

Acts reprinted pursuant to the Amendments Incorporation
Act, 1937

BUSH FIRES ACT, 1933-1952
ROAD TRAFFIC ACT, 1934-1954

With notes of judicial decisions affecting sections of the reprinted Acts

The Bush Fires Act, 1933-1957, including all amendments passed to the end of 1957 and notes of judicial decisions, is reprinted in the Annual Volume, 1957, at page 179.



BUSH FIRES ACT, 1933-1952.

BEING

BUSH FIRES ACT, 1933, No. 2139 OF 1933 [ASSENTED TO
7TH DECEMBER, 1933.]

AS AMENDED BY

CRIMINAL LAW CONSOLIDATION ACT, 1935, No. 2252 OF 1935
[ASSENTED TO 21ST DECEMBER, 1935.]

BUSH FIRES ACT AMENDMENT ACT, 1935, No. 2258 OF 1935
[ASSENTED TO 2ND JANUARY, 1936.]

BUSH FIRES ACT AMENDMENT ACT, 1939, No. 27 OF 1939
[ASSENTED TO 14TH DECEMBER, 1939.]

BUSH FIRES ACT AMENDMENT ACT, 1941, No. 24 OF 1941
[ASSENTED TO 13TH NOVEMBER, 1941.]

BUSH FIRES ACT AMENDMENT ACT, 1942, No. 30 OF 1942
[ASSENTED TO 26TH NOVEMBER, 1942.]

BUSH FIRES ACT AMENDMENT ACT, 1945, No. 19 OF 1945
[ASSENTED TO 13TH DECEMBER, 1945.]

BUSH FIRES ACT AMENDMENT ACT, 1946, No. 33 OF 1946
[ASSENTED TO 19TH DECEMBER, 1946.]

BUSH FIRES ACT AMENDMENT ACT, 1950, No. 23 OF 1950
[ASSENTED TO 9TH NOVEMBER, 1950.]

AND

BUSH FIRES ACT AMENDMENT ACT, 1952, No. 44 OF 1952
[ASSENTED TO 4TH DECEMBER, 1952.]

An Act to make better provision for the prevention and control of bushfires and other fires, and for other purposes.

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

1. This Act may be cited as the "Bush Fires Act, 1933-1952." Short title.

2. The Acts mentioned in the schedule are hereby repealed. Repealing provision.

Interpretation.
1123, 1913,
s. 2.

3. (1) In this Act, unless a contrary intention clearly appears—

“area” means a municipality or district council district:

“council” means a municipal council or district council:

Inserted by
24, 1941,
s. 2.

“producer gas” means gas which is produced by the incomplete combustion of solid fuel and whose active constituent is chiefly carbon monoxide, but does not include gas produced at a fixed station and distributed through mains for consumption at a distance from the place of production:

Inserted by
24, 1941,
s. 2.

“producer gas equipment” means equipment for the production of producer gas or for conducting producer gas to an engine:

“scrub” includes trees, bushes, plants, and undergrowth of all kinds and sizes, whether alive or dead, and whether standing or not standing, and also includes any parts of any trees, bushes, plants, or underwood, and whether severed therefrom or not so severed, but does not include trees of such kinds or sizes as the Governor, by proclamation, declares not to be scrub within the meaning of this Act:

“stubble” includes stubble, hay, straw, grass, and herbage, whether alive or not alive, and whether standing or not standing.

(2) Wherever in this Act a period between one specified date and another specified date is fixed, such period does not include either of the said specified dates.

Advisory
Committee.
Inserted by
27, 1939,
s. 2, and
amended by
19, 1945,
s. 2.

3a. (1) There shall be a committee to be called the “Bush Fires Advisory Committee.”

(2) There shall be nine members of the committee who shall from time to time be appointed by the Governor on the recommendation of the Minister. One of the said members shall from time to time be appointed by the Governor, on the said recommendation, as the chairman of the committee. One of the said members shall be a person who is a representative of the South Australian Railways Commissioner.

(3) The committee shall—

(a) report to the Minister from time to time as to the best means to be taken for preventing or extinguishing bush fires:

(b) perform and undertake such powers and duties as may be entrusted to it by the Minister:

(c) generally advise the Minister upon the administration of this Act.

(4) The Minister may pay to any member of the committee any travelling or other expenses incurred by the member in the exercise of his office.

4. (1) Subject to subsections (2), (3), and (4), no person shall during the period between the fifteenth day of October and the first day of the following February, burn any stubble standing on any land, or light or maintain any fire with the intention of burning any stubble standing on any land.

Burning of stubble between 15th October and 1st February.
1123, 1913, s. 6.
1768, 1926, s. 2.
2023, 1931, s. 3.

(2) Where the stubble is burned or the fire is lighted and maintained only for the purpose of clearing strips of land to act as firebreaks for preventing the spread of fire, it shall not be deemed a contravention of this section, provided that all the following conditions are strictly observed, namely:—

i. None of the strips shall be more than two chains in width at any part thereof:

ii. Before the fire is lighted, the land immediately adjoining each strip shall, throughout the whole length of each side of such strip, either be ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet:

Amended by 27, 1939, s. 3 (a) and by 19, 1945, s. 3 (1) (a).

iii. Not less than six hours before the fire is lighted, notice of intention to burn the strips, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the field or place wherein the strips are situated, who reside within five miles of such field or place. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable

Amended by 2258, 1935, s. 2 (a).

s. 4. ROBERTS v. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austn. Digest 127. Notwithstanding compliance with the section a person lighting a fire does not escape liability for any injury occasioned by the fire.

VERRAN v. ROBERTS (1938) S.A.S.R. 256. Where the defendant omitted to give notice to an adjoining occupier but complied with the other requirements of subsection (2) held that, in the particular circumstances, the complaint was rightly dismissed on the ground of triviality.

stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining a field or place as aforesaid notwithstanding that they are separated by a road:

Amended by
23, 1950,
s. 3 (1).

iv. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated, and to the nearest fire control officer of such area:

Inserted by
27, 1939,
s. 7 (1).

iva. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:

v. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the strips:

Amended by
27, 1939,
s. 3 (b).

vi. No such fire shall be lighted before twelve o'clock noon, and every such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day:

Inserted by
27, 1939,
s. 3 (c).

vii. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Amended by
27, 1939,
s. 3 (d) and
(e), and by
30, 1942,
s. 2.

(3) It shall not be deemed a contravention of this section if a council causes stubble to be burnt, or a fire lighted and maintained for the purpose of burning any stubble on any street, road, or reserve vested in or under the control of the council or (with the consent in writing of the Commissioner of Crown Lands) on any travelling stock reserve in any case where all the following conditions are strictly observed, namely:—

At least four men shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place; and during the said time the council shall provide adequate fire fighting appliances and an adequate supply of water in order to prevent any spread of fire.

(4) It shall not be deemed a contravention of this section if a person burns stubble or lights or maintains a fire for the purpose of burning any stubble in or on any irrigation channel or lucerne field in any case where the consent of the council or body corporate exercising the powers of a council

in the part of the State in which the land is situated is obtained to such burning and all the following conditions and all such further conditions as the said council or body corporate may prescribe are strictly observed, namely:—

- i. Before the fire is lighted the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall, throughout the whole length of every such side, either be ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet:

Amended by
19, 1945,
s. 3 (1) (b).
- ii. Not less than six hours before the fire is lighted, notice of intention to burn the stubble shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon the burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road:

Amended by
2258, 1935,
s. 2 (b).
- iii. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:

Inserted by
27, 1939,
s. 7 (1).
- iv. At least four men shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place:
- v. No such fire shall be lighted before twelve o'clock noon, and every such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day:

Amended by
27, 1939,
s. 3 (f).
- vi. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Inserted by
27, 1939,
s. 3 (g).

Amended by
23, 1950,
s. 2 (1).

(5) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence of not less than ten pounds nor more than fifty pounds.

Burning of
stubble
between 31st
January and
15th May.
1123, 1913,
s. 7.
1768, 1926,
s. 3.

5. (1) No person shall during the period between the thirty-first day of January and the fifteenth day of the following May, burn any stubble standing on any land, or light or maintain any fire with the intention of burning any stubble standing on any land, except subject to all the following conditions, namely:—

Amended by
19, 1945,
s. 3 (2).

I. Before the fire is lighted, the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall, throughout the whole length of every such side, either be ploughed and cleared of all scrub, stubble, and other inflammable material to a width of at least six feet or be cleared of all scrub, stubble, and other inflammable material to a width of at least twelve feet:

Amended by
2258, 1935,
s. 3.

II. Not less than six hours before the fire is lighted, notice of intention to burn the stubble, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon the burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road:

Amended by
23, 1950,
s. 3 (2).

III. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated and to the nearest fire control officer of such area:

Inserted by
27, 1939,
s. 7 (2).

IIIa. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:

iv. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place:

v. No such fire shall be lighted before twelve o'clock noon, and any such fire shall be thoroughly extinguished before nine o'clock in the evening of the same day:

Amended by
27, 1939,
s. 4 (a).

vi. The fire shall be first lighted from the leeward side of the stubble to be burnt before the fire shall be lighted from the windward side of the stubble.

Inserted by
27, 1939,
s. 4 (b).

(2) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence of not less than ten pounds nor more than fifty pounds.

Amended by
23, 1950,
s. 2 (2).

5a. It shall not be deemed a contravention of section 4 or section 5 if any person burns any stubble on any land or lights or maintains any fire with the intention of burning any stubble or if any council causes stubble to be burnt or a fire lighted or maintained for the purpose of burning any stubble on any street, road or reserve vested in or under the control of the council if, prior to the stubble being burnt or the fire lighted or maintained, permission in writing is obtained from the Minister for the purpose, and if all conditions specified by the Minister are fully complied with. The permission of the Minister aforesaid may be given subject to such conditions as the Minister thinks sufficient or proper in the circumstances of the case. If application for permission as aforesaid is made by other than a council and if the land in respect of which the application is made is situated within an area, the Minister shall not give permission as aforesaid except upon the recommendation of the council of the area.

Power of
Minister to
authorize
burning of
stubble.
Inserted by
30, 1942,
s. 3.

5b. (1) It shall not be a contravention of section 4 or section 5 if any person burns any stubble or lights or maintains a fire for the purpose of burning any stubble in or on any irrigation channel situated within any ratable land in an irrigation area or in or on any drainage channel situated within any ratable land in an irrigation area if the following conditions are complied with, namely:—

Burning of
stubble in
irrigation
or drainage
channels.
Inserted by
44, 1952,
s. 2.

i. Before the fire is lighted the land immediately adjoining on all sides the whole of the land on which the burning is to take place shall be cleared of all scrub,

stubble, and other inflammable material to a width of at least twelve feet;

- ii. Not less than six hours before the fire is lighted, notice of intention to burn the stubble, stating the date and the probable time at which the fire is to be lighted, shall be given to the clerk of the area in which the land is situated.

(2) In this section "irrigation area" means an irrigation area as defined by section 6 of the Irrigation Act, 1930-1946, and "ratable land" means ratable land as defined by the said section.

Burning of stubble without restriction under certain conditions.

6. In any case where it is necessary to use a fire-rake in order to burn any stubble on any land, the occupier of such land may, with the consent of a fire control officer, burn such stubble during any period to which section 4 or section 5 applies, and in any such case the provisions of sections 4 and 5 shall not apply to any such burning: Provided that before the fire is lighted there is around the land upon which the fire is to be lighted a space cleared of all inflammable material to a width of twelve feet or a space ploughed to a width of six feet.

Burning of scrub between 15th October and 1st February.
1123, 1913,
s. 8.

7. (1) Any person who, during the period between the fifteenth day of October and the first day of the following February, burns any scrub on any land, or lights or maintains any fire with the intention of burning any scrub on any land, shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence, of not less than ten pounds nor more than fifty pounds.

Inserted by 27, 1939,
s. 5.

(2) It shall not be deemed a contravention of this section if scrub is burnt on any land for the purpose of providing a firebreak if permission in writing is, prior to the burning, obtained from the Minister for the purpose and if any conditions specified by the Minister in the permission in writing are fully complied with.

Burning of scrub between end of January and 1st May.
1123, 1913,
s. 9.
1768, 1926,
s. 4.
2023, 1931,
s. 4.

8. (1) No person shall, during the period between the last day of January and the first day of the following May, burn any scrub on any land, or light or maintain any fire with the intention of burning any scrub on any land, except subject to all the following conditions, namely:—

Para. I amended by 27, 1939,
s. 6, and by 19, 1945,
s. 3 (3).

- i. Before the fire is lighted, a space of at least fifteen feet in width immediately adjoining on all sides the whole of the land whereon such burning is to take place, and throughout the whole length of every

such side, shall be cleared of all scrub, stubble, and other inflammable material:

- ii. Not less than six hours before the fire is lighted, notice of intention to burn the scrub, stating the date and the probable time at which the fire is to be lighted, shall be given to the owner or occupier or person in charge of any land or building immediately adjoining the land whereon such burning is to take place, who resides within five miles of the last-mentioned land. If notice as aforesaid cannot be given to any person to whom notice is required by this paragraph to be given, by reason of the absence of such person from his place of residence or for any other reasonable cause, notice as aforesaid shall in lieu thereof be given to the police constable stationed nearest to the land whereon the burning is to take place. Any land or building shall be deemed to be immediately adjoining any land as aforesaid notwithstanding that they are separated by a road:
 - Amended by
2258, 1935,
s. 4.

- iii. Notice as aforesaid shall also be given to the clerk of the area in which the land is situated, and to the nearest fire control officer of such area:
 - Amended by
23, 1950,
s. 3 (3).

- iiia. If the land upon which the fire is to be lighted is within one mile of a Government forest, notice as aforesaid shall also be given to the person in charge of the forest:
 - Inserted by
27, 1939,
s. 7 (3).

- iv. Not less than fourteen days before a fire is lighted for the purpose of burning an area of scrub of more than five hundred acres, notice of intention to burn the scrub shall, if the land is situated within an area, be given to the council thereof:

- v. Four men at least shall be present at the fire, from the time it is lighted until it is thoroughly extinguished, to assist in keeping it under control and prevent it from spreading beyond the land whereon the burning is to take place:

In any case where notice is given to a council pursuant to paragraph iv., and the council or mayor or chairman thereof is of opinion that more than four men will be necessary in order to control the fire and prevent it from spreading as aforesaid, the council or mayor or chairman may not later than ten days after the giving of the notice as aforesaid, give notice to the person aforesaid directing him to

have present at the fire such number of men (but not exceeding three) additional to those hereinbefore provided for as the council or mayor or chairman thinks fit:

vi. The fire shall be first lighted from the leeward side of the scrub to be burnt before the fire shall be lighted from the windward side of such scrub:

vii. No such fire shall be lighted before twelve o'clock noon.

Amended by
23, 1950,
s. 2 (3).

(2) Any person who is guilty of any contravention of this section shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence of not less than ten pounds nor more than fifty pounds.

Inserted by
30, 1942,
s. 4.

(3) It shall not be deemed a contravention of this section if any person burns any scrub on any land or lights or maintains any fire with the intention of burning any scrub if prior to the scrub being burnt or the fire lighted or maintained, permission in writing is obtained from the Minister for the purpose and if all conditions specified by the Minister in the permission in writing are fully complied with. The permission of the Minister aforesaid may be given subject to such conditions as the Minister thinks sufficient or proper in the circumstances of the case.

Power to
authorize
burning of
stubble or
scrub before
12 o'clock
noon.
Inserted by
19, 1945,
s. 4.

8a. Notwithstanding the provisions of paragraph vi. of subsection (2) or paragraph iv. of subsection (4) of section 4 or of paragraph v. of subsection (1) of section 5 or of paragraph vii. of subsection (1) of section 8, a fire control officer authorized for the purpose by a council may authorize any person to light a fire before twelve o'clock noon for the purpose of burning stubble or scrub on any land in the area of the council which adjoins any land of the South Australian Railways Commissioner in any case where the fire control officer is satisfied that, at the same time as the stubble or scrub aforesaid will be burnt, stubble or scrub will also be burnt upon the land of the South Australian Railways Commissioner and that the purpose of the burning to be authorized by him is to provide an effective fire break between the land of the South Australian Railways Commissioner and the said land. It shall not be deemed a contravention of sections 4, 5, or 8 if a fire is lighted before twelve o'clock noon in accordance with this section if the other provisions of sections 4, 5, or 8, as the case may require, applicable thereto are complied with.

8b. In any case where it is necessary to use a fire rake in order to burn any scrub on any land, the occupier of such land may, with the consent of a fire control officer, burn such scrub during any period to which section 8 applies, and in any such case the provisions of paragraphs i. and v. of subsection (1) of section 8 shall not apply to any such burning: Provided that before the fire is lighted there is around the land upon which the fire is to be lighted a space cleared of all inflammable material to a width of two chains.

Burning of scrub with fire rake.
Inserted by 44, 1952, s. 3.

9. Any person who lights, uses, or maintains any fire in the open air for the purpose of making charcoal or lime during the period between the thirty-first day of October and the first day of the following May, unless either—

Fires for charcoal burning between 31st October and 1st May.
1123, 1913, s. 11.
1768, 1926, s. 5.

(a) a space of ground immediately round the pit or place in which the fire is situated, of the width of fifty feet at least in all parts, has before the fire is lighted been cleared, and is until the fire is completely extinguished, kept clear, of all stubble, scrub, and other inflammable material; or

(b) the fire is enclosed in a kiln of brick, iron, stone, or earth, so constructed as to prevent the escape of fire or any burning material therefrom,

shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds, nor more than twenty-five pounds; and for every subsequent offence, of not less than ten pounds nor more than fifty pounds.

10. (1) Every occupier of any land whereon any offence under sections 4, 5, 7, 8, or 9 is committed shall be deemed guilty of such offence, unless he satisfies the court hearing the charge against him that the offence was not committed by him or by his authority.

Occupier of land *prima facie* liable for fire thereon.
1123, 1913, s. 12.

(2) Nothing in this section shall be deemed to affect the liability of the actual perpetrator of the offence in respect of such offence.

11. (1) With the approval in writing of the Minister the council of any area may, as regards such area or any portion thereof, and the Minister may, as regards any part of the State (defined in a notice under subsection (2) hereof) which is not within any area, alter the periods or the hours, or the distances, or of any of them, mentioned in sections 4, 5, 7, 8, 9, 13, or 20, or any of those sections, and may by any such alteration fix earlier or later and longer or shorter periods

Power to alter periods and hours for burning.
1123, 1913, s. 13.
1768, 1926, s. 6.
Subsec. (1) amended by 27, 1939, s. 8 and by 44, 1952, s. 4 (a).

s. 10. McINNES v. WARDLE (1931) 45 C.L.R. 548; 38 A.L.R. 230; 9 Austn. Digest 131, affirming WARDLE v. McINNES (1930) S.A.S.R. 450. As to the civil liability of an occupier where an offence is committed by an independent contractor.

or hours, or greater distances, or all or any of such altered periods and hours and distances.

The power conferred by this section shall include power to provide that stubble may be burnt as provided by section 5 during any period either before or after or both before and after any period during which section 4 applies, and to provide that scrub may be burnt as provided by section 8 during any period either before or after or both before and after any period during which section 7 applies.

Amended by
19, 1945,
s. 5.

(2) No such alteration shall have any force until notice thereof has been—

- (a) published once in the *Government Gazette*, and once in some newspaper circulating in the area or defined part of the State; and
- (b) in the case of an alteration made by a council, affixed for at least seven days on the front door or the notice board of the council making such alteration.

Amended by
27, 1939,
s. 8 (d) and
by 44, 1952,
s. 4 (b).

(3) Upon such publication and affixing, such alteration shall have the force of law within such area or portion thereof or defined part of the State, and shall therein have the same effect as if the periods and hours and distances fixed thereby were respectively fixed by such of the said sections 4, 5, 7, 8, 9, 13, or 20, as is or are applicable.

Substituted
by 23, 1950,
s. 4.

(4) In every case where the Minister is of opinion that the alteration of periods, hours or distances, as the case may be, to be made pursuant to any notice given under this section (whether given by a council or by the Minister) should have effect only for a time to be stated in the notice, the Minister may give directions in writing fixing the time during which the alterations shall continue and the time so fixed shall be stated in the notice aforesaid. Upon the expiration of the time so fixed, the periods, hours or distances, as the case may be, shall revert to the periods, hours, or distances, as the case may be, which applied within the area, or portion thereof, or part of the State, as the case may be, immediately prior to the notice taking effect.

Inserted by
27, 1939,
s. 8 (e).

(5) In the case of an alteration by a council, the clerk of the council shall, after the notices provided for in subsection (2) or (4) have been given, furnish to the Minister a certificate that such notices have been given.

Fires not to
be lighted on
Sunday.
1123, 1913,
s. 14.

12. Notwithstanding any provision of this Act, any person who under any conditions lights any fire at any time on any Sunday, for any of the purposes mentioned in sections 4, 5,

7, 8, or 9, shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than twenty-five pounds, and for every subsequent offence, of not less than ten pounds nor more than fifty pounds.

12a. (1) If a fire control officer authorized to give directions under this section by the council in the area of which any land is situated is satisfied—

Power of fire control officer to prevent burning.
Inserted by 19, 1945, s. 6.

- (a) that, during any period during which section 4, 5, 7, 8, or 9 has effect, any person proposes to light any fire upon that land for any purpose mentioned in section 4, 5, 7, 8, or 9, as the case may be, or has lighted a fire for such a purpose; and
- (b) that because of the weather conditions then prevailing, there would be danger of the fire becoming out of control,

the fire control officer so authorized, may, by notice in writing given to that person, direct that that person shall, on the day specified in the notice, refrain from lighting the fire, or as the case may be, shall take all reasonable steps to extinguish any fire already lighted.

(2) Any person who fails to comply with any such notice shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

13. (1) Any person who, during the period between the thirty-first day of October and the first day of the following May—

Fires for purposes other than those mentioned in sections 4 to 9.
1123, 1913, s. 15.
1768, 1926, s. 7.
2023, 1931, s. 5.

- (a) lights, uses, or maintains any fire in the open air for any purpose whatever, except those mentioned in sections 4, 5, 7, 8, and 9, unless a space of ground immediately around such fire of the width of twelve feet at least in all parts has been previously cleared of all stubble, scrub, and other inflammable material; or
- (b) having lighted, used, or maintained any fire in the open air, neglects to completely extinguish such fire before leaving the same,

shall be guilty of an offence and liable to a penalty for a first offence of not less than two pounds, nor more than twenty pounds, and for every subsequent offence of not less than five pounds nor more than fifty pounds.

s. 13. *ORIE v. MOUNT* (1942) S.A.S.R. 35. A fire lit out of doors in a tank having one open side and a hole in the top is a fire in the open air within the meaning of section 13.

Inserted by
27, 1939,
s. 9 (a) and
amended by
44, 1952,
s. 5.

(1a) The council may by resolution published in the *Government Gazette*, declare that within the part of the area defined in the resolution, the lighting of fires in the open during the period between the thirty-first day of October and the first day of the following May or during any other period specified in the resolution shall be prohibited except in a place or places to be specified in the resolution.

Any person who during the period specified in the resolution and within any such specified part of the area, lights any fire in the open in any place other than in a place specified in the resolution shall (notwithstanding compliance with paragraph (a) of subsection (1) of this section) be guilty of an offence and liable to a penalty for a first offence of not less than two pounds nor more than fifty pounds, and for any subsequent offence of not less than five pounds nor more than one hundred pounds.

(2) Nothing in this section shall be construed as varying any of the provisions of any of the sections mentioned in subsection (1).

Inserted by
27, 1939,
s. 9 (b).

(3) It shall be a defence to any proceedings under paragraph (a) of subsection (1) to show—

(a) that the fire was lighted in any orchard or vineyard for the purpose of smudging for insect pests or the prevention of damage by frost or any other purpose prescribed by regulation; and

(b) that at the time the fire was lighted, a space of ground immediately around the fire of the width of twelve feet was clear of all inflammable material, except fruit trees or vines or both.

Warning of
day of
extreme fire
hazard.

cf. Vic. 5040,
1944, s. 41.

cf. Vic. 5191,

1946, s. 29.
Inserted by
23, 1950,
s. 5.

13a. Whenever the Minister is of opinion that it is desirable so to do, the Minister may cause to be broadcast from a broadcasting station in the State a warning of the likelihood of the occurrence of weather conditions conducive to the spread of bush fires in the whole of the State or any part or parts of the State and warning all persons against the fire hazard which would be created by the lighting of fires in the open.

Ignitable
wadding
prohibited
from 30th
September
to 1st May.

1123, 1913,
s. 16.

1768, 1926,
s. 8.

14. (1) Any person who, during the period between the thirtieth day of September and the first day of the following May, uses for the wadding of any gun, rifle, pistol, or other firearm used or carried by him, any paper, cotton, linen, or other ignitable substance, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than ten pounds.

(2) If any person, within the period mentioned in subsection (1) hereof, uses or carries any gun, rifle, pistol, or other firearm upon or over the land of any other person, the owner or occupier of such land, or his servant or agent, or any member of the police force, may examine such gun, rifle, pistol, or other firearm, for the purpose of ascertaining the nature of the wadding used therein; and the person using or carrying such gun, rifle, pistol, or firearm who—

- (a) refuses to allow such examination; or
- (b) upon the occasion of such examination refuses to disclose his name and address, or either, to such owner or occupier, or servant or agent; or
- (c) gives a false name and address, or either,

shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than ten pounds.

15. (1) If—

- (a) any person drives or uses in a stationary position any steam engine or internal combustion engine (other than a steam engine or internal combustion engine which is enclosed on all sides with non-inflammable material); and
- (b) either—
 - (i) a space of ground around the engine to a width of twelve feet at least is not cleared of all stubble, scrub, and other inflammable material; or
 - (ii) some person is not present during the whole time the engine is driven or used; and
- (c) there is not provided with the engine during the time it is driven or used an effective water spray of the knapsack pattern fully charged with water and a shovel,

Using stationary engine in open. Substituted by 23, 1950, s. 6.

the said person if whilst so driving or using the steam engine or internal combustion engine, he fails to comply with the provisions of either or both of paragraphs (b) and (c) hereof, and also any other person who causes the said person to so drive or use the steam engine or internal combustion engine, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

(2) if—

- (a) any person drives or uses in a stationary position any internal combustion engine and the engine is enclosed on all sides with non-inflammable material; and
- (b) any exhaust pipe from the engine projects outside the non-inflammable material; and
- (c) the engine is not equipped with an effective spark arrester or muffler,

the said person and also any other person who causes the said person to so drive or use the internal combustion engine shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Use of
producer gas
equipment.
Inserted by
24, 1941,
s. 3.

15a. (1) Any person who, during the period between the thirtieth day of September and the first day of the following May, in the open air—

- (a) lights any fire in any producer gas equipment; or
- (b) opens any entrance (other than any entrance used for the insertion of fuel) to any producer gas equipment which contains live coals, hot ashes, or any material from which sparks or fire may be emitted,

shall be guilty of an offence unless the space of ground immediately around the producer gas equipment and to a distance of twelve feet at least in all directions is clear of all stubble, scrub and other inflammable material.

(2) Any person who, during the period between the thirtieth day of September and the first day of the following May, whilst on any road outside of any municipality or township, empties from any gas producer equipment any live coals, hot ashes, or any material from which sparks or fire may be emitted, shall be guilty of an offence unless the live coals, hot ashes, or material is emptied into a receptacle containing water sufficient to extinguish completely the coals, ashes or material.

(3) Any person who, during the period between the thirtieth day of September and the first day of the following May, in the open air opens or empties or carries out any

s. 15a. *TOLMER V. DARLING AND ANOTHER* (1943) S.A.S.R. 81. Where a motor car fitted with a gas producer was driven along a public road and over a deep drain at a speed of about ten miles per hour and a bolt and other parts of the hopper of the producer in which the live charcoal was placed came in contact with a stone or other obstacle causing damage to the hopper door and the escape of the charcoal, *quære* whether an offence against section 15a was committed.

operation with respect to any part of any gas producer equipment so that there is emitted from the gas producer equipment any live coals, hot ashes, or any material from which sparks or fire may be emitted, shall be guilty of an offence unless the live coals, hot ashes or other material is immediately and completely extinguished.

(4) Any person who, during the period between the thirtieth day of September and the first day of the following May, in the open air—

- (a) operates any producer gas equipment which is not fitted and mounted so as to prevent effectively the escape of fire, sparks, grit, cinders, ashes, coals and burning gas; or
- (b) operates any gas producer equipment which is so constructed that during the operation thereof any outside surface thereof is likely to reach a temperature sufficient to ignite any stubble, grass, leaves, wood, or other inflammable material which may come into contact therewith,

shall be guilty of an offence.

(5) Any person guilty of an offence against this section shall be liable to a penalty for a first offence of not less than two pounds nor more than twenty pounds, and for any subsequent offence of not less than five pounds nor more than fifty pounds.

15b. (1) Any person who during the period between the thirty-first day of October and the following first day of March drives or causes to be driven on any street or road within any part of the State to which this section applies any vehicle which, at the time it is so driven, is wholly or partly propelled by means of producer gas, shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

Prohibition of use on roads during summer months of vehicles fitted with producer gas equipment
 Inserted by 19, 1945, s. 8, and amended by 33, 1946, s. 2.

(2) The Governor may by proclamation from time to time declare that this section shall apply within any part of the State specified in the proclamation. The Governor may by proclamation revoke or vary any such proclamation. In any proceedings for an offence against subsection (1) the allegation in the complaint that any street or road is within any part of the State to which this section applies shall, in the absence of proof to the contrary, be sufficient evidence that the street or road is within a part of the State to which this section applies.

(3) If in any proceedings for an offence against subsection (1) evidence is given that, at the time of the commission of the alleged offence, any vehicle was equipped with any producer gas equipment and that at the said time a fire was alight in the producer gas equipment or the producer gas equipment contained any live coals or other incandescent material, the vehicle shall be deemed to have been propelled at the time aforesaid by means of producer gas.

Duty of
beekeepers to
clear space.

16. Any person who during the period between the thirty-first day of October and the following first day of May, lights or maintains any fire in any appliance which is used for the purpose of taking honey from any beehive or lights or maintains any fire in any honey-house shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds unless around the beehive or honey-house or around the apiary in which the beehive or honey-house is situated there is a space cleared of all inflammable material to a width of twelve feet or a space ploughed to a width of six feet.

Use of
internal
combustion
engines in
harvesting
operations.
Amended by
27, 1939,
s. 10, by
19, 1945,
s. 9 (a), and
by 23, 1950,
s. 7 (a).

17. (1) Any person who uses any internal combustion engine for the purpose of harvesting any inflammable crop shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds unless such internal combustion engine is fitted with an effective spark arrester and unless there is carried with the internal combustion engine an effective water spray of the knapsack pattern fully charged with water and a shovel.

Inserted by
30, 1942,
s. 5, and
amended by
19, 1945,
s. 9 (b).

(2) Any person who uses any producer gas equipment for the purpose of reaping or cutting any inflammable crop shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds unless the whole of the area to be so reaped or cut is bounded by one or other of the following, namely:—

- I. A strip of land ploughed to a width of at least twelve feet :
- II. A strip of land cleared of all inflammable material to a width of at least twelve feet:
- III. An irrigation or drainage channel containing water to the width of at least six feet,

and unless there is carried with the producer gas equipment an effective water spray of the knapsack pattern fully charged with water.

(3) Any person who uses any producer gas equipment for the purpose of removing any inflammable crop from the place where the crop was reaped or cut, shall be guilty of an offence and liable to a penalty of not less than two pounds and not more than twenty pounds unless there is carried with the producer gas equipment an effective water spray of the knapsack pattern fully charged with water.

Inserted by 30, 1942, s. 5, and amended by 19, 1945, s. 9 (c).

(4) If any vehicle propelled by an internal combustion engine is driven on any land through or near any stubble or other inflammable material on the said land and so that the stubble or inflammable material is in contact with the vehicle, the person driving the vehicle shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds unless the internal combustion engine is fitted with an effective spark arrester or muffler.

Inserted by 33, 1946, s. 3, and amended by 23, 1950, s. 7 (b)-(d).

(5) If—

- (a) any person drives on any land any tractor propelled by an internal combustion engine; and
- (b) the tractor is not fitted with an effective spark arrester; and
- (c) there is not carried with the tractor whilst so driven an effective water spray of the knapsack pattern fully charged with water; and
- (d) the tractor whilst so driven is in contact with any stubble or inflammable material,

Inserted by 23, 1950, s. 7 (e).

the said person, if whilst so driving the tractor he fails to comply with the provisions of either or both of paragraphs (b) and (c) hereof, and also any other person who causes the said person to so drive the tractor, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

In this subsection "tractor" means any vehicle adapted for use in hauling other vehicles, but not built to carry passengers or loads other than fuel or water for its own consumption.

17a. Any person who during the period between the thirty-first day of October and the first day of the following May, has the possession of any caravan which is used for the purposes of habitation at any place situated outside a municipality and upon which caravan there is not carried an efficient chemical fire extinguisher, shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

Duty to provide fire extinguisher with caravan. Inserted by 44, 1952, s. 6.

Smoking in the open air near stacks, etc., prohibited.
1123, 1913, s. 17.
1768, 1926, s. 9.

18. Any person who, during the period between the thirty-first day of October and the first day of the following May, smokes in the open air within twenty yards of any stable, or of any rick, stack, or field of hay, corn, straw, stubble, or other inflammable vegetation production, unless—

- (a) within a town; or
- (b) with a pipe properly covered,

shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Penalty for throwing lighted cigarettes, etc., from vehicles.
Amended by 30, 1942, s. 6 and by 23, 1950, s. 8.

19. Any person who, while in any vehicle in any part of the State outside any municipality or town, during the period between the thirty-first day of October and the first day of the following May, throws out of such vehicle any lighted cigarette or cigar or any live tobacco ash, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Prohibition on using rabbit fumigator during summer.
Cf. 2023, 1931, s. 6.

20. Any person who, during the period between the thirtieth day of November and the fourteenth day of the following February lights or maintains any fire in any appliance which is used as a rabbit fumigator, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Trees not to be blasted between 31st October and 1st May except under conditions.
1123, 1913, s. 18.
1768, 1926, s. 10.
Amended by 19, 1945, s. 10.

21. Any person who, during the period between the thirty-first day of October and the first day of the following May, employs gunpowder, or any other explosive substance, for the purpose of blasting any tree, wood, or timber, without having at least four men present to prevent any fire from arising therefrom and having near the place where the gunpowder or other explosive substance is employed an effective water spray of the knapsack pattern fully charged with water, shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

Prohibition of placing of substances on the ground.
1123, 1913, s. 19.

22. (1) The Governor may, by proclamation, prohibit the placing on the ground of the substance or substances specified in the proclamation—

- (a) either at any time or during the periods of the year or the day specified in the proclamation;
- (b) either anywhere in the State or within areas so specified;
- (c) either for any purpose or for the purposes so specified; and

(d) either absolutely or except under conditions so specified.

(2) The Governor may, by proclamation, rescind, amend, or vary any proclamation made under subsection (1) hereof.

(3) Any proclamation made under this section shall be published—

(a) in the *Government Gazette*; and

(b) if the proclamation is to have effect throughout the State, twice in a newspaper published in Adelaide, or if the proclamation is to have effect only within specified areas, twice in a newspaper circulating in such areas.

(4) Any person who, after the expiration of the period of fourteen days from the latest of the publications of any proclamation required by subsection (3) hereof, does anything contrary to the provisions of such proclamation, shall be guilty of an offence and liable to a penalty for a first offence of not less than one pound, nor more than five pounds; and for every subsequent offence of not less than two pounds nor more than twenty pounds.

23. (1) The Governor may, by proclamation, prohibit the sale, offering for sale, distribution, and use of any matches other than those made so as to strike only on a preparation affixed to the box containing the matches, or to a box containing matches of the same description—

Prohibition
of sale of
matches of
certain kinds.
1123, 1913,
s. 20.

(a) either anywhere in the State or within the areas specified in the proclamation:

(b) during the periods of the year so specified, being between the thirty-first day of October and the first day of the following May.

(2) The Governor may, by proclamation, rescind, amend, or vary any proclamation made under subsection (1) hereof.

(3) Any proclamation made under this section shall be published—

(a) in the *Government Gazette*; and

(b) if the proclamation is to have effect throughout the State, twice in a newspaper published in Adelaide, or, if the proclamation is to have effect only in specified areas, twice in a newspaper circulating in such areas.

(4) Any person who, after the expiration of the period of fourteen days from the latest of the publications of any proclamation required by subsection (3) hereof, does anything contrary to the provisions of such proclamation, shall be guilty of an offence and liable to a penalty for the first offence of not less than one pound, or more than five pounds; and for every subsequent offence of not less than two pounds nor more than twenty pounds.

Power to
demand name
and address.
Inserted by
27, 1939,
s. 11.

23a. Any member of the police force or any fire control officer, who has reasonable cause to suspect that any person has committed any offence against this Act, may demand that such person disclose his name and address. Any person who upon such demand fails to disclose his name and address or gives a false name or address shall be guilty of an offence and liable to a penalty of not more than five pounds.

S. 24
repealed by
2252, 1935,
s. 4.

* * * * *

Damage by
fire to
dividing
fence.
1123, 1913,
s. 22.

25. (1) If the owner or occupier of any land clears the same of all inflammable materials for the space of at least twenty feet from any fence dividing such land from the land of any other owner or occupier; and

(a) such other owner or occupier does not clear his land contiguous to the said fence for the space of at least twenty feet; and

(b) any damage from fire happens to such dividing fence through his failing so to do;

such other owner or occupier shall, at his own costs and charges, repair or re-erect such fence within the period of one month from the day when the same is so damaged, or within such extended time as is allowed by a special magistrate, on application made to him in writing, of which application not less than seven days' notice in writing has been served on the owner or occupier who has cleared his land as aforesaid.

(2) If the owner or occupier who has so failed to clear his land fails to repair or re-erect such fence within such month or such extended time (if any), the owner or occupier of the first-mentioned land who has cleared the same as aforesaid may repair or re-erect such fence, and may recover the costs and expenses of so doing as money paid to the use of the owner or occupier so in default.

26. Where any land adjoins any road, the occupier of the land, with the consent of the council of the area in which the road is situated or of the Minister if the road is not situated within an area, may, for the purposes of providing a firebreak for the protection of any fences or other property on the said land, clear all scrub from the whole or any portion of that part of the road to the width of nine feet which adjoins the said land.

Power of occupier to clear portions of road.

27. In the event of any fire (other than a fire confined to any building or other premises) an inquest shall be held thereon in any case where a request in writing is made to the member of the police force in charge of the police station nearest to the fire within seven days of the outbreak of the fire by—

Coronial inquiry into certain fires.
Amended by 19, 1945, s. 11.

- (a) the council of the area in which the fire occurred:
- (b) any owner or occupier of property who suffered loss by reason of the fire.

27a. (1) If the council is of opinion that the presence of the plant known as furze on any land within its area is or may be a source of danger from bush fires, the council may by notice in writing given to the occupier or the owner of the land, require him to destroy and remove all furze plants from the land specified in the notice within the time specified in the notice.

Power to order destruction of furze.
Inserted by 27, 1939, s. 12.

No such notice shall apply to any land distant more than one chain from any road or building.

(2) If any such occupier or owner fails to comply with any such notice within the time specified in the notice, any person authorized by the council may enter upon the land and destroy and remove all furze plants from the land specified in the notice. The costs of so doing may, in any court of competent jurisdiction, be recovered by the council as a debt due to the council by the person to whom the notice was given.

27b. (1) It shall be the duty of every council or other authority to remove from any road any inflammable debris or material which results from the carrying out of any work upon that road by the council or authority and which is likely to be a source of danger from bush fires.

Removal of debris from roads.
Inserted by 27, 1939, s. 12.

(2) If any council or authority fails to remove any such debris or material and the default continues for fourteen days or more, the Minister may cause the debris or material

to be removed and may in any court of competent jurisdiction recover from the council or authority in default as a debt due to the Minister an amount equal to twice the amount of the expenses incurred by the Minister.

(3) The provisions of subsection (1) shall not impose on any council or authority any liability for damages which may result from any failure of the council or authority to comply with the provisions of subsection (1).

Power for council to expend rates for prevention of fires.
1123, 1913, s. 23.

28. A council may expend any portion of its rates in paying for the clearing of any roads vested in it of stubble, scrub, and other inflammable material for the purpose of preventing the spread of fire or in the purchase of fire-preventing apparatus; and, subject to the provisions of this Act, may light, use, and maintain fires, or cause the same to be lighted, used, and maintained, for the purpose of such clearing; and may prevent the passing of vehicles of any kind, cattle, and beasts of draught or burden along any road whilst fire is being used for the purpose of such clearing.

Provision of fire-fighting appliances by council.
Enacted by 2258, 1935, s. 5, but repealed and re-enacted by 27, 1939, s. 13.

28a. (1) Every council shall provide adequate fire-fighting appliances for the purpose of preventing and controlling bush fires within its area.

(2) For the purpose of deciding what fire-fighting appliances are adequate for the said purpose, the council may take into regard any fire-fighting appliances within the area of any person other than the council which are available within the area generally for the purpose of preventing the spread of bush fires.

(3) A council may—

(a) contribute to the cost of any organization which is formed for the purpose of taking measures, and conducting operations for the control and extinguishing of bush fires, or may form such an organization:

(b) contribute to the cost of any fire-fighting appliances owned by any occupier of land within the area which the council is satisfied will be available within the area generally and are suitable for the control or extinguishing of bush fires.

(4) The council may expend any portion of its rates for the purposes of this section.

(5) If the Minister is of opinion that any council is neglecting to provide fire-fighting appliances as required by

this section, he may from time to time give notice in writing to the council requiring the council to provide such fire-fighting appliances. If within one month after the giving of notice as aforesaid, the council neglects to provide fire-fighting appliances as required by this section, the council shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

28b. A council may erect or authorize the erection of any siren in any suitable place for the purpose of being used to give an alarm on the outbreak of any fire and may from time to time test any siren so erected.

Power to provide sirens. Inserted by 23, 1950, s. 9.

29. (1) Any council may, from time to time, appoint such persons (not exceeding fifteen in number) as it thinks proper to be its fire control officers under this Act, and may from time to time appoint as additional officers any persons (but not exceeding fifteen in number) who are officers under this Act appointed in respect of any adjoining area.

Appointment of fire control officers. Substituted by 27, 1959, s. 14.

(1a.) A council, the area of which abuts on the district of a local governing authority situated in another State, may appoint as fire control officers for the area of the council any persons who hold a corresponding office under such local governing authority. A fire control officer shall not be appointed as aforesaid unless the council has made reciprocal arrangements with such local governing authority for the appointment of fire control officers of the council by such local government authority as corresponding officers of such authority.

Inserted by 33, 1946, s. 4 (1).

The council shall not appoint as aforesaid more than fifteen fire control officers and the power to appoint such officers shall be in addition to any other powers to appoint fire control officers given by this Act.

(2) If the Minister is satisfied that in order to meet the requirements of any area, it is desirable that the number of fire control officers should be greater than the number authorized to be appointed pursuant to subsection (1), the Minister may, by notice in writing, authorize the council to appoint an additional number of fire control officers fixed by the Minister, and the council may from time to time appoint additional fire control officers, but not exceeding the number so authorized. The authority of the Minister may be revoked by the Minister by notice in writing.

Amended by 23, 1950, s. 10.

The number of additional fire control officers which under this subsection may be authorized to be appointed by the Minister shall not exceed the following:—

Where the area of the council is less than six hundred square miles in extent—fifteen.

Where the area of the council is six hundred square miles or more but is less than eight hundred square miles in extent—twenty:

Where the area of the council is eight hundred square miles or more in extent—twenty-five.

(3) No appointment of a fire control officer shall have effect unless notice of the appointment is published in the *Government Gazette*.

(4) If the Minister is satisfied that any council has not appointed fire control officers sufficient for its area, the Minister may appoint fire control officers for such area, and any person so appointed shall be deemed to have been appointed by the council. Notice of every such appointment shall be published in the *Government Gazette*.

(5) The general powers of the council with respect to other officers appointed by it, shall apply with respect to its fire control officers appointed under this section.

(6) Any fire control officer appointed by a council may be appointed subject to any conditions thought fit by the council, and if thought fit by the council, the council may allot the control of any part of its area to any fire control officer or officers.

(6a) Any councillor may be appointed as a fire control officer by any council or, in exercise of the powers conferred by subsection (4), by the Minister, if, under the conditions of the appointment, no payment is to be made to the councillor by any council as fees, salary, or wages for his services as fire control officer.

Notwithstanding the provisions of the Local Government Act, 1934-1941, no such appointment shall disqualify any councillor so appointed from being or continuing a councillor.

In this subsection "councillor" means mayor, alderman, or councillor in any council.

(6b) If any person (whether a person such as is referred to in subsection (6a) or not) is appointed as a fire control officer by a council or by the Minister in exercise of the powers conferred by subsection (4) or if any person is appointed by a council as a member of the crew of any fire fighting appliance which is the property of or under the control of the council, and, under the conditions of his appointment, no payment is to be made to such person as fees,

Inserted by
30, 1942,
s. 7.

Inserted by
30, 1942,
s. 7, and
amended by
33, 1946,
s. 4 (2), and
by 44, 1952,
s. 7.

salary, or wages for his services as fire control officer or as member of a crew as aforesaid, then for the purposes of any Act relating to the liability of employers in respect of injury to or the death of workmen employed by them, the person so appointed shall not be deemed to be employed as a workman by the council by which he is appointed or, as the case may be, deemed to be appointed and the provisions of any such Act shall not apply upon the injury or death of any such person.

A council by which any such person is appointed or, as the case may be, is deemed to be appointed, shall obtain from an insurance office a policy of insurance under which the following benefits shall be payable to such person or his personal representatives on the death or total or partial incapacity of such person when such death or incapacity is brought about by accident arising out of and in the course of such person's duties as a fire control officer or, as the case may be, member of a crew as aforesaid, namely:—

- (a) On the death or total incapacity of such person—
an amount not less than five hundred pounds:
- (b) On the partial incapacity of such person—an amount not less than two pounds per week to be payable during such partial incapacity for a period of at least six months:
- (c) If any such person suffers any of the injuries mentioned in the first column of the table in section 26 of the Workmen's Compensation Act, 1932-1941—
an amount being such ratio of the sum of five hundred pounds as is shown in the second column of the said table as being payable in respect of such injury: Provided that any amount payable in pursuance of paragraph (b) hereof shall be deducted from any amount payable under this paragraph.

(7) Every forester and assistant forester employed in the Woods and Forests Department of the State, and every foreman in charge of any Government forest, shall *ex officio* be deemed to be a fire control officer under this Act, and shall have and may exercise throughout the whole State all the powers of a fire control officer under this Act.

(8) The Minister may appoint any person to be a fire control officer for any portion of the State not comprised within an area, and any person so appointed shall have and may exercise within such portion of the State all the powers of an officer under this Act.

- (9) The Governor may make regulations prescribing—
- (a) the duties and powers of fire control officers:
 - (b) the form of badges to be issued to fire control officers:
 - (c) any other necessary matters.

Annual return of fire control officers.

Inserted by 27, 1939, s. 14.

29a. In the month of August in every year every council shall forward to the Minister—

- (a) a statement of the names, addresses, and occupations of each fire control officer of the council:
- (b) a statement of the means of transport available to each such officer and a telephone number whereby he may be communicated with:
- (c) if any fire control officer or officers are by their appointment by the council appointed to control any part of the area of the council, a statement of the particulars of such part and any order of priority of control given to such officers:
- (d) a statement of the names and addresses of every occupier of land within the area who owns suitable fire-fighting appliances which are available within the area generally for the control or extinguishing of bush fires and of the telephone numbers whereby the said occupiers may be communicated with.

Duties and powers of fire control officers.

Inserted by 27, 1939, s. 14.

29b. (1) Any fire control officer shall, subject to such (if any) directions as are given by the council, and subject to anything prescribed by regulations, take any measures which appear to him to be necessary or expedient, and practicable, for—

- (a) preventing the outbreak of fire;
- (b) protecting life and property in the case of any such outbreak; and
- (c) controlling and extinguishing any fires or preventing the spread thereof.

(2) On the outbreak of any fire at any place within the area, any such officer shall proceed with all possible speed to such place, and, subject to anything prescribed by regulations, shall have control and the direction of the measures taken to control and extinguish such fire or to prevent it from spreading.

Inserted by
30, 1942,
s. 8.

(2a) Notwithstanding any other provision of this Act, a fire control officer appointed for any area may on the outbreak of any fire at any place outside that area have control and the direction of the measures taken to control and extinguish such fire or to prevent its spreading as if he had been appointed a fire control officer for the area in which the outbreak of fire occurred; but the powers hereby given to any such fire control officer shall be exercised only until such time as a fire control officer appointed for the area in which the outbreak of fire occurred assumes the control and direction of the measures aforesaid.

(3) For the purpose of controlling or extinguishing any fire or preventing the spread thereof, a fire control officer may, after consulting with the occupier of the land if he is present, do all or any of the following things:—

- (a) exercise any of the appropriate powers of the Chief Officer of Fire Brigades under the Fire Brigades Act, 1936, in so far as the same may be necessary or expedient, for extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (b) enter any land or building whether private property or not:
- (c) pull down, cut, and remove fences on any land, whether private property or not, when in his opinion the same is necessary or expedient for the purpose of taking effective measures for extinguishing a fire which is already burning, or for preventing the spread or extension thereof:
- (d) cause firebreaks to be ploughed or cleared on any land, whether private land or not, and take any other appropriate measures on any such land as he may deem necessary for the purpose of controlling or extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (e) light any fire on any land, whether private land or not for the purpose of clearing any strip of land to act as a firebreak for the purpose of controlling or extinguishing a fire which is already burning or for preventing the spread or extension thereof:
- (f) take and use water, other than that for use as an occupier's domestic supply contained in a tank at his dwelling house, and any other fire extinguish-

ing material from any source whatever on any land, whether private property or not:

- (g) take charge of and give directions to any fire-fighting organization present at any fire with respect to its operations or activities in connection with the extinguishment or control of such fire, or the prevention of the spread or extension thereof:
- (h) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers; and
- (i) employ any person or use the voluntary services of any person to assist him, subject to his directions, in the exercise of any of the foregoing powers.

(4) If any fire is within any Government forest and any forester or assistant forester or foreman in charge of a Government forest is present at the fire, the said powers and authorities shall not be exercised within the Government forest by any other fire control officer except with the approval of and subject to the directions of the forester or assistant forester or foreman, whilst he continues to be present at the fire.

(5) This section shall only apply to fires which—

- (a) have been lighted or are maintained unlawfully (whether in contravention of this Act or not); or
- (b) have occurred accidentally; or
- (c) have ceased to be under control or are not adequately controlled,

and to such other fires as are prescribed by regulation.

(6) This section shall not apply within any locality wherein the Fire Brigades Act, 1936, applies.

Power of fire control officer to enter land.
Inserted by 27, 1939, s. 14.

29c. A fire control officer may at any reasonable time enter any land, whether private property or not, for the purpose of examining any measures taken or proposed to be taken on the land for protection from fire.

Power of police to block traffic.
Inserted by 27, 1939, s. 14.

29d. (1) Upon or after the outbreak of any fire any member of the police may give any direction to any person to prevent such person from driving or passing along any road near the fire.

(2) Any person who fails to obey any such direction of any member of the police force shall be guilty of an offence and liable to a penalty of not more than five pounds.

29e. Any person who in any way wilfully obstructs, hinders, delays, or interferes with any fire control officer in the exercise or discharge of any power or duty of the fire control officer under this Act shall be guilty of an offence and liable to a penalty not exceeding ten pounds or to imprisonment for any term not exceeding two months.

Hindering
fire control
officer.
Of. 2272, 1936
s. 66.
Inserted by
23, 1950,
s. 11.

30. Nothing in this Act shall be construed as taking away or affecting any right of action or other remedy, whether civil or criminal, which any person may have in respect of any loss or damage occasioned by fire, or for any trespass committed.

Act not to
affect other
remedies.
1123, 1913,
s. 25.

30a. (1) If by reason of the escape of fire, sparks or other burning material from any locomotive of the South Australian Railways Commissioner any fire is caused on any land, the South Australian Railways Commissioner shall be liable to pay compensation for any damage caused by the fire if at the time of the fire there is on the said land a firebreak or firebreaks cleared of all stubble, scrub and inflammable material and of the dimensions prescribed by regulation and constructed in such places as are so prescribed.

Liability of
South
Australian
Railways
Commissioner
for fires.
Inserted by
19, 1945,
s. 12.

(2) The Governor may make regulations prescribing for the purpose of this section, the dimensions of firebreaks and the places in which they are to be constructed. Any such regulation may prescribe different requirements for different parts of the State.

31. (1) The Governor may make all such regulations as may be necessary or convenient for giving effect to the provisions of this Act or more fully carrying out its objects.

Regulations.
1123, 1913,
s. 26.

(1a) Without limiting the effect of subsection (1), the Governor may, for the purpose of preventing the outbreak of fire, make regulations prescribing the conditions under and the manner in which producer gas equipment or any type of producer gas equipment may be used or operated or charged or emptied and prohibiting the use or operation or charging or emptying thereof except as prescribed in the regulations.

Inserted by
24, 1941,
s. 4.

(2) Any regulation made under this Act may prescribe a penalty not exceeding twenty pounds in any case, for the breach of such regulation or of any other regulation under this Act.

s. 30. ROBERTS V. WEBB (1887) 21 S.A.L.R. 96; 9 A.L.T. 59; 9 Austn. Digest 127. Civil and criminal remedies are available against a person lighting a fire even if the fire is lighted in accordance with the provisions of this Act.

Appropriation
of penalties.
1123, 1913,
s. 27.

32. (1) Subject to subsection (2) all moneys received for or on account of penalties imposed for offences against this Act, shall be paid to the Treasurer for the public uses of the State.

(2) Moneys received in respect of an offence committed within any area the complaint for which was laid by the council thereof or any officer of the council, shall be paid over to, and for the use of, the council.

Evidence in
proceedings.
1123, 1913,
s. 28.

33. (1) In any proceedings for an offence against this Act the allegation in the complaint—

- (a) that a fire was lighted or maintained with the intention or for the purpose mentioned in such complaint; or
- (b) that any stubble was not burned, or that any fire was not lighted, for the purpose mentioned in such complaint,

shall, if it is shown that the fire was lighted, or maintained, or that the stubble was burned (according to the nature of the charge), be taken to be proved, until the contrary is proved.

(2) In any proceedings for an alleged offence against this Act the burden of proving the observance of the conditions which would excuse the matter alleged in the complaint shall lie upon the defendant.

Inserted by
24, 1941,
s. 5.

(3) In any proceedings for an offence against this Act, the allegation in the complaint that any specified apparatus or equipment is producer gas equipment shall be taken to be proved, until the contrary is proved.

Procedure for
offences.
1123, 1913,
s. 29.

Amended by
27, 1939,
s. 15.

34. All proceedings in respect of any offence against this Act shall be disposed of summarily.

Prohibition of
any act to
include
assisting,
etc., and
attempts.
1123, 1913,
s. 5.

35. Wherever in this Act there is a prohibition of the doing of anything, such prohibition shall be read as including a prohibition of the assisting in or in any way aiding or abetting the doing of such thing, and of the causing or suffering of the doing thereof, and of any attempt to do such thing, or cause it to be done, or to assist in or aid or abet the doing thereof.

36. Any notice required to be given to any person pursuant to this Act may be given in writing or orally to such person personally or may be given by leaving written notice thereof at the place of residence of such person.

Giving of notices.
Amended by 27, 1939, s. 16.

THE SCHEDULE.

| No. of Act Repealed. | Title of Act Repealed. |
|----------------------|---|
| No. 1123 of 1913 .. | The Bush Fires Act, 1913. |
| No. 1768 of 1926 .. | Bush Fires Act Amendment Act, 1926. |
| No. 2023 of 1931 .. | Bush Fires Act Amendment Act, 1931. |
| No. 2027 of 1931 .. | Bush Fires Act Amendment Act (No. 2), 1931. |

[As reprinted pursuant to the Amendments Incorporation Act, 1937.]



ROAD TRAFFIC ACT, 1934-1954.

BEING

- ROAD TRAFFIC ACT, 1934, No. 2183 OF 1934 [ASSENTED TO 29TH NOVEMBER, 1934.]
AS AMENDED BY
- ROAD TRAFFIC ACT AMENDMENT ACT, 1936, No. 2332 OF 1936
[ASSENTED TO 3RD DECEMBER, 1936.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1938, No. 2416 OF 1938
[ASSENTED TO 15TH DECEMBER, 1938.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1939, No. 23 OF 1939
[ASSENTED TO 30TH NOVEMBER, 1939.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1939, No. 34 OF 1939
[ASSENTED TO 14TH DECEMBER, 1939.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 3), 1939, No. 45 OF 1939
[ASSENTED TO 21ST DECEMBER, 1939.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1940, No. 61 OF 1940
[ASSENTED TO 5TH DECEMBER, 1940.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1941, No. 2 OF 1941
[ASSENTED TO 20TH AUGUST, 1941.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1941, No. 46 OF 1941
[ASSENTED TO 27TH NOVEMBER, 1941.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1942, No. 4 OF 1942
[ASSENTED TO 10TH SEPTEMBER, 1942.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1942, No. 17 OF 1942
[ASSENTED TO 5TH NOVEMBER, 1942.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1943, No. 35 OF 1943
[ASSENTED TO 23RD DECEMBER, 1943.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1944, No. 2 OF 1944
[ASSENTED TO 31ST AUGUST, 1944.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1944, No. 20 OF 1944
[ASSENTED TO 7TH DECEMBER, 1944.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1945, No. 2 OF 1945
[ASSENTED TO 23RD AUGUST, 1945.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1945, No. 40 OF 1945
[ASSENTED TO 17TH JANUARY, 1946.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1946, No. 4 OF 1946
[ASSENTED TO 30TH AUGUST, 1946.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1947, No. 3 OF 1947
[ASSENTED TO 28TH AUGUST, 1947.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1947, No. 40 OF 1947
[ASSENTED TO 11TH DECEMBER, 1947.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1948, No. 55 OF 1948
[ASSENTED TO 22ND DECEMBER, 1948.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1950, No. 29 OF 1950
[ASSENTED TO 30TH NOVEMBER, 1950.]
- HOSPITALS ACT AMENDMENT ACT, 1951, No. 30 OF 1951
[ASSENTED TO 29TH NOVEMBER, 1951.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1951, No. 48 OF 1951
[ASSENTED TO 13TH DECEMBER, 1951.]
- ROAD TRAFFIC ACT AMENDMENT ACT, 1952, No. 41 OF 1952
[ASSENTED TO 4TH DECEMBER, 1952.]
- STATUTE LAW REVISION ACT, 1952, No. 42 OF 1952
[ASSENTED TO 4TH DECEMBER, 1952.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 1), 1953, No. 36 OF 1953
[ASSENTED TO 17TH DECEMBER, 1953.]
- ROAD TRAFFIC ACT AMENDMENT ACT (No. 2), 1953, No. 37 OF 1953
[ASSENTED TO 17TH DECEMBER, 1953.]
- AND
- ROAD TRAFFIC ACT AMENDMENT ACT, 1954, No. 48 OF 1954
[ASSENTED TO 16TH DECEMBER, 1954.]

An Act to consolidate certain Acts relating to road traffic.

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

PART I.

PART I.

PRELIMINARY MATTERS.

1. (1) This Act may be cited as the “Road Traffic Act, 1934-1954”, and shall come into operation on a day to be fixed by proclamation.

Short title, commencement, and division of Act.

(2) This Act is divided into Parts and Divisions as follows:—

PART I.—Preliminary matters.

PART II.—Motor vehicles.

PART III.—Vehicles other than motor vehicles.

PART IV.—Width of tires.

PART V.—Lights on vehicles other than motor vehicles.

2. The Acts mentioned in the schedule are repealed.

Repeal.

3. (1) The Governor may by proclamation commit the administration of any Part of this Act to any Minister, and may from time to time revoke or alter any such proclamation.

Administration of Act.

(2) In this Act the term “Minister” means the Minister for the time being administering the Part of this Act in which the term Minister occurs.

PART II.

PART II.

MOTOR VEHICLES.

4. (1) In this Part, unless inconsistent with the context, or some other meaning is clearly intended—

Interpretation.

“commercial motor vehicle” means any motor vehicle constructed or adapted solely or mainly for the carriage of goods; and includes a motor vehicle of the type commonly called “buckboard”. The expression “commercial motor vehicle” shall not include—

1480, 1921, s. 4.
1695, 1925, ss. 3, 15.
1941, 1929, s. 4.
Of U.K. 20 & 21 Geo. 5 c. 48, s. 1.

Definition of ‘commercial vehicle’ amended by 36, 1953, s. 4.

s. 1. (2) In addition to the Parts mentioned in subsection (2), Part IIA. (insurance against third party risks arising out of the use of motor vehicles), Part VI. (general rules to be observed by traffic), and Part VII. (protection of roads), which were enacted by the Road Traffic Act Amendment Act, 1936, are included in this reprint.

(a) a vehicle which is fitted with an apparatus of the kind commonly known as a fork lift, and is constructed or adapted solely or mainly for lifting and moving goods by means of the fork lift;

(b) a vehicle which is fitted with a crane and is constructed or adapted solely or mainly for the lifting and moving of goods by means of the crane:

Definition of "court", substituted by 45, 1939, s. 3 (a).

"court" means the court (whether the Supreme Court or any other court) having jurisdiction to deal with matters arising under the provisions of this Act in which the term occurs:

"driver" means any person driving a motor vehicle or a motor cycle, and as regards a trailer means a person driving the motor vehicle by which the trailer is being drawn:

"licence" means licence under this Part:

Of U.K. 20 & 21 Geo. 5 c. 43, s. 2.

Amended by 45, 1939, s. 3 (b).

"motor vehicle" includes any motor car, motor carriage, automobile, motor cycle, tractor, or other vehicle or carriage driven or propelled, or ordinarily capable of being driven or propelled, either partly or wholly, by any volatile spirit, steam, or electricity, or by means other than animal power, and includes a trailer at any time attached to a motor vehicle; but does not include any vehicle run upon a railway or tramway, or any farm tractor which is not used on a public road:

"number" includes a number combined with one or more letters of the alphabet:

"owner" includes the holder under a hire purchase agreement:

"registrar" means the Registrar of Motor Vehicles appointed under this Act or the Acts hereby repealed:

"road" includes every public road, street, terrace, thoroughfare, or other public place, and every private road or street commonly used by the public, or to which the public are permitted to have access:

Of U.K. 20 & 21 Geo. 5 c. 43, s. 2 (3).

Amended by 45, 1939, s. 3 (c) and by 20, 1944, s. 3.

"trailer" means any vehicle without motive power constructed or adapted for being drawn by a motor vehicle and any machine which is mounted on wheels and is constructed or adapted for being drawn by a motor vehicle: Provided that a vehicle without

motive power constructed or adapted for being drawn by a motor vehicle shall not be deemed a trailer, but shall be deemed part of the motor vehicle by which it is drawn if—

* * * * *

(b) it is constructed or adapted for attachment to a motor vehicle by means of a turntable and kingpin; and

(c) a substantial part of its weight and of the weight of its load rests upon the motor vehicle by which it is drawn.

(2) For the purpose of this Part the person driving any motor vehicle to which a trailer is attached shall be deemed to be the driver of the trailer and the trailer shall be deemed to be driven by that person.

5. (1) The Governor may, for the purposes of this Part, appoint a Registrar of Motor Vehicles, and such deputy registrars of motor vehicles and inspectors of motor vehicles as he considers necessary.

Registrar and inspectors of motor vehicles
1480, 1921, s. 5.
1760, 1926, s. 3.

(2) Every inspector appointed under this Part shall have the same powers, functions, and duties as are conferred by this Part upon members of the police force.

(3) Every reference in this Part to a member of the police force shall be deemed to include a reference to such an inspector, and every reference in this Part to the registrar shall be deemed to include a reference to any deputy registrar appointed under this Part.

6. (1) The registrar shall keep a register for the registration of motor vehicles. Such register shall be called the "Register of Motor Vehicles".

Registrar to keep register of motor vehicles.
1480, 1921, s. 6.
2095, 1932, s. 3.

(2) The prescribed forms of application received by the registrar from the persons applying to register motor vehicles shall be bound or otherwise assembled by the registrar and arranged in order as the registrar determines, and shall constitute the Register of Motor Vehicles within the meaning of this Part: Provided that the regulations may provide that the register shall be constituted and kept in any other way.

PART II.

Duty to register.

1480, 1921, s. 7.
1941, 1929, s. 5.
2095, 1932, s. 4.

Amended by 2416, 1938, s. 3, and 45 1939, s. 4.

7. (1) No person shall drive any motor vehicle on any road unless that vehicle has been registered under this Part and the registration thereof is for the time being in force: Provided that this subsection shall not apply if the motor vehicle is driven on a road bearing trader's plates issued under section 27 and for the time being in operation: Provided further that this subsection shall not apply if the motor vehicle is driven on any road whilst carrying persons or fire fighting appliances to or from any fire.

(2) Any person who drives a motor vehicle in contravention of this section shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

(3) If any person other than the owner drives a motor vehicle in contravention of this section, the owner thereof shall also be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds. It shall be a defence to a charge under this subsection that the motor vehicle was so driven without the knowledge or against the instructions of the owner.

(4) Whenever any person, whether the owner of the motor vehicle or not, is convicted for an offence under this section the court may, in addition to imposing a penalty, summarily order that person to pay to the registrar the amount payable under this Part for registration for a full year of the motor vehicle in respect of which the offence was committed.

(5) A motor tractor shall not require registration under this Part or insurance under Part II.A. of this Act by reason only of the fact that it is driven on roads within fifteen miles of a farm occupied by the owner of the tractor on journeys to or from that farm for all or any of the following purposes, namely:—

- (a) removal of the tractor to a workshop for repairs, or return of the tractor to the farm from a workshop where repairs were carried out;
- (b) delivery of the tractor to the farm upon the acquisition of the tractor or delivery of the tractor from the farm upon the sale or the disposal thereof;
- (c) drawing farm implements or drawing a registered trailer between two or more portions of a farm;

Substituted by 40, 1945, s. 3 and amended by 37, 1953, s. 4.

s. 7. ECLIPSE MOTORS PROPRIETARY LTD. v. MILNER (1950) S.A.S.R. 1. Where a company was the owner of an unregistered motor vehicle and also held trader's plates and an employee in pursuance of instructions of the manager drove the vehicle on a road without the trader's plates being affixed, held that the vehicle was not driven without the knowledge or against the instructions of the owner and that the owner was guilty of an offence against subsection (3).

- (d) proceeding to a place where farm implements are to be attached to the tractor for removal, or returning after delivery of farm implements.

A farm implement or machine shall not require registration under this Part, or insurance under Part IIA. of this Act by reason only of the fact that it is drawn by a tractor as mentioned in this subsection.

In this subsection "farm implement" means any implement or machine for ploughing, cultivating, clearing or rolling land, sowing seed, spreading fertilizer, harvesting crops, spraying, chaffcutting, or other like operations, but does not include a vehicle wholly or mainly constructed for the carriage of goods.

(6) A tractor, bulldozer, scarifier, grader, roller, tar sprayer, tar kettle, or other like vehicle constructed or adapted for doing work in constructing, improving, or repairing roads or constructing firebreaks on roads shall not be deemed to be driven on any road so as to require registration under this Part, by reason only of the fact that it is used on a road in the work of constructing, improving, or repairing the road or constructing a firebreak on the road or is driven on a road in the course of a journey to or from a place where such work is being done.

Inserted by
20, 1944,
s. 4 (b).

7a. (1) The registrar may at his discretion without fee grant to any primary producer who owns a tractor or unregistered motor vehicle a permit to drive that tractor or motor vehicle along any route specified in the permit for the purpose only of enabling the tractor or motor vehicle to be used in connection with the working of two or more separate parcels of land worked in conjunction with each other by that primary producer. Any such permit shall be subject to such conditions as the registrar thinks proper. The registrar shall not grant a permit for a tractor under this section, unless the tractor is equipped with pneumatic tyres or other tyres which, in the registrar's opinion, will not cause undue damage to roads.

Permits to
use certain
tractors and
other vehicles
without
registration.
Inserted by
2416, 1938,
s. 4.

(2) Any such tractor or motor vehicle may be driven in accordance with the terms of a permit granted under this section without registration.

(3) If any tractor or motor vehicle for which a permit is in force under this section is driven on any road otherwise than in accordance with the terms and conditions of the permit the person driving the tractor or motor vehicle shall be guilty of an offence and liable to a penalty not exceeding twenty-five pounds.

PART II.

Permits to drive vehicles pending registration.

Inserted by 34, 1939, s. 3.
Para. (a) amended by 29, 1950, s. 3.

7b. (1) If the owner of any motor vehicle not previously registered in the name of such owner—

(a) satisfies the member of the police force in charge of any police station situated more than twenty-five miles by a direct line from the General Post Office at Adelaide that an application in the proper form for the registration of the motor vehicle has been sent to the registrar by or on behalf of the said owner, together with the proper fee for the registration of the vehicle for a period of six months or twelve months commencing on a day not later than the issue of the permit hereinafter mentioned; and

Amended by 61, 1940, s. 3.

(b) produces to the said member of the police force a certificate given by or on behalf of an approved insurer certifying the matters mentioned in section 8c of this Act or a cover note which is in the prescribed form and is binding on an approved insurer and the terms of which provide that it will during the period of operation of the permit applied for have the same effect in relation to the motor vehicle as a policy of insurance complying with Part II.A. of this Act—

the said member of the police force may issue to that owner without fee a permit permitting the motor vehicle to be driven on roads, without registration and without carrying a registration card or number plates, during the period of operation of the permit.

(2) A permit granted under this section shall remain in operation until the expiration of ten days after the issue thereof.

(3) A permit granted under this section shall not be of any force or validity except while it is affixed to the wind-screen of the vehicle to which it relates in the position prescribed for the carrying of a registration card.

Permits to move dam-sinking machinery.
Inserted by 40, 1945, s. 4.

7c. (1) The registrar may at his discretion, without fee, grant to any person a permit permitting that person or any person authorized by him to drive on any route specified in the permit, no part of which route is within any hundred, a motor vehicle being—

(a) mobile machinery and plant used for excavating and cleaning dams;

- (b) a trailer used for carrying any machinery and plant used for excavating and cleaning dams;
- (c) a tractor used for drawing any such machinery and plant or for drawing a trailer conveying any such machinery and plant;
- (d) a caravan or other like vehicle used as living accommodation for persons operating any such machinery and plant,

on a journey from a place where such machinery and plant has been used for excavating or cleaning a dam to another place where it is intended to be so used.

(2) A vehicle may be driven pursuant to a permit granted under this section, without registration or insurance.

(3) Any such permit shall be subject to such conditions as the registrar inserts therein.

(4) A person who contravenes any condition of a permit granted under this section shall be guilty of an offence and liable to a fine not exceeding twenty-five pounds.

(5) In this section "dams" means excavations in which water is stored or intended to be stored.

7d. (1) In this section "biddy" means a four-wheeled trailer constructed and ordinarily used for transporting cargo on wharves and jetties between ships and cargo sheds.

Permits and exemptions for unregistered biddies.

Inserted by 37, 1953, s. 5.

(2) The registrar may without fee grant to any person a written permit authorizing him to draw unregistered biddies on roads by means of registered and insured motor vehicles.

(3) Any such permit may also contain provisions exempting any persons from the duty to comply, in respect of the biddies, with any specified provisions of this Act.

(4) Every such permit shall be subject to such terms, conditions, and restrictions as the registrar inserts therein.

(5) A permit granted under this section shall be sufficient authority for any act or omission purporting to be authorized thereby.

(6) If the registrar is satisfied that any term or condition of a permit granted under this section has been contravened or not complied with he may revoke the permit. Such

revocation shall not affect the liability of any person for any act done or omission made in contravention of or non-compliance with the permit before the revocation thereof.

Provisions as to registration. 1480, 1921, s. 8. 1941, 1929, s. 5.

8. (1) Every application to register a motor vehicle shall be made to the registrar by or on behalf of the owner of the motor vehicle in accordance with the regulations, and at the time of making the application for registration a fee calculated in the manner set forth in the next succeeding section shall be paid to the registrar.

Amended by 2322, 1936, s. 4.

(2) Upon application duly made and payment of the fee as required by subsection (1) the registrar shall register the motor vehicle in the register of motor vehicles for a period of either six months or twelve months, at the option of the person applying for registration, and shall assign a number to the vehicle.

(3) If a motor vehicle registered under this section has been previously registered by the same owner the registrar shall, if the owner requests, assign to the motor vehicle on registration under this section the number assigned to the vehicle on the previous registration: Provided that the registrar may refuse so to assign the latter number if more than three months have elapsed between the expiration of the previous registration and the new application for registration.

(4) The plates bearing any registration number assigned under this section shall be black and the number thereon shall be white.

(5) The registrar shall, on payment of the prescribed fee, furnish the owner of any registered motor vehicle with a copy of the entries in the register relating to that motor vehicle.

Refusal to register unfit vehicles.

Inserted by 2332, 1936, s. 8.

8a. If a court has ordered that a vehicle shall not be registered until some condition is complied with, the registrar shall not register that vehicle until he is satisfied that that condition has been complied with.

Statements in application as to insurance.

Inserted by 2332, 1936, s. 8.

8b. After the day proclaimed as the day on which Part II.A. of this Act shall come into operation, the registrar shall not register any vehicle unless the application contains a statement by the owner of the vehicle or by the person applying for registration on behalf of the owner that a policy of insurance complying with this Act is in force in relation to the vehicle and a statement of the name of the insurer who has issued the policy.

8c. The registrar shall not register a motor vehicle unless when the application for registration is made there is lodged with him a certificate in the prescribed form given by or on behalf of an approved insurer certifying that one or more policies of insurance complying with Part II.A. of this Act have been issued by that insurer in relation to the said motor vehicle, and that the insurance provided by those policies will remain in force throughout the period for which registration is applied for and for fourteen days after the end of that period.

Certificates of insurance.
 Inserted by 2416, 1938, s. 5, and substituted by 55, 1948, s. 4.

9. The registration fee for a motor vehicle shall be calculated according to the following provisions:—

Mode of computing registration fee.

(1) (a) The power-weight (indicated in this section by the letters P.W.) of a motor vehicle shall be ascertained by adding the weight in hundredweights of the vehicle to the horsepower calculated as hereinafter mentioned.

1480, 1921, s. 8K, 1941, 1929, s. 5 and the schedule, 2095, 1932, ss. 17-20. Cf. U.K. 23 & 24, s. 25, 7th Sch.

(b) The horsepower of a motor vehicle propelled by any internal combustion engine shall be determined by squaring the measurement in inches of the internal diameter of the cylinder of the engine and multiplying the number so found by the number of cylinders and dividing the product by 2.5.

Para. (1) amended by 48, 1951, s. 4 (a).

The horsepower of a motor vehicle driven by steam shall be calculated by dividing the number of the square inches of area of the fire grate of the boiler of such vehicle by 25.

The horsepower of a vehicle driven by electricity shall be ascertained by dividing the number of watts of electrical energy consumed by the power unit of the vehicle when the vehicle is running under full load at normal speed by 746.

(c) The weight of a vehicle in hundredweights and the horsepower of a vehicle shall be calculated to the nearest whole number.

(2) The registration fee for a motor bicycle not having a side car attached thereto shall be as follows:—

Substituted by 36, 1953, s. 5 (a).

| | £ | s. | d. |
|--|---|----|----|
| If the weight of the motor bicycle does not exceed one hundredweight | 1 | 10 | 0 |
| If the weight of the motor bicycle exceeds one hundredweight | 2 | 5 | 0 |
| The registration fee for a motor bicycle having a side car attached thereto shall be | 3 | 0 | 0 |

PART II.

Substituted
by 36, 1953,
s. 5 (a).

(3) The registration fee for a motor tricycle or motor trivan shall be as follows:—

| | £ | s. | d. |
|---|---|----|----|
| If the tricycle or trivan does not exceed 10 P.W. | 3 | 0 | 0 |
| If the tricycle or trivan exceeds 10 P.W. . . | 5 | 0 | 0 |

Substituted
by 36, 1953,
s. 5 (a).

(4) The registration fee for a commercial motor vehicle (not being a trivan or trailer) fitted with pneumatic tires shall be:—

| | £ | s. | d. |
|--|----|----|----|
| If the vehicle does not exceed 25 P.W. . . . | 6 | 0 | 0 |
| If the vehicle exceeds 25 P.W. but does not exceed 30 P.W. | 8 | 0 | 0 |
| If the vehicle exceeds 30 P.W. but does not exceed 35 P.W. | 10 | 0 | 0 |
| If the vehicle exceeds 35 P.W. but does not exceed 40 P.W. | 12 | 0 | 0 |
| If the vehicle exceeds 40 P.W. but does not exceed 45 P.W. | 14 | 0 | 0 |
| If the vehicle exceeds 45 P.W. but does not exceed 50 P.W. | 16 | 0 | 0 |
| If the vehicle exceeds 50 P.W. but does not exceed 55 P.W. | 18 | 0 | 0 |
| If the vehicle exceeds 55 P.W. but does not exceed 60 P.W. | 20 | 0 | 0 |
| If the vehicle exceeds 60 P.W. but does not exceed 65 P.W. | 22 | 0 | 0 |
| If the vehicle exceeds 65 P.W. but does not exceed 70 P.W. | 24 | 0 | 0 |
| If the vehicle exceeds 70 P.W. but does not exceed 75 P.W. | 26 | 0 | 0 |
| If the vehicle exceeds 75 P.W. but does not exceed 80 P.W. | 29 | 0 | 0 |
| If the vehicle exceeds 80 P.W. but does not exceed 85 P.W. | 32 | 0 | 0 |
| If the vehicle exceeds 85 P.W. but does not exceed 90 P.W. | 35 | 0 | 0 |
| If the vehicle exceeds 90 P.W. but does not exceed 95 P.W. | 38 | 0 | 0 |

| | £ | s. | d. |
|--|----|----|----|
| If the vehicle exceeds 95 P.W. but does not exceed 100 P.W. | 41 | 0 | 0 |
| If the vehicle exceeds 100 P.W. but does not exceed 105 P.W. | 44 | 0 | 0 |
| If the vehicle exceeds 105 P.W. but does not exceed 110 P.W. | 47 | 0 | 0 |
| If the vehicle exceeds 110 P.W. but does not exceed 115 P.W. | 50 | 0 | 0 |
| If the vehicle exceeds 115 P.W. but does not exceed 120 P.W. | 53 | 0 | 0 |
| If the vehicle exceeds 120 P.W. but does not exceed 125 P.W. | 56 | 0 | 0 |
| If the vehicle exceeds 125 P.W. but does not exceed 130 P.W. | 59 | 0 | 0 |
| For every additional 5 P.W. or part thereof | 3 | 0 | 0 |

(5) The registration fee for a motor vehicle (other than a motor bicycle, motor tricycle, motor trivan, commercial motor vehicle, invalid chair, or trailer) fitted with pneumatic tires shall be:—

Substituted by 36, 1953, s. 5 (a).

| | £ | s. | d. |
|--|----|----|----|
| If the vehicle does not exceed 25 P.W. | 5 | 10 | 0 |
| If the vehicle exceeds 25 P.W. but does not exceed 30 P.W. | 7 | 0 | 0 |
| If the vehicle exceeds 30 P.W. but does not exceed 35 P.W. | 8 | 10 | 0 |
| If the vehicle exceeds 35 P.W. but does not exceed 40 P.W. | 10 | 0 | 0 |
| If the vehicle exceeds 40 P.W. but does not exceed 45 P.W. | 11 | 10 | 0 |
| If the vehicle exceeds 45 P.W. but does not exceed 50 P.W. | 13 | 0 | 0 |
| If the vehicle exceeds 50 P.W. but does not exceed 55 P.W. | 14 | 10 | 0 |
| If the vehicle exceeds 55 P.W. but does not exceed 60 P.W. | 16 | 0 | 0 |
| If the vehicle exceeds 60 P.W. but does not exceed 65 P.W. | 17 | 10 | 0 |

| | £ | s. | d. |
|--|----|----|----|
| If the vehicle exceeds 65 P.W. but does not exceed 70 P.W. | 19 | 0 | 0 |
| If the vehicle exceeds 70 P.W. but does not exceed 75 P.W. | 20 | 10 | 0 |
| For every additional 5 P.W. or part thereof | 2 | 0 | 0 |

Substituted by 36, 1953, s. 5 (a).

(6) The registration fee for a trailer fitted with pneumatic tires shall be:—

| | £ | s. | d. |
|--|---|----|----|
| If the weight of the trailer unladen does not exceed 1 ton | 2 | 5 | 0 |
| If the weight of the trailer unladen exceeds 1 ton, but does not exceed 1½ tons | 3 | 0 | 0 |
| If the weight of the trailer unladen exceeds 1½ tons, but does not exceed 2 tons | 3 | 15 | 0 |
| If the weight of the trailer unladen exceeds 2 tons | 4 | 10 | 0 |

Where the trailer consists of a machine, which is mounted on wheels and is constructed or adapted for being drawn by a motor vehicle, the fee shall be fifty per centum of the amount which would otherwise be payable under this section.

Inserted by 36, 1953, s. 5 (a).

(6a) If a motor vehicle (other than a motor tractor registerable at a reduced fee under paragraph (10) of this section) is propelled by a compression ignition engine, the fee for the registration thereof shall be double the amount otherwise payable under this section.

Inserted by 36, 1953, s. 5 (a).

(6b) The fees previously set out in this section are those payable for a full period of twelve months. If any registration is effected for a period of six months, the fee for registration shall be fifty-two and a half per centum of that which would be payable for the full period of twelve months.

Inserted by 36, 1953, s. 5 (a).

(6c) If the motor vehicle has all or any of its wheels fitted with rubber tires other than pneumatic tires the fee shall be at such one of the above rates as is applicable, plus 50 per centum thereof.

If the motor vehicle has all or any of its wheels fitted with metal tires the fee shall be at such one of the above rates as is applicable, plus one hundred per centum thereof.

(7) If the registrar is satisfied by statutory declaration or such other evidence as he requires that—

Amended by 2332, 1936, s. 6 and by 36, 1953, s. 5 (b).
Cf. U.K. 26 Geo. 5 & 1 Edw. 8 c. 34, s. 12.

- (a) any commercial motor vehicle or tractor is owned by a primary producer; and
- (b) such motor vehicle will not be used on roads for carrying His Majesty's mails, goods, or passengers, for pecuniary reward or for carrying goods in the course of any trade or business other than that of a primary producer,

the registration fee shall be the amount which would otherwise be payable under this section, less 50 per centum thereof.

The carriage of goods or passengers on any motor vehicle which is on the establishment of any unit of the military forces of the Commonwealth, if those goods or passengers are carried in connection with military training or other military operations carried on by the Commonwealth, shall not be regarded as the carriage of goods or passengers within the meaning of subparagraph (b) of this paragraph.

Passage inserted by 2416, 1938, s. 6.

In this paragraph the words "carry", "carrying", and "carriage" shall respectively include haul, hauling and haulage.

Passage inserted by 36, 1953, s. 5 (b).

(8) If the registrar is satisfied by the production of a certificate from the Director of Mines or such other evidence as he requires, that—

- (a) any commercial motor vehicle is owned by a genuine prospector whose principal business consists in prospecting for metals or minerals; and
- (b) such motor vehicle will not be used on roads except for carrying plant, tools, stores, or other equipment used in connection with such prospecting, or metals or minerals won by the said owner from the soil,

the registration fee shall be fifty per centum of the amount which would otherwise be payable under this section.

* * * * *

Para. (9) repealed by 35, 1943, s. 4 (a).

(10) If the registrar is satisfied by statutory declaration or such other evidence as he requires that—

Cf. U.K. 26 Geo. 5 & 1 Edw. 8 c. 34, s. 12.

- (a) any motor tractor is owned by a primary producer; and

Amended by 45, 1939, s. 5, by 29, 1950, s. 4, and by 36, 1953, s. 5 (c).

Road Traffic Act, 1934-1954.

- (b) such motor tractor will not be used on roads except for transporting goods the produce of the land of such primary producer to the railway station nearest to such land, or if there is a port nearer to such land than any railway station, then to such port, or to any town not more than twelve miles from the land of such primary producer for the purpose of the packing, processing or sale of such goods, or for transporting goods, intended for consumption or use on the land of such primary producer, from the said railway station, port, or town to the said land,

the registration fee for such motor tractor shall be twenty-five per centum of the amount which would otherwise be payable under this section, but a person shall not be entitled to a concession under this paragraph and under paragraph (7) of this section in respect of the same tractor.

(10a) If the registrar is satisfied by statutory declaration or such other evidence as he requires—

- (a) that any motor vehicle will, during the period for which registration is applied for, be used wholly or mainly in areas which are not within any municipality or district council district or Whyalla or Iron Knob;
- (b) that during the said period that motor vehicle will be in the possession and under the control of a person whose place of abode at the time will not be within any municipality or district council district or Whyalla or Iron Knob; and
- (c) that that motor vehicle, when not in use, will during the said period be usually kept at premises not within any municipality or district council district or Whyalla or Iron Knob;

the registration fee shall, if the applicant is not entitled to have the motor vehicle registered at a reduced fee under paragraph (7), (8), or (10) of this section, be the amount which would otherwise be payable under this section, less fifty per centum thereof.

If the registrar is satisfied that at any time during the period for which a vehicle has been registered at a reduced fee by virtue of this paragraph that vehicle did not comply with subparagraph (a), (b), or (c) of this paragraph, he may, by notice in writing, notify the person who applied for

Inserted by
2332, 1936,
s. 7, and
amended by
2, 1941, s. 3,
and by 35,
1943, s. 4
(b).

registration of the vehicle that the balance of the full fee for that period must be paid. Upon the expiration of seven days after the giving of the notice that balance shall become due and payable and the registrar may recover it by action in any court of competent jurisdiction; and without prejudice to his right to do so may cancel any registration of the vehicle for the time being in force if that balance is not paid in full upon its becoming due and payable. For the purposes of this paragraph the whole of Kangaroo Island shall be taken to be outside any municipality or district council district.

In this paragraph—

“Whyalla” means all those portions of the hundreds of Randell and Cultana and County of York, bounded as follows:—Commencing at the south-western corner of section 39, hundred of Randell; thence west-south-westerly at right angles with the western boundary of said section for one and a half miles; thence north-north-westerly at right angles to the north-eastern boundary of the Iron Knob Tramway in the County of York; thence south-easterly along said boundary of Tramway to its intersection with the southern boundary of the hundred of Cultana; thence easterly along portion of said hundred boundary to the sea coast; thence generally southerly and south-westerly in the hundreds of Randell following the said sea coast to intersect the production south-south-easterly of the western boundary of section 40; thence north-north-westerly along said production and boundary; thence north-easterly to the south-western corner of section 37; thence north-north-westerly along the western boundary of said section and production to the point of commencement:

“Iron Knob” means all that portion of County of Manchester, within a circle having a radius of one and a half miles and its centre at the south-western corner of allotment 270, Town of Iron Knob.

(10b) The fee for registration of a vehicle consisting of mobile machinery and plant used for excavating or cleaning dams shall be fifty per centum of the amount which would otherwise be payable under this section. In this paragraph “dams” means excavations in which water is stored or intended to be stored.

Inserted by
40, 1945, s. 5.

Amended by
45, 1939, s. 6,
and by 35,
1943, s. 4
(b).

- (11) (a) If any commercial motor vehicle for the registration of which a reduced registration fee has been paid as allowed by paragraph (7) is used for the carriage of goods or passengers for pecuniary reward or for carrying goods in the course of any trade or business other than that of a primary producer; or
- (b) if any commercial motor vehicle for the registration of which a reduced registration fee has been paid as allowed by paragraph (8) is used for any purpose other than a purpose set out in paragraph (8), as the case may be; or
- (c) if any motor tractor for the registration of which a reduced registration fee has been paid as allowed by paragraph (10) is used for any purpose other than the purpose mentioned in that paragraph,

the balance of the full registration fee for the period for which the vehicle was registered shall in all cases be forthwith due and payable, and may be recovered from the owner by the registrar in a summary way on complaint in a court of summary jurisdiction.

(12) If the Commonwealth of Australia imposes any Customs duty on motor spirit in addition to the Customs duty existing on the twelfth day of December nineteen hundred and twenty-nine, and pays the proceeds thereof to the State, the Governor may from time to time by proclamation vary the amounts of the registration fees as set out in this section to such an extent that the total revenue received in each year from the altered registration fees and the payments to the State by the Commonwealth, as mentioned above would be approximately equal to the amount which would have been received from the registration fees set out in this section if they had not been altered.

Amended by
2416, 1938,
s. 8 (2), and
by 36, 1953,
s. 5 (d).

(13) The registrar shall register without fee—

- (a) any motor vehicle owned by the Fire Brigades Board or any voluntary fire brigade or any motor vehicle owned by a voluntary fire fighting organization or by a municipal or district council and used solely for the purpose of fire fighting;
- (b) any ambulance motor vehicle for the use of which no charge is made:

- (c) any motor vehicle owned by the corporation or council of any municipality, or by any district council, and used solely or mainly in connection with the construction or maintenance of roads: Amended by
2, 1941, s. 4.
- (c1) any motor vehicle which is owned by the corporation or council of a municipality or by any district council, or by any controlling authority under Part XIX. of the Local Government Act, 1934-1951, and is used solely or mainly for the collection and transport of household rubbish: Inserted by
41, 1952,
s. 3.
- (c2) any motor vehicle owned by the Renmark Irrigation Trust and used solely or mainly in connection with the construction or maintenance of all or any of the following works, namely, roads, irrigation channels, irrigation drains and other works for irrigation or drainage of the trust's area: Inserted by
36, 1953,
s. 5 (e).
- (d) any motor vehicle owned by the Crown:
- (e) any motor vehicle owned by the Municipal Tramways Trust:
- (f) any motor vehicle consisting of mobile machinery and plant used for the purpose of boring for water:
- (g) any motor vehicle owned by a consular officer *de carriere* who is a national of the country which he represents and who resides in the State: Inserted by
2416, 1938,
s. 7.
- (h) any trailer which is used solely for the purpose of carrying equipment and fuel for generating producer gas for the propulsion of the motor vehicle by which the trailer is drawn: Inserted by
61, 1940,
s. 5 (1).
- (i) any electrically or mechanically propelled invalid's chair. Inserted by
36, 1953,
s. 5 (f).
- (13a) Where the Treasurer is satisfied that any motor ambulance is operated by a municipal or district council, or by any society or association otherwise than for the purpose of monetary gain to the individual members thereof, he may, at his discretion, direct that that ambulance shall be registered without fee. Inserted by
2416, 1938,
s. 8 (1).

Where any such ambulance has been registered since the first day of March, nineteen hundred and thirty-eight, and the registration fee has been paid therefor the Treasurer may at his discretion refund the amount of that fee to the council, society, or association which paid it.

(14) In this section—

Amended by 35, 1943, s. 4 (c).

“primary producer” means any person engaged in fishing or in agricultural, horticultural, viticultural, pastoral, or other like pursuits; and

Amended by 61, 1940, s. 5 (2).

“weight” means the weight of a vehicle without passengers, load, or petrol, but including the oil, buffers, accessories, and tools usually carried. Where a motor vehicle is propelled by producer gas generated by equipment carried on or affixed to or forming part of the vehicle, the weight of that equipment and of any fuel carried on the vehicle for use in that equipment shall be excluded in computing the weight of the vehicle.

Inserted by 48, 1951, s. 5 (3).

(15) The registrar may require any person applying for the registration of a motor vehicle to satisfy him by statutory declaration or other means as to any facts on which the amount of the registration fee depends or which entitle the applicant to be granted registration without payment of any fee.

Inserted by 48, 1951, s. 4 (c).

(16) A statutory declaration made for the purpose of satisfying the registrar as to any matter under this section may be made before and taken by any elector of the House of Assembly, not being a member of the declarant’s family, and when so taken shall have the like effect under the Oaths Act, 1936, and for all purposes as if it had been made before and taken by a justice.

S. 9a inserted by 2, 1941, s. 5, repealed and re-enacted by 35, 1943, s. 5, and repealed by 36, 1953, s. 6.

* * * * *

Calculation of fees to nearest shilling.

9b. Every registration fee shall be calculated to the nearest shilling, and the amount so calculated shall be the amount payable.

Inserted by 2, 1941, s. 5.

Registration at full fee after registration at reduced fee.

9c. (1) Where a vehicle has been registered at a reduced fee under paragraph (7), (8), (10), or (10a) of section 9 of this Act, the owner of the vehicle may at any time while that registration is in force pay to the registrar the balance of the registration fee and thereafter—

Inserted by 40, 1945, s. 6.

(a) the vehicle may be driven on roads to the same extent and in the same circumstances as a vehicle registered upon payment of the full registration fee; and

(b) the provisions contained in lines twenty-two to thirty-seven of paragraph (10a) of section 9, and paragraph (11) of section 9, and section 59 of this Act shall not apply in relation to such driving.

(2) In this section "the balance of the registration fee" means a proportionate part of the full registration fee payable for registration of the vehicle for the period for which it was registered, less a proportionate part of the reduced registration fee actually paid for registration of the vehicle. For the purposes of this definition a proportionate part of a fee shall be a part of the fee bearing the same ratio to the whole fee as the number of months unexpired when the balance of the registration fee is paid bears to the number of months for which the whole fee is payable, the whole of the month in which that balance is paid being regarded as unexpired.

9d. (1) The registration of a motor vehicle which has been registered without payment of any fee, or upon payment of a reduced fee, shall not be transferable.

Non-transferability of registrations at reduced fee.

Inserted by 48, 1951, s. 5, and amended by 36, 1953, s. 7.

(2) In this section "reduced fee" means a fee other than the full fee, as prescribed by paragraphs (1) to (6) (inclusive) of section 9 of this Act, for the period for which the vehicle is registered.

* * * * *

S. 10 repealed by 36, 1953, s. 8.

10a. If during the period for which a motor vehicle has been registered any alteration is made to that vehicle and that alteration is such that if it had been made before the registration of the vehicle the fee for registration would have been less than the amount actually paid, the Treasurer may, at his discretion, make to the owner of the vehicle a refund of such amount as he deems just in the circumstances.

Refunds in certain cases.

Inserted by 2332, 1936, s. 9.

10b. (1) If the registrar is satisfied by such evidence as he requires that—

Concessions to incapacitated ex-servicemen.

Inserted by 40, 1947, s. 3, and amended by 48, 1951, s. 6, and by 36, 1953, s. 9.

(a) a motor vehicle is owned by a person who has been a member of a naval, military, or air force of His Majesty; and

(b) the owner, as a result of his service in a naval, military, or air force, is totally and permanently incapacitated, or is blind, or has lost a leg or foot, or receives a pension under the Australian

Road Traffic Act, 1934-1954.

Soldiers Repatriation Act, 1920-1949, at the rate for total incapacity, or by reason of impairment of his power of locomotion receives a pension under the Australian Soldiers Repatriation Act, 1920-1949, of not less than seventy-five per centum of the pension payable for total incapacity; and

- (c) that motor vehicle will during the period for which it is sought to be registered be wholly or mainly used for the transport of the owner,

the registration fee for that motor vehicle shall be one-third of the amount payable under paragraphs (1) to (5) inclusive, and paragraphs (6a), (6b) and (6c) of section 9, and section 9b of this Act.

(2) The registration of a vehicle registered at a reduced fee under this section shall not be transferable.

(3) When a person ceases to be the owner of a vehicle registered at a reduced fee under this section he shall be entitled upon compliance with section 21 of this Act, to a payment or credit as provided in that section; and the registration of the vehicle, if not sooner cancelled, shall become void upon the expiration of twenty-one days after that person ceased to be the owner of it.

Inserted by
48, 1951,
s. 6 (c).

(4) The registrar shall not grant a registration under this section if the effect of so doing would be that the same person would at any time have more than one vehicle registered at a reduced fee pursuant to this section.

Provision for
ascertaining
power-weight.
2131, 1933,
s. 3.

11. (1) The registrar shall prepare and keep in his office available for public inspection a list containing the usual names or designations of all models of motor cars commonly in use, and stating the standard power-weight of motor cars of each model when constructed and equipped as mentioned in the list.

(2) The power-weight shown in the list as the standard power-weight of motor cars of any model shall be the power-weight of every motor car of that model, unless—

- (a) the owner at the time of applying for registration, objects to the power-weight as so shown; or
- (b) the motor car has some attachment or alteration affecting its weight and not taken into account when computing the power-weight shown in the list.

(3) The owner of any motor car who objects to the determination of the power-weight by reference to the list may—

- (a) weigh the motor car on a public weighbridge in the presence of the registrar or a person nominated by him; and
- (b) strip his engine or power unit for measure or examination by the registrar or a person nominated by him,

in which case the weight shall be calculated in accordance with the weighbridge certificate, and the horsepower in accordance with the measurements of the registrar or the nominated person.

12. Where an applicant applies for registration of—

- (a) any motor car the power-weight of which cannot be ascertained from the list; or
- (b) any motor vehicle other than a motor car,

Determination of power-weight by other means. 2131, 1933, s. 4.

the registrar may require the applicant for registration to produce a weighbridge certificate showing the weight of the vehicle or any other evidence of the weight or horsepower of the vehicle.

13. (1) Every motor vehicle (not being a trailer) required by this Part to be registered shall, at all times whilst it is being driven or is standing in any road, carry attached thereto in the prescribed positions two plates as prescribed, one on the front and one on the rear thereof, each having the registered number conspicuously painted or otherwise legibly and permanently marked thereon in manner prescribed: Provided that any motor vehicle, not being a motor cycle, instead of carrying the plate required by this section to be attached to the rear thereof, may have the registered number painted or marked on the rear of such vehicle itself in which case all the provisions of this Act relating to plates and the numbers thereon shall, so far as the same are applicable, apply respectively to that portion of the rear of such vehicle on which the number is painted or marked, and to such number.

Duty to carry registered number on motor vehicle. 1480, 1921, ss. 10, 34 (c), 1527, 1922, s. 4, 1695, 1925, s. 7.

(2) Every trailer required by this Act to be registered shall, at all times whilst it is being driven or is standing in any road, carry attached thereto in the prescribed position, one or more plates as prescribed having the registered number conspicuously painted or otherwise legibly and permanently marked thereon in manner prescribed.

Road Traffic Act, 1934-1954.

(3) If any person owns or drives any motor vehicle which does not comply with this section he shall be guilty of an offence: Provided that where the owner and driver are different persons both shall not be punished in respect of the same contravention.

(4) Any person who, unless exempted by the regulations, drives or causes or permits to be driven or to stand in any road any motor vehicle—

(a) on which any letter or figure on the number plate on the front thereof is not clearly visible in daylight, to a person standing on the same plane as the vehicle, at any point directly in front of the vehicle and not less than ten feet or more than sixty feet from the front of the vehicle:

(aa) on which any letter or figure on the number plate on the rear thereof is not clearly visible in daylight, to a person standing on the same plane as the vehicle, at any point directly behind the vehicle and not less than ten feet or more than sixty feet from the rear of the vehicle:

(b) having the registered number upon any number plate wholly or partly obliterated by paint or any other material; or

(c) having any number plate thereon so damaged that the registered number is not complete and distinctly visible; or

(d) having upon any number plate a number which is not the registered number assigned to the motor vehicle,

shall be guilty of an offence: Provided that no person shall be liable to a penalty for any breach of this subsection if he proves to the satisfaction of the court that he took all reasonable precautions to prevent such breach or that such breach was the result of an accident.

(5) Any person who forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any number plate, trader's plate, or registration card shall be guilty of an offence and liable to a fine of not more than one hundred pounds, or to imprisonment for not more than twelve months.

14. Any person who owns or drives upon a road any unregistered motor vehicle having upon it any numbers or number plate of a description prescribed to be affixed to registered motor vehicles shall be guilty of an offence.

Substituted
by 45, 1939,
s. 7.

Inserted by
45, 1939, s. 7.

Inserted by
2332, 1936,
s. 10.

Prohibition
of use of
plates on
unregistered
vehicles.
1480, 1921,
s. 35 (d).

15. Where any motor vehicle is registered under this Part and is also licensed by a municipal or district council to ply for hire within its municipality or district, there may appear on the number plates required by this Part to be attached to such motor vehicle, in addition to the registered number, some distinctive design, character, or letter approved by the registrar, for the purpose of indicating that such motor vehicle is so licensed.

Distinctive marks for number plates of vehicles licensed to ply for hire. 1480, 1921, s. 11.

16. (1) Every registration of a motor vehicle effected prior to the commencement of the Road Traffic Act Amendment Act, 1936, shall, unless sooner terminated under this Part, expire on the thirty-first day of March, nineteen hundred and thirty-seven.

Duration of registration. Amended by 2332, 1936, s. 11.

(2) Every registration of a motor vehicle effected on or after the date of the commencement of the Road Traffic Act Amendment Act, 1936, shall expire upon the expiration of six months or twelve months calculated as from the commencement of the month in which it was effected, according to the period for which registration was applied for.

17. (1) The registrar shall at the time of registration issue to every person who registers a motor vehicle under this Part a registration card having printed or written thereon particulars of the motor vehicle registered, the duration of the registration, and any other matters which the registrar thinks proper to insert.

Issue of, and duty to carry, registration card. 1480, 1921, s. 80. 1941, 1929, s. 5. 2131, 1933, s. 7.

(2) Every registration card or the prescribed part thereof shall throughout the period during which the registration remains in force be affixed to and carried on the motor vehicle for which the card is issued, in accordance with the regulations.

(3) Any person who drives on any road, or causes or permits any person to drive on any road any motor vehicle registered under this Part which does not carry the registration card issued for that vehicle under this section, or which carries the said registration card otherwise than in conformity with all the requirements of this section and the regulations, shall be guilty of an offence and liable to a penalty for a first offence not exceeding ten pounds and for a second or any subsequent offence not exceeding twenty pounds.

Amended by 55, 1943, s. 5.

(4) If any motor vehicle does not carry at any time a registration card issued in respect of that vehicle and for the time being in force, that fact shall be *prima facie* evidence that the said vehicle is not registered at that time.

PART II.

Offences in connection with registration cards.

1480, 1921, s. 8 D.
1941, 1929, s. 5.
Cf. U.K. 23 & 24 Geo. 5 c. 53, s. 34.

Para. (b) repealed by 37, 1953 s. 6.

18. Any person who—

- (a) drives a motor vehicle on which is affixed any registration card other than a registration card issued under this Part in respect of that motor vehicle and for the time being in force;

* * * * *

- (c) without lawful excuse has in his possession any registration card or any article resembling a registration card and liable to be mistaken therefor;
- (d) alters, defaces, mutilates, or adds anything to any registration card;
- (e) drives a motor vehicle on which is affixed any registration card which has been altered, defaced, mutilated, or added to; or
- (f) drives a motor vehicle on which is affixed any colourable imitation of a registration card,

shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

Duty to notify registrar of transfer of motor vehicle

1480, 1921, s. 8 E.
1941, 1929, s. 5.
2095, 1932, s. 5.
2131, 1933, s. 7 (2).

19. (1) If an owner who has registered a motor vehicle transfers the ownership thereof to some other person whether on a sale or any other transaction, he shall within twenty-one days of the transfer—

- (a) notify the registrar in the prescribed form of the transfer;
- (b) deliver to the registrar the registration card issued in respect of the transferred motor vehicle and for the time being in force, or take such other action in relation to the said card as is prescribed by regulation.

(2) If any person fails to comply with any requirement of this section he shall be guilty of an offence.

Transfer of registration or refund.

1480, 1921, s. 8 F.
2095, 1932, s. 6.
2131, 1933, s. 6.

20. (1) Upon or after delivery to the registrar of the registration card in accordance with the last preceding section, or upon taking the prescribed action in relation to the card, the transferor may either—

- (a) join with the transferee in a joint application to the registrar to transfer the registration of the motor vehicle to the transferee; or

- (b) apply for cancellation of the said registration and a refund or credit of part of the registration fee in accordance with the next succeeding section:

Provided that a joint application to transfer the registration of a motor vehicle shall not be made if, pursuant to section 9d of this Act, that registration is not transferable.

Inserted by 48, 1951, s. 7.

(2) If such a joint application for the transfer of the registration is made the registrar shall upon payment by the transferee of a fee of ten shillings and lodgment by him of an application in the prescribed form for the registration of a motor vehicle and production of a certificate of insurance as required by section 8c of this Act transfer the registration to the transferee and issue to him a registration card similar to that issued upon the original registration of a motor vehicle.

Amended by 45, 1939, s. 8 (1), and by 36, 1953, s. 10.

(3) Unless a joint application for the transfer of the application and a certificate as required by subsection (2) of this section, or an application for cancellation of the registration, is lodged with the registrar within twenty-one days after the transfer, or within such longer period as the registrar fixes, the registration shall, upon the expiration of the said twenty-one days, become void, and the registrar shall neither transfer such registration nor refund or credit any money in respect thereof.

Amended by 45, 1939, s. 8 (2).

21. (1) The owner or (as the case may be) the former owner of any registered motor vehicle may in any of the circumstances mentioned hereunder, upon delivery to the registrar of the current registration card issued in respect of that vehicle, or upon taking the prescribed action in relation to the card, apply to the registrar to cancel the registration of the vehicle and pay or credit to him the prescribed amount as defined in this section.

Refunds of registration fee in certain cases.
1480, 1921, s. 8 G.
2095, 1932, s. 6.
2131, 1933, s. 7.

(2) The circumstances in which an application under this section may be made are the following:—

- (a) If the applicant has ceased to be the owner of the vehicle:
- (b) If the motor vehicle has become permanently unfit for use as a motor vehicle:
- (c) If the motor vehicle has been removed from the State for permanent use out of the State, and, where the removal is to another State of the Commonwealth, has been registered in that State:

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Inserted by
2416, 1938,
s. 9 (1).

(d) If the motor vehicle has been used by a person engaged in business as a seller of motor vehicles, for the purpose of demonstrating its qualities to prospective purchasers, but has ceased to be so used:

Inserted by
45, 1939, s. 9.

(e) If the registered owner of the motor vehicle is, whilst the Commonwealth is at war, serving in any naval, military, or air force of the Commonwealth:

Inserted by
17, 1942,
s. 3 (1).

(f) If pursuant to any enactment, regulation, or rule (whether of the Commonwealth or the State) or any order or direction made thereunder the vehicle has ceased to be used on roads.

Inserted by
35, 1943, s. 6.

(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.

(3) The prescribed amount shall be one-twelfth of the full annual registration fee for the particular vehicle for each complete month of the registration period which is unexpired at the time when the registration card is delivered by the applicant to the registrar or, as the case may be, when the prescribed action is taken in relation to the card.

Amended by
36, 1953,
s. 11.

(4) Where the ownership of a registered motor vehicle is transferred before the end of the period for which it was registered and the transferor within twenty-one days of the transfer applies to register another motor vehicle, the registrar shall make such refund in respect of the transferred vehicle and such charge for the registration of the other vehicle—

(a) that in respect of the month in which the application is made, the transferor shall pay one-twelfth of the annual registration fee for one vehicle only, plus the transfer fee of ten shillings:

(b) that if the fees for registration of the transferred vehicle and the other vehicle are different, the said payment shall be one-twelfth of the greater fee.

(4a) Where the registration of a vehicle used for the purpose of demonstration as mentioned in paragraph (d) of subsection (2) of this section is cancelled, and the owner of the vehicle applies forthwith after the cancellation for the registration of another vehicle which the registrar is satisfied will be used for the said purpose of demonstration, the registrar shall credit such amount in respect of the registration which has been cancelled, and make such charge for the registration of the other vehicle—

Inserted by
2416, 1938,
s. 9 (2), and
amended by
36, 1953,
s. 11.

- (a) that in respect of the month in which the application for registration is made the applicant shall pay one-twelfth of the annual registration fee for one vehicle only, plus the transfer fee of ten shillings:
- (b) that if the fees for registration of the two vehicles are different the said payment shall be one-twelfth of the greater fee.

(5) The registrar may require any applicant to satisfy him by statutory declaration or other means as to the truth of the matters on which he bases his claim for a refund or credit.

21a. (1) Whenever the registration of a motor vehicle has become void before the expiration of the period for which it was granted, the registrar or any person authorized by him or any member of the police force may remove from that vehicle the registration card relating to that registration and for the purpose of so doing may at any reasonable time enter and remain upon any place or premises.

Destruction of
registration
card.

Inserted by
2416, 1938,
s. 10.

(2) Any person who hinders the registrar or any person authorized by him or any member of the police force in the exercise of any power conferred by this section shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

22. If any applicant for registration of a motor vehicle pays the registration fee by cheque and the cheque is dishonoured on presentation the registration of the motor vehicle for which the cheque was tendered shall be void as from the day on which it was effected, and the applicant shall on demand made by the registrar immediately deliver to him the registration card issued in respect of that motor vehicle. If any applicant fails so to deliver the card he shall be guilty of an offence and liable to a fine not exceeding twenty pounds.

Avoidance of
registration
where cheque
dishonoured.

1480, 1921,
s. 8 H.
2095, 1932,
s. 6.

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Provision for recovery where registration fee short paid.

1480, 1921, s. 8 I.
2095, 1932, s. 6.
2131, 1933, s. 9.

23. (1) If any motor vehicle is incorrectly described in the application for registration thereof, and as a result of the mis-description the vehicle is registered without the full amount of the fee payable for the said registration being paid, the applicant for registration shall be liable to pay to the registrar a sum equal to the balance of the fee short paid, and the said sum may be recovered by the registrar as a debt by action in any court of competent jurisdiction.

(2) Where, owing to understatement of the power weight of any motor vehicle, that vehicle has before the thirtieth day of November, nineteen hundred and thirty-three, been registered at a fee less than the fee fixed by law, the Treasurer, if satisfied that the understatement was not fraudulent, may remit the balance of the fee, or any part of that balance, and if the balance has been recovered from the owner, may refund the whole or any part thereof if he thinks circumstances warrant that action.

Exemption of registered trailers from licensing under other provisions of this Act.

1480, 1921, s. 8 I.
1941, 1929, s. 5.
Amended by 17, 1942, s. 4.

24. If a trailer is registered as a motor vehicle under this Part and carries the current registration card issued in respect of the trailer it need not be licensed under any other Part of this Act.

Inspection of motor vehicles to ascertain power-weight.

1480, 1921, s. 8 J.
1941, 1929, s. 5.

25. Any member of the police force or the registrar or any person authorized in writing by the registrar to examine motor vehicles for the purposes of this Part may—

- (a) examine or stop and examine any motor vehicle for the purpose of determining any facts necessary to ascertain the amount of the fee payable for registration of that motor vehicle:
- (b) enter any premises at any time and search therein for motor vehicles and examine for the purposes aforesaid any motor vehicles found therein:
- (c) take from any part of any motor vehicle a sample of any liquid fuel used or appearing to be used for propelling that motor vehicle.

Duty of owners to notify changes in vehicles and tires to registrar.

1480, 1921, s. 8 L.
1941, 1929, s. 5.

26. (1) The owner of a registered motor vehicle, to which at any time after registration any of the alterations or additions mentioned in subsection (2) of this section are made, shall, within fourteen days after the making of the alteration or addition, give notice thereof in writing to the registrar, and shall forward to the registrar such particulars as are prescribed, of the alteration or addition.

(2) The alterations and additions referred to in subsection (1) hereof are the following:—

(a) Any alteration of or addition to the motor vehicle by which its horsepower or weight as defined in the provisions of this Part as to the mode of computing the amount of the registration fee is increased:

(b) In the case of a motor vehicle fitted entirely with pneumatic tires, the removal of any pneumatic tire and the substitution therefor of any tire other than a pneumatic tire:

(c) In the case of a vehicle not having metal tires, the removal of any tire and the substitution therefor of a metal tire:

(d) In the case of a motor cycle not having a side-car attached thereto the attachment thereto of a side-car:

(e) The substitution of a compression ignition engine for an engine of any other type.

Inserted by
48, 1951 s. 8.

(3) Within fourteen days after the making of any such alteration or addition as mentioned in subsection (2) of this section the owner of the motor vehicle shall pay an additional fee which shall consist of the difference between the amount actually paid as registration fee for the motor vehicle and the amount which would have been payable if the alteration or addition had been made at the time of registration, due allowance being made for every full month expired at the time of the making of the alteration or addition.

Amended by
35, 1943,
s. 7 (a).

(4) Any person failing to comply with any requirement of this section shall be guilty of an offence.

(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.

Inserted by
35, 1943,
s. 7 (b).

27. (1) The registrar may, upon payment of the proper fee as fixed by this section for each pair, issue in accordance with this section trader's plates to any person who has proved to his satisfaction that he is engaged in the business of manufacturing, repairing, or dealing in motor vehicles, and has suitable premises for the purpose. There shall be two kinds of trader's plates, namely, general trader's plates and limited trader's plates.

Trader's
plates.
1480, 1921,
s. 9,
2095, 1932,
s. 7.
Cf. U.K.
10 & 11
Geo. 5 c. 72,
s. 9.

(2) Every pair of trader's plates shall remain operative as such until the thirty-first day of March next after the date of the issue thereof and no longer unless the period of operation thereof is extended. The registrar may from time to time upon payment of the proper fee extend the period of operation of any trader's plates for any period not exceeding twelve months and expiring on the thirty-first day of March.

Subsec. (3)
repealed by
2416, 1938,
s. 11 (a).

* * * * *

Amended by
2416, 1938,
s. 11 (b).

(4) The number of trader's plates which may be issued to any one person shall be determined by the registrar, due regard being paid to the business requirements of the applicant.

(5) No limited trader's plate shall be issued to any person who is not the holder of a current general trader's plate.

Amended by
2416, 1938,
s. 11 (c), and
by 36, 1953,
s. 12 (a).

(6) The fee for the issue or extension of operation of—

(a) each pair of general trader's plates shall be sixteen pounds:

(b) each pair of limited trader's plates shall be two pounds:

Provided that if the trader's plates are issued between the thirtieth day of September and the first day of April the said fee shall be half of the fee otherwise payable.

(7) The registrar shall keep a record showing the name and place of business of every person to whom any trader's plates have been issued under this section.

(8) Every pair of trader's plates shall bear a distinctive number and conform to such specifications as the Minister from time to time directs by notice in the *Gazette*.

Amended by
36, 1953,
s. 12 (b).

(9) Any person selling or disposing of his business during the currency of any trader's plates issued to him shall, within seven days thereafter, give written notice of such sale or disposal to the registrar; and the registrar may, upon payment of a transfer fee of ten shillings cause the trader's plates to be transferred to the purchaser of the business for the remainder of the period for which such trader's plates were issued.

(10) Subject to subsection (10a), a motor vehicle bearing general trader's plates may be driven—

Substituted
by 35, 1943,
s. 8.

- (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.

Inserted by
35, 1943, s. 8.

(11) No person shall on any road drive any motor vehicle having a limited trader's plate attached thereto unless he is—

- (a) the person to whom such trader's plate was issued;

- (b) a partner of the person or member of the company to whom or to which such trader's plate was issued;
 - (c) a salaried officer or regular employee of the person or company to whom or to which such trader's plate was issued;
 - (d) a prospective purchaser of the motor vehicle accompanied (except in the case of a motor cycle) by any such person as is mentioned in paragraph (a), (b), or (c) of this subsection; or
 - (e) the purchaser of the motor vehicle and resident in another State.
- (12) No person shall on any road drive any motor vehicle having a limited trader's plate attached thereto unless the vehicle is at the time—
- (a) on trial, during the course of construction or repairs or immediately after completion of construction or repairs, for the purpose of ascertaining whether its parts are in proper working condition;
 - (b) on trial for the benefit of a prospective purchaser, or any person *bona fide* interested in the exchange or sale of the vehicle;
 - (c) proceeding to or returning from a prospective purchaser for or after trial;
 - (d) proceeding for delivery to a purchaser or being driven by a purchaser resident in another State to a place within that State;
 - (e) proceeding to or returning from a workshop for painting or repairs;
 - (f) proceeding to a railway station or wharf for entraining or shipment or proceeding from a railway station or wharf to the premises of a manufacturer or dealer;
 - (g) proceeding to an exhibition or show for display or trial or returning therefrom;
 - (h) proceeding to or returning from any garage, auction room, or other place at which vehicles are usually stored or usually or periodically 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

(i) proceeding to or returning with a motor vehicle which, while being driven upon a road or street, has become unable to proceed under its own power.

(13) No person shall on any road, by means of any motor vehicle having a limited trader's plate attached thereto—

(a) convey any person to or from any race meeting, trotting meeting, foot races, football or cricket match, or other sport; or

(b) carry any goods or load whatsoever except a load which consists solely of some ordinary form of ballast such as sand, gravel, scrap iron, or the like and is carried solely for the purpose of testing the vehicle.

(14) No person shall on any Sunday or public holiday drive on any road any motor vehicle having a limited trader's plate attached thereto: Provided that a motor vehicle having a limited trader's plate attached thereto may be driven on a public holiday when proceeding, for the purpose of display, to an exhibition or show held on such public holiday, or when returning from such an exhibition or show.

Amended by
37, 1953, s. 7.

(15) If any vehicle is driven in contravention of subsection (10), (11), (12), (13), or (14) of this section the driver of the vehicle, and if the driver is not the person to whom the trader's plates were issued, then that person also shall be guilty of an offence.

Amended by
48, 1951, s. 9.

(16) Every trader's plate issued under this section shall remain the property of the Minister; and if any trader's plate at any time ceases to be operative as such the person to whom it was issued shall, on demand made by the registrar, return the plate to him within seven days thereafter, and if he fails to do so he shall be guilty of an offence and liable to a penalty of not more than ten pounds.

(17) Any person who is driving or has driven a motor vehicle to which a trader's plate is or was attached, shall, when required by any member of the police force, forthwith truly answer any questions put to him by such member relevant to the purpose for which, and the circumstances in which, such vehicle is being driven or was driven.

If any person fails to comply with this section he shall be guilty of an offence.

(18) Every person to whom any trader's plate has been issued under this section shall, when required to do so by any member of the police force, furnish to such member the

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name and address of any person driving on any occasion specified by such member any motor vehicle to which such plate was attached. If any person upon being so required refuses or fails to furnish such name and address or furnishes a false name or false address he shall be guilty of an offence.

(19) Any person guilty of any failure to observe or contravention of any of the provisions of this section shall be guilty of an offence; and any person guilty of an offence against this section for which some other penalty is not specifically provided shall be liable to a penalty not exceeding thirty pounds.

S. 27a inserted by 35, 1943, s. 9, and repealed by 36, 1953, s. 13.

* * * * *

Refunds where general traders' plates surrendered to registrar. Inserted by 35, 1943, s. 9.

27b. Where a person to whom general trader's 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.

Duty of registered owners to furnish particulars of vehicles. 1695, 1925, s. 16.

28. (1) Every person who is registered as the owner of a motor vehicle, shall, upon request by the registrar, produce to the registrar such evidence of the nature and weight of any motor vehicle owned by such person and of the nature of the tires with which that vehicle is fitted, as is prescribed, or as is required by the registrar.

(2) Any person failing to comply with any request under this section shall be guilty of an offence.

Duty of owners to weigh motor vehicles in certain cases. 1695, 1925, s. 17.

29. (1) The owner of any motor vehicle on being served with a notice signed by the registrar requiring him within a time mentioned in the notice to cause his motor vehicle to be weighed unladen on the weighing machine mentioned in the notice or any one of the weighing machines so mentioned if more than one are mentioned, shall obey such notice and shall forward to the registrar forthwith the document showing the result of the weighing.

(2) This section shall not apply if the distance from the place where the motor vehicle is usually kept to the weighing machine mentioned in the notice, or to the nearest of those weighing machines, if more than one are mentioned, is greater than three miles.

(3) Any person failing to comply with any requirement of the registrar under this section shall be guilty of an offence.

Licensing of Drivers.

30. Any person who, unless exempted by the regulations, drives a motor vehicle on any road without being the holder of a licence for the time being in force, or employs or permits any person not being the holder of such a licence to drive a motor vehicle on any road shall be guilty of an offence.

Duty to obtain driver's licence.
1480, 1921, s. 34 (a). (Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 4.

31. (1) The registrar may, subject to the provisions of this Part, issue a licence to any person who—

Issue of driver's licence.
1480, 1921, ss. 12 & 13 (2).
1527, 1922, s. 5.
1827, 1927, s. 5.
Cf. U.K. 24 & 25 Geo. 5 c. 50, s. 6;
26 Geo. 5 & 1 Edw. 8 c. 23.

(a) makes written application therefor in the prescribed form; and

(b) forwards with such application the fee fixed by this section,

and, subject as aforesaid, may, upon application in the prescribed form, renew any licence. Such renewal shall be in the prescribed form.

(2) The annual fees for licences shall be—

(a) for a licence to drive a motor vehicle of any kind— one pound:

(b) for a licence to drive a motor cycle only—ten shillings:

Amended by 40, 1945, s. 7, by 48, 1951, s. 10 (a), and by 36, 1953, s. 14.

Provided that—

(i) A licence to drive an electrically or mechanically propelled invalid chair only shall be issued without fee:

(ii) The fee for any licence issued to a person who as a result of his service in a naval, military or air force is totally and permanently incapacitated, or has lost a leg or foot, or receives a pension under the Repatriation Act, 1920-1951, at the rate for total incapacity, or by reason of impairment of his power of locomotion receives a pension

s. 30. PROUDMAN v. DAYMAN (1941) 67 C.L.R. 536; 15 A.L.J. 192, in which special leave was refused to appeal to the High Court from DAYMAN v. PROUDMAN (1941) S.A.S.R. 87. On a charge of permitting an unlicensed person to drive a motor vehicle on a road, proof that the defendant knew that the driver was unlicensed is unnecessary.

under the Repatriation Act, 1920-1951, of the Commonwealth of not less than seventy-five per centum of the pension payable for total incapacity shall be—

- (i) for a licence to drive a motor vehicle of any kind, ten shillings:
- (ii) for a licence to drive a motor cycle only, five shillings.

(3) Every application for the renewal of a licence shall be accompanied by the annual fee therefor.

Inserted by 2332, 1936, s. 12, and amended by 48, 1951, s. 10 (b), and by 36, 1953, s. 14 (e).

(4) A licence to drive a motor cycle may be surrendered to the registrar in exchange for a licence to drive a motor vehicle of any kind expiring on the same day as the licence to drive a motor cycle upon payment of a fee of ten shillings.

Inserted by 2332, 1936, s. 13.

(5) Every application for a licence shall contain a statement, signed by the applicant, that he is aware that it is an offence to drive a motor vehicle on a road unless there is in force a policy of insurance insuring any person driving that vehicle against his liability in respect of the death of or bodily injury to any person caused by or arising from the use of the vehicle.

Restricted driver's licences.

Inserted by 2416, 1938, s. 12.

31a. (1) Where the registrar is satisfied that owing to the age or any physical defect or infirmity of any applicant for a driver's licence it is desirable that any licence issued to that applicant should be subject to restrictive conditions, the registrar may issue to that applicant a licence containing conditions as to the localities in which the applicant shall be entitled to drive, or the class or equipment of the vehicles which the applicant shall be entitled to drive or as to any other matters which the registrar thinks necessary for the purpose of preventing danger to the applicant or the public.

(2) In any case where the registrar is satisfied that, by reason of the distance necessary to be travelled by an applicant for a driver's licence to be examined as provided by section 32a, it would be unreasonable to require the applicant to submit to such an examination, he may, without examination as provided by section 32a, issue to the applicant a licence as provided by subsection (1) of this section.

(3) If any such applicant is not willing to accept a licence containing any such conditions proposed by the registrar the registrar may refuse him a licence and the refusal shall be subject to appeal as mentioned in section 32 of this Act.

(4) If any person contravenes any such condition he shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

32. (1) If the registrar suspects that any applicant for the issue or renewal of a driver's licence is for any reason incompetent to drive a motor vehicle without danger to the public, the registrar shall not issue a driver's licence to that applicant until he is satisfied that that applicant is competent to drive a motor vehicle without danger to the public.

Tests of
drivers.
Of. U.K.
20 & 21
Geo. 5 c. 43,
s. 5;
24 & 25
Geo. 5 c. 50,
s. 6;
26 Geo. 5 & 1
Edw. 8 c. 23.

If the registrar refuses to grant any application for the issue or renewal of a licence to any applicant, that applicant may, in accordance with rules of court made under this section, appeal against that refusal to any special magistrate sitting in chambers. On the appeal the special magistrate may—

Subsec. (1)
amended by
2332, 1936,
s. 14, and by
2416, 1938,
s. 13.

- (a) hear the parties and their witnesses;
- (b) confirm, reverse, or vary the decision appealed against;
- (c) make any other order which he thinks just including any order as to costs.

Rules of court shall be made under the Local Courts Act, 1926, prescribing the time within which, and the mode in which appeals are to be instituted and dealt with under this section, and any other matters relevant to such appeals.

(2) The registrar, in order to satisfy himself of the competence of any such person, may require him to furnish such evidence of competency as is prescribed, or as the registrar thinks necessary, or to submit to such tests as are prescribed, or as the registrar thinks proper to impose, and may refuse to issue the licence until the applicant furnishes such evidence or satisfies such tests.

32a. (1) Where an applicant for a driver's licence has not previously held a licence and applies for a licence after a day to be proclaimed by the Governor as the day on which this section shall come into operation, the registrar shall not issue a licence unless the applicant produces to the registrar a certificate from an examiner certifying that the applicant has passed an examination conducted by that examiner, in the rules required by law to be observed by owners and drivers of motor vehicles. No person shall be deemed to have passed an examination for the purposes of this section unless he has answered correctly at least three-quarters of the questions asked in the examination.

Examination
of applicant
for driver's
licence.
Of. U.K.
24 & 25
Geo. 5 c. 50,
s. 6.
Inserted by
2332, 1936,
s. 15.

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Passage inserted by 2416, 1938, s. 14.

Although a person may have answered correctly at least three-quarters of the questions asked in the examination, the registrar may treat him as having failed if he has given an incorrect answer to any question dealing with any rule which in the registrar's opinion is one of special importance.

(2) Every member of the police force shall be an examiner for purposes of this section, and the Governor may appoint such other persons as he thinks fit to be examiners.

Amended by 45, 1939, s. 11.

(3) The examination shall consist of twelve questions to be answered by the applicant in writing; and the questions for each applicant shall be selected by the examiner from a series of questions formulated and supplied to him by the registrar.

(4) A person who has sat for and failed to pass an examination under this section may again sit for a similar examination at any time after an interval of two clear days.

Age of drivers to whom licences may be issued.

Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 9.

Amended by 2332, 1936, s. 16.

33. No licence (whether to drive a motor vehicle or a motor cycle) shall be issued to any person who has not previously been granted a licence and who is under the age of sixteen years.

Licences may be refused in certain cases.

1480, 1921, s. 17; Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 4 (6).

34. Upon the direction in writing of the Minister, the registrar shall refuse to issue or renew a licence to any person who has been convicted of driving a motor vehicle whilst so much under the influence of intoxicating liquor as to be incapable of exercising effective control of such motor vehicle, or of driving a motor vehicle in any road in a culpably negligent manner, furiously, or recklessly, or at a speed or in a manner which is dangerous to the public, or of any offence which, in the opinion of the Minister, renders him unfit to hold a licence, or who, in the opinion of the Minister, is otherwise unfit to hold a licence.

Appeal on refusal to issue or renew licence.

1480, 1921, s. 18; Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 5 (5); 24 & 25 Geo. 5 c. 50, s. 6.

35. (1) Any applicant for the issue or renewal of a licence whose application has been refused may, on giving to the registrar at least seven clear days' notice in writing of his intention so to do, appeal against such refusal to the Local Court of Adelaide, or, at the option of the applicant, to the local court nearest to his residence.

(2) If after hearing the appeal the local court decides that the application ought to be granted, the registrar shall issue or renew the licence accordingly.

(3) The decision of the local court shall be final and conclusive, and shall not be challenged, appealed against, reviewed, quashed, or called in question, or be subject to prohibition or mandamus, in any court on any account whatever.

(4) The local court on the hearing of any such appeal may make any order as to costs which it thinks fit.

(5) For any such appeal the local court shall consist of a special magistrate.

36. Unless cancelled or suspended under this Act—

(a) every licence in force at the commencement of the Road Traffic Act Amendment Act, 1951, shall continue in force until the next following thirtieth day of June;

(b) every licence granted after the said commencement shall continue in force for a period of twelve months commencing on the first day of the month in which it is issued.

Duration of licence.

Substituted by 48, 1951, s. 11.

36a. (1) Notwithstanding the other provisions of this Part the registrar may at any time during a period of war upon payment of a fee of two shillings and sixpence, issue to any member of any naval, military, or air force of the Commonwealth or of any other part of His Majesty's Dominions, a driver's licence having a currency of three months. Subject to this Act, such a licence shall authorize the person to whom it is issued to drive a motor vehicle of any kind during the period specified in the licence.

Quarterly licences for members of the defence force.

Inserted by 61, 1940, s. 6, and amended by 40, 1945, s. 8 (1).

(2) In this section "a period of war" means a period commencing on the day on which the Commonwealth becomes engaged in a war and ending upon the expiration of six months after the day declared by the Governor by proclamation to be the day on which that war shall be deemed to cease.

Substituted by 40, 1945, s. 8 (2), and amended by 42, 1952, s. 3.

37. (1) Upon the application of the holder of any licence the registrar may, on proof to his satisfaction of the loss or destruction of such licence, and on payment of a fee of two shillings and sixpence, issue to the holder of the licence a duplicate licence bearing all memoranda endorsed on the original licence.

If licence lost, duplicate may be issued. 1480, 1921, s. 14.

(2) Such duplicate shall avail for all purposes as if it were the original licence.

PART II.

Register of
licences.
1480, 1921,
s. 19.
2095, 1932,
s. 8.

38. (1) The registrar shall keep a register of the names and addresses of all licensed drivers, and of all endorsements on, and renewals and cancellations of, licences.

(2) The prescribed forms of application received by the registrar from persons applying for licences shall be bound or otherwise assembled by the registrar and arranged in order as the registrar determines and shall constitute the register of licences within the meaning of this Act: Provided that the regulations may provide that the register of licences shall be constituted and kept in any other way.

Suspension of
licence and
disqualifica-
tion of holder
on conviction.
Of U.K.
20 & 21.
Geo. 5 c. 43,
ss. 7, 8;
24 & 25
(Geo. 5 c. 50,
s. 5.
Inserted by
2332, 1936,
s. 17, and
amended by
45, 1939,
s. 12.

38a. (1) When any person is convicted, before the Supreme Court or any other court, for any offence against any provision of this Act relating to motor vehicles, or for any offence in the commission of which a motor vehicle was used, or the commission of which was facilitated by the use of a motor vehicle, the court may order that that person be disqualified either for a period fixed by the court or until further order from holding and obtaining a driver's licence.

Subsec. (1a)
inserted by
55, 1948, s. 6,
and amended
by 29, 1950,
s. 5.

(1a) If any person after being convicted for an offence against any of the following sections of this Act, namely, sections 43, 43b, 121, and 131, is convicted for a second or subsequent offence against the same section, the court shall order that that person shall be disqualified for a period fixed by the court or until further order from holding or obtaining a driver's licence: Provided that the court, if satisfied by evidence given on oath, that any such offence is trifling, may certify accordingly and if such a certificate is given the offence to which it relates shall not be taken into account for purposes of this subsection: Provided also that—

(a) a conviction for an offence committed on or before the sixth day of January, nineteen hundred and forty-nine; or

(b) a conviction for an offence committed ten years or more before the commission of a second or subsequent offence against the same section,

shall not be taken into account for the purposes of this subsection.

s. 38a. *GEORGE V. TROTTER* (1938) S.A.S.R. 48. Where the defendant entered an intersection at a very fast rate of speed and narrowly escaped a collision and was convicted under section 131, held that the defendant's licence was rightly suspended.

AUSTIN V. DAYMAN (1939) S.A.S.R. 136. Circumstances discussed which may be taken into account in considering whether an order for disqualification should be made.

HATCHER V. O'SULLIVAN (1949) S.A.S.R. 240. Held, before the enactment of the proviso to subsection (1a), that, upon conviction of a second offence against one of the sections specified in section 38a, the court must make an order of disqualification from holding or obtaining a licence, notwithstanding that the first offence was committed prior to the passing of the amending Act of 1948.

(2) An order made under this section may be in addition to any other penalty to which the defendant is liable.

38b. If a court of summary jurisdiction on complaint duly laid is satisfied that any person has used or is likely to use a motor vehicle in connection with the commission of any offence by himself or any other person, or to facilitate the escape of himself or any other person from arrest or punishment, it may order that the person who used or is likely to use the vehicle be disqualified either for a period fixed by the court or until further order from holding and obtaining a driver's licence.

Power of suspension, cancellation and disqualification where vehicle used for criminal purposes.
 Inserted by 2332, 1936, s. 17.

38c. If a court of summary jurisdiction presided over by a special magistrate on complaint duly laid by the Commissioner of Police or by the registrar, is satisfied that any person is by reason of intemperance in the consumption of alcoholic liquor or by reason of the habitual use of drugs, likely to cause danger to the public if he drives a motor vehicle on roads, the court may order that that person be disqualified either for a period fixed by the court or until further order from holding and obtaining a driver's licence.

Disqualification of addicts to liquor or drugs.
 Inserted by 2332, 1936, s. 17.

38d. (1) Where an order has been made against any person disqualifying him from holding and obtaining a driver's licence until further order that person may on complaint duly laid before a court of summary jurisdiction, and served on the Commissioner of Police as defendant to the proceedings, apply to that court for an order removing the disqualification, and the court may, if it deems it expedient to do so, order that the disqualification be removed as from any date which it thinks proper.

Removal of disqualification.
 Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 7.
 Inserted by 2332, 1936, s. 17.

(2) No application shall be made under this section earlier than three months after the making of the original order for disqualification, nor shall any application under this section be made within three months of a previous application relating to the same order of disqualification.

38e. (1) If the Commissioner of Police or the registrar has reasonable cause to suspect that any person holding a driver's licence is incompetent to drive a motor vehicle without danger to the public, he may require that person to satisfy him by a practical test that he is competent to drive a motor vehicle without danger to the public and if he fails to pass such a test may suspend the licence held by him.

Suspension of licence on the ground of incompetence to drive.
 Inserted by 2332, 1936, s. 17.

(2) The Commissioner of Police or the registrar, at the request of any person whose licence has been suspended

Road Traffic Act, 1934-1954.

under this section, shall at a convenient time conduct a further test of that person's ability to drive a motor vehicle; and if that person fails to pass the test he shall be entitled to undergo further tests from time to time at intervals of not less than fourteen days. When that person passes a test the suspension of his licence shall forthwith cease.

Suspension of licence of person suffering from disease or disability.
 Inserted by 45, 1939, s. 13.

38ee. (1) If the Commissioner of Police or the registrar suspects that any person holding a driver's licence is suffering from any disease (mental or physical) or any disability which impairs or may at any time impair his ability to drive a motor vehicle he may suspend the licence of that person for such period as he thinks proper.

(2) If the Commissioner of Police or the registrar is subsequently satisfied that the ability of the said person to drive a motor vehicle is not impaired, or is not impaired to such an extent as to justify the continuance of the suspension, he may remove the suspension.

(3) Where the licence of any person has been suspended under this section, that person may on complaint duly laid before a court of summary jurisdiction and served on the Commissioner of Police or the registrar, as the case may be, as defendant to the proceedings apply to that court for an order removing the suspension, and the court may if it deems it expedient to do so order that the suspension shall be removed as from any date which it thinks proper, or that the period of suspension shall be altered, or may make any other order relating to the suspension which the court thinks just.

Cancellation or suspension of licence of driver disqualified in another State.
 Inserted by 37, 1953, s. 8.

38ef. Where the holder of a driver's licence under this Act is by reason of any judgment, order, or decision given or made pursuant to any law of any other State or Territory of the Commonwealth, disqualified, prevented or prohibited from driving a motor vehicle, the registrar may suspend or cancel the driver's licence issued to him under this Act.

Mode of suspension by Commissioner of Police or registrar.
 Inserted by 2332, 1936, s. 17.

38f. Every suspension imposed by the registrar or the Commissioner of Police, shall be by a document in writing under his hand, and shall be served on the holder of the licence either personally or by registered post.

Refusal or revocation of temporary registration of vehicle from other States.
 Inserted by 2332, 1936, s. 17.

38g. (1) If the registrar has reasonable cause to suspect that any applicant for temporary registration of a motor vehicle registered in another State, or any person who has been granted such temporary registration, has used, is using, or is likely to use that motor vehicle in connection

with the commission of any offence by himself or any other person, or to facilitate the escape of himself or any other person from arrest or punishment, he may refuse to issue or, as the case may be, revoke such temporary registration.

(2) The revocation shall be by a document in writing under the hand of the registrar, and personally served on the person thereby affected.

39. Any person who—

Offences in connection with licences. 1480, 1921, s. 35.

* * * * *

Para. (a) repealed by 37, 1953, s. 9.

(b) without lawful excuse has in his possession a licence or any article resembling such licence and liable to be mistaken therefor; or

(c) forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any licence,

shall be guilty of an offence.

Warning devices, silencers, and lights on motor vehicles.

40. (1) Any person who drives in any road or who, being the owner, causes or permits any person to drive on any road a motor vehicle which has not attached thereto, under the immediate control of the hand or foot of the driver, a proper horn or other instrument capable of giving audible and sufficient warning of the approach and position of that motor vehicle, shall be guilty of an offence:

Duty to carry warning device. 1480, 1921, s. 30, 1695, 1925, s. 10. Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 59 (1) (b).

Provided that this subsection shall not apply to any trailer so long as the motor vehicle to which that trailer is attached complies with this subsection.

Amended by 2332, 1936, s. 18, and by 2416, 1938, s. 15.

(2) Any driver of a motor vehicle who does not whenever necessary, by sounding the horn or other instrument attached thereto, give audible and sufficient warning of the approach or position of that motor vehicle, shall be guilty of an offence.

s. 40. JOLLY V. WALLMAN (1936) S.A.S.R. 121. Where a dangerous situation arises at a time when it is too late for a warning to be effective, there is no need to give warning of the approach of a vehicle.

Inserted by
2332, 1936,
s. 18.

(3) A bell or siren shall not be taken to be a proper horn or other instrument within the meaning of this section except where the motor vehicle to which it is attached is—

- (a) being used at the time by the Fire Brigades Board or a fire brigade or the Police Department; or
- (b) an ambulance; or
- (c) an emergency vehicle being used at the time by the Municipal Tramways Trust.

Misuse of
warning
devices.

Inserted by
2332, 1936,
s. 19.

40a. (1) If any person—

- (a) uses the warning device of a motor vehicle otherwise than for giving reasonable warning of the approach of that vehicle; or
- (b) uses the warning device of a motor vehicle in such a manner as to produce an offensive noise,

he shall be guilty of an offence.

(2) If any person in any road sounds any bell or siren attached to or being upon any motor vehicle other than—

- (a) a vehicle being used at the time by the Fire Brigades Board, or a fire brigade, or the Police Department; or
- (b) an ambulance; or
- (c) an emergency vehicle being used by the Municipal Tramways Trust,

he shall be guilty of an offence.

Mechanical
signals on
vehicles with
left-hand
drive.

Inserted by
40, 1945, s. 9.

40b. (1) Every motor vehicle with left-hand drive shall be fitted with a mechanical or electrical device of a kind approved by the registrar, by which driving signals substantially similar to those prescribed by section 134 of this Act may be given.

(2) A motor vehicle shall be deemed to have left-hand drive if the steering wheel is on the left of a vertical plane bisecting the vehicle longitudinally.

(3) A person who drives or causes or permits any person to drive on any road a motor vehicle which in any particular does not comply with this section shall be guilty of an offence.

40c. (1) Every motor vehicle which is seven feet wide or more, or which carries a load seven feet wide or more, shall be fitted with a mechanical or electrical device of a kind approved by the registrar, by which driving signals substantially similar to those prescribed by section 134 of this Act may be given: Provided that a trailer drawn by a motor vehicle fitted with such a device need not itself be so fitted.

Mechanical signals on wide vehicles.

Inserted by 48, 1951, s. 12 and amended by 41, 1952, s. 4.

(2) A person who drives or causes or permits any person to drive on any road a motor vehicle which in any particular does not comply with this section shall be guilty of an offence.

41. (1) Any person who in any road drives a motor vehicle—

Duty of drivers as to silencers and elimination of noise, smoke, etc.
1480, 1921, s. 31.
2095, 1932, s. 11.

(a) which has not attached to it and in use a silencer which eliminates all unnecessary noise; or

(b) which has attached to it a silencer to which any alteration has been made which reduces or is likely to reduce the effectiveness of such silencer; or

(c) on which there is any device which may be used to reduce the effectiveness of the silencer,

shall be guilty of an offence.

(2) Any person who makes any alteration to a silencer which reduces or is likely to reduce its effectiveness shall be guilty of an offence.

(3) Any driver of a motor vehicle who allows it to make or emit any unnecessary noise, smoke, visible vapour or smell shall be guilty of an offence.

42. (1) Every motor vehicle (other than a motor cycle or trailer) which is at any time between half an hour after sunset and half an hour before sunrise on any road shall carry attached thereto—

Lights on motor vehicles.

1480, 1921, s. 32.
1527, 1922, s. 6.
1695, 1925, s. 11.
1827, 1927, s. 7.

(a) two lighted lamps carried one on each side of such motor vehicle, such lamps being so constructed and carried as to show a bright white, yellow or amber-coloured light in front of such motor vehicle; and

Para. (a) amended by 2416, 1938, s. 16.

s. 41. DAYMAN v. ELLIS (1933) S.A.S.R. 274. Section 41 requires that the silencer must at the material time be in actual use and eliminate all unnecessary noise.

s. 42. RUDALL AND OTHERS v. DEACON AND OTHERS (1943) S.A.S.R. 271. Appeal to the High Court dismissed (1943) 67 C.L.R. 642 (note); (1943) S.A.S.R. xxiii. (note). It is not necessary that the red light required to be carried pursuant to paragraph (b) of subsection (1) shall be carried at the extreme edge of the off side rear part of the vehicle.

PART II.

Para. (b)
amended by
2322, 1936,
s. 20, and
by 20, 1944,
s. 6 (a).

- (b) a lighted lamp carried on the rear of such motor vehicle, such lamp being so constructed and carried as to illuminate and render easily distinguishable from a distance of at least forty feet each figure and letter on the number plate attached to the rear of such motor vehicle, and to show a red light in such a position and manner as to be clearly visible at a distance of at least two hundred yards to any person approaching such motor vehicle from the rear:

Provided that—

Amended by
20, 1944,
s. 6 (a).

- (a) if one or more trailers are attached to such motor vehicle the light provided for by subdivision (b) hereof shall be placed on the rear of such trailer, or on the rear of the rearmost of such trailers, if there is more than one, instead of on such motor vehicle:

- (b) this subsection shall not apply to any such motor vehicle if and so long as such motor vehicle is stationary in a road and is standing under or near a lighted public street lamp or other lamp, so illuminating such road as to render such motor vehicle clearly visible and to remove any risk of accident by collision or otherwise; and

Amended by
2322, 1936,
s. 20.

- (c) this subsection shall not apply to any such motor vehicle if and so long as such motor vehicle is stationary in a road, and the rear lamp of such motor vehicle is alight and is showing a light sufficiently bright to indicate the presence of such motor vehicle, and to remove any risk of accident by collision or otherwise.

Inserted by
2322, 1936,
s. 20, and
amended by
2416, 1938,
s. 17.

(1a) Every motor vehicle which, or the load on which, is more than six feet six inches wide and which is at any time between half an hour after sunset and half an hour before sunrise on any road, shall carry attached to the extreme off-side of the vehicle or, where there is a load projecting from the off-side of the vehicle, at the extreme off-side of that load, a lighted lamp so constructed and carried as to show a bright green light in front of the vehicle clearly visible at a distance of at least two hundred yards from the front of the vehicle, and a bright red light clearly visible at a distance of at least two hundred yards from the rear of the vehicle, or alternatively two lighted lamps showing respectively a green light and a red light complying with the foregoing provisions of this subsection. The lamp so carried shall be not less than three and not more than six

feet from the ground, and shall be affixed as near as practicable to the edge of the vehicle or load.

It shall be sufficient compliance with this subsection if any lamp or lamps carried in pursuance of the other provisions of this Act also comply with this section.

(1b) Every motor vehicle the load on which extends more than three feet behind the rear of the motor vehicle and which is at any time between half an hour after sunset and half an hour before sunrise on any road shall carry attached to the extreme rear of that load a lighted lamp so constructed and carried as to show a red light clearly visible from a distance of two hundred yards from the rear of the motor vehicle.

Inserted by
2332, 1936,
s. 20.

For the purpose of this subsection any frame work, fixed or placed on a motor vehicle, shall be deemed to be the load or portion of the load on that motor vehicle.

(1c) Whenever any part of a motor vehicle, which is at any time between half an hour after sunset and half an hour before sunrise on any road, projects to the rear for more than three feet beyond the lamp carried on the rear of the motor vehicle pursuant to paragraph (b) of subsection (1) of this section, a lighted lamp shall be kept attached to the rearward extremity of the said projecting part of the motor vehicle in such a position and manner as to show a red light clearly visible from a distance of two hundred yards from the rear of the motor vehicle.

Inserted by
45, 1939,
s. 14.

(2) Every motor cycle which is on any road between half an hour after sunset and half an hour before sunrise shall carry—

(a) a lighted lamp attached to the front of the motor cycle and so constructed and carried as to show a bright white, yellow or amber-coloured light in front of the motor cycle and also illuminate and render easily distinguishable from a distance of at least ten yards each figure and letter on the number-plate attached to the front of the motor cycle:

Amended by
2416, 1938,
s. 16.

(b) a lighted lamp attached to the rear of the motor cycle and so constructed and carried as to show a red light clearly visible at a distance of at least two hundred yards from the rear of the motor cycle and illuminate and render easily distinguishable from a distance of at least forty feet each figure and letter on the number-plate attached to the rear of the motor cycle:

- (c) if a side-car is attached to the motor cycle, in addition to the lighted lamps provided for by the preceding paragraphs a lighted lamp attached to the front of that side-car, such lamp being so constructed and carried as to show a bright white light in front of the side-car:

Provided that this subsection shall not apply to any motor cycle if and so long as such motor cycle is stationary in a road and is standing under or near a lighted public street lamp or other lamp so illuminating such road as to render the motor cycle clearly visible and to remove any risk of accident by collision or otherwise.

Inserted by
48, 1951,
s. 13 (1).

(2a) The driver of a motor vehicle which is fitted with a device for dipping the main beam of its headlights shall keep the headlight dipped at any time when, between half an hour after sunset and half an hour before sunrise—

- (a) the main beam of the headlights of any other vehicle approaching the vehicle from the opposite direction on the same road has been dipped while visible to such driver, and thereafter until the vehicles pass one another;

- (b) the vehicle is within three hundred yards of any other vehicle approaching it from the opposite direction on the same road.

Substituted
by 20, 1944,
s. 6 (b) and
amended by
48, 1951,
s. 13 (2).

(3) If any person drives or leaves stationary on any road, or causes or permits any person to drive or leave stationary on any road, any motor vehicle which in any particular does not comply with this section or if any person fails to comply with subsection (2a) of this section, he shall be guilty of an offence.

Brakes on Motor Vehicles.

Brakes on
motor
vehicles.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 59 (1) (a).

Inserted by
2332, 1936,
s. 21.

42a. (1) In this section, unless the context otherwise requires—

“independent brake” means a brake of which the entire operating mechanism or system is either—

- (a) separate from all parts and connections of any other brake or brake system, so that the brake in question cannot be adversely affected by the operation or failure of any other brake; or

(b) common to any other brake or brake system only in parts or connections which are of such design and strength, that there is no reasonable probability of failure of the independent brake by reason of the failure of any other brake or brake system:

“retaining brake” means a brake so constructed and of such a nature that it is capable, when applied on used grades with any load carried or likely to be carried by the vehicle, of retaining all road-wheels, other than the steering-wheels, immovable for an indefinite period and without further attention than the initial application:

“tractor” means any motor vehicle used solely for the purposes of traction, and not for the carriage thereon of passengers (other than the driver) or goods:

“used grades” includes every road of whatever grade upon which the motor vehicle in question is used or likely to be used.

(2) In this section the term “capable of stopping” as applied to a brake means capable of bringing to a standstill the vehicle to which it is attached from a speed of twenty miles per hour upon a hard, dry, level road having a surface of tar, bitumen, concrete, or similar substance, and free of loose material, without assistance from the compression of the engine, within the specified distance from the point at which the brake is applied.

(3) Every motor vehicle (not being a motor cycle, and not being a tractor the maximum possible speed of which is fifteen miles per hour or less) shall be equipped with two independent brakes attached thereto.

(4) At least one of the brakes shall be a retaining brake.

(5) At least one of the brakes shall be so constructed as to act directly on the wheels, and not through transmission gear.

(6) In the case of a vehicle driven by steam—

(a) if the engine is capable of being reversed; and

(b) if the engine is incapable of being disconnected from all the road-wheels or all the axles, other than the front wheel or axle, save by the sustained action of the driver; and

(c) if there is no differential gear or similar mechanism between any two of the axles,

then it shall be sufficient if the vehicle is equipped with one brake independent of the engine, and complying with the requirements of subsections (4) and (5) of this section.

(7) One brake of a motor vehicle shall, if that brake acts on four wheels, be capable of stopping the vehicle within thirty feet, and if it acts on two wheels, within forty-five feet, and the other brake shall be capable of stopping the motor vehicle within seventy feet.

(8) Every motor cycle (with or without a side-car attached) shall be equipped with at least one brake which shall be capable of stopping the cycle within forty feet.

Amended by
2416, 1938,
s. 19 (1).

(9) Every motor cycle having a side-car attached shall, after the first of April, nineteen hundred and thirty-eight, be equipped with two independent brakes attached thereto, one being a brake complying with the requirements of the last preceding subsection and the other a brake of reasonable efficiency.

Inserted by
2416, 1938,
s. 19 (2).

(9a) A three wheeled motor vehicle (not being a motor cycle with a side-car attached) shall be equipped with two independent brakes, one of which shall be capable of stopping the vehicle within forty feet and the other a brake of reasonable efficiency.

(10) A trailer need not be equipped with brakes, if the motor vehicle by which it is drawn has brakes capable of stopping that vehicle with the trailer attached, within the distance prescribed by this section.

(11) A motor vehicle of the self-laying track type, having a continuous band or bands as its sole means of locomotion or traction, or having in addition thereto no more than two wheels in contact with the ground, is hereby exempted from the requirements of subsection (5).

(12) Each brake referred to in this section shall be capable of easy adjustment, and shall be maintained at all times in good working order.

Inserted by
2416, 1938,
s. 19 (3).

(12a) The Governor may make regulations prescribing the standards or percentages of efficiency (as ascertained or measured by any brake-testing apparatus mentioned in the regulations) for brakes on motor vehicles of any class and if the brakes on any motor vehicle do not comply with any such regulation, that motor vehicle shall be deemed not to comply with this section.

Nothing in this subsection or in the regulations made under this subsection shall affect the obligation to comply with the other subsections of this section.

(13) Any person who drives or causes or permits any person to drive on any road any motor vehicle which in any particular does not comply with this section shall be guilty of an offence.

Windscreen Wipers and Rear Vision Mirrors.

42b. (1) Every motor vehicle having a windscreen shall be equipped with a windscreen wiper, capable at all times of effectively removing rain or other moisture from the portion of the windscreen immediately in front of the driver, and so constructed and situated that it can be controlled or operated from the driver's seat of the vehicle.

Windscreen
wipers.
Inserted by
2332, 1936,
s. 21.

(2) If the motor vehicle is registered for the first time after the first of January, nineteen hundred and thirty-seven, the windscreen wiper shall be capable of being operated by a mechanical power.

(3) Any person who drives or causes or permits any person to drive on any road any motor vehicle which in any particular fails to comply with this section, shall be guilty of an offence.

42c. (1) Every motor vehicle, other than a motor cycle, shall be equipped with a mirror so constructed and fitted to the motor vehicle as to give the driver of the motor vehicle a view along the carriage-way of the road behind the vehicle, for at least one hundred yards on a straight road: Provided that this section shall not apply to a motor vehicle when drawing a trailer.

Reflecting
mirrors.
Inserted by
2332, 1936,
s. 21.

(2) Any person who drives or who, being the owner, causes or permits any person to drive on any road a motor vehicle which in any respect fails to comply with this section shall be guilty of an offence.

Subsec. (2)
substituted
by 2416,
1938, s. 18.

(3) It shall be a defence to any charge made under this section if the defendant shows that owing to the mode of construction of the vehicle, or the load carried thereon, it was not practicable to comply with this section.

PART II.

Duties of Drivers and Owners of Motor Vehicles.

Provision as to speed of motor vehicles

1480, 1921. s. 20.
2095, 1932, s. 9.
Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 10; 24 & 25 Geo. 5 c. 50, ss. 1, 2.

43. (1) Any person who drives a motor vehicle on any road at an excessive speed shall be guilty of an offence.

(2) It shall be *prima facie* proof only that a person has driven at an excessive speed if it is proved that he drove on a road—

(a) in any municipality, town, or township at a greater speed than twenty-five miles per hour; or

(b) outside a municipality, town, or township at a greater speed than forty miles per hour.

Subsec. (3) repealed by 46, 1941, s. 4.

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(4) In considering whether an offence has been committed under this section the court shall have regard to the nature, condition, and use of the road upon which the offence is alleged to have been committed and to the amount of traffic which at the time actually is or which might reasonably be expected to be upon such road and to the vehicle concerned, and to all other circumstances affecting the matter, whether of the same nature as those mentioned or not.

Speed of motor cycles carrying pillion passengers. Inserted by 2332, 1936, s. 22.

43a. (1) Any person who on any road, drives at a greater speed than twenty-five miles per hour a two wheeled motor cycle carrying any person in addition to the driver, shall be guilty of an offence.

(2) This section does not apply to a motor cycle having a side-car attached thereto.

Speed in municipalities and towns. Inserted by 55, 1948, s. 7, and substituted by 29, 1950, s. 6.

43b. (1) Any person who drives a motor vehicle on a road in a municipality, town, or township at a greater speed than thirty-five miles an hour shall be guilty of an offence.

(2) This section shall not restrict the operation of any other provision of this Act relating to the speed at which motor vehicles may be driven.

S. 44 repealed by 2332, 1936, s. 23.

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s. 43. BOND V. HALL (1938) S.A.S.R. 59. Where evidence was given as to speed by reference to a speedometer but there was evidence that the speedometer had not been tested, held that the recording by the speedometer was lawful evidence (and see also section 157 (3) enacted since this decision).

GIBSON V. JENNINGS AND ANOTHER (1938) S.A.S.R. 330. A speed exceeding that mentioned in subsection (2) is an element to consider on the question of negligence in a civil action.

45. (1) Any driver of a motor vehicle who—

- (a) when requested by a member of the police force in the execution of his duty under this Act to produce his licence does not either produce his licence to the said member forthwith upon the making of the request, or produce it within forty-eight hours after the making of the request, at a police station named by the said driver to the member of the police force at the time of the making of the request; or
- (b) when requested by a member of the police force to state his name and place of abode or the name and place of abode of the owner of such motor vehicle refuses or fails to do so or states a false name or place of abode,

Duty of driver to produce licence and give name and address. 1480, 1921, s. 22. Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 4 (5). Amended by 48, 1951, s. 14 (a).

shall be guilty of an offence.

(2) Any inspector may without any warrant other than this Act apprehend any driver of a motor vehicle who is guilty of any offence under this section.

(3) A document purporting to be signed by the Commissioner of Police and purporting to certify that a licence has not been produced as required by this section shall be *prima facie* evidence of the matter purporting to be so certified.

Inserted by 48, 1951, s. 14 (b).

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S. 46 repealed by 2332, 1936, s. 24.

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s. 47, repealed by 2332, 1936, s. 26.

48. (1) Any person who—

- (a) drives a motor vehicle; or
- (b) occupies the driver's seat and attempts to put a motor vehicle in motion,

whilst he is so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle shall be guilty of an offence.

Driving whilst drunk or under the influence of drugs. Substituted by 2416, 1938, s. 20, and amended by 55, 1948, s. 8, and by 48, 1951, s. 15.

s. 48. BURROWS V. HANLIN (1930) S.A.S.R. 54. The opinion of persons, not experts, as to whether a man is drunk, or capable of driving a car, is not admissible as evidence.

DAYMAN V. SIMPSON (1935) S.A.S.R. 320. Where the defence suggests that an expert witness, called by the prosecutor as to the condition of the defendant, has given an unsound opinion, that should be suggested to the witness before he leaves the box. Complaint referred for re-hearing where this rule was not observed.

Road Traffic Act, 1934-1954.

Penalty—For a first offence, a fine of not less than thirty pounds and not more than fifty pounds or imprisonment for not more than three months and in either case disqualification from holding and obtaining a driver's licence for such period as the court thinks fit, but in no case less than three months.

For a second offence, imprisonment for not less than one month and not more than six months and disqualification from holding and obtaining a driver's licence for such period as the court thinks fit but in no case less than six months.

For a third or any subsequent offence, imprisonment for not less than three months and not more than twelve months and disqualification from holding and obtaining a driver's licence for such period as the court thinks fit, but in no case less than three years.

(1a) In determining whether an offence is a first, second, third or subsequent offence within the meaning of subsection (1) of this section, a previous offence for which the defendant was convicted more than five years before the commission of the offence under consideration shall not be taken into account, but a previous offence for which the defendant was convicted within the said period shall be so taken into account, whether the conviction took place before or after the passing of the Road Traffic Act Amendment Act, 1951.

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

In the case of a first offence, the court, if it is satisfied by evidence given on oath that the offence is trifling, may order disqualification for a period less than three months but not less than fourteen days.

s. 48. HENNIG v. ROBERTSON. ROBERTSON v. HENNIG (1937) S.A.S.R. 400. Where a person, who had been convicted under section 26 of the Motor Vehicles Act, 1921, of driving a motor vehicle whilst so much under the influence of liquor as to be incapable of exercising effective control of the vehicle, committed this offence under section 48 of this Act, held that the penalty to be inflicted was that appropriate to a second offence under section 48.

CHUCK v. WEST (1938) S.A.S.R. 51. It is not necessary on a charge under section 48 to show that the defendant was drunk.

PULLEINE v. BUTON (1948) S.A.S.R. 1. Upon a charge under section 48 proof that the defendant actually drove the vehicle for some distance in an apparently normal manner and without mishap does not necessarily compel a finding that he was capable of exercising effective control of it. The court may be satisfied that the defendant was incapable of exercising effective control of the vehicle upon inferences drawn from evidence which may not include any actual act of driving or notwithstanding evidence of acts of apparently normal driving.

(3) 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 section shall be paid by him into the general revenue of the State.

(4) For the purposes of subsection (1) of this section a person shall be deemed to be incapable of exercising effective control of a vehicle if at the relevant time owing to the influence of intoxicating liquor or a drug the use of any mental or physical faculty of that person was lost or appreciably impaired. This subsection shall not be deemed to restrict the meaning of the words “incapable of exercising effective control of a vehicle”.

Inserted by
55, 1948,
s. 8 (c).

* * * * *

S. 49
repealed by
2332, 1936,
s. 26.

50. (1) Every person registered as the owner of a motor vehicle and every holder of a licence who permanently changes his place of abode shall, within fourteen days of so doing, give written notice to the registrar of his new place of abode.

Registered
owners and
licensed
drivers to
notify change
of address.
1480, 1921.
s. 28.

(2) Every person to whom any trader's plates have been issued and who changes his principal place of business during the period of operation of those plates shall, within fourteen days of so doing, give written notice to the registrar of his new principal place of business.

Inserted by
46, 1951, s. 5

s. 48. HUNTER v. FITZGERALD (1951) S.A.S.R. 126. Observations as to the nature of the (contd.) offence of driving a motor vehicle whilst so much under the influence of liquor as to be incapable of exercising effective control over the vehicle.

THOMAS v. O'SULLIVAN (1951) S.A.S.R. 149. Where the defendant, a mild diabetic, had taken an excessive dose of insulin with the result that he drove erratically, held that he was guilty of an offence against section 48.

WEBB v. O'SULLIVAN (1952) S.A.S.R. 65. Observations as to the principles on which penalties should be imposed for driving a motor vehicle whilst under the influence of liquor.

SIMS v. O'SULLIVAN (1952) S.A.S.R. 179. Held, that “appreciably impaired” means an impairment capable of being appreciated, valued or recognized by the mind.

PICKEN v. O'SULLIVAN (1952) S.A.S.R. 184. The fact that a disqualification from holding a driver's licence will be a severe penalty to the defendant because he earns his living by driving a motor vehicle does not in itself justify a reduction in the period of disqualification which would otherwise have been ordered.

HUTT v. O'SULLIVAN (1953) S.A.S.R. 158. Observations as to the circumstances in which imprisonment should be imposed for a first offence of driving a motor vehicle whilst under the influence of liquor.

PART II.

Side-car to be on left side of motor cycle. 1480, 1921, s. 33.

51. (1) No motor cycle having a side-car attached thereto shall be driven or shall stand in any road unless such side-car is so attached on the left side of such motor cycle.

(2) If any person owns or drives any motor cycle not complying with this section in any particular he shall be guilty of an offence: Provided that where the owner and driver of the cycle are different persons both shall not be punished in respect of the same contravention.

S. 52 repealed by 2332, 1936, s. 27.

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Penalty for using motor vehicle without consent of owner.

53. (1) Any person who drives or uses any motor vehicle without first obtaining the consent of the owner thereof shall be guilty of an offence.

1480, 1921, s. 37. 1695, 1925, s. 13. Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 28.

Penalty—For a first offence, imprisonment for not more than twelve months. For any subsequent offence, imprisonment for not less than three months or more than two years.

Subsec. (1) 2416, 1938, amended by s. 21, and by 46, 1941, s. 6.

(2) The court may, in addition to any other penalty imposed under this section, order the defendant to pay to the owner of the motor vehicle used in contravention of this section such a sum as the court thinks proper by way of compensation for any loss or damage suffered by the owner.

(3) This section shall not apply to any member of the police force in the execution of his duty under this Act.

S. 54 repealed by 2332, 1936, s. 27.

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Interfering with motor vehicle. 1480, 1921, s. 39. Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 29 (2)

55. Any person who interferes with or tampers with a motor vehicle or any part thereof, without first obtaining the consent of the owner thereof, shall be guilty of an offence.

Procuring use of car by fraud. 1480, 1921, s. 40.

56. Any person who procures the use or hire of any motor vehicle by fraud or misrepresentation shall be guilty of an offence and liable to a fine not exceeding twenty pounds or to imprisonment for any period not exceeding six months, or to both such fine and imprisonment.

s. 53. BOLLMEYER v. DALY (1933) S.A.S.R. 295; 5 Austr. Digest 168. "Use" covers every degree of use. The mens rea necessary to support a charge under section 53 is an intention to use a motor vehicle without the consent of the owner.

LOGAN v. COPP (1942) S.A.S.R. 45. When a soldier was convicted, on a plea of guilty, of unlawfully using a motor vehicle without first obtaining the consent of the "Commonwealth Military Defence Department" alleged in the complaint to be the owner of the vehicle, held that the conviction was bad as the owner of the vehicle must, by reason of section 111 of the Defence Act, 1903-1939, be deemed to be the commanding officer of the corps.

CRAFTER v. SIMPSON (1943) S.A.S.R. 87. When a soldier, without any authority from the officer commanding his unit, took and used on his own affairs a motor cycle belonging to the Commonwealth, held that he could properly be convicted of an offence under section 53.

57. (1) Whenever a licensed driver is charged with any offence against any provision of this Act relating to motor vehicles he shall produce his licence to the court at the time of the hearing of the charge.

Production of licence at court. 1480, 1921, s. 41. Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 8. Amended by 41, 1952, s. 5.

(2) Any such driver who fails without reasonable excuse to produce his licence as aforesaid shall be guilty of an offence.

58. (1) Any person who makes any false statement to the registrar or any other public officer or any member of the police force in or in connection with any application or request for the issue or renewal of any licence, registration, permit, permission, certificate, or other document or instrument provided for in this Act or issued or to be issued in connection with the administration of this Act, or for the issue of a duplicate of any such licence, registration, permit, permission, certificate or other document or instrument shall be guilty of an offence.

False statements. Substituted by 37, 1953, s. 10.

Penalty—One hundred pounds, or imprisonment for six months.

(2) On a charge of an offence under subsection (1) of this section it shall not be necessary for the prosecutor to prove the state of mind of the defendant, but the defendant shall be entitled to be acquitted if he proves that when making the statement he believed and had reasonable grounds for believing that it was true.

(3) This section applies to written and oral statements, and in respect of written and oral applications and requests.

59. (1)—

(a) If any commercial motor vehicle, for the registration of which a reduced registration fee has been paid as allowed by paragraph (7) of section 9 of this Act, is during the period of the registration used for the carriage of His Majesty's mails, goods, or passengers for pecuniary reward or for carrying goods in the course of any trade or business other than that of a primary producer; or

Penalty on improper use of vehicles registered for reduced fee. Substituted by 2416, 1938, s. 22.

(b) if any commercial motor vehicle for the registration of which a reduced registration fee has been paid as allowed by paragraph (8) of section 9 of this Act is during the period of registration

Amended by 35 1943, s. 10.

used for any purpose other than a purpose set out in the said paragraph (8) as the case may be; or

- (c) if any motor tractor for the registration of which a reduced registration fee has been paid as allowed by paragraph (10) of section 9 of this Act is during the period of the registration used for any purpose other than a purpose set out in the said paragraph (10),

and the balance of the full registration fee for the said period has not been paid before the vehicle is so used, then the person driving the vehicle and, if that person is employed by any other person to drive the vehicle, then the employer also shall be guilty of an offence.

Inserted by
61, 1940, s. 7.

(1a) If any trailer which has been registered without fee as provided in subparagraph (h) of paragraph (13) of section 9 of this Act is during the period of the registration used for any purpose other than the carriage of equipment and fuel for generating producer gas for the propulsion of the motor vehicle by which the trailer is drawn, the full registration fee which would be payable under paragraph (5) of section 9 of this Act for the registration of the trailer for the said period, shall forthwith become due and payable and may be recovered from the owner by the registrar on complaint in a court of summary jurisdiction, and in addition the driver of the motor vehicle by which the trailer is drawn shall be guilty of an offence.

(2) The carriage of goods and passengers on any motor vehicle which is on the establishment of any unit of the military forces of the Commonwealth, shall not, if those goods or passengers are carried in connection with military training or other military operations carried on by the Commonwealth, be regarded as the carriage of goods or passengers within the meaning of paragraph (a) of subsection (1) of this section.

Powers and
duties of
police.
1480, 1921,
s. 43.
Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 49.

60. (1) Every member of the police force shall see that this Part is duly observed.

(2) Any member of the police force in the execution of his duty under this Part may give such reasonable directions to persons driving motor vehicles upon any road as are, in his opinion, necessary for the safe and efficient regulation of the traffic thereon, or for the purpose of ascertaining whether any offence against this Part has been or is being committed.

(3) Any person who—

- (a) obstructs or hinders any member of the police force in the exercise of his duties under this Part; or
- (b) in any way interferes with or prevents the exercise of any of the powers conferred or the discharge of any of the duties imposed by this Part upon members of the police force; or
- (c) disobeys any lawful order or direction of a member of the police force in the exercise of his duties under this Part,

shall be guilty of an offence.

Regulations as to Motor Vehicles.

61. (1) In addition to any power by any other section of this Part conferred on the Governor to make regulations (which power shall in every case be implied for the purpose of any section in which the word “prescribed” is used), the Governor may make regulations prescribing all matters and things which by this Part are contemplated, required or permitted to be prescribed, or which appear to him to be necessary or convenient to be prescribed for the purpose of more effectually carrying out any of the provisions of this Part, or for better effecting the objects of this Act, and in particular (without limiting the effect of this section) for all or any of the following purposes, namely:—

Regulations.
1480, 1921,
s. 44.
Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 30.

- i. Regulating the use of motor vehicles and the conditions under which they may be used;
- ii. Regulating the speed of motor vehicles in particular localities or under particular circumstances, and for such purposes varying the rates of speed declared by this Part to be *prima facie* evidence of driving at excessive speed;
- iii. Prescribing and regulating the affixing and use of warning devices on motor vehicles;
- iv. Prescribing and regulating the affixing of efficient brakes on motor vehicles;
- iva. Requiring exposed chains on motor vehicles to be protected by guards complying with such requirements as are prescribed by the regulations;

Inserted by
48, 1951,
s. 16.

s. 61. GRAVES v. WALKOM (1926) S.A.S.R. 34. The breach of a statutory regulation may tend to show negligence on the part of the plaintiff or defendant.

FORBY v. LAUCKE (1933) S.A.S.R. 60. The existence of a statutory regulation for the use of the highway is a circumstance to be taken into account in applying the principles of common law in an action for negligence.

PART II.

Inserted by
48, 1951,
s. 16.

- ivb. Prescribing the methods by which trailers may be attached to or connected with the motor vehicles by which they are drawn, and requiring such trailers and motor vehicles to be fitted with safety chains complying with such requirements as are prescribed by the regulations;
- v. Providing for minimising the noise and the issue of smoke or fumes from the working of motor vehicles;
- vi. Prohibiting the use of motor vehicles that, owing to defects in construction or other causes, are unsuitable for safe use;
- vii. Prohibiting or restricting the use of motor vehicles upon any specified roads, or within the roads in any specified area, either generally or within certain hours;

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 16.

- viii. Prohibiting or regulating the carrying of any person on a motor cycle in addition to the rider thereof;
- ix. Regulating the form of the registered numbers assigned to motor vehicles, and the manner of placing them on such vehicles;
- x. Providing that any regulations under this section may be of a local nature and limited in their application to a particular area, or may be restricted in their operation to any specified class of motor vehicle;
- xi. Providing for the erection of uniform signs and notices for the guidance of motor drivers;

Substituted
by 45, 1939,
s. 15.

- xii. Providing for the temporary registration, or the exemption from registration, of motor vehicles owned by persons resident outside the State and temporarily in the State, and for the issue of temporary licences to the drivers of such vehicles or for the exemption of such drivers from the obligation to hold licences;

Inserted by
46, 1941, s. 7.

- xiii. Providing for the transfer or cancellation of the registration of a motor vehicle when the ownership of the vehicle passes to any person on the bankruptcy of the registered owner, or on repossession of the vehicle pursuant to a hire-purchase agreement, or on any other involuntary alienation, and prescribing the conditions under which refunds of the registration fee may be made in such cases, and any other matters relevant to such changes of ownership;

- xiii. Providing for the regulation of the owners and drivers of motor vehicles; and
- xiv. Providing for any other purpose which the Governor may consider necessary for the safety or convenience of the public, or for the protection of property;
- xv. Requiring motor vehicles to be provided with apparatus for deflecting, dipping, dimming, or otherwise adjusting the headlights thereof and for regulating the use of such apparatus.

Inserted by
2416, 1938,
s. 23.

(2) Any such regulation may impose a penalty not exceeding twenty pounds for any breach of the same or any other regulation.

(3) Regulations made under paragraph xii of subsection (1) of this section may apply to any class of vehicles specified in such regulations, and such class may be specified either by reference to the weight, power, power-weight, carrying capacity, purpose, construction, or any other characteristic of vehicles.

Inserted by
48, 1954,
s. 3.

This subsection shall not be deemed to restrict the operation or meaning of any provision of this section.

62. When any regulation or by-law made by any municipal or district council or other authority is inconsistent with a regulation made under this Part, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Inconsistency
of regulation
or by-law.
1480, 1921,
s. 47.

Legal Proceedings and Evidence.

63. Any contravention of or failure to observe any provision of this Part, whether by act or omission, shall be an offence.

Offences.
1480, 1921,
s. 48.

64. Any person guilty of an offence under this Part for which no specific pecuniary penalty is provided shall be liable to a penalty of not more than twenty pounds.

Penalties.
1480, 1921,
s. 49.

65. (1) A document purporting to be an extract from, or copy of, any entry contained in the register of motor vehicles or in the register of licences and purporting to be certified as such under the hand of the registrar shall, in all courts and upon all occasions whatsoever be admissible as evidence, and shall be *prima facie* evidence of the truth of the matters stated in such document without the production of such registers, or any licence, notice, or other document upon which any entry may be founded.

Copy of
record of
registration
and licences
to be
evidence.
1480, 1921,
s. 50.
1695, 1925,
s. 14.
2095, 1932,
s. 15.

(2) A document purporting to be a certificate under the hand of the registrar stating all or any of the following matters, namely:—

- (a) That the person therein described was not on any given date the holder of a licence:
- (b) That the person therein described had not on any given date registered any motor vehicle whatever, or any particular motor vehicle therein described:
- (c) That no trader's plate or no trader's plate bearing a particular number had on any given date been issued to the person therein described:
- (d) That any number therein mentioned was not the number of any trader's plate in force on any given date:
- (e) That any motor vehicle therein described was not on any given date a registered motor vehicle:
- (f) That any number therein mentioned was not on any given date assigned to any motor vehicle whatever, or to any particular motor vehicle therein described:
- (g) That any person therein described had not on any given date notified the registrar in the prescribed form of the transfer of any motor vehicle therein described:
- (h) That any person therein described had not on any given date delivered to the registrar the registration card issued in respect of any transferred motor vehicle therein described:
- (i) That any person therein described had not on any given date notified the registrar in writing of his permanent change of address from any address therein described to any other address therein described,

shall in all courts and upon all occasions whatsoever, be admitted as *prima facie* evidence of the truth of the matters stated as aforesaid.

66. In any proceedings for an offence against this Part—

- (a) proof that a motor vehicle has not upon it a distinguishing number as prescribed by this Part shall be *prima facie* evidence that that motor vehicle is not registered;

- (b) proof that a person is registered as the owner of a motor vehicle shall be *prima facie* evidence that that person is the owner of that motor vehicle;
- (c) the fact that any place is described as a street or road shall be *prima facie* evidence that that place is a road within the meaning of this Part; and
- (d) the allegation in the complaint that any road whereon it is alleged that any such offence was committed is situated in a municipality, or in a town or township, shall be *prima facie* evidence that that road is situated as alleged.

67. (1) When a holder of a driver's licence is disqualified under this Act from holding and obtaining a licence, or when the licence of any such holder is suspended, he shall forthwith produce his licence to such person as the court or other person or authority ordering the disqualification or suspension directs for the purpose of having a memorandum of the disqualification or suspension endorsed thereon.

Endorsement of disqualification.
 Cf. U.K. 20 & 21 Geo. 5 c. 43, ss. 7, 8.
 Cf. U.K. 24 & 25 Geo. 5 c. 50, s. 5.
 Substituted by 2332, 1936, s. 28.

(2) Any person who fails to produce a licence as and when required to do so under this section shall be guilty of an offence.

67a. (1) A driver's licence shall during the period during which it is suspended or the holder is disqualified from holding and obtaining a licence be of no force or effect.

Effect of disqualification from holding licence.
 Cf. U.K. 20 & 21 Geo. 5 c. 43, ss. 4 (6), 7.
 Inserted by 2332, 1936, s. 28.

(2) The registrar shall not issue a driver's licence to any person who is disqualified from holding and obtaining a driver's licence.

(3) If a person drives a motor vehicle while his licence is suspended or while he is disqualified from holding and obtaining a licence he shall be guilty of an offence and liable to imprisonment for not more than six months.

Subsec. (3) inserted by 48, 1951, s. 17.

67b. The Commissioner of Police shall at intervals of not less than twelve months take such steps as are reasonably practicable to ascertain whether any persons are driving motor vehicles without holding driver's licences.

Enforcement of obligation to procure driver's licence.
 Inserted by 2332, 1936, s. 28.

67c. In any proceedings against the owner of a motor vehicle for any offence against this Act if the court is satisfied that the vehicle does not comply with any requirement of this Act or is otherwise so defective that it cannot be driven on a road without danger to the public, the court may order that—

Suspension of registration.
 Inserted by 2332, 1936, s. 29.

- (a) the registration of the vehicle be suspended and not renewed; or

- (b) if the vehicle is unregistered, that the vehicle be not registered,

until the vehicle is made to comply with this Act or otherwise rendered safe for use to the satisfaction of a police officer.

Offences by employees.

Inserted by 2332, 1936, s. 30.

67d. If a person charged with driving a motor vehicle which does not comply with a requirement of this Act as to lights, warning devices, brakes, windscreen wipers, rear-vision mirrors, or other equipment, proves—

- (a) that he is the employee of another person;
- (b) that he drove the vehicle on the relevant occasion under the express instructions of his employer;
- (c) that he was not aware that the vehicle did not comply with this Act or that before driving the vehicle he called the attention of his employer to the fact that the vehicle did not comply with this Act,

that person so charged shall be acquitted.

Suspension of orders of disqualification.

Inserted by 2416, 1938, s. 24.

67e. (1) A person who by virtue of an order of a court under this Act is disqualified from holding and obtaining a driver's licence may appeal against the order in the same manner as against a conviction.

(2) Pending the hearing and determination of any such appeal the operation of any such order may be suspended—

- (a) in the case of an order made by a court of summary jurisdiction, by the court which made the order, or a judge of the Supreme Court;
- (b) in the case of an order made by the Supreme Court, by a judge of that Court.

(3) An order of suspension may be made before or after the institution of the appeal, but shall not have any effect until the defendant—

- (a) has duly instituted the appeal and paid the appropriate court fees; and
- (b) has served on the registrar the order of suspension or a copy thereof, and a notice that the appeal has been duly instituted and the fees paid.

s. 67e. *Cox v. Burton* (1949) S.A.S.R. 244. On an appeal under section 67e the appellate court may rescind the order of disqualification or may increase or reduce the period of disqualification. Observations as to the principles upon which the appellate court will act.

67f. (1) Whenever a court makes an order disqualifying a person from holding and obtaining a driver's licence, and whenever the Commissioner of Police suspends a driver's licence, the proper officer of the court or, as the case may be, the Commissioner of Police, shall forthwith send to the registrar a notice in writing setting out the date on which the order of disqualification was made or the licence suspended, the period of the disqualification or suspension, and short particulars of the grounds thereof.

Notice of disqualification of drivers and suspension of licences.

Inserted by 45, 1939, s. 16.

(2) If any such order of disqualification is quashed or varied by a court on appeal, the proper officer of the court shall forthwith send to the registrar a notice in writing setting out the date of the order made on the appeal and the effect thereof.

(3) If any such suspension is removed by the Commissioner of Police, he shall forthwith send to the registrar a notice in writing setting out the date of the removal of the suspension, the date as from which it takes effect and the grounds therefor.

(4) In this section "proper officer" means—

- (a) in relation to the Supreme Court, the Master of that court:
- (b) in relation to any other court, the clerk of that court.

67g. (1) The registrar may by notice in writing served personally or by post on any holder of a driver's licence in relation to whom an order of disqualification has been made under this Act or whose licence has been suspended or cancelled, require him to deliver his licence to the registrar or to some member of the police force specified by the registrar in the notice, at a place and within a reasonable time specified in the notice.

Delivery of licence to registrar and endorsement.

Inserted by 45, 1939, s. 16.

(2) Any person who without reasonable excuse (proof of which shall lie on such person) fails to comply with a notice under this section shall be guilty of an offence.

(3) The registrar or any member of the police force to whom a licence is delivered under this section—

- (a) may endorse thereon particulars of any suspension or cancellation thereof or any order of disqualification made against the holder thereof; and

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(b) in a case where the licence is cancelled or where the suspension or disqualification extends until or beyond the time of the expiration of the licence, may retain the licence.

Summary proceedings for offences.

68. All proceedings for offences against this Part shall be disposed of summarily.

Persons in service of the Crown bound.

69. This Part applies to persons in the public service of the Crown while engaged on such service, as well as when not so engaged.

Liability in tort of persons taking vehicles on hire and driving them for carriage of passengers and goods for hire.

Inserted by 46, 1941, s. 3.

69a. (1) If—

(a) the owner of a motor vehicle lets it on hire to a person who, for the purpose of or by virtue of any industrial award is deemed to be a servant of that owner; and

(b) whilst the vehicle is so let the person taking it on hire drives it in the course of a business of carrying passengers or goods for hire.

that person shall, as regards liability for any injury, loss, or damage caused by him whilst so driving the vehicle, be deemed to be the servant of the owner and to have been so driving the vehicle in the course of his employment by the owner.

(2) In this section “industrial award” means any award, order, or determination of the Commonwealth Court of Conciliation and Arbitration, or of the Industrial Court or any industrial board constituted by or under the Industrial Code, 1920-1937.

Common law or statutory liability not affected.

Of U.K.
20 & 21
Geo. 5 c. 43.
s. 33.

70. Nothing in this Part shall affect any liability of any person under any statute or at common law.

PART IIA.

PART IIA.

INSURANCE AGAINST THIRD PARTY RISKS
ARISING OUT OF THE USE OF MOTOR VEHICLES.

Interpretation and application of this Part.

Inserted by 2332, 1936,
s. 31.

70a. (1) In this Part, unless the context otherwise requires—

“approved insurer” means any person or association of persons carrying on the business of insurance

s. 70. *FORBY v. LAUCKE* (1933) S.A.S.R. 60. Section 70 means that the other provisions of the Act are not to alter the principles upon which liability falls to be determined under any other statutes or at common law. The existence of a statutory regulation for the use of the highway is a circumstance to be taken into account in applying the principles of the common law in an action for negligence.

s. 70a. *JOHNSON v. LAVENDER* (1952) S.A.S.R. 267. Held that subsection (3) of section 70a applies to the Crown only in right of the State of South Australia.

who or which has been approved by the Treasurer as an approved insurer under this Part:

“insured” when used as a noun has the same meaning as “insured person” as hereinafter defined:

Inserted by 45, 1939, s. 17.

“insured person” means the owner of a motor vehicle in respect of which a policy of insurance is in force under this Part and the driver and the person in charge at the material time whether with or without the consent of the owner:

“owner” includes every person who is the owner or joint owner or part owner of a motor vehicle and any person who has the use of any motor vehicle under a hire purchase agreement, but does not include an unpaid owner of a motor vehicle the subject of a hire purchase agreement:

“policy of insurance” includes a cover note which is binding on the insurer.

(2) Other words and expressions used in this Part shall, unless the context otherwise requires, have the same meaning as they have in Part II of this Act.

(3) This Part shall not render it obligatory to insure any vehicle owned by the Crown and used solely in the public business of the State or any vehicle owned by the Municipal Tramways Trust and used solely in connection with the business of that Trust: Provided that in relation to any motor vehicle which is owned by the Crown or the Municipal Tramways Trust and is not insured the Crown or the Municipal Tramways Trust shall be under the same liabilities and have the same rights as an insurer who has issued to the Crown or the Municipal Tramways Trust (as the case may be) a policy of insurance complying with this Part in relation to the use of that vehicle.

70b. (1) After a day to be proclaimed by the Governor as the day on which this Part shall come into operation no person shall use, or cause or permit any other person to use, a motor vehicle on a road unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with this Part.

Insurance against third party risks.
U.K. 20 & 21 Geo. 5 c. 43, s. 35.
Inserted by 2332, 1936, s. 31.
Subsec. (1) amended by 35, 1943, s. 11, and by 20, 1944, s. 7.

s. 70b. *RAKE V. BOND* (1938) S.A.S.R. 253. The discretionary powers of the court to order disqualification discussed.

PENNEY V. BOURKE (1938) S.A.S.R. 328. Where a person had used a motor car without having a policy of insurance in force for approximately three weeks, held that the suspension of his driver's licence for a period of three months was not excessive.

Road Traffic Act, 1934-1954.

Any person contravening this subsection shall be guilty of an offence.

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 impose a fine of less than twenty pounds and order disqualification for a period less than three months.

s. 70b. SCOTT v. WARD (1939) S.A.S.R. 51. Where evidence was given by a police constable (*contd.*) on a complaint for an offence against subsection (5) that he had required the appellant to produce his policy of insurance at a police station, held that the demand for the production of the policy was not a demand within the meaning of the subsection.

YEARS v. KERINS (1940) S.A.S.R. 99. Where the defendant drove an unregistered and uninsured motor vehicle along a country road and his only excuse was that he had not sufficient money to pay the premium, held that he should have been disqualified from holding a driver's licence.

GASSNER v. FROST (1940) S.A.S.R. 295, affirming GASSNER v. FROST (1940) S.A.S.R. 77. Where a farmer drove a motor tractor for the purpose of carting wheat over a public road which was merely a dirt track and hardly ever used, held that, in the circumstances, the justices' refusal to disqualify was correct. Observations on the meaning of "special reasons."

DAYMAN v. MCKENZIE (1941) S.A.S.R. 103. Where the only reason given by a defendant for driving a motor vehicle on public roads after his policy of insurance had expired was that he was a member of Parliament for a country district and required to use his car about the affairs of his constituents, held that this was not a sufficient reason for exempting from disqualification.

DAVIES v. SPROD (1943) S.A.S.R. 53. Where the defendant had an oral agreement with an insurance company to hold him covered each time his renewal premium became due up to a matter of three months and after the expiry of his policy, but before the expiration of three months, drove his motor car on a public road, held that no policy of insurance complying with Part IIA. was in force. The requirement of the Act is not satisfied by there being in force a contract by an insurance company to treat the position as being the same as it would be if there were a policy of insurance in force (in the business sense) and the Act requires that there be a policy itself in force and by "policy" is meant a document.

SCROOP v. DAYMAN (1944) S.A.S.R. 51. When a defendant pleaded guilty to an offence under section 70b but did not take advantage of an opportunity to obtain an adjournment to lead evidence of special circumstances and later appealed and affidavit evidence was admitted as to such circumstances, held, in those circumstances, the period of suspension should be reduced to three months.

HAMMOND v. O'SULLIVAN (1947) S.A.S.R. 1. Where the defendant gave evidence that he failed to renew his policy by oversight, that the insurance expired only a few days before the offence, that he required to use the vehicle for the purpose of his business, and that he was financially in a position to meet any claim up to £1,000, held that these facts did not amount to "special reasons" within the meaning of subsection (1).

JAMES v. COGHLAN (1950) S.A.S.R. 48. The minimum penalties prescribed by section 70b must be imposed except in cases where it is palpably unjust to do so, and the discretion of the court to reduce such minimum penalties for special reasons, in the case of a first offence, should be exercised only for grave and weighty reasons.

Subsec. (2)
repealed by
35, 1943,
s. 11.

* * * * *

(3) Proceedings for an offence under this section may be commenced—

(a) within a period of six months from the date of the commission of the alleged offence; or

(b) within a period which exceeds neither three months from the date on which it came to the knowledge of the prosecutor that the offence had been committed nor one year from the date of the commission of the offence,

whichever period is the longer.

(4) In any prosecution for an offence under this section, the allegation in the complaint that at any time mentioned in the complaint there was not in force in respect of any particular motor vehicle a policy of insurance complying with this Part shall be *prima facie* evidence of the fact so alleged.

(5) Any owner of a motor vehicle shall on being so requested by a member of the police force produce evidence that there is in force in respect of every motor vehicle owned by him a policy of insurance complying with this Part. The owner shall be deemed to have complied with this subsection if he produces the necessary evidence at a police station (to be nominated by the owner to the member of the police force at the time when the request is made) within five days of the time when its production was requested.

Of. U.K.
20 & 21
Geo. 5 c. 43,
s. 40.

Any person who without just excuse fails to comply with this subsection shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

(6) Every application for registration of a motor vehicle shall contain a statement by the owner of the vehicle or by the person applying for registration on behalf of that owner that a policy of insurance complying with this Part is in force and a statement of the name of the insurer who has issued the policy.

70ba. (1) An insurer who has issued a policy shall, notwithstanding that the insured person named therein has not agreed to pay or has not paid the premium for the policy, be bound by the policy to the same extent as if the said insured person had agreed to pay and had paid that

Liability of
insurers.
Inserted by
17, 1942, s. 5.

PART IIA.

premium: Provided that this section shall not affect any right which the insurer may have to cancel the policy with the consent of the Treasurer or to recover any premium owing under the policy.

(2) In this section "policy" includes any document purporting to be a policy or cover note and to comply with this Part.

Effect of certificate of insurance. Inserted by 35, 1943, s. 12.

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.

Requirements in respect of policies. Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 36.

70c. (1) In order to comply with this Part, a policy of insurance must—

(a) be issued by an approved insurer :

(b) except as provided in this section insure the owner of the vehicle mentioned in the policy and any other person who at any time drives that vehicle, whether with or without the consent of the owner, in respect of all liability for negligence which may be incurred by that owner or other person in respect of the death of, or bodily injury to, any person caused by or arising out of the use of the vehicle in any part of the Commonwealth.

Substituted by 48, 1951, s. 18.

(2) A policy of insurance in relation to any motor vehicle shall be deemed to comply with this Part notwithstanding that the liability of the insurer under the policy is limited to four thousand pounds (including costs) in respect of any claim made by or in respect of any one passenger carried in that vehicle.

Subsec. (2a) inserted by 2416, 1938, s. 25 (1), repealed and re-enacted by 45, 1939, s. 18, and repealed by 35, 1943, s. 13 (3).

* * * * *

Subsec. (3) repealed by 2416, 1938, s. 25 (2).

* * * * *

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.

Policies to give cover required by amending Acts.

Inserted by 35, 1943, s. 14.

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

Policy not affected by change of ownership of vehicle.

Inserted by 35, 1943, s. 14.

(a) shall not be cancelled or otherwise terminated 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.

70d. (1) Any person who has obtained a judgment against an insured person in respect of death or bodily injury caused by negligence in the use of a motor vehicle specified in a policy of insurance under this Part may recover by action from the insurer such amount of the money (including costs or a proportionate part thereof) payable pursuant to the judgment as relates to death or bodily injury and is unsatisfied: Provided that before the action in which judgment was obtained against the insured person, came on for

Liability of insurers.

Cf. U.K. 24 & 25 Geo. 5 c. 50, s. 10.

Inserted by 2332, 1936, s. 31.

Subsec. (1) amended by 2416, 1938, s. 26 (1), and 35, 1943, s. 15 (1).

s. 70d. MILLAR V. MILLER (1940) S.A.S.R. 185, special leave to appeal to the High Court refused, 64 C.L.R. 662 (note); (1940) S.A.S.R. VIII. (note). Where an accident occurred in November, 1938, and notice was given to the Treasurer in July, 1939, held that, in the circumstances, notice had not been given as soon as possible after the plaintiff knew that the identity of the driver of the vehicle causing the accident could not be ascertained. Discussion of the meaning of "knew."

hearing, the insurer knew that that action had been commenced, but this proviso shall not apply where the judgment was obtained outside the State: Provided also that the right to recover under this subsection shall be subject to any limitations prescribed by the policy of insurance as to the amount in respect of which the insured is indemnified.

Amended by
48, 1951,
s. 19 (a).

(2) Where an insured person has caused death or bodily injury by negligence in the use of a motor vehicle specified in a policy of insurance under this Part but that insured person is dead or cannot be served with process, any person who could have obtained a judgment in respect of the death or bodily injury so caused against that insured person if he were living or if he had been served with process may recover by action against the insurer the amount of the judgment which he could have so recovered against the insured person: Provided that he cannot so recover unless he proves that he gave to the insurer notice of the claim and a short statement of the grounds thereof as soon as possible after he knew that the insured person was dead or could not be served, or that such notice was given within such time as would prevent the possibility of the insurer being prejudiced by want of such notice: Provided also that the right to recover under this subsection shall be subject to any limitations prescribed by the policy of insurance as to the amount in respect of which the insured is indemnified.

Amended by
48, 1951,
s. 19 (b).

(3) Where the driver of a motor vehicle has caused death or bodily injury by negligence in the use of a motor vehicle, but the identity of the vehicle cannot after due inquiry and search be ascertained, any person who could have obtained a judgment in respect of the death or bodily injury so caused against that driver may obtain by action against a nominal defendant to be named by the Treasurer the judgment which in the circumstances he could have recovered against the driver of the vehicle: Provided that as soon as possible

s. 70d. HAUBER v. THE HALIFAX FIRE INSURANCE COMPANY LIMITED AND ANOTHER (1940) (contd.) S.A.S.R. 341. Meaning of "specified" in subsection (1). Observations on the scheme of Part IIA.

WALTON v. FAWCETT (1948) S.A.S.R. 158; 22 A.L.J. 326. Where the wife of a driver of a vehicle was a passenger in the vehicle and was injured in a collision, held that the husband's claim in respect of the loss of his wife's services was within the ambit of subsection (2) and that the court had power to award such damages.

EXECUTOR TRUSTEE AND AGENCY COMPANY OF SOUTH AUSTRALIA LIMITED AND OTHERS v. THE INSURANCE OFFICE OF AUSTRALIA AND COMMONWEALTH RAILWAYS COMMISSIONER (1949) S.A.S.R. 337. The liability of an insurer under subsection (2) where the insured vehicle is not one used in the business of carrying passengers for hire, is unlimited in amount, whether or not the policy of insurance contains any limitation of liability. In the case of a vehicle used in the business of carrying passengers for hire, the insurer may by the policy limit his liability to the maximum amount specified in paragraph (b) of subsection (6).

after he knew that the identity of the vehicle could not be ascertained, he gave to the Treasurer notice of the claim and a short statement of the grounds thereof.

(4) It shall be no defence by an insurer to an action against him under this section that he is not liable under a policy of insurance by reason of the fact that—

- (a) the policy was obtained by any mis-statement or non-disclosure whether fraudulent, material, or otherwise;
- (b) the insured person has committed any breach of any term, condition or warranty of a policy or any provision of this Part; or
- (c) the insured has failed to comply with any condition of the policy as to what the insured person should do or should not do after the event giving rise to liability.

(5) The insurer may, in addition to any other right or remedy he may have, recover from the insured person liable in respect of any such accident, and if two or more persons were so liable from those persons jointly and severally—

- (a) such part of any judgment so obtained against the insurer; or
- (b) such sums as the insurer has paid in payment settlement or compromise of the claim or judgment against the insured person or the insurer; and
- (c) such costs and expenses,

as would not have been recovered from or incurred or paid by the insurer but for the last preceding subsection of this section, and that amount may be recovered either in a separate action or by means of third party procedure in the action against the insurer by the person who obtained the judgment: Provided that if the insured person has made any written request to the insurer that he should settle or compromise up to any specified sum or should pay or should contest the claim, and if the insurer acts unreasonably in failing to comply with such request then the insurer shall not recover more than the amount of the liability which the insurer would have paid or incurred if he had not so acted unreasonably.

(6) This section shall not apply—

Para. (a)
repealed by
35, 1943,
s. 15 (2).

* * * * *

Para. (b)
repealed by
48, 1951,
s. 19 (c).

* * * * *

(c) to any accident which happened before the commencement of this Part.

Amended by
45, 1939,
s. 19 (a).

(7) Subject to subsection (7a) of this section a nominal defendant shall not be liable to satisfy any judgment obtained against him but the judgment and the nominal defendant's costs shall be paid by all those who were approved insurers at the date of the accident giving rise to the liability in proportions determined by the Treasurer who, in so determining, shall have regard to the premium income for insurance under this Part received by each such insurer during the previous year.

Inserted by
2416, 1938,
s. 27.

The Treasurer may out of the general revenue of the State and without any appropriation other than this Act pay the amount of any judgment obtained against a nominal defendant under this section and of the nominal defendant's costs; and the approved insurers who are under this subsection liable for such judgment and costs shall upon demand made by the Treasurer repay to him their respective proportions of any amounts so paid by him.

Inserted by
45, 1939,
s. 19 (b).

(7a) Any association consisting of not less than ten approved insurers may submit for the Treasurer's approval a scheme under which it is proposed that all approved insurers will contribute money in proportions provided for in the scheme for—

- (a) satisfying claims made in respect of death or bodily injury caused by negligence in the use of a motor vehicle where the identity of the vehicle cannot be ascertained; and
- (b) satisfying judgments obtained against nominal defendants under this section; and
- (c) paying the costs of such defendants.

If the Treasurer approves of any scheme so submitted every approved insurer shall enter into and execute an

agreement between himself and all other approved insurers for the purpose of carrying the scheme into effect, and shall carry out the obligations imposed upon him by the agreement; and the Treasurer may by notice in the *Gazette* declare that any approved insurer who refuses to enter into or execute such an agreement or fails or refuses to carry out any such obligation shall cease to be an approved insurer.

Subsection (7) of this section, so far as it provides that the Treasurer shall determine the proportions in which approved insurers are to satisfy judgments and pay nominal defendant's costs, and that the Treasurer may satisfy judgments and pay a nominal defendant's costs, shall not apply in relation to any judgment against a nominal defendant which is satisfied pursuant to a scheme approved by the Treasurer under this subsection, or in relation to any nominal defendant's costs which are paid pursuant to any such scheme.

(8) No policy shall be deemed to comply with this Act if any term, warranty, or condition thereof is in form or substance a term, warranty, or condition of which the committee appointed under section 70m of this Act has expressed its disapproval by notice in the *Gazette*: Provided that every such notice shall come into effect upon the expiration of three months after the publication thereof in the *Gazette* and not earlier.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 38;
24 & 25
Geo. 5 c. 50,
s. 12.

70da. If a person is convicted of having driven or used a vehicle in contravention of section 53 of this Act, and an insurer pays any money or incurs any costs in respect of a claim for death or bodily injury caused by such driving or use of the vehicle, the insurer may recover the amount of the money so paid and the costs so incurred from the person so convicted.

Right of
insurer
against
unauthorized
user of
vehicle.
Inserted by
41, 1952, s. 6.

70e. (1) Upon the happening of any accident which results in the death of or causes bodily injury to any person and is caused by, or arises out of the use of a motor vehicle, the driver and the person in charge thereof shall give written notice forthwith to the insurer concerned, and such notice (which notice shall not be subject to discovery or admissible in evidence in any proceedings except proceedings for an offence under this section) shall set forth the following information with as full particulars as the owner is able to give:—

Duties of
owner or
insurer.
Cf. U.K.
24 & 25
Geo. 5 c. 50,
s. 13.
Inserted by
2532, 1936,
s. 31.

(a) The fact of the accident:

(b) The time and place at which it occurred:

(c) The circumstances of the accident:

(d) The name and address of any person killed or injured therein:

(e) The names of any witnesses of the accident.

(2) When neither the driver nor the person in charge of the motor vehicle is the owner of the motor vehicle concerned the owner shall give a like notice immediately upon the accident coming to his knowledge.

(3) An insured person, immediately upon any claim being made upon him in respect of an accident, shall give notice of the claim to the insurer concerned, and supply to that insurer such particulars of the claim as he requires.

(4) If any person fails to comply with any requirement of subsection (1) or subsection (3) of this section he shall be guilty of an offence and liable to a fine not exceeding five pounds.

(5) An insured person shall not, without the consent in writing of the insurer concerned—

(a) enter upon, or incur any expense in, any litigation:

(b) make any offer or promise of payment or settlement:

(c) make any payment or settlement: or

(d) make any admission of liability,
in respect of any claim in respect of which he is insured with such insurer, but this provision shall not prevent any person truthfully answering any question reasonably asked of him.

(6) The insurer shall be entitled to recover from an insured person who has failed to comply with any provision of this section all moneys paid and costs incurred by the insurer in relation to any claim arising out of the accident in respect of which such failure has occurred.

70f. (1) The insurer may on behalf of the insured, conduct the negotiations in respect of any claim against the insured, and may assume the conduct and control of any legal proceedings in respect of any such claim, and at any stage of those negotiations or proceedings may pay, compromise, or settle any such claim.

(2) The insured shall sign and execute all such warrants, authorities, and other documents as are necessary to give

effect to this section, and, if the insured makes default in doing so or is absent or cannot be found, the warrants, authorities, or other documents may be signed or executed by the insurer on behalf of the insured.

(3) Where, as the result of the use of a motor vehicle an accident happens which results in the death of or bodily injury to any person, as well as damage to property, and claims are made in respect of the death or bodily injury and also in respect of the damage to property, and the person against whom claims are made is insured against his liability for death or bodily injury but not against his liability for damage to property, then nothing said or done in any negotiations for settlement of either of the claims, and no judgment given in any legal proceedings in respect of either of the claims, shall be evidence in any legal proceedings in respect of the other claim unless the negotiations or proceedings in respect of both claims are conducted or controlled by the person against whom the claims are made with the authority of the insurer, or by the insurer with the authority of the said person.

Inserted by 2416, 1938, s. 28.

70g. (1) Where—

- (a) (i) any legally qualified medical practitioner or registered nurse renders emergency treatment in respect of bodily injury (including fatal injury) to any person caused by or arising out of the use of a motor vehicle; or
- (ii) the person so injured is immediately after such injury conveyed in any vehicle; and

Emergency treatment. Cf. U.K. 24 & 25 Geo. 5 c. 50, s. 16. Inserted by 2332, 1936, s. 31.

* * * * *

Para. (b) repealed by 2416, 1938, s. 29 (a).

- (c) notice in writing of a claim under this section is given by the medical practitioner, nurse, or person who conveyed the injured person, to the insurer who issued the policy of insurance in force under this Part in relation to the said motor vehicle within one month after the occurrence out of which the death or bodily injury arose,

Amended by 2416, 1938, s. 29 (b).

the insurer shall make such of the following payments as are applicable to the case:—

- (i) To the medical practitioner the sum of one pound one shilling for each person to whom emergency treatment is rendered together with any travelling

Amended by 48, 1951, s. 20 (a).

expenses reasonably and necessarily incurred in respect of the emergency treatment so rendered:

(ii) To the nurse the sum of fifteen shillings for all emergency treatment rendered by her to the person or persons injured in the accident together with any travelling expenses reasonably and necessarily incurred in respect of the emergency treatment so rendered which sum shall, if emergency treatment is rendered to two or more persons, be deemed to have been paid on behalf of all those persons in equal shares:

(iii) To any person who conveyed the injured person as mentioned in paragraph (a) of this subsection, an amount to be ascertained in accordance with the regulations.

(2) Where bodily injury (including fatal injury) is caused by or arises out of the use of two or more motor vehicles in respect of which policies were issued by different insurers each such insurer shall pay an equal share of the payments required to be made under subsection (1) of this section.

(3) The liability (if any)—

(a) of the owner or driver of such motor vehicle in respect of the death or bodily injury;

(b) of the insurer to the owner or driver in respect of the contract of insurance; and

(c) of the injured person or his personal representatives to the person to whom the payment is made under this section,

shall be reduced by the amount paid by the insurer under this section.

(4) In this section “emergency treatment” means such medical or surgical treatment or examination by a legally qualified medical practitioner or a registered nurse as is immediately required as the result of any such injury as mentioned in subsection (1).

(5) Every policy issued in pursuance of this Part of this Act which is in force at the time of the enactment of this subsection shall be deemed to impose an obligation on the insurer named therein to make the payments prescribed by this section.

Every policy of insurance issued after the enactment of this subsection shall not be deemed to comply with this Part unless it binds the insurer to make the payments prescribed by this section.

Amended by
48, 1951,
s. 20 (b).

Substituted
by 2416,
1938, s. 29
(c).

Inserted by
2416, 1938,
s. 29 (d).

Inserted by
2416, 1938,
s. 29 (e).

(6) A sum payable under this section shall be recoverable as if it were a simple contract debt due from the insurer to the person entitled to that sum.

Inserted by 2416, 1938, s. 29 (e).

(7) The Commissioner of Police shall if so requested by a person who alleges that he is entitled to a payment under this section furnish that person with any information at his disposal as to the identification marks of any motor vehicle which that person alleges to be a motor vehicle out of the use of which the death or bodily injury arose, and as to the identity and address of the person who was using the vehicle at the time of the event out of which the death or bodily injury arose.

Inserted by 2416, 1938, s. 29 (e).

(8) Any person who was using a motor vehicle at the time when death or bodily injury was caused by or arose from such use, shall upon request of any person who alleges that he is entitled to payment under this section, furnish such person with the name and address of the insurer who issued the policy in force in relation to that vehicle at the time of the death or injury.

Inserted by 2416, 1938, s. 29 (e).

70h. In the event of any payment being made (whether or not with an admission of liability) by an insurer under or in consequence of a contract of insurance under this Part in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle, the insurer shall, in addition to making any payments for any purpose provided for by this Part, make such payments with respect to hospital treatment as are payable pursuant to the Part VI of the Hospitals Act, 1934-1951.

Claim for hospital treatment under Part VI. of the Hospitals Act. Inserted by 2332, 1936, s. 31, and substituted by 30, 1951, s. 4.

70i. Every action brought against the owner or driver of a motor vehicle for damages in respect of the death of or bodily injury to any person caused by or arising out of the use of that vehicle, shall be tried without a jury.

Actions to be tried without jury.

Inserted by 2332, 1936, s. 31.

70j. The registrar shall not grant a certificate of temporary registration in respect of any motor vehicle of a person visiting the State unless in his opinion that person is adequately insured against any liability which may be incurred by him in respect of the death of or bodily injury to any person caused by or arising out of the use of that motor vehicle in the State.

Insurance by visiting motorists.

Inserted by 2332, 1936, s. 31.

70k. (1) Any approved insurer may apply on complaint to a court of summary jurisdiction for an order that any person be disqualified for such period as the court fixes from holding and obtaining a driver's licence.

Power to suspend or cancel driver's licences on application of approved insurer.

(2) If it is proved to the satisfaction of the court that the defendant is likely, in the event of his continuing to

Inserted by 2332, 1936, s. 31.

drive motor vehicles, to endanger unduly the safety of the public, the court may make such order under subsection (1) as it thinks just.

(3) An insurer shall not terminate a policy of insurance complying with this Part before its expiry by effluxion of time except upon twenty-one days' notice in writing given to the person to whom the policy was issued and to the Registrar of Motor Vehicles, unless the insurer substitutes another policy of insurance which complies with this Part, and commences immediately upon the termination of the previous policy.

(4) Upon the termination of the policy on such a notice, the motor vehicle specified in the policy shall be an unregistered vehicle unless and until the registrar is satisfied that another policy of insurance has been issued in respect of the use of that vehicle.

70l. (1) Every approved insurer shall, whenever so required by the Treasurer, furnish to the Treasurer such information as the Treasurer reasonably requires relating to the following matters:—

- (a) Premiums received for insurance under this Part:
- (b) Claims paid under this Part:
- (c) Persons insured under this Part:
- (d) Any other matters relevant to this Part.

(2) Any insurer who without lawful excuse fails to furnish any information to the Treasurer within two months after receipt of a written notice demanding such information shall be guilty of an offence and liable to a penalty of one hundred pounds.

(3) Any insurer who wilfully or negligently furnishes any false information to the Treasurer shall be guilty of an offence and liable to a penalty of two hundred pounds.

70m. (1) Upon the recommendation of the Treasurer the Governor may from time to time appoint a committee to inquire into and report upon the question whether the premiums charged for insurance under this Part are fair and reasonable.

(2) The persons appointed to such a committee shall be—

- (a) a judge of the Supreme Court or a special magistrate or a legal practitioner actually practising law, who shall be chairman:
- (b) the Public Actuary:
- (c) two persons appointed as representing owners of motor vehicles:

Amended by
40, 1945,
s. 10.

Information
to be
furnished
by insurers.
Inserted by
2332, 1936,
s. 31.

inquiries into
remium.
Inserted by
332, 1930,
31.

(d) two persons appointed as representing approved insurers.

(3) The members referred to in paragraphs (c) and (d) of the last preceding subsection shall be appointed after consultation with such body or bodies as in the opinion of the Treasurer represent the interests of approved insurers and owners of motor vehicles respectively.

(4) The committee shall have all the powers of a Royal Commission, and the Royal Commissions Act, 1917, with the necessary modifications shall apply to the chairman and other members of the committee and its proceedings and to witnesses and persons summoned as witnesses before the committee.

(5) The Treasurer shall lay every report of the committee before Parliament.

70n. Proceedings for any offence against this Part shall be disposed of summarily.

Summary procedure.
Inserted by 2332, 1936, s. 31.

70o. The Governor may make any regulations necessary or convenient for carrying this Part into effect or for facilitating the operation of this Part, and may by any regulation impose penalties recoverable summarily and not exceeding twenty pounds for breach of any regulation.

Regulations.
Inserted by 2332, 1936, s. 31.

70p. Any contract (whether under seal or not) by virtue of which any person in advance contracts out of any right to claim damages or any other remedy for the negligence of any other person in driving a motor vehicle shall to that extent be void.

Contracting out of liability for negligence.
Inserted by 2416, 1938, s. 30.

70q. Notwithstanding anything in any enactment, a person issuing a policy of insurance whether under this Part or otherwise in relation to a motor vehicle shall, as from the date of the policy, be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of these persons or classes of persons.

Rights of persons named in policies.
Inserted by 2416, 1938, s. 30.

70r. (1) Where any claim has been made by or on behalf of any person for bodily injury caused by or arising out of the use of a motor vehicle, such person shall from time to time if and as required by the person against whom the claim is made, submit himself for examination by a duly qualified medical practitioner provided and paid by the person against whom the claim is made: Provided that a person shall not be required to submit himself for examination under this section otherwise than in accordance with

Medical examination of claimants.
Inserted by 2416, 1938, s. 30.

such regulations (if any) as may be made by the Governor nor at more frequent intervals than are prescribed by those regulations.

(2) If any person refuses to submit himself to any examination as required by this section, or in any way obstructs the examination his right to commence proceedings or (if commenced) to continue proceedings shall be suspended until the examination has taken place.

(3) A person shall not be entitled to any damages or compensation for any period during which he refuses to submit himself to or obstructs the examination or during which he has unreasonably delayed making a claim.

(4) Upon demand made by or on behalf of the person submitting himself to an examination under this section the person against whom the claim is made shall deliver to him a full and true copy of any report of the medical practitioner, and if default is made in such delivery for one week the report shall cease to be privileged from discovery.

70s. (1) No person shall—

- (a) for or in the expectation of directly or indirectly receiving any reward accept instructions or authority to act on behalf of any person in respect of the making, commencement, resisting, compromise or settlement of any claim or action for damages for the death of or bodily injury to any person or for injury to the property of any person arising out of the use of a motor vehicle;
- (b) for or in the expectation of directly or indirectly receiving any reward make, commence, cause to be made or commenced, negotiate, settle, or compromise, on behalf of any person, any such claim or action;
- (c) hold himself out as being willing to act for reward on behalf of any person in making, commencing, resisting, negotiating, settling, or compromising any such claim or action.

(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;

Soliciting instructions to claim.

Inserted by 2416, 1938, s. 30, and repealed and re-enacted by 45, 1939, s. 20.

Subsec. (1) substituted by 46, 1941, s. 9 (1).

Substituted by 35, 1943, s. 16.

- (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.

(3) Any agreement to pay any money for work done or services rendered contrary to this section shall be void, and any money so paid shall be recoverable by the person who has paid it.

(4) If any person contravenes this section in any way he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.

PART III.

PART III.

LICENSING OF VEHICLES OTHER THAN MOTOR VEHICLES.

71. In this Part, unless the context otherwise requires—
 “licence” means a licence issued pursuant to this Part and “licensed” and “unlicensed” have corresponding meanings:

Interpretation.
 1699, 1925, s. 3.
 1823, 1927, s. 3.

“metropolitan area” means the Municipalities of Adelaide, Brighton, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Port Adelaide, Prospect, St. Peters, Thebarton, Unley, and Woodville, and the District Council Districts of Burnside, Campbelltown, Marion, Mitcham, Payneham, Walkerville, West Torrens, and Yatala South,

s. 71. (Definition of “metropolitan area.”) The following district council districts have been constituted municipalities:—Burnside, *Gazette* 16th May, 1935, p. 1308; West Torrens, *Gazette* 9th December, 1943, p. 755; Mitcham, *Gazette* 16th December, 1943, p. 781; Marion, *Gazette* 30th March, 1944, p. 381; Walkerville, *Gazette* 24th August, 1944, p. 221; Payneham, *Gazette* 27th September, 1945, p. 489; Campbelltown, *Gazette* 11th April, 1946, p. 569. The name of the district council district of Yatala South has been altered to Enfield, *Gazette* 11th July, 1935, p. 38, and the district constituted a municipality, *Gazette* 30th March, 1944, p. 415.

Road Traffic Act, 1934-1954.

and the Garden Suburb, and any other municipalities and district council districts or parts of municipalities or district council districts contiguous to any part of the metropolitan area as defined for the time being to which the Governor, by proclamation, declares that this Act shall apply:

“owner” includes the holder under a hire purchase agreement and the verb “to own” has a corresponding meaning:

“registrar” means the Registrar of Motor Vehicles holding office under Part II of this Act, or any deputy registrar of motor vehicles:

“road” includes every public road, street, terrace, thoroughfare, or other public place, and every private road or street commonly used by the public, or to which the public are permitted to have access:

“vehicle” means every vehicle of any description whatsoever which is drawn or propelled by animal but not human power and used or ordinarily intended to be used on roads or streets.

72. The following vehicles are exempted from the operation of this Part, namely:—

- (a) Every vehicle owned by the Fire Brigades Board, or any volunteer fire brigade:
- (b) Any ambulance vehicle for the use of which no charge is made:
- (c) Any vehicle owned by the corporation or council of any municipality, or by any district council, and used solely in connection with the construction and maintenance of roads.

73. (1) Any person who on any road within the metropolitan area drives, or causes or permits to be driven, any vehicle which is not licensed pursuant to this Part shall be guilty of an offence and liable to a penalty of not more than twenty pounds: Provided that a vehicle shall not be required to be licensed by reason only of the fact that it is drawn or towed unladen behind another vehicle, if that other vehicle is licensed.

(2) Any person who owns any vehicle which is driven on any road within the metropolitan area and is not licensed pursuant to this Part shall be guilty of an offence and liable to a penalty of not more than twenty pounds.

Exemption
of certain
vehicles.
1699, 1925,
s. 4.

Duty to
obtain
licences for
vehicles.
1699, 1925,
ss. 5, 10, 11.
Of U.K.
10 & 11
Geo. 5 c. 72,
s. 13.
Amended by
17, 1942, s. 6.

74. (1) A licence may be obtained on application duly made in accordance with this Part and the regulations to the registrar or some other person authorized for that purpose by the Minister.

Applications for and issue of licences. 1699, 1925, ss. 5 (2), 6.

(2) No licence shall be issued to any applicant unless and until the fee as set out in the next succeeding section has been paid to the registrar or other person authorized pursuant to the last preceding subsection.

(3) Every application for a licence shall be made during the currency of the year in which the licence is to have effect or in the month immediately preceding that year.

75. (1) The licence fee for a vehicle shall be calculated as follows:—

Fee for licence. 1699, 1925, the schedule. 1823, 1927, s. 5. Cf. U.K. 51 & 52 Viet. c. 8, s. 4; 10 & 11 Geo. 5 c. 72, s. 7 (6).

(a) If the weight unladen of the vehicle does not exceed 25cwts. the fee shall be calculated at the rate of two shillings per cwt. of such weight:

(b) If the weight unladen of the vehicle exceeds 25cwts. but does not exceed 40cwts. the fee shall be calculated at the amount of the fee for a vehicle of 25cwts., plus five shillings for every cwt. by which the weight unladen of the vehicle exceeds 25cwts.:

(c) If the weight unladen of the vehicle exceeds 40cwts. the fee shall be calculated at the amount of the fee for a vehicle of 40cwts., plus nine shillings for every cwt. by which the weight unladen of the vehicle exceeds 40cwts.

The weight of a vehicle shall be calculated to the nearest hundredweight.

(2) Where a licence is issued to take effect from a date between the thirty-first day of March and the thirtieth day of September in any year one-half the amount payable for a licence for a year shall be payable.

(3) Notwithstanding the foregoing provisions of this section—

(a) the minimum fee payable for a licence for a vehicle used or ordinarily capable of being used solely or mainly for the carriage of goods or merchandise shall be one pound, or, if the licence is issued between the first day of April and the thirtieth day of September, ten shillings; and

(b) the minimum fee payable for a licence for any other vehicle shall be ten shillings, or, if the licence is issued between the first day of April and the thirtieth day of September, five shillings.

PART III.

Duration of
licences.
1699, 1925,
s. 6 pt.

76. Every licence shall remain in force until the thirtieth day of September next after the day on which it commences to take effect.

Evidence in
support of
application
for licence.
1699, 1925,
s. 7.
Cf. U.K.
10 & 11
Geo. 5 c. 72,
s. 5 (1).

77. The applicant for a licence shall produce to the registrar or other person authorized to issue licences such evidence as to the nature and weight of the vehicle in respect of which a licence is applied for as the registrar or other person authorized as aforesaid requires or as is prescribed.

Licence discs.
1699, 1925,
s. 8.
1823, 1927,
s. 4.
Cf. U.K.
10 & 11
Geo. 5 c. 72,
s. 6.

78. (1) The registrar or other person issuing a licence shall deliver to the applicant a metal disc of a size and shape to be fixed annually by the Minister by notice published in the *Gazette*, and to be annually varied, on which shall be inscribed the year of issue and any other particulars which may be prescribed.

(2) The disc shall, during the whole period in respect of which it is issued, be kept securely fixed to the vehicle in respect of which the disc and the licence are issued.

(3) Any person—

(a) who drives a vehicle licensed under this Part to which vehicle there is not affixed the metal disc delivered with the licence for such vehicle to the person applying for the same; or

(b) who drives a vehicle licensed under this Part on which vehicle the said disc is affixed otherwise than in the manner prescribed by this Part or any regulation under this Part,

shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds.

Duplicate
licences and
discs.
1699, 1925,
s. 9.

79. (1) Upon application, the registrar or other person authorized to issue licences, may, on proof to his satisfaction of the loss or destruction of any licence or disc, and on payment of a fee of two shillings and sixpence, issue to the applicant a duplicate licence or disc.

(2) Any such duplicate licence or disc shall be effectual for all purposes as if it were the original licence or disc.

Affixing discs
to wrong
vehicles.
1699, 1925,
s. 12.

80. Any person who affixes any disc issued pursuant to this Part, to any vehicle other than the vehicle in respect of which the disc was issued, shall be guilty of an offence and liable to a penalty of not more than twenty pounds.

81. Any person who—

- (a) by any false statement or misrepresentation obtains or attempts to obtain a licence or disc under this Part; or
- (b) without lawful excuse has in his possession a licence or disc, or any article resembling a licence or disc and liable to be mistaken therefor; or
- (c) forges or fraudulently alters or uses, or fraudulently lends or allows to be used by any other person, any licence or disc,

shall be guilty of an offence and liable to a penalty of twenty pounds.

Penalty for unlawfully obtaining licence.

1699, 1925, s. 13.
 Cf. U.K. 10 & 11 Geo. 5 c. 72, s. 13 (2), (11).

82. In any proceedings for an offence against this Part—

- (a) proof that a vehicle has not affixed upon it a disc of the size and shape fixed by the Minister for the current year shall be *prima facie* evidence that the vehicle is unlicensed;
- (b) the allegation in the complaint that any person is the owner of a vehicle shall be *prima facie* evidence that that person is the owner of the vehicle;
- (c) the allegation in the complaint that any place is a road shall be *prima facie* evidence that the place is a road within the meaning of this Part;
- (d) the allegation in the complaint that any road wherein it is alleged that any such offence was committed is situated within the metropolitan area shall be *prima facie* evidence that the road is situated as alleged; and
- (e) any conveyance shall be deemed to be a vehicle within the meaning of this Part unless the defendant satisfies the court to the contrary.

Facilitation of proof.

1699, 1925, s. 14.
 Cf. U.K. 10 & 11 Geo. 5 c. 72, s. 13 (3).

83. All proceedings in respect of offences against this Part shall be disposed of summarily.

Summary proceedings for offences.
 1699, 1925, s. 15.

84. The Governor may make any regulations necessary or convenient for carrying into effect the provisions and objects of this Part, including (though without limiting the operation of this section) regulations in respect of the following matters:—

Regulations.

- i. the form of licence and the application therefor;
- ii. any matters in this Part left to be expressed or ascertained by regulations.

PART IV.

PART IV.

WIDTH OF TIRES.

Interpreta-
tion.
1580, 1923,
s. 3.

85. In this Part, unless some other meaning is clearly intended—

“council” means a municipal or district council, and includes the Renmark Irrigation Trust No. 1:

“inspector” means inspector of the Highways and Local Government Department appointed for the purposes of this Act by the Minister:

“load” includes everything inanimate or animate carried on a vehicle:

“local government area” or “area” means a municipality or a district council district, and includes the area of the Renmark Irrigation Trust No. 1:

“motor vehicle” means any motor vehicle within the meaning of Part II of this Act: Provided that the term shall not include—

(a) any motor vehicle not used exclusively or principally for the conveyance of goods; or

(b) any trailer, semi-trailer, or jinker:

“non-mechanical vehicle” means any waggon, dray, trolley, cart, car, truck, or any other vehicle drawn or propelled by animal power, or any trailer, semi-trailer, or jinker attached to any vehicle (howsoever drawn or propelled) or to any motor vehicle; but does not include any motor vehicle:

“owner”, when used in relation to a vehicle, includes not only the owner but also the hirer or borrower or other person for the time being entitled to the possession of the vehicle and also any manager, overseer, foreman, agent, or other representative of the owner with whose orders the driver or other person in charge of the vehicle is bound to comply:

“road” means any street, road, terrace, thoroughfare, court, lane, alley, cul-de-sac, or other place, commonly used by the public, or to which the public are permitted to have access:

“vehicle” includes motor vehicles and non-mechanical vehicles:

Part IV. JAMES v. JOHNSON (1922) S.A.S.R. 294. The term “carry” in Part IV. means to support or sustain and applies to a stationary vehicle. Held, that the weight of the load carried by a jinker usually connected with a horse dray, was its weight ascertained when the jinker was disconnected from the dray and stationary.

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

Substituted by 35, 1943, s. 17.

- (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.

86. Any person who drives or causes or permits to be driven on any road—

Maximum axle load for non-mechanical vehicles. Substituted by 35, 1943, s. 18.

- (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.

87. Any person who drives or causes or permits to be driven on any road—

Maximum total load for non-mechanical vehicles. 1580, 1923, s. 4 (1).

- (a) any non-mechanical vehicle carrying a weight greater than that calculated in accordance with the rules contained in section 92;
- (b) any non-mechanical vehicle having metal tires and carrying a weight greater than that calculated at the rate of five tons for each axle of such vehicle; or
- (c) any non-mechanical vehicle having rubber tires and carrying a weight greater than that calculated at the rate of six tons for each axle of the vehicle,

shall be guilty of an offence.

88. Any person who drives or causes or permits to be driven on any road—

Maximum axle load for motor vehicles. 1580, 1923, s. 6 (1).

- (a) any motor vehicle carrying on any axle thereof a greater weight than the maximum which may lawfully in accordance with the rules contained in

section 92 to be carried on a two-wheeled vehicle fitted with wheels of the same diameter and width of tire as the two wheels turning such axle;

- (b) any motor vehicle having metal tires and carrying on any axle thereof a greater weight than six tons and ten hundredweights; or
- (c) any motor vehicle having rubber tires and carrying on any axle thereof a greater weight than eight tons,

shall be guilty of an offence.

Maximum total load for motor vehicles.
1580, 1923, s. 6(2).

89. Any person who drives or causes or permits to be driven on any road any motor vehicle carrying a weight greater than that computed in accordance with the rules contained in section 92 shall be guilty of an offence.

Exemptions.
1580, 1923, s. 4(4).

90. The provisions of this Part as to the maximum total load or maximum axle load for vehicles shall not apply to—

- (a) any tractor or traction engine not usually used upon a road; or
- (b) the conveyance of any piece of heavy machinery or other merchandise which cannot be taken apart without great expense or loss: Provided that the vehicle conveying such machinery follows the special route (if any) along which the town or district clerk of every municipality or district through which such machinery is carried, has ordered that it be conveyed to its destination.

Penalty.
1580, 1923, ss. 4(3), 6(3).
Amended by 55, 1948, s. 9, and by 37, 1953, s. 11.

91. If any person is guilty of an offence against section 86, 87, 88, or 89 he shall be liable to a penalty calculated at the rate of not less than five shillings and not more than two pounds for each hundredweight or part of a hundredweight carried in excess of the weight allowed by this Act.

Rules as to maximum weight.
1580, 1923, the schedule.

92. The rules for determining by reference to the width of tires, the maximum weight which may be carried by any vehicle are as follows:—

Amended by 35, 1943, s. 19(a).

1. The maximum weight which may be carried on any vehicle shall be calculated at the rate of seven hundredweights for each inch of the total width of the tires on all wheels fitted to such vehicle which are thirty inches or less in diameter and at the rate of eight hundredweights for each inch of the total width of the tires on all wheels fitted to such vehicle

which are more than thirty inches in diameter: Provided that where the vehicle has metal tires and carries a load any part of which exceeds ten feet in height from the level of the roadway or ten feet in width the maximum weight shall be calculated at the rate of seven hundredweights for each inch of the total width of all tires on all wheels fitted to such vehicle:

- ii. In computing the maximum weight which may be carried on a three-wheeled vehicle that vehicle shall be treated as if it were a two-wheeled vehicle fitted with two wheels of such vehicle which turn on the same axle:
- iii. (a) For the purpose of these rules if the two wheels on any vehicle which turn on the same axle are not of the same width the wider tire shall be deemed to be of the same width as the narrower tire:

(b) The total width of each tire shall be calculated to the nearest quarter of an inch:
- iv. In computing the actual weight carried on any vehicle or axle the weight of the vehicle itself shall be taken into account:
- v. These rules apply in respect to all vehicles.

Amended by
35, 1943,
s. 19 (b).

93. (1) The following rules shall be observed in respect of every vehicle having metal tires on any road:—

Rules to be
observed with
respect to
tires.
1580, 1923,
s. 5.

- i. The tire of each wheel of any such vehicle shall have an even-bearing surface across its full width:
- ii. No tire of any such vehicle shall be less than one-and-a-quarter inches in width.

(2) If any vehicle in respect of which any of the said rules is not complied with is on any road, the person in charge of such vehicle and also the owner of such vehicle shall be guilty of an offence: Provided that both shall not be punished in respect of the same non-compliance.

(3) This section shall not apply to any vehicle not plying for hire, and constructed or adapted and ordinarily used for the carriage of passengers only, even if goods or merchandise are on any particular occasion carried in such vehicle.

PART IV.

Authorized
officers.
1580, 1923,
s. 7.
1714, 1925,
s. 2.

94. (1) Any council may appoint any person to be an authorized officer for the purpose of carrying out the provisions of this Part within the area of such council, and any person so appointed shall, within the area of the council appointing him, be an authorized officer for the purposes of this Part.

(2) The Minister may appoint any person to be an authorized officer for the purpose of carrying out the provisions of this Part in any part of the State, and any person so appointed shall, within any such part of the State, be an authorized officer for the purposes of this Part.

Weighing
machines.
1580, 1923,
s. 8.
1641, 1924,
s. 2.

95. (1) Any council may within its area erect weighing machines with suitable houses or structures for the weighing of vehicles, goods, or merchandise, or may provide any weighing apparatus of a prescribed kind for similar purposes, and may license any weighing machine erected, or any such apparatus as aforesaid provided, by any person within its area.

(2) The Minister may in any part of the State erect weighing machines with suitable houses or structures for the weighing of vehicles, goods, or merchandise, or may provide any weighing apparatus of a prescribed kind for similar purposes, and may license any weighing machine erected, or any such apparatus as aforesaid provided, by any person within any part of the State not within a local government area.

Vehicles and
load to be
weighed if
required.
1580, 1923,
s. 9.

96. (1) Every person in charge of a vehicle on any road shall, if required by any member of the police force, any inspector, or any authorized officer, forthwith cause such vehicle, with the load (if any) thereon, to be weighed by means of any available weighing apparatus of a prescribed kind provided or licensed by a council or the Minister, or at the most convenient weighing machine erected or licensed by a council or the Minister, for the purpose of ascertaining the weight of such vehicle, and the load thereon, or the weight carried on any axle of such vehicle.

(2) If there is any such weighing apparatus or such a weighing machine within one mile of the place where the requisition is made, and any such person refuses or fails to comply with any such requisition, that person shall be guilty of an offence.

97. (1) Every person in charge of any vehicle on any road shall, if required by any member of the police force, any inspector, or any authorized officer, allow that member of the police force, inspector, or officer—

Load may be measured.
1580, 1923,
s. 10.

- (a) to measure and examine such vehicle, or the tires or the load on such vehicle; or
- (b) to ascertain the weight of the load on the vehicle, or the weight carried on any axle of such vehicle, by measurement or otherwise in accordance with the appropriate regulation.

(2) If any such person—

- (a) refuses or fails to comply in any respect with subsection (1) of this section; or
- (b) obstructs or interferes with any such member, inspector, or authorized officer, in doing any act mentioned in subsection (1),

he shall be guilty of an offence.

98. (1) The weight of the load on any vehicle ascertained in accordance with the appropriate regulation shall, in any proceedings in respect of any offence against this Act, be taken to be, in the absence of proof to the contrary, the actual weight of that load, unless the owner or the person in charge of the vehicle—

Weight ascertained in accordance with regulation *prima facie* proof.
1580, 1923,
s. 11.

- (a) at the time of the ascertainment as aforesaid, gives notice to such member of the police force, inspector, or authorized officer of his intention to have the load weighed at a weighing machine erected or licensed by a council or the Minister, or by means of any weighing apparatus of a prescribed kind provided or licensed by a council or the Minister; and
- (b) forthwith upon such weighing delivers, or causes to be delivered, to such member of the police force, inspector, or authorized officer the document showing the result of such weighing.

(2) In the event of any proceedings for an offence against this Act in respect of the load so weighed, the document (if any) showing the result of such weighing received by such member of the police force, inspector, or authorized officer shall be produced to the court at the hearing.

(3) The weight carried on the axle of any vehicle ascertained in accordance with the appropriate regulation shall, in any proceedings in respect of any offence against this Act, be taken to be, in the absence of proof to the contrary, the actual weight carried on such axle.

Vehicles may be stopped and questions asked. 1580, 1923, s. 12.

99. (1) Any member of the police force, any inspector, or any authorized officer may require the person in charge of any vehicle on any road to stop, and may request such person to state his name and address and the name and address of the owner of the vehicle,

(2) Any person in charge of any vehicle on any road who—

(a) upon being requested to stop as aforesaid, refuses or fails to stop; or

(b) upon being requested to stop as aforesaid, refuses or fails to state his name or address, or the name or address of the owner of the vehicle, or states a false name or address,

shall be guilty of an offence.

(3) Any member of the police force may, without any warrant other than this Act, apprehend any person who is guilty of any offence under this section.

Power to compel unloading of excess weight. Inserted by 37, 1953, s. 12.

99a. (1) Where a member of the police force or an inspector or authorized officer has ascertained that the load on a vehicle which is on any road, or the load on any axle of any such vehicle, exceeds by more than ten hundred-weights the maximum load or axle load permitted by this Part to be carried on such vehicle or axle, he may direct the driver or person in charge of the vehicle that the vehicle is not to be driven on a road (except for the purpose of driving it off the carriage way or driving it to a place nominated by the driver or person in charge and approved by the inspector or authorized officer, for the purpose of unloading) until that part of the load which is in excess of the permitted maximum is removed from the vehicle.

(2) Any person who contravenes any such direction shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

S. 100 repealed by 2332, 1936, s. 32.

* * * * *

101. (1) The owner of any vehicle, upon being served with a notice in the prescribed form signed by any member of the police force, any inspector, or any authorized officer and by a justice of the peace, requiring him with all practical speed to cause the vehicle to be weighed unladen by means of any apparatus of a prescribed kind provided or licensed by a council or the Minister, which is available, or on any weighing machine erected or licensed by a council or the Minister, shall forthwith obey such order, and shall forthwith upon such weighing deliver, or cause to be delivered, to such member of the police force, inspector, or officer the document showing the result of such weighing.

Vehicle to be weighed if required. 1580, 1923, s. 14.

(2) Any such owner who refuses or fails forthwith to obey any such order or forthwith upon such weighing to forward the document showing the result of such weighing, as provided by subsection (1) hereof, shall be guilty of an offence.

(3) This section shall not apply if—

- (a) the distance from the place where such vehicle is at the time of service of the notice to such apparatus or the nearest weighing machine erected or licensed by a council or the Minister is greater than two miles; and
- (b) the owner produces to the inspector or authorized officer signing such notice a statement of the weight of such vehicle signed by the person in charge of any such apparatus or weighing machine, wherever situated.

102. (1) In addition to any power by any other section of this Part conferred on the Governor to make regulations (which power shall in every case be implied for the purpose of any section in which the word “prescribed” is used) the Governor may make regulations—

Regulations. 1580, 1923, s. 15.

- (a) prescribing the method of ascertaining the weight of the load on any vehicle, and the weight carried on any axle of any vehicle, whether by weighing, measurement, or otherwise; and
- (b) prescribing the kinds of apparatus which the Minister or a council may provide or license for the weighing of vehicles, goods, or merchandise for the purposes of this Part; and

(c) prescribing all matters and things which by this Part are contemplated, required, or permitted to be prescribed, or which appear to him to be necessary or convenient to be prescribed, for the purpose of more effectually carrying out any of the provisions of this Part or for better effecting the objects of this Part.

(2) Any such regulation may fix penalties not exceeding in any case the sum of ten pounds for the breach of the same or any other regulation.

Alteration of
maximum
loads.
1580, 1923,
s. 16,
1961, 1930,
s. 3.

103. (1) The Governor may make regulations restricted in their application to any road or roads named therein, or any part or parts of the State described therein, prescribing for vehicles or any class of vehicles a maximum weight which may be carried on any such vehicle or on the axle thereof, lower than that fixed by or under this Part. Such regulations may definitely fix the maximum weight applicable to any case or may prescribe the method by which the said maximum weight is to be calculated, and may differentiate between vehicles having different kinds of tires.

(2) Any maximum weight so fixed shall, subject to the restrictions aforesaid, be deemed to be substituted for that fixed by or under the relevant provisions of this Part.

Evidence.
1580, 1923,
s. 17.

104. In any proceedings for an offence against this Part—

(a) the production of a statement purporting to be signed by the person in charge of any apparatus of a prescribed kind owned or licensed by a council or the Minister, or any weighing machine erected or licensed by a council or the Minister shall be *prima facie* evidence of the weight of the load or of the vehicle therein specified, or of the weight both of such load and of such vehicle, or the weight carried on the axle of such vehicle; and

(b) any apparatus of a prescribed kind or weighing machine shall, until the contrary is proved, be deemed to be apparatus of a prescribed kind or a weighing machine erected or licensed by a council or the Minister (as the case may require) for the purposes of this Part.

105. Any person who is guilty of any offence against this Part for which no other penalty is provided shall be liable for the first offence to a penalty of not more than ten pounds, and for every subsequent offence to a penalty of not less than two pounds and not more than twenty pounds.

Penalty.
1580, 1923,
s. 18.

106. All proceedings in respect of offences against this Part shall be disposed of summarily.

Summary proceedings for offences.
1580, 1923,
s. 19.

107. All money collected as fines in respect of convictions under this Part shall be paid into general revenue: Provided that where any fine is imposed in respect of an offence committed within a local government area and the complaint in respect of the offence was made by an officer of the council of such area, one moiety of such fine shall be paid to the council for the use and benefit of the area.

Appropriation of penalties.
1580, 1923,
s. 20.

PART V.

PART V.

LIGHTS AND EQUIPMENT ON VEHICLES OTHER THAN MOTOR VEHICLES.

Heading amended by
2418, 1938,
s. 31.

108. In this Part, unless the context or subject matter requires a different construction—

Interpretation.
1370, 1919,
s. 4.
Cf. U.K.
17 & 18
Geo. 5 c. 37,
s. 15.

“council” means any municipal or district council, and includes the Renmark Irrigation Trust No. 1:

“bicycle” does not include motor bicycle:

“inspector” means any inspector appointed by or under this Part:

“local government area” means a municipality or district council district, as the case may require, and includes the Renmark Irrigation District No. 1:

“owner”, used with reference to a vehicle, includes not only the owner, but also the hirer or borrower or other person for the time entitled to the possession of the vehicle, and also any manager, overseer, foreman, agent, or other representative of the owner, with whose orders the driver or other person in charge of the vehicle is bound to comply:

“road” includes every public street, road, terrace, thoroughfare, or other public place, and every private street or road commonly used by the public, or to which the public are permitted to have access:

“tricycle” does not include motor tricycle:

“vehicle” means any vehicle other than a motor vehicle within the meaning of Part II of this Act, and includes a handcart and a road roller.

Vehicles to carry lights at night.

1370, 1919, s. 5.
1858, 1925, s. 2.

Cf. U.K. 17 & 18 Geo. 5 c. 37, s. 1.

109. (1) No person shall drive upon any road or cause or permit to be upon any road at any time between half an hour after sunset and half an hour before sunrise, any vehicle which has not attached thereto:—

(a) two lighted lamps carried one on each side of such vehicle, each lamp being so constructed and carried as to show a bright white light in front of such vehicle; and

(b) a lighted lamp carried on the off side of the rear of such vehicle, such lamp being so constructed and carried as to show a red light at the rear of such vehicle, which said light is clearly visible to any person approaching the vehicle from the rear.

Subsec. (2) inserted by 2332, 1936, s. 33.

(2) No person shall drive upon any road or cause or permit to be upon any road at any time between half an hour after sunset and half an hour before sunrise any vehicle which, or the load on which, is more than seven feet wide unless that vehicle carries attached to the extreme off side of the vehicle or, where there is a load projecting from the off side of the vehicle, at the extreme off side of the load, a lighted lamp so constructed and carried as to show a bright green light in front of the vehicle.

It shall be a sufficient compliance with this subsection if any lamp carried in pursuance of subsection (1) of this section also complies with this subsection.

Lights on bicycles and tricycles.

1370, 1919, s. 6.
1858, 1928, s. 3.
2019, 1931, s. 2.

2169, 1934, ss. 2, 3.
Cf. U.K.

17 & 18 Geo. 5 c. 37, ss. 5, 9;
24 & 25 Geo. 5 c. 50, s. 19.

110. (1) No person shall ride any bicycle or any tricycle upon any road at any time between half an hour after sunset and half an hour before sunrise unless it has attached thereto either one or two lighted lamps complying with this section.

(2) Where one lamp is carried it shall be affixed on the off side of the bicycle or tricycle in such a position and manner as to show a bright white light clearly visible to

any person approaching the bicycle or tricycle from the front and a red light clearly visible to any person approaching the bicycle or tricycle from the rear.

(3) Where two lamps are carried—

(a) one shall be affixed on the front of the bicycle or tricycle in such a position and manner that a bright white light from the lamp is clearly visible to any person approaching the bicycle or tricycle from the front; and

(b) one shall be affixed on the rear of the bicycle or tricycle not more than twenty inches above the ground in such a position and manner that a red light from the lamp is clearly visible to any person approaching the bicycle or tricycle from the rear.

Para. (b)
amended by
2332, 1936,
s. 34.

(4) In this section the term “visible” means “visible at a distance of at least two hundred yards from the bicycle or tricycle on which the lamp or lamps is or are carried”.

Amended by
2332, 1936,
s. 34.

(5) This section shall apply within—

(a) every municipality and every district council district:

(b) the Garden Suburb:

(c) such other areas as the Governor declares by proclamation to be areas within which this section applies.

Substituted
by 45, 1939,
s. 21.

The Governor may by proclamation declare any area defined or mentioned in the proclamation to be an area within which this section shall apply, and may by proclamation revoke or vary any proclamation previously made under this subsection.

(6) This section shall come into operation on a day to be fixed by proclamation which shall not be earlier than the first of March, one thousand nine hundred and thirty-five, and may be a day other than the day on which the remainder of this Act comes into operation.

(7) Until this section comes into operation section 6 of the Lights on Vehicles Act, 1919, as existing prior to the passing of the Lights on Vehicles Act Amendment Act, 1934, shall remain in operation.

PART V.

Reflectors on
bicycles and
tricycles.

Inserted by
37, 1953,
s. 13.

110a. (1) No person shall ride any bicycle or tricycle upon any road at any time between half an hour after sunset and half an hour before sunrise unless in addition to being equipped with lighted lamps as required by this Part it has affixed to the rear thereof a red reflector complying with this section.

(2) In order to comply with this section, a reflector must—

(a) be of a size, shape and pattern prescribed by regulations, and comply with any other requirements so prescribed;

(b) be affixed in such a position on the rear of the bicycle or tricycle as to reflect to the rear a light shining towards the reflector from behind the bicycle or tricycle;

(c) be free from dirt, mud, or other matter likely to render the reflector ineffective.

(3) This section shall come into force on a day to be proclaimed by the Governor.

Lights where
load projects.
1370, 1919,
s. 7.
Cf. U.K.
17 & 18
Geo. 5 c. 37,
s. 6.

111. (1) Whenever any load carried on any vehicle which is being driven or is standing upon any road at any time between half an hour after sunset and half an hour before sunrise projects more than three feet behind the body of the vehicle, a lighted lamp shall be kept attached to the rearward extremity of such load in such a position and manner as to show a red light clearly visible to any person approaching such vehicle from the rear or passing such vehicle from the front.

Substituted
by 20, 1944,
s. 8.

(2) If any person drives or leaves stationary on any road or causes or permits any person to drive or leave stationary on any road, any vehicle which in any particular does not comply with this section, he shall be guilty of an offence.

Lights on
projecting
parts of
vehicles.
Inserted by
45, 1939,
s. 22.

111a. (1) Whenever any part of a vehicle which is being driven or is standing upon any road at any time between half an hour after sunset and half an hour before sunrise, projects to the rear for more than three feet beyond the lamp carried on the rear of the vehicle pursuant to paragraph (b) of subsection (1) of section 109 of this Act, a lighted lamp shall be kept attached to the rearward extremity of the said projecting part of the vehicle in such a position and manner as to show a red light clearly visible from a distance of two hundred yards from the rear of the vehicle.

(2) If any person drives or leaves stationary on any road or causes or permits any person to drive or leave stationary on any road, any vehicle which in any particular does not comply with this section, he shall be guilty of an offence.

Substituted by 20, 1944, s. 9.

112. (1) Any driver of a vehicle or any rider of a tricycle or bicycle who, when requested by an inspector, in the execution of his duty under this Part, to stop or to state his name and place of abode, refuses or fails to do so, or when so requested, states a false name or place of abode, shall be guilty of an offence.

Duty to stop and give name and address. 1870, 1919, s. 8.

(2) Any inspector may, without any warrant other than this Part, apprehend any person who is guilty of any offence under this section.

112a. No person shall ride any bicycle or tricycle on any road unless that bicycle or tricycle is equipped with an efficient brake in proper working order.

Brakes on bicycles. Inserted by 2416, 1938, s. 32.

112b. No person shall ride any bicycle or tricycle on any road unless that bicycle or tricycle has attached thereto a bell or other suitable instrument capable of giving audible and sufficient warning of the approach of that bicycle or tricycle.

Warning devices on bicycles. Inserted by 2416, 1938, s. 32.

A siren shall not be a suitable instrument within the meaning of this section.

112c. Every rider of a bicycle or tricycle shall, whenever necessary, by sounding the warning instrument attached thereto, give audible and sufficient warning of the approach of the bicycle or tricycle.

Duty to use warning instrument. Inserted by 2416, 1938, s. 32.

113. (1) Every member of the police force and every inspector in the Highways and Local Government Department of the public service shall, without any further appointment, be an inspector under this Part for the whole State.

Who to be inspectors under Act. 1870, 1919 s. 9.

(2) The Governor may appoint any other person to be an inspector under this Part for the whole State, or for any particular portion of the State.

(3) Any council may appoint any other person to be an inspector under this Part within the local government area of such council.

(4) The exercise by every inspector appointed otherwise than for the whole State of his powers and duties under this Part shall be limited to the portion of the State or the local government area, for which he was appointed.

PART V.

Offences.
1370, 1919,
s. 10.

114. Any contravention of or failure to observe any provision of this Part, whether by act or omission, shall be an offence.

Penalties.
1370, 1919,
s. 11.
Amended by
55, 1948,
s. 10.

115. Any person guilty of an offence under this Part shall be liable to a penalty for a first offence of not more than five pounds, and for any subsequent offence of not more than ten pounds.

Appropriation
of
penalties.
1370, 1919,
s. 15.

116. All moneys received for or on account of penalties imposed for offences against this Part shall be paid to the Treasurer for the public uses of the State; except moneys received in respect of an offence committed within the limits of a local government area, which shall be paid over to, and for the use of, the council of such area.

Facilitation
of proof.
1370, 1919,
s. 14 (a).
1609, 1924,
s. 2.

117. Whenever in any proceedings for an offence against this Part, any place is described as a road such description shall be *prima facie* evidence that that place is a road within the meaning of this Part.

Summary
proceedings
for offences.
1370, 1919,
s. 16.

118. All proceedings in respect of offences against this Part shall be disposed of summarily.

PART VI.

PART VI.

GENERAL RULES TO BE OBSERVED BY TRAFFIC.

General
provisions
as to traffic.
Of U.K.
20 & 21
Geo. 5 c. 43,
ss. 1, 2.

Inserted by
2332, 1936,
s. 35, and
amended by
55, 1948,
s. 11.

119. (1) In this Part, unless the context otherwise requires—

“vehicle” includes motor vehicle as defined in Part II of this Act, vehicle propelled by animal power, bicycle, tricycle, and any other like vehicle propelled by human power, but except as provided in subsection (3) of this section, does not include a vehicle run on a tramway or railway line:

“animal” means horse, mule, ass, bullock, camel, or other beast used to draw or carry vehicles, loads, or human beings:

s. 119. LIPPETT v. ROBERTSON (1953) S.A.S.R. 13. Held that streets within Woomera Village were “roads” within the meaning of Part VI. See also the Prohibited Areas (Application of State Laws) Act, 1952.

“cross-over” means vehicular track which passes through the strip of land separating the carriage-ways of a double road and gives access from one carriage-way to the other, and includes any such track which is a continuation or part of a road adjoining a double road, but does not include any such track which is a continuation or part of a road intersecting a double road:

Inserted by
48, 1951,
s. 21.

“driver” means any person driving or riding a vehicle or animal and as regards a trailer means a person driving the vehicle by which the trailer is being drawn:

“left” means left reckoned by reference to the direction in or towards which the vehicle, animal, or person is proceeding or facing at the material time:

“road” includes every public road, street, terrace, thoroughfare, or other public place, and every private road or street commonly used by the public, or to which the public are permitted to have access:

“trailer” means any vehicle without motive power constructed or adapted or used for being drawn by another vehicle: Provided that a vehicle without motive power constructed and adapted for being drawn by a motor vehicle shall not be deemed a trailer, but shall be deemed part of the motor vehicle by which it is drawn if—

* * * * *

Para. (a)
repealed by
46, 1941,
s. 10.

(b) it is constructed for attachment to a motor vehicle by means of a turntable and king pin; and

(c) a substantial part of its weight and of the weight of its load rests upon the motor vehicle by which it is drawn.

(2) This Part does not apply to any stock travelling loose on a road.

(3) In sections 120, 121, 123, and 139 of this Act the word “vehicle” shall include a tramcar.

Inserted by
55, 1948,
s. 11 (b).

PART VI.

Careless driving.

U.K. 20 & 21
Geo. 5 c. 43,
s. 12.Inserted by
2332, 1936,
s. 35.

120. (1) If any person drives or rides any vehicle or animal or walks on a road without due care or attention or without reasonable consideration for other persons using the road he shall be guilty of an offence.

(2) If any person rides a bicycle on any road without having at least one hand upon the handle-bar in such a

s. 120. HUNT v. BOND (1930) S.A.S.R. 46; 12 Austr. Digest 285. Held, that a complaint alleging negligent driving, without giving particulars of the negligence, was sufficient.

WINTULICH v. LENTHALL (1932) S.A.S.R. 60. Held (under section 21 of the Motor Vehicles Act, 1921, which made it an offence to drive a motor car negligently, that the standard of care required was that which an ordinary prudent man would deem necessary in the circumstances presented to him, in order to avoid injury or damage to the person or property of others. Wilful or intentional negligence need not be proved.

NEALE v. WALSH (1932) S.A.S.R. 429. Any substantial breach of the ordinary duty to take care amounted to "driving negligently" within the meaning of section 21 of the Motor Vehicles Act, 1921.

KIERNAN v. PIERCE (1933) S.A.S.R. 137. Where the circumstances proved against a defendant proved to have been involved in a collision are such that he may be presumed to know why the collision occurred, and the only evidence before the court indicates that the other party was not blameworthy, the defendant must either explain why the collision occurred or submit to the conclusion that it occurred because he was driving negligently.

TAYLOR v. GEARY (1939) S.A.S.R. 89. Where the defendant, driving a motor vehicle, had collided with a horse-drawn vehicle emerging from a side-street and crossing over the road on which the defendant was travelling, and there was evidence to show that the defendant, had he been keeping a proper look-out, could have seen there was ample room to pass behind the other vehicle, held that he had been properly convicted under subsection (1) for driving without due care.

JOHNS v. SLBRY (1939) S.A.S.R. 133. Where a collision occurred between a motor vehicle driven by the defendant and a cycle, held that the dismissal of a complaint under subsection (1) for driving without due care could be supported upon the view that the defendant had been guilty of a mere error of judgment in the emergency created by the cyclist. The court should take into account the difficulty created by conditions of poor visibility.

DAYMAN v. SARIS (1939) S.A.S.R. 176. The negligence of a driver of a vehicle contributing to a collision with another vehicle is irrelevant on a charge under subsection (1) for driving without due care against the driver of the second vehicle.

VIRGO v. EL딩 (1939) S.A.S.R. 294. To constitute the offence of driving without due care, it is not necessary to show that the driver is driving without due regard to the safety of other users of the highway. Where a driver had fallen asleep at the wheel and his car had run off the road, held that he was properly convicted of driving without due care.

DAYMAN v. SARIS (1939) S.A.S.R. 445. Held, in the particular facts, that the driver of a vehicle drove without due care.

STEPHENS v. STEWART (1941) S.A.S.R. 24. Where a driver of a vehicle turned his vehicle for the purpose of proceeding in the opposite direction, held out his hand to signal the turn, but did not look for traffic whilst on the turn, held that he drove without due care.

DAYMAN v. GILL (1941) S.A.S.R. 208. Where a driver of a vehicle turned across a street and his explanation was accepted that when he commenced his turn approaching vehicles were at a distance which made it appear safe to cross in front of them, held that the dismissal of the complaint should not be disturbed.

FRASER v. DAYMAN (1942) S.A.S.R. 5. Where a motor car stopped at about twenty feet from the kerb and a motor omnibus overtook and ran down the motor car, held that, notwithstanding the unexpected place where the motor car was stopped, the driver of the omnibus had driven without due care.

HOWE v. DAYMAN (1943) S.A.S.R. 20. There is no general rule that a driver is guilty of driving without due care if he makes a right hand turn in a busy thoroughfare without looking behind him to see whether there is any risk of collision with a following vehicle.

MILKINS v. ROBERTS (1949) S.A.S.R. 251. Nature of the offence of driving or riding a vehicle or animal without due care or attention considered.

position as to have adequate control of the steering of the bicycle he shall be guilty of an offence.

121. (1) If any person drives or rides any vehicle or animal on a road recklessly or at a speed or in a manner which is dangerous to the public he shall be guilty of an offence and liable to a fine for a first offence of not less than ten pounds and not more than fifty pounds, and for any subsequent offence of not less than fifty pounds and not more than one hundred pounds, and may for any subsequent offence be imprisoned for any term not exceeding three months.

Reckless driving.
U.K. 20 & 21
Geo. 5 c. 43,
s. 11;
24 & 25
Geo. 5 c. 50,
ss. 4, 5.
Inserted by
2332, 1936,
s. 35.

(2) In considering whether an offence has been committed under this section the court shall have regard to all the circumstances of the case including the nature, condition and use of the road upon which the offence is alleged to have been committed, and to the amount of traffic which at the time actually is or which might reasonably be expected to be upon that road.

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,

Driving horse-drawn and other vehicles while drunk.
Inserted by
35, 1943,
s. 20.

- s. 121. **MOORE v. THE KING** (1926) S.A.S.R. 52; 5 Austn. Digest 280; affirmed by **MOORE v. THE KING** (1926) 39 C.L.R. 602. *Semble*, that if the accused (although not guilty of criminal negligence) had committed the offence of negligent or dangerous driving, and thereby killed a person, he could not make out the defence of homicide by misadventure.
- KELLY v. WALSH** (1929) S.A.S.R. 481. On a charge of dangerous driving it is not necessary to show that the safety of any particular person was endangered. It is enough if there is some substantial possibility of injury to persons who might reasonably be expected to come upon a road. Conviction quashed where the defendant had not endangered any person and the court was of opinion that there was no potentiality of mischief to the public in the circumstances.
- BARNETT v. WALSH** (1934) S.A.S.R. 303 Where the defendant and another person, through an error of judgment, endangered each other's safety, but not that of the public, held that the defendant was not guilty of dangerous driving.
- KELDOULIS v. FRENCH** (1935) S.A.S.R. 192. An attempt to pass between stationary motor cars held to be dangerous driving.
- THOMPSON v. COPELAND** (1936) S.A.S.R. 45. Held, that "recklessness" implies that the possible consequences of his act are adverted to by the actor, but he is indifferent whether they occur or not.
- BOND v. COCKS** (1938) S.A.S.R. 14. Circumstances which would justify a reduction of penalty under section 75 of the Justices Act, 1921, discussed.
- DANKEL v. BOND** (1938) S.A.S.R. 45. Where evidence was given that the defendant (who collided with a woman) drove in a normal manner and at a reasonable speed and that he was not drunk but to some extent under the influence of liquor, and it was inferred he did not keep a proper look-out, held that a conviction for driving in a manner dangerous to the public could not be supported.
- SMITH v. DAYMAN. DAYMAN v. THOMSON** (1938) S.A.S.R. 477. The condition of the vehicle being driven is part of the manner of driving.

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.

(3) For the purposes of subsection (1) of this section a person shall be deemed to be incapable of exercising effective control of a vehicle or animal if, at the relevant time, owing to the influence of intoxicating liquor or a drug, the use of any mental or physical faculty of that person was lost or appreciably impaired. This subsection shall not be deemed to restrict the meaning of the words "incapable of exercising effective control of a vehicle".

Inserted by
55, 1948,
s. 12.

122. (1) If any person crosses or attempts to cross or rides or drives or attempts to ride or drive any vehicle or animal across any line of railway elsewhere than at an authorized crossing place he shall be guilty of an offence.

Crossing
railways at
unauthorized
places.
Inserted by
2332, 1936,
s. 35.

(2) If any person crosses or attempts to cross or rides or drives or attempts to ride or drive any vehicle or animal across any line of railway at an authorized crossing place—

- (a) carelessly; or
- (b) in such a manner or at such a time as to give rise to the possibility of a collision between that person, vehicle or animal and any train or vehicle which is using the railway at or in the vicinity of the crossing place; or

s. 122. BOND v. CLARKE (1938) S.A.S.R. 55. It is unnecessary to prove *mens rea* to establish an offence.

FLINT v. BARBER (1944) S.A.S.R. 49. It is not necessary that a complaint under paragraph (b) of subsection (2) charging a driver with attempting to drive a motor vehicle across a railway line when there was a possibility of a collision with a train should contain a direct and specific allegation that the defendant was the driver of the vehicle.

- (c) when warned not to do so by an employee of the Railways Commissioner; or
- (d) when any mechanical or electrical or other warning device at or in the vicinity of the crossing is operating,

he shall be guilty of an offence.

(3) Subsection (1) of this section shall not apply to any part of the State not comprised within a municipality or a district council district.

Inserted by 2416, 1938, s. 33.

123. (1) If any person driving or riding or in charge of any vehicle or animal or walking on any road—

Obedience to police directions and traffic signs.

- (a) fails to obey any reasonable direction of any member of the police force given for the purpose of regulating traffic; or
- (b) fails to conform to the indication given by any sign lawfully placed on or near any road for regulating the movement of traffic or indicating the route to be followed by traffic,

Of. U.K. 20 & 21, Geo. 5 c. 43, ss. 20, (3), 49.

Inserted by 2332, 1936, s. 35.

he shall be guilty of an offence.

(2) A traffic sign placed at or near an intersection and showing a light signal shall be deemed to indicate the following rules to be observed by the drivers and riders of vehicles and animals:—

Inserted by 20, 1944, s. 10, and amended by 37, 1953, s. 14.

- (a) While a red, amber, amber-with-red, or amber-with-green signal is being shown, a person shall not drive or ride a vehicle or animal across the stop line in the direction of the signal, except as allowed in paragraph (c) of this subsection.
- (b) While a green signal is being shown a person may drive or ride a vehicle or animal across the stop line in the direction of the signal, and having done so may, notwithstanding a change in the colour of the signal, complete the crossing of the intersection in the direction of the signal, or may, irrespective of the colour of the signal shown on the right or left, turn and proceed to the right or left, but in so turning and proceeding shall take precautions to avoid collision with any pedestrian within the intersection.
- (c) If, when the signal changes from green to amber or amber-with-green, a vehicle or animal proceeding in the direction of the signal is so close to the stop line that it cannot safely be stopped before crossing that line, a person may drive or ride the

Road Traffic Act, 1934-1954.

vehicle or animal across the stop line in the direction of the signal, and having done so may, notwithstanding a change in the colour of the signal, complete the crossing of the intersection in the direction of the signal, or may, irrespective of the colour of the signal shown on the right or left, turn and proceed to the right or left, but in so turning and proceeding shall take precautions to avoid collision with any pedestrian within the intersection.

Inserted by
20, 1944,
s. 10.

(3) A traffic sign placed at or near an intersection and showing a light signal shall be deemed to indicate the following rules for pedestrians:—

- (a) While the red, amber, amber-with-red, or amber-with-green signal is showing a pedestrian must not proceed in the direction of the signal, beyond the edge of the footpath on the side of the road opposite to the signal.
- (b) While the green signal is showing a pedestrian proceeding in the direction of the signal may commence to cross the intersection and having so commenced may, notwithstanding a change in the colour of the signal, complete such crossing except as provided in paragraph (c) of this subsection.
- (c) If, while a pedestrian is on the carriage-way the amber or amber-with-green signal appears, and there is a safety zone between the pedestrian and the signal towards which he is proceeding, he shall not proceed beyond the safety zone until the green signal is shown.

Inserted by
20, 1944,
s. 10.

(4) For the purposes of this section a person shall be deemed to be proceeding in the direction of a signal and a vehicle or animal shall be deemed to be driven or ridden in the direction of a signal if, within the intersection, the person proceeds or the vehicle or animal is driven or ridden towards the side or the prolongation of the side of the intersection from which the signal is shown.

Inserted by
55, 1948,
s. 13.

(4a) Notwithstanding the other provisions of this section a tramcar may, while an amber light is showing—

- (a) be driven over the stop line for the purpose of turning; and
- (b) complete a turn.

Inserted by
20, 1944,
s. 10.

(5) Where the indication given by a light signal is inconsistent with a reasonable direction given by a member of

the police force for the purpose of regulating traffic, the direction shall prevail.

(6) In this section—

Inserted by
20, 1944,
s. 10.

“intersection” means—

(a) the quadrilateral or other area comprised within straight lines joining the corners formed by the intersection of two or more roads; and

(b) every part of a road which is within twenty feet of any such quadrilateral or area:

“stop line” means, in relation to any signal, a line marked with studs, paint or other material on the road in such a position as to indicate a stopping place for vehicular traffic approaching the intersection from the side opposite the signal:

“safety zone” means a space on a road indicated as a safety zone by the words “safety zone” marked on the surface of the road or on a sign.

124. If any person riding or driving any vehicle or animal upon any road—

Duty to keep
vehicles and
animals to
the left.

(a) does not keep as near as practicable to his left hand side of that road; or

Inserted by
2332, 1936,
s. 35.

(b) when meeting any other vehicle or animal going in the opposite direction, does not pass on his left hand side of that other vehicle or animal,

he shall be guilty of an offence.

125. If any person leaves any vehicle or animal stationary on the carriage-way of any road, and not being drawn in as near as practicable to the left hand side of the road, he shall be guilty of an offence.

Duty to keep
stationary
vehicle on
left of road.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 50.

Inserted by
2332, 1936,
s. 35.

s. 124. *DUNN v. BEEVOR* (1937) S.A.S.R. 386. Held that the regulation which required vehicles to keep close to the left of the road was not directed to the safety of vehicles emerging from by-streets.

WILLIAMS v. STEWART (1944) S.A.S.R. 254. *Quaere*, whether the word “practicable” is to be interpreted subjectively or objectively.

s. 125. *RUDALL AND OTHERS v. DEACON AND OTHERS* (1943) S.A.S.R. 271. Appeal to the High Court dismissed (1943) 67 C.L.R. 641 (note); (1943) S.A.S.R. xxiii. (note). Section 125 is a remedial section and should receive a liberal construction pursuant to section 22 of the Acts Interpretation Act. Meaning of “as near as practicable” discussed.

O’SULLIVAN v. BARTON (1947) S.A.S.R. 4. Where a taxi driver was hailed by three pedestrians and stopped his vehicle but kept his engine running and when about to move off a motor cycle collided with the rear of his taxi, held that he had not left his vehicle stationary on the carriage-way within the meaning of section 125.

PART VI.

Overtaking
vehicles and
animals.

Inserted by
2332, 1936,
s. 35, and
substituted
by 29, 1950,
s. 7.

126. (1) The rider or driver of any vehicle or animal on any road when passing any other vehicle or animal going in the same direction shall—

- (a) if the driver or rider of that other vehicle or animal has signalled his intention to turn to the right keep on his left hand side of that other vehicle or animal;
- (b) in any other case keep on his right hand side of that other vehicle or animal.

(2) Any person contravening this section shall be guilty of an offence.

Overtaking
tram cars.

Inserted by
2332, 1936,
s. 35.

127. If any person riding or driving any vehicle or animal does not, when passing any tram car travelling or about to travel in the same direction, keep on his left hand side of the tram car, he shall be guilty of an offence: Provided that if the tramway line is laid so near the left hand side of the road as not to permit the free passage of the animal or vehicle on the left of the tram car, or if owing to any obstruction in the road, it is not practicable to pass on the left of the tram car, the animal or vehicle may lawfully be ridden or driven on the right of the tram car.

Mode of
making right
turns.

Inserted by
29, 1950, s. 8.

127a. (1) Notwithstanding sections 124, 125, and 126 of this Act, where the driver of a vehicle is about to turn his vehicle to the right from one road to another at an intersection or junction—

- (a) he shall, except where the road which he is about to leave is a one-way traffic road, so drive his vehicle that when it reaches the intersection or junction it will be as near as practicable to, but on the left of, the centre of the carriage-way of that road:
- (b) he shall, where the road which he is about to leave is a one-way traffic road, so drive his vehicle that when it reaches the intersection or junction it will be as near as practicable to the right hand boundary of the carriage-way of that road; and
- (c) in every case he shall upon entering the intersection or junction drive his vehicle parallel with the left boundary of the carriage-way of the road which he is leaving until it is as near as practicable to the left boundary of the carriage-way of the road which he is entering;

s. 127a. REED v. THOMPSON (1952) S.A.S.R. 242. Held that section 127a is applicable whether the vehicle with which the collision might occur is approaching or overtaking the vehicle which is about to turn to the right.

(d) if there is upon or near any portion of the intersection or junction any vehicle or any animal with which his vehicle if turned to the right might collide, he shall cause his vehicle to stand until it may turn with safety;

(e) in turning to the right at an intersection where a traffic sign with light signals is erected, shall take precautions to avoid collision with any pedestrian within the intersection.

Inserted by
37, 1953,
s. 15.

(2) Notwithstanding subsection (1) of this section the driver of a vehicle who is about to turn or who turns the vehicle to his right at an intersection or junction shall not drive the vehicle in a position where it is likely to obstruct the progress of any tram car nor allow the vehicle to stand in any such position.

(3) Where the driver of a vehicle turns his vehicle to the right from one road into another at an intersection or junction—

(a) if a traffic dome or beacon is placed at or near the centre of the intersection or junction he shall drive his vehicle so as to keep such dome or beacon on his right;

(b) he shall in all circumstances take adequate precautions to prevent his vehicle from colliding with any obstruction which may be upon any portion of the intersection or junction.

(3a) A turn to the right from a carriage-way of a double road (whether such turn is made into a cross-over or into an intersecting road) shall be made as if that carriage-way were a one-way traffic road.

Inserted by
48, 1951,
s. 22 (a).

The other subsections of this section shall apply to such a turn; and in those subsections the expression "one-way traffic road" shall include the carriage-way of a double road and the word "junction" shall include the junction formed by a cross-over and the carriage-way of a double road.

(4) This section shall also apply to riders of animals and to the animals ridden by them and for that purpose the expression "driver of a vehicle" and the word "driver" shall be deemed to include a rider of an animal, and the word "vehicle" shall be deemed to include an animal.

(5) This section shall not affect any duty imposed on any person by section 131 of this Act.

Inserted by
48, 1951,
s. 22 (b).

128. (1) If any person walking on the carriage-way of a road parallel with the line of the traffic thereon, does not keep as near as practicable to his right hand side of that carriage-way, he shall be guilty of an offence.

Pedestrians
on road to
face traffic.

Inserted by
2332, 1936,
s. 35.

PART VI.

Inserted by
2416, 1938,
s. 34, and
repealed and
re-enacted by
46, 1941,
s. 11.

(1a) Subsection (1) of this section shall not apply to—

(a) a person walking on the carriage-way of a road if he is drawing or pushing any vehicle, or leading any animal:

(b) any persons marching on the carriage-way of a road in a column or other regular formation;
but section 124 of this Act shall apply to all such persons.

Inserted by
2416, 1938,
s. 34.

(1b) If any person riding or driving any vehicle or animal upon any road, does not, when passing any pedestrian who is proceeding towards him on the same side of the road, keep on his right hand side of that pedestrian, he shall be guilty of an offence.

(2) This section shall not restrict the operation of any Act, regulation, or by-law which regulates walking upon roads.

Overtaking
other vehicles.
Inserted by
2332, 1936,
s. 35.

129. If any driver of a vehicle on any road commences to overtake any vehicle proceeding in the same direction, and if the road is not then clearly visible to the driver of the overtaking vehicle, or is not clear of traffic in front of the vehicle which is being overtaken, for a sufficient distance to enable the overtaking vehicle to completely pass the other vehicle without impeding the free passage or endangering the safety of traffic on that road, the driver of the overtaking vehicle shall be guilty of an offence.

Warning by
driver of
overtaking
vehicle.
Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 59 (1) (b).
Inserted by
2332, 1936,
s. 35.

130. (1) If any driver of a motor vehicle, before overtaking another vehicle, signals by use of the warning instrument his desire to pass that other vehicle, thereupon the driver of that other vehicle shall move to his left, if the movement is possible with safety, so as to allow the overtaking vehicle a reasonable space in which to pass.

(2) After the signal has been given, the driver of the vehicle being overtaken shall not increase his speed until the overtaking vehicle has had a reasonable opportunity to pass and draw clear of the overtaken vehicle.

(3) If any person contravenes this section in any way, he shall be guilty of an offence.

s. 128. *CORRELL v. THOMAS* (1939) S.A.S.R. 39. The primary distinction intended by subsection (1) is between carriage-way and footway, and if there is no part of the road apparently reserved for walking or some other special purpose, so much of the whole road as is practicable for vehicular traffic is a carriage-way.

DELLAMINA v. GIBBS (1940) S.A.S.R. 282. A "carriage-way" includes any part of the highway which is commonly and reasonably used by vehicles.

s. 129. *BLUNDERFIELD v. MATES AND OTHERS* (1942) S.A.S.R. 1, appeal to the High Court dismissed, 66 C.L.R. 669 (note). Observations on section 129.

130a. (1) The Commissioner of Police or any municipal or district council with the approval of the Commissioner of Police, may erect or cause to be erected at any place on any road, a sign containing in clearly legible letters of the size prescribed by regulation the word "Stop".

Stop signs.
Inserted by
2416, 1938,
s. 35, and
repealed and
re-enacted by
61, 1940, s. 8.

(2) The Commissioner of Police shall, at least one month before the erection of any such sign or, as the case may be, giving his approval to such erection, publish in the *Gazette* a notice of his intention to erect such sign or approve the erection thereof. The notice shall specify the type of sign proposed to be erected or approved and the place where it is to be erected.

(3) Any person objecting to the erection of any such sign may within one month after the publication of the notice in the *Gazette* give the Minister written notice of his objection and of the grounds thereof and the Minister may thereupon either prohibit or approve the erection of the sign, or may approve the erection of the sign subject to any conditions, and the Minister's decision shall be final.

(4) When any such sign is erected at any intersection or junction the driver or rider of a vehicle or animal approaching the intersection or junction from the direction in which the sign is facing shall before entering the intersection or junction stop his vehicle or animal.

Amended by
37, 1953,
s. 16 (a).

(5) Section 131 of this Act shall apply in relation to vehicles and animals approaching an intersection or junction at which a sign is erected under this section and notwithstanding the stopping of any such vehicle or animal pursuant to this section.

Substituted
by 37, 1953,
s. 16 (b).

s. 130a. *PAGET v. STEWART* (1941) S.A.S.R. 148. *Seemle*, "The road on both sides" of the intersection refers to so much of the road intersecting the road on which the stop sign is erected as lies on either side of the medial line of the last mentioned road; and it would be an offence to enter the intersection while there was a vehicle travelling along the intersecting road and *a fortiori* if that vehicle had entered the quadrilateral formed by the intersection.

SMALLACOMBE v. DAY (1943) S.A.S.R. 368. Where the appellant had approached a stop sign and failed to see a motor car approaching along the road into which he was converging, held that the appellant was guilty of an offence and it was immaterial whether the driver of the motor car had or had not been guilty of negligence.

SMITH AND OTHERS v. DYER AND WILSON (1949) S.A.S.R. 187. The presence of a stop sign at an intersection does not relieve the driver who has the right of way from the duty of exercising vigilance with reference to possible traffic emerging from the intersecting road, and he is not entitled to assume that he may safely drive across the intersection without looking to see if there is any such traffic.

HINE v. O'CONNOR AND CHAMBERS AND THE FIRE BRIGADES BOARD (1951) S.A.S.R. 1. The presence of a stop sign at an intersection does not relieve the driver who has the right of way from the duty of exercising care with reference to possible traffic emerging from the intersecting road, and he must maintain a proper lookout for such traffic.

(6) When any such sign is erected elsewhere than at an intersection or junction the driver or rider of any vehicle or animal approaching the sign from the direction in which it is facing shall stop his vehicle or animal before any part thereof passes the sign.

(7) Subsections (4) and (6) of this section shall not apply if at the intersection, junction, or place where the sign is erected the traffic was at the material time being controlled by a member of the police force or some other authorized person.

(8) If any person fails to comply with any requirement of subsection (4) or subsection (6) of this section he shall be guilty of an offence.

(9) The Commissioner of Highways shall, at the request of the Commissioner of Police, provide and erect on behalf of the Commissioner of Police any signs which the Commissioner of Police desires to erect under this section.

The cost of all signs so erected shall be defrayed from the moneys appropriated by Parliament for main roads.

(10) Any sign containing the word "Stop" in clearly legible letters of the size prescribed by regulation and erected before the passing of the Road Traffic Act Amendment Act, 1940, shall be deemed to be a sign erected under this section.

(10a) The Commissioner of Police may cause any sign erected under this section to be removed.

(11) In this section—

"intersection" means the quadrilateral or other area comprised within straight lines joining the corners formed by the intersection of two or more roads:

"junction" means that part of a road which is comprised between the lines formed by the production of the alignments of another road which abuts on the first-mentioned road.

Inserted by 37, 1953, s. 16 (c).

Subsec. (12) inserted by 29, 1950, s. 9, and repealed by 37, 1953, s. 16 (d).

* * * * *

Stop signs at railway crossings. Inserted by 2416, 1938, s. 35, and amended by 11, 1952, s. 7.

130b. (1) The South Australian Railways Commissioner may at or near any level crossing erect signs clearly visible to traffic on the road approaching the crossing and containing in clearly legible letters of the size prescribed by regulation the word "Stop".

(2) The rider or driver of any vehicle or animal approaching a level crossing at or near which any such sign is erected, from the direction in which the sign is facing—

Substituted by 45, 1939, s. 24.

(a) shall stop his vehicle or animal at least ten yards from the railway line:

(b) if, while the vehicle or animal is so stopped, any mechanical or electrical or other warning device in the vicinity of the crossing is operating, shall not put the vehicle or animal in motion again until the warning device has ceased operating.

(2a) Any person approaching on foot a level crossing at or near which any such sign is erected, from the direction in which the sign is facing—

Inserted by 45, 1939, s. 24.

(a) shall stop at least ten yards from the railway line:

(b) if, while he is stationary, any mechanical or electrical or other warning device in the vicinity of the crossing is operating, shall not move forward until the warning device has ceased operating.

(2b) If any person fails to comply with subsection (2) or subsection (2a) of this section in any respect he shall be guilty of an offence.

Inserted by 45, 1939, s. 24.

(2c) Nothing in this section shall effect the obligation of any person to comply with any other provision of this Act relating to railway crossings.

Inserted by 45, 1939, s. 24.

(3) In this section “level crossing” means a place at which a road and a railway cross each other at the same level.

130c. (1) The Commissioner of Highways may mark on any part of any road a line for the purpose of indicating the division of the carriage-way of that road into traffic lanes. Every such line shall be of the colour and width fixed by the Commissioner and may be either a single or a double line, and the whole or any part of any line may be broken or unbroken.

Traffic lanes. Inserted by 2416, 1938, s. 35, and substituted by 48, 1951, s. 23.

(2) Where the carriage-way of a road is divided into traffic lanes by a double line consisting of two unbroken lines placed at or near the centre of such carriage-way the driver or rider of a vehicle or animal shall keep the whole of the vehicle or animal on the left hand side of such line.

(3) Where the carriage-way is divided into traffic lanes by a double line consisting of one broken and one unbroken line placed at or near the centre of the carriage-way the driver

s. 130c. SANDERS v. LITSTER (1947) S.A.S.R. 21. A moving vehicle is not an “obstruction” within the meaning of section 130c.

or rider of a vehicle or animal shall keep the whole of that vehicle or animal on the left hand side of the double line when he is travelling in such a direction that the unbroken line is on the left hand side of the broken line.

(4) The allegation in a complaint that a line was marked on any road by the Commissioner of Highways for the purpose of indicating the division of the carriage-way into traffic lanes shall be *prima facie* evidence of that fact.

(5) For the purpose of this section any bridge used for vehicular traffic shall be deemed to be part of a road.

(6) If a person contravenes this section in any way he shall be guilty of an offence: Provided that it shall be a defence to a charge of contravening this section if the defendant proves that the contravention was necessary in order to avoid an accident or owing to an obstruction on the road.

Speed limits
on bridges.
Inserted by
55, 1948,
s. 15.

130d. (1) The Commissioner of Police may—

- (a) cause to be erected in accordance with this section, signs indicating a speed limit for vehicles crossing any bridge;
- (b) cause any signs erected under this section to be removed.

(2) The powers conferred on the Commissioner of Police by this section may be exercised either of his own motion or on the application of the municipal or district council in whose area the bridge is situated.

(3) If the Commissioner of Police refuses an application made to him by a council under this section the council may appeal to the Minister against the decision of the Commissioner.

When an appeal is so made the Minister after obtaining such information as he thinks fit shall decide the matter and his decision shall be final.

(4) The speed limit for a bridge shall be indicated by two signs. One shall be placed at or near each abutment of the bridge, or on the approach to the bridge within two hundred yards of each abutment.

(5) A sign erected under this section shall—

- (a) have marked thereon figures showing the miles per hour of the speed limit intended to be fixed thereby, followed by the letters m.p.h.;

(b) be of such size and shape and be erected in such manner as the Commissioner of Police determines.

(6) A person who drives a vehicle on a bridge at a speed in excess of that indicated by the signs erected on that bridge or the approaches thereof pursuant to this section shall be guilty of an offence.

(7) The allegation in a complaint that any signs are erected pursuant to this section shall be *prima facie* evidence of that fact.

(8) The Commissioner of Highways shall at the request of the Commissioner of Police provide and erect on behalf of the Commissioner of Police any signs which the Commissioner of Police desires to erect under this section.

131. (1) When two vehicles are approaching the junction or intersection of two or more roads in such circumstances that there is a reasonable possibility that they might arrive at the same point simultaneously, or that a dangerous situation might otherwise be created, the rider or driver of the vehicle who has the other vehicle on his right shall either decrease the speed of his vehicle to such an extent, or stop his vehicle for such time, as is necessary to allow the vehicle

Right of way at points where roads meet.
Inserted by 2332, 1936, s. 35.

s. 131. THE MUNICIPAL TRAMWAYS TRUST v. AUSTIN (1930) S.A.S.R. 81. In civil proceedings the onus of proving a breach of section 131 and of negating the proviso to section 131 (1) is on the party who alleges the breach.

MORRIS v. PFUHL (1932) S.A.S.R. 78. Section 131 does not apply to two vehicles approaching an intersection from the same direction along the same road.

RECHNER v. PALMER (1934) S.A.S.R. 409. Held as regards regulation 6A (which section 131 follows, with alterations):—(a) Regulation 6A did not apply only when the driver having the other vehicle on his right could see or was otherwise made aware of the approaching vehicle before he reached the intersection: (b) the area to which the regulation applied included not only the quadrilateral of the intersection but the immediate neighbourhood: (c) regulation 6A did not lessen the obligation of a person who was about to drive out of a by-street into a main thoroughfare.

SUTER v. RUEDIGER AND ANOTHER (1936) S.A.S.R. 130. Held that the driver of a vehicle is entitled to assume that other drivers will observe the regulation applicable to traffic at an intersection, but is not entitled to disregard the possibility of traffic approaching from the left.

RAKE v. ADELAIDE CO-OPERATIVE SOCIETY LIMITED (1937) S.A.S.R. 281. Where two roads running northerly came together in the form of a V at the point of junction with a main road running north-east, held, under the regulation relating to traffic at intersections, that the junction of the two roads was an intersection within the meaning of the regulation. Held also that, in applying the regulation, allowance must be made for the nature of the intersection.

DREW v. GLEESON (1937) S.A.S.R. 380. Where a vehicle is already on a junction the driver does not, by altering his course, acquire a right-of-way as against the driver of another vehicle who is continuing his course and thus crossing the junction. Subsection (1) gives a right to continue a course, not to alter it across that of another vehicle. Meaning of "junction" examined.

DUNN v. BEEVOR (1937) S.A.S.R. 386. Held under the regulation relating to traffic at intersections that an intersection is a place where two or more ways cross each other and that the regulation made no provision for a by-road which merely meets or enters a main thoroughfare without anything in the nature of a crossing.

on his right to continue on its course in front of his vehicle without change of speed: Provided that a person shall not be convicted for failure to comply with this section, if it appears to the court that he was not aware, and could not, by exercising reasonable care, have become aware, of the approach of the other vehicle.

- s. 131. **PEARCE v. BOURKE** (1937) S.A.S.R. 404. Where justices, prior to the hearing, visited the intersection for the purposes of refreshing their memories and qualifying themselves to follow the evidence, but it did not appear that they used their own knowledge to correct or supplement the evidence, held that this did not constitute a ground of objection to the proceedings.
- ELLIS v. HOEPNER AND ANOTHER** (1937) S.A.S.R. 461. Observations as to the application of the regulation relating to traffic at intersections.
- BOND v. HOLLOWAY** (1938) S.A.S.R. 41. A driver of a motor vehicle on approaching an intersection is not entitled to ignore the risk that another driver will cross over the intersection at a speed beyond that allowed by law.
- BOURKE v. SMITH** (1938) S.A.S.R. 74. The driver of a vehicle, approaching an intersection when another vehicle is approaching from his right, is not entitled to assume that the other vehicle will alter its course or speed. The speed or course of the other vehicle may become relevant when it becomes necessary to consider whether the defendant's ignorance of its approach was consistent with due care on his part. There is no rule of law which requires a driver to approach an intersection at a speed which enables him to see whether any other vehicle is approaching from his right; the circumstances of each case must be taken into consideration (but see section 130a enacted since this decision).
- HART v. BRATCHELL** (1938) S.A.S.R. 141. Where two roads intersect by reason of one road curving towards and meeting the other, section 131 applies. It does not necessarily follow that, because a person commits a breach of section 131, the breach confers upon a party injured thereby a civil cause of action for damage. Where section 131 applies, there is an implied duty on the part of the person entitled to proceed to continue on his course without change of speed, unless and until some other course of conduct, being possible, becomes prudent, proper, and imperative in the interests of safety and to avoid a collision.
- BARRINGTON v. POWER** (1938) S.A.S.R. 321. Where the driver of a motor vehicle approaching a junction became aware of the approach of another vehicle on his right, held that the proviso to subsection (1) did not apply.
- SMITH v. MAY** (1938) S.A.S.R. 410. In an action for negligence arising out of the death of a person who failed to give way as required by section 131, held that the onus of showing that the defendant could have avoided the collision, if he had acted reasonably, was upon the plaintiff.
- MADDERN v. DAYMAN** (1939) S.A.S.R. 12. The course of an oncoming vehicle having the right of the road at an intersection is not necessarily a straight line as a divergence from this course may be necessary. The driver of the vehicle whose duty it is to stop or slacken must so manage his vehicle that no act or omission on his part constrains the driver of the vehicle having the right to the road to deviate from his course. The degree of care reasonable to be taken in the circumstances of a given case by the driver of a vehicle under the obligation to stop or slacken speed will be the greater the more hindrances there are to his getting a clear view of the traffic approaching along an intersecting street.
- DAYMAN v. DARWIN** (1939) S.A.S.R. 29. The degree of error of judgment that can render it inexpedient to inflict any punishment when there has been any infringement of the rule laid down by subsection (1) should be very slight.
- TAYLOR v. GEARY** (1939) S.A.S.R. 89. Subsection (1) does not mean that a slow moving vehicle cannot enter upon an intersection so long as any fast moving vehicle is approaching at a speed which might create a situation of danger if maintained without alteration. If the circumstances are such that the approaching vehicle must of necessity have ample notice and opportunity to slacken speed, the driver of the slow moving vehicle may be justified in assuming that it will do so and that no situation of danger will be created.
- DAYMAN v. SARIS** (1939) S.A.S.R. 445. A driver of a vehicle does not comply with the section if he so drives as to suggest that he does not intend to give way.

(2) When a vehicle and a tram car are approaching the junction or intersection of two or more roads in such circumstances that there is a reasonable possibility that they might arrive at the same point simultaneously, or that a dangerous situation might otherwise be created, the rider or driver of the vehicle shall either decrease the speed of his vehicle to such an extent, or stop his vehicle for such time, as is necessary to allow the tram car to pass in front of his vehicle without change of speed.

- s. 131. *VIRGO v. FIDDAMAN* (1940) S.A.S.R. 17. If a defendant is driving at a reasonable speed along a main road and sounds his horn when approaching an intersection, he is not bound to stop at every blind corner upon the bare chance of another vehicle ignoring his horn and emerging upon the main road without answering. (*contd.*)
- MATTHEW v. FLOOD* (1940) S.A.S.R. 48. *Seemle*, an unmade road is sufficiently a road for the locality to be a junction within the meaning of section 131.
- BOWDEN v. PETHERICK* (1940) S.A.S.R. 90. Where a cyclist was riding along a street and the driver of a motor car proceeding in the opposite direction along the same street turned into another street at right angles to the first street so that each vehicle had the other on its right, held that section 131 did not apply.
- PETERS v. BECK* (1940) S.A.S.R. 204. Where a cyclist crossing an intersection at slow speed was struck by a motor vehicle, the driver of which thought, without justification, that the cyclist intended to turn to the left, that is, in the same direction as the motor vehicle was proceeding, held that a breach of section 131 had been committed.
- SKINNER v. DAY* (1941) S.A.S.R. 19. The provisions of section 131 are applicable not only to an intersection but also to a junction of roads.
- DAYMAN v. BLEWETT* (1941) S.A.S.R. 32. To escape liability for failure to give way to the vehicle on the right, the person charged must establish on the balance of probabilities that he was not aware, and could not, by exercising reasonable care, have become aware of the approach of the other vehicle. The awareness referred to in the proviso to subsection (1) is of the approach to the intersection and not of the situation of the two vehicles at the time when the approach is over and the intersection is reached or is being crossed. The duty to become aware is directed to the same time.
- SWANN v. THOMPSON* (1941) S.A.S.R. 150. Where a collision occurred at an intersection where the plaintiff was travelling at an excessive speed and the defendant failed to give way, held that the plaintiff was guilty of contributory negligence and the action failed.
- DAYMAN v. TISHER* (1941) S.A.S.R. 205. Section 131 is directed to the regulation of crossing and converging lines of traffic.
- DAYMAN v. WILCKENS* (1942) S.A.S.R. 88. Section 131 requires the driver of a vehicle having an approaching vehicle on the right so to act that the driver of the approaching vehicle can maintain his course and speed, and it is no defence to a complaint under the section that the driver of a motor vehicle is approaching and crossing over an intersection at a slow speed and fails to give way to a vehicle approaching at a fast speed from his right.
- PARKER v. DAYMAN* (1943) S.A.S.R. 326. A driver with the right-of-way is to be expected to maintain his course and speed when crossing an intersection unless there is something in the circumstances existing at the time that might reasonably demand a change in either. *Seemle*, a substantial change of speed by the driver having the right of way while crossing the intersection from that at which the vehicle is travelling when approaching would seem to relieve the other driver from liability under the section, assuming that otherwise there would have been no reasonable possibility of danger.
- SLATER v. DAY* (1946) S.A.S.R. 146. Duty of driver having another vehicle on his right discussed.
- BORN v. O'SULLIVAN* (1947) S.A.S.R. 121. A tramway thoroughfare and viaduct, used by tram cars and pedestrians but not by public vehicular traffic is not a "road" within the meaning of section 131.

PART VI.

Amended by
61, 1940, s. 9.

(3) This section shall not apply if at the junction or intersection the traffic was at the material time being controlled by a member of the police force or some other authorized person, or by any system of lights.

(4) Subsection (1) and subsection (2) of this section shall each be deemed to create a single offence, and no objection shall be taken on the ground of duplicity or uncertainty to a complaint under either subsection alleging that, in the circumstances mentioned in the subsection, the defendant "did not decrease the speed of his vehicle to such an extent or stop his vehicle for such time" as is required by the subsection.

S. 131. ROBINSON v. CREASER (1948) S.A.S.R. 47. Held: (1) Where vehicles collide within a junction or intersection, having been visible to each other on their approach, and having maintained their respective courses and speeds, the impact affords cogent proof that the relationship of the vehicles to each other and to the junction or intersection was one to which subsection (1) applies. (2) Where the situation postulated in subsection (1) arises, an unqualified duty is imposed on the driver who has the other vehicle on his right to decrease his speed or stop to allow the other vehicle to continue on its course; and the existence of the duty is not negatived by showing that the other driver was negligent. (3) A driver approaching a junction or intersection is relieved by subsection (1) from maintaining a continuous lookout for the actions of drivers approaching a junction or intersection on his left; and his failure to look during the approach or when traversing the junction or intersection will not amount to negligence. If he has received some actual warning of the creation of a situation of danger by the approach of another vehicle from his left hand side, and unreasonably fails to act to prevent a collision, which he has had an opportunity of preventing, he may be guilty of negligence; but the onus is on the other party to prove these facts.

BAKER v. O'SULLIVAN (1949) S.A.S.R. 127. The driver of a vehicle who has another vehicle on his right at a junction or intersection is not relieved from the liability to give way by stopping his vehicle at the boundary of the junction or intersection, and then starting again to cross the junction or intersection.

O'SULLIVAN v. SARIS (1950) S.A.S.R. 127. Where a road bifurcated at an intersection, held that it was the duty of the driver of a vehicle entering the intersection to give way to another vehicle on his right.

MOSS v. CAMPBELL (1951) S.A.S.R. 255. Where two motor vehicles approach an intersection and the driver of the stand-on vehicle stops before entering the intersection for such an appreciable time and in such circumstances as to amount to an invitation to the give-way vehicle to cross the intersection in front of him, the driver of the give-way vehicle is not guilty of an offence against subsection (1) if he proceeds to cross the intersection in front of the stand-on vehicle.

SINCLAIR v. KNIGHT (1952) S.A.S.R. 97. Meaning of the words "approaching the junction or intersection of two or more roads" in section 131 and the relation between sections 130a and 131 considered.

TAMKE v. MCKENZIE (1952) S.A.S.R. 235. Held that, in the circumstances, the driver of a horse-drawn vehicle was guilty of negligence in not giving way at an intersection to a motor cycle on his right.

HENDERON v. MILLAR AND OTHERS (1952) S.A.S.R. 250. The driver of the vehicle having the right of way at an intersection by virtue of section 131 is not relieved by the section from the duty of exercising reasonable care in relation to traffic approaching from the left, and it is his duty to be on the watch for anything that indicates inattention or want of care in others.

SAMUELS v. BLIGH (1954) S.A.S.R. 59. Where the defendant whilst driving a motor vehicle entered an intersection at the same time as another vehicle on the off side and whilst using that vehicle as a shield collided with a vehicle approaching from the right, held on the facts, that he was guilty of an offence against section 131.

(5) This section shall also apply in cases where two animals, or an animal and a vehicle or tram car are approaching a junction or intersection in the circumstances mentioned in subsection (1) and (2), and the term "vehicle" shall be so construed as to include an animal.

* * * * *

Subsec. (6) inserted by 29, 1950, s. 10, and repealed by 48, 1951, s. 24.

131a. (1) A person shall not drive or ride a vehicle or animal from a cross-over into a carriage-way of a double road unless that carriage-way is sufficiently clear of traffic to enable the vehicle or animal to enter and proceed across or along the carriage-way without danger.

Right of way at cross-overs on double roads.

Inserted by 48, 1951, s. 25.

(2) A person who contravenes this section shall be guilty of an offence.

(3) This section shall have effect notwithstanding anything contained in section 131 of this Act.

132. (1) If any person in any municipality, town, or township drives or rides any vehicle or animal over that part of any intersecting roads, which is common to two or more roads, at a greater speed than twenty-five miles per hour, he shall be guilty of an offence.

Speed at intersections.

Inserted by 2332, 1936, s. 35.

(2) In this section "intersecting roads" means roads each of which completely crosses and extends on both sides of the other.

* * * * *

repealed by Subsec. (3) 46, 1941, s. 12.

133. (1) If any person rides or drives any vehicle or animal at a greater speed than six miles per hour—

Speed in certain circumstances.

Inserted by 2332, 1936, s. 35.

(a) when proceeding from any land abutting on a road into that road; or

s. 131a. SCOTT v. ANTONY (1953) S.A.S.R. 1. Held that, in the particular circumstances, the driver of a motor vehicle was guilty of an offence against section 131a.

s. 132. BOND v. GOUDIE (1937) S.A.S.R. 416, reversing BOND v. GOUDIE (1937) S.A.S.R. 371. The Port Road is comprised of two carriage ways, one reserved for up and the other for down traffic; the ways are separated by a reserve and cross roads intersect the ways and reverses. Held that, for the purposes of section 132, the Port Road was one road only and, accordingly that a road entering the Port Road and crossing the up track and the reserve to enter the down track but not continuing further, does not form an intersection with the up track.

s. 133. JOLLY v. WALLMAN (1936) S.A.S.R. 121. Held, that a Sunday school was not a school within the meaning of a regulation prescribing a speed limit for vehicles passing schools. (But see subsection (4) enacted since this decision.)

GERAGHTY v. ANGUS AND OTHERS (1938) S.A.S.R. 455, appeal to the High Court dismissed, 62 C.L.R. 747 (note). "Passing" a tram car in a regulation relating to the passing of stationary tram cars, held to mean overtaking a tram car which is using the same road and is going in the same direction as the vehicle.

(b) when passing any tram car which, on any road in the course of a journey in the same direction as the overtaking vehicle or animal, has stopped for the purpose of allowing passengers to board or alight,

he shall be guilty of an offence.

(2) If any person rides or drives within ten miles from the General Post Office at Adelaide any vehicle or animal at a greater speed than ten miles per hour when turning from one road into another he shall be guilty of an offence.

(3) If any person rides or drives any vehicle or animal at a greater speed than fifteen miles an hour whilst passing any school or school playground or children's playground at any time when children are going into or coming out of that school or playground, he shall be guilty of an offence: Provided that no person shall be convicted of an offence against this subsection unless the prosecution shows that on or near the road on which the defendant rode or drove a vehicle or animal as aforesaid there was a sign bearing in clear letters the word "school", "school playground" or "children's playground", as the case may be, and erected in such a position as to give reasonable warning to the defendant of the existence of the school or playground.

Proviso
added by
2416, 1938,
s. 36 (1).

Amended by
2416, 1938,
s. 36 (2).

(4) In this section "children's playground" means a children's playground which is maintained by a municipal or district council and "school" includes any church or other building used as a Sunday school, together with the land used in connection therewith.

Signals.

Inserted by
2332, 1936,
s. 35, and
substituted by
40, 1945,
s. 11.

134. (1) Whenever the driver or rider of a vehicle or animal is about to turn his vehicle or animal to the right in or into any road he shall give a clear signal of his intention to do so by extending his right arm horizontally from the right side of the vehicle or animal with the palm facing the front and the fingers extended.

(2) Whenever the driver or rider of a vehicle or animal is about to slow down or stop he shall give a clear signal of his intention to do so by raising his right fore-arm and

s. 134. COLLINS v. GOTTSH (1941) S.A.S.R. 256. It does not follow that, if circumstances arise in which prudence calls for slowing down without being able to comply with subsection (2), a driver is free from negligence in not slowing down.

LE CORNU v. BARRINGTON (1945) S.A.S.R. 163. There is a duty on the driver of a car in starting a stationary car ranked alongside a kerb and intending to turn to his right to give the signal prescribed in subsections (1) and (1a).

LITTLE v. FOX (1950) S.A.S.R. 40. Provided the signal is given for such time as is necessary to give reasonable warning to traffic approaching from behind, it is not necessary that it should also have been given continuously for a distance of one hundred feet before the point where the vehicle turns.

hand in a vertical position with the palm of the hand turned to the front and the fingers extended and pointing upwards.

(3) A clear signal for the purposes of this section means a signal which—

- (a) is so given as to be clearly visible to traffic approaching the vehicle or animal from behind; and
- (b) is given for such time as is necessary to give reasonable warning to traffic approaching the vehicle or animal from behind.

A signal shall be deemed to comply with paragraph (b) of this subsection if it is given continuously for a distance of one hundred feet before the point where the vehicle or animal turns, slows down, or stops.

(4) It shall be sufficient compliance with the provisions of this section if the appropriate signal is given by a mechanical or electrical device which has been approved by the Registrar of Motor Vehicles.

(5) If any person fails to comply with this section he shall be guilty of an offence.

135. (1) No person shall drive upon any road any vehicle having any vehicle (not being a trailer) attached thereto for the purpose of being towed, if any of the following provisions is not observed:—

Requirements
as to towing.
Inserted by
2332, 1936,
s. 35.

- (a) The space between the vehicles shall not exceed twelve feet:
- (b) When the towed vehicle is a motor vehicle, a competent person shall be in charge of that vehicle, to control it so far as the condition of its brakes and mechanism will permit:
- (c) Where the two vehicles are joined by means of a tow rope, chain or wire, there shall be displayed on the tow rope, chain or wire, midway between the two vehicles, a white flag or cloth, so as to be clearly visible as a warning of danger:
- (d) Between half an hour after sunset, and half an hour before sunrise, a lighted lamp, showing a bright white light, shall be affixed to the front of the towed vehicle in such a manner as to render clearly visible, any flag or cloth displayed in accordance with paragraph (c) of this subsection, and a lighted lamp shall be affixed to the off side of the rear of the towed vehicle, showing a red

light clearly visible at a distance of 200 yards, to any person approaching the vehicle from the rear:

Provided that where the vehicle being towed is fastened in actual contact with the towing vehicle, the white flag or cloth mentioned in paragraph (c), and the lighted lamp affixed to the front of the towed vehicle, mentioned in paragraph (d), shall not be required.

(2) If any person contravenes this section in any respect, he shall be guilty of an offence.

136. If any person causes or permits any vehicle or animal to remain at rest on any road—

(a) in such a position or in such condition or circumstances as to be likely to cause danger to other persons using the road or so as to obstruct the passage of traffic on the road; or

(b) in such a position as to obstruct any gate, door or entrance by which vehicles gain access to any land or building, or so as to obstruct any crossing leading from the carriage-way of a road across a footpath to any such gate, door, or entrance,

he shall be guilty of an offence.

Causing
danger of
obstruction.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 50.

Inserted by
2332, 1936,
s. 35, and
substituted
by 29, 1950,
s. 11.

Driving or
riding on
footpaths, etc.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 14.

Inserted by
2332, 1936,
s. 35.

137. If any person rides, drives, or leads any animal, or rides or drives any vehicle so that that animal or vehicle or any part thereof is on any footpath, causeway, or place set apart or constructed on or by the side of any road for the accommodation of foot passengers, he shall be guilty of an offence: Provided that this section shall not apply where the animal or vehicle is ridden, driven, or led across any such footpath, causeway, or place at right angles in crossing to or from any premises.

Control of
animals by
driver.

Inserted by
2332, 1936,
s. 35.

138. If the driver of a vehicle drawn by an animal on any road, is at such a distance from that vehicle or in such a situation that he cannot properly guide and control the animal drawing the vehicle, he shall be guilty of an offence.

s. 136. *NOONAN v. JOHNS* (1940) S.A.S.R. 4. Where the driver of a motor car stopped his car with its near side about twelve feet from the kerb in a busy street to allow a passenger to alight and there was a space a short distance away where the driver could have pulled in alongside the kerb, held that the driver had committed an offence against section 136.

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139. (1) If, owing to the presence of a vehicle on a road, an accident occurs, whereby damage or injury is caused to any person, vehicle, or animal, or any other property real or personal, the driver of the vehicle shall as soon as practicable after the accident happens stop and, if required so to do by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner of the vehicle and, if the vehicle is a registered motor vehicle, the registered number of the vehicle.

Duty to stop in case of accident.
U.K. 20 & 21 Geo. 5 c. 43, ss. 20, 22, 113 (3).

Inserted by 2332, 1936, s. 35.

Subsec. (1) amended by 2416, 1938, s. 38 (a), and by 20, 1944, s. 11.

(2) When any such accident happens, the driver of the vehicle shall also report the accident at a police station or to a police constable as soon as reasonably practicable, and in any case, within twenty-four hours after the occurrence thereof.

(3) In this section, the expression "animal" means any horse, cattle, ass, mule, sheep, pig, goat, or dog.

(4) If any person fails to comply with this section in any respect he shall be guilty of an offence: Provided that—

Substituted by 48, 1951, s. 26.

- (a) a person shall not be punished for failing to comply with this section if the court is of opinion that the accident was a trivial one;
- (b) it shall be a defence to a charge of an offence under this section if it is shown that the defendant did not know that the accident had occurred and that his want of knowledge was not due to carelessness or recklessness;
- (c) it shall be a defence to a charge of an offence under this section if it is shown that the only damage or injury resulting from the accident was damage or injury to property owned by the defendant.

- s. 139. **MINERVINI v. WALSH** (1928) S.A.S.R. 286. The obligation to stop implies that the vehicle must be brought to rest within such a distance and time as is reasonable in the circumstances.
- NOBLET v. CONDON** (1935) S.A.S.R. 329. Held that section 52 of the Road Traffic Act, 1934 (re-enacted by section 139 with amendments not material to this case), required the driver to stop so long as reasonably necessary to enable the proper questions to be put, if there was anyone in the vicinity who desired to put them.
- JARMAN v. WALSH** (1936) S.A.S.R. 25. Held that section 52 of the Road Traffic Act, 1934 (re-enacted by section 139 with amendments not material to this case), required the driver of a motor vehicle to stop in case of accident as soon as practicable in the circumstances.
- BOND v. GILBERT** (1938) S.A.S.R. 37. The offence of failing to stop may be of a trifling nature although the accident occasioning the stop may be more than trivial.
- COX v. BUTTON** (1949) S.A.S.R. 244. Observations on the duty to stop imposed by section 139.
- CLEMENT v. GILL** (1953) S.A.S.R. 25. Where a pedestrian was struck by a motor vehicle, thrown to the ground, shaken and dazed but no evidence was given of any actual physical injury, held that the evidence was insufficient to prove that injury had been caused to him within the meaning of subsection (1).

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Inserted by
2416, 1938,
s. 38 (c).

(5) An apparently genuine document produced by the prosecution, purporting to be signed by the Commissioner of Police and to certify that any accident specified in the document (whether by reference to the approximate time and place thereof, or to the person or persons involved or otherwise so as to reasonably identify it) had not been reported at a police station or to a police constable prior to any date mentioned in the certificate shall be *prima facie* evidence of the matter so certified.

Inserted by
37, 1953,
s. 17.

(6) The penalty for any offence against this section shall be a fine not exceeding one hundred pounds; and in a case where it is proved that the defendant was guilty of failing to stop after an accident in which any person was injured or killed, he may be imprisoned for any term not exceeding six months.

Duty to give
information
as to identity
of driver.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 113 (3).

Inserted by
2332, 1936,
s. 35, and
substituted
by 29, 1950,
s. 12.

140. (1) Any person shall when requested by a member of the police force or by an inspector appointed under Part II of this Act, truly answer any question put to him seeking information which may lead to the identification of the person who was driving any vehicle on any occasion.

(2) Any person who refuses to answer, or fails to answer truly any such questions shall be guilty of an offence.

Projecting
loads.

Inserted by
2332, 1936,
s. 35.

141. If any person drives or causes or permits to be driven on any road any vehicle, upon which the load extends beyond any portion of the vehicle, and—

(a) the load is not as nearly as practicable parallel to the sides of the vehicle; or

(b) any iron, timber, piping, or other solid materials projecting beyond any portion of the vehicle, is not wrapped at the projecting ends thereof, with bagging or other suitable material, and securely tied so as to prevent noise, flapping, and swaying, and covered with some white material so as to indicate the presence of such projection; or

(c) the load is not firmly stacked, arranged, or tied down so that it will retain its position in or upon the vehicle whilst the vehicle is in motion,

he shall be guilty of an offence.

Inserted by
61, 1940,
s. 10.

Driving
without
clear view.

Inserted by
46, 1941,
s. 13.

141a. If any person drives on any road a motor vehicle while any part of the vehicle, or the load on the vehicle, or anything attached or affixed to the vehicle prevents him from having a clear view of the areas in front and on either side of the vehicle, he shall be guilty of an offence.

142. (1) No person shall drive any motor vehicle on any road if—

Width of vehicles, and number of trailers.

(a) the width of the vehicle or of any part of the load thereon exceeds eight feet; or

Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 18.

(b) the over-all length of the vehicle (including the length of any trailers attached thereto and of any load projecting from the front or rear of the vehicle or of any trailer attached thereto) exceeds sixty-six feet; or

Inserted by 2332, 1936, s. 35.
Subsec. (1) amended by 46, 1941, s. 14, and by 55, 1948, s. 16 (a).

(c) the vehicle has more than two trailers attached thereto.

(2) Any person who contravenes this section shall be guilty of an offence.

In any proceedings for an offence of driving on a road a motor vehicle the width of which exceeds eight feet it shall be a defence to prove that the motor vehicle was, on the first day of September, nineteen hundred and thirty-six, a registered motor vehicle, and that at the said date the motor vehicle was of the same width as at the time of the alleged contravention, and that the load on the motor vehicle did not project beyond either side of the vehicle.

(3) If the Registrar of Motor Vehicles is satisfied that it is reasonable to permit any vehicle to be driven on any road, although the width of that vehicle or of any part of the load thereon exceeds eight feet or although the overall length of the vehicle (including the length of any trailers attached thereto and of any load projecting from the front or rear of the vehicle or of any trailer attached thereto) exceeds sixty-six feet he may on the application of the owner of the vehicle grant a permit, either general or restricted as to time, place, or circumstances, permitting that vehicle to be driven on any specified roads or on roads generally and such a permit shall render lawful anything done in accordance therewith.

Amended by 17, 1942, s. 7, and by 55, 1948, s. 16 (a).

(4) The Governor may by proclamation declare that this section shall not apply to any road or part of a road mentioned in the proclamation, and may from time to time revoke or alter any such proclamation. The operation of this section shall be restricted according to the terms of all proclamations for the time being in force under this subsection.

s. 142. KEANE V. KNOWLES AND ANOTHER (1942) S.A.S.R. 13. Failure to comply with conditions of a permit under subsection (3) is a departure from the proper standard of care for the safety of the highway.

(5) Notwithstanding subsection (1) of this section it shall be lawful to drive on any road a vehicle carrying a load more than eight feet wide if that load consists of any agricultural machine or motor bodies more than eight feet wide.

(6) No agricultural machine shall be deemed to be a vehicle within the meaning of this section.

Amended by
55, 1948,
s. 16 (b).

(7) In this section "agricultural machine" means any machine (other than a tractor) used for cultivating land or sowing or harvesting crops and "trailer" includes any vehicle of any kind drawn by a motor vehicle.

Inserted by
2416, 1938,
s. 40.

(8) For the purposes of this section any frame work fixed or placed on a motor vehicle shall be deemed to be the load or portion of the load of that motor vehicle.

Restriction
on carriage
of persons
on bicycles.
U.K. 24 & 25
Geo. 5 c. 50,
s. 20.

143. (1) If more than one person is carried on a road on a bicycle not propelled by mechanical power and not constructed or adapted for the carriage of more than one person, each of those persons shall be guilty of an offence.

Inserted by
2332, 1936,
s. 35.

(2) In this section references to a person carried on a bicycle shall include reference to a person riding the bicycle.

(3) This section shall apply only within the areas in which the Governor declares that it shall apply. The Governor may by proclamation declare the areas within which this section shall apply and may at any time by proclamation alter any such area, or revoke any proclamation in force under this section.

Places where
passengers
must not be
carried.

143a. No person shall on any road drive any motor vehicle carrying any person on the roof or bonnet thereof.

Inserted by
2416, 1938,
s. 41, and
amended by
40, 1945,
s. 12.

Holding on
to motor
vehicles and
riding with-
out driver's
consent.

Cf. U.K.
20 & 21
Geo. 5 c. 43,
s. 29.

144. (1) If the driver of a vehicle knowingly permits any person riding a bicycle or other vehicle propelled by human power to attach himself to the vehicle being driven while it is in motion on any road, that driver shall be guilty of an offence.

Inserted by
2332, 1936,
s. 35.

(2) Any rider of a bicycle or other vehicle propelled by human power, who attaches himself to any other vehicle whilst that vehicle is in motion on any road shall be guilty of an offence.

s. 144. WALSH v. FAHRMANN (1936) S.A.S.R. 49. The onus is on the complainant to prove that the driver did not consent to the defendant's action.

(3) Any person who rides on a vehicle without the consent of the driver of that vehicle shall be guilty of an offence.

145. If any person riding a bicycle travels on any road for more than three hundred yards behind any motor vehicle and within six feet from that vehicle he shall be guilty of an offence.

Pacing by cyclists.
Inserted by 2332, 1936, s. 35.

146. Any person who in any road, boards or alights from any tram car or vehicle whilst in motion, shall be guilty of an offence.

Boarding and alighting from moving vehicles.
Inserted by 2332, 1936, s. 35.

147. (1) If two or more vehicles are driven or ridden abreast of each other in the same direction on any road, the rider or driver of each of those vehicles shall be guilty of an offence: Provided that this section shall not apply—

Driving and riding abreast.

Inserted by 2332, 1936, s. 35, and amended by 2416, 1938, s. 42, and by 23, 1939, s. 3 (a).

(a) where two bicycles and no more are ridden abreast:

(b) where a vehicle is driven abreast of another vehicle for the purpose of passing that other vehicle.

(2) A vehicle shall be deemed to be abreast of another vehicle if any part of the vehicle is by the side of any part of that other vehicle.

(3) If two bicycles are ridden abreast of each other in the same direction on any road, the rider of the bicycle on the left-hand side of the road shall be guilty of an offence if he does not ride as near as practicable to such left-hand side of the road and the other rider shall be guilty of an offence if he does not ride as near as practicable to the rider on the inside of him.

Inserted by 23, 1939, s. 3 (b).

148. (1) If three or more horses are ridden abreast on the carriage-way of any road within twelve miles of the General Post Office at Adelaide, the rider of each horse shall be guilty of an offence: Provided that this section shall not apply where the horses are ridden by members of the police force on duty.

Prohibition of riding horses abreast.
Inserted by 2332, 1936, s. 35.

(2) A horse shall be deemed to be abreast of another horse if any part of that horse is by the side of any part of the other horse.

148a. If any person on any road within twelve miles of the General Post Office at Adelaide, whilst riding an animal or driving a vehicle, leads three or more animals, he shall be guilty of an offence.

Leading animals.
Inserted by 45, 1939, s. 26, and amended by 55, 1948, s. 17.

Injurious
matter on
roads.
Inserted by
2332, 1936,
s. 35.

149. If any person deposits or drops or causes or suffers to be deposited or dropped upon any road, any matter or substance likely to cause damage or danger to vehicles, being any wood, stone, sand, gravel, nail, tack, scrap iron, glass, wire, tin, bottle, thorn, clipping, oily or sticky substance or other matter or substance, he shall be guilty of an offence: Provided that it shall be a defence to a charge under this section if the defendant proves that he had taken reasonable precautions to prevent the matter or substance from being so deposited or dropped.

Removal of
vehicles from
roads.

Cf. U.K.
20 & 21
Geo. 5 c. 43
s. 59 (1) (c):
24 & 25
Geo. 5 c. 50,
s. 22.

Inserted by
2332, 1936,
s. 35.

150. (1) If—

- (a) any vehicle or animal is left unattended on a road in such a position or in such a condition or in such circumstances as to be likely to cause danger to other persons using the road; or
- (b) on any day on which a road is closed to the public or forms part of the route of a procession which has been duly advertised under any enactment, regulation, or by-law, any vehicle is left unattended for more than one hour,

any member of the police force or any officer of any municipal or district council may remove that vehicle or animal to a place of safe custody.

(2) Forthwith after such removal, the person removing the vehicle or animal, or some person on his behalf, shall give the owner written notice of the removal, and of the place to which the vehicle or animal was removed. The notice shall, wherever practicable, be served upon the owner personally; but if it is not so served within fourteen days after the removal, it shall forthwith upon the expiration of those fourteen days be given by public advertisement in two newspapers circulating generally in the State.

(3) If the owner of the vehicle or animal does not, within one month after the service or advertisement of the notice, pay all expenses in connection with the removal, custody, and maintenance of the vehicle or animal, and of serving or advertising the notice, and take possession of the vehicle or animal, the Commissioner of Police, or the municipal or district council whose officer removed the vehicle or animal shall sell it by public auction, and apply the proceeds as follows:—

- (a) Firstly, in payment of the expenses of the sale:
- (b) Secondly, in payment of the cost of removal, custody, and maintenance of the vehicle or animal,

and of the notice served or advertised under this section:

- (c) Thirdly, in payment of the balance to the owner, or if, after reasonable inquiry, the owner cannot be found, to the Treasurer, in aid of the general revenue of the State.

151. (1) The Governor may by proclamation declare that any area in that part of any street which abuts on the site of either House of Parliament shall be a prohibited area within the meaning of this section and may revoke or amend any such proclamation.

Control of parking outside Parliament House.

Inserted by 2332, 1936, s. 35.

(2) If any person, whether holding any other licence, permit, or other authority or not, leaves any vehicle or animal stationary in any prohibited area proclaimed under this section, without the permission of the Minister of Works, he shall be guilty of an offence.

(3) This section shall take effect notwithstanding anything in the Local Government Act, 1934, or any other Act or any regulation or by-law.

(4) No prosecution for an offence against this section shall be commenced except with the authority of the Minister of Works. A document purporting to give such consent and purporting to be signed by the Minister of Works shall be *prima facie* evidence of such consent.

152. (1) Any member of the police force may, if he has reasonable cause to suspect that any vehicle has been involved in an accident or has been driven on a road recklessly or at a speed or in a manner which is dangerous to the public or has been stolen or taken without the consent of the owner and is on any land or premises, enter such land or premises and therein search for that vehicle and examine it if found.

Power of police to examine and test vehicles.

Inserted by 2332, 1936, s. 35.

(2) Any person who hinders any member of the police force, in the exercise of any power conferred upon him by this section, shall be guilty of an offence.

(3) If any member of the police force or any inspector appointed under Part II of this Act has reasonable cause to suspect that any motor vehicle does not comply with any requirement of this Act he may—

- (a) require the owner or person in charge of the vehicle

s. 151. References to the "Commissioner of Public Works" altered to "Minister of Works" pursuant to the Amendments Incorporation Act, 1937.

to produce the vehicle to him or to some person named by him for the purpose of being tested:

- (b) for that purpose remove the vehicle to the nearest convenient place where it can be tested:
- (c) detain the vehicle for such time as is necessary for testing it.

(4) If the owner or person in charge of any vehicle when so requested by a member of the police force or an inspector appointed under Part II of this Act does not produce the vehicle, together with the key or other device necessary for starting the engine, in accordance with a request under subsection (3) of this section, he shall be guilty of an offence.

Unsafe
vehicles.
Inserted by
48, 1951,
s. 27.

152a. (1) If the Commissioner of Police or the registrar suspects that any registered motor vehicle is unsafe for use on roads he may inspect or authorize any person to inspect that vehicle.

(2) For the purpose of making any such inspection the Commissioner of Police or registrar or any person authorized by either of them may—

- (a) direct any person having possession or control of the vehicle to produce it for inspection at a place specified by the said commissioner, registrar, or authorized person:
- (b) enter any land or premises and remain thereon for such time as is necessary to make the inspection:
- (c) do anything necessary or convenient to be done for the purpose of making an inspection of the vehicle.

(3) If the Commissioner of Police or the registrar is satisfied that any motor vehicle is unsafe for use on roads he may suspend the registration of that vehicle.

(4) When the registration of a motor vehicle is so suspended the registrar or any person authorized by him or any member of the police force may remove from the vehicle the registration card indicating the registration thereof and for the purpose of so doing may enter and remain upon any land or premises.

(5) If the Commissioner of Police or the registrar is subsequently satisfied that a vehicle the registration of which has been suspended under this section has been made safe for use on roads he may remove the suspension; and if the period for which the vehicle was registered before the

suspension has not expired the registrar shall upon removal of the suspension issue to the owner without fee a registration card similar to that removed from the vehicle under subsection (4) of this section.

(6) Any person who refuses or fails to comply with a direction given by the Commissioner of Police, the registrar, or an authorized person under this section shall be guilty of an offence.

(7) In this section the word "inspect" includes examine and test.

153. (1) Upon the application of any persons interested the Minister of Local Government may make either or both of the following orders:—

- (a) That any road or part of a road upon which any races or tests are to be held, and any other adjacent or adjoining road or part of any such road shall be closed to traffic on any day or days:
- (b) That persons taking part in any races or tests be exempted from the duty to observe any enactment, regulation or by-law prescribing speed limits or other rules to be observed on roads by drivers and riders of vehicles.

(2) No order closing a road shall be made under this section except with the consent of every municipal or district council within whose area the road or part of a road is situated.

(3) At least two clear days before any road is to be closed or any exemption is to operate pursuant to an order under this section the Minister shall by advertisement in two newspapers, one of which shall be a daily newspaper, circulating generally in the State, give notice of the intended closing of the road or exemption. The costs of every such advertisement shall be paid by the applicants.

(4) Any order made under this section shall be subject to any conditions which the Minister thinks fit to impose and upon breach of any condition shall cease to have any effect.

(5) An order under this section shall render lawful anything done in accordance therewith.

(6) If any person is requested by a member of the police force to depart from any road or part of a road closed under this section or to remove any vehicle of which he is

Closing roads for races and exemptions.

Cf. U.K. 20 & 21 Geo. 5 c. 43, ss. 13, 46.

Inserted by 2332, 1936, s. 35.

Para. (a) substituted by 2416, 1938, s. 43.

in charge from any such road or part of a road and does not forthwith comply with that request he shall be guilty of an offence.

Vehicles taking part in processions.

Inserted by 2416, 1938, s. 44.

153a. If the Treasurer is satisfied that any vehicle is intended to be ridden or driven on roads solely for the purpose of taking part in a street procession or other like entertainment, he may in writing exempt the owner and driver of that vehicle from the obligation to comply with any specified provisions of this Act on any day or days.

Vehicles used for carrying passengers for hire.

Inserted by 2332, 1936, s. 35, and amended by 55, 1948, s. 18.

154. (1) After a day to be fixed by the Governor by proclamation for the commencement of this section no person shall drive any vehicle or cause any vehicle to be driven for the purpose of carrying passengers for hire unless that vehicle has been inspected and certified to be safe for the carriage of passengers by an officer appointed by the Registrar of Motor Vehicles: Provided that this section shall not apply where a vehicle is driven pursuant to a licence under the Road and Railway Transport Act, 1930, or under any by-law of a local governing authority, or to any vehicle operated or licensed by the Municipal Tramways Trust.

Inserted by 2416, 1938, s. 45.

(2) Every certificate granted under this section shall remain in force for twelve months from the date of the granting thereof unless revoked by any such officer as aforesaid before the expiration of that period on the ground that the vehicle is no longer safe for the carriage of passengers.

(3) Any certificate granted under this section may contain a condition prescribing the maximum number of passengers which may lawfully be carried upon the vehicle to which the certificate relates.

Any person who drives any vehicle carrying more than the maximum number of passengers prescribed in a certificate relating to such vehicle shall be guilty of an offence.

Inserted by 2416, 1938, s. 45.

(4) An apparently genuine document produced by the prosecution and purporting to be signed by the Registrar of Motor Vehicles and to certify that any vehicle specified in the certificate has not during any period specified in the certificate been inspected and certified to be safe for the carriage of passengers as required by this section shall be *prima facie* evidence of the fact so certified.

Inserted by 2416, 1938, s. 45.

(5) It shall lie on the defendant to prove that any vehicle in respect of which a complaint has been laid under this

section was driven pursuant to a licence under the Road and Railway Transport Act, 1930, or under any by-law of a local governing authority.

(6) The Governor may make any regulations necessary or convenient for the due administration and enforcement of this section and may by regulations impose penalties recoverable summarily and not exceeding ten pounds for breach of any such regulation.

Inserted by 2416, 1938, s. 45.

155. (1) If any light, or any sign showing a light, is on or over or adjacent to any footpath or road in any municipality or district council district or is affixed to the wall or roof or other external part of any building or verandah in any municipality or district council district, and the council of the municipality or district council district is satisfied that the light or sign is dangerous to traffic on any road, the council may give notice in writing to the owner of the light or sign requiring him to remove the light or sign within a reasonable time specified in the notice.

Dangerous lights and signs.

Inserted by 2332, 1936, s. 35.

(2) If within the time specified in the notice that owner does not remove the light or sign, the council may remove it and recover the costs of so doing from that owner in any court of competent jurisdiction as a debt due to the council.

(3) Any notice under this section may be given by post addressed to the last known place of business or abode of the person to whom it is to be given, or by delivering it to that person.

156. When any regulation or any by-law is inconsistent with any provision of this Part, that provision shall prevail and the regulation or by-law shall, to the extent of the inconsistency, be invalid.

Inconsistency of this Part with regulations and by-laws.

Inserted by 2332, 1936, s. 35.

156a. (1) For the purposes of this section the following shall be exempt vehicles—

Exemption of fire, ambulance, and police vehicles from certain provisions.

Inserted by 46, 1941, s. 15, and amended by 41, 1952, s. 8.

(a) any motor vehicles used by the Fire Brigades Board or by a fire brigade, while it is being driven to any place in answer to a call for the services of a fire brigade, or is in use at a fire:

(b) any motor ambulance while it is being driven in the course of, or in connection with, the carriage of patients:

s. 156a. THE SOUTH AUSTRALIAN AMBULANCE TRANSPORT INCORPORATED v. WAHLHEIM (1948) 77 C.L.R. 215; 22 A.L.J. 545, reversing Wahlheim v. The South Australian Ambulance Transport Incorporated (1948) S.A.S.R. 152. Observations upon the duties of a driver of an exempt vehicle.

Road Traffic Act, 1934-1954.

(c) any motor vehicle being driven by a member of the police force in the execution of his duty.

(2) While a vehicle is an exempt vehicle, the following provisions of this Act, namely:—Paragraph (b) of subsection (1) of section 40a; section 43b; paragraph (b) of section 123; sections 124 to 127 inclusive, 130a, 130b, 130c, 131 to 133 inclusive, 136, 137, subsection (1) of section 139, 143a, 146, 147, 169, 174 to 176 inclusive, shall not apply in relation to that vehicle or the owner, driver, or person in charge thereof.

Evidentiary provisions.

Inserted by 2332, 1936, s. 35.

157. (1) The allegation in any complaint for an offence against this Act, or against any regulation under this Act, that any person was, at any time mentioned in the complaint, the rider or driver of any animal or vehicle shall be *prima facie* evidence of that fact.

Inserted by 2416, 1938, s. 46, and amended by 55, 1948, s. 19 (a), and by 29, 1950, s. 13.

(2) In any complaint for an offence against this Act or against any regulation under this Act allegations as to all or any of the following matters—

- (a) that any sign was lawfully placed on or near any road, or that any such sign was for any purpose specified in the complaint:
- (b) that any sign on a road was erected under or complied with any specified statutory provision:
- (c) that any sign on a road contained any specified words:
- (d) that any specified place was or was not on any specified date an authorized crossing place on any line of railway:
- (e) that any place is or was a road:
- (f) that any intersection, intersecting road, or part of any intersecting roads was or were within a municipality, town, or township named in the complaint:

shall be *prima facie* evidence of the matters so alleged.

s. 156a. THE FIRE BRIGADES BOARD v. MUNICIPAL TRAMWAYS TRUST (1950) S.A.S.R. 262. (contd.) The duties of drivers of tramcars and vehicles, such as fire engines, exempted from compliance with normal provisions for the regulation of road traffic, considered.

HINE v. O'CONNOR AND CHAMBERS AND THE FIRE BRIGADES BOARD (1951) S.A.S.R. 1. Although a fire-engine proceeding to a fire is exempted by section 156a from compliance with certain traffic regulations, the driver is nevertheless bound to exercise reasonable care, and the urgency of the duty upon which it is proceeding will not justify him in driving at a speed which in the circumstances is excessive and dangerous.

(3) A document produced by the prosecution and purporting to be signed by the Commissioner of Police, or by a superintendent or an inspector of police, and purporting to certify that any stop-watch or speedometer specified therein had been tested on a day mentioned therein and was shown by the test to be accurate to the extent indicated in the document, shall be *prima facie* evidence of the facts certified and that the stop-watch or speedometer was accurate to the said extent on each of the fourteen days following the day of the test.

Inserted by 2416, 1938, s. 46, and substituted by 55, 1948, s. 19 (b).

157a. Any contravention of or failure to observe any provision of this Part, whether by act or omission, shall be an offence.

Offences. Inserted by 45, 1939, s. 27.

158. Any person guilty of any offence against this Part, for which no other penalty is provided, shall be liable to a fine of not more than twenty pounds.

Penalty. Inserted by 2332, 1936, s. 35.

159. Proceedings for offences against this Part shall be disposed of summarily.

Summary proceedings. Inserted by 2332, 1936, s. 35.

* * * * *

S. 160 inserted by 2332, 1936, s. 35, and repealed by 2416, 1938, s. 47.

PART VII.

PROTECTION OF ROADS.

161. In this Part unless the context otherwise requires or some other meaning is clearly intended—

Interpretation. Cf. U.K. 20 & 21 Geo. 5 c. 43, ss. 3, 24, 25. Inserted by 2332, 1936, s. 35.

“commissioner” means the Commissioner of Highways appointed pursuant to the Highways Acts, 1926 to 1935:

“improved main road” means any main road within the meaning of the Highways Acts, 1926 to 1935, which has been formed, metalled, or gravelled, or which has any prepared surface, and includes the shoulders and drains thereof, and any bridge, culvert, guard fence, or post thereon:

“road authority” means the municipal or district council within whose area the road in question is situated, and includes the commissioner when exercising the powers of a council in respect of any work:

“shoulders”, when used in relation to a main road, means the protection work formed or constructed of any material whatsoever for strengthening, backing up, or protecting the edges of any improved main road:

“drain”, when used in relation to a main road, means any work formed or constructed of any material whatsoever, which is provided for the drainage of such road:

“motor lorry” means a motor vehicle constructed in such a manner as to be ordinarily used for the carriage of goods, wares, or merchandise, or for the conveyance of any kind of material used in any trade, business, or industry, or for use in any work whatsoever other than the conveyance of passengers:

“motor vehicle” means a motor vehicle as defined in Part II of this Act:

“tractor” means a motor vehicle used for hauling other vehicles, but not built to carry passengers or loads other than fuel or water for its own consumption.

Farm implements.
Inserted by
2332, 1936,
s. 35.

162. If any person drives or hauls over any improved main road any farm or other implement constructed in such a manner as to injure or damage any portion of the road when travelling thereon he shall be guilty of an offence.

Locking of wheels.
Inserted by
2332, 1936,
s. 35.

163. If any person locks or prevents from revolving any wheel of any horse-drawn vehicle whilst such vehicle is proceeding along any improved main road, he shall be guilty of an offence.

Drags.
Inserted by
2332, 1936,
s. 35.

164. If any person draws or drags any sledge, timber, tree, or other heavy material on any improved main road, he shall be guilty of an offence.

Wheels with bars, studs, etc.
Inserted by
2332, 1936,
s. 35.

165. If any person, except in crossing a road, drives on or within six feet of any part of the metalled, gravelled, rubbled, tarred, or other prepared surface of any improved main road any motor vehicle having attached to the surface of any wheel or tire, which comes into contact with the road, any metal bar, spike, stud, grip, or other metal projection, he shall be guilty of an offence: Provided that this section shall not apply where the wheels or tires of the motor vehicle have no projection on the surface thereof which comes into contact with the road other than cross bars affixed thereto at an angle of not more than forty-five

degrees with the edge of the wheel or tire, and each extending the full width of the wheel or tire, and being not less than three inches in width and not more than three-quarters of an inch in thickness, and being separated by a space of not more than three inches from the cross bar nearest to it on either side.

166. If any person, except in crossing a road, uses or drives on or within six feet of any part of the metalled, gravelled, or other prepared surface of any improved main road any tractor of the caterpillar type which has any metal bar, spike, stud, grip, or other metal projection on the track or belt of that tractor, he shall be guilty of an offence.

Caterpillar tractors.
Inserted by 2332, 1936, s. 35.

167. (1) If any person stops a vehicle on any bridge or culvert on any road for any purpose whatever except in case of a breakdown or other unavoidable accident or the purpose of enabling any person to enter or alight from the vehicle, he shall be guilty of an offence.

Stopping vehicles on bridges.
Inserted by 2332, 1936, s. 35, and amended by 2416, 1938, s. 48.

(2) If the owner of any vehicle which has stopped on a bridge or culvert because of a breakdown or other unavoidable accident or the purpose of enabling any person to enter or alight from the vehicle, fails to remove the vehicle from that bridge or culvert without unnecessary delay, he shall be guilty of an offence.

168. If any person drives any vehicle on any main road in such a way as to damage any bridge, culvert, guard fence, or post on or appertaining to that main road, he shall be guilty of an offence.

Damage to bridges.
Inserted by 2332, 1936, s. 35.

169. If any person drives any vehicle on the shoulders of any improved main road except for the purpose of passing another vehicle, or leaving the metalled, gravelled, rubbled, tarred, or other improved surface, he shall be guilty of an offence.

Driving on shoulders of roads.
Inserted by 2332, 1936, s. 35.

170. If any person discharges any ashes, cinders, or other refuse from a tractor or any motor vehicle upon or within twenty feet of a bridge or culvert upon a main road, or upon any main road within twenty feet of the centre of that road, and does not completely extinguish and spread out such ashes, cinders, or refuse, so as not to injure that road or any fence thereon or adjacent thereto, and so as not to interfere with the drainage, he shall be guilty of an offence.

Actions likely to cause fire.
Inserted by 2332, 1936, s. 35.

PART VII.

Depositing material on roads.
 Inserted by 2332, 1936, s. 35.

171. If any person without the permission of the commissioner in writing stacks or deposits any wood, sand, stone, or material of any description on any main road or part of a main road which is in any way being maintained by the commissioner, he shall be guilty of an offence.

Use of wheel chains.
 Inserted by 2332, 1936, s. 35.

172. If any person drives or hauls upon any improved main road any vehicle having solid rubber tires which are fitted with chains, or having metal studs or other metal projections inserted in the rubber thereof, he shall be guilty of an offence.

Defective tires.
 Inserted by 2332, 1936, s. 35.

173. If any person drives on any improved main road any motor vehicle having any wheel shod with a rubber tire (not being a pneumatic tire) which has not rubber at least one inch thick over the whole of the outer surface of the wheel, or which is in any way defective, he shall be guilty of an offence.

Maximum air pressure of tires.
 Inserted by 37, 1953, s. 18.

173a. If any person drives on any road any motor vehicle having any wheel fitted with a pneumatic tire inflated to a pressure exceeding one hundred pounds per square inch he shall be guilty of an offence.

Speed of heavy vehicles.
 Inserted by 2332, 1936, s. 35, and repealed and re-enacted by 45, 1939, s. 28.

174. (1) No person shall drive on any road any commercial motor vehicle drawing a trailer at any speed in excess of those hereinafter prescribed:—

- (a) If the aggregate weight of the vehicle and of every trailer drawn thereby exceeds eleven tons, twenty miles per hour:
- (b) If the aggregate weight of the vehicle and of every trailer drawn thereby exceeds six tons, but does not exceed eleven tons, twenty-five miles an hour:
- (c) If the aggregate weight of the vehicle and of every trailer drawn thereby exceeds three tons, but does not exceed six tons, thirty miles an hour.

(2) No person shall drive on any road any commercial motor vehicle, not drawing a trailer, at any speed in excess of those hereinafter prescribed:—

- (a) If the weight of the vehicle exceeds eleven tons, twenty-five miles an hour.
- (b) If the weight of the vehicle exceeds six tons but does not exceed eleven tons, thirty miles an hour:

(c) If the weight of the vehicle exceeds three tons, but does not exceed six tons, thirty-five miles an hour.

(3) For the purposes of this section the weight of a vehicle or of a trailer drawn thereby shall be the weight of the vehicle or trailer together with the weight of the load (if any), (including passengers, fuel, and equipment), carried thereon.

(4) Nothing in subsections (1), (2), and (3) of this section shall affect the obligation of any person to comply with any other provision of this Act relating to the speed at which motor vehicles may be driven.

(5) If any person contravenes this section in any way he shall be guilty of an offence.

(6) The Governor may for the purpose of this section make regulations—

(a) providing for the ascertainment of the weight of vehicles, trailers, and their loads, or any part of their loads, whether by calculation, measurement or by weighing the vehicles, trailers, and loads on any weighbridge, or by means of any loadometer or other prescribed apparatus;

(b) prescribing the duties of persons in charge of vehicles and trailers in relation to the ascertainment of the weight of the vehicles, trailers and their loads or any part of their loads; and

(c) prescribing penalties not exceeding ten pounds for breach of any such regulation.

(7) In this section “commercial motor vehicle” includes a tractor.

Inserted by
40, 1945,
s. 13.

175. If any person on any road which is not paved with bitumen, concrete, or wooden blocks drives at a greater speed than thirty miles per hour any motor vehicle which weighs more than two tons when unladen, he shall be guilty of an offence.

Speed of
heavy motor
vehicles on
certain roads.
Inserted by
2332, 1936,
s. 35.

176. (1) If any person on any improved main road drives any motor vehicle having one or more metal tires at a greater speed than six miles per hour he shall be guilty of an offence.

Vehicles with
metal tires.
Inserted by
2332, 1936,
s. 35.

(2) If any person on any improved main road drives any vehicle drawing a trailer having one or more metal tires he shall be guilty of an offence: Provided that if the Commissioner of Highways is satisfied that any piece of heavy

machinery or other merchandise cannot be taken apart without great expense or loss, he may issue to any person a permit (subject to any conditions specified therein) authorizing that person to use a trailer with metal tires for transporting that piece of machinery or other merchandise along any main road specified in the permit.

Information to be painted on vehicles.
 Inserted by 2332, 1936, s. 35.

177. (1) Every motor lorry (not being a buckboard) and every vehicle carrying passengers or goods for hire in actual use on any road shall have the name and address of the owner thereof and the weight of the vehicle unladen painted on some conspicuous part of the off side of the vehicle in letters not less than two inches high and one inch wide.

For the purpose of this subsection:

“name” means—

- (a) in the case of a vehicle owned by an individual the Christian names or the initials of the Christian names and the full surname of that individual; and
- (b) in the case of a vehicle owned by a firm, the registered name of the firm; and
- (c) in the case of a vehicle owned by a company or body corporate, the registered name of the company, or the full name of the body corporate:

“address” means either place of abode or place of 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.

(2) Every motor lorry or tractor (for whatever purpose used) having any tires which are not pneumatic tires shall have, in addition to any particulars required under subsection (1), its weight unladen, together with the speed at which the lorry or tractor may travel under section 174 clearly and distinctly painted on the off side of the lorry or tractor in figures not less than two inches high and one inch wide.

(3) If any person owns or drives on any road any vehicle not complying with this section he shall be guilty of an offence: Provided that where the owner and the driver are

different persons, both shall not be punished in respect of the same non-compliance.

(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.

Inserted by
35, 1943,
s. 21.

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.

Inserted by
35, 1943,
s. 21.

178. (1) Any person who—

- (a) otherwise than by reasonable use thereof damages any road, bridge, or culvert; or
- (b) removes, damages, or interferes with any guard fence, post, traffic sign, direction sign, notice, mark, light, signal, barrier, lamp, or other thing erected or placed thereon by or with the consent of a road authority or by the Royal Automobile Association of South Australia, Incorporated; or
- (c) does any act or makes any omission of such nature as to be likely to injure any such road or other thing,

Damage to
roads and
works.
Inserted by
2332, 1936,
s. 35, and
amended by
37, 1953,
s. 19 (a).

shall be guilty of an offence.

Penalty: Fifty pounds.

(2) The court may, in addition to or in lieu of any penalty imposable under this section, order the defendant to pay to the authority responsible for the maintenance of the road, bridge or culvert which was damaged, or on which the damaged structure or article was erected or placed, such sum as the court thinks proper by way of compensation for the damage.

Inserted by
37, 1953,
s. 19 (b).

PART VII.

Notice of
damage.

Inserted by
2332, 1936,
s. 35, and
amended by
37, 1953,
s. 20.

179. If the driver or person in charge of any vehicle causing damage to any road or to any bridge, culvert, guard fence or post on the road, otherwise than by reasonable use thereof, does not forthwith give to the road authority in whose area the damage has been caused notice of that damage, with full particulars of any damage to the surface of the road or to bridges, culverts, guard fences, or posts on the road, he shall be guilty of an offence.

Penalty.

Inserted by
2332, 1936,
s. 35.

180. Any person who commits an offence against this Part shall be liable, on summary conviction, to a penalty not exceeding twenty pounds.

Appointment
of authorized
officers.

Inserted by
2332, 1936,
s. 35.

181. The commissioner may appoint any person to be an authorized officer for the purpose of this Part, and any municipal or district council may appoint any person to be an authorized officer for the purpose of this Part within the district of such district council or municipal corporation.

Application
to employees
of Crown.

Inserted by
2332, 1936,
s. 35.

182. This Part shall be binding on any person in the employ of the Government of the State.

SCHEDULE.

ACTS REPEALED.

| No. and Year of Act. | Title of Act. |
|---|---|
| No. 19 of 1853 . . . | An Act to provide for the regulation and licensing of Public Conveyances, and to prevent the wanton ill-treatment of Horses and Cattle. |
| No. 1 of 1854 . . . | An Act to amend "An Act to provide for the regulation and licensing of Public Conveyances, and to prevent the wanton ill-treatment of Horses and Cattle." |
| No. 1370 of 1919 (except sections 12, 13, and 14 thereof) | Lights on Vehicles Act, 1919. |
| No. 1609 of 1924 .. | Lights on Vehicles Act Amendment Act, 1924. |
| No. 1858 of 1928 .. | Lights on Vehicles Act Amendment Act, 1928. |
| No. 2019 of 1931 .. | Lights on Vehicles Act Amendment Act, 1931. |
| No. 1480 of 1921 .. | Motor Vehicles Act, 1921. |
| No. 1527 of 1922 .. | Motor Vehicles Act Amendment Act, 1922. |
| No. 1645 of 1924 .. | Motor Vehicles Act, 1924. |
| No. 1695 of 1925 .. | Motor Vehicles Act Amendment Act, 1925. |
| No. 1760 of 1926 .. | Motor Vehicles Act Amendment Act, 1926. |
| No. 1827 of 1927 .. | Motor Vehicles Act Amendment Act, 1927. |
| No. 1941 of 1929 .. | Motor Vehicles Act, 1929. |
| No. 2095 of 1932 .. | Motor Vehicles Act, 1932. |
| No. 2131 of 1933 .. | Motor Vehicles Act, 1933. |
| No. 1580 of 1923 .. | Width of Tires Act, 1923. |
| No. 1641 of 1924 .. | Width of Tires Act Amendment Act, 1924. |
| No. 1714 of 1925 .. | Width of Tires Act Amendment Act, 1925. |
| No. 1961 of 1930 .. | Width of Tires Act, 1930. |
| No. 1699 of 1925 .. | Vehicles (Licensing) Act, 1925. |
| No. 1823 of 1927 .. | Vehicles (Licensing) Amendment Act, 1927. |
| No. 2169 of 1934 .. | Lights on Vehicles Act Amendment Act, 1934. |