

House of Assembly—No 170

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

South Australia

Driver Training and Assessment Industry Bill 2021

A BILL FOR

An Act to provide for the accreditation of driver trainer-examiners, to make related amendments to the *Motor Vehicles Act 1959* and for other purposes.

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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 *Driver Training and Assessment Industry Act 2021*.

5 2—Commencement

- (1) This Act comes 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.

3—Objects of Act

The objects of this Act are—

- 10 (a) to provide for the accreditation of persons who act as driver trainer-examiners for fee or reward; and
- (b) to ensure that driver trainer-examiners meet minimum standards of competency in driver training and assessment, probity and character in order to protect the community and benefit the driver training and assessment industry; and
- 15 (c) to provide clear and transparent mechanisms for the regulation of driver trainer-examiners, in particular for the purposes of minimising the potential for inappropriate behaviour and corruption in the driver training and assessment industry; and
- 20 (d) to ensure that all reasonable and practicable measures are implemented to improve road safety standards for learner drivers; and
- (e) to promote the safety and protection of learner drivers.

4—Interpretation

- (1) In this Act, unless the contrary intention appears—

- 25 **accreditation** means a driver trainer-examiner accreditation;
- accreditation holder** means the holder of a driver trainer-examiner accreditation;
- auditor**—see section 13(1)(a);
- Australian jurisdiction** means—
 - 30 (a) the Commonwealth; or
 - (b) a State or Territory of the Commonwealth;
- authorised officer**—see section 25;
- close associate**—see subsection (4);
- code of practice** means a code of practice published by the Registrar under section 20;
- contravene** includes failure to comply with;

controlled substance means a controlled drug, controlled plant or controlled precursor as defined in the *Controlled Substances Act 1984*;

criminal organisation means a criminal organisation as defined in Part 3B Division 1 of the *Criminal Law Consolidation Act 1935*;

5 **disciplinary action** means any action taken by the Registrar against a person under section 21;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

10 **driver's licence** means a licence issued under the *Motor Vehicles Act 1959* authorising the driving of motor vehicles;

driver trainer-examiner accreditation means an accreditation issued under Part 2;

fit and proper person—see section 5;

15 **learner driver** means a person who is engaged in learning to drive a motor vehicle to obtain a driver's licence or have a driver's licence assigned a particular classification under the *Motor Vehicles Act 1959*;

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

motor vehicle has the same meaning as in the *Motor Vehicles Act 1959*;

20 **participant**, in a criminal organisation, means—

- (a) if the organisation is a body corporate—a director or officer of the body corporate; or
- (b) a person who (whether by words or conduct, or in any other way) asserts, declares or advertises their membership of, or association with, the
- 25 organisation; or
- (c) a person who attends more than 1 meeting or gathering of persons who participate in the affairs of the organisation in any way; or
- (d) a person who takes part in the affairs of the organisation in any other way,

but does not include a lawyer acting in a professional capacity;

30 **photograph** includes an image produced from an electronic record made by a digital or other electronic camera;

place includes any premises;

practical driving test has the same meaning as in the *Motor Vehicles Act 1959*;

35 **premises** means any land, building or structure whether fixed or moveable, or part of any land, building or structure;

records means any documents or records, whether in paper, electronic or any other form;

Registrar means the person holding or acting in the office of Registrar of Motor Vehicles under the *Motor Vehicles Act 1959*;

relative means a person who is—

- (a) a spouse or domestic partner; or
- (b) a parent; or
- (c) a step-parent; or
- 5 (d) a sibling or step-sibling; or
- (e) a child, step-child or adopted child;

relevant offence means—

- (a) a serious offence; or
- (b) an offence, or offence of a class, prescribed by the regulations;

10 **serious offence** means—

- (a) an indictable offence involving dishonesty, fraud or violence; or
- (b) an indictable offence involving possession, or cultivation of, or trafficking in, a controlled substance; or
- (c) any other indictable offence under this Act; or
- 15 (d) an indictable offence under the law of another jurisdiction involving—
 - (i) dishonesty, fraud or violence; or
 - (ii) possession, or cultivation of, or trafficking in, a controlled substance;

spouse—a person is the spouse of another if they are legally married;

20 **Tribunal** means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

unconditional licence has the same meaning as in the *Motor Vehicles Act 1959*;

vehicle has the same meaning as in the *Road Traffic Act 1961*.

- (2) A reference in this Act to **drivers** or the **driving of motor vehicles** includes a reference to riders or the riding of motor vehicles, unless the context otherwise requires.
- 25 (3) For the purposes of this Act, a person **acts as a driver trainer-examiner** if the person—
 - (a) teaches another person to drive a motor vehicle; or
 - (b) conducts a practical driving test or any other test, assessment or examination to enable another person to—
 - 30 (i) obtain a driver's licence; or
 - (ii) have the person's driver's licence assigned a particular classification for the purposes of the *Motor Vehicles Act 1959*.
- (4) For the purposes of this Act, 2 persons are **close associates** if—
 - (a) 1 is a relative of the other; or
 - 35 (b) they are in partnership; or
 - (c) they are related bodies corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth); or

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- (d) 1 is a body corporate and the other is a director, manager, secretary or public officer of the body corporate; or
- (e) 1 is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
- 5 (f) 1 is a trustee of a trust and the other is a beneficiary of the trust or, in the case of a discretionary trust, an object of the trust; or
- (g) 1 has a right to participate, or participates, (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
- 10 (h) 1 is in a position to exercise, or exercises, control or significant influence over the conduct of the other.

5—Fit and proper person

- (1) In determining whether a person is a *fit and proper person* to hold accreditation under this Act, regard may be had to—
- 15 (a) the character and reputation of the person, including the person's honesty, integrity and professionalism; and
- (b) whether the person is a member of, or a participant in, a criminal organisation; and
- 20 (c) whether the person is a close associate of a person who is a member of a criminal organisation or is subject to a control order under the *Serious and Organised Crime (Control) Act 2008*; and
- (d) whether the person is the subject of an adverse security assessment within the meaning of the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth; and
- 25 (e) whether the person previously held—
- (i) a motor driving instructors' licence under Part 3A of the *Motor Vehicles Act 1959* (as in force immediately before its repeal by this Act) and whether that licence was at any time the subject of a suspension or cancellation; or
- 30 (ii) an appointment as an authorised examiner under the *Motor Vehicles Act 1959* and whether that appointment was at any time the subject of a suspension or cancellation.
- (2) A person is not a fit and proper person to hold accreditation under this Act if—
- (a) the person has been found guilty or convicted of a relevant offence; or
- 35 (b) the person is prohibited from working with children under section 15 of the *Child Safety (Prohibited Persons) Act 2016*.

Part 2—Accreditation of driver trainer-examiners

Division 1—Requirement to hold accreditation

6—Requirement to hold accreditation

- 5 (1) A person must not, for fee or reward, act, or offer to act, as a driver trainer-examiner unless the person holds a driver trainer-examiner accreditation.

Maximum penalty: \$20 000.

- (2) Subsection (1) does not apply to—

10 (a) a person who teaches another to drive a motor vehicle if both the teacher and the learner are employed by the same employer and are acting in the ordinary course of their employment; or

(b) a person, or class of persons, specified by the Registrar by notice in the Gazette.

- (3) A person who does not hold an accreditation must not—

15 (a) hold themselves out as, or pretend to be, the holder of an accreditation; or

(b) use any name, title or description likely to cause any person reasonably to believe that the person holds an accreditation; or

(c) use a prescribed word, or its derivatives, to describe themselves or a service that the person provides.

Maximum penalty: \$20 000.

Division 2—Application for grant or renewal of accreditation

7—Application for accreditation

- 20 (1) An application for a grant or renewal of a driver trainer-examiner accreditation must—

25 (a) be made in a manner and form determined by the Registrar; and

(b) be accompanied by the prescribed fee.

- (2) The Registrar may, before determining an application for a grant or renewal of an accreditation, require the applicant—

30 (a) to provide evidence of the applicant's identity; and

(b) to provide such further information, documents or other material as the Registrar may require to determine the application; and

(c) to comply with such other requirements as may be prescribed by the regulations.

- (3) The applicant may, with the approval of the Registrar or at the request of the Registrar, vary the application at any time before the application is determined.

8—Grant or renewal of accreditation

- (1) Subject to this Act, the Registrar may, on application by a person, grant or renew a driver trainer-examiner accreditation.
- 5 (2) The Registrar must not grant or renew an accreditation unless the Registrar is satisfied that—
- (a) the applicant is a fit and proper person to hold the accreditation; and
 - (b) the applicant is medically fit to act as a driver trainer-examiner; and
 - (c) the applicant holds an unconditional licence and has, except in circumstances determined by the Registrar, held such licence for a minimum continuous
10 period determined by the Registrar; and
 - (d) the applicant—
 - (i) holds a qualification determined by the Registrar; and
 - (ii) has satisfactorily completed a course of training recognised by the Registrar and conducted by an approved provider; and
 - 15 (e) the applicant complies with any other prescribed requirements.
- (3) The Registrar must not grant or renew an accreditation unless the applicant has paid the prescribed fee for the grant or renewal of the accreditation.
- (4) Before granting or renewing an accreditation, the Registrar must have regard to—
- 20 (a) the ability of the applicant for accreditation to act as a driver trainer-examiner; and
 - (b) whether the applicant—
 - (i) has sufficient responsibility, skills and aptitude to act as a driver
25 trainer-examiner; and
 - (ii) has ever been subject to disciplinary action (whether before or after the commencement of this Act) as an accreditation holder under this Act or as the holder of a relevant authorisation; and
 - (iii) has attended training or met other training or education requirements determined by the Registrar; and
 - (iv) is proficient to act as a driver trainer-examiner; and
 - 30 (c) the driving history of the applicant, including, but not limited to, whether the applicant has ever been disqualified from holding or obtaining a driver's licence; and
 - (d) the safety of learner drivers and the public; and
 - (e) any other matter prescribed by the regulations.
- 35 (5) The Registrar may, for the purpose of determining whether a person is medically fit to act as a driver trainer-examiner, require the person to provide medical evidence or undergo a medical assessment by a medical practitioner or other health professional of a class specified by the Registrar.

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Part 2—Accreditation of driver trainer-examiners

Division 2—Application for grant or renewal of accreditation

(6) The Registrar may require an applicant for accreditation to complete a course or qualification determined by the Registrar, or otherwise establish to the satisfaction of the Registrar that the applicant has the relevant skills and qualifications having regard to the activities authorised under the accreditation.

5 (7) The cost of—

(a) any course or qualification that the applicant is required to complete; or

(b) any medical assessment and associated medical report,

is to be borne by the applicant for accreditation.

(8) The regulations may—

10 (a) specify minimum requirements that must be satisfied before a person may hold an accreditation; and

(b) provide a scheme to facilitate the ongoing observance of minimum standards by accreditation holders; and

15 (c) specify the training and examination material that must be provided by accreditation holders to learner drivers and the methods of training and assessment that must be used by accreditation holders.

(9) The Registrar may refuse to grant or renew an accreditation if the Registrar determines that it would not be in the public interest to grant or renew the accreditation.

(10) The Registrar may, by notice in the Gazette—

20 (a) approve a person, or a person of a prescribed class, to conduct training courses for the purposes of subsection (2)(d)(ii); and

(b) vary or revoke an approval under paragraph (a).

(11) In this section—

relevant authorisation means—

25 (a) an appointment as an authorised examiner under section 5 of the *Motor Vehicles Act 1959*; or

(b) a motor driving instructor's licence under Part 3A of the *Motor Vehicles Act 1959* (as in force immediately before its repeal by this Act).

Division 3—General provisions

30 9—Authority conferred by accreditation

An accreditation authorises the person named in the accreditation to act as a driver trainer-examiner for fee or reward subject to, and in accordance with, the terms and conditions of the accreditation.

10—Class of accreditation

35 The Registrar may assign a class to each accreditation issued under this Part in accordance with a scheme for the classification of accreditations determined by the Registrar.

11—Term of accreditation

- (1) Subject to this Act, an accreditation remains in force for the period specified in the accreditation on its grant or renewal.
- (2) An accreditation takes effect, on grant or renewal, from the date specified in the accreditation for that purpose.

12—Conditions of accreditation

- (1) An accreditation may be subject to such conditions as the Registrar thinks fit and specifies in the accreditation.
- (2) Without limiting the effect of subsection (1), the conditions of an accreditation may include—
 - (a) limitations on the types or classes of motor vehicles and requirements for standards for motor vehicles that may be used by the accreditation holder under the accreditation; and
 - (b) limitations on the activities that may be undertaken by the accreditation holder under the accreditation; and
 - (c) a requirement to provide the Registrar with such information, documents or material that the Registrar may determine, including the annual provision of a criminal history check.
- (3) The Registrar may at any time, by written notice given to an accreditation holder—
 - (a) vary or revoke a condition of the accreditation; or
 - (b) impose a further condition on the accreditation.
- (4) An accreditation holder must not contravene a condition of the accreditation.
 Maximum penalty: \$15 000.
 Expiation fee: \$1 200.

13—Audits

- (1) It is a condition of every accreditation that the accreditation holder must—
 - (a) allow a person authorised by the Registrar for the purpose (an *auditor*) to audit the activities of the accreditation holder authorised by the accreditation; and
 - (b) adequately address any matter identified by an auditor during the course of an audit under this section.
- (2) An audit may be conducted by the auditor doing any 1 or more of the following:
 - (a) analysing activities, processes and procedures that have been employed by an accreditation holder to ensure compliance with the requirements under this Act and the conditions of their accreditation;
 - (b) being present in a motor vehicle while the accreditation holder teaches another person to drive the vehicle or conducts a test;
 - (c) examining any vehicle, equipment or other device used by the accreditation holder under the accreditation;

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(d) examining random or selective samples of documents or other records to check on processes and procedures or to ascertain any other relevant matter;

(e) conducting interviews of persons who may be able to provide information relevant to the audit;

5 (f) taking such other steps or making such other inquiries as the auditor thinks fit.

(3) An accreditation holder must, at any time determined by the Registrar, provide, in a manner determined by the Registrar, evidence of compliance with the condition of their accreditation applying under this section (as relevant).

10 (4) If—

(a) the conduct of a test by an accreditation holder is audited under this section; and

(b) the auditor disagrees with the decision of the accreditation holder as to whether the person who undertook the test passed or failed the test,

15 the auditor must advise the Registrar whether, in the opinion of the auditor, the person passed or failed the test.

(5) If, during an audit, the auditor identifies any contravention or failure on the part of the accreditation holder, in undertaking activities authorised by the accreditation, to comply with any requirements under this Act or any conditions of their accreditation in a significant respect or to a significant degree, the auditor must report that contravention or failure to the Registrar.

(6) If the Registrar receives advice or a report from an auditor under this section, the Registrar may, after taking such action as the Registrar thinks fit, do 1 or more of the following:

25 (a) make recommendations to the accreditation holder;

(b) give directions to the accreditation holder to rectify any matter or take any other action (including, for example, acting under section 12(3));

(c) take disciplinary action against the accreditation holder.

(7) If—

30 (a) the Registrar makes a recommendation under subregulation (6); and

(b) the Registrar subsequently considers that the accreditation holder has not, within a period specified by the Registrar, taken appropriate action in view of the recommendation,

the Registrar may give directions to the accreditation holder.

35 (8) It is a condition of every accreditation that the accreditation holder must not contravene a direction given to the accreditation holder under this section.

(9) In this section—

test means—

(a) a practical driving test; or

40 (b) any other assessment or examination.

14—Issue of duplicate accreditation

On application by an accreditation holder and payment of the prescribed fee, the Registrar may, if satisfied that the accreditation has been lost, stolen or destroyed, issue to the holder a duplicate accreditation.

15—Medical assessment of accreditation holder

(1) The Registrar may, at any time, for the purpose of determining whether an accreditation holder is medically fit to hold an accreditation, direct the accreditation holder to provide medical evidence or undergo a medical or health assessment by a medical practitioner or other health professional of a class specified by the Registrar.

(2) If—

(a) an accreditation holder contravenes a direction of the Registrar under this section; or

(b) the Registrar is satisfied—

(i) after considering the results of an assessment or evidence required under this section; or

(ii) on the basis of information furnished to the Registrar by a medical practitioner or other health professional or any other evidence received by the Registrar,

that an accreditation holder is not medically fit to hold an accreditation,

the Registrar may—

(c) cancel the accreditation holder's accreditation; or

(d) suspend the accreditation holder's accreditation for such period as the Registrar considers necessary in the circumstances of the case, or until the person satisfies the Registrar, in such a manner as the Registrar directs, that the person is medically fit to drive a motor vehicle and hold an accreditation under this section.

(3) The cost of any medical or health assessment and associated reports is to be borne by the accreditation holder who has been the subject of a direction by the Registrar under subsection (1).

16—Standards for the use, installation and maintenance of devices and other equipment

(1) The Registrar may, by notice in the Gazette, publish standards (*Registrar standards*) setting out requirements to be observed by accreditation holders relating to—

(a) the installation and use of 1 or more designated devices in a motor vehicle used by an accreditation holder in the provision of services under the accreditation; and

(b) the downloading, uploading and storage of information and material on, from or in connection with designated devices, including in relation to the use of specified software or device-based or internet enabled applications; and

(c) the provision of information or material (including audio or visual information or material) to the Registrar; and

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- (d) the design, service, maintenance and testing of designated devices and any associated equipment or software; and
- (e) any other matter related to designated devices and any associated equipment or software.

5 (2) The Registrar standards may—

- (a) be of general or limited application; and
- (b) provide that a matter or thing in respect of which the standards apply is to be determined according to the discretion of the Registrar, or any other person determined or approved by the Registrar; and
- 10 (c) provide for exemptions to be granted (with or without conditions) from the standards of a specified provision of the standards by the Registrar, or any other person authorised by the Registrar; and
- (d) apply, adopt or incorporate, with or without modification, any code, standard or other document prepared or approved by a body or authority referred to in
15 the Registrar standards as in force from time to time or as in force at a specified time.

(3) The Registrar standards may—

- (a) declare whether contravention or failure to comply with a provision of the code is a category A or B offence for the purpose of subsection (8); and
- 20 (b) if the offence is to be expiable—declare whether the offence is a category A or B expiable offence for the purposes of that subsection.

(4) The Registrar may, by subsequent notice in the Gazette, vary or revoke the Registrar standards.

25 (5) A notice published in the Gazette under this section may come into operation on the day on which it is published or on a later day or days specified in the notice.

(6) If a code, standard or other document is applied, adopted or incorporated in the Registrar standards—

- (a) a copy of the code, standard or other document must be published on a website determined by the Registrar; and
- 30 (b) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document apparently certified by or on behalf of the Registrar as a true copy of the code, standard or other document.

35 (7) Information or material (including audio or visual recordings) derived from the use of a designated device and provided to the Registrar in accordance with this Act—

- (a) is the property of the Crown; and
- (b) may be used in evidence in civil or criminal proceedings against any person (including the person who provided the information or material).

40 (8) A person who fails to comply with the Registrar standards is guilty of an offence.
Maximum penalty:

- (a) in the case of a category A offence—\$10 000;

(b) in the case of a category B offence—\$2 000.

Expiation fee: \$2 000:

(a) in the case of a category A offence—\$2 000;

(b) in the case of a category B offence—\$500.

5 (9) No civil or criminal liability attaches to the Crown or the Registrar in respect of any act or omission in connection with—

(a) the exercise or discharge, or purported exercise or discharge, of a power or function under this section (including under the Registrar standards); or

10 (b) the carrying out, or purported carrying out, of any requirement given or imposed, or purportedly given or imposed, under the Registrar standards.

(10) Sections 10 (other than subsection (1)) and 10A of the *Subordinate Legislation Act 1978* apply to a notice published under subsection (1) or (4) (and a reference in those provisions to a regulation will be taken to be a reference to a notice published under subsection (1) or (4) (as the case requires)).

15 (11) In this section—

designated device means a camera, GPS tracking device or any other device, equipment or vehicle fitting determined (from time to time) by the Registrar by notice in the Gazette.

17—Requirement to produce accreditation

20 The holder of a driver trainer-examiner accreditation must—

(a) immediately produce the accreditation when requested to do so by a police officer or authorised officer; and

25 (b) at all times when seated next to a learner driver in a vehicle being driven by the learner driver, display the accreditation in accordance with any requirements prescribed by the regulations.

Maximum penalty: \$5 000.

Expiation fee: \$500.

18—Surrender of accreditation

(1) An accreditation holder may surrender their accreditation to the Registrar.

30 (2) On the surrender of an accreditation, the accreditation ceases to have any force or effect.

19—Requirement to return accreditation on request

35 An accreditation holder must, at the request of the Registrar, a court or a tribunal and within the period stated by the Registrar, court or tribunal (as the case requires), return the accreditation to the Registrar to enable the accreditation to be replaced, or altered to record disciplinary action under this Act.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Division 4—Code of practice

20—Code of practice for accreditation holders

- (1) For the purposes of this Act, the Registrar may, by notice in the Gazette, publish a code of practice to be observed by accreditation holders.
- 5 (2) Without limiting the matters that may be included in a code of practice, a code of practice may include measures that can reasonably be considered appropriate and adapted to further the objects of this Act.
- (3) A code of practice may—
- 10 (a) be of general or limited application; and
 - (b) vary in operation according to factors stated in the code; and
 - (c) provide for the granting by the Registrar of exemptions (conditional or unconditional) from specified provisions of the code; and
 - 15 (d) apply, adopt or incorporate, with or without modification, any code, standard or other document prepared or approved by a body or authority referred to in the code of practice as in force from time to time or as in force at a specified time.
- (4) If a code, standard or other document is applied, adopted or incorporated in a code of practice—
- 20 (a) a copy of the code, standard or other document must be published on a website determined by the Registrar; and
 - (b) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document apparently certified by or on behalf of the Registrar as a true copy of the code, standard or other document.
- 25 (5) The Registrar may, by subsequent notice in the Gazette, vary or revoke a code of practice.
- (6) A notice published in the Gazette under this section may come into operation on the day on which it is published or on a later day or days specified in the notice.
- 30 (7) It is a condition of every accreditation that the accreditation holder must not contravene a code of practice.

Division 5—Disciplinary action

21—Registrar may take disciplinary action

- (1) If the Registrar is satisfied that there is proper cause for disciplinary action against an accreditation holder, the Registrar may—
- 35 (a) suspend the accreditation; or
 - (b) cancel the accreditation; or
 - (c) vary or revoke a condition of the accreditation; or
 - (d) impose a further condition on the accreditation.

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- (2) If the Registrar cancels a person's accreditation under subsection (1), the Registrar may also disqualify the person from obtaining accreditation—
- (a) permanently; or
 - (b) for a specified period; or
 - 5 (c) until the fulfilment of specified conditions; or
 - (d) until further order of the Registrar.
- (3) There is proper cause for disciplinary action against an accreditation holder if the Registrar is satisfied that—
- (a) the accreditation was obtained improperly; or
 - 10 (b) the accreditation holder is no longer a fit and proper person to hold the accreditation; or
 - (c) the accreditation holder—
 - (i) has ceased to engage in the activities authorised by the accreditation; or
 - 15 (ii) has failed to pay any fee or charge payable to the Registrar within the required time; or
 - (iii) has contravened this Act or any other Act or law (including an Act or law of another Australian jurisdiction), that, in the opinion of the Registrar, justifies action to be taken under this section; or
 - 20 (iv) is charged with a prescribed offence; or
 - (v) has failed to meet or maintain any training or education requirements determined by the Registrar; or
 - (vi) has failed to maintain insurance to a level or amount determined by the Registrar; or
 - 25 (vii) has failed to comply with a condition of the accreditation.
- (4) A suspension may be imposed for a specified period, or until the fulfilment of specified conditions, or until further order of the Registrar.
- (5) A suspension may be expressed to have effect at a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.
- 30 (6) Before the Registrar acts under this section, the Registrar must—
- (a) give the accreditation holder notice of the proposed disciplinary action specifying the reasons for the proposed action; and
 - (b) allow the accreditation holder at least 14 days within which to make submissions to the Registrar in relation to the proposed action.
- 35 (7) Despite subsection (6), the Registrar may immediately suspend an accreditation if the Registrar considers that it is necessary to do so in the public interest.
- (8) If the Registrar suspends an accreditation under subsection (7), the Registrar must give the accreditation holder notice of the suspension as soon as is reasonably practicable after suspending the accreditation.
- 40 (9) Notice under subsection (6) or (8) must be given in the prescribed manner.

Driver Training and Assessment Industry Bill 2021

Part 2—Accreditation of driver trainer-examiners

Division 5—Disciplinary action

- (10) If the Registrar suspends or cancels an accreditation and requests the accreditation holder to return the accreditation to the Registrar, the accreditation holder must do so within 14 days of the request.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (11) If—

- (a) the driver's licence of an accreditation holder is cancelled; or
(b) an accreditation holder is disqualified from holding or obtaining a driver's licence,

the accreditation ceases to have any force or effect when the cancellation of the driver's licence, or the disqualification of the accreditation holder, takes effect.

- (12) If the driver's licence of an accreditation holder is suspended, the accreditation is by force of this section suspended for the same period as the suspension of the driver's licence.

- (13) An accreditation that is suspended by or under this section has no force or effect during the period of the suspension.

- (14) The powers conferred by this section may be exercised in relation to conduct occurring before or after the commencement of this Act.

- (15) No civil liability attaches to the Registrar or the Crown in respect of the exercise of a power in good faith under this section.

Division 6—Register of accreditations

22—Register

- (1) The Registrar must keep a register of driver trainer-examiner accreditations.

- (2) The register—

- (a) must include, in respect of each accreditation holder—

- (i) the name and contact details of the accreditation holder; and
(ii) the conditions (if any) of the accreditation; and
(iii) disciplinary action taken against the person under this Act; and
(iv) prescribed information; and

- (b) may include such other information as the Registrar thinks fit to include.

- (3) The Registrar may, at any time, alter information entered in the register in respect of an accreditation to ensure that the register is accurate.

- (4) Subject to subsection (5), the Registrar must make the information referred to in subsection (2)(a)(i) to (iv) (inclusive) available for inspection by the public on a website maintained by the Registrar or by other electronic means.

- (5) Information referred to in subsection (2)(a)(iii) is not required to be made publicly available if the Registrar considers that it should not be published due to the age of the information or for any other reason determined by the Registrar.

Part 3—Review

Division 1—Review

23—Internal review by Registrar

- (1) A person who is aggrieved by a decision of the Registrar—
- 5 (a) to refuse to grant or renew an accreditation held by the person; or
- (b) to suspend or cancel an accreditation held by the person; or
- (c) to impose a condition on, or vary or revoke a condition of, an accreditation held by the person, if the imposition, variation or revocation of the condition arose from action taken under Part 2 Division 5,
- 10 may, within 1 month of the making of the decision, apply to the Registrar for a review of the decision.
- (2) An application for a review must be made in a manner and form determined by the Registrar.
- (3) If an application is made under subsection (1), the Registrar must review the decision to which the application relates.
- 15 (4) The applicant must, if required by the Registrar—
- (a) appear personally before the Registrar in support of the application; and
- (b) provide any information sought by the Registrar; and
- (c) verify information provided to the Registrar by statutory declaration.
- 20 (5) The applicant may be assisted before the Registrar by an agent or representative (not being a legal practitioner).
- (6) On a review under this section, the Registrar may confirm or vary the decision under review or set aside the decision and substitute a new decision.

24—Review by Tribunal

- 25 (1) A person who is dissatisfied with a decision as confirmed, varied or substituted by the Registrar on a review under section 23 may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- 30 (2) Subject to subsection (3), an application for review must be made within 1 month of the making of the relevant decision of the Registrar on review under section 23.
- (3) If the reasons of the Registrar are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Registrar to state the reasons in writing, the time for commencing proceedings before the Tribunal runs from the time at which the person receives the written statement of
- 35 those reasons.

Part 4—Enforcement

Division 1—Appointment of authorised officers

25—Appointment of authorised officers

(1) The following persons are *authorised officers* for the purposes of this Act:

- (a) police officers;
- (b) 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;
- (c) a person appointed as an authorised officer under subsection (2) or a person of a class of persons appointed as authorised officers under that subsection.

(2) The Minister may, by instrument in writing, appoint—

- (a) a specified person to be an authorised officer; or
- (b) persons of a specified class to be authorised officers.

(3) An appointment under subsection (2) may be made subject to conditions or limitations specified in the instrument of appointment.

(4) The Minister may, at any time—

- (a) vary or revoke an appointment; or
- (b) vary or revoke a condition or limitation of an appointment or impose a further condition or limitation.

26—Proof of identity

(1) An authorised officer (other than a police officer) must be issued with proof of identity in a form determined by the Minister—

- (a) containing the person's name and a photograph of the person; and
- (b) stating that the person is an authorised officer for the purposes of this Act.

(2) An authorised officer (other than a police officer) must, at the request of a person in relation to whom the authorised officer intends to exercise powers under this Act, produce for the inspection of the person their proof of identity.

(3) A police officer who is exercising or about to exercise a power is required to comply with a request to identify themselves, by—

- (a) producing the officer's warrant card or other official police identification; or
- (b) stating orally or in writing the officer's surname, rank and identification number.

(4) An authorised officer is required to comply with a requirement under subsection (2) or (3)—

- (a) immediately; or
- (b) if it is not practicable to comply with the requirement immediately—as soon as practicable afterwards.

(5) An authorised officer need only identify themselves once to a particular person during the course of an incident, even though more than 1 power is being exercised during the course of the incident.

(6) An authorised officer appointed under this Act must, on ceasing to be an authorised officer for any reason, immediately return their proof of identity to the Minister.

Maximum penalty: \$5 000.

(7) In this section—

incident means—

(a) a single incident; or

(b) a connected series of incidents involving the same or substantially the same parties and occurring during a period of 72 hours;

request, in relation to the exercise of a power, means a request made by a person (if any) in respect of whom the power is being or is about to be exercised.

Division 2—Powers of authorised officers

27—General powers of authorised officers

(1) Subject to this Act, an authorised officer may, as may be reasonably required for the administration or enforcement of this Act—

(a) enter and inspect any place or anything on or in the place; and

(b) enter and inspect any vehicle; and

(c) give directions with respect to the stopping or moving of a vehicle; and

(d) require a vehicle to be presented for inspection at a specified place and time; and

(e) require a person to provide data, images, sound or film associated with the use of cameras and GPS tracking devices or any other device for analysis; and

(f) examine, test or weigh any vehicle, equipment or other device, or cause or require it to be examined, tested, weighed, or seize it or require its production for examination, testing or weighing; and

(g) require a person to produce any documents, including a written record that reproduces in an understandable form information stored by computer, microfilm, mobile phone, or other process; and

(h) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of any such document or information; and

(i) take photographs, films or audio, video or other recordings; and

(j) seize and retain, or issue a seizure order in respect of anything that the authorised officer reasonably suspects has been used in, or may constitute evidence of, a contravention of this Act; and

- 5 (k) require a person who the authorised officer reasonably suspects has committed, is committing, or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity and, if relevant to the contravention, the person's age; and
- (l) require a person who the authorised officer reasonably suspects has knowledge of matters in respect of which information is required for the administration or enforcement of this Act to answer questions in relation to those matters; and
- 10 (m) require, by written notice, that a person attend at the time and place specified in the notice in order to answer questions; and
- (n) require a person holding or required to hold a permit, licence, accreditation or other authority to produce it for inspection; and
- 15 (o) give a direction required in connection with the exercise of a power conferred by a paragraph above or otherwise in connection with the administration or enforcement of this Act.
- (2) An authorised officer must not exercise the powers conferred by subsection (1)(a) in respect of premises that are residential premises, or that are not the premises of the holder of an accreditation under this Act, except on the authority of a warrant issued by a magistrate unless the authorised officer believes, on reasonable grounds, that the circumstances require immediate action to be taken.
- 20 (3) An authorised officer may not exercise the power to enter, inspect or seize a vehicle unless—
- 25 (a) the authorised officer reasonably suspects that the vehicle is a prescribed vehicle; or
- (b) the authorised officer reasonably suspects that—
- 30 (i) a contravention of this Act has been, is being, or is about to be, committed in relation to the vehicle; or
- (ii) something may be found in or on the vehicle that has been used in, or constitutes evidence of, a contravention of this Act.
- (4) In the exercise of powers under this Act, an authorised officer may be assisted by such persons as the authorised officer considers necessary in the circumstances.
- (5) An authorised officer may require an occupier of a place or a person apparently in charge of any vehicle or other thing to give to the authorised officer, or a person assisting the authorised officer, such assistance as is reasonably required by the authorised officer for the effective exercise of powers conferred by this Act.
- 35 (6) If a time and place specified in a notice under subsection (1)(m) is not reasonable in the circumstances, the authorised officer is to nominate a time and place after taking into account any request of the person who is the subject of the notice.
- 40 (7) In this section—
- prescribed vehicle*** means a vehicle that is, or is to be, used in the provision of services under an accreditation.

28—Provisions relating to warrants

- (1) If, on the application of an authorised officer, a magistrate is satisfied that there are reasonable grounds to believe—
- 5 (a) that a contravention of this Act has been, is being, or is about to be, committed in or on any place or a vehicle; or
- (b) that something may be found in or on a place that has been used in, or constitutes evidence of, a contravention of this Act; or
- (c) that the circumstances require immediate action,
- 10 the magistrate may issue a warrant in respect of the place or vehicle authorising an authorised officer, with such assistants as the authorised officer considers necessary, to use reasonable force to break into or open any part of, or anything in or on, the place or vehicle as specified in the warrant.
- (2) An application for the issue of a warrant under this section—
- (a) may be made either personally or by telephone; and
- 15 (b) must be made in accordance with any procedures prescribed by the regulations.
- (3) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

29—Provisions relating to seizure

- 20 (1) A seizure order—
- (a) must be in the form of a notice given in the prescribed manner to the owner or person in control of the thing to which the order relates; and
- (b) may be varied or revoked by further notice given in the prescribed manner.
- (2) If a seizure order is issued, a person who removes or interferes with the thing to which the order relates without the approval of the Minister before an order is made under subsection (3)(b) in respect of the thing, or the seizure order is discharged under subsection (3)(c), is guilty of an offence.
- Maximum penalty: \$10 000.
- (3) If a thing has been seized or made subject to a seizure order, the following provisions apply:
- 30 (a) the thing must, if it has been seized, be held pending proceedings for an offence against this Act related to the thing seized, unless the Minister, on application, authorises its release to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph (b)(ii));
- 35 (b) if proceedings for an offence against this Act relating to the thing are instituted within the prescribed period after its seizure or the issuing of the seizure order and the defendant is convicted or found guilty of the offence,
- 40 (i) order that it be forfeited to the Minister; or

(ii) where it has been released pursuant to paragraph (a) or is the subject of a seizure order—order that it be forfeited to the Minister or that the person to whom it was released or the defendant pay to the Minister an amount equal to its market value at the time of its seizure or the issuing of the seizure order, as the court thinks fit;

(c) if —

(i) proceedings are not instituted for an offence against this Act relating to the thing within the prescribed period after its seizure or the issuing of the seizure order; or

(ii) proceedings have been so instituted and—

(A) the defendant is found not guilty of the offence; or

(B) the defendant is convicted or found guilty of the offence but no order for forfeiture is made under paragraph (b),

then—

(iii) in the case of a thing seized—the person from whom the thing was seized, or any person with legal title to it, is entitled to recover from the Minister (if necessary, by action in a court of competent jurisdiction) the thing itself, or if it has been damaged or destroyed, compensation of an amount equal to its market value at the time of its seizure; or

(iv) in the case of a thing subject to a seizure order—the order is discharged.

(4) In subsection (3)—

the prescribed period means 12 months or such longer period as the Magistrates Court may, on application by the Minister, allow.

30—Offences to hinder etc authorised officers

A person who—

(a) without reasonable excuse hinders or obstructs an authorised officer; or

(b) fails to answer a question put by an authorised officer to the best of the person's knowledge, information or belief; or

(c) produces a document or record that the person knows, or ought to know, is false or misleading in a material particular; or

(d) being the person in charge of a place or vehicle subject to an inspection and having been required to provide reasonable assistance to facilitate the inspection, refuses or fails to provide such assistance; or

(e) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or

(f) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or

(g) falsely represents, by words or conduct, that the person is an authorised officer,

is guilty of an offence.

Maximum penalty: \$20 000.

31—Self-incrimination

5 If a person is required to answer a question or to produce, or provide a copy of, a document or information under this Act and the answer, document or information would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless answer or produce, or provide a copy of, the document or information, but the answer, document or information will not (except as provided in section 16(7)(b)) be admissible in evidence against the person in proceedings for an offence other than proceedings in respect of the making of a false or misleading statement or declaration.

Part 5—Miscellaneous

32—Learner driver to produce identification

15 A learner driver must, at the request of an auditor or authorised officer, produce proof of identity to the auditor or authorised officer.

Maximum penalty: \$1 250.

Expiation fee: \$110.

33—Delegation

- 20 (1) The Minister or Registrar may delegate to a person (including a person for the time being performing particular duties or holding or acting in a particular position) a function or power under this Act.
- (2) A delegation—
- (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - 25 (c) does not derogate from the power of the delegator to act in a matter; and
 - (d) is revocable at will.
- (3) A delegated function or power may, if the instrument of delegation so provides, be further delegated in accordance with that instrument.

34—False or misleading statements

30 A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided, or records kept, under this Act.

Maximum penalty:

- 35 (a) if the person made the statement knowing that it was false or misleading—\$10 000.
- (b) in any other case—\$5 000.

35—Statutory declaration

If information is required by or under this Act to be provided to the Registrar, the Registrar may require that the information be verified by statutory declaration and, in that event, the information will not be taken to have been provided as required unless it has been verified in accordance with the requirements of the Registrar.

36—Commissioner of Police to give certain information to Registrar

The Commissioner of Police—

- (a) must, on the request of the Registrar; and
- (b) may, at any other time,

provide the Registrar with such information as may be relevant to the question of whether a particular person is a fit and proper person to hold an accreditation under this Act or to be delegated powers or functions of the Registrar under this Act.

37—Confidentiality

(1) A person must not divulge information obtained (whether by that person or some other person) in the administration or enforcement of this Act except—

- (a) as authorised by or under this Act or the *Motor Vehicles Act 1959*; or
- (b) with the consent of the person from whom the information was obtained or to whom the information relates; or
- (c) as reasonably required in connection with the administration or enforcement of this Act or the *Motor Vehicles Act 1959*; or
- (d) to a public authority of any jurisdiction for law enforcement purposes or a prescribed public authority of any jurisdiction; or
- (e) to a court or in connection with any legal proceedings; or
- (f) in accordance with the regulations.

Maximum penalty: \$10 000.

(2) A person engaged in the administration or enforcement of this Act may provide information about disciplinary action taken by the Registrar under this Act to an agency or instrumentality of this State or of another Australian jurisdiction for the purposes of the performance of its functions.

(3) Nothing in this section prevents the disclosure of statistical or other information that could not be reasonably expected to lead to the identification of any person to whom it relates.

(4) Information that has been disclosed under this section for a particular purpose must not be used for any other purpose by—

- (a) the person to whom the information was disclosed; or
- (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

38—Service of documents

A notice or other document required or authorised by this Act to be given to a person by the Registrar may be given—

- (a) by delivering it personally to the person or an agent of the person; or
- (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
- (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business or, in the case of an applicant or accreditation holder under this Act, at the address last provided to the Registrar by the person for that purpose; or
- (d) by transmitting it to the person—
 - (i) by email to the email address last provided to the Registrar by the person for that purpose; or
 - (ii) by electronic means of a prescribed kind in accordance with any prescribed requirements.

39—Commencement of proceedings

(1) Proceedings for a summary offence against this Act may be commenced—

- (a) in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Criminal Procedure Act 1921*; or
- (b) in any other case—at any time within 3 years after the date of the alleged commission of the offence or, with the authorisation of the Director of Public Prosecutions, at any later time within 6 years after the date of the alleged commission of the offence.

(2) An apparently genuine document purporting to be signed by the Director of Public Prosecutions authorising the commencement of proceedings under this Act must be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

40—Evidence

(1) A document purporting to be a certificate signed by the Registrar stating that—

- (a) a specified person was or was not the holder of an accreditation on a specified day; or
- (b) a specified person was or was not the holder of an accreditation of a specified class or subject to specified conditions on a specified day; or
- (c) a specified person was an authorised officer; or
- (d) a specified person had specified powers under this Act; or
- (e) a specified device or item of equipment (such as a camera or GPS tracking device) was or was not in use in a specified motor vehicle at a specified time,

is proof of the matter so stated in the absence of proof to the contrary.

- 5 (2) A document purporting to be an extract from, or copy of, an entry contained in a register kept by the Registrar in accordance with section 22 and purporting to be certified as such an extract or copy by the Registrar is, in all legal proceedings, admissible as evidence, and is, in the absence of proof to the contrary, proof of the matters stated without the production of any register or other document upon which any entry may be founded.

41—Regulations and fee notices

- 10 (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

- 10 (2) Without limiting subsection (1), the regulations may—

- (a) impose fines, not exceeding \$10 000 for offences against the regulations; and
- (b) fix expiation fees, not exceeding \$2 000 for alleged offences against the regulations.

- 15 (3) Regulations under this Act may—

- 15 (a) be of general application or limited application; and
- (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
- (c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the Registrar; and
- 20 (d) exempt, or provide for the Registrar to exempt, a specified person or activity, or class of persons or activities, from the operation of this Act, or a specified provision of this Act, unconditionally or subject to specified conditions; and
- 25 (e) provide for the designation of persons who are authorised to give expiation notices; and
- (f) prevent a person who fails a test or course of a prescribed kind conducted for the purposes of this Act from taking a subsequent such test or course within the prescribed period; and
- 30 (g) prescribe evidentiary provisions to facilitate proof of contravention of this Act for the purposes of proceedings relating to those contraventions; and
- (h) provide for standards for motor vehicles used by accreditation holders to undertake activities authorised by the accreditation that must be observed by accreditation holders; and
- 35 (i) provide for matters relating to the conduct of accreditation holders, including the monitoring and auditing of the activities of accreditation holders by requiring an accreditation holder to provide information, documents, video recordings or other materials, or answer questions; and
- 40 (j) include defences to offences against the regulations and include evidentiary provisions to facilitate proof of contravention of the regulations for the purposes of proceedings for offences; and

- (k) include provisions of a saving or transitional nature consequent on the enactment or amendment of this Act, on the amendment of the *Motor Vehicles Act 1959* or on the making of regulations under this Act.
- 5 (4) Regulations under this Act may refer to or incorporate, wholly or partially and with or without modification, a specified code or standard as in force at a specified time or as in force from time to time.
- (5) If a code or standard is referred to or incorporated in the regulations—
- 10 (a) a copy of the code or standard must be kept available for inspection by members of the public, without charge on a website determined by the Registrar; and
- (b) evidence of the contents of the code or standard may be given in legal proceedings by production of a document apparently certified by the Registrar to be a true copy of the code or standard.
- 15 (6) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
- (7) A fee notice may provide for the waiver, reduction or remission of fees.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

- 20 In this Schedule, 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*

2—Amendment of section 5—Interpretation

- 25 (1) Section 5(1), definition of *authorised examiner*, (b)—delete paragraph (b) and substitute:
- (b) a person who holds a driver trainer-examiner accreditation under the *Driver Training and Assessment Industry Act 2021*; or
- (2) Section 5(1), definition of *authorised officer*—delete the definition and substitute:
- authorised officer* means—
- 30 (a) 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; or
- (b) a person appointed as an authorised officer under section 134MA or
- 35 a person of a class of persons appointed as authorised officers under that subsection;

3—Amendment of section 72A—Qualified supervising drivers

- Section 72A(1)(c)—delete paragraph (c)

4—Amendment of section 75A—Learner's Permit

Section 75A(12)—delete "under this Act" and substitute:
for the purposes of this Act

5—Repeal of section 98AA

5 Section 98AA—delete the section

6—Amendment of section 98Z—Review by Registrar

Section 98Z(1)—delete "3A,"

7—Repeal of Part 3A

Part 3A—delete Part 3A

8—Insertion of Part 4AB

After section 134M insert:

Part 4AB—Enforcement

Division 1—Appointment of authorised officers

134MA—Appointment of authorised officers

- 15 (1) The Minister may, by instrument in writing, appoint—
- (a) a specified person to be an authorised officer; or
 - (b) persons of a specified class to be authorised officers.
- (2) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment.
- 20 (3) The Minister may, at any time—
- (a) vary or revoke an appointment; or
 - (b) vary or revoke a condition of an appointment or impose a further condition.

134MB—Proof of identity

- 25 (1) An authorised officer must be issued with proof of identity in a form determined by the Minister—
- (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the
- 30 purposes of this Act.
- (2) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise powers under this Act, produce for the inspection of the person their proof of identity.

(3) An authorised officer is required to comply with a requirement under subsection (2)—

- (a) immediately; or
- (b) if it is not practicable to comply with the requirement immediately—as soon as practicable afterwards.

(4) An authorised officer need only identify themselves once to a particular person during the course of an incident, even though more than 1 power is being exercised during the course of the incident.

(5) An authorised officer appointed under this Act must, on ceasing to be an authorised officer for any reason, immediately return their proof of identity to the Minister.

Maximum penalty: \$5 000.

(6) In this section—

incident means—

- (a) a single incident; or
- (b) a connected series of incidents involving the same or substantially the same parties and occurring during a period of 72 hours;

request, in relation to the exercise of a power, means a request made by a person (if any) in respect of whom the power is being or is about to be exercised.

Division 2—Powers of authorised officers

134MC—General powers of authorised officers

(1) Subject to this Act, an authorised officer may, as may be reasonably required for the administration or enforcement of this Act—

- (a) enter and inspect any place or vehicle or anything on or in the place or vehicle; and
- (b) give directions with respect to the stopping or moving of a vehicle; and
- (c) require a vehicle to be presented for inspection at a specified place and time; and
- (d) require a person to provide data, images, sound or film associated with the use of cameras and GPS tracking devices or any other device for analysis; and
- (e) examine, test or weigh any vehicle, equipment or other device, or cause or require it to be examined or tested, or seize it or require its production for examination or testing; and

- 5
- (f) require a person to produce any documents, including a written record that reproduces in an understandable form information stored by computer, microfilm, mobile phone, or other process; and
- (g) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of any such document or information; and
- 10 (h) take photographs, films or audio, video or other recordings; and
- (i) seize and retain, or issue a seizure order in respect of, anything that the authorised officer reasonably suspects has been used in, or may constitute evidence of, a contravention of this Act; and
- 15 (j) require a person who the authorised officer reasonably suspects has committed, is committing, or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity and, if relevant to the contravention, the person's age; and
- 20 (k) require a person who the authorised officer reasonably suspects has knowledge of matters in respect of which information is required for the administration or enforcement of this Act to answer questions in relation to those matters; and
- 25 (l) require, by written notice, that a person attend at the time and place specified in the notice in order to answer questions; and
- 30 (m) require a person holding or required to hold a permit, licence, accreditation or other authority to produce it for inspection; and
- (n) give a direction required in connection with the exercise of a power conferred by a paragraph above or otherwise in connection with the administration or enforcement of this Act.
- 35 (2) An authorised officer may not exercise the power of entry under this section in respect of premises unless the premises are business premises being used at the time in the course of business.
- (3) An authorised officer may not exercise the power under this section to enter, inspect or seize a vehicle unless—
- 40 (a) the vehicle is of a prescribed class; or
- (b) the authorised officer reasonably suspects that—
- (i) a contravention of this Act has been, is being, or is about to be, committed in relation to the vehicle; or

(ii) something may be found in or on the vehicle that has been used in, or constitutes evidence of, a contravention of this Act.

5 (4) In the exercise of powers under this Act, an authorised officer may be assisted by such persons as the authorised officer considers necessary in the circumstances.

10 (5) An authorised officer may require an occupier of a place or a person apparently in charge of any vehicle or other thing to give to the authorised officer, or a person assisting the authorised officer, such assistance as is reasonably required by the authorised officer for the effective exercise of powers conferred by this Act.

15 (6) If a time and place specified in a notice under subsection (1)(l) is not reasonable in the circumstances, the authorised officer is to nominate a time and place after taking into account any request of the person who is the subject of the notice.

134MD—Provisions relating to warrants

(1) If, on the application of an authorised officer, a magistrate is satisfied that there are reasonable grounds to believe—

20 (a) that a contravention of this Act has been, is being, or is about to be, committed in or on any place or a vehicle; or

(b) that something may be found in or on a place that has been used in, or constitutes evidence of, a contravention of this Act; or

25 (c) that the circumstances require immediate action,

the magistrate may issue a warrant in respect of the place or vehicle authorising an authorised officer, with such assistants as the authorised officer considers necessary, to use reasonable force to break into or open any part of, or anything in or on, the place or vehicle as specified in the warrant.

30 (2) An application for the issue of a warrant under this section—

(a) may be made either personally or by telephone; and

(b) must be made in accordance with any procedures prescribed by the regulations.

35 (3) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

134ME—Provisions relating to seizure

(1) A seizure order—

40 (a) must be in the form of a notice given in the prescribed manner to the owner or person in control of the thing to which the order relates; and

(b) may be varied or revoked by further notice given in the prescribed manner.

- 5 (2) If a seizure order is issued, a person who removes or interferes with the thing to which the order relates without the approval of the Minister before an order is made under subsection (3)(b) in respect of the thing or the seizure order is discharged under subsection (3)(c) is guilty of an offence.

Maximum penalty: \$10 000.

- (3) If a thing has been seized or made subject to a seizure order, the following provisions apply:

10 (a) the thing must, if it has been seized, be held pending proceedings for an offence against this Act related to the thing seized, unless the Minister, on application, authorises its release to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit
15 (including conditions as to the giving of security for satisfaction of an order under paragraph (b)(ii));

20 (b) if proceedings for an offence against this Act relating to the thing are instituted within the prescribed period after its seizure or the issuing of the seizure order and the defendant is convicted or found guilty of the offence, the court may—

(i) order that it be forfeited to the Minister; or

25 (ii) where it has been released pursuant to paragraph (a) or is the subject of a seizure order—order that it be forfeited to the Minister or that the person to whom it was released or the defendant pay to the Minister an amount equal to its market value at the time of its seizure or the issuing of the seizure order, as the court thinks fit;

30 (c) if—

(i) proceedings are not instituted for an offence against this Act relating to the thing within the prescribed period after its seizure or the issuing of the seizure order; or

35 (ii) proceedings have been so instituted and—

(A) the defendant is found not guilty of the offence; or

(B) the defendant is convicted or found guilty of the offence but no order for forfeiture is made under paragraph (b),

40 then—

(iii) in the case of a thing seized—the person from whom the thing was seized, or any person with legal title to it, is entitled to recover from the Minister (if necessary, by action in a court of competent jurisdiction) the thing itself, or if it has been damaged or destroyed, compensation of an amount equal to its market value at the time of its seizure; or

(iv) in the case of a thing subject to a seizure order—the order is discharged.

(4) In subsection (3)—

the prescribed period means 12 months or such longer period as the Magistrates Court may, on application by the Minister, allow.

134MF—Offences against authorised officers

(1) A person who—

(a) without reasonable excuse hinders or obstructs an authorised officer; or

(b) fails to answer a question put by an authorised officer to the best of the person's knowledge, information or belief; or

(c) produces a document or record that the person knows, or ought to know, is false or misleading in a material particular; or

(d) being the person in charge of a place or vehicle subject to an inspection and having been required to provide reasonable assistance to facilitate the inspection, refuses or fails to provide such assistance; or

(e) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or

(f) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or

(g) falsely represents, by words or conduct, that the person is an authorised officer,

is guilty of an offence.

Maximum penalty: \$20 000.

134MG—Self-incrimination

5 If a person is required to answer a question or to produce, or provide
a copy of, a document or information under this Act and the answer,
document or information would tend to incriminate the person or
make the person liable to a penalty, the person must nevertheless
answer or produce, or provide a copy of, the document or
information, but the answer, document or information will not be
admissible in evidence against the person in proceedings for an
offence other than proceedings in respect of the making of a false or
misleading statement or declaration.

134MH—Interaction of this Division with Part 2 Division 5 of Road Traffic Act

15 The provisions of this Division are in addition to, and do not
derogate from, the provisions of Part 2 Division 5 of the *Road Traffic
Act 1961*.

Part 3—Transitional provisions

9—Interpretation

In this Part—

20 *declared day* means the day that falls 12 months after the designated day or such later
day as may be declared by the Registrar by notice in the Gazette;

designated day means the day on which clause 5 of this Schedule comes into
operation;

relevant day means the day declared by the Registrar by notice in the Gazette (being a
day that falls before the designated day).

10—Applications for motor driving instructor licences under *Motor Vehicles Act 1959*

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- 30
- (1) Despite section 98A of the *Motor Vehicles Act 1959*, an application for the issue of a
motor driving instructor's licence under that section cannot be made on or after the
relevant day (and such a motor driving instructor's licence cannot be granted on or
after the relevant day in respect of such an application).
 - (2) Subclause (1) does not apply in relation to an application made by the holder of a
motor driving instructor's licence for the issue of a further instructor's licence to the
holder to take effect on the expiration of an earlier instructor's licence.

11—Current motor driving instructor licence holders

- 35
- (1) The following provisions apply in relation to a person who holds a motor driving
instructor's licence in force under section 98A of the *Motor Vehicles Act 1959*
immediately before the designated day:
 - (a) on the designated day, the person will be taken to be an accreditation holder
under this Act (a *deemed accreditation holder*);

- 5 (b) the accreditation that the person holds under this clause (a *deemed accreditation*) will be subject to the same terms and conditions as those applying to the person's motor driving instructor's licence under section 98A of the *Motor Vehicles Act 1959* immediately before the designated day;
- 10 (c) if the person also holds an appointment as an authorised examiner under paragraph (b) of the definition of *authorised examiner* in section 5 of the *Motor Vehicles Act 1959*—that appointment is subsumed into the deemed accreditation and the deemed accreditation will be subject to any terms and conditions applying to the appointment immediately before the designated day;
- 15 (d) a person's deemed accreditation will have effect—
- (i) if the person applies for and is granted an accreditation under this Act to replace the deemed accreditation—until the day on which the accreditation under this Act takes effect; or
 - (ii) in any other case—until the declared day (unless the deemed accreditation is cancelled before that day (whether by force of this clause or under another provision of this Act));
- 20 (e) the Registrar may, by notice given to the person on or before the designated day by the Registrar—
- (i) assign a deemed accreditation holder a class of accreditation that, in the opinion of the Registrar, most closely corresponds to the functions or activities that the person was authorised to perform as a motor driving instructor subject to a licence issued under section 98A of the *Motor Vehicles Act 1959* (and the person's deemed accreditation will be taken to be assigned to that class under this Act from the designated day); and
 - (ii) as the Registrar thinks fit—
 - (A) impose additional conditions on the deemed accreditation; or
 - (B) substitute, vary or revoke a condition of the deemed accreditation referred to in paragraph (b) or (c),(and the person's deemed accreditation will be taken to be subject to those conditions for the purposes of this Act);
- 35 (f) the repeal of section 98A of the *Motor Vehicles Act 1959* does not affect any action, investigation or other process commenced under that section before the designated day, and the outcome of any such process may have effect for the purposes of any accreditation held by the person under this Act (with the Registrar being able to exercise any power that the Registrar would have been able to exercise in relation to the person's licence under section 98A of the
- 40 *Motor Vehicles Act 1959* as if the person's licence under that section constituted an accreditation under this Act).

(2) A reference to a person who holds a driver trainer-examiner accreditation under the *Driver Training and Assessment Industry Act 2021* in the definition of **authorised examiner** in section 5 of the *Motor Vehicles Act 1959* will be taken to include a reference to a deemed accreditation holder—

5 (a) in the case of a deemed accreditation holder who applies for and is granted an accreditation under this Act to replace the deemed accreditation—until the day on which the accreditation under this Act takes effect; or

10 (b) in any other case—until the declared day (unless the deemed accreditation is cancelled before that day (whether by force of this clause or under another provision of this Act)).

(3) Despite subclause (1), if a deemed accreditation holder makes an application for accreditation under this Act (to replace their deemed accreditation) and, in making their application, fails 3 times to meet any requirements prescribed by the regulations for the purposes of this subclause, the Registrar may, by notice in writing to the deemed accreditation holder, cancel their deemed accreditation and specify a period (not exceeding 3 years) during which the person is prohibited from making an application for accreditation under this Act.

(4) If a deemed accreditation is cancelled by the Registrar under this clause, the deemed accreditation ceases to have any force or effect.

20 (5) If the Registrar grants a person accreditation under this Act to replace a deemed accreditation, in determining the period for which the accreditation is to be in force, the Registrar may take into account the balance of the term remaining on the person's instructor's licence under section 98A of the *Motor Vehicles Act 1959* or the person's authorised examiner appointment under section 5 of the *Motor Vehicles Act 1959* (as the case requires) on the designated day.

(6) Nothing in this clause limits the operation of the other provisions of this Act in relation to deemed accreditation holders or any deemed accreditation.

(7) To avoid doubt, a deemed accreditation that ceases to have effect on the declared day under this clause is cancelled by force of this clause on the declared day.

30 **12—Crown not liable to pay compensation**

Despite any other Act or law, no compensation is payable by the Crown in respect of the operation of this Part.