



ANNO TERTIO

GEORGI VI REGIS.

A.D. 1939.

No. 45 of 1939.

An Act to amend the Road Traffic Act, 1934-1938.

[Assented to 21st December, 1939.]

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

Short titles.

1. (1) This Act may be cited as the " Road Traffic Act Amendment Act (No. 3), 1939 ".
- (2) The Road Traffic Act, 1934-1938, as amended by this Act, may be cited as the " Road Traffic Act, 1934-1939 ".
- (3) The Road Traffic Act, 1934-1938, is hereinafter called " the principal Act ".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

**Amendment of
s. 4 of the
principal Act—
Interpretation.**

3. Section 4 of the principal Act is amended as follows:—
 - (a) The definition of " court " therein is struck out and the following definition inserted in lieu thereof:—

" ' court ' means the court (whether the Supreme Court or any other court) having jurisdiction to deal with matters arising under the provision of this Act in which the term occurs. " :
 - (b) The definition of " motor vehicle " is amended by adding after the word " motor cycle " in the second line thereof the word " tractor " :
 - (c) The definition of " trailer " is amended—
 - (i.) by striking out the word " and " in the second and fourth lines thereof and inserting in lieu thereof in each case the word " or " ;

(ii.) by striking out paragraph (a) of the proviso thereto ;
and

(iii.) by inserting after the word " constructed " in
paragraph (b) of the proviso thereto the words
" or adapted " .

4. Subsection (1) of section 7 of the principal Act is amended by striking out in the fifth, sixth, and seventh lines thereof the words " in the circumstances mentioned in section 27, and has thereon trader's plates as required by that section ", and inserting in lieu thereof the words " bearing trader's plates issued under section 27 and for the time being in operation " .

Amendment of
s. 7 of
principal Act—
Consequential
amendment.

5. Paragraph (10) of section 9 of the principal Act is amended by adding at the end of paragraph (b) thereof the words " or for transporting goods, intended for consumption or use on the land of such primary producer, from the said railway station, port, or town to the said land " .

Amendment of
s. 9 (10) of
principal Act—
Primary
producers'
tractors.

6. Paragraph (11) of section 9 of the principal Act is amended by striking out in the seventeenth line thereof the words " a full year's registration fee " and inserting in lieu thereof the words " the full registration fee for the period for which the vehicle was registered " .

Amendment of
s. 9 (11) of the
principal Act—
Consequential
amendment.

7. Subsection (4) of section 13 of the principal Act is amended by striking out paragraph (a) thereof and inserting in lieu thereof the following paragraphs :—

Amendment of
s. 13 of the
principal Act—
Visibility of
number plates.

(a) on which any letter or figure on the number plate on the front thereof is not clearly visible in daylight, to a person standing on the same plane as the vehicle, at any point directly in front of the vehicle and not less than ten feet or more than sixty feet from the front of the vehicle :

(aa) on which any letter or figure on the number plate on the rear thereof is not clearly visible in daylight, to a person standing on the same plane as the vehicle, at any point directly behind the vehicle and not less than ten feet or more than sixty feet from the rear of the vehicle.

8. (1) Subsection (2) of section 20 of the principal Act is amended by inserting after the word " sixpence " in the third line thereof the words " and lodgment by him of an application in the prescribed form for the registration of the motor vehicle and production of a certificate of insurance as required by section 8c of this Act " .

Amendment of
s. 20 of the
principal Act—
Transfer of
registration.

Road Traffic Act Amendment Act (No. 3), 1939.

(2) Subsection (3) of section 20 of the principal Act is amended by inserting after the word "fee" in the second line the words "and by an application and a certificate as required by subsection (2) of this section".

Amendment of
s. 21 (2) of
principal Act—
Refunds of
registration
fees.

9. Subsection (2) of section 21 of the principal Act is amended by adding at the end thereof the following paragraph:—

(e) If the registered owner of the motor vehicle is, whilst the Commonwealth is at war, serving in any naval, military, or air force of the Commonwealth.

Amendment of
s. 27 of
principal Act—
Use of general
traders' plates;

10. Section 27 of the principal Act is amended by striking out subsection (10) thereof and inserting in lieu thereof the following subsection:—

(10) No person shall on any road drive any motor vehicle having a general trader's plate thereon—

(a) if the vehicle is carrying passengers or goods for hire or reward; or

(b) if the vehicle is being driven for any purpose other than a purpose directly connected with a business carried on by the person to whom the trader's plate was issued, and being a business of manufacturing, repairing, or dealing in motor vehicles.

Amendment of
s. 32a of
principal Act—
Examination of
applicants for
driver's licence.

11. Section 32a of the principal Act is amended by striking out the last sentence in subsection (3) thereof.

Amendment of
s. 38a of the
principal Act—
Disqualifica-
tion of drivers.

12. Section 38a of the principal Act is amended by striking out the word "any" in the first line thereof, and inserting in lieu thereof the words "the Supreme Court or any other".

Enactment of
s. 38ee. of
principal Act:

13. The following section is hereby enacted and inserted in the principal Act after section 38e thereof:—

Suspension of
licence of
person suffering
from disease
or disability.

38ee. (1) If the Commissioner of Police or the Registrar suspects that any person holding a driver's licence is suffering from any disease (mental or physical) or any disability which impairs or may at any time impair his ability to drive a motor vehicle, he may suspend the licence of that person for such period as he thinks proper.

(2) If the Commissioner of Police or the Registrar is subsequently satisfied that the ability of the said person to drive a motor vehicle is not impaired, or is not impaired to such an extent as to justify the continuance of the suspension, he may remove the suspension.

(3) Where the licence of any person has been suspended under this section, that person may on complaint duly laid before a court of summary jurisdiction and served on the Commissioner of Police or the Registrar, as the case may be, as defendant to the proceedings, apply to that court for an order removing the suspension, and the court may if it deems it expedient to do so order that the suspension shall be removed as from any date which it thinks proper, or that the period of suspension shall be altered, or may make any other order relating to the suspension which the court thinks just.

14. Section 42 of the principal Act is amended by inserting after subsection (1b) thereof the following subsection :—

Amendment of s. 42 of the principal Act—

(1c) Whenever any part of a motor vehicle, which is at any time between half an hour after sunset and half an hour before sunrise on any road, projects to the rear for more than three feet beyond the lamp carried on the rear of the motor vehicle pursuant to paragraph (b) of subsection (1) of this section, a lighted lamp shall be kept attached to the rearward extremity of the said projecting part of the motor vehicle in such a position and manner as to show a red light clearly visible from a distance of two hundred yards from the rear of the motor vehicle.

Lights on projecting parts of vehicles.

15. Paragraph XII. of subsection (1) of section 61 of the principal Act is amended so as to read as follows :—

Amendment of principal Act, s. 61—

XII. Providing for the temporary registration, or the exemption from registration, of motor vehicles owned by persons resident outside the State and temporarily in the State, and for the issue of temporary licences to the drivers of such vehicles or for the exemption of such drivers from the obligation to hold licences.

Regulations.

16. The following sections are hereby enacted and inserted in the principal Act after section 67e thereof :—

Enactment of s. 67f of principal Act—

67f. (1) Whenever a court makes an order disqualifying a person from holding and obtaining a driver's licence, and whenever the Commissioner of Police suspends a driver's licence, the proper officer of the court or, as the case may be, the Commissioner of Police, shall forthwith send to the registrar a notice in writing setting out the date on which the order of disqualification was made or the licence suspended, the period of the disqualification or suspension, and short particulars of the grounds thereof.

Notice of disqualification of drivers and suspension of licences.

Road Traffic Act Amendment Act (No. 3), 1939.

(2) If any such order of disqualification is quashed or varied by a court on appeal, the proper officer of the court shall forthwith send to the registrar a notice in writing setting out the date of the order made on the appeal and the effect thereof.

(3) If any such suspension is removed by the Commissioner of Police, he shall forthwith send to the registrar a notice in writing setting out the date of the removal of the suspension, the date as from which it takes effect and the grounds therefor.

(4) In this section "proper officer" means—

(a) in relation to the Supreme Court, the Master of that court :

(b) in relation to any other court, the clerk of that court.

Delivery of
licences to
registrar and
indorsement.

67g. (1) The registrar may by notice in writing served personally or by post on any holder of a driver's licence in relation to whom an order of disqualification has been made under this Act or whose licence has been suspended or cancelled, require him to deliver his licence to the registrar or to some member of the police force specified by the registrar in the notice, at a place and within a reasonable time specified in the notice.

(2) Any person who without reasonable excuse (proof of which shall lie on such person) fails to comply with a notice under this section shall be guilty of an offence.

(3) The registrar or any member of the police force to whom a licence is delivered under this section—

(a) may indorse thereon particulars of any suspension or cancellation thereof or any order of disqualification made against the holder thereof; and

(b) in a case where the licence is cancelled or where the suspension or disqualification extends until or beyond the time of the expiration of the licence, may retain the licence.

Amendment of
s. 70a of
principal Act—
Interpretation.

17. Section 70a of the principal Act is amended by inserting after the definition of "approved insurer" the following definition :

"insured" when used as a noun has the same meaning as "insured person" as hereinafter defined :

18. Subsection (2a) of section 70c of the principal Act is repealed and the following subsection is enacted and substituted in lieu thereof :—

Amendment of s. 70c of the principal Act—

(2a) Every policy which relates to a vehicle operated for the carriage of passengers for hire pursuant to a licence issued under the by-laws of a municipal or district council, or the Road and Railway Transport Act, 1930-1935, or The Municipal Tramways Trust Act, 1935, or any other Act providing for the licensing of vehicles used for the carriage of passengers for hire, must indemnify the insured person in respect of any claim based on the death of or bodily injury to any person who as a passenger carried or about to be carried for hire was being conveyed in or on or was entering or alighting from that vehicle. Except as mentioned in this subsection, a policy of insurance need not for the purposes of this Part indemnify the insured person against any claim based on the death of, or injury to, any person driving or being conveyed in or on or entering or alighting from the vehicle mentioned in the policy.

Insurance against liability to passengers.

19. Section 70d of the principal Act is amended as follows :—

Amendment of s. 70d of the principal Act—

(a) The words “ Subject to subsection (7a) of this section ” are inserted at the commencement of subsection (7) :

Death or injury caused by unidentified car.

(b) The following subsection is enacted and inserted after subsection (7) :—

(7a) Any association consisting of not less than ten approved insurers may submit for the Treasurer's approval a scheme under which it is proposed that all approved insurers will contribute money in proportions provided for in the scheme for—

(a) satisfying claims made in respect of death or bodily injury caused by negligence in the use of a motor vehicle where the identity of the vehicle cannot be ascertained ; and

(b) satisfying judgments obtained against nominal defendants under this section ; and

(c) paying the costs of such defendants.

If the Treasurer approves of any scheme so submitted every approved insurer shall enter into and execute an agreement between himself and all other approved insurers for the purpose

of carrying the scheme into effect, and shall carry out the obligations imposed upon him by the agreement; and the Treasurer may by notice in the *Gazette* declare that any approved insurer who refuses to enter into or execute such an agreement or fails or refuses to carry any such obligation shall cease to be an approved insurer.

Subsection (7) of this section, so far as it provides that the Treasurer shall determine the proportions in which approved insurers are to satisfy judgments and pay nominal defendants' costs, and that the Treasurer may satisfy judgments and pay a nominal defendant's costs, shall not apply in relation to any judgment against a nominal defendant which is satisfied pursuant to a scheme approved by the Treasurer under this subsection, or in relation to any nominal defendant's costs which are paid pursuant to any such scheme.

Repeal and re-enactment of s. 70s of principal Act—
Soliciting instructions to claim.

20. Section 70s of the principal Act is repealed and the following section is hereby enacted and inserted in lieu thereof:—

70s. (1) No person shall—

- (a) directly or indirectly hold himself out as being willing for reward to accept instructions or authority to act on behalf of any person in respect of the making or commencement of any claim or action for damages for the death of or bodily injury to any person arising out of the use of a motor vehicle or in respect of the negotiation, compromise or settlement of any such claim or action on behalf of the claimant;
- (b) for reward make or commence or cause to be made or commenced on behalf of any person any claim or action for such damages as aforesaid or negotiate, settle or compromise on behalf of the claimant any such claim or action when made or commenced.

(2) This section shall not apply to any qualified legal practitioner acting in the course of his profession or to any officer of any association, *bona fide* formed for the protection of the interests of employees and whether registered under any Commonwealth or State Act or not, when acting in the course of his duties for a member of such association.

(3) Any agreement to pay any money for work done or services rendered contrary to this section shall be void, and any money so paid shall be recoverable by the person who has paid it.

(4) If any person contravenes this section in any way he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.

21. Subsection (5) of section 110 of the principal Act is amended so as to read as follows :—

Amendment of s. 110 (5) of principal Act—
Application of s. 110.

(5) This section shall apply within—

- (a) every municipality and every district council district :
- (b) the Garden Suburb :
- (c) such other areas as the Governor declares by proclamation to be areas within which this section applies.

The Governor may by proclamation declare any area defined or mentioned in the proclamation to be an area within which this section shall apply, and may by proclamation revoke or vary any proclamation previously made under this subsection.

22. The following section is hereby enacted and inserted in the principal Act after section 111 thereof :—

Enactment of s. 111a of principal Act—

111a. (1) Whenever any part of a vehicle which is being driven or is standing upon any road at any time between half an hour after sunset and half an hour before sunrise, projects to the rear for more than three feet beyond the lamp carried on the rear of the vehicle pursuant to paragraph (b) of subsection (1) of section 109 of this Act, a lighted lamp shall be kept attached to the rearward extremity of the said projecting part of the vehicle in such a position and manner as to show a red light clearly visible from a distance of two hundred yards from the rear of the vehicle.

Lights on projecting parts of vehicles.

(2) Any person who on any road drives any vehicle not complying with this section shall be guilty of an offence.

23. Section 130a of the principal Act is amended by inserting after subsection (5) thereof the following subsections :—

Amendment of s. 130a of principal Act—

(5a) Subsections (4) and (5) of this section shall not apply if at the junction or intersection at or near which

Stopping and slowing down at inter-sections and junctions.

the sign is erected the traffic was at the material time being controlled by a member of the police force or some other authorized person.

(5b) If any person fails to comply with any requirement of subsection (4) or subsection (5) of this section he shall be guilty of an offence.

Amendment of
s. 130b of
principal Act—

24. Subsection (2) of section 130b of the principal Act is repealed and the following subsections are enacted and substituted in lieu thereof :—

Stop signs at
railway
crossings.

(2) The rider or driver of any vehicle or animal approaching a level crossing at or near which any such sign is erected, from the direction in which the sign is facing—

(a) shall stop his vehicle or animal at least ten yards from the railway line :

(b) if, while the vehicle or animal is so stopped, any mechanical or electrical or other warning device in the vicinity of the crossing is operating, shall not put the vehicle or animal in motion again until the warning device has ceased operating.

(2a) Any person approaching on foot a level crossing at or near which any such sign is erected, from the direction in which the sign is facing—

(a) shall stop at least ten yards from the railway line :

(b) if, while he is stationary, any mechanical or electrical or other warning device in the vicinity of the crossing is operating, shall not move forward until the warning device has ceased operating.

(2b) If any person fails to comply with subsection (2) or subsection (2a) of this section in any respect he shall be guilty of an offence.

(2c) Nothing in this section shall affect the obligation of any person to comply with any other provision of this Act relating to railway crossings.

Amendment of
s. 130c of
principal Act—

25. Section 130c of the principal Act is amended by adding at the end thereof the following subsection :—

Centre lines
on bridges.

(5) For the purposes of this section any bridge used for carrying vehicular traffic or any part of any such bridge shall be deemed to be part of a road.

26. The following section is hereby enacted and inserted in the principal Act after section 148 thereof :—

Enactment of s. 148a of principal Act—

148a. If any person on any road within six miles of the General Post Office at Adelaide, whilst riding an animal or driving a vehicle, leads three or more animals, he shall be guilty of an offence.

Leading animals.

27. The following section is hereby enacted and inserted in the principal Act after section 157 thereof :—

Enactment of s. 157a of principal Act—

157a. Any contravention of or failure to observe any provision of this Part, whether by act or omission, shall be an offence.

Offences.

28. Section 174 of the principal Act is repealed and the following section is enacted and substituted in lieu thereof :—

Repeal and re-enactment of s. 174 of the principal Act—

174. (1) No person shall drive on any road any commercial motor vehicle drawing a trailer at any speed in excess of those hereinafter prescribed :—

Speed of heavy vehicles.

(a) If the aggregate weight of the vehicle and of every trailer drawn thereby, exceeds eleven tons, twenty miles per hour :

(b) If the aggregate weight of the vehicle and of every trailer drawn thereby, exceeds six tons, but does not exceed eleven tons, twenty-five miles an hour :

(c) If the aggregate weight of the vehicle and of every trailer drawn thereby, exceeds three tons, but does not exceed six tons, thirty miles an hour.

(2) No person shall drive on any road any commercial motor vehicle, not drawing a trailer, at any speed in excess of those hereinafter prescribed :—

(a) If the weight of the vehicle exceeds eleven tons, twenty-five miles an hour :

(b) If the weight of the vehicle exceeds six tons but does not exceed eleven tons, thirty miles an hour :

(c) If the weight of the vehicle exceeds three tons, but does not exceed six tons, thirty-five miles an hour.

(3) For the purposes of this section the weight of a vehicle or of a trailer drawn thereby shall be the weight of the vehicle or trailer together with the weight of the load (if any), (including passengers, fuel, and equipment), carried thereon.

Road Traffic Act Amendment Act (No. 3), 1939.

(4) Nothing in subsections (1), (2), and (3) of this section shall affect the obligation of any person to comply with any other provision of this Act relating to the speed at which motor vehicles may be driven.

(5) If any person contravenes this section in any way he shall be guilty of an offence.

(6) The Governor may for the purpose of this section make regulations—

- (a) providing for the ascertainment of the weight of vehicles, trailers, and their loads, or any part of their loads, whether by calculation, measurement or by weighing the vehicles, trailers and loads on any weighbridge, or by means of any loadometer or other prescribed apparatus ;
- (b) prescribing the duties of persons in charge of vehicles and trailers in relation to the ascertainment of the weight of the vehicles, trailers and their loads or any part of their loads ; and
- (c) prescribing penalties not exceeding ten pounds for breach of any such regulation.

In the name and of behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.