

## House of Assembly

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South Australia

# Statutes Amendment (Budget 2010) Bill 2010

A BILL FOR

An Act to amend the *Education Act 1972*, the *Environment Protection Act 1993*, the *First Home Owner Grant Act 2000*, the *Motor Vehicles Act 1959*, the *Parliament (Joint Services) Act 1985*, the *Passenger Transport Act 1994*, the *Payroll Tax Act 2009*, the *Petroleum Products Regulation Act 1995*, the *Private Parking Areas Act 1986*, the *Public Sector Act 2009*, the *Radiation Protection and Control Act 1982*, the *Road Traffic Act 1961* and the *Technical and Further Education Act 1975*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Education Act 1972*

- 4 Amendment of section 19—Long service leave
- 5 Transitional provision

### Part 3—Amendment of *Environment Protection Act 1993*

- 6 Amendment of section 11—Establishment of Authority
- 7 Insertion of Part 6A

#### Part 6A—Sustainability licence endorsements

- 57A Requirement for endorsement of licence
- 57B Applications for endorsements
- 57C Endorsement of licences
- 57D Term and renewal of endorsements
- 57E Annual fees and returns
- 57F Transfer of endorsements
- 57G Suspension or revocation of endorsements
- 8 Amendment of section 106—Appeals to Court
- 9 Amendment of section 109—Public register
- 10 Transitional provision

### Part 4—Amendment of *First Home Owner Grant Act 2000*

- 11 Amendment of section 3—Definitions
- 12 Amendment to section 7—Entitlement to grant
- 13 Amendment of section 13A—Special eligible transactions
- 14 Amendment of section 18B—Bonus grant for transactions before 17 September 2010
- 15 Insertion of sections 18BA and 18BB
  - 18BA Bonus grant for transactions on or after 17 September 2010

- 18BB Market value of homes
- 16 Amendment of section 18C—Amount of grant must not exceed consideration
- 17 Transitional provisions

#### Part 5—Amendment of *Motor Vehicles Act 1959*

- 18 Amendment of section 9—Duty to register
- 19 Amendment of section 16—Permits to drive vehicles without registration
- 20 Amendment of section 24—Duty to grant registration
- 21 Amendment of heading
- 22 Amendment of section 48—Registration label
- 23 Amendment of section 50—Permit to drive pending receipt of registration label
- 24 Amendment of section 52—Return or destruction of registration labels
- 25 Amendment of section 56—Duty of transferor on transfer of vehicle
- 26 Amendment of section 57—Duty of transferee on transfer of vehicle
- 27 Amendment of section 58—Transfer of registration
- 28 Amendment of heading
- 29 Amendment of section 71A—Property in plates, labels and documents
- 30 Substitution of section 71B
  - 71B Replacement of plates, documents and labels
- 31 Amendment of section 102—Duty to insure against third party risks
- 32 Repeal of section 103
- 33 Amendment of section 116—Claim against nominal defendant where vehicle uninsured
- 34 Amendment of section 124—Duty to co-operate with insurer
- 35 Amendment of section 131—Insurance by visiting motorists
- 36 Amendment of section 142—Facilitation of proof
- 37 Amendment of section 145—Regulations
- 38 Insertion of Schedule 1
  - Schedule 1—Evidence obtained by photographic detection device
    - 1 Interpretation
    - 2 Certain offences subsumed
    - 3 Notice about photographic evidence
    - 4 Evidentiary
- 39 Transitional provisions

#### Part 6—Amendment of *Parliament (Joint Services) Act 1985*

- 40 Amendment of section 20—Long service leave
- 41 Transitional provision

#### Part 7—Amendment of *Passenger Transport Act 1994*

- 42 Amendment of section 63—Registration of prescribed passenger vehicles

#### Part 8—Amendment of *Payroll Tax Act 2009*

- 43 Amendment of Schedule 2—South Australia specific provisions
  - 10A Apprentices and trainees
- 44 Transitional provision

#### Part 9—Amendment of *Petroleum Products Regulation Act 1995*

- 45 Amendment of section 4—Interpretation
- 46 Repeal of section 4B
- 47 Repeal of section 5
- 48 Amendment of section 8—Requirement for licence
- 49 Amendment of section 11—Conditions of licence

---

50	Repeal of Part 2A
51	Amendment of section 44—Powers of authorised officers
52	Amendment of section 47—Appeals
53	Amendment of section 50—Register
54	Amendment of section 53—Records to be kept
55	Amendment of section 53A—Falsely claiming to hold licence or permit etc
56	Amendment of section 56—Confidentiality
57	Amendment of section 62—Evidence
58	Transitional provision
<b>Part 10—Amendment of <i>Private Parking Areas Act 1986</i></b>	
59	Amendment of section 8—Offences—driver and owner to be guilty
<b>Part 11—Amendment of <i>Public Sector Act 2009</i></b>	
60	Amendment of section 51—Hours of duty and leave
61	Insertion of section 73A
	73A Additional provision relating to recreation leave for public sector employees
62	Amendment of Schedule 1—Leave and working arrangements
63	Insertion of Schedule 1A
	Schedule 1A—Additional provision relating to recreation leave
	1 Application of Schedule
	2 Leave loading allowances for recreation leave
64	Transitional provisions
<b>Part 12—Amendment of <i>Radiation Protection and Control Act 1982</i></b>	
65	Amendment of section 5—Interpretation
66	Insertion of section 23A
	23A Licence to test for developmental purposes
67	Amendment of section 24—Licence to carry out mining or mineral processing
68	Amendment of section 26—Limits of exposure to ionising radiation for mining or mineral processing operations not to be more stringent than limits fixed under certain codes etc
69	Amendment of section 28—Licence to use or handle radioactive substances
70	Amendment of section 29—Registration of premises in which unsealed radioactive substances are handled or kept
71	Insertion of section 29A
	29A Facilities licence
72	Amendment of section 30—Registration of sealed radioactive source
73	Amendment of section 31—Licences to operate radiation apparatus
74	Amendment of section 32—Registration of radiation apparatus
75	Insertion of Part 3 Divisions 3A and 3B
	Division 3A—Licence to possess a radiation source
	33A Licence to possess a radiation source
	Division 3B—Accreditation of third party service providers
	33B Accreditation process
	33C Authority conferred by accreditation
	33D Reliance on professional advice
	33E Accreditation fees
	33F Offences
76	Heading to Part 3 Division 4
	Division 4—General provisions with respect to accreditations and authorities
77	Amendment of section 34—Minister may require information to determine applications

---

- 78 Amendment of section 36—Conditions of accreditations and authorities
- 79 Amendment of section 37—Term of accreditations and authorities and their renewal
- 80 Amendment of section 38—Register
- 81 Amendment of section 40—Surrender, suspension and cancellation of accreditations and authorities
- 82 Amendment of section 41—Review of decisions relating to accreditations and authorities
- 83 Amendment of section 43—Regulations
- 84 Amendment of section 49—Evidentiary provisions
- 85 Amendment of section 50—Service of documents

### Part 13—Amendment of *Road Traffic Act 1961*

- 86 Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices
- 87 Amendment of section 176—Regulations and rules

### Part 14—Amendment of *Technical and Further Education Act 1975*

- 88 Amendment of section 19—Long service leave
  - 89 Transitional provision
- 

## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Statutes Amendment (Budget 2010) Act 2010*.

#### 2—Commencement

- (1) Subject to this section, this Act will come into operation on a day to be fixed by proclamation.
- (2) Parts 2 and 6, sections 62 and 64 and Part 14 will come into operation on 1 July 2011.
- (3) Part 4 will be taken to have come into operation on 17 September 2010.
- (4) Part 8 will be taken to have come into operation on 1 July 2010.
- (5) Part 9 will come into operation on 1 January 2011.

#### 3—Amendment provisions

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 *Education Act 1972*

#### 4—Amendment of section 19—Long service leave

Section 19(1)(b) and (c)—delete paragraphs (b) and (c) and substitute:

- (b) the officer is then entitled to 0.75 of a day's leave for each subsequent complete month of effective service.

## **5—Transitional provision**

The amendment to the *Education Act 1972* made by this Part does not affect an entitlement to long service leave or payment in lieu of long service leave that accrues before 1 July 2011.

## **Part 3—Amendment of *Environment Protection Act 1993***

### **6—Amendment of section 11—Establishment of Authority**

Section 11(4)(b)—after "Part 6" insert:

or Part 6A

### **7—Insertion of Part 6A**

After Part 6 insert:

#### **Part 6A—Sustainability licence endorsements**

##### **57A—Requirement for endorsement of licence**

A person must not represent that a licence is a sustainability licence, or permit another person to do so, unless the licence is endorsed under this Part as a sustainability licence.

Maximum penalty: Division 2 fine.

##### **57B—Applications for endorsements**

- (1) An application for an endorsement of a licence as a sustainability licence must be made to the Authority in such manner and form as is determined by the Authority and must be accompanied by the prescribed application fee.
- (2) An application for an endorsement may be combined with an application for a licence or renewal of a licence.
- (3) If the Authority requires further information to determine the application, the Authority may, by written notice served on the applicant no later than 2 months after the application is made, require the applicant to furnish further specified information in writing.
- (4) If further information is required in respect of an application, the application is to be taken not to have been duly made until the information is furnished as required by the Authority.
- (5) If the Authority refuses an application for an endorsement, it must give the applicant written notice of the refusal and the reasons for the refusal.

##### **57C—Endorsement of licences**

- (1) The Authority may endorse a licence as a sustainability licence if—
  - (a) the holder of the licence has made due application for the endorsement; and
  - (b) the holder of the licence has undertaken—

- (i) to implement, within a period agreed with the Authority, specific and substantial measures agreed with the Authority designed, in connection with the activities authorised by the licence—
    - (A) to protect, restore or enhance the environment beyond standards required by or under this Act; and
    - (B) to facilitate consultation with the community and deal with complaints; and
  - (ii) to facilitate auditing of the implementation of the measures in accordance with an auditing programme agreed with the Authority; and
  - (iii) to review and renegotiate the measures and auditing programme in good faith from time to time in accordance with a review programme agreed with the Authority; and
  - (iv) to implement the measures, and facilitate auditing of implementation of the measures, as renegotiated following review; and
- (c) the holder of the licence has paid the sustainability endorsement fee prescribed or determined under the regulations; and
  - (d) any other requirements prescribed by the regulations have been complied with.
- (2) The Authority may, in conjunction with endorsing a licence as a sustainability licence, undertake to provide support to the holder of the licence to facilitate implementation, and auditing of implementation, of the measures forming the basis of the endorsement.
  - (3) An undertaking made under this section is not enforceable.

#### **57D—Term and renewal of endorsements**

- (1) Subject to this Act, the term of an endorsement of a licence as a sustainability licence is co-extensive with the term of the licence, and the endorsement is renewed for a further term on each renewal of the licence.
- (2) An application for the renewal of a licence endorsed as a sustainability licence must include information relating to the measures implemented for the purposes of the endorsement as required by the Authority by written notice to the applicant.
- (3) If the holder of a licence fails to include the required information in an application for renewal of the licence, the application will be taken not to have been duly made until the information is furnished as required by the Authority.

### **57E—Annual fees and returns**

- (1) If an annual authorisation fee is payable in respect of a licence endorsed as a sustainability licence, the amount prescribed or determined under the regulations as the annual sustainability endorsement fee is to be added to the annual authorisation fee and, for the purposes of this Act, the amount will be taken to form part of the annual authorisation fee payable by the licensee.
- (2) An annual return lodged in respect of a licence endorsed as a sustainability licence must include information relating to the measures implemented for the purposes of the endorsement as required by the Authority by written notice to the holder of the licence.
- (3) If the holder of a licence fails to include the required information in an annual return, the Authority may, by written notice, require the holder to make good the default.
- (4) If the holder of a licence fails to make good the default within the period allowed by the Authority (being not less than 14 days after the day on which the notice is given to the holder), the Authority may, by written notice, revoke the endorsement of the licence as a sustainability licence.
- (5) In this section, a reference to an endorsement of a licence as a sustainability licence includes a reference to such an endorsement that has been suspended by reason of the licence being suspended.

### **57F—Transfer of endorsements**

- (1) An endorsement may, with the approval of the Authority, be transferred simultaneously with the transfer of a licence.
- (2) The Authority must decide whether or not to grant approval for the transfer of an endorsement on the same basis as would apply if the transferee were an applicant for an endorsement.

### **57G—Suspension or revocation of endorsements**

- (1) The Authority may, by written notice to the holder of a licence endorsed as a sustainability licence, revoke the endorsement—
  - (a) if the holder of the licence acts contrary to an undertaking forming the basis of the endorsement; or
  - (b) if the Authority is unable to reach agreement with the holder on the renegotiation of the measures or auditing programme; or
  - (c) on other grounds prescribed by the regulations.
- (2) Before the Authority revokes an endorsement under subsection (1), the Authority must—
  - (a) give the holder of the licence written notice of its proposed action specifying reasons for the proposed action; and

- (b) allow the holder of the licence at least 14 days within which to make submissions to the Authority in relation to the proposed action.
- (3) The Authority must revoke an endorsement of a licence as a sustainability licence at the written request of the holder of the licence.
- (4) If a licence endorsed as a sustainability licence is suspended, the endorsement is suspended for the period of the suspension of the licence.
- (5) If a licence endorsed as a sustainability licence is cancelled or surrendered, the endorsement is revoked.

### **8—Amendment of section 106—Appeals to Court**

Section 106(1)—after paragraph (ca) insert:

- (cab) an applicant for endorsement of a licence under Part 6A as a sustainability licence may appeal to the Court against a decision of the Authority to refuse to endorse the licence;
- (cac) an applicant for approval of a transfer of an endorsement of a licence under Part 6A as a sustainability licence may appeal to the Court against a decision of the Authority to refuse to approve the transfer;
- (cad) the holder of a licence may appeal to the Court against a decision of the Authority to revoke an endorsement of the licence under Part 6A as a sustainability licence;

### **9—Amendment of section 109—Public register**

Section 109(3)—after paragraph (f) insert:

- (fa) details of endorsements of licences under Part 6A as sustainability licences and applications for such endorsements;

### **10—Transitional provision**

If, immediately before the commencement of this section, a person holds an environmental authorisation granted or renewed by the Authority under the *Environment Protection Act 1993* purportedly as a sustainability licence or accredited sustainability licence, the environmental authorisation will be taken to have been endorsed under Part 6A of that Act as a sustainability licence on the basis of the measures, auditing programme and review programme specified in connection with the purported sustainability licence or accredited sustainability licence.

## **Part 4—Amendment of *First Home Owner Grant Act 2000***

### **11—Amendment of section 3—Definitions**

- (1) Section 3—after the definition of *home* insert:

*new home* means a home that has not been previously occupied or sold as a place of residence and includes a substantially renovated home;



- (2) Section 3—after the definition of *spouse* insert:

*substantially renovated home*—a home is a substantially renovated home if—

- (a) the sale of the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, a taxable supply as a sale of new residential premises within the meaning of section 40-75(1)(b) (Meaning of *new residential premises*); and
- (b) the home, as renovated, has not been previously occupied or sold as a place of residence;

## **12—Amendment to section 7—Entitlement to grant**

Section 7—after subsection (1) insert:

- (1a) However, if—

- (a) the commencement date of an eligible transaction for which a grant is sought is on or after 17 September 2010; and
- (b) the market value of the home to which the transaction relates (as determined under section 18BB) exceeds—
  - (i) \$575 000; or
  - (ii) if another amount is prescribed by regulation for the purposes of this subsection—that amount,

no first home owner grant is payable on the application for the grant.

## **13—Amendment of section 13A—Special eligible transactions**

Section 13A(8), definitions of *new home* and *substantially renovated home*—delete the definitions

## **14—Amendment of section 18B—Bonus grant for transactions before 17 September 2010**

- (1) Section 18B(1)(a)—after "5 June 2008" insert:  
but before 17 September 2010
- (2) Section 18B(2)—after "first home bonus grant" insert:  
under this section
- (3) Section 18B(4) to (9)—delete subsections (4) to (9) (inclusive)
- (4) Section 18B(11)—delete subsection (11)

## 15—Insertion of sections 18BA and 18BB

After section 18B insert:

### **18BA—Bonus grant for transactions on or after 17 September 2010**

- (1) Subject to this section, the amount of a first home owner grant under section 18 will be increased by an amount under this section (the *first home bonus grant*) if—
  - (a) the commencement date of the eligible transaction is on or after 17 September 2010; and
  - (b) the eligible transaction is—
    - (i) a contract for the purchase of a new home; or
    - (ii) a comprehensive home building contract for a new home; or
    - (iii) the building of a new home by an owner builder; and
  - (c) the market value of the home to which the eligible transaction relates is less than \$450 000.
- (2) The amount of the first home bonus grant under this section is as follows:
  - (a) if the market value of the home to which the eligible transaction relates does not exceed \$400 000—\$8 000;
  - (b) if the market value of the home to which the eligible transaction relates exceeds \$400 000 (but is less than \$450 000)—an amount calculated in accordance with the following formula:
$$A = B - \left( \frac{C (D - E)}{100} \right)$$
where—

*A* is the amount of the first home bonus grant

*B* is \$8 000

*C* is 16

*D* is the market value of the home to which the eligible transaction relates, rounded down to the nearest \$100

*E* is \$400 000.
- (3) This section does not give rise to an entitlement to a first home bonus grant if the Commissioner is satisfied that the contract that formed the basis of the eligible transaction replaces a contract made before 17 September 2010 (the *earlier contract*), and that the earlier contract was—
  - (a) a contract for the purchase of the same home; or

- (b) a comprehensive home building contract to build the same or a substantially similar home.

### **18BB—Market value of homes**

- (1) For the purposes of sections 7, 18B and 18BA, but subject to subsections (2) and (3), the market value of the home to which an eligible transaction relates (the *market value*) will be determined as follows:
  - (a) in the case of an eligible transaction constituted by a contract under section 13(1)(a)—the market value will be taken to be—
    - (i) unless subparagraph (ii) applies—the consideration for the eligible transaction;
    - (ii) if the Commissioner considers that the consideration for the eligible transaction may be less than the market value—the market value of the property on which the home is situated, as at the time when the contract is made, as determined by the Commissioner for the purposes of this provision;
  - (b) in the case of an eligible transaction constituted by a comprehensive home building contract under section 13(1)(b)—the market value will be taken to be the sum of the following:
    - (i) —
      - (A) unless subparagraph (B) applies—the consideration for the comprehensive home building contract under section 13(7);
      - (B) if the Commissioner considers that the total consideration payable for the relevant building work may be less than the actual costs to build the home—the actual costs to build the home, as determined by the Commissioner for the purposes of this provision; and
    - (ii) the market value of the property on which the home is to be built, as at the time when the building contract is made, as determined by the Commissioner for the purposes of this provision;
  - (c) in the case of an eligible transaction constituted by the building of a home by an owner builder under section 13(1)(c)—the market value will be taken to be the market value of the property on which the home is situated, as at the time when the eligible transaction is completed, as determined by the Commissioner for the purposes of this provision.

- (2) For the purposes of subsection (1), if an eligible transaction relates to a home on a genuine farm, the relevant component of the farm will be taken to constitute the property on which the home is situated, or is to be built.
- (3) If a person is entitled to a first home owner grant by virtue of the operation of section 5(4)—
  - (a) if the relevant interest relates to a comprehensive home building contract for the construction of a home—the market value of the home to which the eligible transaction relates will be taken to be the consideration for the comprehensive home building contract;
  - (b) in any other case—the market value of the home to which the eligible transaction relates will be determined in accordance with—
    - (i) the method prescribed by regulation for the purposes of subsection (6)(b) of section 18B immediately before the repeal of that subsection by the *Statutes Amendment (Budget 2010) Act 2010*; or
    - (ii) if another method is prescribed by regulation for the purposes of this subsection—that method.
- (4) The Commissioner may adopt or approve any method the Commissioner considers reasonable for the purposes of determining any value or costs under a preceding subsection, including by requiring that a valuation of property be made by a person appointed or approved by the Commissioner.
- (5) If the Commissioner requires a valuation of property to be made for the purposes of determining the value of any property under this section, the Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of, or incidental to, the making of the valuation to the applicant or applicants and may recover the amount so charged from the applicant or applicants as a debt due to the Crown.
- (6) To avoid doubt, the market value of any property on which a home is situated will, for the purposes of this section, be the market value of the land, the home and any other improvements.
- (7) In this section—

***genuine farm*** means land as to which the Commissioner is satisfied—

  - (a) the land is to be used for primary production by the person seeking the benefit of this section; and
  - (b) the land is, by itself, or in conjunction with other land owned by that person, capable of supporting economically viable primary production operations;

*relevant component* of a genuine farm means the part of the farm constituted by the home and its curtilage, or the part of the land that is to constitute the site and curtilage of a home that is to be built.

## 16—Amendment of section 18C—Amount of grant must not exceed consideration

Section 18C—after "section 18B" insert:  
or 18BA

## 17—Transitional provisions

- (1) If a person has, before the date of the enactment of this Act, received a first home owner grant in respect of an application on which a first home owner grant is not payable under subsection (1a) of section 7 of the principal Act (as inserted by section 12 of this Act), the Commissioner may recover the amount of the grant as a debt due to the Crown.
- (2) If a person has, before the date of the enactment of this Act, received a payment under section 18B of the principal Act in respect of an eligible transaction with a commencement date that is on or after 17 September 2010, the Commissioner may recover the amount of the payment from the person as a debt due to the Crown.
- (3) If—
  - (a) a person is entitled to a first home bonus grant under section 18BA of the principal Act, as enacted by this Act (the *relevant entitlement*); and
  - (b) the person has received a benefit constituted by an *ex gratia* payment by the State in order to provide for the first home bonus grant under section 18BA envisaged by this Act for the period between 17 September 2010 and the date of the enactment of this Act,

the amount of the relevant entitlement will be reduced by the amount of the *ex gratia* payment (including so as to fully set off the amount of the relevant entitlement).

- (4) To avoid doubt, any set off or right of recovery under this section extends to a benefit obtained before the commencement of this section.
- (5) Terms used in this section that are defined in the principal Act have the same respective meanings as in that Act.
- (6) In this section—

*principal Act* means the *First Home Owner Grant Act 2000*.

## Part 5—Amendment of *Motor Vehicles Act 1959*

### 18—Amendment of section 9—Duty to register

- (1) Section 9—after subsection (1) insert:
  - (1a) However, subsection (1) does not apply to a person who drives a motor vehicle other than a heavy vehicle, or causes such a motor vehicle to stand, if the person proves that he or she—
    - (a) drove the motor vehicle, or caused the motor vehicle to stand, in prescribed circumstances; and

- (b) did not know that the motor vehicle was unregistered.
  - (1b) For the purposes of subsection (1a), a person may prove a matter referred to in that subsection by furnishing to the Commissioner of Police a statutory declaration in accordance with any requirements prescribed by the regulations.
  - (1c) If a charge of an offence against subsection (1) involves a motor vehicle other than a heavy vehicle and the defendant was not a registered owner or the registered operator of the vehicle, it is a defence to the charge if the defendant proves that he or she did not know, and could not reasonably be expected to have known, that the vehicle was unregistered.
- (2) Section 9(2)—after "subsection (1)" insert:  
involving a heavy vehicle
- (3) Section 9(3)—after "motor vehicle is" insert:  
driven or
- (4) Section 9—after subsection (4) insert:  
(4a) It is a defence to a charge of an offence against subsection (3) to prove that—
  - (a) the vehicle was not driven or left standing on the road by the defendant; and
  - (b) the defendant had taken reasonable steps to ensure that any person lawfully entitled to use the motor vehicle would have been aware that the vehicle was unregistered.
- (5) Section 9(5)—after "time it was" insert:  
driven or
- (6) Section 9—after subsection (6) insert:  
(6a) The provisions of Schedule 1 apply to an offence against this section if evidence relating to the offence was obtained through the operation of a photographic detection device.  
(6b) A motor vehicle is driven or caused to stand by a person in prescribed circumstances for the purposes of subsection (1a) if—
  - (a) the person is not an owner or the registered operator of the vehicle and he or she is required by his or her employer to drive the vehicle, or to cause the vehicle to stand, in the course of his or her employment; or
  - (b) the motor vehicle is driven or caused to stand in circumstances declared by the regulations.
- (7) Section 9(7), definition of *owner*—after "the vehicle" insert:  
, but does not include a person who takes the vehicle on hire

## **19—Amendment of section 16—Permits to drive vehicles without registration**

Section 16(7)—delete subsection (7) and substitute:

- (7) A permit issued under this section will cease to have any force or effect as follows:
  - (a) in the case of a permit issued under subsection (1)—
    - (i) if the motor vehicle is a heavy vehicle—when the registration label issued in respect of the motor vehicle is affixed to the vehicle or when the period specified in the permit expires (whichever occurs first); or
    - (ii) in any other case—when information becomes publicly available (in a manner prescribed by regulation) that the motor vehicle has been registered or when the period specified in the permit expires (whichever occurs first);
  - (b) in the case of a permit issued under subsection (2)—
    - (i) if the motor vehicle is a heavy vehicle—when the registration label issued in respect of the motor vehicle is affixed to the vehicle or on the expiration of the prescribed period (whichever occurs first); or
    - (ii) in any other case—when information becomes publicly available (in a manner prescribed by regulation) that the motor vehicle has been registered or on the expiration of the prescribed period (whichever occurs first).

## **20—Amendment of section 24—Duty to grant registration**

Section 24(1)(a)(i)—delete subparagraph (i) and substitute:

- (i) for a period of—
  - (A) in the case of a heavy vehicle—12 months or 1, 2 or 3 quarters; or
  - (B) in any other case—12 months or 1 quarter; or

## **21—Amendment of heading**

Heading to Part 2 Division 9—after "labels" insert:

for heavy vehicles

## **22—Amendment of section 48—Registration label**

- (1) Section 48(1)—delete subsection (1) and substitute:
- (1) At the time of registering a heavy vehicle (other than a heavy vehicle of a prescribed class), the Registrar must issue to the registered owner or the registered operator of the vehicle, or his or her agent, a registration label endorsed with—
    - (a) particulars of the vehicle; and
    - (b) the date of expiry of registration; and
    - (c) such other information as the Registrar thinks fit to include.
- (2) Section 48(1a)—delete "motor" and substitute:  
heavy
- (3) Section 48(2)—delete subsection (2) and substitute:
- (2) The registration label issued in respect of a heavy vehicle (other than a heavy vehicle of a prescribed class) or, where an amended registration label has been issued in respect of such a vehicle, the amended registration label, must, throughout the period during which the registration remains in force, be affixed to and carried on the heavy vehicle for which it is issued, in accordance with the regulations.
- (4) Section 48(3), (3a) and (4)—delete "motor" wherever occurring and substitute in each case:  
heavy

## **23—Amendment of section 50—Permit to drive pending receipt of registration label**

Section 50(1)—delete "motor" and substitute:  
heavy

## **24—Amendment of section 52—Return or destruction of registration labels**

Section 52(1), (2) and (4)—delete "motor" wherever occurring and substitute in each case:  
heavy

## **25—Amendment of section 56—Duty of transferor on transfer of vehicle**

Section 56(b)(i)(A)—delete "current certificate of registration or a current duplicate certificate of registration issued to the transferor" and substitute:  
prescribed documents

## **26—Amendment of section 57—Duty of transferee on transfer of vehicle**

Section 57(2)(d)(i)—delete "current certificate of registration or a current duplicate certificate of registration issued to the transferor" and substitute:  
prescribed documents



**27—Amendment of section 58—Transfer of registration**

Section 58(1)—delete "current certificate of registration or a current duplicate certificate of registration issued to the transferor" and substitute:

prescribed documents

**28—Amendment of heading**

Heading to Part 2 Division 12—delete "certificates or labels" and substitute:

labels and documents

**29—Amendment of section 71A—Property in plates, labels and documents**

Section 71A—delete "registration certificates and registration labels" and substitute:

registration labels and prescribed documents

**30—Substitution of section 71B**

Section 71B—delete the section and substitute:

**71B—Replacement of plates, documents and labels**

- (1) If the Registrar is satisfied by statutory declaration or such other evidence as the Registrar may require that a number plate, trade plate, prescribed document or registration label issued in respect of a motor vehicle has been lost, stolen, damaged or destroyed, the Registrar may, on application made in a manner and form determined by the Minister and payment of the prescribed fee, issue, or authorise the issue of, a replacement number plate, trade plate or prescribed document or a duplicate registration label.
- (2) The person to whom a replacement plate or document or duplicate label is issued under subsection (1) must, if the original plate, document or label is found or recovered, return it to the Registrar.  
Maximum penalty: \$250.

**31—Amendment of section 102—Duty to insure against third party risks**

(1) Section 102—after subsection (1) insert:

- (1a) However, subsection (1) does not apply to a person who drives a motor vehicle other than a heavy vehicle, or causes such a motor vehicle to stand, if the person proves that he or she—
  - (a) drove the motor vehicle, or caused the motor vehicle to stand, in prescribed circumstances; and
  - (b) did not know that the motor vehicle was uninsured.
- (1b) For the purposes of subsection (1a), a person may prove a matter referred to in that subsection by furnishing to the Commissioner of Police a statutory declaration in accordance with any requirements prescribed by the regulations.

- (1c) If a charge of an offence against subsection (1) involves a motor vehicle other than a heavy vehicle and the defendant was not a registered owner or the registered operator of the vehicle, it is a defence to the charge if the defendant proves that he or she did not know, and could not reasonably be expected to have known, that the vehicle was uninsured.
- (2) Section 102(2)—after "motor vehicle is" insert:  
driven or
- (3) Section 102—after subsection (3) insert:  
(3aa) It is a defence to a charge of an offence against subsection (2) to prove that—  
(a) the vehicle was not driven or left standing on the road by the defendant; and  
(b) the defendant had taken reasonable steps to ensure that any person lawfully entitled to use the motor vehicle would have been aware that the vehicle was uninsured.
- (4) Section 102(3a)—after "time it was" insert:  
driven or
- (5) Section 102—after subsection (3b) insert:  
(3c) The provisions of Schedule 1 apply to an offence against this section if evidence relating to the offence was obtained through the operation of a photographic detection device.  
(3d) A motor vehicle is driven or caused to stand by a person in prescribed circumstances for the purposes of subsection (1a) if—  
(a) the person is not an owner or the registered operator of the vehicle and he or she is required by his or her employer to drive the vehicle, or to cause the vehicle to stand, in the course of his or her employment; or  
(b) the motor vehicle is driven or caused to stand in circumstances declared by the regulations.
- (6) Section 102(7), definition of *owner*—after "the vehicle" insert:  
, but does not include a person who takes the vehicle on hire

### **32—Repeal of section 103**

Section 103—delete the section

### **33—Amendment of section 116—Claim against nominal defendant where vehicle uninsured**

Section 116(7c)(b)—delete "had no reason to believe" and substitute:  
could not reasonably be expected to have known

### **34—Amendment of section 124—Duty to co-operate with insurer**

Section 124(5)(b)—delete "the certificate of registration or permit in respect of" and substitute:

prescribed documents relating to

### **35—Amendment of section 131—Insurance by visiting motorists**

Section 131—delete "a certificate of"

### **36—Amendment of section 142—Facilitation of proof**

Section 142(a)—after "registration label" first occurring insert:

required by this Act

### **37—Amendment of section 145—Regulations**

(1) Section 145(1)—after paragraph (b) insert:

(ba) empowering the Registrar to issue documents relating to the registration of a motor vehicle or to any registered particulars of a registered motor vehicle, prescribing fees for the issue of such documents by the Registrar, prescribing classes of documents (whether issued by the Registrar or any other person or body) relating to the registration of a motor vehicle and providing offences relating to such documents; and

(2) Section 145(1)(d)—delete "and for the insertion in the registration certificate issued in respect of a motor vehicle of a note of its load capacity"

### **38—Insertion of Schedule 1**

After section 148 insert:

## **Schedule 1—Evidence obtained by photographic detection device**

### **1—Interpretation**

In this Schedule—

*camera detected registration offence* means a registration offence where evidence relating to the offence was obtained through the operation of a photographic detection device;

*photographic detection device* means a photographic detection device approved under the *Road Traffic Act 1961* in relation to registration offences;

*registration offence* means an offence against section 9 or 102.

### **2—Certain offences subsumed**

(1) If—

(a) the registration of a motor vehicle has expired; and

- (b) a person is given an expiation notice for a camera detected registration offence involving the vehicle (the *first offence*); and
- (c) since the vehicle was last registered, that person has not been charged with, or been given an expiation notice for, a registration offence arising out of a different incident involving that vehicle,

the first offence subsumes all other camera detected registration offences involving that vehicle and committed by that person within 7 days of the date of the commission of the first offence.

- (2) However, if, within 7 days of the date of the commission of the first offence, the person is charged with, or given an expiation notice for, that offence or any other registration offence involving the same vehicle, any camera detected registration offences involving that vehicle and committed by that person after he or she is so charged, or is given such an expiation notice, are not subsumed by the first offence.

### **3—Notice about photographic evidence**

An expiation notice, expiation reminder notice or summons in respect of a camera detected registration offence must be accompanied by a notice in the prescribed form stating that a copy of the photographic evidence—

- (a) will, on written application to the Commissioner of Police by the person to whom the expiation notice, reminder notice or summons is issued, be sent by post to the address nominated in that application or (in the absence of such a nomination) to the last known address of the applicant; and
- (b) may be viewed on application to the Commissioner of Police.

### **4—Evidentiary**

In proceedings for a camera detected registration offence—

- (a) a photograph or series of photographs produced by the prosecution will be admitted in evidence if—
  - (i) the photograph or each of the photographs was produced from an exposure taken, or electronic record made, by a photographic detection device; and
  - (ii) the requirements of the *Road Traffic Act 1961* as to the operation and testing of photographic detection devices were complied with in connection with that use of the device,

- and a denotation as to date, time and location that appears as part of such a photograph will be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposure was taken or the electronic record made by the photographic detection device; and
- (b) a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or any other police officer of or above the rank of inspector, and purporting to certify—
- (i) that a specified device used at a specified location during a specified period was a photographic detection device; and
  - (ii) that the requirements of the *Road Traffic Act 1961* as to the operation and testing of photographic detection devices were complied with in connection with the use of that device during that period,
- will be accepted as proof, in the absence of proof to the contrary, of the facts so certified; and
- (c) where it is also certified in a document of a kind referred to in paragraph (b) that the device was designed and set to operate according to a specified system during that period, it will be presumed, in the absence of proof to the contrary, that the device was designed and set to operate according to that system during that period and did, in fact, so operate.

### **39—Transitional provisions**

- (1) A registration label issued under section 48 of the *Motor Vehicles Act 1959* (the *Act*) in relation to a motor vehicle other than a heavy vehicle (within the meaning of the *Act*) is not, after the commencement of section 22 of this Act, taken to be a registration label for the purposes of the *Act*.
- (2) Subject to subsection (3), section 79B of the *Road Traffic Act 1961* (as in force immediately before the commencement of this section) continues to apply in relation to registration offences and owner registration offences (both within the meaning of section 79B of the *Road Traffic Act 1961*) committed before the commencement of this section.
- (3) A reference in clause 2 of Schedule 1 of the *Act* (as in force immediately after the commencement of section 38 of this Act) to a ***camera detected registration offence*** includes a reference to an owner registration offence within the meaning of section 79B of the *Road Traffic Act 1961* (as in force immediately before the commencement of this section).

## **Part 6—Amendment of *Parliament (Joint Services) Act 1985***

### **40—Amendment of section 20—Long service leave**

Section 20(1)(b) and (c)—delete paragraphs (b) and (c) and substitute:

- (b) in respect of each subsequent year of service—9 days leave.

#### **41—Transitional provision**

The amendment to the *Parliament (Joint Services) Act 1985* made by this Part does not affect an entitlement to long service leave or payment in lieu of long service leave that accrues before 1 July 2011.

### **Part 7—Amendment of *Passenger Transport Act 1994***

#### **42—Amendment of section 63—Registration of prescribed passenger vehicles**

- (1) Section 63(2)(h) and (i)—delete paragraphs (h) and (i) and substitute:
- (h) the registered owner of a prescribed vehicle may, at any time, apply to the Registrar for cancellation of the registration of the vehicle and payment of any applicable refund;
  - (i) if such an application is made and the registered owner complies with any requirements of the Registrar in relation to delivery or destruction of the registration label (if any) issued in relation to the vehicle, the Registrar must (subject to this section) cancel the registration and pay to the applicant any refund that would have been payable in respect of the cancellation if it had occurred under the provisions of the *Motor Vehicles Act 1959*;
- (2) Section 63(2)(j)—delete "the cancellation fee mentioned in section 55(2) of the *Motor Vehicles Act 1959*" and substitute:
- a cancellation fee (if a cancellation fee could otherwise be deducted under the provisions of the *Motor Vehicles Act 1959*)

### **Part 8—Amendment of *Payroll Tax Act 2009***

#### **43—Amendment of Schedule 2—South Australia specific provisions**

Schedule 2—after clause 10 insert:

##### **10A—Apprentices and trainees**

- (1) Wages paid or payable to an apprentice or trainee in the following circumstances are exempt wages:
- (a) by an approved group training organisation;
  - (b) by an employer if the apprentice or trainee is undertaking training under—
    - (i) a school-based training contract; or
    - (ii) an initial training contract between the employer and the apprentice or trainee; or
    - (iii) a training contract entered into prior to 1 July 2010 that is current on that date; or
    - (iv) a prescribed training contract, or a training contract of a prescribed class.

- (2) For the purposes of subclause (1)(a), the Commissioner may—
  - (a) approve an organisation as a group training organisation;
  - (b) revoke an approval under paragraph (a).
- (3) The Commissioner may, in acting under subclause (2), apply any criteria determined by the Commissioner to be reasonable in the circumstances after taking into account relevant industry standards and practices associated with group training organisations.
- (4) For the purposes of this clause, a school-based training contract is not to be regarded as an initial training contract.
- (5) In this clause—

*apprentice or trainee* means a person who has entered into a training contract approved under Part 4 of the *Training and Skills Development Act 2008*;

*initial training contract*—an initial training contract between an employer and an apprentice or trainee is a contract constituting the first training contract between the employer and the apprentice or trainee;

*school-based training contract* means a training contract that counts as part of an approved learning program under section 75D of the *Education Act 1972* (and includes a case where the student is still enrolled at a secondary school and participating in such a program despite having attained the age of 16 years and achieved a qualification under an approved learning program).

#### **44—Transitional provision**

A regulation made for the purposes of section 10A of Schedule 2 of the *Payroll Tax Act 2009*, as enacted by this Act, may, if the regulation so provides, take effect from 1 July 2010 or from a later day.

### **Part 9—Amendment of *Petroleum Products Regulation Act 1995***

#### **45—Amendment of section 4—Interpretation**

- (1) Section 4(1), definition of *bulk end user certificate* or *certificate*—delete the definition
- (2) Section 4(1), definition of *condition*—delete ", certificate"

#### **46—Repeal of section 4B**

Section 4B—delete the section

#### **47—Repeal of section 5**

Section 5—delete the section

#### **48—Amendment of section 8—Requirement for licence**

Section 8—delete ", other than as a bulk end user,"

**49—Amendment of section 11—Conditions of licence**

Section 11(2)(ga)—delete paragraph (ga)

**50—Repeal of Part 2A**

Part 2A—delete the Part

**51—Amendment of section 44—Powers of authorised officers**

Section 44(1)(l)—delete ", certificate"

**52—Amendment of section 47—Appeals**

- (1) Section 47(1)(ab)—delete paragraph (ab)
- (2) Section 47(1)(ca)—delete paragraph (ca)
- (3) Section 47(1)(e) and (ea)—delete paragraphs (e) and (ea)
- (4) Section 47(3)—delete "or certificate"
- (5) Section 47(4)—delete subsection (4)
- (6) Section 47(7)(b)—delete paragraph (b)
- (7) Section 47(7)(d)—delete paragraph (d)

**53—Amendment of section 50—Register**

Section 50(1)—delete subsection (1) and substitute:

- (1) The Minister must cause a register to be kept of licensees under Part 2.

**54—Amendment of section 53—Records to be kept**

Section 53(4)—delete subsection (4) and substitute:

- (4) In subsection (3)—  
*certificate* means a bulk end user certificate issued by the Commissioner under Part 2A of this Act before the repeal of that Part by the *Statutes Amendment (Budget 2010) Act 2010*.

**55—Amendment of section 53A—Falsely claiming to hold licence or permit etc**

Section 53A—delete ", certificate"

**56—Amendment of section 56—Confidentiality**

Section 56(3)—delete "or subsidy"

**57—Amendment of section 62—Evidence**

Section 62—after subsection (1) insert:

- (1a) In subsection (1)(ca)—  
*certificate* means a bulk end user certificate issued by the Commissioner under Part 2A of this Act before the repeal of that Part by the *Statutes Amendment (Budget 2010) Act 2010*.



## **58—Transitional provision**

The amendments made by this Act to the *Petroleum Products Regulation Act 1995* (the *principal Act*) do not affect—

- (a) an entitlement to a subsidy that arose under Part 2A of the principal Act in relation to petroleum products sold or purchased before the repeal of that Part by this Act (and a claim for any such subsidy that has not been made or determined before that repeal is to be made or determined (as the case requires) as if Part 2A were still in force); or
- (b) the Commissioner's right to require the payment or repayment of an amount under section 23 of the principal Act (as if that section were still in force); or
- (c) the right of—
  - (i) a claimant for a subsidy under the principal Act to appeal to the Administrative and Disciplinary Division of the District Court against a decision by the Commissioner on the claim; or
  - (ii) a person to whom the Commissioner has given a notice under section 23 of the principal Act requiring the payment or repayment of an amount to appeal to the Administrative and Disciplinary Division of the District Court against the decision to issue the notice,(as if section 47 of the principal Act had not been amended by this Act).

## **Part 10—Amendment of *Private Parking Areas Act 1986***

### **59—Amendment of section 8—Offences—driver and owner to be guilty**

Section 8(8)—delete subsection (8) and substitute:

- (8) For the purposes of this section a permit is exhibited in a vehicle if, and only if, the permit is exhibited—
  - (a) in the case of a disabled person's parking permit—in accordance with any requirements of the *Motor Vehicles Act 1959*; or
  - (b) in any other case—so that it is easily legible by a person standing beside the vehicle and otherwise in accordance with any conditions of the permit.

## **Part 11—Amendment of *Public Sector Act 2009***

### **60—Amendment of section 51—Hours of duty and leave**

Section 51—after "Schedule 1" insert:

(and, insofar as is relevant, Schedule 1A)

## 61—Insertion of section 73A

After section 73 insert:

### **73A—Additional provision relating to recreation leave for public sector employees**

The rights of a public sector employee to recreation leave are subject to the operation of Schedule 1A (as well as, insofar as is relevant, Schedule 1).

## 62—Amendment of Schedule 1—Leave and working arrangements

Schedule 1, clause 7(1)—delete subclause (1) and substitute:

- (1) Subject to this Schedule, the regulations and any determinations of the Commissioner, an employee will accrue an entitlement to long service leave at the rate of 9 calendar days for each completed year of effective service.

## 63—Insertion of Schedule 1A

After Schedule 1 insert:

### **Schedule 1A—Additional provision relating to recreation leave**

#### **1—Application of Schedule**

- (1) Subject to this clause, this Schedule applies to all public sector employees.
- (2) Subject to subclauses (3) and (4) (and, as relevant, clause 2), this Schedule does not apply to any of the following employees:
  - (a) an executive employee;
  - (b) a person appointed or employed under the *Police Act 1998*;
  - (c) a person appointed or employed under the *Protective Security Act 2007*;
  - (d) a person appointed or employed under the *Children's Services Act 1985*;
  - (e) a person appointed or employed under the *Education Act 1972*;
  - (f) a person appointed or employed under the *Technical and Further Education Act 1975*;
  - (g) a person appointed or employed under the *Fire and Emergency Services Act 2005*;
  - (h) a registered health practitioner;
  - (i) an employee classified as a *Disability Services Officer*;
  - (j) an employee classified as a *Health Ancillary Employee*;

- (k) a prescribed employee (but this paragraph applies subject to clause 2(2)).
- (3) The Governor may, by proclamation—
  - (a) apply this Schedule to any class of employees otherwise excluded from its operation under subclause (2) or to any class of employees employed under the *Parliament (Joint Services) Act 1985*;
  - (b) exclude from the operation of this Schedule any class of employees in addition to those excluded from its operation under subclause (2).
- (4) The Governor may, by subsequent proclamation, vary or revoke a proclamation under subclause (3).
- (5) The Governor may, in a proclamation under subclause (3) or (4), make transitional or ancillary provisions that may be necessary or expedient in the circumstances.
- (6) In this clause—

***prescribed employee*** means—

- (a) a shift worker; or
- (b) a seven-day week worker;

***registered health practitioner*** means—

- (a) a person registered under the Health Practitioner Regulation National Law; or
- (b) a person registered under the *Occupational Therapy Practice Act 2005*;

***seven-day week worker*** means an employee who works rotating shifts on 7 days a week, or who is rostered to work regularly on active duty on Saturdays, Sundays and public holidays.

## **2—Leave loading allowances for recreation leave**

- (1) Subject to this clause, an employee to whom this Schedule applies—
  - (a) is not entitled to any leave loading allowance for recreation leave—
    - (i) that is taken on or after the prescribed date in respect of recreation leave accruing on or after that date; or
    - (ii) that is taken before the prescribed date in anticipation of recreation leave accruing on or after that date; but
  - (b) is entitled, in addition to a general entitlement to recreation leave, to  $\frac{1}{6}$  days recreation leave for each completed month of the employee's service occurring on or after the prescribed date.

- (2) From the prescribed date, if an employee who has been a prescribed employee works under another employment arrangement to which this Schedule applies for a period of 1 month (or more), subclause (1) will apply in relation to that employee (in respect of each completed month of service) while he or she works under that other arrangement (rather than as a prescribed employee).
- (3) To avoid doubt, an entitlement to recreation leave under this Schedule is subject to the operation of clause 5(3) to (7) (inclusive) of Schedule 1 (to the extent that Schedule 1 applies to employees to whom this Schedule applies).
- (4) In the event of an inconsistency between this clause and the terms or conditions of any award, determination or enterprise agreement under the *Fair Work Act 1994*, or the terms or conditions of any contract of employment, this clause will prevail to the extent of the inconsistency.
- (5) The regulations may modify this clause insofar as it applies to a specified group or class of public sector employees.
- (6) For the purposes of the application of this clause to an employee in employment to which this Schedule applies on the prescribed date, leave will accrue from the first month of service completed on or after that date (including with respect to any part of that month occurring before that date).
- (7) In this clause—  
*prescribed date* means 1 July 2012;  
*prescribed employee* has the same meaning as in clause 1.

#### 64—Transitional provisions

- (1) The amendment to Schedule 1 of the *Public Sector Act 2009* made by this Part does not affect an entitlement to long service leave or payment in lieu of long service leave that accrues before 1 July 2011 and, in relation to an employee who has, before that date, completed at least 15 years of service, any completed month of effective service occurring before that date for which long service leave has not yet accrued will be taken to give rise to an entitlement to 1.25 days of long service leave for each such month (but, subject to that entitlement and from that date, long service leave for the balance of that particular year of effective service will accrue at the rate of 0.75 days for each completed month of service).
- (2) The Governor may, by proclamation, declare that a specified provision of an enterprise agreement that relates to a particular class of public sector employees and provides for an entitlement to long service leave or payment in lieu of long service leave that is inconsistent with the standard set by subclause (1) of clause 7 of Schedule 1 of the *Public Sector Act 2009* (as enacted by this Act) no longer applies from 1 July 2011.
- (3) A proclamation under subsection (2)—
  - (a) may make transitional or ancillary provisions that may be necessary or expedient in the circumstances; and

- (b) will have effect according to its terms.

## **Part 12—Amendment of *Radiation Protection and Control Act 1982***

### **65—Amendment of section 5—Interpretation**

- (1) Section 5—before the definition of *authority* insert:

*accreditation* means an accreditation under Part 3 Division 3B;

- (2) Section 5—after the definition of *Department* insert:

*developmental testing operations* means pilot operations for the extraction or processing of ores or minerals for the purposes of evaluating future mining or mineral processing operations;

- (3) Section 5—definition of *milling*—delete the definition and substitute:

*mineral processing* means operations for the concentration or processing of ores or minerals, or operations for processing fluids from *in-situ* or other leaching operations conducted on ores or minerals, and includes incidental operations for the management of radioactive process materials, residues and wastes;

- (4) Section 5, definition of *mining*—delete the definition and substitute:

*mining* means operations for the recovery, handling or storage of ores or minerals and includes—

- (a) construction activities to establish any mine facilities; and
- (b) incidental operations for the recovery, handling or storage of ores or minerals; and
- (c) incidental operations for the management or disposal of waste or residues; and
- (d) rehabilitation activities to restore land disturbed by mining operations; and
- (e) *in-situ* leaching and operations by means of which minerals are recovered from an ore or a natural body of water; and
- (f) other operations brought within the ambit of this definition by the regulations,

but does not include—

- (g) surface excavating that does not intersect with any such ores or minerals; or
- (h) surface drilling for the purposes of excavation; or
- (i) geophysical prospecting; or
- (j) other operations excluded from the ambit of this definition by the regulations;

- (5) Section 5, definition of *mining licence*—delete the definition and substitute:  
*mining licence* means a licence authorising the carrying out of operations for the mining or processing of ores or extracted minerals;
- (6) Section 5—after the definition of *radiation apparatus* insert:  
*radiation source* means a sealed radioactive source, unsealed radioactive substance or radiation apparatus, or any equipment, object, article or thing that emits or may emit ionising or non-ionising radiation when energised;
- (7) Section 5, definition of *radioactive ore*—delete "uranium or thorium" and substitute:  
a radioactive element or compound
- (8) Section 5, definition of *thorium*—delete the definition

## 66—Insertion of section 23A

Before section 24 insert:

### 23A—Licence to test for developmental purposes

- (1) A person must not carry out developmental testing operations involving or in relation to mining or mineral processing where a prescribed radioactive substance is present unless the operations are authorised by a licence granted by the Minister under this section.  
Maximum penalty: \$50 000 or imprisonment for 5 years.
- (2) For the purposes of subsection (1) (and without limiting that subsection), operations in relation to mining or mineral processing include—
- (a) establishing, operating or decommissioning any developmental testing facilities; and
  - (b) operations for the rehabilitation of land on account of the impact of any operations associated with developmental testing; and
  - (c) other operations brought within the ambit of this section by the regulations.
- (3) Subsection (1) does not apply to operations of a prescribed class.
- (4) An application for a licence—
- (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.
- (5) The Minister must not grant a licence under this section unless the Minister is satisfied that the proposed operations would comply with the regulations.
- (6) A fee of an amount determined in accordance with the regulations is payable in respect of each year of the term of a licence under this section.

- (7) The fee for the first year of the term of a licence under this section must be paid before the grant of the licence and the fee for each succeeding year must be paid on or before the anniversary of the date of the grant of the licence or, if it has been renewed, the anniversary of the date of its last renewal.
- (8) The amount of an annual fee for a licence not paid as required under this section may be recovered from the holder of the licence by action in a court of competent jurisdiction as a debt due to the Minister.
- (9) A licence under this section must specify the operations to which it applies and the places at which those operations may be carried out.
- (10) In this section—  
*prescribed radioactive substance* means a radioactive substance containing more than the prescribed concentration of any naturally occurring radioactive element or compound.

### **67—Amendment of section 24—Licence to carry out mining or mineral processing**

- (1) Section 24(1)—delete subsection (1) and substitute:
  - (1) A person must not carry out operations for or in relation to mining or mineral processing where a prescribed radioactive substance is present or will be produced unless the operations are authorised by a licence granted by the Minister under this section.  
Maximum penalty: \$50 000 or imprisonment for 5 years
  - (1a) For the purposes of subsection (1) (and without limiting that subsection), operations in relation to mining or mineral processing include—
    - (a) establishing, operating or decommissioning any facilities associated with mining or mineral processing; and
    - (b) operations for the rehabilitation of land on account of the impact of any operations associated with mining or mineral processing; and
    - (c) other operations brought within the ambit of this section by the regulations.
- (2) Section 24(3)—delete subsection (3) and substitute:
  - (3) An application for a licence—
    - (a) must be made to the Minister; and
    - (b) must be in the prescribed form; and
    - (c) must be accompanied by the prescribed fee.
- (3) Section 24—after subsection (5) insert:
  - (6) In this section—

*prescribed radioactive substance* means a radioactive substance containing more than the prescribed concentration of any naturally occurring radioactive element or compound.

**68—Amendment of section 26—Limits of exposure to ionising radiation for mining or mineral processing operations not to be more stringent than limits fixed under certain codes etc**

Section 26—delete "the mining or milling of radioactive ores" and substitute:  
mining or mineral processing

**69—Amendment of section 28—Licence to use or handle radioactive substances**

- (1) Section 28(1)—after "temporary licence" insert:  
granted by the Minister
- (2) Section 28(3)—delete subsection (3) and substitute:
- (3) An application for a licence or a temporary licence—
- (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.

**70—Amendment of section 29—Registration of premises in which unsealed radioactive substances are handled or kept**

Section 29—delete subsection (4) and substitute:

(4) The Minister may register premises for the purposes of this section.

(4a) An application for registration—

- (a) must be made to the Minister; and
- (b) must be in the prescribed form; and
- (c) must be accompanied by the prescribed fee.

**71—Insertion of section 29A**

After section 29 insert:

**29A—Facilities licence**

- (1) This section applies to facilities of a prescribed class where a radiation source is produced, processed, used, handled, stored, disposed of or otherwise managed (to be called "radiation facilities" for the purposes of this section).
- (2) A person must not prepare a site for, or construct, establish, control, operate, manage, decommission, dispose of or abandon, a radiation facility unless authorised to do so by a licence granted by the Minister under this section.  
Maximum penalty: \$100 000.



- (3) Subsection (2) does not apply to a person of a prescribed class.
- (4) An application for a licence—
  - (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.
- (5) The Minister must not grant a licence under this section unless the Minister is satisfied—
  - (a) that the applicant is a fit and proper person to hold a licence under this section; and
  - (b) that the applicant has appropriate knowledge of the principles and practices of radiation protection to undertake the role or to carry out the activities to which the licence is related; and
  - (c) that the facility and any relevant operations comply, or will comply, with the regulations.
- (6) A fee of an amount determined in accordance with the regulations is payable in respect of each year of the term of a licence under this section.
- (7) The fee for the first year of the term of a licence under this section must be paid before the grant of the licence and the fee for each succeeding year must be paid on or before the anniversary of the date of the grant of the licence or, if it has been renewed, the anniversary of the date of its last renewal.
- (8) The amount of an annual fee for a licence not paid as required under this section may be recovered from the holder of the licence by action in a court of competent jurisdiction as a debt due to the Minister.
- (9) A licence under this section must specify the facility and operations to which it applies.

**72—Amendment of section 30—Registration of sealed radioactive source**

Section 30(4)—delete subsection (4) and substitute:

- (4) The Minister may register sealed radioactive sources for the purposes of this section.
- (4a) An application for registration—
  - (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.

### **73—Amendment of section 31—Licences to operate radiation apparatus**

Section 31(3)—delete subsection (3) and substitute:

- (3) The Minister may grant a licence or temporary licence under this section.
- (3a) An application for a licence—
  - (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.

### **74—Amendment of section 32—Registration of radiation apparatus**

Section 32(4)—delete subsection (4) and substitute:

- (4) The Minister may register any apparatus under this section.
- (4a) An application for registration—
  - (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.

### **75—Insertion of Part 3 Divisions 3A and 3B**

After section 33 insert:

#### **Division 3A—Licence to possess a radiation source**

##### **33A—Licence to possess a radiation source**

- (1) A person must not be in possession of a radiation source unless authorised by a licence granted by the Minister under this section.  
Maximum penalty: \$100 000.
- (2) Subsection (1) does not apply—
  - (a) in prescribed circumstances; or
  - (b) to or in relation to any person or thing of a prescribed class.
- (3) An application for a licence—
  - (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.
- (4) The Minister must not grant a licence under this section unless the Minister is satisfied—
  - (a) that the applicant is a fit and proper person to hold a licence under this section; and

- (b) that the applicant has appropriate knowledge of the principles and practices of radiation protection to have possession of the radiation source in the circumstances to which the licence is to relate; and
  - (c) that any requirement prescribed by the regulations is complied with or satisfied.
- (5) A fee of an amount determined in accordance with the regulations is payable in respect of each year of the term of a licence under this section.
- (6) The fee for the first year of the term of a licence under this section must be paid before the grant of the licence and the fee for each succeeding year must be paid on or before the anniversary of the date of the grant of the licence or, if it has been renewed, the anniversary of the date of its last renewal.
- (7) The amount of an annual fee for a licence not paid as required under this section may be recovered from the holder of the licence by action in a court of competent jurisdiction as a debt due to the Minister.

### **Division 3B—Accreditation of third party service providers**

#### **33B—Accreditation process**

- (1) An application for accreditation for the purposes of this Division—
- (a) must be made to the Minister; and
  - (b) must be in the prescribed form; and
  - (c) must be accompanied by the prescribed fee.
- (2) The Minister must not grant an accreditation unless the Minister is satisfied—
- (a) that the applicant is a fit and proper person to hold an accreditation under this Division; and
  - (b) that the applicant has appropriate skills, qualifications, knowledge or experience to properly carry out the activities authorised by the accreditation; and
  - (c) that the applicant satisfies any other requirements for accreditation prescribed by the regulations.
- (3) The Minister may establish various classes of accreditation for the purposes of this Act.
- (4) In addition, an accreditation may, according to its terms, be limited as to the matters to be covered by the accreditation.

#### **33C—Authority conferred by accreditation**

Accreditation authorises the person named in the accreditation—

- (a) to conduct tests on radiation sources;

- (b) to undertake activities to assess compliance with this Act or any requirements prescribed by the regulations;
- (c) to issue certificates of compliance or certificates of competency in relation to matters regulated under this Act;
- (d) to conduct courses of training leading to qualifications to hold a licence or registration under this Act;
- (e) to carry out other activities determined or approved by the Minister,

subject to, and in accordance with, the terms and conditions of the accreditation.

### **33D—Reliance on professional advice**

The Minister may, in the exercise of a function under this Act, rely on a certificate issued by a person who holds an accreditation under this Division.

### **33E—Accreditation fees**

- (1) A fee of an amount determined in accordance with the regulations is payable in respect of each year of the term of an accreditation under this Division.
- (2) The fee for the first year of the term of an accreditation under this Division must be paid before the grant of the accreditation and the fee for each succeeding year must be paid on or before the anniversary of the date of the grant of the accreditation or, if it has been renewed, the anniversary of the date of its last renewal.
- (3) The amount of an annual fee for an accreditation not paid as required under this section may be recovered from the holder of the accreditation by action in a court of competent jurisdiction as a debt due to the Minister.

### **33F—Offences**

- (1) A person who is not an accredited person under this Division must not hold himself or herself out as, or pretend to be, the holder of an accreditation under this Division.

Maximum penalty: \$10 000.

- (2) A person must not alter or permit to be altered any information or statement in a certificate issued by an accredited person for the purposes of this Act unless—
  - (a) the alteration is authorised in writing by the accredited person who issued the certificate; or
  - (b) the alteration is made in prescribed circumstances.

Maximum penalty: \$20 000.

- (3) A person must not, in issuing a certificate of compliance or a certificate of competency for the purposes of this Act, make or cause to be made a statement that is false or misleading in a material particular.

Maximum penalty: \$20 000.

#### **76—Heading to Part 3 Division 4**

Part 3, Division 4, heading—delete the heading and substitute:

#### **Division 4—General provisions with respect to accreditations and authorities**

#### **77—Amendment of section 34—Minister may require information to determine applications**

Section 34—delete "a licence or registration" and substitute:  
an accreditation or authority

#### **78—Amendment of section 36—Conditions of accreditations and authorities**

- (1) Section 36—delete "a licence or registration" wherever occurring and substitute in each case:  
an accreditation or authority
- (2) Section 36(1)(a)—after "the certificate of" insert:  
accreditation or
- (3) Section 36—delete "the licence or registration" wherever occurring and substitute in each case:  
the accreditation or authority

#### **79—Amendment of section 37—Term of accreditations and authorities and their renewal**

- (1) Section 37(1)—delete subsection (1) and substitute:
- (1) An accreditation or authority will, subject to this Act, remain in force for such term as the Minister may specify—
- (a) in the case of an accreditation or registration—in the certificate of accreditation or registration; or
- (b) in the case of a licence—in the licence.
- (2) Section 37(2)—delete "a licence or registration" and substitute:  
an accreditation or authority

- (3) Section 37(3)—delete subsection (3) and substitute:
- (3) An accreditation or authority renewed under this section will, subject to this Act, remain in force for such term (being not less than 12 months) as the Minister may specify—
- (a) in the case of an accreditation or registration—in the certificate of accreditation or registration; or
- (b) in the case of a licence—in the licence.
- (4) Section 37(4), definition of *prescribed fee*, (a)—delete "section 24" and substitute:  
section 23A, 24, 29A or 33A
- (5) Section 37(4), definition of *prescribed fee*, (b)—delete "the licence or registration" and substitute:  
the accreditation or authority

**80—Amendment of section 38—Register**

- Section 38(1)—delete "licences and registrations" and substitute:  
accreditations and authorities

**81—Amendment of section 40—Surrender, suspension and cancellation of accreditations and authorities**

- (1) Section 40(1)—after "certificate of" insert:  
accreditation or
- (2) Section 40—delete "a licence or registration" wherever occurring and substitute in each case:  
an accreditation or authority
- (3) Section 40—delete "the licence or registration" wherever occurring and substitute in each case:  
the accreditation or authority
- (4) Section 40(2)(b)—after "certificate of" insert:  
accreditation or
- (5) Section 40(2)(c)—after "certificate of" insert:  
accreditation or
- (6) Section 40(2)—after paragraph (d) insert:  
or
- (e) that, in the case of an accreditation, the holder of the accreditation—
- (i) has ceased to hold a qualification on the basis of which the Minister granted the accreditation; or
- (ii) has not acted competently or appropriately in undertaking activities under the accreditation; or

- (f) events have occurred or circumstances have changed such that the holder of the accreditation or authority would not be entitled to be granted that accreditation or authority if an application were now to be made.
- (7) Section 40(3)—delete "A licence or registration" and substitute:  
An accreditation or authority
- (8) Section 40(4a)—after "If a" insert:  
licence or
- (9) Section 40(4a)(a)—delete "the premises" and substitute:  
any premises
- (10) Section 40(4b)—after "If a" insert:  
licence or
- (11) Section 40(4b)(a)—delete "in the case of premises" and substitute:  
in relation to any relevant premises
- (12) Section 40(4d)—before "registered" insert:  
licensed or

**82—Amendment of section 41—Review of decisions relating to accreditations and authorities**

Section 41(1)—delete "a licence or registration" wherever occurring and substitute in each case:

an accreditation or authority

**83—Amendment of section 43—Regulations**

- (1) Section 43(2)—delete "milling" and substitute:  
processing
- (2) Section 43(3)(1)—delete "licences or registration" and substitute:  
accreditations or authorities

**84—Amendment of section 49—Evidentiary provisions**

- (1) Section 49(1)(b)—before "authority" insert:  
accreditation or
- (2) Section 49(2)—before "authority" insert:  
accreditation or

**85—Amendment of section 50—Service of documents**

- (1) Section 50(1)(b)—after "the holder of an" insert:  
accreditation or

- (2) Section 50(2)—after "the holder of an" insert:  
accreditation or

## **Part 13—Amendment of *Road Traffic Act 1961***

### **86—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices**

- (1) Section 79B(1), definition of *owner registration offence*—delete the definition
- (2) Section 79B(1), definition of *prescribed offence*, (c)—delete paragraph (c)
- (3) Section 79B(1), definitions of *registration* and *registration offence*—delete the definitions
- (4) Section 79B(1), definitions of *uninsured motor vehicle* and *unregistered motor vehicle*—delete the definitions
- (5) Section 79B(2c) and (2d)—delete subsections (2c) and (2d)
- (6) Section 79B(4a)—delete subsection (4a)

### **87—Amendment of section 176—Regulations and rules**

Section 176(1a)—after paragraph (ga) insert:

- (gb) approve an apparatus of a specified kind as a photographic detection device, and prescribe requirements as to the operation and testing of such a device, for the purposes of this or any other Act; and

## **Part 14—Amendment of *Technical and Further Education Act 1975***

### **88—Amendment of section 19—Long service leave**

Section 19(1)(b) and (c)—delete paragraphs (b) and (c) and substitute:

- (b) the officer is then entitled to 0.75 of a day's leave for each subsequent complete month of effective service.

### **89—Transitional provision**

The amendment to the *Technical and Further Education Act 1975* made by this Part does not affect an entitlement to long service leave or payment in lieu of long service leave that accrues before 1 July 2011.