

South Australia

Motor Vehicles (Miscellaneous) Amendment Act 2007

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

This Act may be cited as the *Motor Vehicles (Miscellaneous) Amendment Act 2007*.

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 *Motor Vehicles Act 1959*

4—Amendment of section 5—Interpretation

- (1) Section 5(1), definition of *foreign licence*—delete the definition and substitute:
foreign licence means a licence to drive a motor vehicle issued under the law of another country;
- (2) Section 5(1)—after the definition of *interstate provisional licence* insert:
learner's permit means a learner's permit issued under this Act;
- (3) Section 5(1), definition of *licence*—delete the definition and substitute:
licence means a driver's licence issued under this Act;

5—Amendment of section 81A—Provisional licences

- (1) Section 81A(a1), definition of *serious disqualification offence*, (a)—delete "incurs" and substitute:
attracts
- (2) Section 81A(a1), definition of *serious disqualification offence*, (b)—delete "incurs" and substitute:
attracts
- (3) Section 81A(a1), definition of *serious disqualification offence*, (b)—delete "incurred" and substitute:
attracted
- (4) Section 81A(3b)—delete subsection (3b) and substitute:
 - (3b) Subject to this Act, the conditions imposed under subsection (3a) on a P2 licence issued to a person are effective for the prescribed period.

(3ba) However—

- (a) subject to paragraph (b), if the person would be under the age of 19 years when the prescribed period elapses, the conditions are effective until he or she turns 19;
- (b) if the person incurs any demerit points in respect of offences committed or allegedly committed while under the age of 19 years and the person would be under the age of 20 years when the prescribed period elapses, the conditions are effective until the person turns 20.

6—Amendment of section 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions etc

- (1) Section 81B(2)—delete "give notice" and substitute:
give the person written notice
- (2) Section 81B(2)(c) and (d)—delete paragraphs (c) and (d) and substitute:
 - (c) that, commencing on the day on which the notice takes effect in accordance with section 139BD, the person is disqualified from holding or obtaining a permit or licence for a period of 6 months; and
 - (d) that, if the person holds any permit or licence when the notice takes effect, the permit or licence is cancelled.
- (3) Section 81B(3)—delete "subsequent notice" and substitute:
subsequent written notice given to the person
- (4) Section 81B(3b)—delete subsection (3b)
- (5) Section 81B(11a)—delete "give notice" and substitute:
give the person written notice
- (6) Section 81B(11a)(d) and (e)—delete paragraphs (d) and (e) and substitute:
 - (d) that, commencing on the day on which the notice takes effect in accordance with section 139BD, the person is disqualified from holding or obtaining a permit or licence for a period of 12 months; and
 - (e) that, if the person holds any licence when the notice takes effect, the licence is cancelled.

7—Insertion of section 81BA

After section 81B insert:

81BA—Consequences of holder of unconditional licence incurring demerit points in respect of offences committed while holder of provisional licence

- (1) If a P2 licence held by a person is renewed as an unconditional licence and the person subsequently incurs any demerit points in respect of offences committed or allegedly committed while the person was under the age of 19 years and held a provisional licence, the Registrar must, on becoming aware of that fact, give the person written notice—
 - (a) requiring the person to surrender the person's licence to the Registrar within the period specified in the notice; and
 - (b) informing the person that if the licence is surrendered—
 - (i) the person will be entitled to a refund of a proportion of the licence fee paid for the licence; and
 - (ii) the person will, if not disqualified or otherwise prevented by law from holding or obtaining a licence, be entitled to be issued a P2 licence; and
 - (c) informing the person that if the person does not comply with the notice, the Registrar may suspend the licence until it is surrendered to the Registrar.
- (2) A notice under subsection (1) may be sent by post, addressed to the person to whom it is required to be given, at his or her last known postal address.
- (3) Subject to this Act, if a person to whom notice is given under this section surrenders the person's licence, the Registrar must, on application by the person and payment of the prescribed fee, issue a P2 licence to the person.
- (4) The conditions applying to a P2 licence issued to a person under this section following the surrender of an unconditional licence are effective for a period equal to the period for which such conditions would have continued to be effective under section 81A if any demerit points incurred in respect of offences committed or allegedly committed while the person was under the age of 19 years had been incurred while the person held a provisional licence.
- (5) If a person fails to comply with a notice given to the person under this section, the Registrar may suspend the person's licence until the licence is surrendered to the Registrar.

8—Amendment of section 81C—Disqualification for certain drink driving offences

- (1) Section 81C(2)(a)—delete "commencing on a day specified in the notice" and substitute:

commencing on the day on which the notice takes effect in accordance with section 139BD
- (2) Section 81C(2)(b)—delete "at the commencement of the period of disqualification" and substitute:

when the notice takes effect

9—Amendment of section 81D—Disqualification for certain drug driving offences

- (1) Section 81D(2)(a)—delete "commencing on a day specified in the notice" and substitute:

commencing on the day on which the notice takes effect in accordance with section 139BD
- (2) Section 81D(2)(b)—delete "at the commencement of the period of disqualification" and substitute:

when the notice takes effect

10—Substitution of section 83

Section 83—delete the section and substitute:

83—Consequences of certain orders or administrative actions outside State

- (1) If—
 - (a) the Registrar becomes aware that, under a law of another State or Territory of the Commonwealth, an order has been made or administrative action has been taken that affects a person's licence or other authority to drive a motor vehicle in that State or Territory; and
 - (b) the person holds a licence or learner's permit,the Registrar must take such action in relation to the licence or permit as may be necessary to give effect to the order or administrative action as if it had been made or taken in this State in relation to the licence or permit.
- (2) If the Registrar becomes aware that, under a law of another State or Territory of the Commonwealth, an order has been made or administrative action has been taken that results in a person being disqualified from holding or obtaining a licence or other authority to drive a motor vehicle in that State or Territory, the Registrar must refuse to issue a licence or learner's permit to the person during the period of disqualification.

- (3) If—
- (a) the Registrar becomes aware that, under a law of another country, an order has been made or administrative action has been taken that affects a person's licence or other authority to drive a motor vehicle in that country; and
 - (b) the person holds a licence or learner's permit,
- the Registrar may take such action in relation to the licence or permit as may be necessary to give effect to the order or administrative action as if it had been made or taken in this State in relation to the licence or permit.
- (4) If the Registrar becomes aware that, under a law of another country, an order has been made or administrative action has been taken that results in a person being disqualified from holding or obtaining a licence or other authority to drive a motor vehicle in that country, the Registrar may refuse to issue a licence or learner's permit to the person during the period of disqualification.

11—Amendment of section 97A—Visiting motorists

- (1) Section 97A(1)(b)(ii)—delete subparagraph (ii) and substitute:
- (ii) in the case of a person who holds a foreign licence and is a permanent resident or citizen of Australia—the person has not resided in this State for a continuous period of more than 3 months; and
- (2) Section 97A(6)—after the definition of *interstate licence* insert:

permanent resident means a person who holds a current permanent visa under the *Migration Act 1958* of the Commonwealth.

12—Amendment of section 98BD—Notices to be sent by Registrar

- (1) Section 98BD(1)—delete "notify a person" and substitute:
- give a person written notice
- (2) Section 98BD(2) and (3)—delete subsections (2) and (3) and substitute:
- (2) If a person is liable to be disqualified under section 98BC, the Registrar must, subject to this section, give the person written notice—
 - (a) that, commencing on the day on which the notice takes effect in accordance with section 139BD, the person is disqualified from holding or obtaining a licence for the prescribed period referred to in section 98BC; and
 - (b) that, if the person holds any licence when the notice takes effect, the licence is suspended for that prescribed period.

13—Amendment of section 98BE—Disqualification and discounting of demerit points

(1) Section 98BE(1) to (2)—delete subsections (1) to (2) inclusive and substitute:

- (1) A notice of disqualification under section 98BD(2) does not take effect if the person to whom the notice is given makes an election under subsection (2).
- (2) If a person who holds a licence is given a notice of disqualification under section 98BD(2), the person may, by notice given to the Registrar in accordance with the regulations—
 - (a) within 21 days of the day specified in the notice of disqualification; or
 - (b) with the permission of the Registrar, within 28 days of the day specified in the notice of disqualification,

elect, in lieu of suffering disqualification, to accept a condition on the licence requiring the person to be of good behaviour for a period of 12 months commencing on the day on which the notice of disqualification would have taken effect in accordance with section 139BD.

- (2a) If a person incurs 2 or more demerit points in relation to 1 or more offences committed by the person while the holder of a licence subject to the condition referred to in subsection (2), the Registrar must give the person written notice—
 - (a) that, commencing on the day on which the notice takes effect in accordance with section 139BD, the person is disqualified from holding or obtaining a licence for a period that is twice the period for which the disqualification would have applied under section 98BC if the person's licence had not been subject to that condition; and
 - (b) that, if the person holds any licence when the notice takes effect, the licence is suspended during the period of disqualification.

(2) Section 98BE(3)—after "conviction" insert:

for an offence

14—Amendment of section 136—Duty to notify change of name, address etc

(1) Section 136—after subsection (2c) insert:

- (2d) If a person who is—
 - (a) a registered owner or the registered operator of a motor vehicle; or
 - (b) the holder of a licence or learner's permit; or
 - (c) the holder of trade plates,

changes his or her postal address, the person must, within 14 days of the change, give notice to the Registrar in a prescribed manner of his or her new postal address.

Maximum penalty: \$250.

- (2) Section 136(3)—after "business" insert:

, postal address

15—Insertion of section 139BD

After section 139BC insert:

139BD—Service and commencement of notices of disqualification

- (1) A notice of disqualification authorised or required to be given under this Act must be given in accordance with this section.
- (2) A notice of disqualification must in the first instance be sent by post, addressed to the person to whom it is required to be given, at his or her last known postal address.
- (3) The Registrar must, in the notice—
 - (a) require the person—
 - (i) to attend, within the period specified in the notice, at a specified place of a kind prescribed by the regulations to personally acknowledge receipt of the notice in accordance with the notice; and
 - (ii) to pay to the Registrar, in accordance with the notice, the administration fee prescribed by the regulations; and
 - (b) inform the person that if he or she fails to comply with the requirements of the notice—
 - (i) another notice of disqualification will be issued and served on the person personally; and
 - (ii) the person will be liable to pay a service fee of the amount prescribed by the regulations; and
 - (c) inform the person that if another notice of disqualification is issued and an attempt to serve the notice personally is unsuccessful, the Registrar may refuse to enter into any transaction with the person until the person pays the service fee and personally acknowledges receipt of the notice in accordance with the notice.
- (4) If a person to whom a notice of disqualification is posted fails to comply with a requirement made under subsection (3) within the period specified in the notice—
 - (a) the notice is to be taken for the purposes of this Act not to have been given to the person; and

- (b) the Registrar must issue another notice of disqualification and cause it to be served on the person personally.
- (5) If an attempt to effect personal service of a notice of disqualification is unsuccessful, the Registrar may refuse to enter into any transaction with the person to whom the notice is required to be given until—
 - (a) the person pays the service fee prescribed by the regulations; and
 - (b) the person personally acknowledges receipt of the notice in accordance with the notice.
- (6) For the purposes of this Act, a notice of disqualification is to be taken to have been given to a person—
 - (a) in the case of a notice receipt of which is personally acknowledged by the person as required by the notice—on the day on which receipt of the notice is so acknowledged; or
 - (b) in the case of a notice that is served on the person personally—on the day on which the notice is so served.
- (7) A notice of disqualification must specify when the notice will take effect in accordance with this section.
- (8) Subject to subsection (9), a notice of disqualification takes effect as follows:
 - (a) in the case of a notice receipt of which is personally acknowledged by a person as required by the notice—28 days after the day specified in the notice;
 - (b) in the case of a notice that is served on a person personally—28 days after the day on which the notice is so served.
- (9) If, at the time that a notice of disqualification is due to take effect, the person is already disqualified from holding or obtaining a licence or permit, the notice of disqualification will instead take effect on the termination of that prior disqualification.
- (10) If the Registrar considers that there are proper reasons for doing so, the Registrar may, at any time before a notice of disqualification takes effect, reissue the notice.
- (11) In this section—

notice of disqualification means a notice under section 81B(2), 81B(11a), 81C(2), 81D(2), 98BD(2) or 98BE(2a).

16—Amendment of section 139C—Service of other notices and documents

- (1) Section 139C(1)—delete "a document or notice" and substitute:
a notice or other document

- (2) Section 139C(1)(b)—delete paragraph (b) and substitute:
- (b) be sent by post addressed to that person at his or her last known postal address.
- (3) Section 139C(2)—delete "a document or notice" and substitute:
- a notice or other document

17—Amendment of section 141—Evidence by certificate etc

Section 141(i)—after "change of" second occurring insert:

postal address or

Part 3—Transitional provision

18—Transitional provision

An amendment to the *Motor Vehicles Act 1959* made by a provision of Part 2 does not apply in relation to an offence committed or allegedly committed before the commencement of that provision.