

South Australia

Statutes Amendment (Transport Portfolio) Act 2005

An Act to amend the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Transport Portfolio) Act 2005*.

2—Commencement

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

3—Amendment provisions

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 *Harbors and Navigation Act 1993*

4—Amendment of Schedule 2—Transitional provisions

Schedule 2—after clause 2 insert:

3—Vesting of land etc held in name of Minister of Marine

- (1) All land vested in fee simple in the Minister of Marine¹ immediately before the commencement of this Act will be taken to have vested in fee simple, on the commencement of this Act, in the Minister responsible for the administration of this Act.
- (2) All other interests, rights and liabilities of the Minister of Marine in relation to land immediately before the commencement of this Act, will be taken to have become, on the commencement of this Act, interests, rights and liabilities of the Minister responsible for the administration of this Act.
- (3) A proclamation in force immediately before the commencement of this Act under which dedicated land was placed under the care, control and management of the Minister of Marine will, on the commencement of this Act, be taken to have been varied by replacing references to the Minister of Marine with references to the Minister responsible for the administration of this Act.
- (4) The Registrar-General will take such action for or in connection with—
 - (a) the issue, alteration, correction or cancellation of certificates or other documents of title; or
 - (b) the making, recording, alteration, correction or cancellation of entries or endorsements in the Register Books,

as may be necessary or expedient for the purposes of giving effect to this clause.

Note—

¹The Minister of Marine was a body corporate established under the provisions of the repealed *Harbors Act 1936*.

Part 3—Amendment of *Motor Vehicles Act 1959*

5—Amendment of section 7—Registrar and officers

- (1) Section 7(1)—delete "and inspectors of motor vehicles"

(2) Section 7—after subsection (2) insert:

- (2a) The Minister may—
- (a) appoint inspectors of motor vehicles for the purposes of this Act; and
 - (b) impose conditions on such an appointment; and
 - (c) vary the conditions of appointment, or revoke the appointment, as the Minister thinks fit.

6—Amendment of section 114—Certain defences ineffective in actions against insurers

Section 114—delete "either of the two preceding sections" and substitute:
section 112 or 113

Part 4—Amendment of *Road Traffic Act 1961*

7—Amendment of section 33—Road closing and exemptions for certain events

Section 33(1)—delete subsection (1) and substitute:

- (1) On the application of any person interested, the Minister may declare an event to be an event to which this section applies and may make an order directing—
 - (a) that specified roads (being roads on which the event is to be held or roads that, in the opinion of the Minister, should be closed for the purposes of the event) be closed to traffic for a specified period; and
 - (b) that persons taking part in the event be exempted, in relation to the specified roads, from the duty to observe an enactment, regulation or by-law prescribing a rule to be observed on roads by pedestrians or drivers of vehicles.

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

Section 53B(3)—delete "this section" second occurring and substitute:
this Act

9—Amendment of section 82—Speed limit while passing school bus

Section 82(2), definition of *school bus*—delete the definition and substitute:

school bus means a bus that displays the warning signs and devices required by the vehicle standards for buses used mainly for carrying children.

10—Substitution of section 86

Section 86—delete the section and substitute:

86—Removal of vehicles causing obstruction or danger

- (1) If a vehicle is left unattended—
 - (a) on a bridge or culvert; or
 - (b) on a freeway; or
 - (c) on a road, so as to be likely to obstruct traffic on the road or any event lawfully authorised to be held on the road; or
 - (d) on a road, so as to be likely to cause injury to any person or damage to any property on the road; or
 - (e) on a road, so as to obstruct or hinder vehicles from entering or leaving adjacent land,

an authorised person may remove the vehicle to a convenient place and, for that purpose, may enter the vehicle and drive it or arrange for it to be driven or towed.
- (2) For the purposes of subsection (1), the following are authorised persons:
 - (a) police officers;
 - (b) officers of the council in whose area the vehicle is standing;
 - (c) in the case of vehicles left standing on a freeway—persons authorised by the Minister for the purposes of this section.
- (3) If a vehicle is removed under this section, the person who removed the vehicle must ensure that the owner of the vehicle is notified of the removal of the vehicle and of the place to which the vehicle was removed—
 - (a) by written notice—
 - (i) served on the owner personally; or
 - (ii) sent by registered post to the owner's last-known residential address,

forthwith after the removal of the vehicle; or
 - (b) by public notice published in a newspaper circulating generally in the State within 14 days after the removal of the vehicle.
- (4) If the owner of a vehicle removed under this section does not, within one month after service or publication of the notice relating to the removal of the vehicle—
 - (a) take possession of the vehicle; and
 - (b) pay all expenses in connection with the removal, custody and maintenance of the vehicle and of serving, posting or publishing the notice,

the relevant authority must, subject to subsection (5), offer the vehicle for sale by public auction.

- (5) If—
- (a) a vehicle removed under this section is offered for sale by public auction but is not sold at the auction; or
 - (b) the relevant authority reasonably believes that the proceeds of the sale of a vehicle removed under this section would be unlikely to exceed the costs incurred in selling the vehicle,
- the relevant authority may dispose of the vehicle in such manner as the relevant authority thinks fit.
- (6) The relevant authority must apply the proceeds of the sale of a vehicle sold by the relevant authority under this section as follows:
- (a) firstly, in payment of the costs of and incidental to the sale;
 - (b) secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vehicle and of the notice served, posted or published under this section; and
 - (c) thirdly, in payment of the balance to the owner of the vehicle.
- (7) If after reasonable inquiry the owner of a vehicle sold under this section cannot be found, the balance of the proceeds of the sale will be paid—
- (a) if the vehicle was sold by the Commissioner of Police or the Minister—to the Treasurer to be credited to the Consolidated Account; or
 - (b) if the vehicle was sold by a council—to the council.
- (8) In this section—
- event* has the same meaning as in section 33;
- freeway* means a length of road to which a freeway sign applies in accordance with the *Australian Road Rules*;
- relevant authority* means—
- (a) in relation to a vehicle removed by a police officer—the Commissioner of Police; or
 - (b) in relation to a vehicle removed by an officer of a council—the council; or
 - (c) in relation to a vehicle removed by a person approved by the Minister—the Minister.

11—Amendment of section 163C—Application of Part

Section 163C(3)—delete "this section" and substitute:
this Part

12—Amendment of section 163GA—Compliance with vehicle maintenance scheme

Section 163GA—after subsection (1a) insert:

- (1b) If a vehicle is not maintained in accordance with a prescribed scheme of maintenance that applies to the vehicle, the owner and operator of the vehicle are each guilty of an offence.

13—Insertion of section 165

After section 164B insert:

165—False statement

- (1) A person must not in furnishing information, or compiling a record, pursuant to this Act make, or include in the record, a statement that is false or misleading in a material particular.
Penalty: \$2 500 or imprisonment for 6 months.
- (2) On a charge of an offence under subsection (1), it is not necessary for the prosecutor to prove the state of mind of the defendant, but the defendant is entitled to be acquitted if the defendant proves that when making the statement he or she believed and had reasonable grounds for believing it was true.
- (3) This section applies to written and oral statements, and in respect of written and oral applications and requests.

Schedule 1—Transitional provisions

A person who, immediately before the commencement of section 5, holds an appointment as an inspector of motor vehicles under section 7 of the *Motor Vehicles Act 1959* continues, on the commencement of section 5, to hold that appointment (and the appointment may be revoked, or conditions of appointment imposed or varied, as if the person had been appointed under section 7 of the *Motor Vehicles Act 1959* as amended by section 5).