

House of Assembly—No 139

As laid on the table and read a first time, 2 May 2013

South Australia

Statutes Amendment (Heavy Vehicle National Law) Bill 2013

A BILL FOR

An Act to amend the *Motor Vehicles Act 1959*, the *Road Traffic Act 1961* and the *Second-hand Vehicle Dealers Act 1995*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Heavy Vehicle National Law) Act 2013*.

5 2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
(2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or a provision of this Act.

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 *Motor Vehicles Act 1959*

4—Amendment of section 5—Interpretation

- (1) Section 5(1), definition of *authorised officer*—delete the definition and substitute:
15 *authorised officer* means a person appointed as an authorised officer under section 35 of the *Road Traffic Act 1961* or a person of a class of persons appointed as authorised officers under that section;
(2) Section 5(1), definition of *garage address*—delete the definition and substitute:
20 *garage address* of a vehicle means—
(a) in the case of a vehicle normally kept at a depot when not in use—
the principal depot of the vehicle; or

(b) in any other case—the address of the place of business or residence at which the vehicle is normally kept when not in use;

(3) Section 5(1), definition of **heavy vehicle**—delete the definition and substitute:

heavy vehicle means a motor vehicle that is a heavy vehicle for the purposes of the *Heavy Vehicle National Law (South Australia)*;

Heavy Vehicle National Law (South Australia) has the same meaning as in the *Heavy Vehicle National Law (South Australia) Act 2013*;

Heavy Vehicle National Regulations (South Australia) has the same meaning as in the *Heavy Vehicle National Law (South Australia) Act 2013*;

(4) Section 5(1), definition of **prime mover**—delete "built" and substitute:
designed

(5) Section 5(1), definition of **semi-trailer**—delete the definition and substitute:

semi-trailer means a trailer that has—

(a) 1 axle group or a single axle (as those terms are defined in the *Road Traffic Act 1961*) towards the rear; and

(b) a means of attachment to a prime mover that results in some of the mass of the trailer's load being imposed on the prime mover;

5—Repeal of Part 2A

Part 2A—delete the Part

6—Amendment of section 139D—Confidentiality

Section 139D(1)(c)—delete paragraph (c) and substitute:

(c) in connection with the administration of this Act, the *Heavy Vehicle National Law (South Australia)* or the *Heavy Vehicle National Regulations (South Australia)*

7—Amendment of section 141—Evidence by certificate etc

Section 141(2)—delete "under a corresponding law" and substitute:

under the *Heavy Vehicle National Law (South Australia)*, the *Heavy Vehicle National Regulations (South Australia)* or a corresponding law

Part 3—Amendment of *Road Traffic Act 1961*

8—Amendment of long title

Long title—delete "to consolidate and amend certain enactments relating to road traffic" and substitute:

5 to prescribe the duties of road users; to provide for nationally consistent road
rules; to provide for vehicle standards, mass and loading requirements and
other safety measures in relation to light vehicles; to regulate the
10 identification of vehicles; to provide for the installation, use and maintenance
of traffic control devices; to provide for the closing of roads for traffic
management and other purposes; to provide for the use of photographic
detection devices; to provide for the enforcement of Australian road laws and
the recognition of administrative actions and court orders of other Australian
jurisdictions

9—Amendment of section 5—Interpretation

15 (1) Section 5(1), definitions of *approved road transport compliance scheme*, *associate*
and *Australian police officer*—delete the definitions

(2) Section 5(1), definition of *authorised officer*—delete the definition and substitute:

authorised officer means—

20 (a) a person appointed as an authorised officer under section 35 or a
person of a class of persons appointed as authorised officers under
that section; or

(b) a police officer;

(3) Section 5(1), definition of *base*—delete the definition

25 (4) Section 5(1), definitions of *breach of a mass, dimension or load restraint*
requirement, *breach of a mass, dimension or load restraint requirement in this*
State, *breach of a mass, dimension or load restraint requirement in another*
jurisdiction, *breach of a vehicle standards or maintenance requirement* and *bus* —
delete the definitions and substitute:

30 *breach of a light vehicle mass, dimension or load restraint requirement*—
see section 119;

breach of a light vehicle standards or maintenance requirement—see
section 116;

bus means a light motor vehicle built or fitted to carry more than 12 adults
(including the driver);

35 (5) Section 5(1), definition of *combination*—delete "connected to one" and substitute:
towing 1

(6) Section 5(1), definition of *commercial motor vehicle*—delete the definition

(7) Section 5(1), definition of *conduct*—delete the definition and substitute:

conduct means an act, or an omission to perform an act, or a state of affairs;

(8) Section 5(1), definitions of *consignee*, *consignor* and *container weight declaration*—delete the definitions

(9) Section 5(1), definitions of *drive* and *driver*—delete the definitions and substitute:

drive a vehicle includes be in control of the steering, movement or propulsion of the vehicle;

driver of a vehicle (other than a motor bike, bicycle, animal or animal-drawn vehicle) means the person driving the vehicle but does not include a person pushing a motorised wheelchair;

(10) Section 5(1), definition of *employee*—after "training" insert:

or a contract for services

(11) Section 5(1), definitions of *freight container* and *garage address*—delete the definitions and substitute:

garage address of a vehicle means—

(a) in the case of a vehicle normally kept at a depot when not in use—the principal depot of the vehicle; or

(b) in any other case—the address of the place of business or residence at which the vehicle is normally kept when not in use;

(12) Section 5(1), definition of *goods*, (d)—delete paragraph (d) and substitute:

(d) fuel, water, lubricants and readily removable equipment required for the normal use of the vehicle in which they are carried; or

(e) personal items used by the driver of the vehicle, or someone else necessary for the normal use of the vehicle, in which they are carried;

(13) Section 5(1), definition of *heavy vehicle*—delete the definition and substitute:

heavy vehicle means a vehicle that is a heavy vehicle for the purposes of the *Heavy Vehicle National Law (South Australia)*;

Heavy Vehicle National Law (South Australia) has the same meaning as in the *Heavy Vehicle National Law (South Australia) Act 2013*;

Heavy Vehicle National Regulations (South Australia) has the same meaning as in the *Heavy Vehicle National Law (South Australia) Act 2013*;

(14) Section 5(1), definitions of *legal entitlements* and *load*—delete the definitions and substitute:

legal entitlements of a vehicle (or component of a vehicle) means the particulars of the entitlements, conferred under an Australian road law, that authorise the vehicle (or component) to be operated on a road, and includes—

(a) any entitlements arising under or as affected by a permit, registration, authorisation, approval, exemption, notice or anything else given or issued in writing under such a law; and

- (b) any entitlements arising under or as affected by restrictions, or by the application of restrictions, under an Australian road law or other laws (for example, sign-posted mass limits for bridges, hazardous weather condition permits, and special road protection limits);

5 ***light motor vehicle*** means a motor vehicle that is not a heavy vehicle;

light vehicle means a vehicle that is not a heavy vehicle;

light vehicle mass and loading requirements—see section 113;

light vehicle mass, dimension or load restraint requirement means—

- (a) a light vehicle mass and loading requirement; or

- 10 (b) a requirement of the *Australian Road Rules* relating to mass limits where the mass limits are indicated by signs (for example, sign-posted bridge limits);

light vehicle standards—see section 111;

load of a vehicle, or in or on a vehicle, means—

- 15 (a) all the goods, passengers, drivers and other persons in or on the vehicle; and

- (b) all fuel, water, lubricants and readily removable equipment carried in or on the vehicle and required for its normal use; and

- 20 (c) personal items used by the vehicle's driver or someone else necessary for the normal use of the vehicle; and

- (d) anything that is normally removed from the vehicle when not in use, and includes a part of a load as so defined;

(15) Section 5(1), definitions of ***loader, mass and loading requirements*** and ***mass, dimension or load restraint requirement***—delete the definitions

25 (16) Section 5(1), definition of ***mass limit***—before "mass" second occurring insert:
light vehicle

(17) Section 5(1), definition of ***minor risk breach***—delete the definition

(18) Section 5(1), definition of ***operator***—delete "controlling or directing the operation" wherever occurring and substitute in each case:

30 responsible for controlling or directing the use

(19) Section 5(1), definitions of ***package, packaging*** and ***packer***—delete the definitions

(20) Section 5(1), definition of ***prime mover***—delete "built" and substitute:
designed

35 (21) Section 5(1), definitions of ***public safety*** and ***quad-axle group***—delete the definitions and substitute:

public safety means the safety of persons or property, including the safety of—

- (a) the drivers of, and passengers and other persons in, vehicles; and

(b) persons or property in or in the vicinity of, or likely to be in or in the vicinity of, road infrastructure and public places; and

(c) vehicles and any loads in or on them;

5 (22) Section 5(1), definitions of *reasonable steps defence*, *registered industry code of practice* and *responsible entity*—delete the definitions

(23) Section 5(1), definitions of *responsible person* and *run*—delete the definitions and substitute:

10 *responsible person* means a person having, at a relevant time, a role or responsibilities associated with road transport, and includes any of the following:

(a) an owner of a vehicle;

(b) a driver of a vehicle;

(c) an operator or registered operator of a vehicle;

(d) a person in charge or apparently in charge of a vehicle;

15 (e) a person in charge or apparently in charge of the garage address of a vehicle;

(f) a person in charge of premises entered by an authorised officer under this Act;

20 (g) an owner or operator of a weighbridge, or weighing facility, used to weigh vehicles or an occupier of premises where such a weighbridge or weighing facility is located;

(h) a person who controls or directly influences the loading or operation of a vehicle;

25 (i) an agent, employer, employee, contractor or subcontractor of a person referred to in any of the preceding paragraphs of this definition;

(24) Section 5(1), definitions of *semi-trailer* and *severe risk breach*—delete the definitions and substitute:

semi-trailer means a trailer that has—

30 (a) 1 axle group or a single axle towards the rear; and

(b) a means of attachment to a prime mover that results in some of the mass of the trailer's load being imposed on the prime mover;

(25) Section 5(1), definition of *substantial risk breach*—delete the definition and substitute:

35 *start*, in relation to a vehicle's engine, includes run the engine;

(26) Section 5(1), definition of *transport documentation*—delete ", sea carriage document, or container weight declaration" and substitute:

or sea carriage document

40 (27) Section 5(1), definitions of *two-up driver*, *unit load* and *vehicle standards*—delete the definitions

10—Repeal of sections 8 and 9

Sections 8 and 9—delete the sections

11—Amendment of section 35—Appointment of authorised officers

Section 35—after subsection (5) insert:

- 5 (6) An appointment under this section may be subject to conditions, including—
- 10 (a) conditions limiting the exercise of powers by the authorised officer to the enforcement of specified provisions of the Act or the enforcement of the Act within a specified area of the State; and
- (b) conditions on the exercise of powers conferred on authorised officers by a road law.
- 15 (7) The Minister may, at any time, by instrument in writing applicable to a specified authorised officer or each authorised officer of a specified class—
- (a) impose conditions of a kind referred to in subsection (6); or
- (b) vary or revoke such conditions.

12—Repeal of section 36

Sections 36—delete the section

20 13—Substitution of section 38

Section 38—delete the section and substitute:

38—Identity cards

- 25 (1) Subject to this section, the Minister must issue an authorised officer with an identity card.
- (2) The Minister is not required to issue an identity card if—
- 30 (a) the authorised officer is a police officer; or
- (b) the Minister has designated a card issued to an authorised officer, or to a class of authorised officers, by another person, body or authority (whether or not of this State) as an identity card for the purposes of this Act.
- (3) An identity card issued under this section must—
- 35 (a) contain a recent photograph of the authorised officer; and
- (b) identify the person as an authorised officer for the purposes of this Act; and
- (c) specify the identification number issued to the authorised officer by the Minister.

14—Amendment of section 39—Production of identification

- (1) Section 39(1)—delete "or police officers"

(2) Section 39(2)—delete subsection (2) and substitute:

(2) An authorised officer (other than a police officer) must not exercise a power unless an identity card has been issued to, or designated for, the officer.

5 (3) Section 39(3)—after "authorised officer" insert:

(other than a police officer)

(4) Section 39(3)—delete "identification" and substitute:

identity

(5) Section 39(5)—delete "or police officer"

10 (6) Section 39(6)—delete "or police officer"

15—Amendment of section 40—Return of identity cards

Section 40(1)(a)—delete "identification" and substitute:

identity

16—Repeal of section 40A

15 Section 40A—delete the section

17—Substitution of section 40C

Section 40C—delete the section and substitute:

40C—Meaning of qualified, fit or authorised to drive or start or stop engine

20 For the purposes of this Division—

(a) a person is *qualified* to drive a vehicle, or to start or stop its engine, if the person—

25 (i) holds a driver's licence of the appropriate class to drive the vehicle and the licence is not suspended; and

(ii) is not prevented under a law, including, for example, by the conditions of the driver's licence, from driving the vehicle at the relevant time;

30 (b) a person is *fit* to drive a vehicle, or to start or stop its engine, if the person—

(i) is apparently physically and mentally fit to drive the vehicle, or start or stop its engine; and

(ii) is not apparently affected by either or both of the following:

35 (A) alcohol;

(B) a drug that affects a person's ability to drive a vehicle; and

(iii) the person has not at the time been found to have, and there are not any reasonable grounds to suspect that the person has, a concentration of alcohol in the person's blood exceeding the amount permitted under a road law; and

(iv) the person has not at the time been found to have, and there are not any reasonable grounds to suspect that the person has, a prescribed drug in his or her oral fluid or blood;

(c) a person is *authorised* to drive a vehicle, or to start or stop its engine, if the person is its operator or has the authority of the operator to drive it or to start or stop its engine (regardless of whether or not the person is qualified to drive the vehicle, or to start or stop its engine).

18—Amendment of section 40D—Meaning of unattended vehicle and driver of disconnected trailer

Section 40D(1)—delete subsection (1) and substitute:

(1) For the purposes of this Division, a vehicle is *unattended* if—

(a) the authorised officer concerned is present at the scene and there is, after inspection and enquiry by the officer that is reasonable in the circumstances, apparently no person in, on or near the vehicle who appears to be a driver of the vehicle; or

(b) the authorised officer concerned is not present at the scene but is able to inspect the scene by means of camera or other remote surveillance system and there is, after inspection by the officer that is reasonable in the circumstances, apparently no person in, on or near the vehicle who appears to be a driver of the vehicle; or

(c) there is a person in, on or near the vehicle who appears to be its driver but the person is—

(i) unwilling, or not qualified or fit, to drive the vehicle; or

(ii) not authorised by the operator of the vehicle to drive it; or

(iii) subject to a direction under section 40K in relation to the vehicle.

19—Substitution of sections 40E and 40F

Sections 40E and 40F—delete the sections and substitute:

40E—Meaning of broken down vehicle

For the purposes of this Division, a vehicle is *broken down* if—

- (a) in the case of a motor vehicle—it is not possible to drive the vehicle because it is disabled through damage, mechanical failure, lack of fuel or any similar reason; or
- (b) in the case of a trailer—it is not connected (either directly or by one or more other trailers) to a towing vehicle, whether or not the trailer is also disabled through damage, mechanical power or any similar reason; or
- (c) in the case of a combination—it is not possible to drive the combination because the combination or a vehicle comprised in the combination is disabled through damage, mechanical failure, lack of fuel or any similar reason; or
- (d) in any other case—it is not connected to a towing vehicle or an animal by which it could be drawn or it is not possible to tow or draw the vehicle because it is disabled through damage, mechanical failure or any similar reason.

40F—Meaning of compliance purposes

For the purposes of this Division, a power is exercised *for compliance purposes* in relation to a person if the power is exercised—

- (a) to determine whether the Australian road laws are being complied with by that or any other person; or
- (b) to investigate a breach or suspected breach of an Australian road law by that or any other person; or
- (c) to investigate an accident in which that person or any other person has been involved.

20—Amendment of section 40G—Application of Subdivision

Section 40G(1)(c)—delete "the officer" and substitute:

an authorised officer

21—Insertion of section 40GA

After section 40G insert:

40GA—Interpretation

In this Subdivision—

road law includes—

- (a) the *Heavy Vehicle National Law (South Australia)*; and

- (b) the *Heavy Vehicle National Regulations (South Australia)*; and
- (c) Part 2 Divisions 4 and 5 of the *Heavy Vehicle National Law (South Australia) Act 2013*; and
- (d) the local regulations as defined in the *Heavy Vehicle National Law (South Australia) Act 2013*.

22—Amendment of section 40H—Direction to stop vehicle to enable exercise of other powers

- (1) Section 40H—delete "or police officer" wherever occurring
- (2) Section 40H(2)—before "officer" insert:
authorised

23—Amendment of section 40I—Direction to move vehicle to enable exercise of other powers

- (1) Section 40I(1)—delete "or police officer"
- (2) Section 40I(1)—delete "this Act" and substitute:
a road law
- (3) Section 40I(2), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$5 000.
- (4) Section 40I(3)—delete subsection (3)
- (5) Section 40I(5), definition of *suitable location*—delete "or police officer"

24—Amendment of section 40J—Direction to move vehicle if danger or obstruction

- (1) Section 40J(1)—delete "or police officer"
- (2) Section 40J(1)—before "vehicle" insert:
light

25—Amendment of section 40K—Direction to leave vehicle

Section 40K(1), (2) and (3)—delete "or police officer" wherever occurring

26—Amendment of section 40M—Moving unattended vehicle to enable exercise of other powers

- (1) Section 40M(1)—delete "or police officer"
- (2) Section 40M(1)(b)—delete "this Act" and substitute:
a road law

27—Amendment of section 40N—Removing unattended or broken down vehicle if danger or obstruction

(1) Section 40N(1)(a)—delete paragraph (a) and substitute:

(a) an authorised officer believes on reasonable grounds that a light vehicle is unattended or broken down on a bridge, culvert or freeway; or

(2) Section 40N(1)(b)—delete "or police officer"

(3) Section 40N(1)(b)(i)—before "vehicle" insert:

light

28—Amendment of section 40P—Notice of removal of vehicle and disposal of vehicle if unclaimed

Section 40P(1)—before "vehicle" insert:

light

29—Amendment of section 40Q—Power to inspect vehicle on road or certain official premises

(1) Section 40Q(2)—delete "or police officer"

(2) Section 40Q(5)—delete "or under an approved road transport compliance scheme" wherever occurring

30—Amendment of section 40R—Power to search vehicle on road or certain official premises

(1) Section 40R(2)—delete "or police officer"

(2) Section 40R(2)(a)—delete "or in the commission of a breach of an approved road transport compliance scheme"

(3) Section 40R(6)(a)—delete "or a breach of an approved road transport compliance scheme"

(4) Section 40R(6)(c)(i)—delete "or under an approved road transport compliance scheme"

(5) Section 40R(6)(c)(iii)—delete "or a breach of an approved road transport compliance scheme"

(6) Section 40R(8)—delete "or a breach of an approved road transport compliance scheme"

31—Amendment of section 40S—Power to inspect premises

(1) Section 40S(1)—delete subsection (1) and substitute:

(1) This section applies to the following premises:

(a) premises at or from which a responsible person carries on business, or that are occupied by a responsible person in connection with such a business, or that are a registered office of a responsible person;

- (b) the garage address of a vehicle;
- (c) premises where records required to be kept under an Australian road law are located or are required to be located.

(2) Section 40S(2)—delete "or police officer"

5 (3) Section 40S(7)—delete "or under an approved road transport compliance scheme" wherever occurring

32—Amendment of section 40T—Power to search premises

(1) Section 40T(1)—delete subsection (1) and substitute:

(1) This section applies to the following premises:

- 10 (a) premises at or from which a responsible person carries on business, or that are occupied by a responsible person in connection with such a business, or that are a registered office of a responsible person;
- (b) the garage address of a vehicle;
- 15 (c) premises where records required to be kept under an Australian road law are located or are required to be located;
- (d) premises where the officer concerned believes on reasonable grounds that—
 - 20 (i) a vehicle is or has been located; or
 - (ii) transport documentation or journey documentation is located.

(2) Section 40T(2)—delete "or police officer"

(3) Section 40T(2)(a)—delete "or of the commission of a breach of an approved road transport compliance scheme"

25 (4) Section 40T(9)(a)—delete "or a breach of an approved road transport compliance scheme"

(5) Section 40T(9)(c)(i)—delete "or under an approved road transport compliance scheme"

30 (6) Section 40T(9)(c)(iii)—delete "or a breach of an approved road transport compliance scheme"

(7) Section 40T(11)—delete "or a breach of an approved road transport compliance scheme"

33—Amendment of section 40V—Direction to give name and other personal details

35 (1) Section 40V(2)—delete "or police officer"

(2) Section 40V(3)—delete "or police officer"

34—Amendment of section 40W—Direction to produce records, devices or other things

Section 40W(1)—delete "or police officer"

35—Amendment of section 40X—Direction to provide information

Section 40X(1)—delete "or police officer"

36—Amendment of section 40Y—Direction to provide reasonable assistance for powers of inspection and search

5 (1) Section 40Y(1)—delete "or police officer"

(2) Section 40Y(3)—delete "run" and substitute:

start or stop

(3) Section 40Y(7)—delete "run" wherever occurring and substitute in each case:

start or stop

10 **37—Amendment of section 40Z—Provisions relating to starting or stopping engine**

(1) Section 40Z—delete "run" wherever occurring and substitute in each case:

start or stop

(2) Section 40Z(2)—delete "running" and substitute:

15 starting or stopping

38—Amendment of section 41B—Warrants

Section 41B(1)—delete "or police officer"

39—Amendment of section 41C—Use of assistants and equipment

Section 41C—delete "or police officer" wherever occurring

20 **40—Amendment of section 41D—Use of equipment to examine or process things**

Section 41D(1)—delete "or police officer"

41—Amendment of section 41E—Use or seizure of electronic equipment

Section 41E(1)(c)—delete "or police officer" and "or scheme"

25 **42—Amendment of section 41F—Receipt for and access to seized material**

Section 41F—delete "or police officer"

43—Repeal of section 41G

Section 41G—delete the section

44—Substitution of section 41I

Section 41I—delete the section and substitute:

41I—Various powers may be exercised on same occasion

- 5 (1) An authorised officer may exercise various powers under road laws on the same occasion, whether the exercise of the powers is for the same purpose or different purposes and whether the opportunity to exercise 1 power arises only as a result of the exercise of another power.
- 10 (2) In this section—
road law includes—
- (a) the *Heavy Vehicle National Law (South Australia)*; and
 - (b) the *Heavy Vehicle National Regulations (South Australia)*; and
 - 15 (c) Part 2 Divisions 4 and 5 of the *Heavy Vehicle National Law (South Australia) Act 2013*; and
 - (d) the local regulations as defined in the *Heavy Vehicle National Law (South Australia) Act 2013*.

45—Amendment of section 41J—Restoring vehicle or premises to original condition after action taken

20 Section 41J(a)—delete "or police officer"

46—Amendment of section 41M—Obstructing or hindering authorised officers

Section 41M(a)—delete "or police officer"

47—Amendment of section 41O—Division not to affect other powers

Section 41O—delete "on an authorised officer or police officer" and substitute:

25 on a police officer or on any other authorised officer

48—Repeal of Part 3AA

Part 3AA—delete the Part

49—Amendment of section 110C—Offences

Section 110C(7)—delete "A police officer or" and substitute:

30 An

50—Amendment of heading to Part 4

Heading to Part 4—after "provisions" insert:

applying to light vehicles

51—Substitution of Part 4 Division 1

Part 4 Division 1—delete Division 1 and substitute:

Division 1—Light vehicle standards

111—Rules prescribing light vehicle standards

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

52—Substitution of Part 4 Division 2

10 Part 4 Division 2—delete Division 2 and substitute:

Division 2—Light vehicle mass and loading requirements

113—Regulations prescribing light vehicle mass and loading requirements

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

53—Repeal of Part 4 Division 3

20 Part 4 Division 3—delete Division 3

54—Amendment of heading to Part 4 Division 3A

Heading to Part 4 Division 3A—before "vehicle" insert:

light

55—Amendment of section 116—Meaning of breach of light vehicle standards or maintenance requirement

25 (1) Section 116(1)—before "*vehicle standards*" insert:

light

(2) Section 116(1)(a)—before "vehicle" insert:

light

30 (3) Section 116(1)(b)(i)—before "vehicle" insert:

light

(4) Section 116(2)—before "vehicle" first occurring insert:

light

(5) Section 116(3)—before "vehicle" insert:

35 light

56—Amendment of section 117—Liability of driver

Section 117(1)—before "vehicle" wherever occurring insert:

light

57—Amendment of section 118—Liability of operator

Section 118(1)—before "vehicle" wherever occurring insert:

light

58—Amendment of heading to Part 4 Division 3B

Heading to Part 4 Division 3B—before "mass" insert:

light vehicle

59—Substitution of sections 119 and 120

Sections 119 and 120—delete the sections and substitute:

119—Meaning of breach of light vehicle mass, dimension or load restraint requirement

For the purposes of this Act, there is a *breach of a light vehicle mass, dimension or load restraint requirement* if—

- (a) a light vehicle is driven on a road; and
- (b) the vehicle does not comply with a light vehicle mass, dimension or load restraint requirement.

60—Repeal of Part 4 Division 3B Subdivision 2

Part 4 Division 3B Subdivision 2—delete Subdivision 2

61—Amendment of heading to Part 4 Division 3B Subdivision 3

Heading to Part 4, Division 3B, Subdivision 3—before "mass" insert:

light vehicle

62—Substitution of sections 123 and 124

Section 123—delete the section and substitute:

123—Liability of driver

A person commits an offence if—

- (a) there is a breach of a light vehicle mass, dimension or load restraint requirement; and
- (b) the person is the driver of the light vehicle concerned.

Maximum penalty: \$2 500.

124—Liability of operator

(1) A person commits an offence if—

- (a) there is a breach of a light vehicle mass, dimension or load restraint requirement; and

(b) the person is the operator of the light vehicle concerned.
Maximum penalty: \$2 500.

(2) It is a defence to a charge for an offence against this section if the person charged establishes that the vehicle was being used at the relevant time by—

(a) another person not entitled (whether by express or implied authority or otherwise) to use it, other than an employee or agent of the person; or

(b) by an employee of the person who was acting at the relevant time outside the scope of the employment; or

(c) by an agent of the person who was acting at the relevant time outside the scope of the agency.

63—Repeal of sections 125 to 129

Sections 125 to 129 (inclusive)—delete the sections

64—Repeal of Part 4 Division 3B Subdivisions 4 to 7

Part 4 Division 3B Subdivisions 4 to 7 (inclusive)—delete Subdivisions 4 to 7

65—Amendment of section 145—Defect notices

(1) Section 145(1), definition of *safety risk*—delete the definition and substitute:

safety risk means a risk—

(a) to public safety; or

(b) of harm to the environment;

vehicle means a light vehicle;

(2) Section 145(1a) to (2a) (inclusive)—delete subsections (1a) to (2a) and substitute:

(1a) An authorised officer may direct the driver of a vehicle to stop the vehicle and may examine the vehicle if the vehicle has deficiencies or the officer suspects on reasonable grounds that the vehicle has deficiencies.

(1b) Despite subsection (1a), an authorised officer may direct the driver of a vehicle of a prescribed class to stop the vehicle and may examine the vehicle for the purposes of determining whether the vehicle has deficiencies (whether or not there is reason to suspect that the vehicle has deficiencies).

(2) If an authorised officer suspects on reasonable grounds that a vehicle has deficiencies, the officer may direct the owner, the operator or the person in charge of the vehicle to produce it for examination at a specified time and place.

(2a) An authorised officer may, at any time when any premises where vehicles are exhibited or kept for sale or hire are open for business, for the purposes of determining whether a vehicle exhibited or kept for sale or hire on those premises has deficiencies, examine the vehicle or direct the owner, the operator or the person in charge of the vehicle to produce it for examination at a time and place stated by the authorised officer.

(3) Section 145(4)—delete "A police officer or an" and substitute:

An

(4) Section 145(4a)—delete subsection (4a) and substitute:

(4a) If, on examination of a vehicle, an authorised officer is of the opinion that the vehicle has deficiencies but that further use of the vehicle on roads would not give rise to a safety risk, the officer may issue a formal written warning to the driver of the vehicle or, if the vehicle is unattended, cause a formal written warning to be affixed to the vehicle.

(5) Section 145(4c)(b)—delete "police officer or"

(6) Section 145(5)—delete "a police officer or"

(7) Section 145(5)—delete "the police officer or authorised officer" wherever occurring and substitute in each case:

the officer

(8) Section 145(5a)—delete "A police officer or" and substitute:

An

(9) Section 145(5c)(b)—delete "police officer or"

(10) Section 145(5c)(g)(ii)—delete "a police officer,"

(11) Section 145(5c)(g)(iii)—delete "a police officer,"

(12) Section 145(5d)—delete "A police officer, an" and substitute:

An

(13) Section 145(5e)(b)—delete "police officer or"

(14) Section 145(5g)—delete "A police officer or" and substitute:

An

(15) Section 145(5h)—delete "A police officer or" and substitute:

An

66—Substitution of Part 4 Division 4 Subdivisions 2 and 3

Part 4 Division 4 Subdivisions 2 and 3—delete Subdivisions 2 and 3 and substitute:

Subdivision 2—Powers relating to breaches of light vehicle mass, dimension or load restraint requirements

146—Directions and authorisations

- 5
- (1) If an authorised officer believes on reasonable grounds that a light vehicle is the subject of 1 or more breaches of light vehicle mass, dimension or load restraint requirements, the officer may—
- 10
- (a) if the officer does not give a direction under paragraph (b)—authorise the driver of the vehicle to continue its journey under this section; or
- (b) if the officer believes on reasonable grounds that particular circumstances exist for the purposes of this section warranting the giving of a direction under this paragraph—
- 15
- (i) to rectify specified breaches of light vehicle mass, dimension or load restraint requirements then and there; or
- (ii) if the officer also believes on reasonable grounds that the vehicle should be moved to another location—to move it or cause it to be moved to a specified suitable location that is within the prescribed distance, and not to proceed from there until specified breaches of light vehicle mass, dimension or load restraint requirements are rectified.
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- (2) Without limiting the above, particular circumstances exist for the purposes of this section warranting the giving of a direction if—
- (a) rectification is reasonable and can be carried out easily; or
- 30
- (b) rectification is necessary in the public interest to avoid potential risk of harm to public safety, the environment, road infrastructure or public amenity.
- (3) A person commits an offence if—
- (a) the person is subject to a direction under subsection (1); and
- 35
- (b) the person engages in conduct that results in a contravention of the direction.

Maximum penalty: \$5 000.

(4) If a direction is given in relation to a light vehicle that is a combination, nothing in this section prevents a component vehicle of the combination from being separately driven or moved if—

(a) the component vehicle is not itself the subject of a breach of a light vehicle mass, dimension or load restraint requirement; and

(b) it is not otherwise unlawful for the component vehicle to be driven or moved.

(5) However, subsection (4) does not apply if there is also a direction that prevents the component vehicle from being separately driven or moved.

(6) If an authorised officer believes on reasonable grounds that—

(a) a light vehicle is the subject of 1 or more breaches of light vehicle mass, dimension or load restraint requirements; and

(b) the driver of the vehicle is not or is no longer the subject of a direction for the rectification of the breach or breaches,

the officer may authorise the driver of the vehicle to continue its journey.

(7) An authorisation may be granted under this section unconditionally or subject to conditions imposed by the officer.

(8) A person commits an offence if—

(a) the person is granted an authorisation under this section; and

(b) the authorisation is subject to a condition; and

(c) the person engages in conduct that results in a contravention of the condition.

Maximum penalty: \$5 000.

(9) An authorised officer may give a direction or authorisation under this section orally or in writing.

(10) In this section—

component vehicle of a combination means a towing vehicle or trailer of the combination;

prescribed distance means a distance (in any direction) within a radius of 30 kilometres of—

(a) the location of the vehicle when the direction is given; or

(b) any point along the forward route of the journey, if the direction is given in the course of a journey of the vehicle;

suitable location means a location that the officer believes on reasonable grounds to be suitable for the purpose of complying with the direction, having regard to any matters the officer considers relevant in the circumstances.

(11) This section applies to a vehicle regardless of whether or not the vehicle is, has been or becomes the subject of a direction under Part 2 Division 5.

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(12) This section does not limit or prevent the exercise of powers under Part 2 Division 5 for the purpose of determining whether there is or has been a breach of a light vehicle mass, dimension or load restraint requirement (or any other purpose).

67—Amendment of section 161A—Driving of certain light vehicles subject to Ministerial approval

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Section 161A(1)—before "vehicle" insert:

light

68—Repeal of Part 4 Division 6

Part 4 Division 6—delete Division 6

69—Substitution of section 163G

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Section 163G—delete the section and substitute:

163G—Inspection of certificates

An authorised officer may require the driver of a vehicle to which this Part applies to stop the vehicle for the purpose of permitting that officer to inspect any certificate of inspection that may be attached to the vehicle.

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70—Repeal of Part 4B

Part 4B—delete Part 4B

71—Substitution of section 164B

Section 164B—delete the section and substitute:

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164B—Approval or exemption does not operate in favour of person who contravenes a condition

(1) If a person contravenes or fails to comply with a condition or restriction specified in an approval or exemption, the approval or exemption does not, while the contravention or non-compliance continues, operate in that person's favour.

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(2) If, by virtue of subsection (1)—

(a) a person is guilty of an offence against section 161A(1); or

(b) a person is guilty of an offence against the provision of this Act from which the person was exempted by an exemption,

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the person may be proceeded against either for that offence or for the offence of contravening, or failing to comply with, a condition or restriction of the approval or exemption.

(3) In this section—

approval means an approval granted by the Minister under section 161A(1);

exemption means an exemption granted by the Minister under this Act.

72—Repeal of section 173AA

Section 173AA—delete the section

73—Section 173AB—Further defences

Section 173AB(1)(b)—delete "or police officer"

74—Repeal of section 174F

Sections 174F—delete the section

75—Amendment of section 174G—Dismissal or other victimisation of employee or contractor assisting with or reporting breaches

Section 174G(8), definition of *public agency*—delete the definition and substitute:

public agency means—

- (a) an Australian authority; or
- (b) an authorised officer or police officer of any jurisdiction; or
- (c) any other public authority of any jurisdiction.

76—Substitution of section 174I

Section 174I—delete the section and substitute:

174I—Amendment or revocation of directions or conditions

- (1) Subject to subsection (2), an authorised officer may amend or revoke a direction given, or conditions imposed, by that officer or another authorised officer under this Act.
- (2) An authorised officer who is not a police officer cannot amend or revoke a direction given, or conditions imposed, by a police officer.

77—Amendment of section 175—Evidence

- (1) Section 175(1)(eb)—delete paragraph (eb)
- (2) Section 175(1)(g)—delete "or permit" and substitute:
, permit or approval
- (3) Section 175(1)(h)—delete "or permit" and substitute:
, permit or approval
- (4) Section 175(3)(a)—delete "or a police officer"
- (5) Section 175(3)(c)—delete paragraph (c)
- (6) Section 175(5)—delete "or a police officer" wherever occurring

78—Amendment of section 176—Regulations and rules

- (1) Section 176(1a)(ga)—delete paragraph (ga)
- (2) Section 176(2a)—delete subsection (2a)

Part 4—Amendment of *Second-hand Vehicle Dealers Act 1995*

5 **79—Amendment of section 23—Duty to repair**

- (1) Section 23(7)(d)(i)—after "*Road Traffic Act 1961*" insert:

, the *Heavy Vehicle National Law (South Australia)* or the *Heavy Vehicle National Regulations (South Australia)*

- (2) Section 23(10), definition of *defect*, (a)—after *Road Traffic Act 1961* insert:

10 , the *Heavy Vehicle National Law (South Australia)* or the *Heavy Vehicle National Regulations (South Australia)*

- (3) Section 23(10)—after the definition of *defect* insert:

Heavy Vehicle National Law (South Australia) has the same meaning as in the *Heavy Vehicle National Law (South Australia) Act 2013*;

15 *Heavy Vehicle National Regulations (South Australia)* has the same meaning as in the *Heavy Vehicle National Law (South Australia) Act 2013*;

Schedule 1—Statute law revision amendment of *Road Traffic Act 1961*

Provision amended	How amended
Section 5(3)	Delete "notwithstanding" and substitute: despite the fact
Section 11(2)	Delete "Where" and substitute: If
Section 16(2)	Delete "pursuant to" and substitute: under
Section 18(6)	Delete "Where" and substitute: If
Section 19(5)	Delete "notwithstanding" and substitute: despite
Section 19(5)(c)	Delete "in pursuance of" and substitute: under
Section 19A(1)	Delete "Where" and substitute: If
Section 19A(3)	Delete "in pursuance of" wherever occurring and substitute in each case: under

Provision amended	How amended
Section 19A(4)	Delete "Where" and substitute: If
Section 19A(4)	Delete "in pursuance of" and substitute: in accordance with
Section 20(2a)	Delete "in pursuance of" and substitute: in accordance with
Section 32(1)	Delete "in pursuance of" and substitute: in accordance with
Section 33(4)	Delete "upon" and substitute: on
Section 33(9a)	Delete "Where" and substitute: If
Section 34(5)	Delete "Where" and substitute: If
Section 39(1)	Delete "where" and substitute: if
Section 43(2)	Delete "Where" and substitute: If
Section 44B(5)	Delete "Where" and substitute: If
Section 45A(3)	Delete "Where" and substitute: If
Section 46(3)	Delete "Where" and substitute: If
Section 47(3)	Delete "Where" and substitute: If
Section 47B(3)	Delete "Where" and substitute: If
Section 47C(2)	Delete "notwithstanding" and substitute: despite
Section 47D(2)	Delete "General Revenue of the State" and substitute: Consolidated Account
Section 47E(6)	Delete "Where" and substitute: If
Section 47EAA(16)	Delete "Where" and substitute: If
Section 47EB	Delete "Where" and substitute:

Provision amended	How amended
	If
Section 47GA(2)(c)	Delete "where" and substitute: if
Section 47H(1)	Delete "published"
Section 47I(1)	Delete "Where" and substitute: If
Section 47I(1)	Delete "notwithstanding" and substitute: despite the fact
Section 47I(4)	Delete "Where" and substitute: If
Section 47I(4)	Delete "pursuant to" and substitute: under
Section 47I(6)	Delete "where" and substitute: if
Section 47I(14)	Delete "Any" and substitute: A
Section 47I(14), penalty provision, (a)	Delete "where" and substitute: if
Section 47I(14a)	Delete "Where" and substitute: If
Section 47IA(1)	Delete "Where" and substitute: If
Section 47IA(1)	Delete "pursuant to" and substitute: in accordance with
Section 47J(1)	Delete "Where" and substitute: If
Section 47J(4)	Delete "Where" and substitute: If
Section 47J(4)	Delete "notwithstanding" and substitute: despite
Section 47J(9)	Delete "Where" and substitute: If
Section 47K(1)	Delete "in pursuance of" and substitute: under
Section 47K(2a)	Delete "Where" and substitute: If
Section 47K(3c)	Delete "pursuant to" and substitute:

Provision amended	How amended
	in accordance with
Section 53B(4)	Delete "pursuant to" and substitute:
	under
Section 79B(2)	Delete "Where" and substitute:
	If
Section 79B(2b)	Delete "Where" and substitute:
	If
Section 79B(3)	Delete "Where" and substitute:
	If
Section 79B(5)	Delete "Where" and substitute:
	If
Section 79B(6)	Delete "Where" and substitute:
	If
Section 79B(7)	Delete "Where" and substitute:
	If
Section 79B(8)	Delete "Where" and substitute:
	If
Section 79B(10)(c)	Delete "where" and substitute:
	if
Section 79D(1)	Delete " of the Public Service"
Section 79D(2)(a)	Delete "monies" and substitute:
	money
Section 85(3)	Delete "notwithstanding" and substitute:
	despite
Section 99A	Delete "where" and substitute:
	if
Section 99B(3)	Delete "where" and substitute:
	if
Section 145(15)	Delete "Where" and substitute:
	If
Section 162C(4)	Delete "where" and substitute:
	if
Section 163AA(1)	Delete "published"
Section 163A(2)	Delete "published"
Section 163A(2)	Delete "department of Government" and substitute:
	administrative unit
Section 163A(3)	Delete "published"

Provision amended	How amended
Section 163C(3)	Delete "Where" and substitute: If
Section 163D(3a)	Delete "where" and substitute: if
Section 163E(1)	Delete "notwithstanding" and substitute: despite the fact
Section 163J(1)	Delete "pursuant to" and substitute: under
Section 163J(1)	Delete "where" and substitute: if
Section 163K	Delete "in pursuance or purported pursuance of" and substitute: under, or purportedly under,
Section 165(1)	Delete "pursuant to" and substitute: under
Section 168(3)	Delete "Where" and substitute: If
Section 168(4)	Delete "Notwithstanding" and substitute: Despite
Section 168(4)(a)	Delete "pursuant to" and substitute: under
Section 168(4)(a)	Delete "notwithstanding" and substitute: despite
Section 168(5)	Delete "Where" and substitute: If
Section 169A	Delete "Where, pursuant to" and substitute: If, under
Section 172(1)	Delete "Where" and substitute: If
Schedule 1, clause 2	Delete "where" and substitute: if
Schedule 1, clause 3	Delete "Where" and substitute: If
Schedule 1, clause 7	Delete "where" and substitute: if