

House of Assembly—No 169

As laid on the table and read a first time, 8 September 2021

South Australia

**Road Traffic (Work Areas and Work Sites)
Amendment Bill 2021**

A BILL FOR

An Act to amend the *Road Traffic Act 1961*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Road Traffic (Work Areas and Work Sites) Amendment Act 2021*.

2—Commencement

This Act comes into operation 3 months after the day on which it is assented to by the Governor.

3—Amendment provisions

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Road Traffic Act 1961*

4—Substitution of section 20

Section 20—delete the section and substitute:

15 **20—Speed limits at work areas and work sites**

20 (1) A person who is responsible for a category 1 or 2 hazardous work area or work site must, in accordance with the requirements set out in the regulations, cause speed limit signs to be placed at the work area or work site indicating the maximum speed or speeds to be observed by drivers while driving on the portion of the road comprising the work area or work site.

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- (2) The maximum speed to be indicated by speed limit signs is as follows:
- (a) for a category 1 hazardous work area—40 km/h;
 - (b) for a category 2 hazardous work area—25 km/h;
 - (c) for a work site—
 - (i) in the case where a maximum speed for the work site is specified in a roadworks permit—the specified maximum speed; or
 - (ii) in any other case—a maximum speed not exceeding 80 km/h.
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- (3) A person who is responsible for a work area or work site must ensure that any speed limit signs placed at the work area or work site under this section are removed from the work area or work site, or are covered in accordance with the regulations, as soon as is reasonably practicable (but in any case within 2 hours) after work at, or affecting, the work area or work site has stopped on any day.
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- (4) However, subsection (3) does not apply to, or in relation to, a work area or work site—
- (a) if the nature of the work being carried out at, or affecting, the work area or work site is such that it is reasonably necessary (determined in accordance with the regulations) for a speed limit imposed under this section to continue to apply whether or not work is actively being carried out at the time; or
 - (b) in any other circumstances prescribed by the regulations.
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- (5) A person who is responsible for a work area or work site must not refuse or fail to comply with a requirement under this section.
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- Maximum penalty:
- (a) for a first offence—\$20 000;
 - (b) for a subsequent offence—\$50 000.
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- (6) In proceedings for an offence against subsection (5), it is a defence for the defendant to prove that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
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- (7) If a person who is responsible for a work area or work site is found guilty of an offence against subsection (5), the responsible authority for the work area or work site (unless the responsible authority was the person found guilty of the offence) is guilty of an offence.
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- Maximum penalty: \$20 000.

(8) If a speed limit sign remains in place at a work area or work site in contravention of this section—

- (a) the speed limit sign is of no effect for the purposes of this Act or any other Act or law during any period of non-compliance; and
- (b) an authorised officer may alter or remove the speed limit sign.

(9) The regulations may make further provision in relation to the operation of this section (including, to avoid doubt, by prescribing requirements for determining a matter contemplated by this section).

(10) This section has effect despite any other Act or law.

(11) In this section—

category 1 hazardous work area means a work area, or class of work areas, declared by the regulations to be a category 1 hazardous work area;

category 2 hazardous work area means a work area, or class of work areas, declared by the regulations to be a category 2 hazardous work area;

person responsible for a work area or work site means—

- (a) in the case where the responsible authority for the work area or work site has engaged a traffic management contractor to manage traffic at the work area or work site—the traffic management contractor; or
- (b) in any other case—the responsible authority for the work area or work site;

public authority means—

- (a) a Minister of the Crown; or
- (b) the Commissioner of Highways; or
- (c) a council; or
- (d) any other authority, body or person authorised by statute to carry out works on roads; or
- (e) any other person or body prescribed by the regulations;

responsible authority for a work area or work site means—

- (a) in the case of roadworks—the public authority who commissioned the roadworks being carried out at the work area, or on whose behalf the roadworks are being carried out; or
- (b) in any other case—the person (whether or not a public authority) who commissioned the works being carried out at or affecting the work area, or on whose behalf such works are being carried out;

roadworks permit means a roadworks permit granted under section 20AB that is in force;

traffic management contractor means a person or body engaged by a responsible authority for a work area or work site to manage traffic at, or in relation to, the work area or work site;

work area means a portion of road—

- (a) on which workers are, or are to be, working; or
- (b) on which vehicles or equipment relating to any works are placed; or
- (c) that is otherwise affected by works in progress (whether those works are occurring on the road or elsewhere);

work site means a portion of road affected by works being carried out at a category 1 or 2 hazardous work area, together with any additional portion of road used to regulate traffic in relation to those works or for associated purposes.

20AA—Closure of roads comprising work areas or work sites

(1) A person who is responsible for a work area or work site may, in accordance with the requirements set out in the regulations, close a portion of a road comprising a work area or work site if—

- (a) the person is authorised to do so in pursuant to a roadworks permit; or
- (b) the closure is, due to unforeseen circumstances, necessary to prevent serious harm being caused to road users or other members of the public; or
- (c) the closure occurs in any other circumstances prescribed by the regulations.

(2) A person who closes a portion of a road in contravention of subsection (1) is guilty of an offence.

Maximum penalty:

- (a) for a first offence—\$20 000;
- (b) for a subsequent offence—\$50 000.

(3) If a person who is responsible for a work area or work site is found guilty of an offence against subsection (2), the responsible authority for the work area or work site (unless the responsible authority was the person found guilty of the offence) is guilty of an offence.

Maximum penalty: \$20 000.

(4) A term or phrase used in this section that is defined in section 20 has the same meaning as in that section.

20AB—Roadworks permits

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- (1) A person who is, or is to be, responsible for a work area or work site may apply to the Minister for a permit under this section (a *roadworks permit*) authorising the person to do 1 or both of the following:
- (a) place speed limit signs at the work area or work site in accordance with section 20;
- (b) close a portion of a road comprising a work area or work site in accordance with section 20AA.
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- (2) An application for a roadworks permit—
- (a) must be made in a manner determined by the Minister; and
- (b) must be accompanied by such information or documents as may reasonably be required by the Minister; and
- (c) be accompanied by the prescribed fee; and
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- (d) must comply with any other requirements in the regulations.
- (3) A roadworks permit may be conditional or unconditional.
- (4) The Minister may vary, suspend or revoke a roadworks permit (including by extending the period during which the permit remains in force).
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- (5) Without limiting the conditions that may be imposed on a roadworks permit under this section, a roadworks permit—
- (a) must specify the period during which the permit remains in force; and
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- (b) must include conditions requiring the holder of the permit to undertake risk assessment and other work site planning processes in accordance with requirements specified in the permit, or a standard or other document specified in the permit; and
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- (c) must include any other conditions required by the regulations.
- (6) Without limiting the circumstances in which the Minister may refuse to issue a roadworks permit, the Minister may refuse to issue such a permit if to a person who has been found guilty of an offence against section 20, 20AA or 21 relating to a work area or work site.
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- (7) A term or phrase used in this section that is defined in section 20 has the same meaning as in that section.

5—Amendment of section 20A—Appeal to District Court

Section 20A(1)—delete "section 20" and substitute:

section 20AB

6—Amendment of section 21—Offences relating to traffic control devices

(1) Section 21(1a)—delete subsection (1a) and substitute:

(1a) An authority, body or person who places a speed limit sign on a road in contravention of section 20, or closes a portion of road in contravention of section 20AA, is guilty of an offence.

Maximum penalty:

(a) for a first offence—\$20 000;

(b) for a subsequent offence—\$50 000.

(2) Section 21(3)—delete "section 20" first occurring and substitute:

section 20AB

7—Amendment of section 21A—Payments to Highways Fund

(1) Section 21A(a)—delete "section 20" and substitute:

section 20AB

(2) Section 21A(b)—delete paragraph (b)

8—Amendment of section 22—Proof of lawful installation etc of traffic control devices

Section 22(2)—delete "relevant standards or requirements prescribed under section 20(16)" and substitute:

requirements prescribed by the regulations