

Acts reprinted pursuant to the Amendments Incorporation Act,  
1937

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HEALTH ACT, 1935-1943

ROAD TRAFFIC ACT, 1934-1943

WRONGS ACT, 1936-1940

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With notes of judicial decisions affecting sections of the reprinted Acts

The Health Act, 1935-1955, including all amendments passed to the end of 1955 and notes of judicial decisions, is reprinted in the Annual Volume, 1955, at page 267.



## HEALTH ACT, 1935-1943.

BEING

HEALTH ACT, 1935, No. 2238 OF 1935 [ASSENTED TO 19TH DECEMBER, 1935.]

AS AMENDED BY

STATUTE LAW REVISION ACT, 1936, No. 2293 OF 1936 [ASSENTED TO 8TH OCTOBER, 1936.]

HEALTH ACT AMENDMENT ACT, 1940, No. 33 OF 1940 [ASSENTED TO 21ST NOVEMBER, 1940.]

HEALTH ACT AMENDMENT ACT, 1941, No. 35 OF 1941 [ASSENTED TO 20TH NOVEMBER, 1941.]

HEALTH ACT AMENDMENT ACT, 1943, No. 13 OF 1943 [ASSENTED TO 9TH NOVEMBER, 1943.]

AND

NOXIOUS TRADES ACT, 1943, No. 34 of 1943 [ASSENTED TO 23RD DECEMBER, 1943.]

An Act to consolidate certain Acts relating to public health.

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.

1. This Act may be cited as the "Health Act, 1935-1943." Short title.
2. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed to the extent therein mentioned. Consolidation.
3. The provisions of this Act are arranged as follows:— Arrangement of Act.
  - PART I.—Preliminary.
  - PART II.—The Central Board.
  - PART III.—Local Boards.
  - PART IV.—County Boards—
    - DIVISION I.—General:
    - DIVISION II.—The Metropolitan County Board.

## PART I.

PART V.—Officers.

PART VI.—Insanitary Conditions and their Removal.

PART VII.—Reports and Inquiries.

PART VIII.—Sanitation—

DIVISION I.—Air:

DIVISION II.—Food:

DIVISION III.—Premises.

PART IX.—Infectious Diseases.

PART X.—Regulations.

PART XI.—Miscellaneous.

Interpreta-  
tion.  
711, 1898,  
ss. 5 and 90.  
2217, 1935,  
s. 2.

4. In this Act, and in all proceedings thereunder, except where some other meaning is clearly intended—

“Act” includes regulations:

“Central Board” means the Central Board of Health:

“cesspool” means any receptacle for nightsoil or liquid refuse:

“district” means the area within the jurisdiction of a local board:

“drain” means a drain used solely in connection with any building or premises within the same curtilage, and “sewer” means every other drain and sewer:

“infectious disease” means—

(a) any disease included in the second schedule; and

(b) any other disease which the Governor by proclamation declares to be an infectious disease:

“local board” means a local board of health, and “the local board” means the local board of health of the particular district:

“metropolitan local boards” means—

(a) the municipal councils of Adelaide, Brighton, Burnside, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Prospect, St. Peters, Thebarton, Port Adelaide, Unley, and Woodville;

Cf. U.K.  
52 & 53  
Vict., c. 72,  
s. 6.  
Cf. U.K.  
54 & 55  
Vict., c. 76,  
s. 55 (6).  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 304.

s. 4. (Definition of “metropolitan local boards.”) The following district councils have been constituted municipal councils:—Enfield, *Gazette* 30th March, 1944, p. 415; Marion, *Gazette* 30th March, 1944, p. 381; Mitcham, *Gazette* 16th December, 1943, p. 781; West Torrens, *Gazette* 9th December, 1943, p. 755.

- (b) the district councils of Campbelltown, Enfield, Marion, Mitcham, Payneham, Walkerville, and West Torrens;
- (c) the Garden Suburb Commissioner; and
- (d) such other local boards as the Governor by proclamation declares to be metropolitan local boards:

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Definition of "offensive trade" struck out by 34, 1943, s. 3.

"owner" includes every person for the time being entitled, either on his own or on any account, to the receipt of any rent or profit of the premises referred to:

"public place" includes every place to which the public ordinarily have access:

"private place" means every place other than a public place:

"water supply" includes any river, stream, water-course, creek, swamp, waterhole, well, tank, or reservoir.

5. (1) The Governor may from time to time by proclamation declare any disease to be an infectious disease.

Infectious diseases. 2217, 1935, s. 3. Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 147. Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 305.

(2) The Governor may from time to time by proclamation declare that any disease (whether defined as an infectious disease by section 4 or proclaimed as such by proclamation) shall cease to be an infectious disease. Any such disease may subsequently be again proclaimed as an infectious disease.

\* \* \* \* \*

Subsecs. (3) and (4) repealed by 34, 1943, s. 3.

6. In all cases where this Act, and any other Act, not hereby repealed, contain provisions for effecting the same or a similar object, but in different modes, proceedings may be had under either Act.

Alternative procedure. 711, 1898, s. 6.

7. Nothing in this Act shall affect any power of proceeding by indictment, complaint, or information, or take away or affect any other remedy under any other Act or otherwise.

Other procedure not affected. 711, 1898, s. 7.

8. Nothing in this Act shall affect any powers conferred upon the Commissioner of Sewers or the Central Board by

Saving. 711, 1898, s. 8.

## PART I.

the Sewerage Act, 1929, or limit the effect of any Act relating to factories or lodging-houses.

Public buildings subject to this Act, 711, 1898, ss. 9 and 10.

9. (1) Premises owned or occupied by the Government or by public bodies shall be subject to the provisions of this Act in the same manner as if they were owned or occupied privately.

(2) The officer having the use or control of any such premises shall be liable for any breach of the provisions of this Act as if he were the actual owner or occupier of the premises.

Minister, 711, 1898, s. 11.

10. The Chief Secretary shall be the Minister of Health.

## PART II.

## PART II.

## THE CENTRAL BOARD.

Central Board, 711, 1898, s. 12. Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 1.

11. The Central Board shall be charged with the execution of this Act for securing the proper sanitary condition of the State.

Constitution of Central Board, 711, 1898, s. 13.

12. The Central Board shall consist of a chairman appointed by the Governor and four other members, two of whom shall be appointed by the Governor and two shall be elected as hereinafter provided. At least one of the members shall be a legally qualified medical practitioner.

Quorum, etc. 711, 1898, s. 14 (part).

13. (1) A quorum shall consist of any three members.

(2) If the chairman is not present within five minutes after the time for which any meeting has been convened, any three members present may elect one of their number to be chairman for that meeting until the permanent chairman arrives.

(3) Every chairman shall have a deliberative vote, and also a casting vote in case of equality of voting.

Permanent head, 711, 1898, s. 14 (part).

14. The chairman of the Central Board shall be the permanent head of the department.

Nominations, 711, 1898, s. 15.

15. Before the first day of February, nineteen hundred and thirty-seven, and before the first day of February in every second year thereafter, nominations of candidates willing to

act as representatives on the Central Board may be made by the constituent boards to the Chief Secretary.

16. The names of persons so nominated shall be forwarded to the constituent boards, who may, before the first day of March in that year, each vote for a representative from persons so nominated, and advise the Chief Secretary of their vote.

Voting.  
711, 1898,  
s. 16.

17. (1) The elective members of the Central Board shall be elected as follows:—

Representative members of Central Board.

I. (a) One member shall be elected by the metropolitan local boards:

711, 1898,  
s. 17,  
2217, 1935,  
ss. 4 and 5.

(b) The other member shall be elected by all the other local boards:

II. In the month of March following every biennial election, and so soon as practicable after each extraordinary election, the Chief Secretary shall, by notice in the *Government Gazette*, declare the names of the persons elected, and the notice shall be conclusive evidence of the election:

III. When the seat of any elective member becomes vacant from any cause whatever other than by effluxion of time, the vacancy shall be filled up by an extraordinary election of a new member, to hold office only for the unexpired portion of the term of his predecessor. On the happening of the vacancy the Chief Secretary shall notify the constituent boards and fix a date not less than six weeks thereafter for such boards to advise him of their votes. If any such vacancy occurs within three months of the time when the seat would become vacant by effluxion of time, the Chief Secretary may, in his discretion, not hold an election to fill the vacancy and in such case the seat shall be filled at the next biennial election:

IV. In the case of equality of votes amongst the constituent boards the Chief Secretary shall have a casting vote.

(2) If at any election for a member only one candidate is nominated, the candidate nominated shall be deemed to have been elected and no vote shall be taken.

18. The elective members shall hold office until notification of the election of their successors.

Term of office.  
711, 1898,  
s. 18.

## PART II.

Recovery of expenses and penalties.  
711, 1898,  
s. 19.

19. All reasonable expenses incurred by the Central Board in carrying out any duty imposed on or in exercising any power vested in any local board shall be paid by and recovered from the local board in any case where the expense incurred was due to the neglect of the local board.

Powers of Central Board.  
711, 1898,  
s. 20.

20. Any powers which a local board and its officers may exercise with respect to its particular district may be exercised by the Central Board and its officers with respect to the whole State.

Access to all papers of local boards.  
711, 1898,  
s. 21.

21. The Central Board shall have access to all papers and things whatsoever belonging to or in the custody of any local board.

Appointment of officers.  
711, 1898,  
s. 22.

22. The Governor may appoint such officers of the Central Board as he may deem necessary.

## PART III.

## PART III.

## LOCAL BOARDS.

Constitution of local boards.  
711, 1898,  
s. 23.

23. (1) Every municipal council shall be the local board of health for its municipality.

(2) Every district council shall be the local board of health for its district council district.

Duties of local board.  
711, 1898,  
s. 24.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 1.

24. Every local board shall be charged with the due execution of this Act for securing the proper sanitary condition of its district, and in particular shall abide by and carry out all such directions as it shall receive in that behalf from the Central Board.

Power of local board to establish committee.  
2156, 1934,  
s. 891 (2).

25. (1) The local board may—

- (a) appoint a committee or committees of its members:
- (b) delegate to any such committee such of the powers and duties of the local board under this Act as the local board thinks fit:
- (c) pass such resolutions as the local board thinks fit for the guidance of any such committee:
- (d) remove any members of any such committee and appoint in the stead of them, or any of them, other members of the local board:

(e) fix the quorum (which shall be not less than three members) of any such committee.

(2) The proceedings of a committee shall, unless otherwise ordered by the local board, require the approval of the local board.

(3) No expenditure or payment or contract to expend or pay any sum of money exceeding twenty pounds, made by a committee, shall be lawful or valid unless the expenditure, payment, or contract is afterwards approved or ratified by the local board.

(4) A committee appointed under this Act may (subject to any resolution passed by the local board) meet from time to time and adjourn as the committee thinks fit, but no business shall be transacted at any meeting of the committee unless three members are present.

(5) At the first meeting of any committee one of its members shall be appointed chairman of the committee and all questions in committee shall be determined by a majority of votes of the members present. The chairman of the committee shall have a deliberative vote and a casting vote also.

(6) The chairman of the local board shall be *ex officio* a member of every committee of the local board.

26. Except where otherwise specially directed, all expenses, penalties, and fees recovered by any local board, and the proceeds of the sale of any refuse and other like matter, shall be paid over to and applied by the local board for the purposes of this Act.

Expenses,  
penalties, etc.  
711, 1898,  
s. 26.

27. Every local board shall keep separate accounts of its revenue and expenditure and minutes of its proceedings.

Separate  
accounts.  
711, 1898,  
s. 27.

28. The moneys required by a local board for the purposes of this Act shall be provided out of the general rate declared under the Local Government Act, 1934, for the purposes of the municipality or district council district comprised within the district of the local board.

Expenditure.  
2156, 1934,  
s. 891 (3).

## PART IV.

## PART IV.

## COUNTY BOARDS.

## DIVISION I.

## DIVISION I.—GENERAL.

Creation of county boards.

711, 1898, s. 29.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, ss. 6, 8.

**29.** The Governor may, by proclamation, upon the request of all the local boards affected, declare any two or more contiguous districts to be a county district designated by some distinctive name.

Proclamation of county board.

711, 1898, s. 30.

**30.** (1) Upon the proclamation of any county district a county board of health, consisting of not less than three members, shall be constituted for the district in manner prescribed by the proclamation.

Inserted by 33, 1940, s. 2.

(2) The Governor may from time to time by proclamation—

(a) vary the constitution of any county board of health but so that the county board shall consist of not less than three members:

(b) fix the quorum of any county board and provide that the chairman of the board is to have a deliberative and a casting vote.

Any proclamation made before the passing of the Health Act Amendment Act, 1940, relating to the constitution or quorum of a county board or the voting rights of the chairman thereof shall be as valid as if the provisions of this subsection had been enacted before the making of the proclamation.

Election of members of county boards.

711, 1898, s. 31.

**31.** Local boards forming a county district shall elect the members of the county board in the same manner as elective members of the Central Board are elected, and they shall hold office for a like period, except for the first year, when one-half shall retire by lot, and subsequently one-half shall retire annually.

Chairman. 711, 1898, s. 32.

**32.** At the first meeting of the county board after it is constituted, and after each annual election, the members thereof shall elect one of their number to act as chairman, who shall hold office for one year.

Auditors. 711, 1898, s. 33.

**33.** Local boards forming a county district shall elect two auditors, holding office for two years, except for the first year, when one shall retire by lot.

PART IV.  
DIVISION I.

34. County boards shall cause the accounts to be balanced and an abstract of the receipts and expenditure prepared for each half-year ending on the last day of the months of June and December, and shall publish in the *Government Gazette* within one month of the yearly audit in January an abstract of the receipts and expenditure as allowed by the auditors. Copies of the abstract shall be sent to all local boards forming the county district.

Accounts.  
711, 1898,  
s. 34.

35. Upon the constitution of any county board by proclamation—

Powers and  
duties.  
711, 1898,  
s. 35.

(a) all the powers, duties, and liabilities vested in or imposed on the local boards in the county district shall be vested in and imposed on the county board, and shall, except as to the powers mentioned in the next section, cease to be exercised by the local boards:

(b) the county board shall, in addition, have power to establish and carry on chemical and bacteriological laboratories.

36. Subject to section 46, the county board may require any local board within the county district to pay to the county board such portion of the amount of any general rate declared and levied pursuant to the Local Government Act, 1934, as is necessary for the purposes of the county board under this Act.

Revenue.  
2156, 1934,  
s. 891 (4).

37. County boards shall meet at least once in each month.

Meetings.  
711, 1898,  
s. 37.

38. The Governor by proclamation may—

(a) add to a county district any contiguous local board:

(b) remove from any county district any local board.

Local boards  
may be added  
or removed.  
711, 1898,  
s. 38.

39. All or any of the provisions of section 35 may be modified by proclamation.

Powers of  
Governor.  
711, 1898,  
s. 39.

DIVISION II.—THE METROPOLITAN COUNTY BOARD.

DIVISION II.

40. In this Division, and in all proceedings under this Division, except where some other meaning is clearly intended—

Interpreta-  
tion.  
1063, 1911,  
s. 3.  
2217, 1935,  
s. 11.

“animal” includes mammal, fish, fowl, crustacean, molluse, and any animal used as food:

s. 40. Under section 32b of the Garden Suburb Act, 1919-1936, the Garden Suburb is deemed to form part of the metropolitan county district.

“drug” includes any substances used for or in the composition or preparation of medicine, whether for internal or external use, and also any preservative, antiseptic, disinfectant, deodorant, narcotic, or cosmetic, and any laundry or toilet soap intended for sale to the public by retail, and absorbent cotton wool, and surgical dressings:

Of U.K.  
15 & 16  
Geo. 5, c. 71,  
s. 72 (7).

“food” includes any article used for food or drink by man, other than drugs, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also flavouring matters, condiments, and confectionery:

“metropolitan county district” means the metropolitan area as defined by section 5 of The Food and Drugs Act, 1908, including all districts before or after the passing of this Act declared by proclamation under that Act to be within the metropolitan area.

Metropolitan  
county  
district.  
1063, 1911,  
s. 4.

**41.** The metropolitan county district is hereby declared to be a county district under this Act, under the name of “The Metropolitan County District”.

Metropolitan  
county  
board.  
1063, 1911,  
s. 5.

Amended by  
S.L.R. Act,  
1936.

**42.** (1) The county board constituted under The Food and Drugs Act, 1908, for the metropolitan area under the Act is hereby declared to be a county board under this Act, and shall be the county board for the metropolitan county district. Notwithstanding anything in this Act, the members of the first-mentioned county board shall, by virtue of their offices as such members, be the members of the county board hereby declared to be constituted.

(2) Section 16 of The Food and Drugs Act, 1908, shall apply to and in respect of the said county board to the same extent as if the county board hereby constituted were constituted by proclamation under this Act.

Certain  
functions of  
local boards  
vested in the  
metropolitan  
county  
board.  
1063, 1911,  
s. 6.

**43.** (1) Notwithstanding anything to the contrary in this Act contained, all the powers, duties, and liabilities vested in or imposed on the several local boards in the metropolitan county district by this Act, with reference to the following matters, namely:—

i. Any land or premises or any public place whereon or wherein—

(a) any animal is sold or slaughtered, or is offered or exposed for sale or slaughter, or is being prepared or stored or kept for sale or slaughter, for human consumption;

(b) any article of food or drug is sold or offered or exposed for sale, or is deposited, stored, or delivered for the purpose of sale or of preparation for sale, for human consumption;

\* \* \* \* \*

Subdivision (c) repealed by 33, 1940, s. 3.

(d) any person is engaged in the production of an article of food or drug to be sold or offered or exposed for sale, or to be deposited, stored, or delivered for the purpose of sale or of preparation for sale, for human consumption;

ii. Any person who is engaged in the production of any article of food or drug to be sold or offered, exposed, stored, carried, or delivered for sale for human consumption;

iii. Any premises, animal, vehicle, receptacle, or other article or thing used in the production of any article of food or drug for sale for human consumption; and

iv. Any act, matter, or thing which will provide or tend to provide a proper or better security for the sale of food and drugs in a pure and genuine condition;

shall cease to be vested in or imposed on the said local boards or any of them, and shall be solely vested in and imposed upon the county board aforesaid.

(2) All powers, duties, and liabilities vested in or imposed on the said local boards with reference to any matters not mentioned in subsection (1), shall continue to be vested in and imposed on the said local boards.

44. In all proceedings under this Division it shall, until the contrary is proved, be presumed that the animal or article of food or drug the subject matter of, or referred to in the proceedings, was intended to be sold or to be offered, exposed, deposited, stored, delivered, or prepared for sale, as the case may require, for human consumption, and that the person engaged in or the animal used in the production of any such article of food or drug was engaged in or used in, as the case may require, the production of an article of food or drug intended for sale for human consumption.

Presumptive evidence in certain cases. 1063, 1911, s. 7. Cf. U.K. 5 & 6 Geo. 5, c. 66, s. 19 (2).

Powers of  
inspectors.  
1063, 1911,  
s. 8.

45. An inspector appointed under The Food and Drugs Act, 1908, shall have all powers, authorities and duties of an inspector appointed under this Act, so far as those powers relate to the matters mentioned in subsection (1) of section 43 of this Act, or any of them.

Limit of  
liability of  
local boards  
under this  
Division.  
1063, 1911,  
s. 9.

46. Notwithstanding any provision to the contrary in this Act contained, no local board within the metropolitan county district shall be required by the said county board to contribute any sum to the said county board for enabling the county board to carry out or perform the powers, duties, and liabilities vested in or imposed upon the county board by this Division, otherwise or to a greater extent than the local board is required to contribute to the county board under the provisions of The Food and Drugs Act, 1908.

## PART V.

## PART V.

## OFFICERS.

Officers.  
711, 1898,  
s. 40.

47. Every local board shall appoint an officer of health, and such inspectors and officers as may be deemed necessary by the Central Board.

Officer of  
health.  
711, 1898,  
s. 41.

48. The appointment and dismissal of every officer of health shall be subject to the approval of the Central Board. The officer of health shall—

(a) be when practicable a legally qualified medical practitioner; and

(b) possess all the powers vested in any inspector.

Appointment  
of inspectors.  
711, 1898,  
s. 42,  
2156, 1934,  
s. 891 (5).  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 9.

49. (1) The appointment of every inspector shall be in writing, in duplicate, under the hand of the chairman of the Central Board, or if the appointment be by a local board, under the hand of the chairman and the secretary of the local board.

(2) Every inspector shall be furnished with one of such duplicates, and, if required, shall produce the same to any person whose premises he may be inspecting or about to inspect.

**50.** For the purposes of any inspection, an inspector may, with or without others, enter into and upon any premises between the hours of nine in the forenoon and six in the afternoon, or in the case of any business or trade premises at any time when the business or trade is in progress or is usually carried on, and for the purposes of inspection may open up drains and execute any other necessary works.

Power to enter and inspect.  
711, 1898, s. 43.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 287.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 50, s. 180.

**51.** (1) Any person who obstructs or incites any other person to obstruct, any person acting in the execution of this Act, or of any power thereunder, shall be guilty of an offence against this Act, and liable to a penalty not exceeding ten pounds.

Obstruction of officers and members.  
711, 1898, s. 44.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 288.

(2) Every member of the police force shall assist all persons acting as aforesaid.

PART VI.

PART VI.

INSANITARY CONDITIONS AND THEIR REMOVAL.

**52.** The expression "insanitary condition" includes every breach or non-observance of any of the sanitary provisions of this Act, and also every condition declared to be an insanitary condition pursuant to section 58.

Definition of insanitary condition.  
711, 1898, s. 45.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 92.

**53.** Every local board, upon receiving from any person other than an inspector any information establishing reasonable grounds for suspicion of the existence of any insanitary condition, shall forthwith instruct an inspector to inquire into and report upon the premises referred to.

Local board to order inspection in certain cases.  
711, 1898, s. 46.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 91.

**54.** (1) If any inspector ascertains the existence of any insanitary condition, he shall forthwith report the circumstances to the local board.

Report to local board.  
711, 1898, s. 47.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 50, s. 9 (4).

(2) The report shall set out as far as possible—

- (a) the nature of the insanitary condition;
- (b) the apparent cause thereof, and the suggested remedy;
- (c) the description and situation of the premises;
- (d) the name of the owner; and
- (e) the name of the occupier.

## PART VI.

Occupier to furnish owner's name.

711, 1898, s. 48.

**55.** (1) Every occupier shall, on request, furnish any inspector with the name and address of the owner so far as the same may be known to him.

(2) Any person who fails to furnish any name or address as aforesaid shall be guilty of an offence against this Act, and liable to a penalty not exceeding ten pounds.

Notice by inspector.

711, 1898, s. 49.

**56.** If, in the opinion of the inspector, the insanitary condition should be immediately removed, he shall, in addition to reporting the circumstances to the local board, serve upon the occupier, or owner, a notice to remove or amend the same, and therein shall specify what is required to be done, and limit a time for compliance.

Notice by local board.

711, 1898, s. 50.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 93.

**57.** Upon the receipt of an inspector's report the local board, with or without further inquiry—

(a) may serve a notice requiring the removal or amendment of the insanitary condition; or

(b) may, if the inspector has already given notice—

(i.) adopt the notice; or

(ii.) issue a new notice in lieu thereof.

Notice of insanitary condition.

711, 1898, s. 51.  
Cf. U.K.  
2 & 3 Vict.,  
c. 71, s. 41.

**58.** Any local board, upon being satisfied that it is proper so to do, may serve a notice requiring the removal or amendment of any condition which the local board declares to be an insanitary condition.

Requirements of notice.

711, 1898, s. 52.

**59.** Every notice under sections 57 and 58 shall specify what is required to be done, and shall limit a time for compliance, and may direct to be done such works as the local board may deem necessary to prevent a recurrence of the insanitary condition.

Service.

711, 1898, s. 53.  
Cf. U.K.  
38 & 39 Vict.,  
c. 55, s. 267.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 93  
(proviso).

**60.** The notice may be served in manner following:—

i. If the owner be unknown, or if, in the opinion of the local board, the insanitary condition is caused by the act or neglect of the occupier, the notice may be served on the occupier:

ii. In all other cases the notice may be served on the owner or on any person by whose act or neglect

s. 58. BRUCE v. JARRETT (1926) S.A.S.R. 96. Where notice was served upon a limited company and proceedings were instituted against a defendant who was a director of and a large shareholder in the company, held that notice had not been served upon the defendant.

in the opinion of the local board the insanitary condition arises:

- III. In the case of premises owned by the Government, or by any public body, the notice may be served upon the officer having, or apparently having, the chief control of the premises.

**61.** Any person who, after service upon him, fails to comply with—

Penalty for non-compliance with notice.  
711, 1898, s. 54.

- (a) any notice given by an inspector (provided the same be subsequently adopted); or  
(b) any notice of the local board;

shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

**62.** On failure to comply with any notice of the local board, or with any inspector's notice, the local board may carry out the requirements of the notice.

Power of local board to carry out requirements of notice.  
711, 1898, s. 55.

**63.** In the case of unoccupied lands or premises, if the owner and the person by whose act or neglect the insanitary condition is caused are unknown, or cannot be found, the local board may remove or amend the insanitary condition without any previous notice whatever.

No notice necessary in certain cases.  
711, 1898, s. 56.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 93, proviso (b).

**64.** In addition to, or in lieu of summarily removing or amending any insanitary condition, if either—

Power of local board to make complaint.

- (a) the person on whom a notice to remove or amend any insanitary condition has been served makes default in complying with any of the requisitions thereof within the time specified; or

711, 1898, s. 57.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 94 (1).

- (b) the insanitary condition, although amended or removed since the service of the notice, is, in the opinion of the local board, likely to recur on the same premises,

the local board may institute summary proceedings against the person on whom the notice was served.

**65.** (1) The court, if satisfied that the alleged insanitary condition exists, or has been declared, or is likely to recur on the same premises, may by order, require the defendant to remove or amend the same, or to prevent the recurrence thereof within a time to be specified in the order, and may,

Powers of court.  
711, 1898, s. 58.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 94.

s. 61. BRUCE V. JARRETT (1926) S.A.S.R. 96. Where notice under section 58 was served upon a limited company and proceedings were instituted against a defendant who was a director of and a large shareholder in the company, held that notice had not been served upon the defendant.

PART VI.

if thought desirable, specify the works to be executed for the purpose of removing, amending, or preventing the recurrence of the insanitary condition.

(2) Any defendant who fails to comply with any such order shall be guilty of an offence against this Act and liable to a penalty not exceeding one pound for every day during which the default continues.

Recovery of expenses.

711, 1898,  
s. 59.  
Of U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 96.

**66.** All expenses incurred by the local board in connection with the removal or amendment of any insanitary condition may be recovered from the person upon whom the notice has been served.

Recovery of expenses by owner from occupier.

711, 1898,  
s. 60.

**67.** All expenses incurred by an owner by reason of his compliance with any notice may be recovered by him from the occupier or other person in all cases where the insanitary condition concerning which the notice was given was caused by the act or neglect of the occupier or other person.

Occupier from owner.

711, 1898,  
s. 61.

**68.** All expenses incurred by an occupier by reason of his compliance with any notice may be recovered by him from the owner in all other cases.

Expenses to be a charge on land.

711, 1898,  
s. 62.

**69.** In all cases all expenses incurred by any local board shall be a charge upon the premises in respect of which the same were incurred, and may be immediately recovered in the same manner as if they were rates in arrear.

PART VII.

## PART VII.

## REPORTS AND INQUIRIES.

Annual report.

711, 1898,  
s. 63.

**70.** Every local board shall, during January in every year and at such other times as the Central Board may direct, report to the Central Board concerning the sanitary condition of its district in such form as the Central Board may require.

Monthly return of infectious diseases.

711, 1898,  
s. 64.

**71.** Every local board shall forward monthly to the Central Board during the first week in each month a return of all cases of infectious disease reported within the district in such form as the Central Board may require.

**s. 66. R. v. LOCAL BOARD OF HEALTH OF PETERSBURG (1903) S.A.L.R. 119.** Expenses may only be recovered in a summary way as provided by section 157.

**s. 69. R. v. LOCAL BOARD OF HEALTH OF PETERSBURG (1903) S.A.L.R. 119.** Section 69 is limited to the creation of a charge and to the proceedings necessary for the enforcing of that charge.

72. Every local board shall immediately forward to the Central Board a return of all cases of measles, scarlet fever, diphtheria, typhoid fever, and puerperal fever reported to it for the first time within the district, in such form as the Central Board may require.

Returns of measles, scarlet fever, etc.  
711, 1898,  
s. 65.

73. Every local board shall immediately report to the Central Board the outbreak within its district of any infectious disease or the occurrence of any indications thereof, or of any circumstances of special importance likely to affect the health of any part of the district, together with all such particulars as can aid in the complete comprehension of the case and of its nature and cause.

Outbreak of infectious disease to be reported.  
711, 1898,  
s. 66.

74. The Central Board shall annually, not later than the month of March, and also whenever required by the Chief Secretary, report to him concerning all matters affecting the public health.

Central Board to report annually to Chief Secretary.  
711, 1898,  
s. 67.

75. The annual report of the Central Board shall be laid before Parliament.

Annual report to be laid before Parliament.  
711, 1898,  
s. 68.

76. Whenever it appears to the Central Board necessary or proper to make formal inquiry into any matter for the purposes of this Act, the following provisions shall have effect:—

Power to institute inquiries.  
711, 1898,  
s. 69.  
Cf. U.K.  
38 & 39 Vict.,  
c. 55, s. 293.

- i. The Central Board shall specify in writing the general scope and object of the inquiry, and such general directions as it may think proper to secure its due performance:
- ii. The inquiry shall be thereupon held by the chairman or such other person as the board may appoint:

The chairman or such other person is hereinafter included in the expression "the chairman":

- iii. The inquiry shall be held either in public or with closed doors, and at such place or places as the chairman may think fit:
- iv. The chairman shall hold sittings at such places, with power from time to time to adjourn the same. He may summon and examine witnesses and receive any evidence that may be offered respecting the subject of the inquiry:

v. All parol evidence shall be reduced to writing:

vi. The chairman may require any person to sign any evidence given by him:

vii. Witnesses may be summoned by being served with a notice in writing under the hand of the chairman calling upon them to attend and give evidence at a time and place to be therein specified. The notice shall be served so long before the time appointed as the chairman may deem reasonable.

Penalty for non-attendance.  
711, 1898,  
s. 70.

77. If any person is served with any such notice, and having been paid or tendered in advance such moneys as he would have been entitled to receive had he been a witness summoned to attend a local court, fails to comply with the same, or, having attended, refuses to give evidence or sign the same, he shall be guilty of an offence against this Act, and liable to a penalty not exceeding five pounds.

Certificate of chairman to be sufficient proof.  
711, 1898,  
s. 71.

78. A certificate under the hand of the chairman to that effect shall be sufficient proof of non-compliance with the notice to attend and give evidence, and of all other facts necessary to be proved to show it was incumbent upon such person to comply therewith.

Power of inspection.  
711, 1898,  
s. 72.

79. The chairman, either alone or with others, for the purposes of the inquiry, may enter and inspect any land or premises between sunrise and sunset.

Chairman to report to Central Board.  
711, 1898,  
s. 73.

80. The chairman may, at any time during the progress of the inquiry, and shall, on its completion, make to the Central Board a written report under his hand setting forth the result of the inquiry, his opinion thereon, and his reasons for that opinion. The report shall be accompanied by all evidence and information received during the inquiry.

False evidence.  
711, 1898,  
s. 74.

81. Any person who wilfully gives false evidence on any inquiry shall be guilty of an offence against this Act, and liable to a penalty not exceeding fifty pounds.

SANITATION.

DIVISION I.—AIR.

DIVISION I.

82. Every local board shall cause all sewers and drains to be kept properly cleared, cleansed, and emptied so as not to become or be likely to become injurious to health, or offensive, and for this purpose may construct all necessary works, and direct any sewer or drain into or through such places as may be deemed proper, except into fresh water running streams.

Sewers and drains.  
711, 1898, s. 75.  
Cf. U.K. 10 & 11 Vict., c. 34, c. 22, et. seq.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 14.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, ss. 17, 31.

83. (1) Any person who—

(a) without the consent of the local board causes or permits any private sewer or drain to be emptied or flow into any public sewer or drain:

Sewers, drains, stagnant water, and collections of offensive matter.  
711, 1898, s. 76.  
1696, 1925, s. 2.  
2089, 1932, s. 2.  
Cf. U.K. 10 & 11 Vict., c. 34, s. 30.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 26.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 52 (2).

(b) does anything which, in the opinion of the local board, will tend to the injury of any drain or sewer:

Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, ss. 27 (1) (a), 259.

(c) suffers any waste or stagnant water to remain in any cellar or place within or around any dwelling-house, so as to be, or be likely to become, injurious to health or offensive:

Cf. U.K. 10 & 11 Vict., c. 34, s. 99.  
Cf. U.K. 38 & 39 Vict., c. 55, s. 47 (2).

(d) allows any overflow, soakage, or leakage from any water-closet, privy, or cesspool: Provided that this paragraph shall not apply to any overflow or soakage from a bacteriolytic tank unless the overflow or soakage is offensive:

Cf. U.K. 38 & 39 Vict., c. 55, s. 47 (3).  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 34.

(e) allows any drainage, filth, water, night-soil, or matter to collect or to be deposited in any place, so as to become, or be likely to become, injurious to health or offensive:

Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 82 (1) (b).

s. 83. (1) (a) SMITH v. GAMEAU (1887) 21 S.A.L.R. 69; 12 Austn. Digest 1030. Where a licence, revocable under certain conditions as to preventing foul water passing into the pipe, was granted to a person by a local board to drain water from his land through a pipe into a drain, and the water was befouled by the actions of his neighbours, and the local board cut off the connection between the pipe and the drain, held that the local board had power to revoke the licence.

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 82 (1)  
(c).

Cf. U.K.  
10 & 11 Vict.,  
c. 34, s. 98.

Inserted by  
13, 1943,  
s. 2.

Inserted by  
13, 1943,  
s. 2.

- (f) allows any dead animal to remain in any place, so as to cause an offensive smell:
- (g) allows any place to become, or be likely to become, in such a state as to be a nuisance, or injurious to health, or offensive:
- (h) carries or conveys offensive or injurious matter through the streets except at hours specified by the local board:
- (h1) carries or conveys any night-soil through the streets except in a properly covered receptacle:
- (h2) suffers any night-soil to be deposited on or to spill on to any street:
- (i) without the consent of the local board removes, or allows to be removed, any night-soil from a ditch or pit in which the same has been deposited by any local board,

shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

(2) If any premises are in such a state as to be a nuisance or injurious to health or offensive, the occupier of the premises shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Public conveniences.

711, 1898,  
s. 77.  
Cf. U.K.  
7 Edw. 7,  
c. 53, s. 47.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 113.

**84.** Any local board may provide and maintain water-closets, earth-closets, privies, urinals and other similar conveniences for public accommodation.

Removal of refuse.

711, 1898,  
s. 78.  
Cf. U.K.  
7 Edw. 7,  
c. 53, s. 48.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
ss. 72-75.

**85.** (1) Any local board may itself undertake or contract for the removal of refuse or excreta from private places, and for this purpose may provide convenient receptacles, and may by regulation require the occupiers of premises to provide boxes, or other specified receptacles, for the temporary deposit of such matter, and to place such boxes or receptacles in convenient places at convenient times for the removal of their contents.

(2) Any person who deposits any refuse in any place except in such boxes or receptacles shall be guilty of an

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s. 83. (1) (g) MITTON v. H. JONES & Co. (ADELAIDE) LIMITED (1923) S.A.S.R. 446. "Place" is used to connote not only premises but would include casks and tins standing upon the ground. Subsection (1) must be read subject to the provisions of the Act relating to the carrying on of offensive trades.

offence against this Act and liable to a penalty not exceeding ten pounds.

(3) All such refuse shall be the property of the local board.

**86.** Every local board shall take all necessary and proper measures to ensure that all public places are properly cleansed and kept free from offensive matter.

Public places.  
711, 1898,  
s. 79.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
ss. 20, 22.

**87.** (1) Every distillery, manufactory, brewery, slaughter-house, and every establishment for the boiling, preserving, or preparing of any animal matter shall be provided with a water-tight cesspool, constructed and kept covered in such a manner as the local board may require.

Cesspools.  
711, 1898,  
s. 81.

(2) All refuse which may be or be likely to become injurious to health or offensive shall be deposited therein and periodically removed at prescribed times.

(3) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

**88.** Any person who keeps any pig in any sty or place at a less distance than fifty feet from any dwelling-house, dairy, or public street shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Keeping of  
pigs.  
711, 1898,  
s. 82.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 92 (1) (b).  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 119.

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Ss. 89 to 94  
repealed by  
34, 1943, s. 3.

DIVISION II.—FOOD.

DIVISION II.

**95.** Any person who permits any case or receptacle used, or intended to be used, for the carriage of fresh fruit or vegetables to come into direct contact with any manure or other offensive matter, shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

Fruit cases.  
711, 1898,  
s. 89.

**96.** (1) Whenever the pollution of any water supply becomes or is likely to become injurious to health, the local board shall for the purpose of preventing such pollution have within its district the rights of a riparian proprietor, and may enforce those rights by summary proceedings against the person in default, and may generally prevent the pollution of any water.

Riparian  
rights.  
711, 1898,  
s. 91.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
Part IV.

(2) Any person so in default shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds for a first offence, and for every subsequent offence to a penalty of double the amount of the penalty imposed on the then last preceding offence.

Sources of water supply may be closed.

711, 1898, s. 92.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 140.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 103.

97. Any local board may direct that any water supply which in the opinion of the officer of health, or any two legally qualified medical practitioners, is so polluted or unwholesome as to be unfit for human consumption, shall be closed, and that the contents thereof shall cease to be used for human consumption, either absolutely or for such time as the local board may direct.

When closed not to be used.

711, 1898, s. 93.

98. Any person who uses or permits to be used for human consumption, any such well or other source of water while any such direction remains in force, shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Offensive matter in or near water supply.

Substituted by 35, 1941, s. 2.

99. Any person who deposits or discharges or causes or suffers to be deposited or discharged any night-soil, animal matter, or other offensive matter into any water supply or who deposits or discharges or causes or suffers to be deposited or discharged any night-soil, animal matter, or other offensive matter in any place from whence, whether directly or indirectly, the night-soil, animal matter, or other offensive matter flows or falls or is liable to flow or fall into any water supply, shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds.

Swine, etc., on butcher's premises.

711, 1898, s. 95.

100. Any person who keeps any swine, sheep, or cattle on any butcher's business premises, or dresses any carcass therein shall, unless the premises are duly licensed for slaughtering purposes, be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

No swine at slaughter-houses.

711, 1898, ss. 96 and 97, 1696, 1925, s. 4, 2089, 1932, s. 8.

101. (1) No person in charge of any slaughter-house shall keep, or permit to be kept, in or about any slaughter-house any swine, unless intended for immediate slaughter, or any dog, unless constantly chained when not being used for yarding purposes: Provided that the local board may grant written permission to any person to keep swine, on the following conditions:—

- i. That the swine are to be kept at such distance from the slaughter-house, as may be directed; and
- ii. That the swine may be fed with offal if the offal has been first thoroughly cleansed and boiled.

(2) No licence, pursuant to this section, shall be granted for a longer period than for one year at any one time, and every such licence may be withdrawn on proof to the satisfaction of the local board of any non-observance of any condition thereof.

(3) If any swine are fed on any blood, offal, manure, or filth from any slaughter-house, other than as authorized by subsection (1), the person in charge of the slaughter-house shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

(4) If any dog is fed on any blood, offal, manure, or filth from any slaughter-house, the person in charge of the slaughter-house shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds: Provided that this subsection shall not apply to any such offal which has been first thoroughly cleansed and boiled.

Inserted by  
33, 1940,  
s. 4.

102. Any person who feeds to any swine any blood, offal, manure, or filth, or causes or permits any swine to be so fed, shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds: Provided that this section shall not apply to offal which has been thoroughly cleansed and boiled.

Feeding of  
swine.  
2089, 1932,  
s. 4.

103. No meat of any animal slaughtered in any public slaughter-house shall be sold or offered for sale as human food unless the animal has been inspected by an inspector of cattle after the slaughtering thereof, and certified fit for human consumption. The Central Board may direct any butcher's slaughter-house to be subject to the same inspection.

Inspection  
after  
slaughter.  
711, 1898,  
s. 100.

104. Sections 100, 101, and 103 shall not apply within any district comprised within the metropolitan abattoirs area within the meaning of the Metropolitan and Export Abattoirs Act, 1936, nor within any district comprised within any abattoirs area within the meaning of The Abattoirs Act, 1911.

Non-  
application of  
sections 100,  
101, and 103  
in certain  
districts.  
957, 1908,  
s. 4.  
1055, 1911,  
s. 4.

105. Any local board may appoint, subject to the approval of the Central Board, an inspector of cattle. There shall also be a chief inspector of cattle appointed by the Governor. The chief inspector shall be a veterinary surgeon.

Inspector  
of cattle.  
711, 1898,  
s. 104.

s. 104. The expression "The Metropolitan Abattoirs Act, 1908," altered to "The Metropolitan and Export Abattoirs Act, 1936," pursuant to the Amendments Incorporation Act, 1937.

PART VIII.  
DIVISION II.Diseased  
animals.

711, 1898,  
s. 105.  
2217, 1935,  
s. 6.  
Of U.K.  
49 & 50 Vict.,  
c. 32.

**106.** (1) Animals suffering from cancer, pleuro-pneumonia, tuberculosis, actinomycosis, anthrax, or trichinosis, or any other disease which the Governor may by proclamation add to this list, are "diseased animals" within the meaning of this Act.

(2) The Governor may, by proclamation, declare any disease to be a disease for the purposes of this section, and may by proclamation declare that any disease (whether mentioned in this section or declared a disease as aforesaid) shall cease to be a disease for the purposes of this section. Any such disease may subsequently be again proclaimed as a disease for the purposes of this section.

Isolation of  
diseased  
animals.

1248, 1916,  
s. 3.

**107.** (1) Every owner of a diseased animal shall give notice thereof to the local board, and shall isolate the animal from all other animals not being diseased animals, and shall keep it so isolated.

(2) Any owner who fails to isolate or keep isolated any such animal shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

(3) It shall be a defence to any prosecution under this section to show that the defendant did not know, and could not by the exercise of reasonable diligence have discovered, that the animal was diseased.

Inspector  
may use  
tests.

711, 1898,  
s. 107.  
2217, 1935,  
s. 7.

**108.** If the inspector of cattle suspects that any animal is a diseased animal, he may use all necessary tests to ascertain the facts as regards the suspected animal, and any other animal in the same herd or premises.

Destruction  
of diseased  
animals.

711, 1898,  
s. 108.

**109.** (1) Any inspector of cattle on being satisfied that any animal is a diseased animal shall give notice in writing to the owner or person in charge, directing him to kill the animal and destroy its carcass.

(2) Any such owner or person who fails to comply with any such notice shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

(3) If any animal killed pursuant to this section is subsequently found to be free from disease, the owner may recover its value from the board by which the inspector was appointed. The owner may require the inspector to test for disease the carcass before being destroyed. The value of the carcass may be deducted from the compensation recoverable.

110. (1) Any person who sells, consigns, or exposes for sale, or supplies for food, any diseased animal, or any meat therefrom, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

Diseased  
meat  
exposed for  
sale.

711, 1898,  
s. 109.  
1248, 1916,  
s. 4.

(2) Any person having for sale any such animal or meat in his possession or under his control, shall be deemed to be a person who exposes the animal or meat for sale.

(3) On proof of the selling, consigning, exposing for sale, or supplying, of the animal or meat in question, it shall be presumed that that animal or meat was sold, consigned, exposed for sale, or supplied, for food, unless the defendant proves the contrary.

111. (1) Any person who keeps or exposes for sale any food intended for human consumption which is diseased, unsound, unwholesome, or otherwise unfit for human consumption, shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Unwholesome  
food.

711, 1898,  
s. 110.

(2) On proof of the keeping or exposing for sale it shall be presumed that the food in question was intended for human consumption unless the defendant proves the contrary.

112. (1) Any person who—

(a) supplies to any person the milk of any diseased animal or any animal suffering from ulcers or other diseases of the udder:

Contamina-  
tion of milk.

711, 1898,  
s. 111.  
1248, 1916,  
s. 5.

(b) mixes any such milk with other milk intended for human consumption, sale, or for butter or cheese making:

(c) uses any such milk for human consumption, or for the food of swine or other animals, unless the milk has been boiled for at least ten minutes, and the local board has been notified of the intention to so use the milk:

(d) allows any person suffering from any infectious disease, or who may be living in any house where such disease exists, to—

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 204.

(i.) milk any cow;

(ii.) handle any vessel used for the reception of milk intended for sale or for human consumption;

s. 110. G. LAUGHTON AND COOMBS LIMITED v. MASTER BUTCHERS LIMITED (1915) S.A.L.R. 3. Special leave to appeal to the High Court refused, MASTER BUTCHERS LIMITED v. G. LAUGHTON AND COOMBS LIMITED (1915) 19 C.L.R. 349; 5 Austn. Digest 148. Held that the defendant was not guilty of an offence where the sale of an animal was made without his being aware that the animal was diseased.

(III.) take part or assist in the business of dairyman, cowkeeper, or vendor of milk; or

(IV.) to be employed in a dairy,

shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

(2) It shall be a defence to any prosecution under this section to show that the defendant did not know, and could not by the exercise of reasonable diligence have discovered—

- (a) that the animal was diseased or suffering as aforesaid; or
- (b) that the person was suffering from an infectious disease; or
- (c) that an infectious disease existed in the house where the person lived,

according to the nature of the offence charged.

(3) The officer of health may grant exemption from the operation of paragraph (d) of subsection (1) in respect of a person living in a house where an infectious disease exists, provided that—

- (a) the person is not suffering from any infectious disease; and
- (b) proper isolation is secured.

List of customers to be furnished.  
711, 1898, s. 112.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 207.

**113.** (1) Every person, on production of a certificate of the officer of health that the milk supplied by that person, or from his dairy, is suspected of causing disease, shall furnish to the local board a list of the names and addresses of his customers, and a full statement of the names and residences of the persons from whom the milk is obtained.

(2) Any person who fails to supply any such list or statement shall be guilty of an offence against this Act, and liable to a penalty not exceeding ten pounds.

Storing of milk in sleeping or dwelling place.  
711, 1898, s. 113.

**114.** No person shall store, keep, or deposit any milk in any room used for sleeping, or in any other place or mode likely to render the milk unwholesome.

Registration and licensing of dairies and regulations.  
711, 1898, s. 115.  
Cf. U.K. 5 & 6 Geo. 5, c. 66, s. 1.

**115.** Local boards may, by regulation, provide—

- (a) for the licensing of cowkeepers, dairymen, and vendors of milk;
- (b) for the registration and inspection of dairies, milk stores, and milk shops;

- (c) for the inspection of dairy farms and grazing grounds;
- (d) for the sanitary conditions of cowyards, cowsheds, dairies, milk, milk stores, milk shops, and vessels used for milk;
- (e) for preserving the health and good condition of cattle kept at any dairy;
- (f) for prohibiting the sale of milk by other than licensed persons and except from registered dairies, milk stores, and milk shops;
- (g) for prohibiting the adulteration of milk;
- (h) for temporarily prohibiting, on the certificate of the officer of health, the sale of milk from dairies where animals are diseased, or supposed to be diseased, or where persons are suffering, or supposed to be suffering, from an infectious disease, or where there are reasonable grounds for suspecting that the milk supply from such dairies is causing the spread of infectious disease.

Cf. U.K.  
5 & 6 Geo. 5,  
c. 66, s. 3.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
ss. 185, 206.

DIVISION III.—PREMISES.

DIVISION III.

**116.** (1) Any local board may, by notice in writing, declare that any building, or any specified part thereof, is unfit for human habitation.

Dwelling-houses unfit for habitation.  
711, 1898,  
s. 116.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 83.

(2) The notice may direct that the building, or part thereof, shall not, after a time to be specified in the notice, be inhabited or occupied by any person.

(3) The notice shall be affixed to some conspicuous part of the building.

**117.** Any person who after the expiration of the specified time, inhabits or occupies, or suffers to be inhabited or occupied, any such building or part thereof, shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Not to be let or occupied.  
711, 1898,  
s. 117.

**118.** (1) A notice may be served upon the owner of the building directing him to either amend the same in some specified manner, or to take down and remove the same.

Condemned building to be removed or amended.  
711, 1898,  
s. 118.

s. 118. *TIPPITT v. BELCHER* (1925) S.A.S.R. 1; 3 Austn. Digest 74. As to the obligation to comply with a notice within the time specified. The notice is a peremptory notice and it is intended that it should receive prompt attention. If the person served fails to obey the notice in some minor or trivial respect, or making every reasonable effort to obey it, is nevertheless unable to complete the work within the time allowed, the offence may be trivial.

(2) Any person who fails to comply with any such notice shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

Over-crowding.  
711, 1898,  
s. 119.  
Of. U.K.  
38 & 39 Vict.,  
c. 55, s. 91,  
para. 5.

**119.** Any person who suffers any building or part thereof, to be so overcrowded as to be, or likely to become, injurious to health, shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Proper conveniences in houses.  
711, 1898,  
s. 120.  
Of. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 44.

**120.** (1) All houses shall have in proper and convenient situations such closets and privies, with such conveniences and of such size and so constructed as shall, in the opinion of the local board, be necessary and sufficient.

(2) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Houses erected on insanitary land.  
711, 1898,  
s. 121.  
Of. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 54.

**121.** (1) The local board may, by notice, prohibit the erection of any house, or building on any land which, in their opinion, for sanitary reasons is unfit for human habitation until any sanitary defects existing in connection with the land have been removed to the satisfaction of the local board.

(2) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.

Drains may be made in private or public property.  
711, 1898,  
s. 122.  
Of. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
ss. 36, 278.

**122.** (1) Any local board, when necessary or expedient, may enter into and construct drains and other works upon any public or private land for the purpose of draining surface water from other lands.

(2) Where the land upon which the works are constructed is private property, the local board shall pay full compensation to any person who shall sustain damage by reason of the exercise of the above power.

New houses to have proper drains.  
711, 1898,  
s. 123.  
Of. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 43.

**123.** (1) All houses erected or re-built in municipalities after the thirteenth day of January, eighteen hundred and ninety-nine, shall have such drains, means of ventilation, and sanitary requirements, constructed of such materials and in such manner as the local board may prescribe.

(2) Plans and specifications showing the proposed drains, means of ventilation, and sanitary arrangements, shall be submitted to and approved by the local board before the occupation of any such house.

(3) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

124. (1) The owner or occupier of every building, whether erected before or after the passing of this Act—

- (a) which is used as a workshop or manufactory; or
- (b) in which persons are employed or are intended to be employed in any trade or business; or
- (c) which is used as a school, church, theatre, or hall, capable of ordinarily accommodating a meeting or assembly of more than twenty persons:

shall—

- (i.) provide the building with suitable accommodation in the way of urinals, closets, and privies; where both sexes are employed separate accommodation shall be provided with separate approaches thereto:
- (ii.) keep the building in a clean state and ventilate the same in such manner as to render harmless, as far as practicable, any impurities generated by the work carried on therein.

(2) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

125. Whenever any building, or part thereof, is let in lodgings or for the purpose of board and lodging, the same shall be deemed to be a lodging-house.

Definition of lodging-house.  
711, 1898, s. 125.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, Part IX.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 50, Part VI.

126. The local board may fix the number of persons who may occupy any lodging-house, and may, by regulation, provide for the registration and special inspection thereof.

Limit of number of inmates.  
711, 1898, s. 126.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 240.

PART IX.

INFECTIOUS DISEASES.

127. (1) Where any inmate of any building or part of a building is or is supposed to be suffering from any infectious disease, unless the building is a public or licensed hospital into which persons suffering from infectious diseases are received—

- (a) the head of the family;
- (b) on his default, the nearest relative of the inmate present in the building or being in attendance on the inmate;

Report of infectious disease.  
711, 1898, s. 127.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 144.  
Cf. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 50, s. 192.

- (c) on default by such relative, every person in charge or in attendance on the inmate; or
- (d) on default by any such persons, the occupier or owner of the building;

and in any case

- (e) every medical practitioner attending on or called in to visit the inmate;

shall, so soon as he becomes aware that the inmate is suffering from any infectious disease, report the same to the local board, who shall immediately report the same to the Central Board.

(2) Any person not being a person required to make a report in the first instance, but only in case of default by some other person, shall not be liable to any penalty if he proves that he had reasonable cause to suppose that the report had been duly made.

(3) The owner or occupier of every building used as a hospital shall, as soon as he or his manager or superintendent becomes aware that an inmate is suffering from any infectious disease, report the same to the local board.

(4) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

Medical practitioner to notify cases of tuberculosis. 711, 1898, s. 128.

Amended by 13, 1943, s. 3.

**128.** (1) Every medical practitioner attendant on or consulted by any person suffering from pulmonary tuberculosis or any other form of tuberculosis shall, so soon as the fact becomes known to him, report the same (together with particulars of the form of tuberculosis from which the person is suffering) to the local board of the district in which the person resides: Provided the notification shall not be necessary if the case has been previously reported to the same local board.

(2) Any person who fails to make any report required by this section shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

Fee to medical practitioner.

711, 1898, s. 129.

991, 1909, s. 5.

Of U.K. 52 & 53 Vict., c. 72, s. 4

(2) (part).

Of U.K.

26 Geo. 5 & 1, Edw. 8, c. 50, s. 192 (7).

**129.** The local board shall pay to every medical practitioner a fee of two shillings for every report made by him to the board under section 127 or section 128: Provided that when a report or reports is or are made concerning two or more persons in the same building only one such fee shall be payable.

**130.** No medical practitioner shall be liable to any proceedings for any mis-statement made in good faith in attempted notification of any infectious disease: Provided he promptly notifies to the local board any change in his diagnosis.

Medical practitioner protected.  
711, 1898, s. 130.

**131.** (1) If the officer of health or any legally qualified medical practitioner certifies in writing to the local board that the cleansing or disinfection of any building or part thereof, or any bedding, clothes, or other articles whatever would tend to prevent the spread of tuberculosis or any infectious disease, the local board may order and supervise the use of disinfectants, and take such other sanitary precautions as it may deem necessary to cleanse or disinfect the building or part thereof, and articles, and for that purpose may remove any such articles.

Disinfection of buildings and articles.  
711, 1898, s. 131.  
Cf. U.K. 7 Edw. 7, c. 53, s. 66.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49 s. 167.

(2) Any expenses incurred by the local board may be recovered from the owner or occupier of the building or part thereof, or the local board may itself, if it see fit, defray the expenses or any part thereof.

**132.** (1) If at any time any legally qualified medical practitioner certifies to the local board that any person suffering from any infectious disease or from pulmonary tuberculosis is residing in a building or part of a building used for the storage of milk, or for the storage or manufacture of butter, cheese, or other articles of human food, and that there is reason to believe that the milk, butter, cheese, or other article of human food may be contaminated by the disease, the local board may, with the sanction of the Central Board, order the owner or person in charge of the building to close the same until the officer of health certifies that the person has been removed from the building, and that all necessary precautions have been taken to prevent such contamination.

Butter and cheese factories may be closed.  
711, 1898, s. 132.

(2) Any person neglecting to comply with any such order shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

**133.** Any local board may—

- (a) provide or combine with other local boards to provide proper places, apparatus, and attendance for disinfecting purposes;
- (b) disinfect any articles;
- (c) make arrangements for disinfection with any hospital or with any local board possessing disinfecting apparatus;
- (d) make arrangements with any laboratory for scientific examination.

Disinfecting apparatus may be provided.  
711, 1898, s. 133.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 166.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 194.

Exposure of  
infected  
persons.

711, 1898,  
ss. 134 and  
135.

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
ss. 148, 149,  
159.

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 203.

**134.** (1) Any person who, knowing himself to be suffering from any infectious disease, or having so suffered, not being sufficiently recovered to be free from all risks of infecting others—

- (a) exposes himself in any public place without taking reasonable precautions against spreading the disease:
- (b) enters any place of common resort:
- (c) enters any ship, vessel, railway carriage, or public conveyance without previously notifying to the master, conductor, or person in charge the fact of the disease,

shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

(2) Any such person entering a public conveyance in breach of paragraph (c) of subsection (1) shall in addition to the said penalty, be liable to pay to the owner all loss and expense incurred in respect of the disinfection of the conveyance.

Owner of  
conveyance  
to give notice  
to local  
board.

711, 1898,  
s. 136.

Cf. U.K.  
7 Edw. 7,  
c. 53, s. 64.

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 160.

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
ss. 205, 211.

**135.** (1) Every owner or person in charge of any public conveyance having conveyed any person suffering or having so suffered not being sufficiently recovered from an infectious disease shall, immediately after he becomes aware of that fact, give notice to the local board of the district wherein he resides.

(2) Every such owner or person who fails to give any notice required by this section shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

Disinfection  
of  
conveyance.

711, 1898,  
s. 137.

Children  
attending  
school.

Cf. U.K.  
7 Edw. 7,  
c. 53, s. 57.

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 150.

Substituted  
by 33, 1940,  
s. 5.

**136.** The local board may disinfect any such conveyance, and may recover all expenses incurred from the owner.

**137.** (1) If any child is or has been suffering, or has been resident where any person is or has been suffering, from any infectious disease, then any person who suffers or permits that child to attend school, unless and until the said person has procured a certificate from a legally qualified medical practitioner that there is, in his opinion, no risk of infection, shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

(2) This section shall not apply in the case of measles, whooping cough, or influenza or any other infectious disease to which the Governor by proclamation declares that this section shall not apply.

(3) The Governor may by proclamation declare that this section shall not apply to any infectious disease and may by proclamation revoke or vary any such proclamation.

**138.** (1) Any person who knowingly lets for hire any building or part of a building in which any person is or has been suffering from any infectious disease without having had the building or part thereof, and all articles therein liable to retain infection, disinfected, in manner directed by a legally qualified medical practitioner, shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Letting infected buildings.  
711, 1898, s. 139.  
Cf. U.K. 38 & 39 Vict., c. 55, s. 128.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 157.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 198.

(2) The keeper of an inn shall be deemed to let for hire part of a building to any person admitted as a guest.

**139.** (1) When any person having suffered from any infectious disease dies in consequence of that disease, the body shall be interred within forty-eight hours, or at such earlier time as may be directed by the local board, by the parent, nearest relative, or person in charge during the illness.

Interment within forty-eight hours.  
711, 1898, s. 140.  
Cf. U.K. 52 & 53 Vict., c. 72, s. 8.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, ss. 161, 162.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 209.

(2) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

**140.** (1) Upon the receipt of a certificate in writing or by telegram from any officer of health or any legally qualified medical practitioner that any infectious disease exists within a district, and that isolation is necessary to prevent the spreading thereof, the Governor may authorize the Central Board to stop all or any traffic, and to limit and prevent the ingress and egress of any persons to or from any house or premises for such time and in such manner as the Central Board may think necessary.

Isolation of tenements and premises.  
711, 1898, s. 141.

(2) Any person guilty of any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

**141.** Upon the receipt of a certificate in writing from the Central Board that any infectious disease exists within the State, and that isolation is necessary to prevent the spreading thereof, or that there is danger of an outbreak of infectious disease occurring in the State, and that isolation is necessary to prevent the outbreak, the Governor may authorize the Central Board to stop all or any traffic and to limit and prevent the ingress, egress, and regress of any persons to or from any house or premises, or to limit and

Power to prevent spread of disease by isolation.  
1338, 1918, s. 3.

prevent the carriage of any persons in any vehicle for such time and in such manner as the Governor may think necessary.

## Ambulances.

711, 1898,  
s. 142.  
Cf. U.K.  
7 Edw. 7,  
c. 53, s. 50.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 197.

**142.** Any local board may provide or combine with any other local board to provide and maintain vehicles suitable for the conveyance of persons suffering from any infectious disease, and may convey any such person to a hospital or other place free of charge.

## Removal of persons to hospitals.

711, 1898,  
s. 143.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 169.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50,  
s. 201.

**143.** Where any suitable hospital, quarantine station, or place for the reception of the sick is provided within any district, or within a reasonable distance therefrom, and any person is suffering from any infectious disease and—

- (a) proper isolation is otherwise impracticable; or
- (b) the person is lodged in a room occupied by others of more than one family, or on board any ship or vessel, or in a common lodging-house, or in a boarding-house,

any local board may, on a certificate signed by any legally qualified medical practitioner, and with the consent of the superintending body or medical officer of the hospital, quarantine station, or place, compulsorily remove any such person to the hospital, quarantine station, or place, at the cost of the local board.

## Hospitals.

711, 1898,  
s. 144.

**144.** Any local board may provide or combine with any other local boards to provide for the use of inhabitants of the district hospitals or temporary places for the reception of any person suffering from any infectious disease, and for that purpose may—

- (a) build any such hospitals or places:
- (b) contract for the use of any hospital, or part of a hospital or place:
- (c) arrange with any person for the reception of the suffering.

## Maintenance.

Substituted  
by 35, 1941,  
s. 3.

**145.** (1) Any expenses incurred, pursuant to section 144, by a local board in maintaining in any such hospital or place any person suffering from any infectious disease shall be a debt due to the local board for which the following persons shall be jointly and severally liable:—

- 1. The person so maintained:

s. 145. *BODEY v. SHEPHERDSON* (1922) S.A.S.R. 174; 11 Austn. Digest 87. Where a child was maintained pursuant to section 144 and there was no evidence of a contract by the father to pay the expenses, held that no liability attached to the father of the child. Since this decision section 145 has been amended to provide that such a liability is incurred.

- ii. The husband or wife of the said person:
- iii. If the said person is under the age of twenty-one years, the father of the said person, or if the father is dead, the mother of the said person:
- iv. The children of the said person who were over twenty-one years of age at the time the liability was incurred.

(2) Any money payable under this section for the maintenance of any person shall accrue from week to week, and may be recovered by the local board by action in any court of competent jurisdiction but no amount in excess of four pounds four shillings shall be payable under this section for the maintenance of any person for any week.

(3) When two or more persons are jointly and severally liable under this section for the same sum, they shall be entitled as against each other to such indemnity or contribution as is directed by the court.

(4) Nothing in this section shall take away or restrict the liability of any person for the maintenance of any other person under any other Act or law for the time being in force, or the power of any court to make any order under such Act or law in respect of the maintenance of any person.

(5) If satisfied that to require payment of the whole or any part of any amount payable under this section would impose hardship on the person by whom it is payable, the local board may remit the whole or any part of any amount payable under this section.

**146.** (1) No building or any part thereof shall, after the first day of June, one thousand eight hundred and ninety-nine, be used for the purpose of a private hospital or maternity home unless and until the building or part thereof shall be licensed by the local board for that purpose. Every application for a licence shall be accompanied by the name of the manager.

*Licensing of hospitals and managers.*  
711, 1898, s. 146,  
2156, 1934, s. 891 (10).  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 49, s. 187.  
Cf. U.K. 26 Geo. 5 & 1, Edw. 8, c. 50, s. 241.

(2) No person shall act as manager of any such private hospital or maternity home unless licensed by the local board for that purpose.

(3) Any person guilty of any contravention of this section shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

(4) The manager shall be responsible for the good government of the institution.

(5) The licence fee for the building shall not exceed two pounds per annum, and shall, subject to section 165 of the

*Amended by S.L.R. Act, 1936.*

Maintenance Act, 1926, be the only licence fee chargeable: Provided that no fee shall be required from any institution where no charge is made for the attendance on and maintenance of its inmates.

Substituted  
by 33, 1940,  
s. 6 (2).

(6) The licence shall be granted upon such conditions as are prescribed by regulation made by the Governor.

(7) Any building or part thereof so licensed shall be liable to be inspected at any time.

## PART X.

## PART X.

## REGULATIONS.

Regulations.  
2089, 1932,  
s. 5.  
2156, 1934,  
s. 891 (8)  
and (9).  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 72 (3).

**147.** (1) The Governor, on the recommendation of the Central Board, may make regulations for or with respect to—

- (a) the measures to be taken for preventing the spread of or for limiting, mitigating, or eradicating tuberculosis or any infectious disease:
- (b) the prevention of the spread of infectious disease by persons who though not at the time suffering from such disease are “contacts” or “carriers” and liable to disseminate the infection thereof, and the keeping of such persons under medical surveillance and the restriction of the movements of such persons:
- (c) defining “contacts” and “carriers” for the purposes of this Act:
- (d) the prohibition of spitting in public places or in public conveyances except into receptacles provided for the purpose:
- (e) the imposition and enforcement of isolation or of medical observation and surveillance in respect of persons suffering or suspected to be suffering from tuberculosis or any infectious disease, the premises in which such persons are accommodated, those in charge of or in attendance on such persons, and other persons living in or visiting such premises or who may otherwise have been exposed to the infection of such disease; and the inspection of any such premises:
- (f) the disinfection of ambulances and other vehicles in which persons suffering from infectious disease are conveyed; the measures to be taken to pre-

vent the spread of infectious disease from the bodies of persons who have died from infectious disease including the disinfection of any vehicles in which any such bodies are conveyed:

- (f1) prescribing the conditions upon which licences under section 146 for private hospitals and maternity homes may be granted and the revocation of such licences; prescribing the qualifications of persons acting as managers or persons in charge of such private hospitals and maternity homes; and providing for an appeal to the Central Board from any decision of a local board with respect to the grant or revocation of any such licence:
- (g) the regulation of trade in flock, rags, and in second-hand clothing, bedding, or any similar articles. and requiring the cleaning and disinfection of any such articles before removal, sale, or exposure for sale, or use in any manufacturing process:
- (h) the installation, maintenance, and inspection of bacteriolytic tanks, and the fittings and drains and water closets used in connection therewith:
- (i) the supervision of slaughter-houses licensed pursuant to the Local Government Act, 1934, and the receiving, inspection, and slaughtering therein of animals; and the conduct of persons carrying on business or employed at such slaughter-houses:
- (j) except as regards slaughter-houses within the metropolitan abattoirs area under the Metropolitan and Export Abattoirs Act, 1936, or within any area proclaimed under The Abattoirs Act, 1911, the prescribing and regulation of the nature and kind of structure of, and the materials to be used in the construction of slaughter-houses in respect of which any application for a slaughtering licence under the Local Government Act, 1934, may be made, and the drains, receptacles, and other conveniences to be provided in connection with any such slaughter-house, prior to the granting of any such licence:
- (k) except as aforesaid, the maintenance of cleanliness in, at, and about every slaughter-house and place used for slaughtering cattle, sheep, or swine:

Inserted by  
33, 1940,  
s. 6 (1).

Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 50.  
s. 144.

s. 147. (1) (j) The expression "The Metropolitan Abattoirs Act, 1908," altered to "the Metropolitan and Export Abattoirs Act, 1936," pursuant to the Amendments Incorporation Act, 1937.

- (*l*) enforcing the destruction of infected cattle, which, if slaughtered, would be unfit for human food:
- (*m*) enforcing the destruction of unwholesome meat:
- (*m1*) regulating the fumigation of premises for the destruction of animal or insect pests or disease germs by means of gases, vapours, fumes, mists or smokes which are or may be dangerous to human life or health:
- (*m2*) for prohibiting or regulating the removal from any premises of any furniture or other chattels which are vermin infested or the removal of any furniture or other chattels from any vermin infested premises, and for requiring and regulating the fumigation of any such furniture and other chattels:
- (*n*) generally carrying into effect the purposes of this Act:
- (*o*) imposing penalties not exceeding ten pounds for the breach of any regulation.

(2) Any regulation purporting to be made before the first day of November, nineteen hundred and thirty-four, by the Central Board of Health pursuant to The Health Act, 1898, with respect to any matters referred to in paragraph (*i*) to (*m*), both inclusive, of subsection (1), shall be deemed to have been made by the Governor pursuant to the powers conferred by the said paragraphs.

Powers of  
Central  
Board.  
711, 1898,  
s. 147.

**148.** The Central Board may make—

- (*a*) model regulations for the guidance of local boards in the execution of this Act:
- (*b*) all such regulations as a local board is by this Act authorized to make.

Powers of  
local boards.  
711, 1898,  
s. 148.

**149.** Every local board—

- (*a*) may, and when expressly directed by the Central Board shall, adopt the model regulations prepared by the Central Board:
- (*b*) and may make in addition all such regulations not repugnant thereto as it may deem useful or necessary for properly carrying into effect the provisions of this Act within its district.

Application of  
regulations  
may be  
limited.  
711, 1898,  
s. 149.

**150.** Any regulation may be made to apply only to particular districts or to particular parts of a district.

151. In all cases not otherwise provided for any regulation may impose any penalty not exceeding ten pounds for any breach or non-observance of the same, or in the case of a continuing breach not exceeding two pounds for each day that the breach is continued.

Penalties may be imposed.  
711, 1898,  
s. 150.  
2217, 1935,  
s. 9.

152. All regulations made by a local board shall—

- (a) be submitted to the Central Board for approval;
- (b) be subject to the confirmation of the Governor; and
- (c) when confirmed by the Governor, shall be published in the *Government Gazette*, and shall thenceforth have the force of law.

Submission of regulations to Central Board.  
711, 1898,  
s. 151.

153. All regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then in session, and if not, then within fourteen days after the commencement of the next session of Parliament.

Regulations to be laid before Parliament.  
711, 1898,  
s. 152.  
2089, 1932,  
s. 6.

154. If either House of Parliament passes a resolution disallowing any such regulation of which resolution notice has been given at any time within fourteen sitting days of such House after the regulation has been laid before it, the regulation shall thereupon cease to have effect, but without affecting the validity, or curing the invalidity, of anything done, or of the omission of anything, in the meantime.

Disallowance by Parliament.  
2089, 1932,  
s. 7.

155. The *Government Gazette* containing any regulation shall be conclusive evidence of the making thereof.

Evidence of regulations.  
711, 1898,  
s. 154.

PART XI.

PART XI.

MISCELLANEOUS.

156. To secure the due execution of this Act all persons failing to do any act directed to be done or doing any act forbidden to be done by any provision or by any part of any provision of this Act, or by any regulation, notice, or order of the Central Board, or of any local board, or any notice of any officer, or order of court, shall be guilty of an offence against this Act, and shall be liable—

Penalties.  
711, 1898,  
s. 155.  
2217, 1935,  
s. 10.

- (a) to any sum not exceeding the particular penalty specified in or at the foot of the provision or regulation, or in or at the foot of the particular provision under which any such notice or order is given or made:

(b) if there be no specified penalty, then in the case of a breach—

- (I.) of a provision of this Act to a penalty not exceeding fifty pounds; or
- (II.) of any regulation to a penalty not exceeding ten pounds.

Summary proceedings.  
711, 1898,  
s. 156.

**157.** All complaints and informations shall be heard and determined, and all moneys, costs, and expenses shall be recovered in a summary way.

Appropriation of penalties.  
711, 1898,  
s. 157.  
2089, 1932,  
s. 8.

**158.** All penalties for an offence against this Act which are recovered on the complaint of any inspector or officer of a local board shall be paid to that local board. All other penalties shall be paid into the general revenue of the State.

Legal proceedings.  
711, 1898,  
s. 158.

**159.** All complaints, informations, and legal proceedings by or against the Central Board or any local board, may be preferred, prosecuted, or defended in the name of that board, or in the name of the chairman, secretary, or inspector.

No proceedings to be taken without authority.  
711, 1898,  
s. 159.  
Cf. U.K.  
26 Geo. 5 & 1,  
Edw. 8, c. 49,  
s. 298.

**160.** Except where otherwise provided, no proceedings shall be instituted under this Act, except by or on behalf, or with the authority of the Central Board or of the local board. The authority may be either general or particular, and may be proved by the production of the authority in writing under the hand of the chairman or secretary of the board, or a copy of a resolution under the hand of the chairman or secretary.

Constitution of board need not be proved.  
711, 1898,  
s. 160.

**161.** It shall not be necessary in any legal proceedings to prove the existence, constitution, or appointment of the Central Board, or any local board, or of any chairman, officer, or member thereto.

Proof of boundaries and appointment of officers.  
711, 1898,  
s. 161.

**162.** (1) A certificate under the hand of any person appearing to be the chairman or secretary, or the oath of any officer, shall be sufficient evidence of—

- (a) the boundaries of any district:
- (b) the appointment of any officer,

until the contrary be proved.

**S. 157. R. v. LOCAL BOARD OF HEALTH OF PETERSBURG (1903) S.A.L.R. 119.** Section 157 is mandatory and provides the only method of procedure whereby money, costs, and expenses can be recovered against the person.

**BODEY v. SHEPHERDSON (1922) S.A.S.R. 174; 11 Austr. Digest 87.** Section 157 is limited so as to apply only to such moneys, costs, and expenses as the Act gives a right to recover.

(2) Any notice thereof in the *Government Gazette* shall be conclusive evidence.

**163.** In any proceedings under this Act, on proof that an article was exposed in any place to which the public had access, or in any market or shop, it shall be presumed that the article was exposed for sale, unless the defendant proves the contrary.

Presumption where goods are exposed in shop, etc.  
1248, 1916, s. 6.

**164.** Every document required to be made or authenticated by any board shall (unless otherwise provided) be sufficiently authenticated if appearing to be signed by any member or officer of the board.

Authentication of documents.  
711, 1898, s. 167.  
Of. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 284.  
Of. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 150, s. 300.

**165.** (1) Any document required to be served may be served by posting the same in an envelope addressed to the person for whom it is intended at his last known or most usual place of abode or business, or by delivering the same to the said person or at the said place.

Service of documents.  
711, 1898, s. 168.  
Of. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 49, s. 285.  
Of. U.K.  
26 Geo. 5 & 1, Edw. 8, c. 50, s. 301.

(2) In the case of unoccupied land or premises it shall be sufficient to affix any necessary notice on some conspicuous part of the land or premises.

(3) Any notice, consent, permission, or licence by this Act required to be given or obtained shall be in writing.

(4) Any document posted pursuant to this section shall be deemed to have been duly served at the time when in the ordinary course of post it would have arrived at its address.

**166.** Whenever any person fails to perform any duty cast upon him by this Act, or fails to comply with any order or notice, the local board may perform the duty or carry out the terms of the order or notice, and recover all expenses from the person in default.

Neglect of duty.  
711, 1898, s. 169.

**167.** No board shall, except where otherwise expressly provided, be liable for anything in good faith done or caused or omitted to be done by it in carrying out the provisions of this Act, and every person acting under the authority of any board shall be indemnified by the board for all liability in so acting.

Board not to be liable in certain cases.  
711, 1898, s. 170.

**168.** Every legal proceeding against any such person or against any board or person in good faith acting or intending to act under this Act, on account of anything done or omitted

Actions against board.  
711, 1898, s. 171.

to be done shall be commenced within two months after the cause of action shall have arisen, and not afterwards.

Members  
and officers  
of boards  
interested in  
contracts, etc.  
711, 1898,  
s. 172.

**169.** Any member or officer of any board who—

- (a) is directly or indirectly interested in any bargain or contract entered into by the board; or
- (b) exacts, takes, or accepts any fee or reward whatsoever other than his proper remuneration,

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

Incorporation  
of  
Compulsory  
Acquisition  
of Land Act,  
1925.  
711, 1898,  
s. 173.

**170.** The Compulsory Acquisition of Land Act, 1925, except sections 49, 79, 80, 81, and 82, is incorporated with this Act. The board of health shall be deemed to be the promoters of an undertaking, and this Act shall be deemed to be the special Act.

SCHEDULES.

THE FIRST SCHEDULE.

*Acts Consolidated and Repealed.*

Reference to Act.	Short Title.	Extent of Repeal.
No. 711 of 1898 . . . .	The Health Act, 1898 . . . . .	The whole
No. 991 of 1909 . . . .	The Health Act Amendment Act, 1909 . . . . .	The whole
No. 1063 of 1911 . . . .	The Health Act Amendment Act, 1911 . . . . .	The whole
No. 1248 of 1916 . . . .	Health Act Further Amendment Act, 1916 . . . . .	The whole
No. 1338 of 1918 . . . .	Health Act Further Amendment Act, 1918 . . . . .	The whole
No. 1696 of 1925 . . . .	Health Act Further Amendment Act, 1925 . . . . .	The whole
No. 2089 of 1932 . . . .	Health Act Amendment Act, 1932 . . . . .	The whole
No. 2156 of 1934 . . . .	Local Government Act, 1934 . . . . .	Section 891
No. 2217 of 1935 . . . .	Health Act Amendment Act, 1935 . . . . .	The whole

THE SECOND SCHEDULE.

*List of Infectious Diseases.*

Amoebic dysentery	Influenza vera
Ankylostomiasis	Intermittent, remittent, paludal or malarial fever
Anthrax	Leprosy
Bacillary dysentery	Measles
Bilharziosis	Membranous croup
Cerebro-spinal fever	Paratyphoid fever
Cerebro-spinal meningitis	Plague
Chickenpox	Poliomyelitis anterior acuta
Cholera	Relapsing or puerperal fever (including all puerperal conditions depending on infection)
Diphtheria	Scarlatina
Encephalitis lethargica (epidemic encephalitis)	Scarlet fever
Endemic typhus fever	Smallpox
Enteric fever	Trichinosis
Epidemic cerebro-spinal meningitis	Tuberculosis in animals
Epidemic parotitis (mumps)	Typhoid fever
Erysipelas	Typhus fever
Favus	Whooping cough
Filariasis	Yellow fever
Influenza or any febrile toxic septicaemic condition similar to influenza, including pneumonic influenza	

The Road Traffic Act, 1934-1954, including all amendments passed to the end of 1954 and notes of judicial decisions, is reprinted in the Annual Volume, 1954, at page 274.



## ROAD TRAFFIC ACT, 1934-1943.

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.]

AND

ROAD TRAFFIC ACT AMENDMENT ACT, 1943, No. 35 OF 1943  
[ASSENTED TO 23RD DECEMBER, 1943.]

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, 1934-1943," 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.

Administra-  
tion 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—

Interpreta-  
tion.  
1480, 1921,  
s. 4.  
1695, 1925,  
ss. 3, 15.  
1941, 1929,  
s. 4.  
Of U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 1.

“commercial motor vehicle” means any motor vehicle wholly or mainly adapted for the carriage of goods, and includes a motor vehicle of the type commonly called “buckboard”:

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

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

“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:

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.

PART II.

Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 2.  
Amended by  
45, 1939,  
s. 3 (b).

“licence” means licence under this Part:

“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:

“trailer” means any vehicle without motive power 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.

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

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.

(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.

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.

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.

(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 be deemed to be driven on any road so as to require registration under this Part by reason only of the fact—

- (a) that it is driven on any road for the purpose of carrying out any contract made with a municipal or district council for scarifying, grading, and/or rolling any roads or streets:
- (b) that it is driven on any road for the purpose of drawing farm implements or machinery from one farm to another.

Permits to use certain tractors and other vehicles without registration.

Inserted by 2416, 1938, s. 4.

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.

(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.

Permits to drive vehicles pending registration.

Inserted by 34, 1939, s. 3.

7b. 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 fifty 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

(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 the operation of the permit applied for have the same effect in relation to the motor vehicle as a policy of insurance complying with Part IIa 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 windscreen of the vehicle to which it relates in the position prescribed for the carrying of a registration card.

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.

Provisions as  
to registra-  
tion.  
1480, 1921,  
s. 8.  
1941, 1929,  
s. 5.

(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.

Amended by  
2332, 1936,  
s. 4.

(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.

Certificates of insurance.

Inserted by 2416, 1938, s. 5, and amended by 35, 1943, s. 3.

**8c.** After the thirty-first day of March, nineteen hundred and thirty-nine, the registrar shall not register any 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 a policy of insurance has been issued by that insurer in relation to the motor vehicle, and that the policy complies with Part II.A. of this Act, and will unless lawfully cancelled remain in operation throughout the period for which registration is applied for.

Mode of computing registration fee.

1480, 1921, s. 8K.  
1941, 1929, s. 5, and the schedule.  
2095, 1932, ss. 17-20.  
Cf. U.K. 23 & 24 Geo. 5 c. 19, s. 25, 7th Sch.

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

(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.

(b) The horsepower of a motor vehicle propelled by any volatile spirit 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.

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 61, 1940,  
s. 4.

	£	s.	d.
If the weight of the motor bicycle does not exceed one hundredweight . . . . .	1	0	0
If the weight of the motor bicycle exceeds one hundredweight. . . . .	1	10	0
The registration fee for a motor bicycle having a side car attached thereto shall be . . . . .	2	0	0
The registration fee for any electrically or mechanically propelled invalid's chair shall be ..	0	2	6

(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.	2	0	0
If the tricycle or trivan does exceed 10 P.W. .	4	0	0

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

	£	s.	d.
If the vehicle does not exceed 25 P.W. . . . .	4	0	0
If the vehicle exceeds 25 P.W. but does not exceed 30 P.W. . . . .	5	0	0
If the vehicle exceeds 30 P.W. but does not exceed 35 P.W. . . . .	6	0	0
If the vehicle exceeds 35 P.W. but does not exceed 40 P.W. . . . .	7	0	0
If the vehicle exceeds 40 P.W. but does not exceed 45 P.W. . . . .	8	0	0
If the vehicle exceeds 45 P.W. but does not exceed 50 P.W. . . . .	9	0	0
If the vehicle exceeds 50 P.W. but does not exceed 55 P.W. . . . .	10	0	0
If the vehicle exceeds 55 P.W. but does not exceed 60 P.W. . . . .	11	0	0
If the vehicle exceeds 60 P.W. but does not exceed 65 P.W. . . . .	12	0	0
If the vehicle exceeds 65 P.W. but does not exceed 70 P.W. . . . .	13	0	0
If the vehicle exceeds 70 P.W. but does not exceed 75 P.W. . . . .	14	0	0

	£	s.	d.
If the vehicle exceeds 75 P.W. but does not exceed 80 P.W. . . . .	15	0	0
If the vehicle exceeds 80 P.W. but does not exceed 85 P.W. . . . .	17	0	0
If the vehicle exceeds 85 P.W. but does not exceed 90 P.W. . . . .	18	0	0
If the vehicle exceeds 90 P.W. but does not exceed 95 P.W. . . . .	19	0	0
If the vehicle exceeds 95 P.W. but does not exceed 100 P.W. . . . .	20	0	0
If the vehicle exceeds 100 P.W. but does not exceed 110 P.W. . . . .	23	0	0
If the vehicle exceeds 110 P.W. but does not exceed 120 P.W. . . . .	26	0	0
If the vehicle exceeds 120 P.W. but does not exceed 130 P.W. . . . .	29	0	0
If the vehicle exceeds 130 P.W. but does not exceed 140 P.W. . . . .	32	0	0
If the vehicle exceeds 140 P.W. but does not exceed 150 P.W. . . . .	35	0	0
If the vehicle exceeds 150 P.W. but does not exceed 160 P.W. . . . .	38	0	0
For every additional P.W. . . . .	0	5	0

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 cent. 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 100 per cent. thereof.

(5) 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 . . . . .	1	10	0
If the weight of the trailer unladen exceeds 1 ton, but does not exceed 1½ tons . . . . .	2	0	0
If the weight of the trailer unladen exceeds 1½ tons, but does not exceed 2 tons . . . . .	2	10	0
If the weight of the trailer unladen exceeds 2 tons . . . . .	3	0	0

If the trailer 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 cent. thereof.

If the trailer 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 100 per cent. thereof.

(6) 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 the percentage hereinafter mentioned of that which would be payable for the full period of twelve months.

Amended by  
2332, 1936,  
s. 5.

The percentage referred to in this subsection shall be as follows:—

- (a) If registration is effected during the period of twelve months after the commencement of the Road Traffic Act Amendment Act, 1936, fifty-five per centum:
- (b) If registration is effected within the period of twelve months commencing after the expiration of the period mentioned in paragraph (a), fifty-three and three-quarters per centum:
- (c) If registration is effected at any time after the expiration of the period mentioned in paragraph (b), fifty-two and one-half per centum.

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

Amended by  
2332, 1936,  
s. 6.

- (a) any commercial motor vehicle 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,

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

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

(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).

\* \* \* \* \*

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

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

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

Amended by  
45, 1939,  
s. 5.

(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 the nearest town not being a town where there is a railway station or port, 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.

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

(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 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.

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.

(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 and used solely for the purposes of fire-fighting:

Amended by  
2416, 1938,  
s. 8 (2).

- (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:
- (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:
- (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.

Amended by  
2, 1941, s. 4.

Inserted by  
2416, 1938,  
s. 7.

Inserted by  
61, 1940,  
s. 5 (1).

(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—

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

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

“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.

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

## PART II.

Inserted by  
61, 1940,  
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.

Temporary  
reduction of  
registration  
fee.

Inserted by  
2, 1941, s. 5,  
and repealed  
and re-enacted  
by 35, 1943,  
s. 5.

Calculation  
of fees to  
nearest  
shilling.

Inserted by  
2, 1941, s. 5.

Reduced fees  
for vehicles  
of British  
origin.

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

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

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

**10.** (1) The Governor may, from time to time, by proclamation, declare that any commercial motor vehicles, or any class of commercial motor vehicles described or referred to in the proclamation shall be commercial motor vehicles of British origin for the purposes of this Part.

(2) The Governor at any time by proclamation may partially or wholly revoke, or may vary any proclamation for the time being in force under this section.

(3) The fees payable under this Act for registration of any motor vehicles which, by any proclamation for the time being in force under this section, are declared to be commercial motor vehicles of British origin, shall be the amount which would otherwise be payable under this Part, less ten per centum thereof.

Refunds in  
certain cases.

Inserted by  
2332, 1936,  
s. 9.

**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.

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 horse power 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,

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.

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

**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.

(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—

Substituted  
by 45, 1939,  
s. 7.

(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:

Inserted by  
45, 1939,  
s. 7.

(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.

Inserted by  
2332, 1936,  
s. 10.

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.

Prohibition  
of use of  
plates on  
unregistered  
vehicles.  
1480, 1921,  
s. 25 (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 vehicle  
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 on any road drives 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.

(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.

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.

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;
- (b) makes any false statement in or in connection with any application for registration under this Part;
- (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.

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—

Transfer of registration or refund.  
1480, 1921, s. 8F.  
2095, 1932, s. 6.  
2131, 1933, s. 6.

- (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.

(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 two shillings and sixpence 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).

(3) Unless a joint application for the transfer of the registration, accompanied by the proper fee and by an 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:
- (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:
- (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:
- (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  
2416, 1936,  
s. 9 (1).

Inserted by  
45, 1939,  
s. 9.

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

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.

(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 two shillings and sixpence:

(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).

(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 two shillings and sixpence:

(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 authorised 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 authorised 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.

## PART II.

Provision for recovery where registration fee short paid.

1480, 1921, s. 8 I.  
2095, 1932, s. 6.  
2131, 1938, 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.

(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).

(6) The fees for the issue or extension of operation of trader's plates shall be as follows:—

For the issue or extension of operation of one pair of general trader's plates, eleven pounds eleven shillings:

For the issue or extension of operation of a second or any subsequent pair of general traders' plates, eight pounds eight shillings:

For the issue or extension of operation of each pair of limited trader's plates ten shillings:

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*.

(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 five 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 traders' 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) a 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.

(15) If any vehicle is driven in contravention of subsection (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.

(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 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.

Temporary  
reduction of  
fees for  
traders'  
plates.

Inserted by  
35, 1943, s. 9.

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

Refunds where  
general  
traders'  
plates  
surrendered  
to registrar.

Inserted by  
35, 1943, s. 9.

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

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 drivers' licences.  
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—ten shillings:

(b) for a licence to drive a motor cycle only—five shillings.

Where a licence takes effect from a day between the thirty-first day of December and the next ensuing first day of July, one half of the annual fee shall be payable therefor.

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

(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 the following fee:—

Inserted by 2332, 1936, s. 12.

(a) If the licence issued in exchange takes effect from a day between the thirtieth day of June and the first day of January, five shillings;

(b) if the licence issued in exchange takes effect from a day between the thirty-first day of December and the first day of July, two shillings and sixpence.

(5) Every application for a licence shall contain a statement, signed by the applicant, that he is aware that it is an

Inserted by 2332, 1936, s. 13.

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.

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  
drivers'  
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.

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.

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

**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.

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—

(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.

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.

Passage  
inserted by  
2416, 1938,  
s. 14.

(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.

(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.

Amended by  
45, 1939,  
s. 11.

(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.

## PART II.

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 Part every licence shall continue in force until the thirtieth day of June next after the licence commences to be in force.

Duration of licence.  
1480, 1921, s. 13.  
Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 4 (4).

**36a.** (1) Notwithstanding the other provisions of this Part the registrar may at any time during the present 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 drivers'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.

(2) In this section "the present war" means the war between England and Germany which commenced on the third day of September, nineteen hundred and thirty-nine; and for the purpose of this section the present war shall be deemed to continue until the day on which a proclamation is issued by the Commonwealth declaring that that war has ceased.

**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 indorsed 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.

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

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

(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.

## PART II.

Suspension of licence and disqualification of holder on conviction.

Cf. 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.

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

Power of suspension, cancellation, and disqualification where vehicle used for criminal purposes.

Inserted by 2332, 1936, s. 17.

**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.

Disqualification of addicts to liquor or drugs.

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.

Removal of disqualification.

Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 7.

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.

(2) No application shall be made under this section earlier than three months after the making of the original order

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.

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 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.

**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.

Suspension of licence of person suffering from disease or disability.

Inserted by 45, 1939, s. 13.

(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.

**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.

Mode of suspension by Commissioner of Police or registrar.

Inserted by 2332, 1936, s. 17.

## PART II.

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.

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

**39.** Any person who—

- (a) by any false statement or by misrepresentation obtains or attempts to obtain a licence; or
- (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.*

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).

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

**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:

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.

(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.

(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—

Inserted by 2332, 1936, s. 18.

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.

- (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.

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,

Misuse of warning devices.  
 Inserted by 2332, 1936, s. 19.

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.

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

- (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,

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

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.

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.

## PART II.

## Lights on motor vehicles.

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

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

Para. (b)  
amended by  
2332, 1936,  
s. 20.

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—

- (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
- (b) a lighted lamp carried on the off side of 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—

- (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 off side of the rear of such trailer, or on the off side of 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
- (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.

Amended by  
2332, 1936,  
s. 20.

Inserted  
by 2332,  
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

Amended by  
2416, 1938,  
s. 16.

least ten yards each figure and letter on the number-plate attached to the front of the motor cycle:

- (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.

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

#### *Brakes on Motor Vehicles.*

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

Brakes on motor vehicles.  
Of U.K. 20 & 21 Geo. 5 c. 48, s. 59 (1) (a).  
Inserted by 2332, 1936, s. 21.

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 sidecar 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 requirement 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.

*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.

\* \* \* \* \*

(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.

S. 44 repealed by 2332, 1936, s. 23.

\* \* \* \* \*

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).

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 fails to do so within forty-eight hours 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

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.

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,

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.

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S. 46 repealed by 2332, 1936, s. 24.

\* \* \* \* \*

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,

Driving whilst drunk or under the influence of drugs.

Substituted by 2416, 1938, s. 20.

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.

Penalty—For a first offence, a fine of not less than twenty pounds and not more than fifty pounds 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 months.

For a second offence, a fine of not less than fifty pounds and not more than one hundred pounds, or imprisonment for not less than two months and not more than six months, or both such fine and imprisonment, and in any case 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

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.

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.

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.

(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 or may refrain from ordering disqualification.

(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.

S. 49  
repealed by  
2332, 1936,  
s. 26.

\* \* \* \* \*

Registered  
owners and  
licensed  
drivers to  
notify change  
of address.  
1480, 1921,  
s. 28.

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.

Inserted by  
46, 1941, s. 5.

(2) Every person to whom any traders' 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.

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

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.

Penalty for using motor vehicle without consent of owner.  
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.

(2) The court may, in addition to any other penalty impossible 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.

Subsec. (1) amended by 2416, 1938, s. 21, and by 46, 1941, s. 6.

(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.

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.

Interfering with motor vehicle.  
1480, 1921, s. 39.  
Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 29 (2).

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.

Procuring use of car by fraud.  
1480, 1921, s. 40.

57. (1) Whenever a licensed driver is charged with any breach of this Part 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.

(2) Any such driver who fails without reasonable excuse to produce his licence as aforesaid shall be guilty of an offence.

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.

## PART II.

False statement by applicant for licence or for registration punishable, 1480, 1921, s. 42.

58. Any person who wilfully makes any false statement in an application under this Part for the registration of a motor vehicle, or in an application for the issue or renewal of a licence to drive a motor vehicle, shall be guilty of an offence.

Penalty on improper use of vehicles registered for reduced fee. Substituted by 2416, 1938, s. 22.

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

(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 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 sub-paragraph (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.

60. (1) Every member of the police force shall see that this Part is duly observed.

Powers and duties of police.  
1480, 1921.  
s. 43.  
Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 49.

(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 neces-

Regulations.  
1480, 1921.  
s. 44.  
Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 30.

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.

sary 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:—

- 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;
- 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;
- 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 upon 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;
- 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;

Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 16.

Substituted by  
45, 1939,  
s. 15.

- 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  
46, 1941, s. 7.

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.

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 on 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 indorsed thereon.

Indorsement 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.

(2) The registrar shall not issue a driver's licence to any person who is disqualified from holding and obtaining a driver's licence.

Inserted by 2332, 1936, s. 28.

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 drivers' 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.

Notice of disqualification of drivers and suspension of licences.

Inserted by 45, 1939, s. 16.

**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.

(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 indorsement.

Inserted by 45, 1930, 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 indorse thereon particulars of any suspension or cancellation thereof or any order of disqualification made against the holder thereof; and

(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.

**68.** All proceedings for offences against this Part shall be disposed of summarily.

Summary proceedings for offences.

**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.

Persons in service of the Crown bound.

## PART II.

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. 8.

## 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.

Cf. 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 IIIA.

## PART IIA.

## INSURANCE AGAINST THIRD PARTY RISKS ARISING OUT OF THE USE OF MOTOR VEHICLES.

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 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:

“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:

Interpretation and application of this Part.

Inserted by 2332, 1936, s. 31.

Inserted by 45, 1939, s. 17.

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.

“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.

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.

*SCOTT v. WARD* (1939) S.A.S.R. 51. Where evidence was given by a police constable 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

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 order disqualification for a period less than three months.

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

Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 40.

s. 70b. (contd.)

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.

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.

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 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.

Liability of  
insurers.  
Inserted by  
17, 1942, s. 5.

(2) In this section "policy" includes any document purporting to be a policy or cover note and to comply with this Part.

**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.

Effect of  
certificate of  
insurance.  
Inserted by  
35, 1943,  
s. 12.

**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 times drives that vehicle, whether with or without the consent of the owner,

Requirements  
in respect of  
policies.

Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 36.

Inserted by  
2332, 1936,  
s. 31, and  
amended by  
35, 1943,  
s. 13.

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.

(2) A policy of insurance shall be deemed to comply with this Part notwithstanding that the liability of the insurer—

(a) is limited to two thousand pounds in respect of any claim made by or in respect of any passenger carried in the vehicle mentioned in the policy, and to twenty thousand pounds in respect of all claims made by or in respect of such passengers, and such limits shall be inclusive of all costs in relation to any such claim or claims:

Para. (b) repealed by 2416, 1938, s. 25 (1), and 35, 1943, s. 13 (2).

\* \* \* \* \*

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).

\* \* \* \* \*

Policies to give cover required by amending Acts.

Inserted by 35, 1943, s. 14.

**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.

Policy not affected by change of ownership of vehicle.

Inserted by 35, 1943, s. 14.

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

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

(b) shall, subject to any lawful termination thereof, enure in favour of every person who during the period for which the policy was granted or renewed becomes an owner for the time being of the vehicle in respect of which the policy was issued, and in favour of every person who during

that period drives that vehicle whether with or without the consent of the owner.

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

**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 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.

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).

(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.

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."

HAUBER v. THE HALIFAX FIRE INSURANCE COMPANY LIMITED AND ANOTHER (1940) S.A.S.R. 341. Meaning of "specified" in subsection (1). Observations on the scheme of Part IIA.

## Road Traffic Act, 1934-1943.

(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 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 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).

(b) so as to make an insurer liable for more than two thousand pounds (including costs) in respect of any one passenger nor more than twenty thousand pounds (including costs) in respect of all passengers in the motor vehicle specified in the policy if at the material time it was being used in the business of carrying passengers for hire:

Amended by  
2416, 1938,  
s. 26 (2).

(c) to any accident which happened before the commencement of this Part.

(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.

Amended by  
45, 1939,  
s. 19 (a).

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  
2416, 1938,  
s. 27.

(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—

Inserted by  
45, 1939,  
s. 19 (b).

(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 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 defendants' 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.

Duties of  
owner or  
insurer.

Cf. U.K.  
24 & 25  
Geo. 5 c. 50,  
s. 13.

Inserted by  
2332, 1936,  
s. 31.

**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:—

- (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.

Power of insurers to deal with claims against insured.

Inserted by 2332, 1936, s. 31.

(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.

Inserted by 2416, 1938, s. 28.

(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.

Emergency treatment. Cf. U.K. 24 & 25 Geo. 5 c. 50, s. 16.

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

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,

the insurer shall make such of the following payments as are applicable to the case:—

- (i.) To the medical practitioner the sum of twelve shillings and six pence for each person to whom emergency treatment is rendered together with any travelling expenses reasonably and necessarily incurred in respect of the emergency treatment so rendered:

Amended by 2416, 1938, s. 29 (b).

(ii.) To the nurse the sum of ten shillings and six pence 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.

Substituted by 2416, 1938, s. 29 (e).

(3) The liability (if any)—

(a) of the owner or driver of such motor vehicle in respect of the death or bodily injury; and

(b) of the insurer to the owner or driver in respect of the contract of insurance,

(c) of the injured person or his personal representatives to the person to whom the payment is made under this section,

Inserted by 2416, 1938, s. 29 (d).

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.

Inserted by 2416, 1938, s. 29 (e).

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.

(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).

## PART IIIA.

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.

Hospital  
treatment.

U.K. 24 & 25  
Geo. 5 c. 50,  
s. 16.

Inserted by  
2332, 1936,  
s. 31.

**70h.** (1) Where—

- (a) any payment is 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; and
- (b) the person who has so died or been injured received treatment at a hospital, whether as an in-patient or as an out-patient in respect of the bodily injury (fatal or otherwise) so caused or arising; and
- (c) notice in writing of a claim under this section is made by that hospital to the insurer within one month after the occurrence out of which the death or bodily injury arose,

there shall be paid by the insurer to the hospital the amount owing to the hospital in respect of treatment afforded to the person who has so died or been injured.

(2) Where two or more insurers make payments under or in consequence of a contract of insurance under this Part in respect of the death or of bodily injury to a person caused by or arising out of the use of two or more motor vehicles 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 the motor vehicle in respect of the death or bodily injury; and
- (b) of the insurer to the owner or driver in respect of the contract of insurance,

shall be deemed to be reduced by the amount paid by the insurer to the hospital under this section.

(4) The amount to be paid by the insurer to the hospital in respect of any such bodily injury (fatal or otherwise), shall not exceed fifty pounds for each person so treated as an in-patient or five pounds for each person so treated as an out-patient: Provided that in either case the amount to be paid to the hospital as aforesaid shall not exceed one-fifth of the total amount (exclusive of costs) paid by the insurer in respect of such fatal or bodily injury.

(5) If the person who has died or been bodily injured has received treatment at more than one hospital, and the total amount owing to those hospitals in respect of treatment afforded to that person exceeds fifty pounds, the sum of fifty pounds shall be divisible between the hospitals in proportion to the claims of the hospitals.

(6) The insurer shall not be liable to pay the amounts payable under this section as well as the amount payable under the Public Hospitals (Charges) Act, 1931, but shall pay the larger of such amounts.

**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 drivers' 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 drive motor vehicles, to endanger unduly the safety of the public, the court may make such order under subsection (1) as it thinks just.

Inserted by 2332, 1936, s. 31.

s. 70h. (6) The Public Hospitals (Charges) Act, 1931, has been repealed by the Hospitals Act, 1934, and superseded by Part VI. of that Act.

(3) An insurer shall not terminate a policy of insurance complying with this Part before its expiry by effluxion of time except upon fourteen 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.

Information to be furnished by insurers.

Inserted by 2332, 1936, s. 31.

**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.

Inquiries into premium.

Inserted by 2332, 1936, s. 31.

**70m.** (1) Upon the recommendation of the Treasurer the Governor may from time to time appoint a committee to enquire 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:
  - (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 such regulations (if any) as may be made by the Governor nor at more frequent intervals than are prescribed by those regulations.

Medical examination of claimants.  
Inserted by 2416, 1938, s. 30.

## Road Traffic Act, 1934-1943.

(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.

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).

**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;
- (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

Substituted by 35, 1943, s. 16.

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—

Interpretation.  
1699, 1925,  
s. 3.  
1823, 1927,  
s. 3.

“licence” means a licence issued pursuant to this Part and “licensed” and “unlicensed” have corresponding meanings:

“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, and the Garden Suburb, and any other municipalities and district council districts or parts of municipalities or district council districts contiguous to

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. 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, 1934-1943.

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.

Exemption of certain vehicles. 1699, 1925, s. 4.

**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.

Duty to obtain licences for vehicles. 1699, 1925, ss. 5, 10, 11. Cf. U.K. 10 & 11 Geo. 5 c. 72, s. 13. Amended by 17, 1942, s. 6.

**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.

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 Vict. 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 affixed 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.

Penalty for  
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 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,

Penalty for unlawfully obtaining licence.  
1699, 1925, s. 13.  
Cf. U.K. 10 & 11 Geo. 5 c. 72, s. 13 (2), (11).

shall be guilty of an offence and liable to a penalty of twenty pounds.

**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 wagon, 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:

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.

“vehicle” includes motor vehicles and non-mechanical vehicles:

“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—

- (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,

Maximum axle load for non-mechanical vehicles. Substituted by 35, 1943, s. 18.

shall be guilty of an offence.

87. Any person who drives or causes or permits to be driven on any road—

- (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,

Maximum total load for non-mechanical vehicles. 1580, 1923. s. 4 (1).

shall be guilty of an offence.

88. Any person who drives or causes or permits to be driven on any road—

- (a) any motor vehicle carrying on any axle thereof a greater weight than the maximum which may law-

Maximum axle load for motor vehicles. 1580, 1923. s. 6 (1)

fully 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 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).

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 two shillings and six pence 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:—

- i. 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

Amended by  
35, 1943,  
s. 19 (a).

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:

Amended by  
35, 1943,  
s. 19 (b).

(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.

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.

i. The tire of each wheel of any such vehicle shall have an even-bearing surface across its full width:

1580, 1923,  
s. 5.

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.

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

Authorized  
officers.  
1580, 1923,  
s. 7,  
1714, 1925,  
s. 2.

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.

Load may be  
measured.  
1580, 1923,  
s. 10.

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—

(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.

PART IV.

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.

S. 100 repealed by 2332, 1936, s. 32.

\* \* \* \* \*

Vehicle to be weighed if required. 1580, 1923, s. 14.

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.

(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.

**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.

Alteration of  
maximum  
loads.

1580, 1923,  
s. 16,  
1961, 1980,  
s. 8.

(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.

## PART IV.

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.

Penalty.  
1580, 1923,  
s. 18.

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.

Summary proceedings for offences.  
1580, 1923,  
s. 19.

106. All proceedings in respect of offences against this Part shall be disposed of summarily.

Appropriation of penalties.  
1580, 1923,  
s. 20.

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.

## PART V.

## PART V.

## LIGHTS AND EQUIPMENT ON VEHICLES OTHER THAN MOTOR VEHICLES.

Heading amended by 2416, 1938, s. 31.

108. In this Part, unless the context or subject matter requires a different construction—

Interpretation.  
1870, 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.

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:—

Vehicles to carry lights at night.  
1870, 1919, s. 5.  
1858, 1925, s. 2.  
Cf. U.K. 17 & 18 Geo. 5 c. 37, s. 1.

(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. 8.  
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:

Substituted by  
45, 1939,  
s. 21.

(b) the Garden Suburb:

(c) such other areas as the Governor declares by proclamation to be areas within which this section applies.

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.

**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.

Lights where load projects. 1370, 1919, s. 7. Cf. U.K. 17 & 18 Geo. 5 c. 37, s. 6.

(2) Any person who on any road drives any vehicle not complying with this section, shall be guilty of an offence.

**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.

Lights on projecting parts of vehicles. Inserted by 45, 1939, s. 22.

(2) Any person who on any road drives any vehicle not complying with this section shall be guilty of an offence.

## PART V.

Duty to stop and give name and address.  
1370, 1919, s. 8.

**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.

(2) Any inspector may, without any warrant other than this Part, apprehend any person who is guilty of any offence under this section.

Brakes on bicycles.  
Inserted by 2416, 1938, s. 32.

**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.

Warning devices 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.

A siren shall not be a suitable instrument within the meaning of this section.

Duty to use warning instrument.  
Inserted by 2416, 1938, s. 32.

**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.

Who to be inspectors under Act.  
1370, 1919, s. 9.

**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.

(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.

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.

115. Any person guilty of an offence under this Part shall be liable to a penalty for a first offence of not more than two pounds, and for any subsequent offence of not more than five pounds.

Penalties.  
1370, 1919,  
s. 11.

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.

Appropriation of penalties.  
1370, 1919,  
s. 15.

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.

Facilitation of proof.  
1370, 1919,  
s. 14 (a),  
1609, 1924,  
s. 2.

118. All proceedings in respect of offences against this Part shall be disposed of summarily.

Summary proceedings for offences.  
1370, 1919,  
s. 16.

PART VI.

PART VI.

GENERAL RULES TO BE OBSERVED BY TRAFFIC.

119. (1) In this Part, unless the context otherwise requires—

General provisions as to traffic.

“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 does not include a vehicle run on a tramway or railway line:

Cf. U.K. Geo. 5 c. 43, ss. 1, 2.

Inserted by 2332, 1936, s. 35.

“animal” means horse, mule, ass, bullock, camel, or other beast used to draw or carry vehicles, loads, or human beings:

“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.

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 Austn. 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 ordinarily 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

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

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.

**s. 120.** 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. SILBEEY (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. ELDTING (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 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.

**s. 121. MOORE v. THE KING (1926) S.A.S.R. 52; 5 Austr. Digest 280; affirmed by MOORE v. THE KING (1926) 39 C.L.R. 602.** *Seem*, 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

offence be imprisoned for any term not exceeding three months.

(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,

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.

**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.

Driving  
horse-drawn  
and other  
vehicles  
while drunk.  
Inserted by  
35, 1943,  
s. 20.

Crossing  
railways at  
unauthorized  
places.  
Inserted by  
2332, 1936,  
s. 35.

s. 121. (contd.) 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

s. 122. BOND v. CLARKE (1938) S.A.S.R. 55. It is unnecessary to prove *mens rea* to establish an offence.

(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
- (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.** 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

Of. U.K.  
20 & 21  
Geo. 5 c. 43,  
ss. 20 (3),  
49.

- (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,

Inserted by  
2332, 1936,  
s. 35.

he shall be guilty of an offence.

**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
- (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,

Inserted by  
2332, 1936,  
s. 35.

he shall be guilty of an offence.

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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.

## PART VI.

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.

**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 overtake vehicle on right-hand side.

Inserted by  
2332, 1936,  
s. 35.

**126.** If any person riding or driving any vehicle or animal on any road, does not, when passing any other vehicle or animal going in the same direction, keep on his right hand side of that other vehicle or animal, he 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.

Pedestrians on road to face traffic.

Inserted by  
2332, 1936,  
s. 35.

**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.

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.

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.

(2) This section shall not restrict the operation of any Act, regulation or by-law which regulates walking upon roads.

**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.

Overtaking other vehicles.

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.

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.

(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.

**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.

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.

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.

## Road Traffic Act, 1934-1943.

(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—

(a) shall before entering the intersection or junction stop his vehicle or animal; and

(b) shall not enter the intersection or junction until the road on both sides thereof is sufficiently clear of traffic to allow his vehicle or animal to pass through the intersection or junction without danger.

(5) Section 131 of this Act shall not apply to the driver or rider of a vehicle or animal approaching an intersection or junction, if the driver or rider of the vehicle or animal on his right is required by virtue of this section to stop his vehicle or animal before entering the intersection or junction; but section 131 shall apply in other respects at intersections or junctions at which a sign is erected under this section.

(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.

(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.

**130b.** (1) The South Australian Railways Commissioner may on any road at or near any level crossing erect signs clearly visible to traffic approaching the crossing and containing in clearly legible letters of the size prescribed by regulation the word "Stop".

Stop signs at railway crossings.

Inserted by 2410, 1938, s. 35.

(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 affect 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.

Centre lines  
on roads.

Inserted by  
2416, 1938,  
s. 35.

**130c.** (1) The Commissioner of Highways may mark on any part of any road a double line running longitudinally along the road at or near the centre of the carriage way thereof.

(2) Every such line shall be of the colour and width prescribed by regulations.

(3) If any person drives or rides any vehicle or animal so that the whole or any part of that vehicle or animal is on his right hand side of any line marked on a road in accordance with this section he shall be guilty of an offence:

Provided that no person shall be punished for failing to comply with this section if the court is of the opinion that he was obliged to cross the line in order to avoid an accident, or owing to an obstruction on the roadway.

(4) The allegation in any complaint for an offence against this section that any line was marked on any road in accordance with this section shall be *prima facie* evidence of that fact.

Inserted by  
45, 1939,  
s. 25.

(5) For the purposes of this section any bridge used for carrying vehicular traffic or any part of any such bridge shall be deemed to be part of a road.

Right-of-way  
at points  
where roads  
meet.

Inserted by  
2332, 1936,  
s. 35.

**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 on his right to continue on its course in front of his vehicle

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

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.

(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

- s. 131. applicable to traffic at an intersection, but is not entitled to disregard the possibility of traffic approaching from the left.  
(*contd.*)
- 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.
- 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

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.

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

s. 131.  
(contd.)

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.

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.

MATTHEW v. FLOOD (1940) S.A.S.R. 48. *Semble*, 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 and 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.

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.

(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) or (2), and the term "vehicle" shall be so construed as to include an animal.

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.

\* \* \* \* \*

Subsec. (3) repealed by 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.

(a) when proceeding from any land abutting on a road into that road; or

Inserted by 2332, 1936, s. 35.

(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.

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 reserves. 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 tramcar in a regulation relating to the passing of stationary tramcars, held to mean overtaking a tramcar which is using the same road and is going in the same direction as the vehicle.

(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. 36.

**134.** (1) Whenever the driver or rider of any vehicle or animal is about to turn his vehicle or animal to the right, in or into any road, he shall, at least one hundred feet before the point where he commences to turn, signify his intention to do so by extending his right arm horizontally from the right hand side of the vehicle or animal with the palm facing forward, the arm being in such a position that it is clearly visible from a distance of at least one hundred feet to any person following the vehicle or animal.

Inserted by  
2416, 1938,  
s. 37.

(1a) No person shall be deemed to have signified his intention to turn to the right as required by subsection (1) of this section unless he has given the signal prescribed by that subsection continuously for a distance of one hundred feet before the point where his vehicle commences to turn.

(2) Whenever the driver or rider of any vehicle or animal is about to slow down or stop he shall at least one hundred feet before the point where he commences to slow down signify his intention to do so—

(a) by extending his right arm horizontally from the right-hand side of the vehicle or animal with the

**s. 134.** COLLINS v. GOTTSCH (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.

palm of the hand turned downwards the arm being in such a position that it is clearly visible at a distance of at least fifty feet to any person following the vehicle or animal; and

(b) by moving the arm slowly up and down.

(3) It shall be sufficient compliance with the provisions of this section to give the appropriate signal by some mechanical or electrical device which has been approved by the Registrar of Motor Vehicles.

(4) 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.

## PART VI.

Leaving  
vehicles in  
dangerous  
positions.

U.K. 20 & 21  
Geo. 5 c. 48,  
s. 50.

Inserted by  
2332, 1936,  
s. 35.

136. If any person in charge of a vehicle or animal causes or permits that vehicle or any trailer drawn thereby or that animal to remain at rest on any road in such a position or in such condition or circumstances as to be likely to cause danger to other persons using the road, he shall be guilty of an offence.

Driving or  
riding on  
footpaths, &c.  
Of U.K.  
20 & 21  
Geo. 5 c. 48,  
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.

Duty to  
stop in case  
of accident.  
U.K. 20 & 21  
Geo. 5 c. 45,  
ss. 20, 22,  
113 (3).

Inserted by  
2332, 1936,  
s. 35.

Subsec (1),  
amended by  
2416, 1938,  
s. 38 (a).

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 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.

(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.

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.

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.

(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 no person shall be punished for failing to comply with this section if the court is of opinion that the accident was a trivial one or if the defendant satisfies the court that he did not know that any accident had occurred: Provided also that 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.

Proviso  
added by  
2416, 1938,  
s. 38 (b).

(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  
2416, 1938,  
s. 38 (c).

140. (1) Any owner of any vehicle shall, if required by a member of the police force, or by any inspector appointed under Part II. of this Act, truly answer any question put to him which may lead to the identification of the person who was driving that vehicle on any occasion when an offence under this Act is alleged to have been, or is suspected of having been, committed.

Duty of  
owner to give  
information  
to identify  
driver.  
Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 113 (3).

Inserted by  
2332, 1936,  
s. 35.

(2) Any such owner who refuses to answer, or fails to answer truly, any such question shall be guilty of an offence.

(3) In this section the term "owner" shall include a bailee.

Inserted by  
2416, 1938,  
s. 39.

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—

Projecting  
loads.

Inserted by  
2332, 1936,  
s. 35.

(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.

Width of  
vehicles, and  
number of  
trailers.

Cf. U.K.  
20 & 21  
Geo. 5 c. 43,  
s. 18.

Inserted by  
2332, 1936,  
s. 35.

Subsec. (1)  
amended by  
46, 1941,  
s. 14.

**142.** (1) No person shall drive any motor vehicle on any road if—

- (a) the width of the vehicle or of any part of the load thereon exceeds eight feet; or
- (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) exceeds sixty-six feet; or
- (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.

Amended by  
17, 1942, s. 7.

(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) exceeds sixty-six feet he may on the application of the

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.

owner of the vehicle grant a permit, either general or restricted as to time, place, or circumstance, 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.

(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.

(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.

(7) In this section "agricultural machine" means any machine (other than a tractor) used for cultivating land or sowing or harvesting crops.

(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.

Inserted by  
2416, 1938,  
s. 40.

**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.

Restriction  
on carriage of  
persons on  
bicycles.  
U.K. 24 & 25  
Geo. 5 c. 50,  
s. 20.

(2) In this section references to a person carried on a bicycle shall include reference to a person riding the bicycle.

Inserted by  
2332, 1936,  
s. 35.

(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.

**143a.** No person shall on any road drive any motor vehicle carrying any person on the roof or bonnet thereof, or on the driver's seat on the right hand side of the driver.

Places where  
passengers  
must not be  
carried.

Inserted by  
2416, 1938,  
s. 41.

## PART VI.

Holding on to motor vehicles, and riding without driver's consent.

Cf. U.K. 20 & 21 Geo. 5 c. 43, s. 29.

Inserted by 2332, 1936, s. 35.

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.

(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.

(3) Any person who rides on a vehicle without the consent of the driver of that vehicle shall be guilty of an offence.

Pacing by cyclists.

Inserted by 2332, 1936, s. 35.

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.

Boarding and alighting from moving vehicles.

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.

Driving and riding abreast.

Inserted by 2332, 1936, s. 35, and amended by 2416, 1938, s. 42, and by 23, 1939, s. 3 (a).

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—

(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.

Inserted by 23, 1939, s. 3 (b).

(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.

Prohibition of riding horses abreast.

Inserted by 2332, 1936, s. 35.

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

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.

apply where the horses are ridden by members of the police force on duty.

(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 six 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.

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.

Injurious matter on roads.

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

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.

(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,

Inserted by  
2332, 1936,  
s. 35.

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.

## Road Traffic Act, 1934-1943.

(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 enquiry, 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.

(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 Commissioner of Public 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 Commissioner of Public Works. A document purporting to give such consent and purporting to be signed by the Commissioner of Public 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<sup>1</sup> or premises, enter such land or premises and therein search for that vehicle and examine it if found.

Control of parking outside Parliament House.

Inserted by 2332, 1936, s. 35.

Power of police to examine and test vehicles and animals.

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 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 any 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.

**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.

Closing roads for races and exemptions.

Of U.K. 20 & 21 Geo. 5 c. 43, ss. 15, 46.

Inserted by 2332, 1936, s. 35.

Para. (a) substituted by 2416, 1938, s. 43.

(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 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.

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.

(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.

Inserted by 2416, 1938, s. 45.

(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.

(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.

Inserted by  
2416, 1938,  
s. 45.

(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 regula-  
tions and by-  
laws.

Inserted by  
2332, 1936,  
s. 35.

156a. (1) For the purposes of this section the following shall be exempt vehicles—

- (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:

Exemption  
of fire,  
ambulance,  
and police  
vehicles from  
certain  
provisions.

Inserted by  
46, 1941,  
s. 15.

(b) any motor ambulance while it is being driven in the course of, or in connection with, the carriage of patients:

(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; 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.

(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,

shall be *prima facie* evidence of the matters so alleged.

Inserted by 2416, 1938, s. 46.

(3) An apparently genuine document produced by the prosecution and purporting to be signed by the Commissioner of Police or the superintendent or any inspector of police and to certify that any stop watch or speedometer specified therein had been tested and found correct on any date specified therein shall be *prima facie* evidence that that stop watch or speedometer was correct on each of the fourteen days following that date.

Offences.  
Inserted by 45, 1939, s. 27.

**157a.** Any contravention of or failure to observe any provision of this Part, whether by act or omission, shall be an offence.

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 pro-  
ceedings.  
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—

Interpreta-  
tion.  
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 con-

veyance 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, &c.

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.

Caterpillar tractors.

Inserted by 2332, 1936, s. 35.

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.

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.

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.

Depositing material on roads.

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.

Use of wheel chains.

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,

Defective tires.

Inserted by 2332, 1936, s. 35.

or which is in any way defective, 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.

**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.

**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.

Information to be painted on vehicles.

Inserted by 2332, 1936, s. 35.

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.

Inserted by  
35, 1943,  
s. 21.

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

Every such exemption—

- (a) shall remain in force for a period specified in the certificate or until the happening of a condition specified therein;
- (b) shall be subject to any conditions specified in the certificate;
- (c) may be revoked by the registrar upon breach of any condition thereof.

Inserted by  
35, 1943,  
s. 21.

(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.

Damage to  
roads and  
works.

Inserted by  
2332, 1936,  
s. 35.

178. 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 a nature as to be likely to injure any such road or other thing,

shall be guilty of an offence, and in addition to being liable to a fine, shall pay to the road authority compensation for the damage done.

**179.** If the driver or person in charge of any vehicle causing damage to any improved main road 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.

Notice of damage.

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.

Penalty.

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.

Appointment of authorized officers.

Inserted by 2332, 1936, s. 35.

**182.** This Part shall be binding on any person in the employ of the Government of the State.

Application to employees of Crown.

Inserted by 2332, 1936, s. 35.

## 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 Acts 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.

**The Wrongs Act, 1936-1951, including all amendments passed to the end of 1951 and notes of judicial decisions, is reprinted in the Annual Volume, 1951, at page 244.**

**WRONGS ACT, 1936-1940.**

BEING

WRONGS ACT, 1936, No. 2267 OF 1936  
[ASSENTED TO 13TH AUGUST, 1936.]

AS AMENDED BY

WRONGS ACT AMENDMENT ACT, 1939, No. 18 OF 1939  
[ASSENTED TO 22ND NOVEMBER, 1939.]

AND

WRONGS ACT AMENDMENT ACT, 1940, No. 48 OF 1940  
[ASSENTED TO 28TH NOVEMBER, 1940.]

**An Act to consolidate certain Acts relating to wrongs.**

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 "Wrongs Act, 1936-1940". Short title.
  
2. The following enactments are repealed, namely:— Repeal.
  - U.K. 6 and 7 Vict., c. 96 (adopted in South Australia by 17, 1846)—An Act of the Parliament of the United Kingdom, entitled "An Act to amend the Law respecting defamatory words and libel." (Sections 1, 2, 9, and 10.)
  - No. 1 of 1865-6—An Act for compensating the Families of Persons killed by Accident. (The whole.)
  - No. 7 of 1865—An Act to amend the Law of Slander. (The whole.)
  - No. 17 of 1874—An Act to provide for the recovery of damages caused by negligence on the part of persons employed by the Government of South Australia in certain cases. (Section 3.)
  - No. 646 of 1895—The Law of Libel Amendment Act, 1895. (The whole.)

Division of  
Act.

3. The remainder of this Act is divided into Parts, as follows:—

PART I.—Defamation: Sections 4–17.

PART II.—Wrongful acts or neglect causing death:  
Sections 18–23.

PART I.

PART I.

DEFAMATION.

Interpreta-  
tion.

646, 1895,  
s. 2.  
U.K. 44 and  
45 Vict.  
c. 60, s. 1.

4. In this Part, unless inconsistent with the context—

“newspaper” means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale and published in the State, periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts, or numbers:

“proprietor” includes as well the sole proprietor of any newspaper as also, in the case of a divided proprietorship, the persons who, as partners or otherwise, represent and are responsible for any share or interest in the newspaper as between themselves and the persons in like manner representing or responsible for the other shares or interests therein, and no other person.

Words  
imputing  
want of  
chastity to a  
woman.

7, 1865, s. 2.  
U.K. 54 and  
55 Vict.  
c. 51, s. 1.

5. Words spoken and published of any woman imputing to her a want of chastity, shall be and shall be deemed to be slander, and an action shall be sustainable for such words in the same manner and to the same extent as for words charging an indictable offence.

Privilege of  
newspaper  
reports of  
legal  
proceedings.  
646, 1895,  
s. 3.  
U.K. 51 and  
52 Vict.  
c. 64, s. 3.

6. A fair and accurate report in any newspaper of proceedings publicly heard before any court exercising judicial authority shall, if published contemporaneously with such proceedings, be privileged: Provided that nothing in this section shall authorize the publication of any blasphemous or indecent matter.

s. 3. In addition to the Parts mentioned in section 3, Part III. (General Provisions), which was enacted by the Wrongs Act Amendment Act, 1939, is included in this reprint.

Privilege of newspaper reports of proceedings of public meetings and of certain bodies and persons. 646, 1895, s. 4. U.K. 51 and 52 Vict. c. 64, s. 4.

7. (1) A fair and accurate report published in any newspaper of the proceedings of—

- (a) a public meeting; or
- (b) (except where neither the public nor any newspaper reporter is admitted) of any meeting of a municipal or district council, school board of advice, board of health, board or local authority formed or constituted under the provisions of any Act of Parliament, or of any committee appointed by any of the abovementioned bodies; or
- (c) a meeting of any royal commission, select committee of either House of Parliament; or
- (d) a meeting of shareholders in any bank or incorporated company,

and the publication at the request of any Government office or department, Minister of the Crown, or Commissioner of Police, of any notice or report issued by it or him for the information of the public, shall be privileged unless it is proved that the report or publication was published or made maliciously:

Provided that—

- (a) nothing in this section shall authorize the publication of any blasphemous or indecent matter:
- (b) the protection intended to be afforded by this section shall not be available as a defence in any proceedings if it is proved that the defendant has been requested to insert in the newspaper in which the report or other publication complained of appeared a reasonable letter or statement by way of contradiction or explanation of such report or other publication and has refused or neglected to insert the same:
- (c) nothing in this section shall be deemed or construed to limit or abridge any privilege now by law existing or to protect the publication of any matter not of public concern and the publication of which is not for the public benefit.

(2) For the purposes of this section, “public meeting” means any meeting *bona fide* and lawfully held for a lawful purpose, and for the furtherance or discussion of any matter of public concern, whether the admission thereto be general or restricted.

Penalties on unfair and inaccurate reports. 646, 1895, s. 5.

8. If any unfair and inaccurate report of any matter mentioned in either of the last two preceding sections is published in any newspaper, every person responsible for the publication of such newspaper shall be guilty of an offence against this Act, punishable on complaint of any person aggrieved, and on summary conviction, by a fine not exceeding ten pounds, or by imprisonment not exceeding three calendar months:

Provided that—

- (a) the punishment shall be by fine only if it is proved that the defendant, as soon as practicable after being informed of the unfairness and inaccuracy of the report, published in the newspaper a correction thereof, giving to the correction at least equal prominence to that which was given to the original report:
- (b) any person laying a complaint under this section shall be deemed to have waived all other remedies, both civil and criminal, against the same defendant in respect of the same report.

Offer of an apology.

U.K. 6 and 7 Vict. c. 96, s. 1, adopted in S.A. by 17, 1846.

9. In any action for defamation, the defendant may, after notice in writing of his intention so to do, duly given to the plaintiff at the time of filing or delivering the defence in the action, give in evidence in mitigation of damages, that he made or offered an apology to the plaintiff for the defamation before the commencement of the action, or if the action was commenced before there was an opportunity of making or offering such an apology, as soon afterwards as he had an opportunity of doing so.

Defence in action against a newspaper for libel.

U.K. 6 and 7 Vict. c. 96, s. 2, adopted in S.A. by 17, 1846.

10. (1) In an action for a libel contained in any public newspaper or other periodical publication, the defendant may plead that the libel was inserted in the newspaper or other periodical publication without actual malice and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in the newspaper or other periodical publication, a full apology for the libel, or if the newspaper or periodical publication in which the libel appeared was ordinarily published at intervals exceeding one week, offered to publish such an apology in any newspaper or periodical publication to be selected by the plaintiff in the action.

(2) The defendant upon filing such defence may pay into court a sum of money by way of amends for the injury sustained by the publication of the libel.

(3) To such a defence the plaintiff may reply generally denying the whole of such defence.

11. At the trial of an action for a libel contained in any newspaper, the defendant may give in evidence in mitigation of damages that the plaintiff has already recovered or has brought action for damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which such action has been brought.

Evidence in mitigation of damages. 646, 1895, s. 9. U.K. 51 and 52 Vict. c. 64, s. 6.

12. (1) It shall be lawful for any defendant in any civil or criminal proceeding in respect of the publication of any report, paper, votes, or proceedings of Parliament, which either House of Parliament deems fit and necessary and has authorized to be published, to bring before the court, after giving twenty-four hours notice to the plaintiff or prosecutor of his intention so to do, a certificate under the hand of the President or Clerk of the Legislative Council, or the Speaker or Clerk of the House of Assembly, stating that the matter in question was published by order or under the authority of the Legislative Council or House of Assembly, as the case may be, together with an affidavit verifying the said certificate, and the court shall thereupon stay the said proceeding, and the same and every writ and process therein shall thereupon be put an end to and superseded, by virtue of this Act.

Publishing Parliamentary reports. 38, 1876, ss. 307, 308. Cf. U.K. 3 & 4 Vict. c. 9.

(2) It shall be lawful for the defendant in any civil or criminal proceeding in respect of the publication of any copy of any such report, paper, votes, or proceedings, to lay before the court, at any stage of the proceeding, the said report, paper, votes, or proceedings, and the said copy together with an affidavit verifying the same and the correctness of the said copy, and the court shall thereupon stay the said proceeding, and the same and every writ and process therein shall thereupon be put an end to and superseded by virtue of this Act.

(3) It shall be a good defence to any civil or criminal proceeding in respect of the printing of any extract from or abstract of such report, paper, votes, or proceedings if the defendant proves that the said extract or abstract was published in good faith and without malice.

(4) The following persons, namely, the Government Printer and those members of the public service who are employed in the making of official reports of the debates and proceedings of Parliament are hereby authorized by each House of Parliament to publish reports of the debates and proceedings of that House:

Inserted by 18, 1939, s. 3.

Provided that this subsection shall not absolve any such person from the duty to conform to any instructions lawfully given to him by any person in authority.

Inserted by  
18, 1939, s. 3.

(5) For the purposes of this section the papers which set out the daily business of each House of Parliament and are commonly called "Notices and Orders of the Day" shall be papers of Parliament the publication of which has been authorized by the House concerned.

Consolidation  
of actions.  
646, 1895,  
s. 7.  
U.K. 51 and  
52 Vict.  
c. 64, s. 5.

13. (1) A judge or the court, upon an application by or on behalf of two or more defendants in actions to the same, or substantially the same libel, brought by the same person, may make an order for the consolidation of those actions, so that they shall be tried together.

(2) After such an order has been made, and before the trial of the actions, the defendants in any new actions instituted in respect to the same or substantially the same libel, shall also be entitled to be joined in a common action, upon a joint application being made by those new defendants and the defendants in the actions already consolidated.

Evidence as to  
publication,  
matters  
charged, etc.  
646, 1895,  
s. 8.  
U.K. 44 & 45  
Vict. c. 60,  
s. 4.

14. A court of summary jurisdiction, upon the hearing of a charge against the proprietor, publisher, or editor, or any person responsible for the publication of a newspaper for a libel therein, may receive evidence as to the publication being for the public benefit, and as to the matters charged in the libel being true, and as to the report being fair and accurate and published without malice, and as to any matter which under this or any other Act or otherwise might be given in evidence by way of defence by the person charged on his trial on indictment; and the court, if of opinion after hearing such evidence that there is a strong or probable presumption that the jury at the trial would acquit the person charged, may dismiss the case.

Obscene  
matter.  
646, 1895,  
s. 10.

15. It shall not be necessary to set out in any indictment or other judicial proceeding instituted against the publisher of any obscene libel the obscene passage, but it shall be sufficient to deposit the book, newspaper, or other documents containing the alleged libel with the indictment or other judicial proceeding, together with particulars showing precisely by reference to pages, columns, and lines, in what part of the book, newspaper, or other document the alleged libel is to be found, and such particulars shall be deemed to form part of the record, and all proceedings may be taken thereon as though the passages complained of had been set out in the indictment or judicial proceeding.

16. Upon the trial of an action or prosecution in respect of a libel contained in a newspaper or book, the production of such newspaper or book containing a printed statement that it is printed or published by or for the defendant shall be *prima facie* evidence of the publication of the said newspaper or book by the defendant.

Proof of publication of newspaper, book or periodical. 646, 1895, s. 11.

17. Upon the trial of an action or prosecution in respect of a libel contained in a newspaper, after evidence sufficient in the opinion of the court has been given of the publication by the defendant of the newspaper containing the libel, other prints purporting to be other numbers or parts of the same newspaper formerly or subsequently published, and containing a printed statement that they were published by or for the defendant, shall be admissible in evidence on either side without further proof of publication of them.

Proof of copies of newspaper. 646, 1895, s. 12.

PART II.

WRONGFUL ACTS OR NEGLIGENCE CAUSING DEATH.

18. (1) In this Part, unless the context or subject matter otherwise requires—

Interpretation. 1, 1865, s. 5. U.K. 9 and 10 Vict. c. 93, s. 5. U.K. 24 and 25 Geo. 5, c. 41, s. 2. (1) and (2). Amended by 48, 1940, s. 3.

“child” includes son, daughter, grandson, granddaughter, stepson and stepdaughter :

“parent” includes father, mother, grandfather, grandmother, stepfather and stepmother :

“person” includes bodies politic and corporate :

“brother” includes half-brother and step-brother :

“sister” includes half-sister and step-sister.

(2) For the purposes of this Part a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was only related to him illegitimately or in consequence of adoption; and accordingly in deducing any relationship which under this Part is included within the meaning of the expressions “parent” and “child”, any illegitimate person and any adopted person shall be treated as being or as having been the legitimate offspring of his mother and reputed father or, as the case may be, of his adopters.

Inserted by 18, 1939, s. 4.

## PART II.

Inserted by  
18, 1939, s. 4.

(3) In this section "adopted person" means a person who has been legally adopted, whether in the State or elsewhere, and whether before or after the passing of the Wrongs Act Amendment Act, 1939.

Inserted by  
18, 1939, s. 4.

(4) Subsections (2) and (3) of this section shall not apply in relation to any action in respect of the death of any person before the passing of the Wrongs Act Amendment Act, 1939.

Liability for  
death caused  
wrongfully.

1, 1865, s. 1.  
U.K. 9 and  
10 Vict.  
c. 93, s. 1.

19. Whenever the death of a person is caused by a wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death was caused under such circumstances as amount in law to felony.

Effect of  
action and  
mode of  
bringing it.

1, 1865, s. 2.  
U.K. 9 and  
10 Vict.  
c. 93, s. 2.  
U.K. 24 and  
25 Geo. 5,  
c. 41, s. 2 (3).

20. (1) Every such action shall be for the benefit of the wife, husband, parent, brother, sister, and child of the person whose death has been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased.

Amended by  
48, 1940, s. 4.

(2) In every such action the court may give such damages as it thinks proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit the action is brought.

s. 20. *GOODGER v. KNAPMAN* (1924) S.A.S.R. 347. In assessing the damages under section 20 any pecuniary benefit the dependants would have received if the deceased had remained alive must be included, but any pecuniary advantage received from the death (including voluntary benefits conferred in consequence of the death) must be deducted. Moneys payable under an insurance policy on the life of the deceased are not to be deducted, but the premiums the deceased would have had to pay if living are deducted from the assessment of his probable income. Moneys received by the widow from fellow-employees of the deceased are wholly deductible in assessing damages.

*BUTLER v. McLACHLAN* (1936) S.A.S.R. 152. In assessing damages under section 20 in favour of a widow, moneys payable under a policy of insurance on the life of the deceased, or to the widow under the Superannuation Act, 1926, cannot be deducted; but insurance premiums and contributions to the Superannuation Fund are deductible from the estimate of what the deceased would have earned, if living.

*MATHEW v. FLOOD* (1939) S.A.S.R. 389. Observations upon circumstances to be taken into account in assessment of damages pursuant to section 20.

*ADELAIDE CHEMICAL AND FERTILIZER COMPANY LIMITED v. CARLYLE* (1940) 64 C.L.R. 514; 14 A.L.J. 334, affirming *CARLYLE v. ADELAIDE CHEMICAL AND FERTILIZER COMPANY LIMITED* (1939) S.A.S.R. 458. When a widow brought an action under Part II., proceedings on behalf of the only child of the marriage having been taken under the Workmen's Compensation Act, 1932, held that the widow's failure to sue on behalf of the child did not result in the action being improperly constituted.

*RAFFERTY v. BARCLAY AND ANOTHER* (1942) S.A.S.R. 147, appeal to the High Court dismissed, 66 C.L.R. 669 (note). Method of fixing damages under section 20 discussed.

(2a) In any such action in respect of the death of any person after the passing of the Wrongs Act Amendment Act, 1939, damages may be awarded in respect of any medical expenses incurred as a result of the injury causing the death and the funeral expenses of the deceased person if such expenses have been incurred by the parties for whose benefit the action is brought.

Inserted by  
18, 1939, s. 5.

(2b) No action shall be brought for the benefit of an illegitimate child of a deceased person unless during the lifetime of that person—

Inserted by  
18, 1939, s. 5.

(a) he has contributed maintenance for the child or signed an agreement for the support of the child; or

(b) a maintenance or pre-maternity order has been made against him in respect of the child.

(3) The amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties in such shares as the court finds and directs.

**21.** Not more than one action shall lie under this Part for and in respect of the same subject matter of complaint; and ever such action shall be commenced within twelve calendar months after the death of the deceased person.

Restriction of actions and time of commencement.  
1, 1865, s. 3.  
U.K. 9 and 10 Vict. c. 93, s. 3.

**22.** In every such action the plaintiff shall be required to deliver to the defendant or his solicitor, full particulars of the person or persons for whom and on whose behalf the action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

Particulars of the person for whom damages claimed.  
1, 1865, s. 4.  
U.K. 9 and 10 Vict. c. 93, s. 4.

**23.** (1) In any case falling under section 19 of this Act, if there is no executor or administrator of the deceased person or, there being such an executor or administrator, no action is commenced under this Part within six months after the death of the deceased person, then an action may be brought by and in the name or names of the person or all or any of the persons for whose benefit an action could have been brought under this Part by an executor or administrator of the deceased person.

Provision where no executor or administrator or action not commenced within six months.  
17, 1874, s. 3.  
U.K. 27 and 28 Vict. c. 95, s. 1.

(2) Every action brought under this section shall be for the benefit of the same persons and shall be subject to the same regulations and procedure as nearly as may be as if brought by or in the name of an executor or administrator of the deceased person.

Liability to  
parents of  
person  
wrongfully  
killed.

Inserted by  
48, 1940, s. 5.

**23a.** (1) Whenever the death of an infant is caused by a wrongful act, neglect or default, and the act, neglect, or default is such as would, if death had not ensued, have entitled the infant to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall notwithstanding the death of the infant and although it was caused under such circumstances as amount in law to felony, be liable to pay to the surviving parents or parent of the child such sum, not exceeding three hundred pounds in the aggregate, as the court thinks just by way of solatium for the suffering caused to the parents or parent by the death of the child.

(2) Where both parents bring an action to recover any sum of money payable under this section, the amount recovered after deducting the costs not recovered from the defendant, shall be divided between the parents in such shares as the court directs.

(3) Where both parents survive the child and either of them does not join in bringing an action under this section, the other may bring an action for such amount as he claims to be due to him or her.

(4) In this section "parent" means the father or mother of a legitimate child and the mother of an illegitimate child.

Liability to  
surviving  
husband or  
wife of person  
wrongfully  
killed.

Inserted by  
48, 1940, s. 5.

**23b.** Whenever the death of a person is caused by a wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled that person to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued, shall, notwithstanding the death of the person injured and although the death was caused in such circumstances as amount in law to felony, be liable to pay the surviving wife or husband of the deceased person such sum, not exceeding five hundred pounds, as the court thinks just by way of solatium for the suffering caused to the wife or husband by such death.

s. 23a. *GIGNEY AND ANOTHER V. DUFFY AND ANOTHER. CLARK V. DUFFY AND ANOTHER* (1942) S.A.S.R. 76, varied on appeal to the High Court, 66 C.L.R. 669 (note); (1942) S.A.S.R. XX. (note); 16 A.L.J. 374. Consideration of amount of solatium to be awarded.

s. 23b. *SMITH V. CALDER AND BREEDING* (1941) S.A.S.R. 263. Section 23b is not retrospective. Accordingly, when the death of a husband was caused by way of negligence prior to the coming into operation of the section, no payment by way of solatium could be awarded.

*GIGNEY AND ANOTHER V. DUFFY AND ANOTHER. CLARK V. DUFFY AND ANOTHER* (1942) S.A.S.R. 76, varied on appeal to the High Court, 66 C.L.R. 669 (note); (1942) S.A.S.R. XX. (note); 16 A.L.J. 374. Consideration of amount of solatium to be awarded.

*RAFFERTY V. BARCLAY AND ANOTHER* (1942) S.A.S.R. 147, appeal to the High Court dismissed 66 C.L.R. 669 (note). Principles on which solatium is to be awarded discussed.

Further provisions as to ss. 22a, 22b.  
 Inserted by 48, 1940, s. 5.

**23c.** (1) The rights conferred by sections 23a and 23b shall be in addition to and not in derogation of any rights conferred on the parent, husband or wife by any other provision of this Act.

(2) In an action brought to enforce any right given under section 23a or 23b of this Act the court may in its discretion refuse to order the payment of any sum by way of solatium if, having regard to the conduct of the plaintiff in relation to the deceased person, or to the relations which existed between the plaintiff and the deceased person, or for any other sufficient reason, it considers that no such payment should be made.

(3) Any cause of action conferred on any person by section 23a or 23b of this Act shall not, on the death of that person, survive for the benefit of his estate.

PART III.

PART III.

GENERAL PROVISIONS.

*Proceedings against and Contributions between Tort-Feasors.*

**24.** In section 25 to 27 inclusive—

“parent” and “child” have the same meaning as they have in and for the purposes of Part II. of this Act:

the reference to “the judgment first given” shall in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed, and in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.

Interpretation.  
 U.K. 25 and 26 Geo. 5, c. 30, s. 6 (3).  
 Inserted by 18, 1939, s. 6.

**25.** Where damage is suffered by any person as a result of a tort (whether a crime or not)—

(a) judgment recovered against any tort-feasor liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tort-feasor in respect of the same damage:

Proceedings against and contribution between joint and several tort-feasors.  
 U.K. 25 and 26 Geo. 5, c. 30, s. 6 (1).  
 Inserted by 18, 1939, s. 6.

- (b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate, or of the wife, husband, parent or child of that person against tort-feasors liable in respect of the damage (whether as joint tort-feasors or otherwise) the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of opinion that there was reasonable ground for bringing the action:
- (c) any tort-feasor liable in respect of that damage may recover contribution from any other tort-feasor who is, or would if sued have been, liable in respect of the same damage, whether as a joint tort-feasor or otherwise, so, however, that no person shall be entitled to recover contribution under this section from any person entitled to be indemnified by him in respect of the liability in respect of which the contribution is sought:
- (d) where the tort or torts causing the damage was or were committed by the husband or wife of the person suffering the damage and some other person, that other person may recover contribution as mentioned in paragraph (c) of this section from the husband or wife, as if the husband or wife had been liable to the person suffering the damage.

Extent of contribution.  
U.K. 25 and 26, Geo. 5, c. 30, s. 6 (2).  
Inserted by 18, 1939, s. 6.

**26.** In any proceedings for contribution under the last preceding section the amount of the contribution recoverable from any person shall be such as may be found by the court to be just and equitable, having regard to the extent of that person's responsibility for the damage; and the court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity.

s. 26. *KERR v. FISHER AND HAMBLÉN* (1941) S.A.S.R. 213. Damages apportioned between wrongdoers guilty of joint negligence.

*BROKEN HILL PTY. CO. LTD, v. DUFFY* 16 A.L.J. 374; 66 C.L.R. 669 (note); (1942) S.A.S.R. XX. (note), which varied *GIGNEY AND ANOTHER v. DUFFY AND ANOTHER*, *CLARK v. DUFFY AND ANOTHER* (1942) S.A.S.R. 76. Where it is impossible to assign the precise degree of fault, the responsibility should be apportioned equally.

27. Nothing in section 24, 25 or 26 shall —

- (a) apply with respect to any tort committed before the passing of the Wrongs Act Amendment Act, 1939; or
- (b) affect any criminal proceedings against any person in respect of any wrongful act; or
- (c) render enforceable any agreement for indemnity which would not have been enforceable if this section had not been passed.

Exemptions.  
U.K. 25 and  
26 Geo. 5,  
c. 30, s. 6 (4).  
Inserted by  
18, 1939, s. 6.

*Mental or Nervous Shock.*

28. (1) In any action for injury to the person caused after the passing of the Wrongs Act Amendment Act, 1939, the plaintiff shall not be debarred from recovering damages merely because the injury complained of arose wholly or in part from mental or nervous shock.

Personal  
injury caused  
by mental or  
nervous shock.  
Inserted by  
18, 1939, s. 6.

(2) In determining any question of liability for injury to the person caused before the passing of the Wrongs Act Amendment Act, 1939, no regard shall be paid to the fact that this section has been enacted, or to the provisions hereof.

*Remedies against Certain Shipowners.*

29. (1) If it is alleged that the owners of any ship are liable to pay damages in respect of personal injuries, including fatal injuries, caused by the ship or sustained on, in, or about the ship, in any port or harbour in the State, in consequence of the wrongful act, neglect, or default of the owners of the ship, or the master or officers or crew thereof, or any other person in the employment of the owners of the ship, or of any defect in the ship or its apparel or equipment, and at any time that ship is found in any port or river in the State or in any water within three miles of the coast of the State, the Supreme Court or the local court of full jurisdiction nearest to the ship may, upon its being shown to the court by any person applying in accordance with rules of court that the owners are probably liable to pay damages in respect of such injuries and that none of the owners resides in the State, issue an order directed to any officer of the Supreme Court or of the said local court, or of the South Australian Harbors Board, or of any authority exercising the powers vested in the said Board named in the order, requiring such officer to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by a Judge of a Supreme Court, or as the case may be, by a

Remedy  
against  
shipowners  
and others  
for injuries.  
U.K. 5 Edw.  
7, c. 10.  
Inserted by  
18, 1939, s. 6.

judge or magistrate of the said local court, to abide the event of any proceedings that may be instituted in respect of the injuries, and to pay all costs and damages that may be awarded thereon.

(2) The officer to whom the order is directed may detain the ship in accordance with the order.

(3) In any legal proceedings in relation to such injuries as aforesaid, the person giving security may be made the defendant, and shall be stated to be the owner of the ship which has caused the injuries, and the production of the order of the judge or magistrate made in relation to the security shall in the said proceedings be conclusive evidence that the defendant is the owner of the ship.

(4) If the owner of a ship is a corporation, such corporation shall, for the purpose of this section, be deemed to reside in the State if it has an office in the State at which service of process can be effected.

(5) If a ship after detention in pursuance of this section or after service on the master of any notice of an order for detention under this section, proceeds to sea before the ship is released by the officer detaining it, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be guilty of an offence and liable on **summary conviction** to a penalty not exceeding two hundred pounds.

(6) If the master proceeds to sea with the ship in contravention of subsection (5) of this section, and takes to sea any person authorized to detain the ship or any person assisting any person so authorized, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the taking to sea of any such person, in addition to any penalty imposable under subsection (5).

(7) The words "person applying" in this section shall include an employer who has paid compensation, or against whom a claim for compensation has been made, under the Workmen's Compensation Act, 1932, if he shows the court that he probably is or will become entitled to be indemnified under that Act, and in such case this section shall apply as if the employer were a person claiming damages in respect of personal injuries.

(8) The jurisdiction of the Supreme Court under this section may be exercised by a single judge of that court sitting in chambers.