



ANNO VICESIMO OCTAVO

# ELIZABETHAE II REGINAE

A.D. 1979

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## No. 42 of 1979

### An Act to amend the Road Traffic Act, 1961-1976.

[Assented to 15th March, 1979]

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 "Road Traffic Act Amendment Act, 1979".

(2) The Road Traffic Act, 1961-1976, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Road Traffic Act, 1961-1979".

**Commencement.**

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 day fixed by the proclamation, or a day to be fixed by subsequent proclamation.

**Amendment of principal Act, s. 19—  
Cost of traffic control devices.**

3. Section 19 of the principal Act is amended—

(a) by striking out subsections (1), (2), (3) and (4) and inserting in lieu thereof the following subsection:—

(1) The cost of installing, maintaining, altering, operating, or removing any traffic control device shall be borne by the authority in which the care, control or management of the road to which the device relates, is vested.;

and

(b) by striking out from subsection (5) the passage "subsection (2)" and inserting in lieu thereof the passage "subsection (1)".

**Amendment of principal Act, s. 35—  
Inspectors.**

4. Section 35 of the principal Act is amended by inserting in subsection (2) after the passage "Local Government Act, 1934-1959," the passage "or established, maintained or operated under the Highways Act, 1926-1975,".

5. Section 43 of the principal Act is amended by striking out subsection (5) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 43—  
Failure to stop and report in case of accident.

(5) Notwithstanding the provisions of subsection (3) of this section, the driver of a vehicle concerned in an accident is not required to report the accident to a member of the police force or at a police station where—

(a) the only damage or injury resulting therefrom is damage or injury to property;

and

(b) a fair estimate of the cost of making good that damage or injury is not more than the prescribed amount,

unless a person having reasonable grounds for requesting information pursuant to paragraph (c) of that subsection is not present at the scene of the accident or the driver does not afford such a person a reasonable opportunity to request such information.

6. Section 46 of the principal Act is amended by inserting after subsection (3) the following subsection:—

Amendment of principal Act, s. 46—  
Reckless and dangerous driving.

(4) In determining whether an offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act, 1979) is a first or subsequent offence for the purposes of subsection (1) of this section, only a previous offence against that subsection for which the defendant has been convicted that was committed within the period of five years immediately preceding the commission of the offence under consideration shall be taken into account.

7. Section 47 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 47—  
Driving under influence of intoxicating liquor or drug.

(3) In determining whether an offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act, 1979) is a first, second or subsequent offence for the purposes of subsection (1) of this section, any previous offence against that subsection or against subsection (1) of section 47b, subsection (3) of section 47e or subsection (14) of section 47i of this Act for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

8. Section 47b of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 47b—  
Driving while having prescribed concentration of alcohol in blood.

(3) In determining whether an offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act, 1979) is a first, second or subsequent offence for the purposes of subsection (1) of this section, any previous offence against that subsection or against subsection (1) of section 47, subsection (3) of section 47e or subsection (14) of section 47i of this Act for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

Amendment of  
principal Act,  
s. 47e—  
Police may  
require  
alcotest or  
breath analysis.

9. Section 47e of the principal Act is amended—

(a) by inserting in subsection (1) before paragraph (a) the following paragraph:—

(aa) has committed a prescribed offence;;

(b) by inserting after subsection (1) the following subsection:—

(1a) For the purposes of subsection (1) of this section,  
“prescribed offence” means—

(a) an offence against any of the following provisions  
of this Act:—

- (i) section 43;
  - (ii) section 45;
  - (iii) section 46;
  - (iv) section 55;
  - (v) section 57;
  - (vi) section 63;
  - (vii) section 65;
  - (viii) section 68;
  - (ix) section 70;
  - (x) section 72;
  - (xi) section 75;
  - (xii) section 76;
  - (xiii) subsection (1) of section 78;
  - (xiv) section 78a;
- or
- (xv) section 80;

or

(b) an offence against any of the following provisions  
of this Act:—

- (i) section 48;
  - (ii) section 49;
  - (iii) section 50;
  - (iv) section 52;
- or
- (v) section 53,

where the member of the police force, in addition,  
believes upon reasonable grounds that the person  
has driven the motor vehicle at a speed that is  
not less than 20 kilometres an hour greater than  
the speed limit applicable under the section.;

and

(c) by striking out subsection (6) and inserting in lieu thereof the  
following subsection:—

(6) In determining whether an offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act, 1979) is a first, second or subsequent offence for the purposes of subsection (3) of this section, any previous offence against that subsection or against subsection (1) of section 47, subsection (1) of section 47b or subsection (14) of section 47i of this Act for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

**10. Section 47f of the principal Act is amended—**

(a) by striking out from subsection (3) the word “three” and inserting in lieu thereof the word “two”;

and

(b) by striking out from paragraph (a) of subsection (3) the word “two” and inserting in lieu thereof the word “one”.

Amendment of  
principal Act,  
s. 47f—  
Right of person  
to request  
blood test.

**11. Section 47g of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “the provisions of subsection (2)” and inserting in lieu thereof the passage “the requirements and procedures in relation to breath analysing instruments and breath analysis under this Act including subsections (2) and (2a)”;

(b) by inserting after subsection (1) the following subsection:—

(1a) In any proceedings for an offence against this Act no evidence shall be adduced in rebuttal of the presumption created by subsection (1) of this section except evidence of the concentration of alcohol in the blood of the defendant as indicated by analysis of a sample of his blood taken and dealt with in accordance with section 47f or 47i of this Act.;

and

(c) by inserting after subsection (2) the following subsection:—

(2a) Where a person has submitted to an analysis of his breath by means of a breath analysing instrument and the concentration of alcohol indicated as being present in the blood of that person by the breath analysing instrument is the prescribed concentration of alcohol, the person operating the instrument shall forthwith—

(a) inform that person of his right pursuant to section 47f of this Act to have a sample of his blood taken by a medical practitioner;

and

(b) warn him that if he does not exercise that right it may be conclusively presumed for the purposes of proceedings for an offence against this Act that the concentration of alcohol in his blood during the period of two hours preceding the analysis was the concentration as indicated by the breath analysing equipment.

Amendment of  
principal Act,  
s. 47g—  
Evidence etc.

Amendment of  
principal Act,  
s. 47i—  
Compulsory  
blood tests.

**12. Section 47i of the principal Act is amended—**

(a) by striking out paragraph (b) of subsection (6) and the word “or” occurring immediately before that paragraph;

and

(b) by inserting after subsection (14a) the following subsection:—

(14b) In determining whether an offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act, 1979) is a first, second or subsequent offence for the purposes of subsection (14) of this section, any previous offence against that subsection or against subsection (1) of section 47, subsection (1) of section 47b or subsection (3) of section 47e of this Act for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

Amendment of  
principal Act,  
s. 63—  
Giving way at  
intersections  
and junctions.

**13. Section 63 of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “Subject to subsection (1a) of this section” and inserting in lieu thereof the passage “Subject to this section”;

(b) by inserting in subsection (1b) after the passage “along that carriageway” the passage “, or, in the case of a divided road, any other carriageway,”;

and

(c) by inserting after subsection (4a) the following subsection:—

(5) Subparagraph (ii) of paragraph (a) of subsection (1) of this section does not apply in relation to an intersection or junction at which traffic lights are installed although not operating.

Amendment of  
principal Act,  
s. 78—  
Duty at stop  
signs.

**14. Section 78 of the principal Act is amended by striking out paragraph (a) of subsection (3b) and inserting in lieu thereof the following paragraphs:—**

(a) at or near traffic lights installed on any road;

(ab) at or near a level crossing at which there are installed—

(i) any devices by which visible or audible warning is given of the approach of any rollingstock or tramcar;

or

(ii) any gates or other barriers for closing the crossing against road traffic when any rollingstock or tramcar is approaching;

Amendment of  
principal Act,  
s. 83—  
Vehicles  
standing on  
roads.

**15. Section 83 of the principal Act is amended by striking out from paragraph (b) of subsection (2) the passage “within a junction”.**

16. Section 141 of the principal Act is amended by striking out paragraph (a) of subsection (2) and inserting in lieu thereof the following paragraph:—

Amendment of principal Act, s. 141—  
Width of vehicles.

(a) a tractor or agricultural machine that is—

(i) more than 2·5 metres wide;

and

(ii) being driven in circumstances such that the tractor or agricultural machine would not, by virtue of section 12 of the Motor Vehicles Act, 1959-1978, be required to be registered under that Act;.

17. Section 147 of the principal Act is amended by striking out from subsection (4) the word “motor”.

Amendment of principal Act, s. 147—  
Maximum masses.

18. Section 153 of the principal Act is amended by striking out from paragraph (a) of subsection (1) the passage “and situated not more than 8 kilometres from the place where the vehicle is at the time of service of the notice”.

Amendment of principal Act, s. 153—  
Determining mass.

19. Section 160 of the principal Act is amended—

Amendment of principal Act, s. 160—  
Defect notices.

(a) by inserting in subsection (2) after the passage “he may” the passage “examine the vehicle or”;

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

(2a) A member of the police force or an inspector may, at any time when any premises where vehicles are exhibited or kept for sale are open for business, for the purposes of determining whether any vehicle exhibited or kept for sale therein does not comply with any one or more of the requirements of this Act or for any reason cannot safely be driven on roads, examine the vehicle or direct the owner or person in charge of the vehicle to produce it for examination at a time and place stated by the member of the police force or inspector.;

(c) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) A member of the police force or an inspector may for the purposes of examining a vehicle under this section—

(a) cause the vehicle to be examined by any other person;

and

(b) drive or test, or cause any other person to drive or test, the vehicle.;

and

(d) by striking out from subsection (4a) the passage “subsection (4) of”.

Amendment of principal Act s. 162ab—  
Wearing of seat belts is compulsory.

**20.** Section 162ab of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) A person shall not be seated in a motor vehicle that is in forward motion—

(a) in a seating position that is equipped with a seat belt, unless he is wearing the seat belt and it is properly adjusted and securely fastened;

or

(b) in a seating position (other than the driver's seating position) that is not equipped with a seat belt if there is any unoccupied seating position that is equipped with a seat belt in the same row of seating positions.

Amendment of principal Act, s. 163c—  
Prohibition against driving a vehicle not subject to a certificate of inspection.

**21.** Section 163c of the principal Act is amended by inserting after subsection (1) the following subsection:—

(1a) The Minister may, by notice published in the *Gazette*, exempt any vehicle, or vehicle of a class, from the application of this Part.

Amendment of principal Act s. 166—  
Offences by employees.

**22.** Section 166 of the principal Act is amended by striking out the passage "maximum masses".

Amendment of principal Act, s. 168—  
Power of court to disqualify.

**23.** Section 168 of the principal Act is amended by inserting after subsection (4) the following subsection:—

(5) Where a court has ordered that a person be disqualified from holding or obtaining a driver's licence (whether the order was made before or after the commencement of the Road Traffic Act Amendment Act, 1979, or in relation to an offence under this Act or any other Act or law), the Governor may remove the disqualification from such date as he may specify.

Amendment of principal Act, s. 169—  
Duty of court to disqualify driver for certain offences.

**24.** Section 169 of the principal Act is amended by striking out from subsection (2) the passage "committed within three years after the previous conviction" and inserting in lieu thereof the passage "committed before or after the commencement of the Road Traffic Act Amendment Act, 1979, but within the period of three years immediately succeeding the commission of the previous offence".

Amendment of principal Act, s. 175—  
Evidence.

**25.** Section 175 of the principal Act is amended—

(a) by inserting in subsection (1) after paragraph (ba) the following paragraph:—

(bb) that between specified times on a specified day a road or a part of a road specified in the complaint was a road or a part of a road prescribed to be a clearway within the meaning of the regulations made under this Act; or;

(b) by inserting in paragraph (f) of subsection (1) after the word "complaint" the passage "the owner, the person in charge, or";

- (c) by inserting in paragraph (b) of subsection (3) after the word lastly occurring the passage “for the purpose of measuring the speed of any motor vehicle whether or not the speed measured differed from the speed in relation to which the stop-watch or speedometer was tested or the circumstances of the measurement differed in any other respect from the circumstances of the test”;
- (d) by inserting in paragraph (ba) of subsection (3) after the word lastly occurring the passage “for the purpose of measuring the speed of any motor vehicle whether or not the speed measured differed from the speed in relation to which the analyser was tested or the circumstances of the measurement differed in any other respect from the circumstances of the test”;
- and
- (e) by striking out from paragraph (bb) of subsection (3) the passage “Warden of Trade Measurements” and inserting in lieu thereof the passage “Commissioner of Standards”.

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

K. D. SEAMAN, Governor