

Legislative Council—No 100A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 2 March 2021

South Australia

**Motor Vehicles (Motor Bike Driver Licensing)
Amendment Bill 2020**

A BILL FOR

An Act to amend the *Motor Vehicles Act 1959*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Motor Vehicles (Motor Bike Driver Licensing) Amendment Act 2020*.

2—Commencement

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

3—Amendment provisions

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

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Amendment of section 16—Permits to drive vehicles without registration

- (1) Section 16(2)—before "General Post Office" insert:
 - former
- 15 (2) Section 16(13)—before "General Post Office" insert:
 - former

5—Amendment of section 74—Duty to hold licence or learner's permit

(1) Section 74(3)—delete subsection (3) and substitute:

(3) For the purposes of this section, a person is authorised to drive a motor vehicle of a particular class on a road if—

(a) in the case of a motor bike—the person holds a licence or learner's permit that authorises the holder to drive a motor bike of that class; or

(b) in the case of a motor vehicle that is not a motor bike—

(i) the person holds a licence that authorises the holder to drive a motor vehicle of that class; or

(ii) the person—

(A) holds a licence; and

(B) has the minimum driving experience required by the regulations for the grant of a licence that would authorise the driving of a motor vehicle of that class; or

(iii) the person holds a learner's permit that authorises the holder to drive a motor vehicle of that class.

(2) Section 74(4)—delete "subsection (3)(b)" and substitute:

subsection (3)(b)(ii)

6—Amendment of section 75—Issue and renewal of licences

Section 75(1)(aa)—delete paragraph (aa) and substitute:

(aa) is resident in this State and is—

(i) in the case of a person applying for the issue of a licence authorising the driving of a motor bike—at least 19 years of age; or

(ii) in any other case—at least 17 years of age; and

7—Amendment of section 75A—Learner's permit

(1) Section 75A(1), definition of *prescribed learner's permit holder*—delete the definition and substitute:

prescribed learner's permit holder means a person under the age of 25 years who holds a learner's permit authorising the holder to drive a motor bike;

prescribed locality means an area in the State defined as a prescribed locality for the purposes of this section—

(a) by the regulations; or

(b) by the Registrar by notice in the Gazette;

(1a) Section 75A(2)(a)(v)—delete subparagraph (v) and substitute:

(v) has—

(A) in the case of an applicant for a learner's permit authorising the driving of a motor bike—completed the motor bike driver training prescribed by the regulations and complied with any other requirements prescribed by the regulations;
or

(B) in any other case—complied with any other requirements prescribed by the regulations in relation to the class of motor vehicle in respect of which the permit is sought; and

(2) Section 75A—after subsection (2) insert:

(2a) Despite subsection (2), the Registrar must not issue a learner's permit authorising the driving of a motor bike to a person under 18 years of age unless—

(a) the person is at least 16 years of age and the person satisfies the Registrar that the person resides in a prescribed locality;
or

(b) the person is at least 17 years of age and is the holder of a provisional licence.

(3) Section 75A(10)(c)—delete paragraph (c) and substitute:

(c) a condition that the holder of the permit must not drive a motor vehicle (other than a motor bike) on a road unless the holder of the permit is accompanied by a person acting as a qualified supervising driver for the holder of the permit;

(4) Section 75A(20)—delete subsection (20) and substitute:

(20) A prescribed learner's permit holder must not drive a motor bike on a road between the hours of midnight and 5.00 am.

Maximum penalty: \$1 250.

(5) Section 75A—after subsection (23) insert:

(24) The holder of a learner's permit authorising the holder to drive a motor bike must not, while driving a motor bike on a road, carry any person on the motor bike (whether as a passenger on the motor bike or in a sidecar attached to the motor bike).

Maximum penalty: \$1 250.

(25) The holder of a learner's permit authorising the holder to drive a motor bike must not, while driving a motor bike on a road, tow any vehicle by use of the motor bike.

Maximum penalty: \$1 250.

8—Insertion of section 75B

After section 75A insert:

75B—Special provisions applying to certain motor bike learner's permits

- 5 (1) The holder of a restricted motor bike learner's permit must not drive a motor bike on a road except in circumstances prescribed—
- (a) in Schedule 2 clause 3(2); or
 - (b) in Schedule 2 clause 4(1a); or
 - (c) in Schedule 2 clause 5; or
 - 10 (d) by the regulations; or
 - (e) by notice in the Gazette under subsection (2).
- Maximum penalty: \$1 250.
- (2) The Registrar may, by notice in the Gazette, prescribe circumstances for the purposes of subsection (1)(e) and may, by further notice in the Gazette, vary or revoke such a notice.
- 15 (3) A notice prescribing circumstances for the purposes of subsection (1)(e) has effect for the period specified in the notice (which must not be longer than 6 months).
- (4) In this section—
- 20 *restricted motor bike learner's permit* means a learner's permit issued under section 75A(2a)(a).

9—Amendment of section 79—Examination of applicant for licence or learner's permit

- (1) Section 79(1)(a)—delete paragraph (a) and substitute:
- 25 (a) the applicant satisfies the Registrar, by such evidence as the Registrar may require, that the applicant has passed an approved theoretical examination; or
- (2) Section 79(2)—delete "Regulations made for the purposes of this section" and substitute:
- 30 The regulations
- (3) Section 79(3), definition of *tester*—delete the definition and substitute:
- approved theoretical examination* means an examination approved by the Registrar as a theoretical examination for the purposes of this section.

10—Substitution of section 79A

Section 79A—delete the section and substitute:

79A—Driving experience required for issue of licence

- 5 (1) Subject to this section, the Registrar must not issue a licence
authorising the driving of a motor bike to an applicant who has not
held such a licence during the period of 5 years immediately
preceding the date of the application unless—
- 10 (a) in the case of an applicant who has been disqualified from
holding or obtaining a licence or learner's permit in this
State, or in another State or Territory of the Commonwealth,
as a consequence of an offence committed or allegedly
committed (whether in this State or elsewhere) while the
15 applicant held a learner's permit or interstate learner's permit
(provided the applicant did not also hold a licence or
interstate licence in respect of another class of motor
vehicle) or after the expiry of such a permit but before
obtaining any licence or interstate licence, and the applicant
has not held a licence or interstate licence since the end of
20 the period of disqualification—the applicant has held a
learner's permit authorising the holder to drive a motor bike
for periods totalling at least 12 months of which there must
be a continuous period of not less than 3 months since the
end of the period of disqualification; or
- 25 (b) in any other case—the applicant has held a learner's permit
authorising the holder to drive a motor bike for a continuous
period of at least 12 months.
- 30 (2) Subject to this section, the Registrar must not issue a licence
authorising the driving of a motor vehicle (other than a motor bike)
to an applicant who has not held a licence during the period of
5 years immediately preceding the date of the application unless—
- (a) in the case of an applicant under the age of 25—

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- (i) if the applicant has been disqualified from holding or obtaining a licence or learner's permit in this State, or in another State or Territory of the Commonwealth, as a consequence of an offence committed or allegedly committed (whether in this State or elsewhere) while the applicant held a learner's permit or interstate learner's permit (provided the applicant did not also hold a licence or interstate licence in respect of another class of motor vehicle) or after the expiry of such a permit but before obtaining any licence or interstate licence, and the applicant has not held a licence or interstate licence since the end of the period of disqualification—the applicant has held a learner's permit for periods totalling at least 12 months of which there must be a continuous period of not less than 3 months since the end of the period of disqualification; or
 - (ii) in any other case—the applicant has held a learner's permit for a continuous period of at least 12 months; or
- (b) in the case of an applicant aged 25 or over—
- (i) if the applicant has been disqualified from holding or obtaining a licence or learner's permit in this State, or in another State or Territory of the Commonwealth, as a consequence of an offence committed or allegedly committed (whether in this State or elsewhere) while the applicant held a learner's permit or interstate learner's permit (provided the applicant did not also hold a licence or interstate licence in respect of another class of motor vehicle) or after the expiry of such a permit but before obtaining any licence or interstate licence, and the applicant has not held a licence or interstate licence since the end of the period of disqualification—the applicant has held a learner's permit for periods totalling at least 6 months of which there must be a continuous period of not less than 3 months since the end of the period of disqualification; or
 - (ii) in any other case—the applicant has held a learner's permit for a continuous period of at least 6 months.
- (3) Subject to this section, the Registrar must not issue a licence authorising the driving of a motor vehicle to an applicant who has not held such a licence during the period of 5 years immediately preceding the date of the application unless—
- (a) the applicant has produced to the Registrar—

- (i) a logbook that—
 - (A) is in a form approved by the Registrar; and
 - (B) has been completed in accordance with the instructions contained in the logbook so as to verify that the applicant has satisfied the prescribed requirements relating to the applicant's driving experience; or
- (ii) other evidence to the satisfaction of the Registrar that the applicant has satisfied the prescribed requirements relating to the applicant's driving experience; and

- (b) evidence to the satisfaction of the Registrar that the applicant has passed—
 - (i) an approved hazard perception test conducted—
 - (A) by a police officer or an approved tester; or
 - (B) by a method approved by the Registrar; and
 - (ii) a practical driving test conducted by an authorised examiner; and

- (c) in the case of an applicant for a licence authorising the driving of a motor bike—the applicant has completed the motor bike driver training prescribed by the regulations.

- (4) The Registrar may issue a licence to an applicant who has not held a licence at some time during the period of 5 years immediately preceding the date of the application despite the applicant not satisfying the requirements of subsection (1), (2) or (3) if the applicant satisfies the Registrar, by such evidence as the Registrar may require, that—

- (a) the applicant has at some time during the period of 5 years immediately preceding the date of the application held—
 - (i) an interstate licence; or
 - (ii) a foreign licence of a type approved by the Registrar by notice in the Gazette; or

- (b) the applicant—
 - (i) has at some time held a licence issued under this Act, an interstate learner's permit, an interstate licence or a licence issued under the law of some other place outside this State; and
 - (ii) has obtained satisfactory driving experience.

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- (5) The Registrar may dispense with the requirement that an applicant must have held a learner's permit for the continuous period referred to in subsection (1)(b), (2)(a)(ii) or (2)(b)(ii) if the Registrar is satisfied that the applicant has held a learner's permit for periods that are sufficient in aggregate.
- (6) The Registrar may dispense with the requirement imposed by subsection (3)(a) if the application is for the issue of a licence of a class prescribed by regulation.
- 10 (7) If—
- (a) an applicant for a licence has been disqualified from holding or obtaining a licence or learner's permit in this State, or in another State or Territory of the Commonwealth, as a consequence of an offence committed or allegedly committed (whether in this State or elsewhere)—
- 15 (i) while the person held a learner's permit or interstate learner's permit (provided the person did not also hold a licence or interstate licence in respect of another class of motor vehicle); or
- (ii) after the expiry of such a permit but before
- 20 obtaining any licence or interstate licence; and
- (b) the applicant has held a licence or interstate licence at some time during the period of 5 years immediately preceding the date of the application but has not held a licence or interstate licence since the end of the period of disqualification,
- 25 the Registrar must not issue a licence to the applicant unless—
- (c) the applicant has, since the end of the period of disqualification, held a learner's permit for a continuous period of at least 3 months; and
- (d) the applicant has produced to the Registrar evidence to the satisfaction of the Registrar that, since the end of the period
- 30 of disqualification, the applicant has passed—
- (i) an approved hazard perception test conducted—
- (A) by a police officer or an approved tester; or
- (B) by a method approved by the Registrar;
- 35 and
- (ii) a practical driving test conducted by an authorised examiner.
- (8) In this section—
- 40 ***approved hazard perception test*** means a test approved by the Registrar as a hazard perception test for the purposes of this Act;
- approved tester*** means—
- (a) a person appointed by the Registrar to conduct hazard perception tests; or

- (b) a person of a class approved by the Registrar to conduct hazard perception tests.

11—Amendment of section 81—Restricted licences and learner's permit

Section 81—after subsection (1) insert:

- 5 (1a) If the Registrar is not satisfied that an applicant for the issue or renewal of a licence authorising the driving of a motor bike is competent to drive a motor bike fitted with a manual transmission, the Registrar may endorse on the licence a condition that the holder of the licence must not drive a motor bike unless it is fitted with an
10 automatic transmission.

12—Insertion of section 81AC

After section 81AB insert:

81AC—Special provisions applying to certain motor bike licences

- 15 (1) In this section—

prescribed concentration of alcohol means any concentration of alcohol in the blood;

prescribed motor bike licence means a licence authorising the driving of a motor bike of a class prescribed by the regulations for the purposes of this section.

- 20 (2) A prescribed motor bike licence is subject to the condition that the holder of the licence must not drive a motor bike, or attempt to put a motor bike in motion, on a road while the prescribed concentration of alcohol is present in the holder's blood, or a prescribed drug is
25 present in the holder's oral fluid or blood.

- (3) The holder of a prescribed motor bike licence must not contravene the condition referred to in subsection (2).

Maximum penalty: \$1 250.

- 30 (4) If a person is not willing to accept a licence subject to the condition imposed by subsection (2), the Registrar must refuse to issue a licence to the person.

- 35 (5) Sections 47C, 47D, 47E, 47EAA, 47GA, 47GB and 47K and Schedule 1 of the *Road Traffic Act 1961* apply in relation to an offence against subsection (3) of contravening the condition referred to in subsection (2) as if—

- (a) a reference in any of those sections to an offence against that Act was a reference to an offence against subsection (3); and
40 (b) a reference in any of those sections to the prescribed concentration of alcohol as defined in section 47A of that Act was a reference to the prescribed concentration of alcohol as defined in this section.

- (6) This section applies in relation to a prescribed motor bike licence—
- (a) whether or not the licence is a provisional licence; and
 - (b) whether the licence is issued or renewed before or after the commencement of this section.

5 **13—Amendment of Schedule 2—Prescribed circumstances (sections 75A, 75B and 81A)**

- (1) Schedule 2, clause 3—delete clause 3 and substitute:

3—Driving to attend education or training

- 10 (1) For the purposes of sections 75A(21) and 81A(17), driving a motor vehicle by the shortest practicable route between—

- (a) a place at which the driver resides (whether temporarily or permanently); and
- (b) a place at which the driver participates in—
 - (i) recognised secondary education or training; or
 - (ii) recognised tertiary education or training; or
 - (iii) recognised vocational education and training,

15 for the purposes of participating in such education or training is driving the motor vehicle in prescribed circumstances.

- 20 (2) For the purposes of section 75B(1), driving a motor bike by the shortest practicable route between—

- (a) a place at which the driver resides (whether temporarily or permanently); and
- (b) a place at which the driver participates in—
 - (i) recognised tertiary education or training; or
 - (ii) recognised vocational education and training,

25 for the purposes of participating in such education or training is driving the motor bike in prescribed circumstances.

- (3) In this clause—

30 ***recognised secondary education or training*** means a course of education or training provided by a secondary education provider and in which participants must be enrolled (other than a course of a kind declared by the regulations to be excluded from this definition);

35 ***recognised tertiary education or training*** means a course of education or training provided by a tertiary education provider and in which participants must be enrolled (other than a course of a kind declared by the regulations to be excluded from this definition);

recognised vocational education and training means a course of education and training provided by a vocational education and training provider and in which participants must be enrolled (other than a course of a kind declared by the regulations to be excluded from this definition).

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(2) Schedule 2, clause 4—after subclause (1) insert:

(1a) For the purposes of section 75B(1), driving a motor bike by the shortest practicable route between—

(a) a place at which the driver resides (whether temporarily or permanently); and

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(b) a place at which the driver participates in a sporting activity, for the purposes of recognised sporting activity participation is driving the motor bike in prescribed circumstances.

(3) Schedule 2, clause 4(2), definition of *recognised activity participation*—delete the definition and substitute:

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recognised activity participation means participation in a recognised activity that is provided or organised by an association, club or other organisation (other than participation of a kind declared by the regulations to be excluded from this definition);

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recognised sporting activity participation means participation in a sporting activity that is provided or organised by an association, club or other organisation (other than participation of a kind declared by the regulations to be excluded from this definition).

(4) Schedule 2, clause 5(1)—after "sections 75A(21)" insert:

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, 75B(1)