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GEORGII VI REGIS.

A.D. 1943.

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No. 35 of 1943.

An Act to amend the Road Traffic Act, 1934-1942.

[Assented to 23rd December, 1943.]

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

1. (1) This Act may be cited as the "Road Traffic Act Amendment Act, 1943".

   (2) The Road Traffic Act, 1934-1942, as amended by this Act, may be cited as the "Road Traffic Act Amendment Act, 1934-1943".

   (3) The Road Traffic Act, 1934-1942, is hereinafter referred to as "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

3. Section 8c of the principal Act is amended—

   (a) by striking out the words "produced to" in the fourth line thereof and inserting in lieu thereof the words "lodged with":

   (b) by inserting after the word "certificate" in the fourth line the words "in the prescribed form."

4. Section 9 of the principal Act is amended—

   (a) by striking out paragraph (9) thereof:

   (b) by striking out the figure "(9)" in paragraph (10a), and the expression "or 9" occurring twice in paragraph (11) thereof:
(c) by inserting before the word “agricultural” in the definition of “primary producer” in paragraph (14) thereof the words “fishing or in”.

5. Section 9a of the principal Act is repealed and the following section is enacted and substituted in lieu thereof:

9a. Where a motor vehicle is registered at any time before the first day of September, nineteen hundred and forty-four, the registration fee for that vehicle shall be the amount which would be payable under section 9 of this Act, less twenty-five per centum thereof.

6. Section 21 of the principal Act is amended by inserting therein after subsection (2) the following subsection:

(2a) Where a motor tractor has been registered at a reduced fee pursuant to paragraph (10) of section 9 of this Act, the owner of the tractor may, at any time during the currency of that registration, upon delivery to the registrar of the current registration card issued in respect of the tractor, or upon taking the prescribed action in relation to the card, apply to the registrar to cancel the registration of the tractor and pay or credit to him the prescribed amount as defined in this section.

7. Section 26 of the principal Act is amended—

(a) by striking out in subsection (3) thereof the words “At the time of giving notice to the registrar of any alteration or addition” and inserting in lieu thereof the words “Within fourteen days after the making of any such alteration or addition as mentioned in subsection (2) of this section”; and

(b) by adding at the end thereof the following subsection:

(5) In proceedings for any offence against this section the court may in addition to imposing a fine order the defendant to pay to the registrar any such additional fee as mentioned in subsection (3) of this section.

8. Subsection (10) of section 27 of the principal Act is repealed and the following subsections are enacted and substituted in lieu thereof:

(10) Subject to subsection (10a), a motor vehicle bearing general traders’ plates may be driven—

(a) by any person for any purpose directly connected with a business carried on by the person to
whom the plates were issued (hereinafter called "the trader") and being either—

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

(ii.) 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;

(b) by any customer of the trader, or any employee of any such customer, for any purpose, while the vehicle is on loan from the trader to the customer, and a vehicle owned by the customer is in possession of the trader for the purpose of being repaired, altered, added to, or tested by the trader:

(c) for any purpose by the trader himself or any person who is a partner of the trader in a business of manufacturing, repairing, or dealing in motor vehicles, if the trader or partner is a natural person and the vehicle is a motor car or a buckboard ordinarily used in connection with such business. "Buckboard" means a vehicle adapted partly for the carriage of goods and partly for the carriage of passengers and weighing when unladen less than thirty-two hundredweights.

A person shall not on any road drive a motor vehicle having a general trader's plate attached thereto except as allowed by the foregoing provisions of this subsection.

(10a) A person shall not on any road drive a motor vehicle having a general trader's plate attached thereto if the vehicle is carrying passengers or goods for hire or reward.

9. The following sections are enacted and inserted in the principal Act after section 27 thereof:

27a. Where a pair of general traders' plates is issued or the operation of a pair of general traders' plates is extended at any time before the first day of September nineteen hundred and forty-four, the fee for such issue or extension shall be the amount payable under section 27 of this Act, less twenty-five per centum thereof.

27b. Where a person to whom general traders' plates have been issued surrenders the plates to the registrar before the thirty-first day of March next after the issue
of the plates, the registrar shall pay or credit to that person a sum arrived at by multiplying one-twelfth of the fee paid for the plates, by the number of complete calendar months in the period commencing on the day of the surrender of the plates and ending on the thirty-first day of March next following the day of surrender.

10. Section 59 of the principal Act is amended by striking out the expression "or (9)" occurring twice in paragraph (b) of subsection (1) thereof.

11. Section 70b of the principal Act is amended by striking out all words in subsection (1) after "offence" in the ninth line and the whole of subsection (2) thereof and inserting in lieu thereof the following passage:

Penalty: A fine of not less than twenty pounds and not more than one hundred pounds and disqualification from holding and obtaining a driver's licence for not less than three months and not more than twelve months.

Notwithstanding any other Act the minimum amount of any fine and the minimum period of disqualification prescribed by this section shall not be reduced or mitigated in any way except as follows:

In the case of a first offence, if the court for special reasons thinks fit to do so, it may order disqualification for a period less than three months.

12. The following section is enacted and inserted in the principal Act after section 70ba thereof:

70bb. Where an insurer has given a certificate certifying that a policy of insurance has been issued by him in relation to a motor vehicle and that the policy complies with this Part and will unless lawfully cancelled remain in operation for a period specified in the certificate, he shall, until a policy conforming to the statements in the certificate is actually issued, or comes into force by virtue of the renewal of a previous policy, be deemed to have issued a policy conforming to the statements in the certificate.

13. (1) Subsection (1) of section 70c of the principal Act is amended by inserting after the word "vehicle" at the end thereof the words "in any part of the Commonwealth".

(2) Subsection (2) of section 70c of the principal Act is amended by striking out paragraph (b) thereof.

(3) Subsection (2a) of section 70c of the principal Act is repealed.
14. The following sections are enacted and inserted in the principal Act after section 70c of the principal Act:—

70ca. When any Act comes into operation which alters the insurance required to be given by a policy under this Part or the rights or liabilities of the insurer under any such policy, every policy of insurance which has been issued for the purpose of providing insurance required by this Part and is in force when the said Act comes into operation, or at any time thereafter, shall be deemed to be altered so as to provide the insurance required by this Part, as altered by the said Act.

70cb. (1) Notwithstanding any agreement to the contrary a policy of insurance issued under this Part—

(a) shall not be cancelled or otherwise terminate solely by reason of a change of ownership of the vehicle in relation to which the policy was issued; but

(b) shall, subject to any lawful termination thereof, enure in favour of every person who during the period for which the policy was granted or renewed becomes an owner for the time being of the vehicle in respect of which the policy was issued, and in favour of every person who during that period drives that vehicle whether with or without the consent of the owner.

(2) So long as a policy of insurance is in force every owner of the vehicle in respect of which the policy was issued (whether originally a party to the policy or not) shall be bound by all the terms warranties and conditions in the policy as if he had expressly agreed to them.

15. (1) Subsection (1) of section 70d of the principal Act is amended—

(a) by inserting after the word "commenced" in the tenth line thereof the words "but this proviso shall not apply where the judgment was obtained outside the State"; and

(b) by striking out the words "or as to the persons in respect of whose death or injury the insured is indemnified" at the end thereof.

(2) Subsection (6) of section 70d of the principal Act is amended by striking out paragraph (a) thereof.
16. Subsection (2) of section 70s of the principal Act is repealed and the following subsection is enacted and substituted in lieu thereof:

   (2) This section shall not apply to—

   (a) any qualified legal practitioner acting in the course of his profession;

   (b) any officer of an association bona fide formed for the protection of the interests of employees, and whether registered under any Commonwealth or State Act or not, when acting in the course of his duties for a member of that association;

   (c) any person employed or instructed by an approved insurer to act on its behalf in connection with—

   i. any claim or action in a case where the insurer is liable to indemnify the person against whom the claim is made or the action brought:

   "ii. any claim for injury to property in a case where the insurer is exercising rights of subrogation in respect of that injury and where the person so employed or instructed limits himself to making and settling the claim without threatening or otherwise referring to legal proceedings in respect thereof.

17. Section 85 of the principal Act is amended by striking out the definition of "width" therein and inserting in lieu thereof the following definition:

   "width" when used in relation to the tire of a wheel of a vehicle means—

   (a) in the case of a metal tire or a solid rubber tire, the width of the bearing surface of the tire:

   (b) in the case of a pneumatic tire, the full width of the tire measured at any part where the tire is not distorted.

18. Section 86 of the principal Act is repealed and the following section is enacted and substituted therefor:

   86. Any person who drives or causes or permits to be driven on any road—
1943. Road Traffic Act Amendment Act, No. 35. 1943.

(a) any non-mechanical vehicle carrying on any axle thereof a greater weight than the maximum which may lawfully in accordance with the rules contained in section 92 be carried on a two-wheeled vehicle fitted with wheels of the same diameter and width of tire as the two wheels turning on such axle;

(b) any non-mechanical vehicle having metal tires and carrying on any axle thereof a greater weight than six tons and ten hundredweights; or

(c) any non-mechanical vehicle having rubber tires and carrying on any axle thereof a greater weight than eight tons,

shall be guilty of an offence.

19. Section 92 of the principal Act is amended—

(a) by striking out all words in the last three lines of paragraph 1, from and inclusive of the words “This proviso”;

(b) by striking out the word “half” in sub-paragraph (b) of paragraph III. thereof and inserting in lieu thereof the words “quarter of an”.

20. The following section is hereby enacted and inserted in the principal Act after section 121 thereof:—

121a. (1) Any person who—

(a) drives or rides any vehicle, not being a motor vehicle; or

(b) occupies the driver’s or rider’s seat on a vehicle, not being a motor vehicle, and attempts to put the vehicle in motion,

while he is so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle or of any animal attached thereto, shall be guilty of an offence and liable to a fine of not more than fifty pounds.

(2) The court by which any person is convicted under this section on the complaint of a member of the police force, may, in addition to ordering any other penalty, order on the application of the complainant that the defendant pay to the complainant a reasonable sum to cover the expenses of any of the following things:—
(a) Apprehending the defendant:
(b) Conveying him to any police station:
(c) Keeping him in custody until trial:
(d) Medically examining him.

Any amount received by the complainant under this subsection shall be paid by him into the general revenue of the State.

21. Section 177 of the principal Act is amended by adding at the end thereof the following subsections:

(4) The registrar or a person authorized by him may by a written certificate of exemption, exempt any vehicle from all or any of the provisions of subsections (1), (2) and (3) of this section.

Every such exemption—

(a) shall remain in force for a period specified in the certificate or until the happening of a condition specified therein;

(b) shall be subject to any conditions specified in the certificate:

(c) may be revoked by the registrar upon breach of any condition thereof.

(5) An apparently genuine document produced by the prosecution and purporting to be signed by the registrar and to certify that a vehicle specified in the document was not at a time so specified exempted from any provisions of this section so specified shall be prima facie evidence of the fact so certified.

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

C. M. BARCLAY-HARVEY, Governor.