



ANNO VICESIMO OCTAVO

## ELIZABETHAE II REGINAE

A.D. 1979

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### No. 36 of 1979

An Act to amend the Highways Act, 1926-1975.

[Assented to 15th March, 1979]

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

1. (1) This Act may be cited as the "Highways Act Amendment Act, 1979". Short titles.

(2) The Highways Act, 1926-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Highways Act, 1926-1979".

2. The following section is enacted and inserted in the principal Act after section 12 thereof:— Enactment of s. 12a of principal Act.

12a. (1) The Commissioner may, by instrument in writing, delegate any of his powers or functions under this Act to any officer of the Department. Delegation of powers, etc., by Commissioner.

(2) A delegation under subsection (1) of this section—

(a) is revocable at will;

and

(b) shall not prevent the Commissioner from acting personally in any matter.

(3) Where at any time before the commencement of the Highways Act Amendment Act, 1979, the Commissioner conferred, or purported to confer, upon any other person an authority to act on the Commissioner's behalf, that authority shall be deemed to have been lawfully conferred.

3. Section 13 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 13 of principal Act and enactment of section in its place.

13. (1) There shall be a Deputy Commissioner of Highways. Deputy Commissioner.

(2) The Deputy Commissioner shall be appointed under, and shall hold office subject to, the Public Service Act, 1967-1978.

(3) The Deputy Commissioner may, in addition to his other duties of office, act on behalf of the Commissioner at any time when the Commissioner is absent, or is unable to perform the duties of his office, and, for that purpose, the Deputy Commissioner may exercise any of the powers, discharge any of the duties, or perform any of the functions, vested in or imposed upon the Commissioner under this Act.

Amendment of principal Act, s. 20—  
General powers of the Commissioner.

4. Section 20 of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (1) the passage “subject to subsection (3) of this section, with the consent of the Governor” and inserting in lieu thereof the passage “subject to the approval of the Minister”;

and

(b) by striking out from subsection (3) the passage “consent of the Governor” and inserting in lieu thereof the passage “approval of the Minister”.

Enactment of s. 26e of principal Act.

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

Removal of vehicles causing obstruction or danger.

26e. (1) If a vehicle is left unattended on the road known as the South-Eastern Freeway—

(a) for a period of twenty-four hours or more;

or

(b) in a position that is likely to obstruct traffic or is likely to cause injury or damage to any person or property on the road,

any officer authorized by the Commissioner may remove that vehicle to a convenient place, and for that purpose may enter the vehicle and drive it or arrange for it to be lifted, towed or driven.

(2) As soon as practicable after removal of the vehicle, the Commissioner shall give written notice of the removal, and of the place to which the vehicle was removed, to the owner of the vehicle.

(3) A notice under subsection (2) of this section shall be given—

(a) by serving the notice personally or by post on the owner of the vehicle;

or

(b) if the identity or whereabouts of the owner has not, after reasonable inquiry, been ascertained—by publication of the notice in two daily newspapers circulating generally in the State.

(4) If the owner of the vehicle does not, within one month after the notice is given, pay all expenses in connection with the removal, custody, and maintenance of the vehicle, and of serving or advertising the notice, and take possession of the vehicle, the Commissioner may sell the vehicle and apply the proceeds as follows:—

(a) firstly, in payment of the costs of and incidental to the sale;

- (b) secondly, in payment of the costs of and incidental to—
- (i) the removal, custody, and maintenance of the vehicle;
  - and
  - (ii) the service or advertisement of the notice under this section;
- (c) thirdly, in payment of the balance to the owner.

(5) If, after reasonable inquiry, the owner cannot be found, the balance shall be paid into the Highways Fund.

(6) Where the Commissioner is of the opinion that, due to the age or state of disrepair of the vehicle, it is not practicable to sell the vehicle, the Commissioner may dispose of it in any manner that he thinks fit.

(7) The owner of the vehicle shall be liable to the Commissioner for any expenses incurred by the Commissioner in the removal, custody, maintenance, sale or attempted sale, or otherwise in the disposal, of the vehicle under this section and the Commissioner may recover so much of those expenses as have not been satisfied by any proceeds from the sale of the vehicle as a debt due to him.

6. Section 27ab of the principal Act is amended by inserting in subsection (1) after the passage “any fiction of law” the passage “(other than any easement specified in the proclamation)”.

Amendment of principal Act, s. 27ab—  
Effect of proclamation under s. 27aa.

7. The following sections are enacted and inserted in the principal Act after section 27ac thereof:—

Enactment of ss. 27ad, 27ae and 27af of principal Act.

27ad. Where the Commissioner proposes to transfer an interest in land comprising a road closed pursuant to this Act to a registered proprietor of contiguous land, then, subject to any direction of the Minister, the following provisions shall apply:—

Consolidation of certificates of title to be issued.

- (a) the Commissioner shall give a certificate to the Registrar-General that the land is to be vested in the registered proprietor, and if the land is to be subject to any easement, the certificate shall describe the easement;
- (b) in lieu of a certificate of title being issued for the land comprised in the closed road, the Registrar-General may, upon the production of such surveys, duplicate certificates of title and other documents as he may require, issue a certificate of title comprising the contiguous land and the land comprised in the closed road and make such consequential alterations in the register book as may be necessary or expedient;
- (c) every certificate of title so issued shall be expressed to be subject, and the land therein described shall be subject, to such encumbrances, liens, interests, easements, and trusts as were shown by the certificate of title for the contiguous land immediately prior to its consolidation and by the certificate given by the Commissioner;

- (d) those easements that are appurtenant to the contiguous land shall be appurtenant to the land comprised in the certificate of title and the certificate of title shall be appropriately endorsed by the Registrar-General.

Consolidation  
of existing  
titles to  
closed roads.

27ae. (1) The registered proprietor of land comprising a road closed pursuant to this Act who is also the registered proprietor of any land contiguous to the closed road may apply to the Registrar-General for the issue of a certificate of title comprising the contiguous land and the land in the closed road, and the Registrar-General may, upon production of such surveys, duplicate certificates of title and other documents as he may require, issue such a certificate and make such consequential alterations in the register book as may be necessary or expedient.

(2) Where a certificate of title is issued under subsection (1) of this section—

- (a) the certificate of title so issued shall be expressed to be subject, and the land therein described shall be subject, to such encumbrances, liens, interests, easements, and trusts as were shown by the certificate of title for the contiguous land immediately prior to its consolidation and by the certificate given by the Commissioner;

and

- (b) those easements that are appurtenant to the contiguous land shall be appurtenant to the land comprised in the certificate of title and the certificate of title shall be appropriately endorsed by the Registrar-General.

Merger of  
land  
comprising  
consolidated  
titles.

27af. If any consolidation of title is effected pursuant to this Act, the land comprised in the closed road shall, for the purpose of the public records of the State, be deemed to be merged with and have the same identity as the contiguous land with which it is consolidated.

Amendment of  
principal Act,  
s. 32—  
Application of  
Highways  
Fund.

8. (1) Section 32 of the principal Act is amended by striking out paragraph (l) of subsection (1) and inserting in lieu thereof the following paragraph:—

(l) in—

- (i) allocating, at regular intervals, for the purposes of road safety services provided otherwise than by the Police Department, an amount equal to one-sixth of the fees received by the Registrar of Motor Vehicles during those intervals for the issue of driver's licences in respect of which the full licence fee has been paid;

and

- (ii) paying to the Treasurer from the moneys so allocated, such amounts as the Treasurer certifies have been lawfully expended in, or in connection with, the provision of those road safety services;.

(2) Section 32 of the principal Act is amended by striking out paragraphs (m), (n) and (o) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(m) in—

(i) allocating, at regular intervals, for the purposes of road safety services provided by the Police Department, an amount equal to six per centum of the fees received by the Registrar of Motor Vehicles during those intervals by way of motor vehicle registration fees;

and

(ii) paying to the Treasurer from the moneys so allocated, such amounts as the Treasurer certifies have been lawfully expended on, or in connection with, the provision of those road safety services;

(n) in defraying the cost of the provision or operation of any ferry service or sea transport service operated under this Act and works ancillary thereto;

(o) in defraying the cost of installing, maintaining, altering, operating or removing any traffic control devices that the Commissioner is authorized or required by the Road Traffic Act, 1961-1976, to install, maintain, alter, operate or remove;

and

(p) in defraying the administrative cost of any function carried out by the Commissioner, otherwise than under this Act, with the approval of the Minister.

(3) Subsection (1) of this section shall be deemed to have come into operation on the first day of July, 1976.

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

K. D. SEAMAN, Governor