

SOUTH AUSTRALIA

ROAD MAINTENANCE (CONTRIBUTION) ACT, 1963

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APPENDIX LEGISLATIVE HISTORY

ROAD MAINTENANCE (CONTRIBUTION) ACT, 1963

being

Road Maintenance (Contribution) Act, 1963, No. 63 of 1963
[Assented to 5 December 1963]¹

as amended by

Road Maintenance (Contribution) Act Amendment Act, 1968, No. 7 of 1968 [Assented to 19 September 1968]
State Transport Authority Act, 1974, No. 41 of 1974 [Assented to 11 April 1974]² (as amended by State Transport
Authority Act Amendment Act, 1975, No. 97 of 1975 [Assented to 20 November 1975]³)
Road Maintenance (Contribution) Act Amendment Act, 1975, No. 23 of 1975 [Assented to 27 March 1975]⁴
Road Maintenance (Contribution) Act Amendment Act (No. 2), 1975, No. 82 of 1975 [Assented to 13 November 1975]⁵
Road Maintenance (Contribution) Act Amendment Act, 1979, No. 26 of 1979 [Assented to 15 March 1979]
Road Maintenance (Contribution) Act Amendment Act (No. 2), 1979, No. 58 of 1979 [Assented to 16 August 1979]⁶

¹ Came into operation 1 July 1964: *Gaz.* 25 June 1964, p. 1600.

² Came into operation 18 April 1974: *Gaz.* 18 April 1974, p. 1340.

³ Came into operation 8 December 1975: *Gaz.* 4 December 1975, p. 2994.

⁴ Came into operation 11 December 1975: *Gaz.* 11 December 1975, p. 3136.

⁵ Came into operation 11 December 1975: s. 2.

⁶ Came into operation 23 August 1979: *Gaz.* 23 August 1979, p. 438.

Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to impose a charge on the owners of certain motor vehicles as a contribution to the maintenance of public roads, to amend the Road and Railway Transport Act, 1930-1957 and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Road Maintenance (Contribution) Act, 1963*.

Commencement

2. This Act shall come into operation on a day to be fixed by the Governor by proclamation.

Definitions

3. In this Act unless the context otherwise requires—

"Commissioner" means the Commissioner of Highways appointed by or pursuant to the *Highways Act, 1926-1960*:

"commercial goods vehicle" or "vehicle" means any motor vehicle (together with any trailer) which is used or intended to be used for carrying goods for hire or reward or for any consideration or in the course of any trade or business whatsoever:

"director", in relation to a body corporate, includes each person occupying the position of director of the body corporate (by whatever name called) and includes—

- (a) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act;
- (b) any person who has the control or management of the business of the body corporate:

"goods" includes livestock commodities and all chattels personal:

"load capacity" in the case of a motor vehicle or trailer means—

- (a) the load capacity thereof as shown in the certificate of registration issued in respect thereof under the *Motor Vehicles Act, 1959-1962*, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth; or
- (b) where in such certificate there is shown the maximum permissible gross weight of the motor vehicle or trailer together with the load which may be carried thereon and also the tare weight of the motor vehicle or trailer, the difference between such gross weight and tare weight; or
- (c) where no such load capacity or weights are shown in such certificate or no such certificate is in force, the load capacity aforesaid of a similar motor vehicle or trailer registered under the *Motor Vehicles Act, 1959-1962*:

3.

"motor vehicle" means a vehicle, tractor, or mobile machine driven or propelled or ordinarily capable of being driven or propelled by a steam engine, internal combustion engine, electricity or any other power not being human or animal power, but does not include a mobile machine controlled and guided by a person walking, or a vehicle run upon a railway or tramway:

"operate" means (in the case of any vehicle) carry goods for hire or reward or for any consideration or in the course of any trade or business whatsoever, and "operation" has a corresponding meaning:

"owner" includes every person who is the owner or joint owner or part owner of a commercial goods vehicle and any person who has the use of any such vehicle under a hiring or hire-purchase agreement, and includes any person in whose name a vehicle is registered under the *Motor Vehicles Act, 1959-1962*, or under any corresponding legislation or ordinance of any State or Territory or the Commonwealth, but does not include an unpaid vendor of such a vehicle under a hire-purchase agreement:

"public road" means any street road lane bridge thoroughfare or place open to or used by the public for passage with vehicles:

"tare weight" in the case of a motor vehicle or trailer means—

- (a) the tare weight or weight unladen thereof as shown in the certificate of registration issued in respect thereof under the *Motor Vehicles Act, 1959-1962*, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth; or
- (b) where no such tare weight or weight unladen is shown in such certificate or no such certificate is in force, the actual weight unladen of the motor vehicle or trailer:

"trailer" means any trailer fore-car side-car or other device attached (temporarily or otherwise) to a motor vehicle and capable of being used to carry goods.

Exemption

4. This Act shall not apply with respect to—

- (a) any vehicle the load capacity of which (together with any trailer for the time being attached thereto) is not more than 8.15 tonnes; or
- (b) any vehicle while being used solely for any or some of the purposes specified in the First Schedule or while travelling unladen directly to or from the business premises of the owner of the vehicle so as to be so used or after having been so used.

Contribution towards wear and tear of public roads

5. (1) The owner of every commercial goods vehicle shall as provided by this Act pay to the Commissioner towards compensation for wear and tear caused thereby to public roads in South Australia a charge at the rate prescribed in the Second Schedule.

(2) Such charge shall become due at the time of the use of any public road by the vehicle and if not then paid shall be paid and recoverable as in this Act provided.

(3) Any charge payable under this Act shall be a civil debt due to the Commissioner by the owner of the vehicle concerned and, without affecting any other method of recovery provided by this Act, may be recovered by the Commissioner in any court of competent jurisdiction.

Records of journeys of vehicles

6. (1) The owner of the vehicle shall keep in duplicate in or to the effect of the form in the Third Schedule an accurate daily record of all journeys of the vehicle along public roads in South Australia.

(2) The owner of the vehicle shall retain for a period of six months after the completion of any journey, and on demand make available to the Commissioner or any person authorized in that behalf in writing by the Commissioner (whether generally or in any particular case), a copy of each such record for inspection when so required.

Returns and payments to be made

7. (1) Subject to this Act, not later than the fourteenth day of each month each owner of a commercial goods vehicle which has during the preceding month travelled on any public road in South Australia shall deliver to the Commissioner at his office in Adelaide in respect of each such vehicle—

- (a) the record for the previous month kept pursuant to section 6 of this Act certified as correct; and
- (b) the amount of all moneys owing by way of charges payable in respect of such previous month pursuant to the provisions of this Act insofar as not already paid to the Commissioner.

(2) It shall be a sufficient delivery for the purposes of this Act of any record or payment of moneys owing by way of charge if such record or payment is sent by prepaid registered letter through the post addressed to the Commissioner at his office in Adelaide and such letter is posted not later than the day on which such record or payment is by subsection (1) of this section required to be delivered to the Commissioner.

Alternative provision as to records, etc.

8. Any owner of a vehicle may make arrangements in writing with the Commissioner as to the time and place and manner when where or in which he shall pay the charges which by this Act he is required to pay and as to the records to be made and kept in relation thereto and the delivery thereof to the Commissioner, whereupon the provisions of this Act shall apply in respect of such vehicle subject to such arrangements; but nothing in this section shall affect the amount of charge payable under this Act or shall postpone the payment of any charge for more than three months after the date on which it would otherwise be payable.

Payments to Roads Maintenance Account

9. (1) All moneys received by the Commissioner by way of charges under this Act shall be paid by him to the credit of a special account in the books of the Treasurer to be called the "Roads Maintenance Account".

(2) Money to the credit of that account shall be applied only on the maintenance of public roads (including grants to municipal or district councils for that purpose).

Offences

10. (1) Every person who—

- (a) fails to keep any record as required by this Act or to retain a copy of any such record or to make a copy thereof available for inspection as required by this Act; or
- (b) omits any item from any such record or copy thereof; or
- (c) makes any false or misleading statement in any such record or copy thereof; or
- (d) fails to deliver any such record to the Commissioner as required by this Act; or
- (e) fails to pay to the Commissioner as required by this Act any charges payable in respect of any vehicle—

shall be guilty of an offence against this Act.

(2) Any person who is guilty of an offence against this Act is liable to a penalty of five hundred dollars.

(3) Where a body corporate is guilty, or has been convicted, of an offence against this Act, each director of the body corporate shall also be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

Summary procedure

11. Proceedings for offences against this Act shall be disposed of summarily.

Recovery of charges

12. Where any person is convicted of an offence against this Act the court before which he is so convicted may order such person to pay to the Commissioner any amount which from the evidence given during the proceedings the court is satisfied should have been, but has not been, paid to the Commissioner by way of charge under this Act (whether the amount is payable by the convicted person, or by a body corporate of which he is, or was, a director), and, without prejudice to any other method of recovery thereof as an order of the court for the payment of a civil debt, any amount so ordered to be paid shall so far only as relates to its recovery and the consequences of failure to pay be regarded as a fine imposed by the court upon a conviction in the exercise of its ordinary jurisdiction.

Reciprocal enforcement of orders

12a. (1) Where by order of a reciprocating court a pecuniary sum is payable by a body corporate in respect of proceedings under a corresponding law and the clerk of the Adelaide Magistrates' Court receives a request in writing from the clerk or other corresponding officer of that reciprocating court for the enforcement of the order accompanied by—

- (a) a certified copy of the order;
- (b) a certificate purporting to be signed by the clerk or corresponding officer making the request certifying the amount outstanding under the order;

6.

(c) a certificate purporting to be signed by an officer employed in the administration of this Act or of a corresponding law certifying that—

(i) a person or persons named in the certificate is or are in this State, or normally resident in this State;

and

(ii) that person was a director, or those persons were directors, of the body corporate against which the order was made when the liability to which the order relates was incurred, or the offence to which the order relates was committed,

he shall register the order in the Adelaide Magistrates' Court by filing in the Court a certified copy of the order and shall note the date of registration on the copy.

(2) Upon the registration of an order under subsection (1) of this section—

(a) the order shall for the purpose of this section be deemed to be an order of the Adelaide Magistrates' Court requiring payment by the director or directors mentioned in subsection (1) of this section of the amount stated in the certificate referred to in that subsection as being outstanding;

(b) the clerk shall give notice in writing by post to the director or directors by whom payment is required of the registration of the order and of his intention to issue a warrant of commitment at the expiration of fourteen days after the date of registration of the order.

(3) Upon the expiration of fourteen days from the registration of the order—

(a) the clerk shall unless the amount stated in the certificate is paid issue a warrant of commitment against the director or each of the directors of the body corporate committing him or each of them to gaol in default of payment of that amount for a period of one day in respect of each twenty dollars or part thereof then remaining unpaid (but not in any case for a period exceeding one year);

and

(b) the warrant so issued shall be deemed to be a warrant of commitment issued under the *Justices Act, 1921-1977*, and the provisions of that Act shall with all necessary adaptations apply and extend to the enforcement of that warrant.

(4) Where an order has been registered in pursuance of this section, a director of the body corporate may apply to a magistrate in chambers for an order—

(a) forbidding the issue of a warrant of commitment against the director;

or

(b) setting aside a warrant of commitment issued against the director.

7.

(5) Where, upon an application under subsection (4) of this section, the magistrate is satisfied that—

(a) grounds for the issue of a warrant of commitment against the director under this section do not exist;

or

(b) the director exercised reasonable diligence to ensure that the body corporate would meet its obligations under the corresponding law,

the magistrate shall make an order forbidding the issue of a warrant of commitment, or setting aside a warrant of commitment, against the director.

(6) Where an order is made in pursuance of subsection (5) of this section, a director on whose application the order was made shall be discharged from liability under the registered order.

(7) Where after the request for the enforcement of the order has been made but before the warrant has been executed the clerk receives a notification from the clerk or other corresponding officer of the reciprocating court of payment by or on behalf of the body corporate or by a director of the body corporate of an amount in satisfaction in whole or in part of the amount outstanding he shall—

(a) note the particulars of the payment on the certified copy of the order filed in the court;

and

(b) arrange for the return of the warrant issued under subsection (3) of this section and—

(i) withdraw it if the amount has been paid in full;

or

(ii) if part of the amount remains outstanding, amend the amount stated in the warrant to show the amount still outstanding (and thereafter the warrant may be enforced in respect of the altered amount).

(8) Where pursuant to this section more than one person is obliged to pay a pecuniary sum the obligation imposed under this section shall be deemed to have been discharged if the obligation is performed or expiated by any one of those persons.

(9) Where a director or former director of a body corporate discharges a liability under a registered order he is entitled to contribution from the other persons who were directors of the body corporate when the liability to which the order relates was incurred, or the offence to which the order relates was committed.

(10) Any moneys paid to or received by the clerk of the Adelaide Magistrates' Court in satisfaction in whole or in part of an order registered under this section shall be remitted forthwith to the clerk or other corresponding officer of the reciprocating court by which the order was made.

(11) A sum of money paid to or received by a clerk of a Court in this State from a reciprocating court in satisfaction in whole or in part of an order enforced by the reciprocating court shall be paid to or received by and applied by the clerk of the Court as if the sum had been paid to him by the body corporate by which the sum was payable in satisfaction in whole or in part of the order.

(12) The clerk of a court of summary jurisdiction shall, at the request of an officer employed in the administration of this Act, issue any request, certificate or other document that may be necessary under the law of another State or Territory of the Commonwealth for enforcement of an order, made under this Act against a body corporate, against directors of the body corporate in that State or Territory.

(13) In this section—

"corresponding law" means—

- (a) the *Road Maintenance (Contribution) Act, 1958*, as amended from time to time or as re-enacted and amended from time to time, of New South Wales;
- (b) Part II of the *Commercial Goods Vehicles Act, 1958*, as amended from time to time or as re-enacted and amended from time to time, of Victoria;
- (c) the *Roads (Contribution to Maintenance) Act of 1957*, as amended from time to time or as re-enacted and amended from time to time of Queensland;

or

- (d) the *Road Maintenance (Contribution) Act, 1965*, as amended from time to time or as re-enacted and amended from time to time of Western Australia:

"pecuniary sum" includes a fine and costs:

"reciprocating court" means a court that has jurisdiction to make an order for the payment of a pecuniary sum in pursuance of a corresponding law.

(14) This section does not apply where the order of the reciprocating court relates to—

- (a) an offence committed before the commencement of the *Road Maintenance (Contribution) Act Amendment Act, 1979*;

or

- (b) a liability incurred before the commencement of the *Road Maintenance (Contribution) Act Amendment Act, 1979*.

Evidentiary provision

13. In any prosecution for an offence against this Act, or any other proceedings instituted in pursuance of this Act—

- (a) a certificate purporting to be signed by the officer in charge of the records maintained by the Commissioner under this Act stating in respect of a vehicle—
 - (i) that no record as prescribed by this Act has been received by the Commissioner in respect of the vehicle in respect of the period stated; or
 - (ii) that records referred to therein and received by the Commissioner on a specified date or on specified dates, are the only records as prescribed by this Act received by the Commissioner in respect of the vehicle in respect of the period stated therein; or
 - (iii) that the amount of the payment stated therein to have been made on a specified date or on specified dates is the total amount of payment (if any) of charges under this Act received by the Commissioner in respect of the vehicle in respect of the period stated therein; or
 - (iv) that no charges under this Act have been received by the Commissioner in respect of the vehicle in respect of the period stated therein—

shall be *prima facie* evidence of the matters so stated;

- (b) any record in respect of a vehicle received by the Commissioner shall unless the contrary is proved be deemed to be a record kept by the owner of the vehicle and delivered to the Commissioner pursuant to this Act;
- (c) a document purporting to be signed by the Registrar of Motor Vehicles or by a person acting on his behalf or by a person deemed, pursuant to the *Motor Vehicles Act, 1959-1968*, to have acted on his behalf, which states the load capacity of a motor vehicle or trailer, or the maximum permissible gross weight of a motor vehicle or trailer together with the load which may be carried thereon, or the tare weight of a motor vehicle or trailer shall be *prima facie* evidence of the matters so stated;
- (ca) a certificate or document purporting to be issued pursuant to any enactment of a State, other than this State, or of any Territory of the Commonwealth which states the load capacity of a motor vehicle or trailer, or the maximum permissible gross weight of a motor vehicle or trailer together with the load which may be carried thereon, or the tare weight of a motor vehicle or trailer shall be *prima facie* evidence of the matters so stated;
- (d) any statement of weight painted on a motor vehicle or trailer and purporting to be the load capacity thereof or (where statements of weight are painted on a motor vehicle or trailer and purport to be respectively the maximum permissible gross weight of such motor vehicle or trailer together with the load which may be carried thereon and also the tare weight of such motor vehicle or trailer when unladen) the difference between such weights, shall be *prima facie* evidence of the load capacity of the motor vehicle or trailer, as the case may be;

10.

(e) any certificate or document purporting to be issued pursuant to the *Motor Vehicles Act, 1959-1962*, or any corresponding previous enactment or to any corresponding legislation or ordinance of any State or Territory of the Commonwealth which states that on any date or during any period—

(i) a vehicle was registered in the name of any person specified therein;

or

(ii) a vehicle was not registered in South Australia or the State or Territory in respect of which the certificate or document is issued—

shall be *prima facie* evidence of the matters stated therein.

Non-application of Act to journeys on or after 1/7/79

14. This Act shall not apply and be deemed not to have applied to or in relation to any journey, or part of any journey, occurring on or after the first day of July, 1979.

Expiry of Act

15. (1) This Act shall expire on a day to be fixed by proclamation.

(2) The Governor may, by proclamation, fix a day for the purposes of subsection (1) of this section.

SCHEDULES

FIRST SCHEDULE

1. The carriage of berries and other soft fruits, unprocessed market garden and orchard produce (other than potatoes and onions), milk, cream, butter, eggs, meat, fish or flowers, and, on the return trip, any empty containers used on the outward trip for the carriage of any such commodity.

2. The carriage of livestock to or from agricultural shows or exhibitions or from farm to farm.

SECOND SCHEDULE

1. The rate of charge to be paid in respect of every vehicle shall be .17 cents per tonne of the sum of—

(a) the tare weight of the vehicle;

and

(b) forty per centum of the load capacity of the vehicle,

per kilometre of public road along which the vehicle travels in South Australia.

2. In assessing such charge, fractions of kilometres shall be disregarded and kilograms (in relation to both tare weight and load capacity) shall be taken into account as decimals of tonnes.

Details of Charges Payable

1	2	3	4	5
Vehicle	Kilometres Travelled	Weight- Capacity (a)	Tonne Kilometres (b)	Amount Payable (c)
Without Trailer				
With Trailer				
Total				

NOTES.—

(a) To ascertain weight-capacity add together—

(i) the tare weight of the vehicle;

and

(ii) forty per centum of the load capacity of the vehicle—

expressed in tonnes, taking into account kilograms as decimals of tonnes.

(b) To ascertain tonne kilometres multiply the number in column 2 by the number in column 3.

(c) To ascertain amount payable, multiply by 0.17 the number in Column 4, which will give the amount payable in cents. Then reduce to dollars and cents.

I of being
 (Name) (Address)

the owner (or the authorized agent of the owner) of the vehicle described above and being aware that the inclusion of any false or misleading statement in this record or in the statement of journeys appearing in this document renders me guilty of an offence, hereby certify that this record contains a full and complete statement of all journeys made on public roads in the State of South Australia (other than journeys exempted by the Act) during the period shown in the statement of journeys in this document and I forward herewith a for the sum of such sum being the amount of all charges due and payable in respect of all journeys of the vehicle during such period in so far as not already paid by me.

Signed

Date

(If not signed by owner, state authority to sign.)

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 9 of The Public General Acts of South Australia 1837-1975 at page 566.

Section 3:	definition of "director" inserted by 26, 1979, s. 2
Section 10(3):	substituted by 26, 1979, s. 3
Section 12:	amended by 26, 1979, s. 4
Section 12a:	inserted by 26, 1979, s. 5
Section 13:	amended by 26, 1979, s. 6
Sections 14 and 15:	inserted by 58, 1979, s. 3