

South Australia



ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT ACT 1999

No. 20 of 1999

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ELIZABETHAE II REGINAE

A.D. 1999

No. 20 of 1999

An Act to amend the Road Traffic Act 1961.

[Assented to 1 April 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Road Traffic (Miscellaneous) Amendment Act 1999*.
- (2) The *Road Traffic Act 1961* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 5—Interpretation

3. Section 5 of the principal Act is amended—

- (a) by striking out from subsection (1) the definitions of "articulated motor vehicle" and "axle" and substituting the following definitions:

"articulated motor vehicle" means a combination consisting of a prime mover towing one semi-trailer;

"axle" means one or more shafts positioned in a line across a vehicle, on which one or more wheels intended to support the vehicle turn;

"axle group" means a single axle group, tandem axle group, twinsteer axle group, tri-axle group or quad-axle group;;

- (b) by striking out from subsection (1) the definition of "bus" and substituting the following definition:

"bus" means a motor vehicle built mainly to carry people that seats over 12 adults (including the driver);;

(c) by inserting after the definition of "carriageway" in subsection (1) the following definition:

"**combination**" means a group of vehicles consisting of a motor vehicle connected to one or more vehicles;;

(d) by striking out from the definition of "cycle" in subsection (1) "motor cycle" and substituting "motor bike";

(e) by striking out from subsection (1) the definition of "group of axles";

(f) by striking out from subsection (1) the definitions of "mass", "motor cycle" and "motor vehicle" and substituting the following definitions:

"**mass and loading requirements**"—*see section 113*;

"**motor bike**" means a motor vehicle with two wheels, and includes a two wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel;

"**motor vehicle**" means a vehicle built to be propelled by a motor that forms part of the vehicle;;

(g) by striking out from subsection (1) the definition of "owner" and substituting the following definitions:

"**operator**", in relation to a motor vehicle, means a person registered or recorded as the operator of the vehicle under the *Motor Vehicles Act 1959* or a similar law of the Commonwealth or another State or a Territory of the Commonwealth;

"**owner**", in relation to a motor vehicle, includes—

(a) a person registered or recorded as an owner of the vehicle under the *Motor Vehicles Act 1959* or a similar law of the Commonwealth or another State or a Territory of the Commonwealth; and

(b) a person to whom a trade plate, a permit or other authority has been issued under the *Motor Vehicles Act 1959* or a similar law of the Commonwealth or another State or a Territory of the Commonwealth, by virtue of which the vehicle is permitted to be driven on roads; and

(c) a person who has possession of the vehicle by virtue of the hire or bailment of the vehicle;;

(h) by striking out from subsection (1) the definition of "prime mover" and substituting the following definitions:

"**prime mover**" means a motor vehicle built to tow a semi-trailer;

"**quad-axle group**" means a group of 4 axles, in which the horizontal distance between the centre-lines of the outermost axles is more than 3.2 metres, but not more than 4.9 metres;;

- (i) by striking out from subsection (1) the definition of "road" and substituting the following definitions:

"road" means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving of motor vehicles;

"road-related area" means any of the following:

- (a) an area that divides a road;
- (b) a footpath or nature strip adjacent to a road;
- (c) an area that is not a road and that is open to the public and designated for use by cyclists or animals;
- (d) an area that is not a road and that is open to or used by the public for driving or parking vehicles;
- (e) any other area that is open to or used by the public and that has been declared by regulation to be a road-related area;;

- (j) by striking out from subsection (1) the definition of "semi-trailer" and substituting the following definition:

"semi-trailer" means a trailer that has—

- (a) one axle group or single axle towards the rear; and
- (b) a means of attachment to a prime mover that would result in some of the load being imposed on the prime mover;;

- (k) by inserting after the definition of "shared zone" in subsection (1) the following definitions:

"single axle" means an axle not forming part of an axle group;

"single axle group" means a group of 2 or more axles, in which the horizontal distance between the centre-lines of the outermost axles is less than 1 metre;;

- (l) by striking out from subsection (1) the definition of "tandem axle group" and substituting the following definition:

"tandem axle group" means a group of at least 2 axles, in which the horizontal distance between the centre-lines of the outermost axles is at least 1 metre, but not more than 2 metres;;

- (m) by striking out from subsection (1) the definitions of "trailer" and "tri-axle group" and substituting the following definitions:

"trailer", in relation to a motor vehicle, means a vehicle that is built to be towed or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed;

"**tri-axle group**" means a group of at least 3 axles, in which the horizontal distance between the centre-lines of the outermost axles is more than 2 metres, but not more than 3.2 metres;

"**twinsteer axle group**" means a group of 2 axles:

- (a) with single tyres; and
- (b) fitted to a motor vehicle; and
- (c) connected to the same steering mechanism; and
- (d) the horizontal distance between whose centre-lines is at least 1 metre, but not more than 2 metres;;

(n) by inserting after the definition of "vehicle" in subsection (1) the following definition:

"**vehicle standards**"—*see section 111*;;

(o) by striking out from subsection (2) "group of axles" twice occurring and substituting, in each case, "axle group".

Insertion of s. 6A

4. The following section is inserted after section 6 of the principal Act:

Roads and road-related areas

6A. A reference in this Act to a road includes a reference to a road-related area unless it is otherwise expressly stated.

Amendment of s. 38—Questions as to identity of drivers, etc.

5. Section 38 of the principal Act is amended by inserting "or the operator" after "owner".

Amendment of s. 42—Power to stop vehicle and ask questions

6. Section 42 of the principal Act is amended by inserting in subsection (1)(b) "or the operator" after "owner".

Amendment of s. 53—Speed limits for certain vehicles

7. Section 53 of the principal Act is amended by inserting after subsection (1) the following subsections:

(2) If a person is found guilty of an offence, or expiates an offence, constituted of driving a vehicle of a kind referred to in subsection (1) at a speed in excess of 115 kilometres an hour, the Registrar of Motor Vehicles must, if the vehicle is not of a kind required to comply with the speed limiting provisions of the vehicle standards, require the owner or the operator of the vehicle to modify the vehicle so that it complies with those provisions.

(2a) A requirement under subsection (2) must be made by notice in writing and the notice must specify a period within which the modifications must be carried out.

(2b) If a notice is issued under this section—

- (a) the vehicle to which it relates must be modified so that it complies with the speed limiting provisions of the vehicle standards on or before the expiry of the period specified in the notice; and
- (b) the vehicle must not be driven after the expiry of that period if it does not comply with those provisions.

(2c) If a vehicle is driven in contravention of subsection (2b), the driver, the owner and the operator of the vehicle are each guilty of an offence.

(2d) In proceedings for an offence against subsection (2c), proof that a vehicle in respect of which a notice has been issued under this section was driven at a speed in excess of 115 kilometres an hour constitutes proof that the vehicle was driven in contravention of subsection (2b) in the absence of proof to the contrary.

Amendment of s. 61—Driving on footpaths or bikeways

8. Section 61 of the principal Act is amended by striking out from subsection (5)(b) "motor cycle" and substituting "motor bike".

Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices

9. Section 79B of the principal Act is amended—

(a) by inserting before the definition of "**photographic detection device**" in subsection (1) the following definition:

"**owner**", in relation to a vehicle, has the meaning assigned to the term by section 5, and includes the operator of the vehicle;;

(b) by striking out paragraph (e) of the definition of "**prescribed offence**" in subsection (1);

(c) by striking out from subsection (1) the definition of "**registered owner**";

(d) by striking out from subsections (2), (3) and (4) "registered" wherever occurring;

(e) by inserting in subsection (4) "against an owner" after "commenced";

(f) by striking out from subsection (5)(a)(i) and subsection (6)(a) "address of the registered owner" and substituting, in each case, "last known address of the applicant";

(g) by striking out from subsections (9) and (10)(b) "or any commissioned officer of police" wherever occurring and substituting, in each case, "or any other member of the police force of or above the rank of inspector".

Insertion of ss. 92A and 92B

10. The following sections are inserted before section 93 of the principal Act (and after the heading "*Miscellaneous Duties of Road Users*"):

Using lights while driving at night or during periods of low visibility

92A. Except as otherwise prescribed, a person must not drive a vehicle, or cause a vehicle to stand, on a road between sunset and sunrise or during a period of low visibility unless the lamps fitted to the vehicle are operating effectively and are clearly visible.

Duty to dip headlamps

92B. The driver of a vehicle fitted with a dipping device must cause the main beam of light projected by the headlamps of the vehicle to be dipped between sunset and sunrise or during a period of low visibility, when the vehicle is within 200 metres of another vehicle approaching from the opposite direction.

Amendment of s. 94A—Portion of body protruding from vehicle

11. Section 94A of the principal Act is amended by striking out from subsection (1) "motor cycle" and substituting "motor bike".

Insertion of s. 107A

12. The following section is inserted after section 107 of the principal Act:

Vehicle fitted with metal tyres

107A. (1) If a vehicle fitted with metal tyres is driven on, or drawn along, a road, the surfaces of the tyres that come into contact with the surface of the road must be smooth and at least 33 millimetres in width.

(2) A person who drives a vehicle on a road, or draws a vehicle along a road, in contravention of subsection (1) is guilty of an offence.

Substitution of heading

13. The heading to Part 4 of the principal Act is repealed and the following heading is substituted:

**PART 4
VEHICLE STANDARDS, MASS AND LOADING REQUIREMENTS
AND SAFETY PROVISIONS**

Substitution of sections 111 to 147 and headings

14. Sections 111 to 147 (inclusive) and the headings to those sections are repealed and the following sections and headings are substituted:

Vehicle Standards

Rules prescribing vehicle standards

111. The Governor may make rules to set standards (**vehicle standards**) about the design, construction, efficiency and performance of, and the equipment to be carried on, motor vehicles, trailers and combinations.

Offences relating to vehicle standards, safety maintenance and emission control systems

112. (1) Subject to this section, a vehicle must not be driven or towed on a road if—

- (a) it does not comply with the vehicle standards; or
- (b) it has not been maintained in a condition that enables it to be driven or towed safely; or
- (c) it does not have an emission control system fitted to it of each kind that was fitted to it when it was built; or
- (d) an emission control system fitted to it has not been maintained in a condition that ensures that the system continues operating essentially in accordance with the system's original design.

(2) If a vehicle is driven or towed in contravention of subsection (1), the driver and the owner and the operator of the vehicle are each guilty of an offence.

(3) A person guilty of an offence against this section in relation to a vehicle's non-compliance with the vehicle standards or subsection (1) in a particular respect is guilty of a further offence against this section if the vehicle simultaneously fails to comply with the standards or subsection (1) in another respect.

(4) This section does not apply to vehicles excluded by the vehicle standards from the application of those standards.

(5) For the purposes of this section, a vehicle is not maintained in a condition that enables it to be driven or towed safely if driving or towing the vehicle would endanger the person driving or towing the vehicle, anyone else in or on the vehicle or a vehicle attached to it or other road users.

(6) In this section—

"vehicle" includes a combination.

(7) In this section, a reference to the owner or the operator of a vehicle is, in relation to the non-compliance of a combination with the vehicle standards (rather than the non-compliance of a vehicle that forms part of a combination), a reference to the owner or the operator of the motor vehicle that provides the motive power of the combination.

*Mass and Loading Requirements***Regulations prescribing mass and loading requirements**

113. The Governor may make regulations to prescribe requirements (**mass and loading requirements**) about the mass and loading of motor vehicles, trailers and combinations, including dimensions and securing of loads and the coupling of vehicles.

Offences relating to mass and loading requirements

114. (1) A vehicle must not be driven or towed on a road if the vehicle or a load on the vehicle does not comply with the mass and loading requirements.

(2) If a vehicle is driven or towed in contravention of subsection (1), the driver and the owner and the operator of the vehicle are each guilty of an offence.

- Penalty: (a) In the case of an offence where a mass limit prescribed in the mass and loading requirements has been exceeded—
- (i) not less than \$1.75 and not more than \$10 for every 50 kilograms of the first tonne of mass in excess of the mass limit; and
 - (ii) not less than \$10 and not more than \$20 for every 50 kilograms of the excess mass after the first tonne;
- (b) In any other case—\$1 000.

(3) A person guilty of an offence against this section in relation to a vehicle's non-compliance with the mass and loading requirements in a particular respect is guilty of a further offence against this section if the vehicle simultaneously fails to comply with the requirements in another respect.

(4) In this section—

"vehicle" includes a combination.

(5) In this section, a reference to the owner or the operator of a vehicle is, in relation to the non-compliance of a combination with the mass and loading requirements (rather than the non-compliance of a vehicle that forms part of a combination), a reference to the owner or the operator of the motor vehicle that provides the motive power of the combination.

Oversize or Overmass Vehicle Exemptions

Standard form conditions for oversize or overmass vehicle exemptions

115. (1) The Governor may make regulations to prescribe standard form conditions to apply to the driving on a road of a vehicle the subject of an oversize or overmass vehicle exemption.

(2) For the purposes of this section, an oversize or overmass vehicle exemption is an exemption granted under this Part by the Minister in respect of a vehicle from—

- (a) a dimension limit in the vehicle standards; or
- (b) a mass or dimension limit in the mass and loading requirements.

(3) If the Minister grants an oversize or overmass vehicle exemption in respect of a class of vehicles by notice published in the *Gazette*, the exemption is—

- (a) except as otherwise provided in the notice, to be subject to the standard form conditions prescribed by the regulations for vehicles travelling under notices and the class of vehicles to which the notice applies; and
- (b) to be subject to any other conditions the Minister thinks fit and specifies in the notice.

(4) If the Minister grants an oversize or overmass vehicle exemption in respect of a specified vehicle by instrument in writing, the exemption is—

- (a) except as otherwise provided in the instrument, to be subject to the standard form conditions that are declared by the regulations to apply to a vehicle subject to such an exemption; and
- (b) to be subject to any other conditions the Minister thinks fit and specifies in the instrument.

(5) An oversize or overmass vehicle exemption granted by notice published in the *Gazette* may designate an area or road to which the exemption applies to be in a particular category for the purposes of the operation of a standard form condition prescribed by the regulations.

(6) The standard form conditions may be incorporated in the notice or instrument by which the exemption is granted by referring to them rather than by setting them out in full.

(7) In this section—

"vehicle" includes a combination.

Towing of Vehicles

Towing of vehicles

116. (1) A vehicle must not be towed by another vehicle on a road if a requirement of the regulations relating to the towing of vehicles is not complied with.

(2) If a vehicle is towed in contravention of subsection (1), the driver, the owner and the operator of the towing vehicle are each guilty of an offence.

Insertion of heading

15. The following heading is inserted before section 148 of the principal Act:

Enforcement Powers

Amendment of s. 148—Determination of mass

16. Section 148 of the principal Act is amended—

- (a) by striking out "group of axles" twice occurring and substituting, in each case, "axle group";
- (b) by inserting after subsection (2) the following subsection:

(3) In this section—

"vehicle" includes a combination.

Amendment of s. 149—Measurement of distance between axles

17. Section 149 of the principal Act is amended—

- (a) by striking out subsection (1);

(b) by striking out from subsection (2) "of vehicles".

Repeal of s. 150

18. Section 150 of the principal Act is repealed.

Amendment of s. 153—Determining mass

19. Section 153 of the principal Act is amended—

(a) by inserting in subsection (1) "or the operator" after "owner" first occurring;

(b) by striking out "that owner" from subsection (1) and substituting "that owner or operator".

Amendment of s. 154—Measurement of loads, etc.

20. Section 154 of the principal Act is amended by striking out from subsection (1) "or person" and substituting ", the operator or the person".

Amendment of s. 156—Unloading of excess mass

21. Section 156 of the principal Act is amended—

(a) by striking out from subsection (1)(a)(i) "of a vehicle (or on two axles of a vehicle that are not more than one metre apart)" and substituting "or single axle group of a vehicle";

(b) by striking out from subsection (1)(a)(ii) "a group of axles of a vehicle" and substituting "an axle group of a vehicle (other than a single axle group)".

Repeal of s. 157 and headings

22. Section 157 of the principal Act, the heading to that section and the heading immediately after that section are repealed.

Amendment of s. 160—Defect notices

23. Section 160 of the principal Act is amended—

(a) by striking out from subsection (2) "or person" and substituting ", the operator or the person";

(b) by striking out from subsection (2a) "or person" and substituting ", the operator or the person";

(c) by striking out from subsection (5) "or person" and substituting ", the operator or the person";

(d) by striking out from subsection (11) "Division 6 fine" and substituting "\$5 000".

Amendment of s. 161—Suspension of registration of unsafe vehicles

24. Section 161 of the principal Act is amended—

(a) by striking out from subsection (3) "owner" and substituting "person registered as the operator of the vehicle";

(b) by striking out subsection (4) and substituting the following subsection:

(4) The Commissioner of Police must give the Registrar of Motor Vehicles and the person registered as the operator of the vehicle written notice of a suspension under this section and written notice of removal of a suspension under this section.

Insertion of heading

25. The following heading is inserted after section 161 of the principal Act:

Further Safety Provisions

Amendment of s. 162—Securing of loads on light vehicles

26. Section 162 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) This section does not apply to a vehicle to which the mass and loading requirements apply.

Repeal of s. 162B

27. Section 162B of the principal Act is repealed.

Amendment of s. 163C—Application of Part

28. Section 163C of the principal Act is amended by striking out subsection (2).

Amendment of s. 163D—Inspection of vehicles and issue of certificates of inspection

29. Section 163D of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) A vehicle to which this Part applies must not be driven on a road while carrying passengers (other than the driver) unless the vehicle is the subject of a current certificate of inspection.

(1a) The owner and the operator of a vehicle to which this Part applies must ensure that the vehicle is produced to the Authority for inspection at least once within each prescribed period or as the Authority may direct in a particular case.;

(b) by striking out subsection (6) and substituting the following subsection:

(6) If a vehicle is driven on a road in contravention of subsection (1), or when a condition of a certificate of inspection in respect of the vehicle has not been complied with, the driver, the owner and the operator of the vehicle are each guilty of an offence.

Amendment of s. 163E—Inspection of vehicles

30. Section 163E of the principal Act is amended by striking out from subsection (2) "or to one of the owners" and substituting "or the operator".

Amendment of s. 163F—Cancellation of certificates of inspection

31. Section 163F of the principal Act is amended by striking out paragraphs (a) and (b) and substituting the following paragraphs:

- (a) that a notice given under section 163E in relation to the vehicle has not been complied with; or
- (b) that a condition of the certificate has not been complied with; or.

Amendment of s. 163GA—Maintenance records

32. Section 163GA of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) If a prescribed scheme of maintenance applies to a vehicle—

- (a) the following information must be recorded, in the English language, in a clear and legible manner, on the prescribed form in respect of the vehicle:
 - (i) particulars of all prescribed maintenance and repair work carried out on the vehicle; and
 - (ii) such other particulars as are prescribed; and
- (b) those records must be retained in South Australia for a period of three years, or for such shorter period as may be prescribed, in a form that permits quick and convenient reference.

(1a) If there is a failure to comply with subsection (1) in respect of a vehicle to which subsection (1) applies, the owner and the operator of the vehicle are each guilty of an offence.;

(b) by inserting in subsection (5) "or the operator" after "require the owner".

Insertion of ss. 173A and 173B

33. The following sections are inserted after section 173 of the principal Act:

Defence relating to registered owner or operator

173A. (1) In proceedings for an offence against this Act in which a person is charged as a registered owner of a vehicle, it is a defence if the person proves—

- (a) that before the relevant time the ownership of the vehicle had been transferred to some other specified person; or
- (b) that the person was wrongly registered or recorded as an owner of the vehicle.

(2) In proceedings for an offence against this Act in which a person is charged as the operator of a vehicle, it is a defence if the person proves that at the relevant time the person was not principally responsible for the operation or use of the vehicle.

(3) In this section—

"registered owner", in relation to a vehicle, means a person registered or recorded as an owner of the vehicle under the *Motor Vehicles Act 1959* or a similar law of the Commonwealth or another State or a Territory of the Commonwealth.

Service of notices, etc., on owners of vehicles

173B. If a notice or other document is required or authorised by this Act to be served on or given to the owner of a vehicle, it is sufficient for the purposes of this Act, in a case where there is more than one owner of the vehicle, if it is served on or given to only one or some of the owners.

Amendment of s. 175—Evidence

34. Section 175 of the principal Act is amended—

- (a) by inserting in subsection (1)(f) "the operator," after "the owner,";
- (b) by striking out subsection (2);
- (c) by inserting in subsection (3)(a)(i) "or combination" after "vehicle";
- (d) by striking out from subsection (3)(a)(ii) "group of axles" and substituting "axle group";
- (e) by inserting in subsection (3)(a)(iii) "or combination" after "vehicle" first occurring.

Amendment of s. 176—Regulations and rules

35. Section 176 of the principal Act is amended—

- (a) by inserting "or rules" after "regulations" wherever occurring;
- (b) by inserting "or rule" after "regulation" wherever occurring;
- (c) by inserting in subsection (1)(caa) ", the operator" after "owner";
- (d) by striking out paragraphs (ca) and (cb) of subsection (1);
- (e) by striking out paragraphs (d), (e), (f) and (g) of subsection (1);
- (f) by inserting in subsection (1)(h) "or combination" after "vehicle" first occurring;
- (g) by striking out from subsection (1)(h) "group of axles" and substituting "axle group";
- (h) by striking out paragraphs (ha), (hb) and (i) of subsection (1);
- (i) by striking out from subsection (1)(m) "this section" and substituting "this Act";
- (j) by striking out paragraph (n) of subsection (1);
- (k) by striking out from subsection (1)(na) "this section" and substituting "this Act";
- (l) by striking out from subsection (2) "against section 146" and substituting "against section 114";

- (m) by striking out from subsection (2)(b) "under section 146" and substituting "under the mass and loading requirements";
- (n) by striking out subsection (5) and substituting the following subsections:

(5) The regulations or rules may impose a requirement, or make other provision, by reference to a specified standard, code or specification, as in force at a specified time, or as in force from time to time.

(5a) If the regulations or rules make some provision by reference to a standard, code or specification—

- (a) a copy of the standard, code or specification must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices determined by the Minister; and
- (b) in any legal proceedings, evidence of the contents of the standard, code or specification may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the standard, code or specification.

(5b) The regulations or rules may include evidentiary provisions to facilitate proof of breaches of the regulations or rules for the purposes of proceedings for offences against this Act.

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

E. J. NEAL Governor