

# House of Assembly—No 98

As laid on the table and read a first time, 11 November 2020

South Australia

## **Statutes Amendment (Transport Portfolio) Bill 2020**

A BILL FOR

An Act to amend the *Criminal Procedure Act 1921*, the *Expiation of Offences Act 1996*, the *Fines Enforcement and Debt Recovery Act 2017*, the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959*, the *Rail Safety National Law (South Australia) Act 2012* and the *Road Traffic Act 1961*.

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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 (Transport Portfolio) Act 2020*.

**2—Commencement**

This Act comes into operation on a day to be fixed by proclamation.

**3—Amendment provisions**

(1) Subject to subsection (2), in this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

(2) A provision in Part 7 amends the *Rail Safety National Law (South Australia) Act 2012* (other than a provision of the *Rail Safety National Law* set out in the Schedule to that Act).

**Part 2—Amendment of *Criminal Procedure Act 1921***

**4—Amendment of section 52—Limitation on time in which proceedings may be commenced**

Section 52(2)(a)—before "statutory declaration" insert:

nomination,

**Part 3—Amendment of *Expiation of Offences Act 1996***

**5—Amendment of section 11—Expiation reminder notices**

(1) Section 11(1)—before "statutory declaration" insert:

nomination,

(2) Section 11(1a)(b)(ii)—delete subparagraph (ii) and substitute:

(ii) if the notice is issued to the owner of a motor vehicle involved in the alleged offence and the expiation reminder notice is required to be accompanied by a notice relating to the owner sending the issuing authority a nomination, statutory declaration or other document—a form suitable for use as the nomination, statutory declaration or other document (as the case may require).

**6—Amendment of section 11A—Expiation enforcement warning notices**

(1) Section 11A(1)—before "statutory declaration" insert:

nomination,

- (2) Section 11A(2)(a)—before "statutory declaration" insert:  
nomination,

#### **7—Amendment of section 16—Withdrawal of expiation notices**

- Section 16(1)(ab)—before "statutory declaration" insert:  
5 nomination,

### **Part 4—Amendment of *Fines Enforcement and Debt Recovery Act 2017***

#### **8—Amendment of section 22—Enforcement determinations**

- Section 22(10)(f)(ii)—before "statutory declaration" insert:  
10 nomination,

### **Part 5—Amendment of *Harbors and Navigation Act 1993***

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

- (1) Section 4(1), definition of *Metropolitan Adelaide*—delete the definition and substitute:

15 *medical practitioner* means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

- (2) Section 4(1)—after the definition of *prescribed drug* insert:

20 *registered nurse* means a person registered under the *Health Practitioner Regulation National Law*—

- (a) to practise in the nursing profession as a nurse (other than as a student); and  
(b) in the registered nurses division of that profession;

#### **10—Amendment of section 71—Authorised person may require alcotest or breath analysis**

- (1) Section 71(10)—after "medical practitioner" wherever occurring insert:  
25 or registered nurse

- (2) Section 71(12)(b)(ii)—after "medical practitioner" insert:  
or registered nurse

#### **11—Amendment of section 72—Authorised person may require drug screening test, oral fluid analysis and blood test**

- (1) Section 72(12)—after "medical practitioner" wherever occurring insert:  
30 or registered nurse

- (2) Section 72(15)(b)(ii)—after "medical practitioner" insert:  
or registered nurse

### **12—Amendment of section 73—Evidence**

- (1) Section 73(1)—after "time of the analysis" insert:  
5 and throughout the preceding period of 3 hours
- (2) Section 73(3)(b)—delete "2 hours" and substitute:  
3 hours
- (3) Section 73(13)—after "medical practitioner" wherever occurring insert:  
or registered nurse
- 10 (4) Section 73(14)—after "medical practitioner" insert:  
, registered nurse
- (5) Section 73(16)—delete "2 hours" and substitute:  
3 hours
- (6) Section 73(17)—after "analyst" second occurring insert:  
15 , or a registered nurse and analyst,

### **13—Amendment of section 73A—Breath analysis where drinking occurs after operation of vessel**

- (1) Section 73A(2)(a)—delete paragraph (a) and substitute:  
(a) that the defendant consumed alcohol during the relevant period; and
- 20 (2) Section 73A—after subsection (2) insert:  
(3) In this section—  
*relevant period* means the period—
- 25 (a) commencing when 3 hours have elapsed since the conduct of the defendant giving rise to the making of the requirement under section 71(1) that the defendant submit to the breath analysis; and
- (b) ending when the performance of the breath analysis commences.

### **14—Amendment of section 73B—Oral fluid analysis or blood test where consumption of prescribed drug occurs after operation of vessel**

- 30 (1) Section 73B(2)(b)—delete paragraph (b) and substitute:  
(b) in a case where the defendant was required to submit to a drug screening test after involvement of the vessel in an accident—
- 35 (i) that the requirements of section 76 were complied with in relation to the accident; and

- (ii) that the prescribed drug was not consumed after an authorised person first exercised powers under section 71 preliminary to the performance of the alcotest or breath analysis referred to in section 72,

5 (2) Section 73B(3), definition of *relevant period*—delete the definition and substitute:

*relevant period* means the period—

- 10 (a) commencing when 3 hours have elapsed since the conduct of the defendant giving rise to the making of the requirement referred to in section 72 that the defendant submit to the alcotest or breath analysis; and
- (b) ending when the performance of the oral fluid analysis or blood test (as the case may be) commences.

### 15—Amendment of section 74—Compulsory blood tests of injured persons including water skiers

15 Section 74(1), (4), (5) and (6)—delete subsections (1) to (6) inclusive and substitute:

- 20 (1) If a vessel is involved in an accident and, within 8 hours after the accident, a person apparently over the age of 10 years who was injured in the accident attends at, or is admitted into, a hospital for the purpose of receiving treatment for that injury, it is the duty of the medical practitioner by whom that patient is attended to ensure that, as soon as practicable, a sample of that patient's blood (despite the fact that the patient may be unconscious) is taken in accordance with this section.
- 25 (2) If a vessel is involved in an accident and a person apparently over the age of 10 years who was injured in the accident is dead on arrival at the hospital, or dies before a sample of blood has been taken in accordance with this section and within 8 hours after admission to the hospital, it is the duty of the medical practitioner who, under Part 5 of the *Coroners Act 2003*, notifies the State Coroner or a  
30 police officer of the death—
  - (a) to ensure that a sample of blood from the body of the deceased is taken in accordance with this section; or
  - (b) to notify the State Coroner as soon as practicable that, in view of the circumstances in which the death of the  
35 deceased occurred, a sample of blood should be taken from the body under this section.
- (3) A sample of blood under subsection (1) or (2) may be taken by a medical practitioner or a registered nurse.
- 40 (4) The State Coroner, on receiving a notification under subsection (2), may authorise and direct a pathologist to take a sample of blood from the body of the deceased in accordance with this section.

## 16—Amendment of section 87—Evidentiary provision

Section 87(2)—delete "a complaint" and substitute:  
an information

## 17—Amendment of section 91—Regulations and fee notices

Section 91—after subsection (5) insert:

- (6) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.

## 18—Amendment of Schedule 1A—Blood and oral fluid sample processes

(1) Schedule 1A, clause 1, definition of *registered nurse*—delete the definition

(2) Schedule 1A, clause 2—delete "section 71, 72 or 74" and substitute:

Part 10 Division 4

(3) Schedule 1A, clause 2—after "medical practitioner" wherever occurring insert:  
or registered nurse

(4) Schedule 1A, clause 2(g)—delete paragraph (g) and substitute:

(g) on completion of an analysis of a sample—

(i) the certificate of the medical practitioner or registered nurse by whom the sample was taken and the certificate of the analyst who performed or supervised the analysis must be retained on behalf of—

(A) the Minister; and

(B) the medical practitioner or registered nurse by whom the sample was taken; and

(ii) copies of the certificates referred to in paragraph (g)(i) must be sent to—

(A) the Commissioner of Police; and

(B) the person from whom the sample was taken or, if the person is dead, a relative or personal representative of the deceased;

(5) Schedule 1A, clause 2(h)—delete "paragraph (g)(iii)" and substitute:

paragraph (g)(ii)(B)

(6) Schedule 1A, clause 3—delete the clause

(7) Schedule 1A, clause 6(2)—delete subclause (2) and substitute:

(2) A medical practitioner or registered nurse must not take a sample of a person's blood under this Act if, in the opinion of the medical practitioner or registered nurse, it would be injurious to the medical condition of the person to do so.

(8) Schedule 1A, clause 6(3)—after "medical practitioner" wherever occurring insert:  
or registered nurse



- (9) Schedule 1A, clause (7)(g)—delete "sent to the Minister or retained on behalf of the Minister and, in either event," and substitute:

retained on behalf of the Minister and

- (10) Schedule 1A, clause 8(2)(a)—delete paragraph (a) and substitute:

- 5                   (a) will not be admissible in evidence against the person in any proceedings, other than proceedings for—
- (i) an offence against this Act; or
- (ii) an offence involving the operation or crewing of a vessel; or
- (iii) an offence against the *Controlled Substances Act 1984*; and

## 10 **Part 6—Amendment of *Motor Vehicles Act 1959***

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

Section 5—after subsection (7) insert:

- 15                   (8) For the purposes of this Act (other than section 81A), in determining the period for which a person has held a licence, learner's permit, foreign licence, interstate licence or interstate learner's permit, any period during which the person's licence or permit has been suspended under this Act or another law of this State is not to be taken into account (unless the suspension came into operation before the commencement of this subsection).

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

Section 24—after subsection (4) insert:

- (5) The Registrar may refuse to register a motor vehicle if the Registrar has made a decision under section 71C in relation to the vehicle and the reasons for that decision still exist.

### 25 **21—Amendment of section 58—Transfer of registration**

Section 58—after subsection (5) insert:

- (6) The Registrar may refuse to transfer the registration of a motor vehicle if the Registrar has made a decision under section 71C in relation to the vehicle and the reasons for that decision still exist.

## 22—Insertion of Part 2 Division 13

After section 71B insert:

### **Division 13—Miscellaneous**

#### **71C—Powers of Registrar in relation to offensive material displayed on motor vehicles**

- 5
- (1) Subject to this section, if the Registrar is given an advertising code breach notice in relation to a motor vehicle by Ad Standards the Registrar may do either or both of the following:
- 10
- (a) refuse to enter into any transaction—
- (i) with the registered owner or the registered operator of the motor vehicle to which the advertising code breach notice (whether in relation to that motor vehicle or any other motor vehicle); and
- 15
- (ii) with any other person in relation to the motor vehicle to which the advertising code breach notice relates;
- (b) cancel the registration of the motor vehicle to which the advertising code breach notice relates.
- 20
- (2) The Registrar must, before acting under subsection (1), give notice to the registered owner or the registered operator of the motor vehicle to which the advertising code breach relates—
- (a) advising the owner or operator of the Registrar's decision under that subsection; and
- 25
- (b) specifying the action that must be taken, and the period within which it must be taken, to avoid the Registrar acting under subsection (1); and
- (c) advising of the right to apply to the Tribunal for a review of the Registrar's decision.
- 30
- (3) If the Registrar is notified by Ad Standards that Ad Standards has withdrawn the advertising code breach notice relating to the motor vehicle—
- (a) the Registrar must inform the registered owner or the registered operator of the vehicle that the advertising code breach notice in relation to the vehicle has been withdrawn; and
- 35
- (b) the Registrar must not take action under subsection (1).
- (4) If, before the Registrar takes action under subsection (1), the Registrar is notified that material of an offensive nature is no longer displayed on the motor vehicle, the Registrar must not take action
- 40
- under subsection (1).

(5) If the registration of a motor vehicle is cancelled under this section, no part of any amount paid in respect of the registration of the vehicle is refundable.

(6) In this section—

5 *Ad Standards* means Ad Standards Limited (ACN 084 452 666);

*advertising code* means—

(a) the document entitled *AANA Code of Ethics* published by the Australian Association of National Advertisers (ACN 003 179 673), as in force from time to time; or

10 (b) a document that—

(i) constitutes a code of ethics or standard for advertising; and

(ii) is prescribed by the regulations to be an advertising code for the purposes of this section;

15 *advertising code breach determination* means a determination of the Board that material appearing on a specified motor vehicle breaches the advertising code;

*advertising code breach notice* means a notice—

20 (a) setting out the details of an advertising code breach determination; and

(b) specifying that the determination is final;

25 *Board* means the body appointed by Ad Standards to consider complaints from members of the public about advertising and determine whether the advertising breaches the provisions of the advertising code.

(7) This section does not apply in relation to any—

(a) electoral advertisement as defined in the *Electoral Act 1985*; or

30 (b) electoral material as defined in the *Local Government (Elections) Act 1999*; or

(c) electoral matter as defined in the *Commonwealth Electoral Act 1918* of the Commonwealth; or

(d) material of a prescribed kind.

### **23—Amendment of section 81A—Provisional licences**

Section 81A—after subsection (21) insert:

(22) For the purposes of this section—

- 5 (a) in determining the period for which a person has held a P1 licence or P2 licence or whether a person has completed a P1 qualifying period or a P2 qualifying period, any period during which the person's licence has been suspended under this Act or another law of this State is not to be taken into account; and
- 10 (b) in determining the period for which a person has held a non-provisional licence or non-provisional interstate licence, any period during which the person's licence has been suspended under this Act or another law of this State is not to be taken into account,

15 unless the suspension came into operation before the commencement of this subsection.

### **24—Amendment of section 81AB—Probationary licences**

Section 81AB—after subsection (7) insert:

- 20 (8) For the purposes of this section, in determining the period for which conditions imposed under this section have been effective on a licence, any period during which the licence has been suspended under this Act or another law of this State is not to be taken into account (unless the suspension came into operation before the commencement of this subsection).

### **25—Amendment of section 81E—Circumstances in which licence will be subject to mandatory alcohol interlock scheme conditions**

Section 81E(6)—after paragraph (b) insert:

- 30 (c) any period during which the person's licence was suspended under this Act or another law of this State (unless the suspension came into operation before the commencement of this paragraph).

### **26—Amendment of section 81G—Cessation of licence subject to mandatory alcohol interlock scheme conditions**

Section 81G—after its present contents (now to be designated as subsection (1)) insert:

- 35 (2) For the purposes of subsection (1)—
- (a) a person ceases to hold a licence if the licence is suspended under this Act or another law of this State;

- (b) in determining a period for which mandatory alcohol interlock scheme conditions have applied in relation to a person, any period during which the person's licence has been suspended under this Act or another law of this State is not to be taken into account (unless the suspension came into operation before the commencement of this subsection).

**27—Amendment of section 83—Consequences of certain orders or administrative actions outside State**

(1) Section 83(2)—delete subsection (2) and substitute:

(2) If the Registrar becomes aware that, under a law of another State or Territory of the Commonwealth, an order has been made or administrative action has been taken that results in—

- (a) a person's licence or other authority to drive a motor vehicle in that State or Territory being suspended; or  
(b) a person being disqualified from holding or obtaining a licence or other authority to drive a motor vehicle in that State or Territory,

the Registrar must refuse to issue a licence or learner's permit to the person during the period of suspension or disqualification.

(2) Section 83(4)—delete subsection (4) and substitute:

(4) If the Registrar becomes aware that, under a law of another country, an order has been made or administrative action has been taken that results in—

- (a) a person's licence or other authority to drive a motor vehicle in that country being suspended; or  
(b) a person being disqualified from holding or obtaining a licence or other authority to drive a motor vehicle in that country,

the Registrar may refuse to issue a licence or learner's permit to the person during the period of suspension or disqualification.

**28—Amendment of section 98MD—Only persons directed by police to proceed to or be present at scene of accident for purposes related to removal, wrecking or repair**

Section 98MD(2)—delete "complaint" and substitute:

information

**29—Amendment of section 98O—Persons who may ride in towtruck**

Section 98O(4)—delete "complaint" and substitute:

information

**30—Amendment of section 98Z—Review by Registrar**

Section 98Z(1)—after "Part 2" insert:

(other than section 71C)

**31—Amendment of section 98ZA—Review by Tribunal**

5 Section 98ZA(1)—delete subsection (1) and substitute:

(1) A person who—

(a) is aggrieved by a decision of the Registrar under  
section 71C; or

(b) is dissatisfied with a decision as confirmed, varied or  
10 substituted by the Registrar on a review under section 98Z,

may seek a review of the decision by the Tribunal under section 34  
of the *South Australian Civil and Administrative Tribunal Act 2013*.

**32—Amendment of section 137A—Obligation to provide evidence of design etc  
of motor vehicle**

15 Section 137A—delete "or ownership" and substitute:

, ownership or appearance

**33—Amendment of section 142—Facilitation of proof**

(1) Section 142—delete "a complaint" wherever occurring and substitute in each case:  
an information

20 (2) Section 142(d)—delete "the complaint" and substitute:  
the information

**34—Amendment of section 145—Regulations and fee notices**

Section 145—after subsection (3) insert:

(4) The Minister may prescribe fees for the purposes of this Act by fee  
25 notice under the *Legislation (Fees) Act 2019*.

**35—Amendment of Schedule 1—Evidence obtained by photographic detection  
device**

(1) Schedule 1, clause 2(1)—delete "7" and substitute:  
14

30 (2) Schedule 1, clause 2(2)—delete "7" and substitute:  
14

**Part 7—Amendment of *Rail Safety National Law (South  
Australia) Act 2012***

**36—Amendment of section 9—Interpretation**

35 Section 9(1), definition of *Metropolitan Adelaide*—delete the definition

**37—Amendment of section 12—Conduct of preliminary breath test or breath analysis**

Section 12(6)—after "medical practitioner" wherever occurring insert:

or registered nurse

5 **38—Amendment of section 13—Conduct of drug screening tests, oral fluid analyses and blood tests**

Section 13(7)—after "medical practitioner" wherever occurring insert:

or registered nurse

10 **39—Amendment of section 14—Breath analysis where drinking occurs after rail safety work is carried out**

Section 14(3)—delete the definition of *relevant period* and substitute:

*relevant period* means the period—

- 15
- (a) commencing when 3 hours have elapsed since the prescribed notifiable occurrence or the conduct of the defendant giving rise to the making of the requirement under section 126 of the Rail Safety National Law that the defendant submit to the breath analysis; and
  - (b) ending when the performance of the breath analysis commences.

**40—Amendment of section 15—Oral fluid analysis or blood test where consumption of alcohol or drug occurs after rail safety work is carried out**

20 Section 15(3)—delete the definition of *relevant period* and substitute:

*relevant period* means the period—

- 25
- (a) commencing when 3 hours have elapsed since the prescribed notifiable occurrence or conduct of the defendant giving rise to the making of the requirement under section 127 of the Rail Safety National Law that the defendant submit to the oral fluid analysis or blood test; and
  - (b) ending when the performance of the oral fluid analysis or blood test (as the case may be) commences.

30 **41—Amendment of section 16—Compulsory blood testing following a prescribed notifiable occurrence**

Section 16(1), (2), (3) and (4)—delete subsections (1) to (4) inclusive and substitute:

- 35
- (1) If a rail safety worker suffers an injury as a result of a prescribed notifiable occurrence and, within 8 hours after the prescribed notifiable occurrence, the worker attends at, or is admitted into, a hospital for the purposes of receiving treatment for that injury, it is the duty of the medical practitioner who attends the worker to ensure that, as soon as practicable, a sample of that worker's blood (despite the fact that the worker may be unconscious), is taken in accordance with this section.

- 5 (2) If a rail safety worker suffers an injury as a result of a prescribed notifiable occurrence and the worker is dead on arrival at the hospital, or dies before a sample of blood has been taken in accordance with this section and within 8 hours after admission to the hospital, it is the duty of the medical practitioner who, under Part 5 of the *Coroners Act 2003*, notifies the State Coroner or a police officer of the death—
- 10 (a) to ensure that a sample of blood from the body of the deceased is taken in accordance with this section; or
- (b) to notify the State Coroner as soon as practicable that, in view of the circumstances in which the death of the deceased occurred, a sample of blood should be taken from the body under this section.
- 15 (3) A sample of blood under subsection (1) or (2) may be taken by a medical practitioner or a registered nurse.
- (4) The State Coroner, on receiving a notification under subsection (2), may authorise and direct a pathologist to take a sample of blood from the body of the deceased in accordance with this section.

#### **42—Amendment of section 17—Processes relating to blood samples**

- 20 (1) Section 17—after "medical practitioner" wherever occurring insert:  
or registered nurse
- (2) Section 17(g)—delete paragraph (g) and substitute:
- 25 (g) on completion of an analysis of a sample—
- (i) the certificate of the medical practitioner or registered nurse by whom the sample was taken and the certificate of the analyst who performed or supervised the analysis must be retained on behalf of the medical practitioner or registered nurse by whom the sample was taken; and
- 30 (ii) copies of the certificates referred to in paragraph (g)(i) must be sent to—
- (A) the Regulator; and
- (B) if the sample was taken as a result of testing required by a police officer—the Commissioner of Police; and
- 35 (C) the person from whom the sample was taken or, if the person is dead, a relative or personal representative of the deceased;
- (3) Section 17(h)—delete "paragraph (g)(iii)" and substitute:  
paragraph (g)(ii)(C)



**43—Amendment of section 18—Processes relating to oral fluid samples**

(1) Section 18(g)—delete paragraph (g) and substitute:

(g) on completion of an analysis of a sample—

(i) the certificate of the medical practitioner or registered nurse by whom the sample was taken and the certificate of the analyst who performed or supervised the analysis must be retained on behalf of the medical practitioner or registered nurse by whom the sample was taken; and

(ii) copies of the certificates referred to in paragraph (g)(i) must be sent to—

(A) the Regulator; and

(B) if the sample was taken as a result of testing required by a police officer—the Commissioner of Police; and

(C) the person from whom the sample was taken or, if the person is dead, a relative or personal representative of the deceased;

(2) Section 18(h)—delete "paragraph (g)(iii)" and substitute:

paragraph (g)(ii)(C)

**44—Amendment of section 20—Evidence**

(1) Section 20(1)—delete "2 hours" and substitute:

3 hours

(2) Section 20(12)—after "medical practitioner" wherever occurring insert:

or registered nurse

(3) Section 20(13)—after "medical practitioner" insert:

, registered nurse

(4) Section 20(15)—delete "2 hours" and substitute:

3 hours

(5) Section 20(16)—after "analyst" second occurring insert:

, or a registered nurse and analyst,

**45—Repeal of section 21**

Section 21—delete the section

## **Part 8—Amendment of *Road Traffic Act 1961***

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

(1) Section 5(1)—after the definition of *mass limit* insert:

*medical practitioner* means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

(2) Section 5(1)—after the definition of *records* insert:

*registered nurse* means a person registered under the *Health Practitioner Regulation National Law*—

(a) to practise in the nursing profession as a nurse (other than as a student); and

(b) in the registered nurses division of that profession;

### **47—Amendment of section 22—Proof of lawful installation etc of traffic control devices**

Section 22(1)—delete "complaint" wherever occurring and substitute:  
information

### **48—Amendment of section 47D—Payment by convicted person of costs incidental to apprehension etc**

(1) Section 47D(1)—delete "complaint" and substitute:

information

(2) Section 47D(1)—delete "complainant" wherever occurring and substitute in each case:

informant

(3) Section 47D(2)—delete "complainant" and substitute:

informant

### **49—Amendment of section 47E—Police may require alcotest or breath analysis**

(1) Section 47E(4a)—after "medical practitioner" wherever occurring insert:

or registered nurse

(2) Section 47E(5a)(b)(ii)—after "medical practitioner" insert:

or registered nurse

### **50—Amendment of section 47EAA—Police may require drug screening test, oral fluid analysis and blood test**

(1) Section 47EAA(11)—after "medical practitioner" wherever occurring insert:

or registered nurse

- (2) Section 47EAA(14)(b)(ii)—after "medical practitioner" insert:  
or registered nurse

**51—Amendment of section 47GA—Breath analysis where drinking occurs after driving**

5 Section 47GA(3), definition of *relevant period*—delete the definition and substitute:

*relevant period* means the period—

- (a) commencing when 3 hours have elapsed since the conduct of the defendant giving rise to the making of the requirement under section 47E(1) that the defendant submit to the breath analysis; and  
10 (b) ending when the performance of the breath analysis commences.

**52—Amendment of section 47GB—Oral fluid analysis or blood test where consumption of prescribed drug occurs after driving**

- (1) Section 47GB(2)(c)—after "discharged the duties" insert:  
required under section 43 and any other duties

15 (2) Section 47GB(3), definition of *relevant period*—delete the definition and substitute:

*relevant period* means the period—

- (a) commencing when 3 hours have elapsed since the conduct of the defendant giving rise to the making of the requirement referred to in section 47EAA that the defendant submit to the alcotest or breath analysis; and  
20 (b) ending when the performance of the oral fluid analysis or blood test (as the case may be) commences.

**53—Amendment of section 47I—Compulsory blood tests**

Section 47I(1), (4), (5) and (6)—delete subsections (1) to (6) inclusive and substitute:

- 25 (1) If a motor vehicle is involved in an accident and, within 8 hours after the accident, a person apparently of or above the age of 10 years who suffered injury in the accident attends at, or is admitted into, a hospital for the purpose of receiving treatment for that injury, it is, subject to Schedule 1, the duty of the medical practitioner by whom  
30 that patient is attended to ensure that, as soon as practicable, a sample of that patient's blood (despite the fact that the patient may be unconscious), is taken in accordance with this section.
- (2) If a motor vehicle is involved in an accident and a person apparently of or above the age of 10 years who suffered injury in the accident is  
35 dead on arrival at the hospital, or dies before a sample of blood has been taken in accordance with this section and within 8 hours after admission to the hospital, it is the duty of the medical practitioner who, under Part 5 of the *Coroners Act 2003*, notifies the State Coroner or a police officer of the death—
- 40 (a) to ensure that a sample of blood from the body of the deceased is taken in accordance with this section; or

(b) to notify the State Coroner as soon as practicable that, in view of the circumstances in which the death of the deceased occurred, a sample of blood should be taken from the body under this section.

- 5 (3) A sample of blood under subsection (1) or (2) may be taken by a medical practitioner or a registered nurse.
- (4) The State Coroner, on receiving a notification under subsection (2), may authorise and direct a pathologist to take a sample of blood from the body of the deceased in accordance with this section.

10 **54—Amendment of section 47K—Evidence**

(1) Section 47K(1)—delete "2 hours" and substitute:

3 hours

(2) Section 47K(1ab)(b)—delete "2 hours" and substitute:

3 hours

15 (3) Section 47K(8)—after "medical practitioner" wherever occurring insert:  
or registered nurse

(4) Section 47K(11)—after "medical practitioner" insert:  
, registered nurse

(5) Section 47K(13)—delete "2 hours" and substitute:

20 3 hours

(6) Section 47K(16)—after "analyst," second occurring insert:  
or a registered nurse and analyst,

(7) Section 47K(17)(b)—delete "complainant or"

(8) Section 47K(18)(b)—delete "subsection (3)(b)(ii)" and substitute:  
25 subsection (3)(b)(i)

**55—Amendment of section 53B—Sale and seizure of radar detectors, jammers and similar devices**

Section 53B(5)—delete "complaint" and substitute:  
information

30 **56—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices**

(1) Section 79B(2)(b)—delete paragraph (b) and substitute:

(b) that a nomination made in a manner and form approved by the Minister and stating the name and address of some person other than the owner who was driving the vehicle at the time has been given—

35 (i) by the owner; or

(ii) if the owner is a body corporate—by an officer of the body corporate acting with the authority of the body corporate,  
to the Commissioner of Police—

(iii) in the case of an expiation notice—within 28 days after an  
expiation notice in respect of the offence is given to the  
owner; or

(iv) in the case of an expiation reminder notice—within 14 days  
after an expiation reminder notice in respect of the offence is  
given to the owner; or

(v) if an expiation notice is not given—within 28 days after a  
summons in respect of the offence is given to the owner,  
(or within such longer period as the Commissioner may allow if  
satisfied that exceptional circumstances exist in the particular case);  
or

(2) Section 79B(5)(b)—delete "complaint" and substitute:  
information

(3) Section 79B(6a) and (6b)—delete subsections (6a) and (6b) and substitute:

(6a) If—

(a) an expiation notice for a prescribed offence is given to a  
person named as the alleged driver in a nomination under  
this section; or

(b) proceedings for a prescribed offence are commenced against  
a person named as the alleged driver in a nomination under  
this section,

the notice or summons, as the case may be, must be accompanied by  
a notice setting out particulars of the nomination that named the  
person as the alleged driver.

(6b) The particulars of the nomination provided to the person named as  
the alleged driver must not include the address of the person who  
made the nomination.

(4) Section 79B—after subsection (11) insert:

(12) The Commissioner of Police may require a person who makes a  
nomination under this section to verify the information contained in  
the nomination by statutory declaration.

(13) If the Commissioner of Police believes that a nomination under this  
section has been made in error, the Commissioner may permit the  
nomination to be withdrawn and a new nomination to be made.

(14) A person must not, in making a nomination for the purposes of this  
section, make a statement that is false or misleading in a material  
particular.

Maximum penalty: \$25 000 or imprisonment for 4 years.

**57—Amendment of section 110C—Offences**

Section 110C(8)—delete "prescribed circumstances" and substitute:  
circumstances prescribed by regulation

**58—Amendment of section 170—Disqualification where vehicle used for criminal purposes**

Section 170—delete "or complaint"

**59—Amendment of section 172—Removal of disqualification**

Section 172(1)—delete "complaint" and substitute:  
information

**60—Amendment of section 174A—Liability of vehicle owners and expiation of certain offences**

(1) Section 174A—delete "statutory declaration" wherever occurring and substitute in each case:

nomination

(2) Section 174A—after subsection (4) insert:

(4a) If the council or officer specified in the notice under subsection (4) believes that a nomination made in response to the notice has been made in error, the council or officer (as the case may be) may permit the nomination to be withdrawn and a new nomination to be made.

(3) Section 174A(5)—delete "complainant" wherever occurring and substitute in each case:

informant

(4) Section 174A—after subsection (5) insert:

(5a) A council or officer to whom a nomination is provided in response to a notice under subsection (4) or (5) may require the person who made the nomination to verify the information contained in the nomination by statutory declaration.

(5b) If the informant believes that a nomination made in response to the notice under subsection (5) has been made in error, the informant may permit the nomination to be withdrawn and a new nomination to be made.

(5) Section 174A(7)(b)—delete "complainant" and substitute:

informant

(6) Section 174A(8)—delete "declaration" and substitute:

nomination

(7) Section 174A(10)—delete "declaration" second occurring and substitute:

nomination

(8) Section 174A(11)—delete "complaint" and substitute:  
information

(9) Section 174A—after subsection (11) insert:

(12) A nomination under this section must be made in a manner and form approved by the Minister.

(13) A person must not, in making a nomination for the purposes of this section, make a statement that is false or misleading in a material particular.

Maximum penalty: \$25 000 or imprisonment for 4 years.

### **61—Amendment of section 174E—Presumption as to commencement of proceedings**

(1) Section 174E—delete "complaint" wherever occurring and substitute in each case:  
information

(2) Section 174E—delete "complainant" and substitute:  
informant

### **62—Amendment of section 175—Evidence**

(1) Section 175(1)—delete "a complaint" and substitute:  
an information

(2) Section 175(2)—delete "complaint" and substitute:  
information

### **63—Amendment of section 176—Regulations, rules and fee notices**

(1) Section 176(1a)(c)—delete "parking ticket-vending machines or parking meters" and substitute:  
parking ticket-vending machines, parking meters, electronic devices  
(including mobile phones, tablets or any other device of a prescribed kind) or  
by any electronic method determined by the council

(2) Section 176—after subsection (8) insert:

(9) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.

### **64—Amendment of Schedule 1—Oral fluid and blood sample processes**

(1) Schedule 1, clause 1, definitions of *Metropolitan Adelaide* and *registered nurse*—delete the definitions

(2) Schedule 1, clause 2—after "medical practitioner" wherever occurring insert:  
or registered nurse

(3) Schedule 1, clause 2(g)—delete paragraph (g) and substitute:  
(g) on completion of an analysis of a sample—

(i) the certificate of the medical practitioner or registered nurse by whom the sample was taken and the certificate of the analyst who performed or supervised the analysis must be retained on behalf of—

5

(A) the Minister; and

(B) the medical practitioner or registered nurse by whom the sample was taken; and

(ii) copies of the certificates referred to in paragraph (g)(i) must be sent to—

10

(A) the Commissioner of Police; and

(B) the person from whom the sample was taken or, if the person is dead, a relative or personal representative of the deceased;

(4) Schedule 1, clause 2(h)—delete "paragraph (g)(iii)" and substitute:

15

paragraph (g)(ii)(B)

(5) Schedule 1, clause 3—delete the clause

(6) Schedule 1, clause 6(2)—delete subclause (2) and substitute:

20

(2) A medical practitioner or registered nurse must not take a sample of a person's blood under this Act if, in the opinion of the medical practitioner or registered nurse, it would be injurious to the medical condition of the person to do so.

(7) Schedule 1, clause 6(3)—after "medical practitioner" wherever occurring insert:

or registered nurse

25

(8) Schedule 1, clause 7(g)—delete "sent to the Minister or retained on behalf of the Minister and, in either event," and substitute:

retained on behalf of the Minister and

(9) Schedule 1, clause 8(1) and (2)—delete subclauses (1) and (2) and substitute:

30

(1) A sample of oral fluid or blood taken under section 47E, 47EAA or 47I (and any other forensic material taken incidentally during a drug screening test, oral fluid analysis or blood test) must not be used except—

35

(a) for a purpose contemplated by this Act (including for the purpose of civil proceedings of a kind referred to in subclause (2)(b)); or

(b) for research for prescribed purposes relating to drugs (whether prescribed drugs (as defined in section 47A) or other drugs) present in the oral fluid or blood of drivers, provided that—



- 5
- (i) the research may only be released, disclosed or used in a manner such that personal information from any sample used in the research is de-identified so that the information is no longer about an identifiable person; and
  - (ii) DNA analysis of a sample is not conducted.
- 10
- (2) The results of a drug screening test, oral fluid analysis or blood test under Part 3 Division 5, an admission or statement made by a person relating to such a drug screening test, oral fluid analysis or blood test, or any evidence taken in proceedings relating to such a drug screening test, oral fluid analysis or blood test (or transcript of such evidence) will not be admissible in evidence against the person who submitted to the drug screening test, oral fluid analysis or blood test in any proceedings other than—
- 15
- (a) proceedings for—
    - (i) an offence against this Act; or
    - (ii) an offence against the *Motor Vehicles Act 1959*; or
    - (iii) a driving-related offence; or
    - (iv) an offence against the *Controlled Substances Act 1984*; or
  - (b) if the test or analysis occurred in connection with the person's involvement in an accident—civil proceedings in connection with death or bodily injury caused by or arising out of the use of a motor vehicle involved in the accident (including proceedings under section 116 or 124A of the *Motor Vehicles Act 1959* for the recovery from the person of money paid or costs incurred by the nominal defendant or an insurer).
- 20
- 25