and 79b of the principal Act are repealed and the following section is enacted and inserted in their place:—

79a. The Registrar shall not issue a licence to—

(a) an applicant who has not previously held a licence;

or

(b) an applicant who has not held a licence at some time during the period of three years immediately preceding the date of his application,

unless—

(c) the applicant produces to the Registrar a certificate signed by an authorized examiner certifying that the applicant has passed a practical driving test conducted by that examiner and appropriate to the class of the licence for which application is made;

or

(d) the applicant satisfies the Registrar by such evidence as he may require that—

(i) he (the applicant) has at some time during the period of three years immediately preceding the date of his application held a licence to drive motor vehicles under the law of some place outside this State;

and

(ii) that his experience is such that the Registrar should issue him with a licence of the category for which application is made without requiring him to undergo a practical driving test under this Act.

49. Section 80 of the principal Act is amended by inserting in subsection (2) after the passage “until he satisfies the Registrar” the passage “, in such a manner as the Registrar directs,”.

Amendment of principal Act, s. 80—
Power of Registrar to require practical tests.

50. Section 83 of the principal Act is repealed.

Repeal of s. 83 of principal Act.

51. Sections 83a, 83b, 83c and 83d of the principal Act are repealed.

Repeal of ss. 83a to 83d of principal Act.

52. Section 84 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 84 of principal Act and enactment of section in its place—

84. (1) Subject to this section and the regulations, every licence shall be issued for a term of three years.

Term of licence.

(2) An application for renewal of a licence must be made before the expiry of that licence.

(3) The term of a licence issued in renewal of a previous licence shall commence on the day after the expiry of the previous licence.

(4) Every licence issued to a person who has attained the age of sixty-seven years but has not attained the age of seventy years shall be issued for a term expiring on the day on which the holder of the licence attains the age of seventy years.

(5) Where the term of a licence would expire within three months before the holder of the licence attains the age of seventy years, the Registrar may, without application and without payment of a fee, extend the term of the licence until the day on which the holder of the licence attains the age of seventy years.

(6) Every licence issued to a person who has attained the age of seventy years shall be issued for a term of one year.

(7) Every licence shall, subject to this Act and the other laws of this State continue in force for the term for which it was issued unless the holder surrenders the licence to the Registrar.

(8) Upon surrender of a licence, the person surrendering the licence shall, subject to the regulations, be entitled to a refund of a proportion of the licence fee determined in accordance with the regulations.

Repeal of
s. 87 of
principal Act.

53. Section 87 of the principal Act is repealed.

Amendment of
principal Act,
s. 97a—
Visiting
motorists, etc.

54. Section 97a of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) A person who—

- (a) has changed his place of residence from another State or Territory of the Commonwealth to this State;
 - (b) holds a current licence to drive a motor vehicle issued pursuant to the law of the State or Territory of the Commonwealth in which he previously resided;
 - (c) is not disqualified from holding or obtaining a licence under the law of any State or Territory of the Commonwealth;
- and
- (d) has applied, or will apply, as soon as reasonably practicable after changing his place of residence for a licence under this Act,

is entitled to drive in this State a vehicle of any class that his licence authorizes him to drive.

(3) A person who drives a motor vehicle within the State in pursuance of subsection (1) or subsection (2) of this section shall, while doing so, carry with him at all times his licence or permit, and upon being requested by—

- (a) a member of the police force;
- (b) an inspector;

or

- (c) an inspector under the Road Traffic Act, 1961-1975,

to produce that licence or permit, shall forthwith comply with that request.

Penalty: Two hundred dollars.

Amendment of
principal Act,
s. 98a—
Instructors'
licences.

55. Section 98a of the principal Act is amended—

- (a) by striking out the proviso to subsection (1);
- (b) by striking out subsections (2) and (2a) and inserting in lieu thereof the following subsections:—

(2) If the Registrar is satisfied that an applicant for an instructor's licence—

- (a) is the holder of a valid driver's licence;
- (b) has held a driver's licence in South Australia or elsewhere for a continuous period of not less than three years immediately preceding the date of his application;

(c) is a fit and proper person to hold an instructor's licence;

and

(d) is proficient as a motor driving instructor,

the Registrar shall issue to the applicant an instructor's licence in a form determined by the Minister.

(2a) An application for an instructor's licence must be made in a manner and form determined by the Minister and must be accompanied by the prescribed fee.

(2b) If the Registrar is not satisfied that an applicant for an instructor's licence is a fit and proper person to hold such a licence, he shall refer the question of whether the applicant is a fit and proper person to hold an instructor's licence to the consultative committee for inquiry, and the determination of that question by the consultative committee is binding on the Registrar.;

(c) by striking out subsection (4);

and

(d) by inserting after subsection (9) the following subsection:—

(10) This section does not apply to—

(a) a member of the police force acting in the execution of his duty;

or

(b) a person who teaches another to drive a motor vehicle if both he and the learner are employed by the same employer and are acting in the ordinary course of their employment.

56. Section 98b of the principal Act is amended—

(a) by striking out from subsection (2) the passage "the driver's licence (if any) of that person shall, subject to this section be suspended and he shall" and inserting in lieu thereof the passage "he shall, subject to this section,";

(b) by striking out subsection (3);

(c) by striking out from subsection (5) the passage "for the suspension of his licence" and inserting in lieu thereof the passage "for disqualification under this section";

(d) by striking out from paragraph (b) of subsection (5) the passage "the suspension of his licence" and inserting in lieu thereof the passage "his disqualification from holding or obtaining a licence";

(e) by striking out subsections (11), (12) and (13) and inserting in lieu thereof the following subsections:—

(11) The Registrar shall—

(a) where the aggregate of demerit points recorded against a person amounts to twelve or more;

or

Amendment of
principal Act,
s. 98b—
Points demerit
scheme.

(b) where a person by instrument in writing addressed to the Registrar admits convictions that will lead to the recording of twelve or more demerit points against him and requests that his disqualification should commence forthwith,

cause to be served personally or by post upon that person a notice informing him that he is disqualified from holding or obtaining a licence and the disqualification shall take effect upon the service of the notice, or if at the time of service of the notice he is disqualified from holding or obtaining a licence under some other provision either of this Act or of some other Act, the disqualification shall take effect upon the expiration or termination of that prior disqualification.

(12) Where a disqualification has taken effect in pursuance of subsection (11) of this section, the demerit points incurred by the disqualified person up to (and including) the time at which he committed the offence bringing the aggregate of the demerit points recorded against him to twelve or more shall be wholly extinguished.

(13) A person who has become liable to disqualification under this section may (whether or not the disqualification has in fact taken effect) appeal to a local court against the disqualification.;

and

(f) by striking out subsections (15), (16) and (17) and inserting in lieu thereof the following subsections:—

(15) If the local court is satisfied by evidence given on oath by or on behalf of the appellant that—

(a) it is not in the public interest that he should be disqualified under this section;

or

(b) that the disqualification would result in undue hardship to the appellant,

the court may order that the aggregate of the demerit points recorded against the appellant be reduced to eleven.

(16) Where an appeal has been instituted under this section, a disqualification against which the appeal is brought shall be inoperative until the appeal has been determined or withdrawn.

(17) Where a court has ordered a reduction in the aggregate of demerit points recorded against an appellant, the Registrar shall deduct the number of points by which the aggregate was reduced from the recorded points in the order in which they were incurred by the appellant.

(18) A person shall not be entitled to appeal against his disqualification under this section if any of the demerit points upon which he is liable to be disqualified formed part of an aggregate that was reduced by the court upon a previous appeal under this section.

(19) For the purposes of this section, a person incurs demerit points in respect of a prescribed offence on the day on which he commits that offence.

(20) While a person is disqualified under this section from holding or obtaining a licence, any licence held by him is, by force of this section, suspended.

57. The following Part is enacted and inserted in the principal Act immediately after Part III B thereof:—

Enactment of
Part III C of
principal Act—

PART III C
TOWTRUCKS

98c. (1) In this Part—

Area in
relation to
which this
Part applies.

“the area” means an area or areas declared by proclamation to constitute the area for the purposes of this Part.

(2) The Governor may, by proclamation, declare that an area or areas specified in the proclamation constitute the area for the purposes of this Part, and may by subsequent proclamation vary or revoke any former proclamation under this section.

98d. (1) Subject to this section, if the Registrar is satisfied that an applicant for a towtruck certificate—

Application for
towtruck
certificate.

- (a) is over the age of eighteen years;
- (b) is the holder of a valid driver's licence;
- (c) is a fit and proper person to hold the certificate;
- and
- (d) is proficient in driving and operating a towtruck,

he shall issue to the applicant a towtruck certificate, in a form determined by the Minister, authorizing the applicant to drive and operate a towtruck within the area.

(2) An application for a towtruck certificate must be made in a manner and form determined by the Minister and must be accompanied by the prescribed fee.

(3) If the Registrar is not satisfied that an applicant for a towtruck certificate is a fit and proper person to hold such a certificate, he shall refer the question of whether the applicant is a fit and proper person to hold a towtruck certificate to the consultative committee for inquiry and the determination of that question by the consultative committee is binding on the Registrar.

(4) The Registrar may require an applicant for a towtruck certificate to undergo such tests, or furnish such other evidence of his ability to drive and operate a towtruck, as the Registrar thinks necessary or expedient.

(5) The Registrar may issue a towtruck certificate upon such conditions as he thinks fit and endorses upon the certificate.

(6) A person shall not contravene a condition endorsed upon a towtruck certificate under this section.

Penalty: Two hundred dollars.

Temporary
certificates.

98e. (1) The Registrar may, in such circumstances as he thinks fit, issue to an applicant for a towtruck certificate a temporary certificate in a form determined by the Registrar, authorizing him to drive and operate a towtruck within the area for such period of time as the Registrar specifies in the certificate.

(2) A temporary certificate issued under this section shall, while it is in force, be deemed to be a valid towtruck certificate.

Cancellation or
suspension of
certificate.

98f. (1) The Registrar may at any time cancel, or suspend for such period of time as he thinks fit, a certificate under this Part if he is satisfied that the holder of the certificate—

(a) has contravened, or failed to comply with, a condition upon which the certificate was issued;

or

(b) has been convicted of an offence, or is guilty of conduct, that in the Registrar's opinion renders him unfit to hold the certificate.

(2) Where the Registrar is of the opinion that proper grounds exist for the cancellation of a certificate under subsection (1) of this section, he shall not proceed to cancel the certificate unless he has referred the matter to the consultative committee, and the committee has concurred in his opinion that proper grounds exist for the cancellation of the certificate.

(3) Upon cancellation or suspension of a towtruck certificate under this section, the Registrar may, by notice in writing served personally or by post upon the holder of the certificate, require him to deliver his towtruck certificate to the Registrar or a member of the police force specified in the notice, at a place and within a time specified in the notice.

(4) A person shall comply with a notice served upon him under subsection (3) of this section.

Penalty: Fifty dollars.

Term of
certificate.

98g. (1) A towtruck certificate shall, subject to this Act, remain in force until the expiration of three years from the date on which it was issued.

(2) A certificate issued under section 74a of this Act, as in force before the commencement of the Motor Vehicles Act Amendment Act, 1976, shall be deemed to be a towtruck certificate issued under this Part and shall, subject to this Act, remain in force until the first day of September, 1976.

(3) The Registrar may, upon application made in a manner and form determined by the Minister, and upon payment of the prescribed fee, renew a towtruck certificate for a further period of three years.

Certificate not
to have force
in certain
circumstances.

98h. A towtruck certificate has no force or effect—

(a) upon cancellation of the certificate;

(b) during the term of any suspension of the certificate;

or

(c) while the holder of the certificate does not, for any reason, hold a valid driver's licence.

98i. (1) Subject to this Act, a person shall not drive or operate a towtruck on a road within the area unless he is in possession of, and is actually carrying with him, a valid towtruck certificate authorizing him to drive and operate a towtruck.

Prohibition against operating towtruck without certificate.

Penalty: Five hundred dollars.

(2) This section does not prevent a person who does not hold a towtruck certificate from driving or operating a towtruck within the area in the course of a business conducted from a place of business outside the area provided that the towtruck is not used for the purpose of carrying or towing a vehicle damaged in an accident occurring within the area.

(3) The driver of a towtruck who is required to carry a towtruck certificate under this section shall, upon being requested by a member of the police force to do so, forthwith produce his towtruck certificate for the inspection of that member of the police force.

Penalty: Two hundred dollars.

98j. (1) A person shall not for fee, reward, or in the course of carrying on a business, remove a motor vehicle damaged in an accident, occurring within the area, from the scene of the accident by means of another vehicle (whether or not that other vehicle is a towtruck) unless he is in possession of—

Prohibition against towing of any vehicle unless driver of towtruck has authority to tow the same signed by the owner or driver, etc., of the vehicle.

(a) a valid towtruck certificate;

and

(b) an authority, in a form determined by the Minister, signed—

(i) by the driver, owner or person claiming to be in charge of the damaged motor vehicle;

or

(ii) by a member of the police force,

authorizing the removal of the motor vehicle from the scene of the accident.

Penalty: Five hundred dollars.

(2) A person proposing to obtain from another an authority to remove a damaged vehicle from the scene of an accident must, before he presents the document that is to constitute the authority to that other person for signature, enter the following particulars in the document:—

(a) the name of the person to whom the authority is to be given and the number of his towtruck certificate;

(b) the registered number, and the name and address of the registered owner, of the vehicle by which the damaged vehicle is to be removed from the scene of the accident;

(c) the name and address of the owner of the damaged motor vehicle and the registered number of the motor vehicle;

(d) the date and time at which the authority is signed;

(e) a description identifying the place of the accident;
and

(f) the address to which the authorized person proposes to remove the damaged vehicle for the purpose of storage or repair.

Penalty: Two hundred dollars.

(3) A member of the police force present at the scene of an accident may, by oral or written direction, revoke an authority under this section if he considers that—

(a) the particulars to be entered in the authority have not been fully or correctly entered;

(b) the authority has been obtained in contravention of a provision of this Act;

or

(c) the motor vehicle should be preserved as an exhibit for future court proceedings.

(4) No liability shall attach to a member of the police force by virtue of his signing, or revoking, an authority under this section.

(5) A person who has obtained an authority to remove a damaged vehicle from the scene of an accident shall remove the vehicle in accordance with the terms of the authority to the address specified therein.

Penalty: Two hundred dollars.

(6) In any proceedings for an offence under subsection (5) of this section, it shall be a defence for the defendant to prove that it was not practicable for him to comply with the terms of the authority.

(7) A person proposing to use, or using, a motor vehicle to remove a damaged vehicle from the scene of an accident shall when requested to do so by a member of the police force forthwith produce—

(a) his towtruck certificate;

and

(b) his authority to remove the damaged motor vehicle.

Penalty: Two hundred dollars.

Contract or
authority to
repair damaged
vehicle
unenforceable
unless certain
conditions
complied with.

98k. Any contract for the repair of a vehicle, damaged in an accident within the area, which is entered into before, or within twenty-four hours after the vehicle is removed from the scene of the accident shall be unenforceable by the repairer unless—

(a) the contract is in writing and has been signed by the person against whom the repairer seeks to enforce the contract, or a duly authorized agent of that person;

(b) there is printed conspicuously on that contract in capital letters in bold, black type so as to be clearly seen the words "This contract is unenforceable unless the person on whose behalf the motor vehicle is to be repaired confirms the contract not less than six hours nor more than fourteen days after the signing of the contract";

(c) the repairer, or his agent, has at the time of signing thereof delivered to the person on whose behalf the motor vehicle is to be repaired a duplicate of the contract and has obtained from that person an acknowledgement in writing of receipt of the duplicate;

and

(d) the person on whose behalf the motor vehicle is to be repaired has, not less than six hours nor more than fourteen days after the date of signing the contract, notified the repairer in writing that the owner confirms the contract.

98l. A person who has in his possession or control a motor vehicle damaged in an accident shall, at the request of the owner of the vehicle, and upon satisfaction of any lawful claim against the owner in relation to—

Duty to surrender vehicle.

(a) the removal of the vehicle from the scene of the accident;

(b) the storage of the vehicle;

and

(c) the repair of the vehicle,

deliver up the vehicle to the owner or a person acting on his behalf.

Penalty: Two hundred dollars.

98m. Any person who, within the area—

General penalty provisions.

(a) causes or induces by any trick, pretence, force, threat, persistent soliciting or unfair means, any person to sign an authority to remove a damaged vehicle from the scene of an accident;

(b) prevents by intimidation or force any person duly authorized to remove a damaged motor vehicle from the scene of an accident from doing so;

or

(c) not being the holder of a towtruck certificate solicits from an owner, driver or person claiming to be in charge of a damaged vehicle an authority to remove that vehicle from the scene of an accident,

shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

98n. A person shall not drive a towtruck bearing trader's plates within the area for the purpose of proceeding to, returning from, or towing, a motor vehicle that has become unable to proceed under its own motive power.

Trader's plates not to be used for the purpose of a towtruck in certain circumstances.

Penalty: Two hundred dollars.

58. Section 104 of the principal Act is amended by striking out the passage "for negligence".

Amendment of principal Act, s. 104—

Requirements if policy is to comply with this Part.

59. Sections 106 and 108 of the principal Act are repealed.

Repeal of ss. 106 and 108 of principal Act.

Amendment of principal Act, s. 110—
Liability of insurer to pay for emergency treatment.

60. Section 110 of the principal Act is amended—

(a) by striking out from paragraph (i) of subsection (1) the passage “the sum of two dollars and ten cents” and inserting in lieu thereof the passage “the prescribed fee”;

and

(b) by striking out from paragraph (ii) of subsection (1) the passage “one dollar and fifty cents” and inserting in lieu thereof the passage “the prescribed fee”.

Amendment of principal Act, s. 111a—
Liability of insurer in respect of burial at public expense.

61. Section 111a of the principal Act is amended by striking out paragraph (a) and inserting in lieu thereof the following paragraph:—

(a) the death of a person has been caused by, or has arisen out of the use of, an insured motor vehicle;

Amendment of principal Act, s. 112—
Liability of insurer where judgment obtained against insured.

62. Section 112 of the principal Act is amended by striking out from paragraph (a) the passage “caused by negligence in the use of” and inserting in lieu thereof the passage “caused by, or arising out of the use of,”.

Amendment of principal Act, s. 113—
Liability of insurer where the insured is dead or cannot be found.

63. Section 113 of the principal Act is amended by striking out paragraph (a) of subsection (1) and inserting in lieu thereof the following paragraph:—

(a) death or bodily injury has been caused by, or has arisen out of the use of, an insured motor vehicle, but the insured person is dead or cannot be served with process;

Amendment of principal Act, s. 115—
Claims against nominal defendant where vehicle not identified.

64. Section 115 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (1) and inserting in lieu thereof the following paragraph:—

(a) death, or bodily injury, has been caused by, or has arisen out of the use of, a motor vehicle;;

and

(b) by inserting in subsection (3) after the passage “it becomes apparent” the passage “to him”.

Amendment of principal Act, s. 116—
Claim against nominal defendant where vehicle uninsured.

65. Section 116 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) In this section—

“uninsured motor vehicle” means a motor vehicle in relation to which no policy of insurance as required by this Part is in force but does not include a motor vehicle in relation to which there is in force a policy of insurance—

(a) that complies with the law of some other State or Territory of the Commonwealth;

and

(b) under which the owner and driver of the motor vehicle are insured against liability that might be incurred by either or both of them in respect of the death of, or bodily injury to, any person caused by, or arising out of the use of, the motor vehicle in this State.;

and

(b) by inserting after subsection (3) the following subsections:—

(4) A person who proposes to proceed against the nominal defendant in pursuance of this section must, as soon as reasonably practicable after it becomes apparent to him, that the motor vehicle in respect of which his claim arises was uninsured, give to the nominal defendant notice in writing of his claim and a short statement of the grounds thereof.

(5) Where a claimant fails to give notice of his claim in accordance with the requirements of subsection (4) of this section, and the court before which the action is brought is satisfied on the balance of probabilities that the defendant has been prejudiced in the conduct of his defence by that failure, it may, if the justice of the case so requires, dismiss the action.

66. Section 118 of the principal Act is amended by striking out from subsection (1) the passage “has caused bodily injury to his spouse by negligence in the use of a motor vehicle” and inserting in lieu thereof the passage “would, if not married to his spouse, be liable to his spouse for bodily injury caused by, or arising out of the use of, a motor vehicle”.

Amendment of principal Act, s. 118—
An action for injury caused by, or arising out of use of, motor vehicle may be maintained between spouses.

67. Section 119 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 119 of principal Act and enactment of section in its place—

119. (1) The Minister may, by notice in the *Gazette*, publish a scheme under which all approved insurers will contribute money in proportions provided for in the scheme for—

Scheme under which approved insurers indemnify liabilities incurred by nominal defendant.

(a) satisfying claims made, or judgments pronounced, against the nominal defendant under this Part;

and

(b) otherwise indemnifying the nominal defendant against payments made, and costs incurred, in respect of claims under this Part.

(2) The Minister may, by notice published in the *Gazette*, vary or revoke any scheme previously published under this section.

(3) The nominal defendant may by action in any court of competent jurisdiction enforce the terms of any scheme published under this section, or of any scheme approved by the Minister under this Act, as in force before the commencement of the Motor Vehicles Act Amendment Act, 1976.

Enactment of
s. 134a of
principal Act—

68. The following section is enacted and inserted in Part V of the principal Act immediately before section 135 thereof:—

Appeals.

134a. (1) Any person who is aggrieved by a decision of the Registrar or the Commissioner of Police to exercise a power conferred on him by Part III, IIIA or IIIC of this Act in a manner adverse to the aggrieved person may, in accordance with rules of court made under this section, appeal against the decision to a special magistrate sitting in chambers.

(2) On an appeal under this section the special magistrate may—

(a) confirm, reverse or vary the decision appealed against;

and

(b) make such order as to costs, or any other ancillary matter, as he thinks just.

Amendment of
principal Act,
s. 141—
Certificate of
Registrar.

69. Section 141 of the principal Act is amended—

(a) by striking out paragraph (a) and inserting in lieu thereof the following paragraph:—

(a) that a person therein described was not on a specified day the holder of a licence of a specified category or was not the holder of a towtruck certificate;

(b) by striking out paragraphs (j) and (k) and inserting in lieu thereof the following paragraphs:—

(j) that a document that is attached to the certificate, or that a document a copy of which is attached to the certificate, was lodged in the Registrar's office on a specified day;

(k) that a person therein described had or had not on or before a specified day paid any specified fee or amount payable to the Registrar under this Act,;

and

(c) by striking out the passage "be admitted as *prima facie* evidence of the matters so stated" and inserting in lieu thereof the passage "be proof of the matters so stated in the absence of proof to the contrary".

Amendment of
principal Act,
s. 142—
Facilitation of
proof.

70. Section 142 of the principal Act is amended—

(a) by striking out the passage "shall be *prima facie* evidence" wherever it occurs and inserting in lieu thereof, in each case, the passage "shall, in the absence of proof to the contrary, be proof";

and

(b) by inserting after paragraph (d) the following paragraph:—

(e) the allegation in a complaint that a person performed a specified act for fee or reward, or in the course of a business, shall in the absence of proof to the contrary, be proof of the fact so alleged.

71. Section 145 of the principal Act is amended by striking out paragraphs (a1), (b), (c), (c1) and (d) and inserting in lieu thereof the following paragraphs:—

Amendment of
principal Act,
s. 145—
Regulations.

- (b) exempting, subject to such conditions as may be stipulated in the regulations, any specified motor vehicle, or motor vehicles of any specified class, from the obligation to be registered or to bear identification numbers or a registration label or permit in pursuance of this Act;
 - (c) exempting, subject to such conditions as may be stipulated in the regulations, persons of any specified class from the obligation to hold a licence or a licence of a specified class, instructor's licence, or towtruck certificate under this Act;
 - (d) providing for the determination by the Registrar of the load capacity of a motor vehicle to be registered and for the insertion in the registration certificate issued in respect of a motor vehicle of a note of its load capacity;
 - (e) prescribing, and providing for the payment of fees, for any practical driving test conducted for the purposes of this Act;
 - (f) prescribing any other fees or monetary amount for the purposes of this Act;
 - (g) providing for the remission or reduction of any fee payable under this Act;
- and
- (h) prescribing penalties, not exceeding one hundred dollars, for breach of any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor