

South Australia

# Motor Vehicles (Motor Bike Driver Licensing) Variation Regulations 2021

under the *Motor Vehicles Act 1959*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Motor Vehicles (Motor Bike Driver Licensing) Variation Regulations 2021*.

### 2—Commencement

- (1) Subject to subregulation (2), these regulations come into operation on the day on which section 9 of the *Motor Vehicles (Motor Bike Driver Licensing) Amendment Act 2021* comes into operation.
- (2) The following regulations come into operation on the day on which section 8 of the *Motor Vehicles (Motor Bike Driver Licensing) Amendment Act 2021* comes into operation.
  - (a) regulation 4(1), (3), (4) and (5);
  - (b) regulation 5 and 6;
  - (c) regulation 8 to 11;
  - (d) regulation 13(1), (3) and (4);
  - (e) regulations 14 to 17;
  - (f) Schedule 1.

### 3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *Motor Vehicles Regulations 2010*

### 4—Variation of regulation 3—Interpretation

- (1) Regulation 3(1)—after the definition of *Act* insert:

*approved hazard perception test* has the same meaning as in section 79A of the Act;
- (2) Regulation 3(1)—before the definition of *articulated bus* insert:

*approved theoretical examination* has the same meaning as in section 79 of the Act;
- (3) Regulation 3(1), definition of *hazard perception test*—delete the definition
- (4) Regulation 3(1)—after the definition of *registration details certificate* insert:

*restricted motor bike learner's permit* has the same meaning as in section 75B of the Act;

(5) Regulation 3—after subregulation (1) insert:

- (1a) In these regulations, *recognised secondary education or training*, *recognised tertiary education or training* and *recognised vocational education and training* have the same respective meanings as in Schedule 2 clause 3 of the Act.

## **5—Variation of regulation 42—Classification of licences**

Regulation 42(2)—delete "1 year" and substitute:

2 years

## **6—Insertion of regulations 45A to 45H**

After regulation 45 insert:

### **45A—Section 75(1)(aa)(i) of Act—exemption for certain applicants**

If—

- (a) a person applies for a licence authorising the driving of a motor bike; and
- (b) the person is entitled to apply for such a licence by virtue of section 81BA(3)(b) or 81BB(7)(b) of the Act; and
- (c) the person is at least 17 years of age,

the person is exempt from the operation of section 75(1)(aa)(i) of the Act in respect of the application for the licence.

### **45B—Section 75A(1) of Act—prescribed locality**

For the purposes of the definition of *prescribed locality* in section 75A(1) of the Act, the following areas of the State are defined:

- (a) those areas within postcode 5118 constituted by Concordia, Kangaroo Flat, Kingsford and Ward Belt;
- (b) those areas within postcode 5120 constituted by Buckland Park;
- (c) those areas within the following postcodes:
  - (i) 5153;
  - (ii) 5154;
  - (iii) 5157;
- (d) those areas within postcode 5172 constituted by Hope Forest, Kuitpo Colony, Kyeema, Pages Flat, Willunga Hill, Willunga South, Yundi, The Range, Dingabledinga and Montarra;
- (e) those areas within postcode 5174 constituted by Sellicks Hill;

- (f) those areas within the postcodes between 5201 and 5495 (inclusive), other than an area within the following postcodes:
  - (i) 5231;
  - (ii) 5232;
  - (iii) 5240;
  - (iv) 5242;
  - (v) 5245;
  - (vi) 5250;
  - (vii) 5251;
- (g) those areas within postcode 5501 constituted by Long Plains, Calomba, Avon, Middle Beach, Port Gawler, Lower Light, Dublin, Thompson Beach, Webb Beach, Parham, Windsor and Wild Horse Plains;
- (h) those areas within the postcodes between 5502 and 5734 (inclusive).

**45C—Section 75A(2)(a)(v) of Act—prescribed training and exemptions**

- (1) For the purposes of section 75A(2)(a)(v) of the Act, the motor bike driver training conducted by the Transport Department relating to basic motor bike control skills that involves basic braking, cornering, gear shifting, bike control theory, traffic skills and a practical skills assessment is prescribed.
- (2) An applicant for a licence or learner's permit authorising the driving of a motor bike who resides more than 100 kilometres from the nearest place at which training referred to in subregulation (1) is conducted is exempt from the requirement in section 75A(2)(a)(v) of the Act prescribed by subregulation (1).
- (3) The Registrar may, on application by an applicant for a licence or learner's permit authorising the driving of a motor bike and payment of the fee (if any) determined by the Registrar, grant the applicant an exemption from the requirement in section 75A(2)(a)(v) of the Act prescribed by subregulation (1) subject to such conditions as the Registrar thinks fit.

**45D—Section 75A(10)(c) of Act—exemption while driving motor trike**

The holder of a learner's permit is, while driving a motor trike on a road pursuant to the permit, exempt from the operation of section 75A(10)(c) of the Act.

**45E—Offence against section 75A(20) of Act—prescribed circumstances (section 75A(21)(b) of Act)**

For the purposes of section 75A(21)(b) of the Act—

- (a) in the case of an offence committed while the person was the holder of a restricted motor bike learner's permit—driving a motor bike in the course of undertaking—
  - (i) recognised tertiary education or training; or
  - (ii) recognised vocational education and training, is driving the motor bike in prescribed circumstances; or
- (b) in any other case—driving a motor bike in the course of undertaking—
  - (i) recognised secondary education or training; or
  - (ii) recognised tertiary education or training; or
  - (iii) recognised vocational education and training, is driving the motor bike in prescribed circumstances.

**45F—Section 75A(20) of Act—exemption for certain restricted motor bike learner's permit holders**

The holder of a restricted motor bike learner's permit is exempt from section 75A(20) if—

- (a) —
  - (i) the holder of the permit is 18 years of age or older; or
  - (ii) the holder of the permit—
    - (A) is 17 years of age or older; and
    - (B) is the holder of a provisional driver's licence; and
- (b) the holder of the permit drives a motor bike on a road—
  - (i) in circumstances prescribed by Schedule 2 of the Act for the purposes of section 75A(21); or
  - (ii) in the course of undertaking—
    - (A) recognised secondary education or training; or
    - (B) recognised tertiary education or training; or
    - (C) recognised vocational education and training.

**45G—Section 75B(1) of Act—exemption for certain restricted motor bike learner's permit holders**

The holder of a restricted motor bike learner's permit is exempt from the operation of section 75B(1) of the Act—

- (a) on and after the day on which they attain the age of 18 years; or
- (b) if the holder of the permit—
  - (i) is 17 years of age or older; and
  - (ii) is the holder of a provisional driver's licence.

**45H—Offence against section 75B(1) of Act—prescribed circumstances (section 75B(1)(d) of Act)**

For the purposes of section 75B(1)(d) of the Act, driving a motor bike in the course of undertaking—

- (a) recognised tertiary education or training; or
  - (b) recognised vocational education and training,
- is driving the motor bike in prescribed circumstances.

**7—Variation of regulation 46—Examination of applicant for licence or learner's permit**

- (1) Regulation 46(1)(a) and (b)—delete "a theoretical" wherever occurring and substitute in each case:

an approved theoretical

- (2) Regulation 46(2)—delete "a number that equals 80% of the questions asked in the examination." and substitute:

—

- (a) in the case of an examination taken in person by the applicant at premises or a class of premises determined by the Registrar—a number that equals 80% of the questions asked in the examination; or
- (b) in any other case—a number that equals 90% of the questions asked in the examination.

**8—Variation of regulation 46A—Section 79A of Act—exemptions from certain requirements**

- (1) Regulation 46A(a)—before "hazard" insert:

approved

- (2) Regulation 46A—delete "section 79A(1)(a)(iia) and 79A(3)(ca)" and substitute:

section 79A(3)(b)(i) and 79A(7)(d)(i)

- (3) Regulation 46A—after its present contents as varied by this regulation (now to be designated as subregulation (1)) insert:
- (2) An applicant for a licence authorising the driving of a motor bike who resides more than 100 kilometres from the nearest place at which training referred to in regulation 47(1a) is conducted is exempt from the requirement in section 79A(3)(c) of the Act.
  - (3) The Registrar may, on application by an applicant for a licence authorising the driving of a motor bike and payment of the fee (if any) determined by the Registrar, grant the applicant an exemption from the requirement in section 79A(3)(c) of the Act, subject to such conditions as the Registrar thinks fit.

**9—Variation of regulation 47—Section 79A of Act—prescribed requirements and prescribed training**

- (1) 47(1)—delete "section 79A(1)(a)(ii)(B)" and substitute:  
section 79A(3)(a)(i)(B)
- (2) Regulation 47—after subregulation (1) insert:
- (1a) For the purposes of section 79A(3)(c) of the Act, the motor bike driver training conducted by the Transport Department relating to advanced motor bike control skills that involves advanced braking, cornering, gear shifting, bike control theory, traffic skills, hazard perception, protective clothing, vehicle technology and a practical skills assessment is prescribed.
- (3) 47(2)—delete "section 79A(2)(b)" and substitute:  
section 79A(6)

**10—Substitution of regulation 54**

Regulation 54—delete the regulation and substitute:

**54—Offence against section 81A(16) of Act—defence of driving in prescribed circumstances (section 81A(17)(b) of Act)**

For the purposes of section 81A(17)(b) of the Act, driving a motor vehicle in the course of undertaking—

- (a) recognised secondary education or training; or
  - (b) recognised tertiary education or training; or
  - (c) recognised vocational education and training,
- is driving the motor vehicle in prescribed circumstances.

**11—Insertion of regulation 55**

After regulation 54 insert:

**55—Section 81AC(1) of Act—prescribed class of motor bike licence**

For the purposes of the definition of *prescribed motor bike licence* in section 81AC(1) of the Act, a licence assigned the classification R-DATE is prescribed.

**12—Variation of regulation 90—Remission and reduction of fees**

Regulation 90(4)(d)—delete "a theoretical" and substitute:  
an approved theoretical

**13—Variation of Schedule 1—Fees**

(1) Schedule 1, table, item 24(1)—delete item 24(1) and substitute:

(1)	For the issue or renewal of a learner's permit for—	
	(a) 1 year	\$24.00
	(b) 2 years	\$48.00
	(c) 3 years	\$72.00

(2) Schedule 1, table, item 27—delete item 27 and substitute:

**27—Approved theoretical examination**

For an approved theoretical examination—

(a)	examination fee	\$18.00
(b)	administration fee (payable in addition to the examination fee)	level 2 fee

(3) Schedule 1, table, heading to item 30—delete "**Hazard**" and substitute:

**Approved hazard**

(4) Schedule 1, table, item 30—delete "a hazard" and substitute:  
an approved hazard

**14—Variation of Schedule 2—Classification of driver's licences**

(1) Schedule 2, table, item relating to R-DATE licence class, third column—delete "Nil" and substitute:

The applicant must have held a learner's permit authorising the holder to drive a motor bike for at least 1 year.

(2) Schedule 2, table, item relating to R licence class, third column—delete "1 year" and substitute:

2 years



## 15—Variation of Schedule 3—Conditions of driver's licences and learner's permits

Schedule 3, clause 1, table—after the row relating to R-DATE insert:

The holder of the licence or permit is permitted to drive only a M  
motor bike that is fitted with automatic transmission

## 16—Variation of Schedule 4—Demerit points

(1) Schedule 4, clause 7, table, item relating to section 75A(20)—delete "*without carrying passenger acting as qualified supervising driver*"

(2) Schedule 4, clause 7, table—after the item relating to section 75A(20) insert:

75A(24)	<i>Holder of learner's permit driving motor bike on road carrying person on motor bike</i>	3
75A(25)	<i>Holder of learner's permit driving motor bike on road towing vehicle by use of motor bike</i>	3
75B(1)	<i>Holder of a restricted motor bike learner's permit driving motor bike on road (other than in prescribed circumstances)</i>	3

(3) Schedule 4, clause 7—after the item relating to section 81A(18) insert:

81AC(3)	<i>Holder of a prescribed motor bike licence driving, or attempting to put in motion, motor bike on road while having prescribed concentration of alcohol in blood or prescribed drug in oral fluid or blood</i>	4
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## 17—Variation of Schedule 5—Expiation fees

(1) Schedule 5, clause 1, table, item relating to section 75A(20)—delete "*without carrying passenger acting as qualified supervising driver*"

(2) Schedule 5, clause 1, table—after the item relating to section 75(20) insert:

75A(24)	<i>Holder of learner's permit driving motor bike on road carrying person on motor bike</i>	\$389
75A(25)	<i>Holder of learner's permit driving motor bike on road towing vehicle by use of motor bike</i>	\$389
75B(1)	<i>Holder of restricted motor bike learner's permit driving motor bike on road (other than in prescribed circumstances)</i>	\$389

(3) Schedule 5, clause 1, table—after the item relating to section 81AB(5) insert:

81AC(3)	<i>Holder of prescribed motor bike licence driving, or attempting to put in motion, motor bike on road while having prescribed concentration of alcohol in blood or prescribed drug in oral fluid or blood</i>	\$771
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## **Schedule 1—Transitional provision**

### **1—Transitional provision**

Regulation 42 and Schedule 2 of the *Motor Vehicles Regulations 2010* as in force immediately before the commencement of section 8 of the *Motor Vehicles (Motor Bike Driver Licensing) Amendment Act 2021* continue to apply to and in relation to a person holding a driver's licence that is assigned the R-DATE classification in force immediately before that commencement.

#### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Administrator**

with the advice and consent of the Executive Council  
on 7 October 2021

No 147 of 2021