



ROAD TRAFFIC (ROAD RULES) AMENDMENT ACT 1999

No. 39 of 1999

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Insertion of s. 2
 2. Crown is bound
4. Amendment of s. 5—Interpretation
5. Substitution of s. 6
 - 5A. Application of Act to vehicles and road users on roads
 6. Drivers and riders
6. Amendment of s. 7—Drivers of trailers
7. Repeal of s. 8
8. Repeal of s. 9
9. Repeal of s. 10
10. Amendment of s. 11—Delegation by Minister
11. Amendment of s. 17—Installation, etc., of traffic control devices
12. Amendment of s. 18—Direction as to installation, etc., of traffic control devices
13. Amendment of s. 19—Cost of traffic control devices and duty to maintain
14. Amendment of s. 20—Duty to place speed limit signs in relation to work areas or work sites
15. Substitution of ss. 23 and 25
 21. Offences relating to traffic control devices
 22. Proof of lawful installation, etc., of traffic control devices
16. Amendment of s. 31—Action to deal with false devices or hazards to traffic
17. Substitution of ss. 32 and 32A and headings
 - Road Closing Provisions*
 32. Road closing by councils for traffic management purposes
18. Amendment of s. 33—Road closing and exemptions for road events
19. Repeal of heading
20. Amendment of s. 34—Road closing for emergency use by aircraft
21. Amendment of s. 35—Inspectors
22. Substitution of heading
 - Powers of Police and Inspectors*
23. Insertion of s. 38A
 - 38A. Marking of tyres for parking purposes
24. Amendment of heading to Part 3
25. Repeal of ss. 39 and 40 and heading
26. Amendment of s. 41—Directions for clearing roads or for investigation purposes

27. Substitution of s. 43 and heading
Duty to Stop and Give Assistance where Person Killed or Injured
43. Duty to stop and give assistance where person killed or injured
28. Repeal of s. 45A
29. Amendment of s. 47E—Police may require alcotest or breath analysis
30. Repeal of ss. 48 to 53 and heading
31. Amendment of heading
32. Amendment of s. 53B—Sale and seizure of radar detectors, jammers and similar devices
33. Repeal of ss. 54 to 79 and headings
34. Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices
35. Substitution of ss. 80, 81 and 82A and headings
Australian Road Rules and Ancillary or Miscellaneous Regulations
80. Australian Road Rules and ancillary or miscellaneous regulations
Miscellaneous Provisions
81. Requirement for speed limiting modifications to certain vehicles exceeding 115 kilometres per hour
82. Speed limit while passing a school bus
36. Amendment of s. 85—Control of parking near Parliament House
37. Amendment of s. 86—Removal of vehicles causing obstruction or danger
38. Repeal of heading
39. Repeal of ss. 88 to 90A and heading
40. Repeal of ss. 92 to 94A and heading
41. Repeal of ss. 96 to 99
42. Amendment of s.99A—Cyclists on footpaths, etc., to give warning
43. Substitution of ss. 99B to 105 and heading
- 99B. Wheeled recreational devices and wheeled toys
44. Amendment of s. 106—Damage to roads and works
45. Repeal of s. 109
46. Repeal of s. 116 and heading
47. Repeal of ss. 161 and 162
48. Substitution of s. 162AB
- 162B. Safety helmets for riders of motor bikes and bicycles
49. Amendment of s. 162C—Safety helmets and riders of wheeled recreational devices and wheeled toys
50. Repeal of s. 163B
51. Amendment of s. 164A—Offences and penalties
52. Repeal of s. 169
53. Insertion of ss. 174A to 174E
- 174A. Liability of vehicle owners and expiation of certain offences
- 174B. Further offence for continued parking contravention
- 174C. Council may grant exemptions from certain provisions
- 174D. Proceedings for certain offences may only be taken by certain officers or with certain approvals
- 174E. Presumption as to commencement of proceedings
54. Amendment of s. 175—Evidence
55. Amendment of s. 176—Regulations and rules
56. Amendment of s. 177—Inconsistency of by-laws
57. Transitional provision
58. Report on operation of amended Act and Australian Road Rules

SCHEDULE
Related Amendments



ANNO QUADRAGESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1999

No. 39 of 1999

An Act to amend the Road Traffic Act 1961; and to make related amendments to the City of Adelaide Act 1998, the Local Government Act 1934 and the Motor Vehicles Act 1959.

[Assented to 5 August 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Road Traffic (Road Rules) Amendment Act 1999*.
- (2) The *Road Traffic Act 1961* 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.

Insertion of s. 2

3. The following section is inserted after section 1 of the principal Act:

Crown is bound

2. (1) This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

(2) No criminal liability attaches to the Crown itself (as distinct from its agents, instrumentalities, officers and employees) under this Act.

Amendment of s. 5—Interpretation

4. Section 5 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "animal";

(b) by inserting after the definition of "articulated motor vehicle" in subsection (1) the following definition:

"Australian Road Rules"—see section 80;

- (c) by striking out from subsection (1) the definitions of "barrier line", "bicycle lane", "bikeway" and "box right turn" and substituting the following definition:

"bicycle" means a vehicle with one or more wheels that is built to be propelled by human power through a belt, chain or gears (whether or not it has an auxiliary motor), and—

- (a) includes a pedicab, penny-farthing, scooter, tricycle and unicycle; but
- (b) does not include a wheelchair, wheeled recreational device, wheeled toy, or any vehicle with an auxiliary motor capable of generating a power output over 200 watts (whether or not the motor is operating);;

- (d) by striking out from subsection (1) the definition of "carriageway";

- (e) by inserting after the definition of "commercial motor vehicle" in subsection (1) the following definition:

"condition" includes a limitation;;

- (f) by striking out from subsection (1) the definition of "crossover";

- (g) by striking out from the definition of "cycle" in subsection (1) "pedal cycle" and substituting "bicycle";

- (h) by striking out from subsection (1) the definitions of "divided road", "dividing strip", "drive" and "driver" and substituting the following definitions:

"drive" includes be in control of;

"driver" means a driver of a vehicle (except a motor bike, bicycle, animal or animal-drawn vehicle); the term does not include a person pushing a motorised wheelchair;;

- (i) by striking out from subsection (1) the definitions of "expressway", "footpath", "give way line", "give way sign", "hook right turn" and "improved road";

- (j) by striking out from subsection (1) the definitions of "intersection", "junction", and "level crossing";

- (k) by striking out from subsection (1) the definition of "one way carriageway";

- (l) by striking out from subsection (1) the definitions of "passenger", "pedal cycle", "pedestrian", "pedestrian crossing" and "period of low visibility" and substituting the following definitions:

"park" includes stop;

"pedestrian" includes—

- (a) a person driving a motorised wheelchair that cannot travel at over 10 kilometres per hour (on level ground); and
- (b) a person in a non-motorised wheelchair; and
- (c) a person pushing a motorised or non-motorised wheelchair; and
- (d) a person in or on a wheeled recreational device or wheeled toy;;

(m) by striking out from subsection (1) the definitions of **"radar detector or jammer"**, **"rider"** and **"ride"** and substituting the following definitions:

"ride", for the rider of a motor bike or animal-drawn vehicle, includes be in control of;

"rider" means a rider of a motor bike, bicycle, animal or animal-drawn vehicle; the term does not include a passenger or a person walking beside and pushing a bicycle;;

(n) by striking out from subsection (1) the definitions of **"roundabout"**, **"school"**, **"school bus"** and **"school zone"**;

(o) by striking out from subsection (1) the definition of **"shared zone"**;

(p) by striking out from subsection (1) the definitions of **"small-wheeled vehicle"**, **"speed zone"**, **"the standing"**, **"stop line"** and **"stop sign"**;

(q) by striking out from subsection (1) the definitions of **"towtruck"**, **"tractor"**, **"traffic control device"** and **"traffic lights"** and substituting the following definitions:

"traffic" includes vehicles and pedestrians;

"traffic control device" means a sign, signal, marking, structure or other device or thing, to direct or warn traffic on, entering or leaving a road, and includes—

- (a) a traffic cone, barrier, structure or other device or thing to wholly or partially close a road or part of a road; and
- (b) a parking ticket-vending machine and parking meter;;

(r) by inserting after the definition of **"trailer"** in subsection (1) the following definition:

"tram" includes a light rail vehicle;;

(s) by inserting after the definition of **"tri-axle group"** in subsection (1) the following definition:

"trolley" includes a shopping trolley and any other kind of handcart;;

(t) by striking out from subsection (1) the definition of **"two way carriageway"**;

- (u) by striking out from subsection (1) the definition of "vehicle" and substituting the following definition:

"vehicle" includes—

- (a) a motor vehicle, trailer and a tram; and
- (b) a bicycle; and
- (c) an animal-drawn vehicle, and an animal that is being ridden or drawing a vehicle; and
- (d) a combination; and
- (e) a motorised wheelchair that can travel at over 10 kilometres per hour (on level ground),

but does not include another kind of wheelchair, a train, or a wheeled recreational device or wheeled toy;;

- (v) by striking out from subsection (1) the definition of "wheelchair" and substituting the following definitions:

"wheelchair" means a chair mounted on two or more wheels that is built to transport a person who is unable to walk or has difficulty in walking, but does not include a pram, stroller or trolley;

"wheeled recreational device" means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play, and—

- (a) includes rollerblades, rollerskates, a skateboard or similar wheeled device; but
- (b) does not include a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy;

"wheeled toy" means a child's pedal car, scooter or tricycle or a similar toy, but only when it is being used only by a child who is under 12 years old.

Substitution of s. 6

5. Section 6 of the principal Act is repealed and the following sections are substituted:

Application of Act to vehicles and road users on roads

5A. This Act applies to vehicles and drivers, riders, passengers and pedestrians on roads.

Drivers and riders

6. Unless it is otherwise expressly stated, a reference in this Act to a driver includes a reference to a rider, and a reference to driving includes a reference to riding.

Amendment of s. 7—Drivers of trailers

6. Section 7 of the principal Act is amended by striking out "pedal cycle" and substituting "bicycle".

Repeal of s. 8

7. Section 8 of the principal Act is repealed.

Repeal of s. 9

8. Section 9 of the principal Act is repealed.

Repeal of s. 10

9. Section 10 of the principal Act is repealed.

Amendment of s. 11—Delegation by Minister

10. Section 11 of the principal Act is amended—

(a) by inserting after paragraph (b) of subsection (1) the following word and paragraph:

or

(c) to a council.;

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

(2a) A power or function delegated under this section may, subject to the conditions of the instrument of delegation, be further delegated by instrument in writing.;

(c) by striking out from subsection (3) "Minister" wherever occurring and substituting, in each case, "delegator".

Amendment of s. 17—Installation, etc., of traffic control devices

11. Section 17 of the principal Act is amended—

(a) by inserting in subsection (1) ", above" after "traffic control device on";

(b) by striking out from subsection (1) "in accordance with this Part";

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

(3) Any authority, body or person may, with the approval of the Minister, install, display, alter, operate or remove traffic control devices—

(a) in relation to an area where persons are engaged in work or an area affected by works in progress; or

(b) in relation to a part of a road temporarily closed to traffic under this or any other Act; or

(c) for any temporary purposes.

Amendment of s. 18—Direction as to installation, etc., of traffic control devices

12. Section 18 of the principal Act is amended by striking out from subsection (1) "on or near a road under the care, control or management of that Authority" and substituting "on, above or near a road".

Amendment of s. 19—Cost of traffic control devices and duty to maintain

13. Section 19 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsection:

(2) Subsection (1) applies subject to any provision of another Act or a regulation under this Act that declares that the cost of installing, maintaining, altering, operating or removing traffic control devices of a specified class must be borne by a specified authority, body or person (other than the Authority referred to in that subsection).;

(b) by inserting after subsection (5) the following subsection:

(6) An authority, body or person that is liable to bear the costs in relation to a traffic control device, must maintain the traffic control device in good order.

Amendment of s. 20—Duty to place speed limit signs in relation to work areas or work sites

14. Section 20 of the principal Act is amended—

(a) by inserting in subsection (2) "where workers are engaged, or works are in progress, at the direction of that authority" after "work site";

(b) by striking out subsection (4).

Substitution of ss. 23 and 25

15. Sections 23 and 25 of the principal Act are repealed and the following sections are substituted:

Offences relating to traffic control devices

21. (1) A person who, without proper authority—

- (a) installs or displays a sign, signal, marking, structure or other device or thing on, above or near a road intending that it will be taken to be a traffic control device installed or displayed under this Act; or
- (b) intentionally alters, damages, destroys or removes a traffic control device installed or displayed under this Act,

is guilty of an offence.

Penalty: \$5 000 or imprisonment for one year.

(2) In proceedings for an offence against subsection (1)(a), an apparently genuine document purporting to be a certificate of the Minister or an Authority certifying that there was not proper authority for the installation or display of a specified sign, signal, marking, structure or other device or thing as a traffic control device on, above or near a specified part of a road is to be accepted as proof of the matters so certified in the absence of proof to the contrary.

Proof of lawful installation, etc., of traffic control devices

22. In proceedings for an offence against this Act, other than an offence against section 21(1)(a), commenced on the complaint of a member of the police force or otherwise on behalf of the Crown, or on the complaint of an officer or employee of a council, a traffic control device proved to have been on, above or near a road will be conclusively presumed to have been lawfully installed or displayed there under this Act.

Amendment of s. 31—Action to deal with false devices or hazards to traffic

16. Section 31 of the principal Act is amended—

- (a) by striking out from subsection (1) the definition of "false traffic sign" and substituting the following:

"false traffic control device" means any device, structure or thing that, although it is not a traffic control device installed or displayed under this Act, might be taken to be such a traffic control device;;

- (b) by striking out subsection (2) and substituting the following subsections:

(2) Despite any other law, the Authority in which the care, control or management of a road is vested may remove from the road and dispose of any false traffic control device or any device, structure or thing that the Authority is satisfied might constitute a hazard to traffic.

(2a) Despite any other law, if the Minister is satisfied that a false traffic control device or a light or source of reflected light or any other device, structure or thing is on land near a road and might—

- (a) reasonably be confused with a lawfully installed traffic control device; or
- (b) detract from the visibility of a traffic control device to drivers or pedestrians on the road; or
- (c) in any way constitute a hazard to traffic on the road,

the Minister may, by notice in writing, require the owner or occupier of the land to take such action by way of removing, modifying, screening or otherwise dealing with the device, structure or thing as is specified in the notice within the time so specified.;

- (c) by striking out from subsection (5) "local court" and substituting "court of competent jurisdiction".

Substitution of ss. 32 and 32A and headings

17. Sections 32 and 32A of the principal Act, the headings above those sections and the heading above section 33 are repealed and the following heading and section are substituted:

*Road Closing Provisions***Road closing by councils for traffic management purposes**

32. (1) If a council proposes, by the installation or alteration of a traffic control device—

- (a) to close a road or a part of a road to all vehicles or vehicles of a specified class (whether or not the closure is to apply every day in a week or for all hours in a day); or
- (b) to close a road as a through road for motor vehicles,

for the purposes of rationalising the flow or impact of traffic within a part of the council's area, the council may only do so in pursuance of a resolution of the council and must, at least one month before the meeting at which the resolution is first to be considered, cause notice of the proposal—

- (c) to be published both in a newspaper circulating generally in the State and a newspaper circulating within the area of the council; and
- (d) to be given by post to each ratepayer of land immediately abutting the road, or portion of road, the subject of the proposal; and
- (e) if the road is a prescribed road, to be given to each affected council; and
- (f) if the road is a highway, or runs into or intersects with a highway, to be given to the Commissioner of Highways.

(2) The council must give due consideration to all written submissions made on the proposal that are received by the council before the meeting.

(3) A resolution for a road closure to which subsection (1) applies is not effective unless a majority of all members of the council concur in it.

(4) A resolution for a road closure to which subsection (1) applies that would have the effect of the closure being operative in relation to a highway is not effective unless—

- (a) the Commissioner of Highways concurs with it; or
- (b) the closure is consistent with a notice of the Commissioner of Highways under section 26 of the *Highways Act 1926*.

(5) A resolution for a road closure to which subsection (1) applies that would have the effect of the closure being operative—

- (a) for a continuous period of more than 6 months; or
- (b) for periods that, in aggregate, exceed 6 months in any 12 month period,

is not effective unless—

- (c) if the road runs into or intersects with a highway, the Commissioner of Highways concurs with it; and
- (d) if the road is a prescribed road, each affected council concurs with it.

(6) A council must, as soon as practicable after a resolution for a road closure to which subsection (1) applies has been passed and, if required, concurred with under subsection (4) or (5), cause notice of the resolution to be published and given in the manner set out in subsection (1).

(7) In this section—

"**affected council**", in relation to a prescribed road, means a council into whose area or along the boundary of which the road runs;

"**highway**" means—

- (a) a main road or a controlled access road within the meaning of the *Highways Act 1926*; or
- (b) a road vested in the name of the Commissioner of Highways or the Minister to whom the administration of the *Highways Act 1926* is committed; or
- (c) a road that is subject to a notice under section 26 of the *Highways Act 1926*;

"**prescribed road**" means a road that runs into the area, or along the boundary, of another council.

(8) For the purposes of this section, a road that runs up to—

- (a) the boundary of another council area; or
- (b) another road running along or containing the boundary of another council area,

will be taken to run into that area.

Amendment of s. 33—Road closing and exemptions for road events

18. Section 33 of the principal Act is amended by striking out from subsection (10) the definition of "event" and substituting the following definition:

"**event**" means an organised sporting, recreational, political, artistic, cultural or other activity, and includes a street party.

Repeal of heading

19. The heading above section 34 of the principal Act is repealed.

Amendment of s. 34—Road closing for emergency use by aircraft

20. Section 34 of the principal Act is amended by striking out paragraph (a) of subsection (2) and substituting the following paragraph:

- (a) install or display traffic control devices on or near a road; or.

Amendment of s. 35—Inspectors

21. Section 35 of the principal Act is amended—

(a) by striking out from subsection (1) "Commissioner of Highways" and substituting "Minister";

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

(1a) An authorised person as defined in the *Local Government Act 1999* is an inspector under this Act for the purposes of enforcing prescribed provisions of this Act in the area of the council for which he or she is an authorised person;

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

(3) The Minister may, in the instrument of appointment of an inspector, impose conditions on the exercise of the powers of the inspector.

Substitution of heading

22. The heading above section 37 of the principal Act is repealed and the following heading is substituted:

Powers of Police and Inspectors

Insertion of s. 38A

23. The following section is inserted after section 38 of the principal Act:

Marking of tyres for parking purposes

38A. (1) An inspector may place erasable marks on the tyres of a vehicle in the course of official duties relating to the parking of vehicles.

(2) A person must not, without proper authority, erase a mark made under subsection (1).

Penalty: \$500.

Amendment of heading to Part 3

24. the heading to Part 3 of the principal Act is amended by inserting ", PASSENGERS" after "DRIVERS".

Repeal of ss. 39 and 40 and heading

25. Sections 39 and 40 of the principal Act and the heading "*Scope of this Part*" above those sections are repealed.

Amendment of s. 41—Directions for clearing roads or for investigation purposes

26. Section 41 of the principal Act is amended by striking out from subsection (1) "for the safe and efficient regulation of traffic on the road,".

Substitution of s. 43 and heading

27. Section 43 of the principal Act and the heading above that section are repealed and the following heading and section are substituted:

*Duty to Stop and Give Assistance where Person Killed or Injured***Duty to stop and give assistance where person killed or injured**

43. (1) The driver of a vehicle involved in an accident or incident in which a person is killed or injured must immediately—

- (a) stop the driver's vehicle; and
- (b) give all possible assistance.

Penalty: (a) \$5 000 or imprisonment for one year; and

- (b) disqualification from holding or obtaining a driver's licence for such period, being not less than one year, as the court thinks fit.

(2) Where a court convicts a person of an offence against subsection (1)—

- (a) the disqualification prescribed by that subsection cannot be reduced or mitigated in any way unless, in the case of a first offence, the court is satisfied that the offence is trifling, in which case it may order a period of disqualification that is less than the prescribed minimum period but not less than one month;
- (b) if the person is the holder of a driver's licence—the disqualification operates to cancel the licence as from the commencement of the period of disqualification.

(3) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was unaware that the accident or incident had occurred and that the driver's unawareness was not due to carelessness or recklessness.

Repeal of s. 45A

28. Section 45A of the principal Act is repealed.

Amendment of s. 47E—Police may require alcotest or breath analysis

29. Section 47E of the principal Act is amended by striking out paragraphs (a) and (b) of subsection (1) and substituting the following paragraph:

- (a) has committed an offence of contravening, or failing to comply with, a provision of this Part of which the driving of a motor vehicle is an element (excluding an offence of a prescribed class); or.

Repeal of ss. 48 to 53 and heading

30. Sections 48 to 53 (inclusive) of the principal Act and the heading above those sections are repealed.

Amendment of heading

31. The heading above section 53A of the principal Act is amended by inserting "*and Radar Detectors and Jammers*" after "*Analysers*".

Amendment of s. 53B—Sale and seizure of radar detectors, jammers and similar devices

32. Section 53B of the principal Act is amended—

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

(1) A person must not sell a radar detector or jammer, or store or offer a radar detector or jammer for sale.

(b) by striking out from subsection (5) "this section" and substituting "this Act";

(c) by inserting after subsection (5) the following subsection:

(6) In this section—

"radar detector or jammer" includes any device for detecting the use, or preventing the effective use, of a speed measuring device (whether or not the speed measuring device employs radar in its operation).

Repeal of ss. 54 to 79 and headings

33. Sections 54 to 79 (inclusive) of the principal Act and the headings above those sections are repealed.

Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices

34. Section 79B of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "prescribed offence" and substituting the following definition:

"prescribed offence" means an offence against a prescribed provision of this Act;;

(b) by striking out subsection (9a).

Substitution of ss. 80, 81 and 82A and headings

35. Sections 80, 81 and 82A of the principal Act and the headings above those sections are repealed and the following headings and sections are substituted:

Australian Road Rules and Ancillary or Miscellaneous Regulations

Australian Road Rules and ancillary or miscellaneous regulations

80. The Governor may make—

- (a) rules (Australian Road Rules) to regulate traffic movement, flows and conditions, vehicle parking, the use of roads, and any aspect of driver, passenger or pedestrian conduct; and
- (b) regulations to deal with matters ancillary to this Part of the Act and the Australian Road Rules and to make miscellaneous provisions relating to matters of a kind referred to in paragraph (a).

*Miscellaneous Provisions***Requirement for speed limiting modifications to certain vehicles exceeding 115 kilometres per hour**

81. (1) If a person is found guilty of an offence, or expiates an offence, involving the driving of a vehicle of a prescribed class at a speed in excess of 115 kilometres per hour, the Registrar of Motor Vehicles must require the owner or the operator of the vehicle to modify the vehicle in the manner that would be required for the vehicle's compliance with the speed limiting provisions of the vehicle standards (whether or not those provisions apply to the vehicle in question).

(2) A requirement under subsection (1) must be made by notice in writing and the notice must specify a period within which the modifications must be carried out.

(3) If a notice is issued under this section—

- (a) the vehicle to which it relates must be modified so that it complies with the speed limiting provisions of the vehicle standards on or before the expiry of the period specified in the notice; and
- (b) the vehicle must not be driven after the expiry of that period if it does not comply with those provisions.

(4) If a vehicle is driven in contravention of subsection (3), the driver, the owner and the operator of the vehicle are each guilty of an offence.

(5) In proceedings for an offence against subsection (4), proof that a vehicle in respect of which a notice has been issued under this section was driven at a speed in excess of 115 kilometres an hour constitutes proof that the vehicle was driven in contravention of subsection (3) in the absence of proof to the contrary.

Speed limit while passing a school bus

82. (1) A person must not drive a vehicle at a greater speed than 25 kilometres per hour while passing a school bus that has stopped on a road apparently for the purpose of permitting children to board or alight.

(2) In this section—

"school bus" means a vehicle bearing signs on the front and rear containing in clear letters at least 100 millimetres high the words "SCHOOL BUS".

Amendment of s. 85—Control of parking near Parliament House

36. Section 85 of the principal Act is amended—

- (a) by striking out from subsection (1)(a) "Constitutional Museum of South Australia" twice occurring and substituting, in each case, "old Legislative Council building";
- (b) by striking out from subsection (2) "Minister of Public Works" and substituting "chairperson of the Joint Parliamentary Services Committee".

Amendment of s. 86—Removal of vehicles causing obstruction or danger

37. Section 86 of the principal Act is amended—

- (a) by striking out "expressway" twice occurring and substituting, in each case, "freeway";
- (b) by inserting after subsection (4) the following subsection:

(5) In this section—

"freeway" means a length of road to which a freeway sign applies in accordance with the Australian Road Rules.

Repeal of heading

38. The heading above section 87 of the principal Act is repealed.

Repeal of ss. 88 to 90A and heading

39. Sections 88 to 90A (inclusive) and the heading above section 91 of the principal Act are repealed.

Repeal of ss. 92 to 94A and heading

40. Sections 92 to 94A (inclusive) and the heading above section 92A of the principal Act are repealed.

Repeal of ss. 96 to 99

41. Sections 96 to 99 (inclusive) of the principal Act are repealed.

Amendment of s. 99A—Cyclists on footpaths, etc., to give warning

42. Section 99A of the principal Act is amended—

- (a) by striking out "pedal cycle" and substituting "bicycle";
- (b) by striking out "footpath or bikeway" twice occurring and substituting, in each case, "footpath or other road-related area".

Substitution of ss. 99B to 105 and heading

43. Sections 99B to 105 (inclusive) and the heading above section 106 of the principal Act are repealed and the following section is substituted:

Wheeled recreational devices and wheeled toys

99B. (1) A person must not ride a wheeled recreational device or wheeled toy on a road without due care or attention or without reasonable consideration for other persons using the road.

(2) A person must not, on a footpath or other road-related area, ride a wheeled recreational device or wheeled toy abreast of a vehicle or another wheeled recreational device or wheeled toy.

(3) A person who is riding a wheeled recreational device or wheeled toy on a footpath or other road-related area must, where it is necessary to do so for the purpose of averting danger, give warning (by a warning device or other means) to pedestrians or other persons using the footpath or other road-related area.

(4) A road authority incurs no civil liability because of an act or omission on its part in the design, construction, maintenance or management of a road to take account of the fact that the users or potential users of the road include riders of wheeled recreational devices or wheeled toys.

(5) In this section—

"management" of a road include placement, design, construction or maintenance of traffic control devices, barriers, trees or other objects or structures on the road;

"road authority" means—

- (a) the Minister; or
- (b) the Commissioner of Highways; or
- (c) a council; or
- (d) any body or person in whom the care, control or management of a road is vested.

Amendment of s. 106—Damage to roads and works

44. Section 106 of the principal Act is amended by striking out from the definition of "traffic device" in subsection (4) "any other signal or sign erected or placed for the purpose of regulating, warning or directing traffic, and includes".

Repeal of s. 109

45. Section 109 of the principal Act is repealed.

Repeal of s. 116 and heading

46. Section 116 of the principal Act and the heading above that section are repealed.

Repeal of ss. 161 and 162

47. Sections 161 and 162 of the principal Act are repealed.

Substitution of s. 162AB

48. Section 162AB of the principal Act is repealed and the following section is substituted:

Safety helmets for riders of motor bikes and bicycles

162B. The Governor may, by regulation—

- (a) prescribe specifications as to the design, material, strength and construction of safety helmets for use by persons riding or being carried on motor bikes or bicycles; and
- (b) prescribe any other matters or specifications relating to safety helmets for such use.

Amendment of s. 162C—Safety helmets and riders of wheeled recreational devices and wheeled toys

49. Section 162C of the principal Act is amended—

- (a) by striking out from subsections (1), (2) and (2a) "cycle or small-wheeled vehicle" wherever occurring and substituting, in each case, "wheeled recreational device or wheeled toy";
- (b) by striking out subsection (2b);
- (c) by striking out from subsection (3)(a) "cycles or small-wheeled vehicles" and substituting "wheeled recreational devices or wheeled toys";
- (d) by inserting in subsection (3)(b) "for such use" after "helmets";
- (e) by striking out from subsection (4) "pedal cycle or small-wheeled vehicle" and substituting "wheeled recreational device or wheeled toy".

Repeal of s. 163B

50. Section 163B of the principal Act is repealed.

Amendment of s. 164A—Offences and penalties

51. Section 164A of the principal Act is amended by striking out from subsection (2) "\$1 000" and substituting "\$1 250".

Repeal of s. 169

52. Section 169 of the principal Act is repealed.

Insertion of ss. 174A to 174E

53. The following sections are inserted after section 174 of the principal Act:

Liability of vehicle owners and expiation of certain offences

174A. (1) In this section—

"owner", in relation to a vehicle, has the meaning assigned to the term by section 5, and includes the operator of the vehicle;

"prescribed offence" means an offence against a prescribed provision of this Act.

(2) Without derogating from the liability of any other person, but subject to this section, if a vehicle is involved in a prescribed offence, the owner of the vehicle is guilty of an offence and liable to the same penalty as is prescribed for the principal offence and the expiation fee that is fixed for the principal offence applies in relation to an offence against this section.

(3) The owner and driver of a vehicle are not both liable through the operation of this section to be convicted of an offence arising out of the same circumstances, and consequently conviction of the owner exonerates the driver and conversely conviction of the driver exonerates the owner.

(4) An expiation notice or expiation reminder notice given under the *Expiation of Offences Act 1996* to the owner of a vehicle for an alleged offence against this section involving the vehicle must be accompanied by a notice inviting the owner, if he or she was not the driver at the time of the alleged prescribed offence, to provide the council or officer specified in the notice, within the period specified in the notice, with a statutory declaration—

- (a) setting out the name and address of the driver; or
- (b) if he or she had transferred ownership of the vehicle to another prior to the time of the alleged offence and has complied with the *Motor Vehicles Act 1959* in respect of the transfer—setting out details of the transfer (including the name and address of the transferee).

(5) Before proceedings are commenced against the owner of a vehicle for an offence against this section involving the vehicle, the complainant must send the owner a notice—

- (a) setting out particulars of the alleged prescribed offence; and
- (b) inviting the owner, if he or she was not the driver at the time of the alleged prescribed offence, to provide the complainant, within 21 days of the date of the notice, with a statutory declaration setting out the matters referred to in subsection (4).

(6) Subsection (5) does not apply to—

- (a) proceedings commenced where an owner has elected under the *Expiation of Offences Act 1996* to be prosecuted for the offence; or
- (b) proceedings commenced against an owner of a vehicle who has been named in a statutory declaration under this section as the driver of the vehicle.

(7) Subject to subsection (8), in proceedings against the owner of a vehicle for an offence against this section, it is a defence to prove—

- (a) that, in consequence of some unlawful act, the vehicle was not in the possession or control of the owner at the time of the alleged prescribed offence; or
- (b) that the owner provided the complainant with a statutory declaration in accordance with an invitation under this section.

(8) The defence in subsection (7)(b) does not apply if it is proved that the owner made the declaration knowing it to be false in a material particular.

(9) If—

- (a) an expiation notice is given to a person named as the alleged driver in a statutory declaration under this section; or

- (b) proceedings are commenced against a person named as the alleged driver in such a statutory declaration,

the notice or summons, as the case may be, must be accompanied by a notice setting out particulars of the statutory declaration that named the person as the alleged driver.

(10) In proceedings against a person named in a statutory declaration under this section for the offence to which the declaration relates, it will be presumed, in the absence of proof to the contrary, that the person was the driver of the vehicle at the time at which the alleged offence was committed.

(11) In proceedings against the owner or driver of a vehicle for an offence against this Act, an allegation in the complaint that a notice was given under this section on a specified day will be accepted as proof, in the absence of proof to the contrary, of the facts alleged.

Further offence for continued parking contravention

174B. If a person is guilty of an offence by reason of a vehicle being parked in contravention of a prescribed provision of this Act, the person is guilty of a further offence—

- (a) in the case of an offence of being parked for longer than a permitted period of one or more hours—for each hour that the vehicle is parked continuously in the area or length of road in question in contravention of the provision; or
- (b) in the case of an offence of being parked for longer than a permitted period of less than one hour—for each such period that the vehicle is parked continuously in the area or length or road in question in contravention of the provision; or
- (c) in any other case—for each hour that the contravention continues.

Penalty: \$500.

Council may grant exemptions from certain provisions

174C. (1) A council may exempt any person, or any persons of a specified class, or any specified vehicle, or any vehicles of a specified class, from compliance within its area with a prescribed provision of this Act.

(2) An exemption under this section may be granted subject to the payment of such fee and to such other conditions (if any) as the council thinks fit and specifies in the exemption.

Proceedings for certain offences may only be taken by certain officers or with certain approvals

174D. No person, other than a member of the police force or an officer or employee of a council, may commence proceedings against a person for an offence against a prescribed provision of this Act without the prior approval of the Commissioner of Police, or the chief executive officer of the council of the area in which the alleged offence was committed.

Presumption as to commencement of proceedings

174E. In proceedings for an offence against this Act, if it appears from the complaint that the complainant is a member of the police force or an officer or employee of a council, it will be presumed that the proceedings have been commenced on the complaint of a member of the police force or an officer or employee of a council, as the case may be, in the absence of proof to the contrary.

Amendment of s. 175—Evidence

54. Section 175 of the principal Act is amended—

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

(1) In proceedings for an offence against this Act, an allegation in a complaint that—

- (a) a specified place was a road or road-related area, or a specified kind or portion of road or road-related area; or
- (b) a specified vehicle was parked in a specified place; or
- (c) a specified traffic control device was on, above or near a specified place; or
- (d) a traffic control device was of a specified form or was operating in a specified way; or;
- (e) a specified vehicle was a prescribed vehicle within the meaning of section 47A;
- (f) a specified person was an inspector; or
- (g) a specified person was or was not the holder of a specified exemption or permit; or
- (h) a specified provision was a condition of a specified exemption or permit; or
- (i) a specified person was the owner, operator, person in charge or driver of a specified vehicle,

is proof of the matters so alleged in the absence of proof to the contrary.

(b) by striking out subsection (2a);

(c) by striking out subsection (4).

Amendment of s. 176—Regulations and rules

55. Section 176 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) The Governor may make such regulations and rules as are contemplated by, or necessary or expedient for the purposes of, this Act.

(1a) The regulations or rules may—

- (a) provide defences for persons charged with offences; and
- (b) confer on members of the police force or persons of a specified class power to give directions (including directions requiring action inconsistent with other requirements under this Act) or any other power for the safe and efficient regulation of traffic; and

- (c) empower councils to fix (or vary) fees for the parking of vehicles within their areas, being fees payable by the operation of parking ticket-vending machines or parking meters; and
 - (d) provide for the granting of parking permits by councils, subject to such conditions or restrictions and on the payment of such fees as they think fit; and
 - (e) prescribe exemptions (which may be conditional or unconditional) from any provision of this Act; and
 - (f) provide for the granting (and variation and revocation) of exemptions by the Minister, subject to such conditions as the Minister thinks fit, from any provision of this Act; and
 - (g) prescribe and provide for the payment of fees in respect of specified matters (including fees for vehicle inspections for the purposes of this or any other Act); and
 - (h) prescribe transitional provisions; and
 - (i) impose penalties, not exceeding \$1 250, for offences against the regulations or rules; and
 - (j) fix expiation fees, not exceeding \$350, for alleged offences against this Act.;
- (b) by striking out from subsection (3)(a) "sections 48 to 105 inclusive" and substituting "this Act";
- (c) by inserting after subsection (4) the following subsection:
- (4a) The regulations or rules may impose a requirement, or make other provision, by reference to traffic control devices from time to time on, above or near roads.;
- (d) by striking out subsection (6);
- (e) by inserting at the end of the section the following subsections:
- (7) Subsections (1a) and (4) to (5b) apply to any regulations or rules under this Act (whether made under this section or another section of this Act).
- (8) The matters about which regulations or rules may be made under this section are not limited by, and may include, specified matters about which regulations or rules may be made under another section of this Act.

Amendment of s. 177—Inconsistency of by-laws

56. Section 177 of the principal Act is amended by inserting "or rule" after "regulation" twice occurring.

Transitional provision

57. An exemption from a provision of the *Local Government (Parking) Regulations 1991* granted by a council under Part XXIIA of the *Local Government Act 1934* and in force at the commencement of this section is to be taken to be an exemption granted by the council under section 174C of the principal Act authorising the activity authorised by the former exemption subject to any conditions to which the former exemption was subject.

Report on operation of amended Act and Australian Road Rules

58. The Minister must, within six sitting days after the first anniversary of the date of commencement of this Act, cause a report on the operation of the principal Act as amended by this Act and the Australian Road Rules to be laid before each House of Parliament.

SCHEDULE
Related Amendments

PART A—PRELIMINARY

Interpretation

1. A reference in this schedule to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART B—AMENDMENT OF CITY OF ADELAIDE ACT 1998

Repeal of s. 31

2. Section 31 of the principal Act is repealed.

PART C—AMENDMENT OF LOCAL GOVERNMENT ACT 1934

Repeal of Part XXIIA

3. Part XXIIA of the principal Act is repealed.

Amendment of s. 667—By-laws

4. Section 667 of the principal Act is amended by striking out subparagraphs I, IV, VII, X, XVI, XXII, XXIII, XXIV and XXV of paragraph 7 of subsection (1).

Repeal of ss. 779a and 779b

5. Sections 779a and 779b of the principal Act are repealed.

Repeal of ss. 782 and 782a

6. Sections 782 and 782a of the principal Act are repealed.

Repeal of s. 794b

7. Section 794b of the principal Act is repealed.

PART D—AMENDMENT OF MOTOR VEHICLES ACT 1959

Amendment of s. 98T—Permit contents, conditions and entitlements

8. Section 98T of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) A disabled person's parking permit may be used for the purposes of obtaining the benefit of parking exemptions or concessions conferred by the *Australian Road Rules* under the *Road Traffic Act 1961* or by any other Act.

(1a) A disabled person's parking permit must include a people with disabilities symbol as defined in the *Australian Road Rules*.

(1b) It is a condition of use of a disabled person's parking permit in relation to a vehicle that—

(a) the vehicle must be being used—

(i) in the case of a permit issued to a disabled person—for the transportation of the disabled person; or

(ii) in the case of a permit issued to an organisation—for the transportation of a disabled person to whom the organisation provides services; and

(b) the permit must be displayed on the inside of the windscreen on the side opposite to the driver's position (or, if the vehicle does not have a windscreen, in some other prominent position) so that the permit is easily legible to a person standing beside the vehicle.

(1c) A disabled person's parking permit is not to be taken to be lawfully displayed in a vehicle for the purposes of any other Act unless it is displayed in the vehicle in accordance with the condition referred to in subsection (1b)(b).;

(b) by striking out subsection (4) and substituting the following subsection:

(4) A council must, for the purposes of giving effect to an arrangement under subsection (3), grant such an exemption under section 174C of the *Road Traffic Act 1961* (whether conditional or unconditional) as may be necessary.

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

E. J. NEAL Governor