



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 15 of 1989

An Act to amend the Motor Vehicles Act, 1959.

[Assented to 20 April 1989]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Motor Vehicles Act Amendment Act (No. 2), 1989*.
- (2) The *Motor Vehicles Act, 1959*, is referred to in this Act as “the principal Act”.

Commencement

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

Interpretation

3. Section 5 of the principal Act is amended by inserting after the definition of “primary producer” in subsection (1) the following definitions:

“probationary conditions” means the conditions referred to in section 81a:

“probationary licence” means a driver’s licence subject to probationary conditions:

Issue and renewal of licences

4. Section 75 of the principal Act is amended by striking out from subsection (1) the word “and” between paragraphs (a) and (b) and inserting after paragraph (b) the following word and paragraph:

and

(c) has complied with any requirements of the Registrar under section 77b.

Learner’s permits

5. Section 75a of the principal Act is amended—

(a) by striking out from subsection (1) the word “and” between paragraphs (b) and (c) and inserting after paragraph (c) the following word and paragraph:

and

- (d) has complied with any requirements of the Registrar under section 77b.;
- (b) by striking out paragraphs (b) and (c) of subsection (2) and substituting the following paragraphs:
- (b) authorize the holder of the permit to drive a motor vehicle on roads—
- (i) during the period specified in the permit;
- and
- (ii) subject to the conditions imposed by or under subsection (3);
- and
- (c) while the conditions to which the permit are subject are observed, have effect as a licence.;
- (c) by striking out from subsection (3) “The Registrar shall endorse upon a learner’s permit—” and substituting “A learner’s permit is subject to the following conditions.”;
- (d) by striking out from paragraph (d) of subsection (3) “not being a licence endorsed with conditions pursuant to section 81a” twice occurring and substituting, in each case, “not being a probationary licence”;
- (e) by inserting after paragraph (d) of subsection (3) the following paragraph:
- (da) a condition that the holder of the permit must at all times when driving a motor vehicle on a road carry the permit and produce it forthwith if requested to do so by a member of the police force;;
- (f) by inserting after subsection (3) the following subsection:
- (3aa) A condition imposed on a learner’s permit by the Registrar under subsection (3) (e) must be endorsed on the permit;
- and
- (g) by striking out subsections (4), (4a) and (5) and substituting the following subsections:
- (3d) The condition referred to in subsection (3) (da) does not apply to the holder of the permit where the holder has parted with possession of the permit pursuant to this Act or any other Act.
- (4) If an applicant is not willing to accept a learner’s permit subject to the conditions imposed by or under this section, the Registrar must refuse to issue a permit to the applicant.
- (5) A person must not contravene a condition of a learner’s permit.
- Penalty: Division 8 fine.

Insertion of new ss. 77a, 77b and 77c

6. The following sections are inserted after section 77 of the principal Act:

Licences and learner’s permits to include photographs

77a. (1) A licence (other than a temporary licence) issued or renewed after the commencement of this section must include a photograph of the holder of the licence.

(2) A learner’s permit (other than a temporary learner’s permit) issued or renewed after the commencement of this section must, if the Registrar so determines, include a photograph of the holder of the permit.

(3) Subject to section 77b, on the application of the holder of a licence issued before the commencement of this section, the Registrar may, on surrender of the licence and payment of an amount determined in accordance with the regulations, issue to the holder a new licence bearing a photograph of the holder and the appropriate endorsements.

(4) Where a probationary licence is issued under subsection (3), the licence expires on the expiration of the period for which the probationary conditions of the old licence would have been effective.

Power of Registrar to require photograph of applicant for licence, etc.

77b. (1) Where a photograph of a person is to be included on a licence or permit, the Registrar may, for the purpose of obtaining such a photograph—

(a) require the person to attend at a specified place for the purpose of having the person's photograph taken;

or

(b) require the person to supply to the Registrar one or more photographs of the person as specified by the Registrar.

(2) Where—

(a) a person of whom a requirement is made under subsection (1) refuses or fails to comply with the requirement;

or

(b) a photograph of a person taken or supplied pursuant to subsection (1) is not, in the opinion of the Registrar, suitable for inclusion on a licence or permit,

the Registrar may determine that the licence or permit in question not be issued or renewed as the case may be.

Temporary licences and learner's permits

77c. (1) Where—

(a) on application by a person for the issue or renewal of a licence or learner's permit, the Registrar determines that the licence or permit should be issued or renewed;

and

(b) the licence or permit must when issued or renewed include a photograph of the person,

the Registrar may issue to the person a temporary licence or temporary learner's permit pending the preparation and delivery of a licence or permit that bears a photograph of the person.

(2) A temporary licence or permit issued to a person under subsection (1)—

(a) must bear all the appropriate endorsements and has effect for all purposes as if it were the appropriate licence or permit for which the person made application;

but

(b) expires—

(i) on the day specified for that purpose in the licence or permit, being not more than one month after the date on which it is issued;

or

(ii) on the day on which the person receives the licence or permit that bears a photograph of the person,

whichever is the earlier.

Insertion of new s. 79ba

7. The following section is inserted after section 79b of the principal Act:

Licence or learner's permit unlawfully altered or damaged is void

79ba. Where a person, without lawful authority, wilfully alters, defaces or otherwise damages a licence or learner's permit, the licence or permit is void and of no effect.

Restricted learner's permits and licences

8. Section 81 of the principal Act is amended by striking out subsections (1a) and (1b).

Probationary licences

9. Section 81a of the principal Act is amended—

(a) by striking out from subsection (1) “the Registrar shall endorse upon the licence—” and substituting “a licence issued to such an applicant is subject to the following conditions:”;

(b) by striking out the word “and” between paragraphs (d) and (e) of subsection (1) and inserting after paragraph (e) the following word and paragraph:

and

(f) a condition that the holder of the licence will at all times when driving a motor vehicle on a road carry the licence and produce it forthwith if requested to do so by a member of the police force.;

(c) by striking out from subsection (1aa) “without endorsing upon the licence the conditions required by that subsection” and substituting “not subject to probationary conditions”;

(d) by striking out from subsection (2) “the conditions imposed under subsection (1)” and substituting “probationary conditions imposed by subsection (1)”;

(e) by inserting after subsection (2) the following subsection:

(2a) The condition referred to in subsection (1) (f) does not apply to the holder of a probationary licence where the holder has parted with possession of the licence pursuant to this Act or any other Act.;

(f) by striking out from subsection (4) “licence endorsed with conditions pursuant to this section” and substituting “probationary licence”;

(g) by striking out subsection (4a);

(h) by striking out subsection (5) and substituting the following subsection:

(5) A person must not contravene a condition of a probationary licence.

Penalty: Division 8 fine.;

(i) by striking out from subsection (5a) "licence endorsed with conditions pursuant to this section" and substituting "probationary licence";

and

(j) by striking out from subsection (5b) "licence endorsed with conditions pursuant to this section" and substituting "probationary licence".

Consequences of contravention of probationary conditions or incurring four or more demerit points

10. Section 81b of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) "driver's" and substituting "probationary";

(b) by striking out from subsection (2) "driver's licence endorsed with probationary conditions" twice occurring and substituting, in each case, "probationary licence";

(c) by striking out paragraph (c) of subsection (9) and substituting the following paragraph:

(c) if the appellant is the holder of a licence—that the Registrar vary the endorsements on the licence, or cancel the licence and issue a probationary licence, as the case may require.;

(d) by striking out from subsection (10b) "endorsed pursuant to section 81a upon a licence" and substituting "imposed by section 81a on a licence";

and

(e) by striking out subsections (11a) and (11b).

Registrar to give effect to certain recommendations of consultative committee

11. Section 82 of the principal Act is amended—

(a) by striking out paragraph (ac) of subsection (1) and substituting the following paragraph:

(ac) cancel the licence of any person and issue in its place a probationary licence subject to probationary conditions effective for such period as the committee recommends;;

and

(b) by striking out subsections (1a), (1ab) and (1ac).

Term of licence

12. Section 84 of the principal Act is amended—

(a) by inserting after subsection (1a) the following subsection:

(1b) A probationary licence issued after the commencement of this subsection expires on the expiration of the period for which the probationary conditions are effective but may be renewed as a licence not subject to probationary conditions.;

and

(b) by striking out subsections (4), (5) and (6).

Variation of licence classifications

13. Section 85 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsection:

(2) If, in such circumstances as the Registrar thinks fit and on such evidence as the Registrar may require, the Registrar is satisfied that the holder of a licence is no longer competent to drive motor vehicles of a particular class, the Registrar may remove a classification from the licence or substitute another classification.

Effect of suspension and disqualification

14. Section 91 of the principal Act is amended by striking out from subsection (1) "sections 92, 93, 94, and 95," and substituting "section 93".

Repeal of s. 92

15. Section 92 of the principal Act is repealed.

Notice to be given to Registrar

16. Section 93 of the principal Act is amended by striking out from paragraph (b) of subsection (3a) "a probationary condition of a learner's permit or driver's licence" and substituting "a condition of a learner's permit or probationary licence".

Repeal of ss. 94 and 95

17. Sections 94 and 95 of the principal Act are repealed.

Duty to produce licence

18. Section 96 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

(4) In this section—

"driver" includes—

- (a) a person sitting next to the holder of a learner's permit in a vehicle being driven by the holder of the permit;
- (b) a person being carried as a passenger on, or in a sidecar attached to, a motor cycle being driven by the holder of a learner's permit:

"member of the police force" includes—

- (a) an inspector;
- (b) an inspector as defined in the *Road Traffic Act, 1961*.

Insertion of new s. 98aa

19. The following section is inserted after section 98 of the principal Act:

Duty to carry licence when teaching holder of learner's permit to drive

98aa. The holder of a motor driving instructor's licence must display the licence on his or her person at all times—

- (a) when seated next to the holder of a learner's permit in a vehicle being driven by the holder of the permit;

or

- (b) when carried as a passenger on, or in a sidecar attached to, a motor cycle being driven by the holder of a learner's permit.

Penalty: Division 9 fine.

Instructors' licences

20. Section 98a of the principal Act is amended by striking out from subsection (9) "92, 94, 95, 96" and substituting "96, 139ba".

Insertion of new ss. 139ba, 139bb and 139bc

21. The following sections are inserted immediately after section 139b of the principal Act:

Power to require production of licence, etc.

139ba. (1) Where by or under this or any other Act—

- (a) a licence or learner's permit is cancelled or suspended or has become void, or the holder of a licence or learner's permit is disqualified from holding or obtaining a licence or permit;

or

- (b) a decision or order is made, or the Registrar is required—

(i) to cancel or suspend a licence or learner's permit;

(ii) to disqualify the holder of a licence or learner's permit from holding or obtaining a licence or permit;

(iii) to make, vary or remove any endorsement on a licence or learner's permit of or relating to any classification, condition, disqualification, suspension or other restriction,

the court, person or body making the decision or order, or, in any case, the Registrar, may require the holder of the licence or permit to produce the licence or permit at a specified place and within a specified period.

(2) A requirement for production of a licence or permit may be imposed by order of a court, or by notice in writing served on the holder of the licence or permit.

(3) A person must comply with a requirement for production of a licence or permit imposed under this section.

Penalty: Division 9 fine.

(4) Where a licence or permit is produced pursuant to this section, the court, person or body to whom it is produced, or, in any case, the Registrar, may do one or more of the following as the case may require:

- (a) make, vary or remove any endorsement on the licence or permit;

- (b) where the licence or permit is or is to be cancelled or suspended or has become void, or a disqualification is imposed on the holder of the licence or permit—retain the licence or permit.

Issue of new licence or permit where licence, etc., cannot be endorsed

139bb. (1) Where—

(a) an endorsement is to be made on a licence or learner's permit or an existing endorsement on a licence or permit is to be varied or removed;

and

(b) the licence or permit is in such a form that the endorsement cannot be made, varied or removed,

the Registrar may, on production of the licence or permit, retain the licence or permit and issue to the holder of the licence or permit a new licence or permit bearing the appropriate endorsements.

(2) Where a new licence or permit is issued under this section, the old licence or permit has no further force or effect and must be destroyed.

(3) A licence or permit issued under this section will, for the purposes of this Act, be taken to have been in force from the date on which the old licence or permit was issued or last renewed.

Manner of endorsing licence, etc.

139bc. An endorsement on a licence or learner's permit is, for the purposes of this Act, sufficiently made if it is made in accordance with the regulations.

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

D. B. DUNSTAN, Governor