

South Australia



MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT ACT 1999

No. 52 of 1999

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ANNO QUADRAGESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1999

No. 52 of 1999

An Act to amend the Motor Vehicles Act 1959 and to make related amendments to the Expiation of Offences Act 1996 and the Road Traffic Act 1961.

[Assented to 12 August 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Motor Vehicles (Miscellaneous) Amendment Act 1999*.
- (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.

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 inserting after the definition of "agricultural" in subsection (1) the following definitions:

"**agricultural implement**" means a vehicle without its own automotive power, built to perform agricultural tasks;

"**agricultural machine**" means a machine with its own automotive power, built to perform agricultural tasks;;

- (b) by striking out the definition of "**authorised agent**" in subsection (1);
- (c) by striking out the definition of "**business name**" in subsection (1);
- (d) by striking out the definition of "**the committee**" in subsection (1);
- (e) by striking out from the definition of "**the Commonwealth Road Transport Charges Act**" in subsection (1) "as amended and in force for the time being";
- (f) by inserting after the definition of "**declared area**" in subsection (1) the following definition:

"**District Court**" means the Administrative and Disciplinary Division of the District Court;;

- (g) by striking out from subsection (1) the definitions of "**farm implement**" and "**farm machine**" and substituting the following definition:

"**foreign licence**" means a licence to drive a motor vehicle issued under the law of another country to a person who ordinarily resides in that country and is not a permanent resident of Australia;;

- (h) by inserting after the definition of "**garage address**" in subsection (1) the following definitions:

"**gross combination mass**" or "**GCM**" of a motor vehicle means the greatest possible sum of the maximum loaded mass of the motor vehicle and of any vehicles that may lawfully be towed by it at any one time—

- (a) as specified by the motor vehicle's manufacturer; or
- (b) as specified by the Registrar if—
 - (i) the manufacturer has not specified the sum of the maximum loaded mass; or
 - (ii) the manufacturer cannot be identified; or
 - (iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate;

"**gross vehicle mass**" or "**GVM**" of a vehicle means the maximum loaded mass of the vehicle—

- (a) as specified by the vehicle's manufacturer; or
- (b) as specified by the Registrar if—
 - (i) the manufacturer has not specified a maximum loaded mass; or

- (ii) the manufacturer cannot be identified; or
 - (iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate;;
- (i) by striking out the definition of "**heavy vehicle**" in subsection (1) and substituting the following definition:

"heavy vehicle" means a motor vehicle that has a gross vehicle mass greater than 4.5 tonnes;;

- (j) by inserting after the definition of "**interstate licence**" in subsection (1) the following definition:

"learner's permit conditions" means the conditions imposed on a learner's permit under section 75A;;

- (k) by striking out the definitions of "**mass**", "**mobile crane**", "**mobile fork lift**", "**motor car**", "**motor cycle**" and "**motor vehicle**" in subsection (1) and substituting the following definitions:

"motor bike" means a motor vehicle (not being a trailer) with two wheels, and includes a two wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel;

"motor vehicle" means a vehicle that is built to be propelled by a motor that forms part of the vehicle;;

- (l) by inserting after the definition of "**number**" in subsection (1) the following definition:

"operator", in relation to a motor vehicle, means the person principally responsible for the operation or use of the vehicle;;

- (m) by striking out from paragraph (b) of the definition of "**prescribed registration fee**" in subsection (1) "any other motor vehicle" and substituting "a motor vehicle other than a heavy vehicle or in relation to a heavy vehicle in respect of which the Commonwealth Road Transport Charges Act makes no provision for an annual registration charge";

- (n) by striking out the definition of "**prime mover**" in subsection (1) and substituting the following definitions:

"prime mover" means a motor vehicle built to tow a semi-trailer;

"probationary licence" means a driver's licence subject to probationary licence conditions;

"probationary licence conditions" means the conditions imposed on a licence under section 81AB;;

- (o) by striking out the definition of "registered owner" in subsection (1) and substituting the following definitions:

"registered operator", in relation to a motor vehicle, means a person recorded on the register of motor vehicles as the operator of the vehicle;

"registered owner", in relation to a motor vehicle, means a person recorded on the register of motor vehicles as the owner of the vehicle;;

- (p) by striking out the definition of "road" in subsection (1) and substituting the following definitions:

"review committee" means the review committee established under Part 3E;

"road" means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving of motor vehicles;

"road-related area" means any of the following:

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is not a road and that is open to the public and designated for use by cyclists or animals; or
- (d) an area that is not a road and that is open to or used by the public for driving or parking motor vehicles; or
- (e) any other area that is open to or used by the public and that has been declared by the Minister under section 6 to be a road-related area;;

- (q) by inserting after the definition of "scene of an accident" in subsection (1) the following definition:

"semi-trailer" means a trailer that has—

- (a) one axle group or single axle (as those terms are defined in the *Road Traffic Act 1961*) towards the rear; and
- (b) a means of attachment to a prime mover that would result in some of the load being imposed on the prime mover;;

- (r) by striking out the definition of "trailer" in subsection (1) and substituting the following definitions:

"trailer" means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed;

"vehicle" does not include a vehicle operated on a railway or tramway or a mobile machine controlled and guided by a person walking;;

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

(1a) In this Act, a reference to a Commonwealth Act includes a reference to—

(a) that Commonwealth Act as amended and in force for the time being; and

(b) an Act enacted in substitution for that Act.;

(t) by striking out subsection (3) and substituting the following subsections:

(2a) A reference in this Act to drivers or the driving of vehicles includes a reference to riders or the riding of vehicles unless it is otherwise expressly stated.

(2b) A reference in this Act to a road includes a reference to a road-related area unless it is otherwise expressly stated.

(3) A reference in this Act to a motor vehicle includes a reference to a trailer unless it is otherwise expressly stated.;

(u) by striking out subsection (5).

Insertion of s. 6

5. The following section is inserted in Part 1 of the principal Act after section 5:

Power of Minister to include or exclude areas from application of Act

6. The Minister may, by notice in the *Gazette*—

(a) declare a specified area that is open to or used by the public to be a road-related area;

(b) declare that this Act, or specified provisions of this Act, do not apply to a specified road or portion of road (either indefinitely or for a specified period);

(c) vary or revoke such a declaration.

Amendment of s. 7—Registrar and officers

6. Section 7 of the principal Act is amended—

(a) by striking out from subsection (1) ", inspectors of motor vehicles and other officers" and substituting "and inspectors of motor vehicles";

(b) by striking out from subsection (2) "or any other officer";

(c) by striking out from subsection (2)(b) "or officer";

(d) by striking out subsections (3), (4) and (5) and substituting the following subsections:

(3) The Registrar is to be taken to be an inspector appointed under this Act.

(4) The Registrar may delegate any of his or her powers or functions under this Act or any other Act to—

- (a) a person for the time being occupying a specified office or position; or
- (b) a specified person or specified body of persons that, in the opinion of the Registrar, has appropriate qualifications or experience to exercise the relevant powers or functions.

(5) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.

(6) A delegation under this section—

- (a) must be by instrument in writing; and
- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the delegator to act in any matter; and
- (d) is revocable at will by the delegator.

(7) A person to whom a power or function is delegated under this section must not contravene, or fail to comply with, a condition to which the delegation is subject.

Maximum penalty: \$10 000 or imprisonment for two years.

Substitution of s. 9

7. Section 9 of the principal Act is repealed and the following section is substituted:

Duty to register

9. (1) A person must not drive an unregistered motor vehicle, or cause an unregistered motor vehicle to stand, on a road.

Maximum penalty: An amount equal to twice the amount of the prescribed registration fee for 12 months that would have been payable for the granting of registration in respect of the vehicle on the day of the offence or \$750, whichever is the greater.

(2) It is a defence to a charge of an offence against subsection (1) to prove, in a case where the registration of the motor vehicle was not in force by reason of suspension and the defendant was not a registered owner or the registered operator of the vehicle, that—

- (a) a registration label was affixed to the vehicle indicating that the vehicle was registered; and
- (b) the defendant did not know, and could not reasonably be expected to have known, that the registration of the vehicle was suspended.

(3) If an unregistered motor vehicle is found standing on a road, the owner of the vehicle is guilty of an offence.

Maximum penalty: An amount equal to twice the amount of the prescribed registration fee for 12 months that would have been payable for the granting of registration in respect of the vehicle on the day of the offence or \$750, whichever is the greater.

(4) It is a defence to a charge of an offence against subsection (1) or (3) to prove that the motor vehicle was driven or left standing on a road in circumstances in which this Act permits a motor vehicle without registration to be driven on a road.

(5) It is a defence to a charge of an offence against subsection (3) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was left standing on the road.

(6) It is a defence to a charge of an offence against subsection (3) where the defendant is the last registered owner or last registered operator to prove that the defendant was not the owner or the operator of the motor vehicle, as the case may be, at the time of the alleged offence.

(7) In this section—

"owner", in relation to a motor vehicle, includes the last registered owner and the last registered operator of the vehicle;

"unregistered motor vehicle" means a motor vehicle without registration in force under this Act.

Repeal of s. 11

8. Section 11 of the principal Act is repealed.

Amendment of s. 12—Exemption for certain trailers, agricultural implements and agricultural machines

9. Section 12 of the principal Act is amended—

- (a) by striking out from subsections (1), (2), (2a), (2b) and (3) "farm" wherever occurring and substituting, in each case, "agricultural";
- (b) by striking out from subsection (2) "the registered owner of which is a primary producer";
- (c) by inserting in subsections (2a) and (2b) "under Part 4" after "or insurance" twice occurring;
- (d) by inserting after subsection (2b) the following subsection:

(2c) A person who drives a prescribed agricultural machine on a road without registration or insurance under Part 4 as authorised by this section must, if requested by a member of the police force to do so, produce evidence of the person's public liability insurance either—

- (a) forthwith to the member of the police force who made the request; or
- (b) within 48 hours after the making of the request, at a police station conveniently located for the driver, specified by the member of the police force at the time of making the request.

Maximum penalty: \$250.;

- (e) by striking out from the definition of "prescribed farm machine" in subsection (4) "farm" first occurring and substituting "agricultural";
- (f) by striking out from the definition of "prescribed farm machine" in subsection (4) "a farm" and substituting "an agricultural".

Substitution of s. 12A

10. Section 12A of the principal Act is repealed and the following sections are substituted:

Exemption of self-propelled wheelchairs from requirements of registration and insurance

12A. (1) A self-propelled wheelchair or any other motor vehicle (not being a motor car) of a prescribed class may be driven on roads without registration or insurance by a person who, because of some physical infirmity, reasonably requires the use of a wheelchair or such a motor vehicle.

(2) A self-propelled wheelchair or other motor vehicle to which subsection (1) applies is to be taken to be subject to a policy of insurance in force under Part 4.

Exemption of certain vehicles from requirements of registration and insurance

12B. (1) Subject to subsection (2), motor vehicles may be driven on roads without registration or insurance under Part 4 as follows:

- (a) a motor vehicle may be driven for the purpose of taking measures for extinguishing or controlling a fire that is causing or threatening to cause loss of life or injury or damage to persons, animals or property;
- (b) a motor vehicle may be driven on a wharf for the purpose of loading or unloading cargo;
- (c) a self-propelled lawn mower may be driven for the purpose of mowing lawn or grass or to or from a place at which it is to be, or has been, used for that purpose.

(2) A motor vehicle must not be driven on roads without registration or insurance under Part 4 as authorised by subsection (1) unless there is in force a policy of public liability insurance indemnifying the owner and any authorised driver of the vehicle in an amount of at least five million dollars in relation to death or bodily injury caused by, or arising out of, the use of the vehicle on roads.

(3) A person who drives a motor vehicle on a road without registration or insurance under Part 4 as authorised by this section must, if requested by a member of the police force to do so, produce evidence of the person's public liability insurance either—

- (a) forthwith to the member of the police force who made the request; or
- (b) within 48 hours after the making of the request, at a police station conveniently located for the driver, specified by the member of the police force at the time of making the request.

Maximum penalty: \$250.

Substitution of s.19A

11. Section 19A of the principal Act is repealed and the following section is substituted:

Vehicles registered, etc., interstate or overseas

19A. (1) A motor vehicle may be driven in this State without registration under this Act if—

- (a) the garage address of the vehicle is outside this State and the vehicle is in this State for the purpose of temporary use; and
- (b) the vehicle—
 - (i) is registered in another State or Territory of the Commonwealth or in a foreign country; or
 - (ii) is permitted to be driven on roads within another State or Territory of the Commonwealth by virtue of a permit or other authority granted and in force under the law of that other State or Territory; and
- (c) any current registration label, certificate, card, permit and plate or plates that are required to be affixed to the vehicle if it is to be driven in accordance with the law of that other State or Territory or foreign country are duly affixed to the vehicle in accordance with that law; and
- (d) any conditions or restrictions imposed on the use of the vehicle by virtue of the law of that other State or Territory or foreign country are complied with; and
- (e) there is in force in relation to the vehicle a policy of insurance—
 - (i) —
 - (A) in the case of a vehicle registered in a foreign country—that complies with Part 4 of this Act; or
 - (B) in any other case—that complies with the law of the State or Territory in which it is registered or permitted to be driven as referred to in paragraph (b)(ii); and
 - (ii) under which the owner and driver of the vehicle are insured against liability that might be incurred in respect of death of, or bodily injury to, any person caused by, or arising out of the use of, the vehicle in this State.

(2) A motor vehicle may be driven in this State without registration under this Act until the end of the prescribed period if—

- (a) —
 - (i) while the vehicle is in this State for temporary use as referred to in subsection (1), the garage address of the vehicle ceases to be outside this State; or

- (ii) the vehicle is brought into this State for use from a garage address in this State; and
- (b) the requirements of subsection (1)(b) to (e) (inclusive) are satisfied in relation to the vehicle.

(3) In this section—

"prescribed period" means—

- (a) the period of 90 days from the date on which the garage address of the motor vehicle ceases to be outside this State or the vehicle is brought into this State for use from a garage address in this State; or
- (b) the period ending on the day on which the registration, permit or other authority by virtue of which the motor vehicle is permitted to be driven on roads in another State or Territory or in a foreign country expires,

whichever is the lesser period.

Amendment of s. 20—Application for registration

12. Section 20 of the principal Act is amended—

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

(1) An application for registration of a motor vehicle must—

- (a) state correctly the following particulars:
 - (i) the full name of the owner of the vehicle;
 - (ii) where the owner of the vehicle is a natural person, the address at which the owner is ordinarily resident;
 - (iii) where the owner of the vehicle is a body corporate, the address of the principal place of business in this State of the body corporate;
 - (iv) the full name of the operator of the vehicle (whether or not that person is the owner or an owner of the vehicle);
 - (v) where the operator is not the owner or an owner of the vehicle and is a natural person, the address at which that person is ordinarily resident;
 - (vi) where the operator is not the owner or an owner of the vehicle and is a body corporate, the address of the principal place of business in this State of the body corporate;
 - (vii) the garage address of the vehicle;

(viii) in the case of an application for registration of a heavy vehicle—the configuration of the vehicle for the period of registration; and

(b) be made in a manner and form determined by the Minister.

(1a) If application is made for the registration of a motor vehicle that has been taken on hire, the Registrar may dispense with—

(a) the requirement that the application state the name and address of any owner of the vehicle other than the person who has taken the vehicle on hire; or

(b) the requirement that the application state the name and address of the person who has taken the vehicle on hire,

as the Registrar thinks fit.;

(b) by inserting in subsection (2a) "or the operator" after "owner";

(c) by striking out subsection (3) and substituting the following subsection:

(3) An application cannot be made or granted for—

(a) a person under the age of 18 years to be registered as the owner or operator of a heavy vehicle; or

(b) a person under the age of 16 years to be registered as the owner or operator of a motor vehicle other than a heavy vehicle; or

(c) the registration of a motor vehicle with a garage address outside this State.

Amendment of s. 21—Power of Registrar to return application

13. Section 21 of the principal Act is amended by striking out from paragraph (c) "the owner of the vehicle" and substituting "the applicant".

Amendment of s. 24—Duty to grant registration

14. Section 24 of the principal Act is amended—

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

(1) On application duly made and payment of the prescribed fee, the appropriate insurance premium and the stamp duty (if any) payable on the application, the Registrar must, subject to this Act—

(a) register the motor vehicle in the register of motor vehicles—

(i) for a period of 12 months or one, two or three quarters; or

(ii) where the Registrar considers it necessary to do so to achieve a common day of expiry of the registration of a number of motor vehicles (being a number that equals or exceeds a number to be determined by the Registrar)—for a period expiring on a day fixed by the Registrar or nominated by the applicant in the application as a common day of expiry in relation to those motor vehicles; or

- (iii) where the Registrar considers it appropriate in the circumstances to register the vehicle for some other period nominated by the applicant in the application—for that nominated period,

at the option of the applicant; and

- (b) record in the register of motor vehicles as the owner of the vehicle the person stated in the application to be the owner of the vehicle and as the operator of the vehicle the person stated in the application to be the operator of the vehicle.

(1a) Despite subsection (1), the Registrar may register a motor vehicle for a period less than a period referred to in subsection (1)(a)(i) where the registration of the vehicle has been cancelled and application for registration is being made before the day on which the previous registration would, but for cancellation, have expired.

(1b) The registration of a motor vehicle may be renewed despite the expiry of the previous registration provided that—

- (a) the person stated in the application for renewal to be the owner of the vehicle is the person last recorded in the register of motor vehicles as the owner of the vehicle; and

- (b) the application for renewal is made—

- (i) in the case of an application for renewal of registration for a period referred to in subsection (1)(a)(i) or (ii)—within 90 days after the expiry of the previous registration; or
- (ii) in any other case—within 12 months after the expiry of the previous registration.;

(b) by striking out subparagraph (iii) of subsection (2)(b) and substituting the following subparagraph:

- (iii) is or may be stolen.;

(c) by striking out subsection (3) and substituting the following subsection:

(3) The Registrar may refuse to register a vehicle if—

- (a) the Registrar reasonably believes that information disclosed in the application or any evidence provided by the applicant in response to a requirement of the Registrar under this Act is or may be inaccurate, incomplete or misleading; or
- (b) the vehicle—
 - (i) does not comply with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
 - (ii) would, if driven on a road, put the safety of persons using the road at risk; or

- (c) the Registrar reasonably believes that the vehicle is or may be stolen; or
- (d) registration of the vehicle in another State or Territory of the Commonwealth has been cancelled or suspended for reasons that still exist; or
- (e) there are unpaid fines or pecuniary penalties arising out of the use of the vehicle in another State or Territory of the Commonwealth.

Amendment of s. 25—Conditional registration

15. Section 25 of the principal Act is amended—

- (a) by inserting in subsection (2)(b)(ii) "and notifies in writing to the applicant" after "impose";
- (b) by inserting in subsection (2)(d) "subject to the regulations," before "the registration";
- (c) by inserting after subsection (2) the following subsection:

(3) The Registrar may, by notice in writing to the registered owner or the registered operator of a motor vehicle registered under this section, vary the conditions of the registration or impose further conditions.

Substitution of s. 26

16. Section 26 of the principal Act is repealed and the following section is substituted:

Duration of registration

26. (1) The registration of a motor vehicle commences—

- (a) on the day on which it is granted (or, if a permit is issued under section 16 after an application for registration of the vehicle is made but before the application is granted, the date of issue of the permit); or
- (b) if the registration is renewed on application made before the expiry of the previous registration—on the day after that expiry.

(2) If the registration of a motor vehicle is renewed on application made after the expiry of the previous registration, the period for which the registration is renewed is to be calculated from the day after that expiry.

(3) Subject to this Act, the registration of a motor vehicle expires on the last day of the period for which it was granted or renewed.

Repeal of s. 32

17. Section 32 of the principal Act is repealed.

Amendment of s. 40—Balance of registration fee

18. Section 40 of the principal Act is amended by striking out "owner" and substituting "registered owner or the registered operator".

Amendment of s. 43—Short payment, etc.

19. Section 43 of the principal Act is amended—

- (a) by inserting in subsection (1) "or the registered operator" after "owner";

(b) by inserting in subsection (3) "or the operator" after "owner".

Amendment of s. 43A—Temporary configuration certificate for heavy vehicle

20. Section 43A of the principal Act is amended—

(a) by striking out from subsection (4) "owner" twice occurring and substituting, in each case, "registered owner or the registered operator";

(b) by inserting in subsection (13) "or the operator" after "owner".

Amendment of s. 44—Duty to notify alterations or additions to vehicles

21. Section 44 of the principal Act is amended—

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

(1) If an alteration or addition prescribed by the regulations is made to a motor vehicle during the period for which it is registered, the Registrar must, within 14 days after the making of the alteration or addition, be given written notice containing particulars of the alteration or addition.

(b) by striking out subsection (2);

(c) by striking out from subsection (3) "the registered owner must, within 28 days after the making of the alteration or addition, pay to the Registrar" and substituting "the Registrar must, within 28 days after the making of the alteration or addition, be paid";

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

(4) If a requirement of subsection (1) or (3) is not complied with, the registered owner and the registered operator of the vehicle are each guilty of an offence.

Maximum penalty: \$750.

(4a) If a person does not comply with a requirement made of the person under subsection (1a), the person is guilty of an offence.

Maximum penalty: \$750.

Amendment of s. 45—Refund where vehicle altered

22. Section 45 of the principal Act is amended by striking out "owner" and substituting "registered owner or the registered operator".

Amendment of s. 47—Duty to carry number plates

23. Section 47 of the principal Act is amended—

(a) by inserting in subsection (1) ", or cause a motor vehicle to stand," after "motor vehicle";

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

(1a) If a motor vehicle is driven, or caused to stand, on a road in contravention of subsection (1), the registered owner and the registered operator of the vehicle are each guilty of an offence.

Maximum penalty: \$250.;

(1b) It is a defence to a charge of an offence against subsection (1a) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was driven or left standing on the road.;

(c) by striking out paragraph (ba) of subsection (2) and substituting the following paragraph:

(ba) a registered motor vehicle during the period from receipt by the Registrar of a duly made application for a number plate or plates for the vehicle and the end of the day following the day on which the number plate or plates are delivered to the applicant;.

Amendment of s. 47A—Classes of number plates and agreements for the allotment of numbers

24. Section 47A of the principal Act is amended—

(a) by inserting in subsection (4)(a) and (b) "as an owner" after "in the person's name".

(b) by striking out from subsection (7) "the registered" and substituting "a registered".

Amendment of s. 47B—Issue of number plates

25. Section 47B of the principal Act is amended by striking out from subsection (1) "owner" and substituting "registered owner or the registered operator".

Amendment of s. 47C—Return or recovery of number plates

26. Section 47C of the principal Act is amended—

(a) by inserting in subsection (1) "or the registered operator" after "owner";

(b) by inserting in subsection (2) "or the operator" after "owner" second occurring.

Insertion of s. 47D

27. The following section is inserted after section 47C of the principal Act:

Offences in connection with number plates

47D. (1) A person must not—

(a) drive on a road, or cause to stand on a road, a motor vehicle to which is attached a number plate that bears a number other than a number allotted to the vehicle; or

(b) drive on a road, or cause to stand on a road, a motor vehicle to which is attached a number plate that has been altered, defaced, mutilated or added to;
or

- (c) drive on a road, or cause to stand on a road, a motor vehicle to which is attached a colourable imitation of a number plate; or
- (d) without lawful excuse, have in his or her possession a number plate or an article resembling a number plate that is liable to be mistaken for a number plate.

Maximum penalty: \$250.

(2) If a motor vehicle is driven, or caused to stand, on a road in contravention of subsection (1)(a), (b), or (c), the registered owner and the registered operator of the vehicle are each guilty of an offence.

Maximum penalty: \$250.

(3) It is a defence to a charge of an offence against subsection (2) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was driven or left standing on the road.

Amendment of s. 48—Certificate of registration and registration label

28. Section 48 of the principal Act is amended—

- (a) by inserting in subsection (1) "or the registered operator" after "owner";
- (b) by inserting in subsection (1a) "or the registered operator" after "owner" wherever occurring;
- (c) by striking out from subsection (3) "a motor vehicle registered under this Act other than a motor vehicle of a prescribed class" and substituting ", or cause to stand on a road, a motor vehicle registered under this Act (other than a motor vehicle of a prescribed class)";
- (d) by inserting after subsection (3) the following subsection:

(3a) If a motor vehicle is driven, or caused to stand, on a road in contravention of subsection (3), the registered owner and the registered operator of the vehicle are each guilty of an offence.

Maximum penalty: \$250.;

- (e) by inserting in subsection (4) "or (3a)" after "subsection (3)";
- (f) by inserting after subsection (4) the following subsection:

(5) It is a defence to a charge of an offence against subsection (3a) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was driven or left standing on the road.

Substitution of ss. 50 and 51

29. Sections 50 and 51 of the principal Act are repealed and the following section is substituted:

Permit to drive pending receipt of registration label

50. (1) If—

- (a) the Registrar; or
- (b) a member of the police force stationed at a police station more than 40 kilometres by a direct line from the General Post Office at Adelaide,

is satisfied, on such evidence as the Registrar or member of the police force may require, that the registration label issued in respect of a motor vehicle registered under this Act has not been received by the registered owner or the registered operator of the vehicle or by any person on the registered owner's or the registered operator's behalf, the Registrar or the member of the police force may issue a permit permitting the vehicle to be driven on roads without carrying a registration label during the period of operation of the permit.

(2) A permit under subsection (1)—

- (a) has no force unless the permit is carried, in accordance with the regulations, in the vehicle to which it relates; and
- (b) expires—
 - (i) on the expiry of the current registration of the vehicle; or
 - (ii) on the date specified in the permit,

whichever is the earlier.

Amendment of s. 52—Return or destruction of registration label

30. Section 52 of the principal Act is amended—

- (a) by inserting in subsection (1) "or the registered operator" after "owner";
- (b) by inserting in subsection (2) "or the operator" after "owner".

Amendment of s. 53—Offences in connection with registration labels and permits

31. Section 53 of the principal Act is amended—

- (a) by inserting in subsection (1)(a), (b) and (c) ", or cause to stand on a road," after "road" wherever occurring;
- (b) by inserting after subsection (1) the following subsections:

(1a) If a motor vehicle is driven, or caused to stand, on a road in contravention of subsection (1)(a), (b) or (c), the registered owner and the registered operator of the vehicle are each guilty of an offence.

Maximum penalty: \$250.

(1b) It is a defence to a charge of an offence against subsection (1a) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was driven or left standing on the road.

Substitution of heading

32. The heading above section 54 of the principal Act is repealed and the following heading is substituted:

Suspension, Cancellation and Transfer of Registration.

Amendment of s. 54—Cancellation of registration and refund on application

33. Section 54 of the principal Act is amended by inserting in subsection (1) "or the registered operator" after "owner".

Substitution of s. 55A

34. Section 55A of the principal Act is repealed and the following section is substituted:

Suspension and cancellation of registration by Registrar

55A. (1) Subject to this section, the Registrar may suspend or cancel the registration of a motor vehicle if—

- (a) the Registrar reasonably believes that—
 - (i) any information disclosed in the application for registration of the vehicle, or, if the registration has been transferred, in the application for transfer of the registration, is or may be inaccurate, incomplete or misleading; or
 - (ii) any evidence provided by the applicant in response to a requirement of the Registrar under this Act is or may be inaccurate, incomplete or misleading; or
- (b) the vehicle—
 - (i) does not comply with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
 - (ii) would, if driven on a road, put the safety of persons using the road at risk; or
- (c) in the case of a vehicle in relation to which notice is required to be given to the Registrar under section 44—
 - (i) notice is not given as required by that section; or
 - (ii) a requirement of the Registrar under that section to provide evidence to verify any information disclosed in a notice given under that section is not complied with; or
 - (iii) the Registrar reasonably believes that any information disclosed in a notice given under that section is or may be inaccurate, incomplete or misleading; or

- (iv) the Registrar reasonably believes that any evidence provided in response to a requirement of the Registrar under that section is or may be inaccurate, incomplete or misleading; or
- (d) the Registrar reasonably believes that information recorded in the register of motor vehicles in relation to the vehicle is or may be inaccurate, incomplete or misleading; or
- (e) in the case of a vehicle in relation to which the Registrar has, under section 138, required evidence to be provided relevant to the continuation of the registration of the vehicle—
 - (i) evidence is not provided as required by that section; or
 - (ii) the Registrar reasonably believes that any evidence provided under that section is or may be inaccurate, incomplete or misleading; or
- (f) the vehicle has been destroyed or damaged beyond repair; or
- (g) the vehicle was registered in error.

(2) The Registrar may, after cancelling the registration of a motor vehicle under this section, at the Registrar's discretion, refund such part of the amount paid in respect of the registration of the vehicle as the Registrar thinks just.

(3) If the Registrar decides to suspend the registration of a motor vehicle, the Registrar must give the registered owner or the registered operator of the vehicle notice in writing of—

- (a) the reasons for the suspension; and
- (b) the date on which the registration is to be suspended; and
- (c) the action required to be taken to avoid the suspension or have the suspension removed.

(4) The Registrar must not cancel the registration of a motor vehicle under this section unless the Registrar—

- (a) has suspended the registration and believes that the reason for the suspension still exists; and
- (b) has given notice in writing to the registered owner or the registered operator—
 - (i) advising that the Registrar has decided to cancel the registration of the vehicle and giving the reasons for the decision; and
 - (ii) specifying any action required to be taken to have the suspension removed and to avoid the cancellation; and

- (iii) stating that, if that action is not taken within 14 days after the date specified in the notice for that purpose, the cancellation will then take effect; and
- (iv) advising of the right to apply for review of the decision.

(5) The Registrar may remove the suspension of the registration of a motor vehicle if the Registrar thinks fit and must do so if satisfied that the action required to be taken to have the suspension removed has in fact been taken.

(6) If the action stated in a notice under subsection (4) is not taken within the period specified in the notice, the registration of the motor vehicle is cancelled at the end of the period.

Amendment of s. 56—Duty of transferor on transfer of vehicle

35. Section 56 of the principal Act is amended by striking out the penalty provision at the foot of the section and substituting the following penalty provision:

Maximum penalty: \$250.

Amendment of s. 57—Duty of transferee on transfer of vehicle

36. Section 57 of the principal Act is amended by inserting after subsection (4) the following subsections:

(5) An application for transfer of registration of a motor vehicle must state correctly the following particulars:

- (a) the full name of the new owner of the vehicle;
- (b) where the new owner of the vehicle is a natural person, the address at which the new owner is ordinarily resident;
- (c) where the new owner of the vehicle is a body corporate, the address of the principal place of business in this State of the body corporate;
- (d) the full name of the operator of the vehicle (whether or not that person is the new owner or one of the new owners of the vehicle);
- (e) where the operator is not the new owner or one of the new owners of the vehicle and is a natural person, the address at which that person is ordinarily resident;
- (f) where the operator is not the new owner or one of the new owners of the vehicle and is a body corporate, the address of the principal place of business in this State of the body corporate;
- (g) the garage address of the vehicle;
- (h) in the case of an application for transfer of registration of a heavy vehicle—the configuration of the vehicle for the unexpired period of registration.

(6) If application is made for the transfer of registration of a motor vehicle that has been taken on hire, the Registrar may dispense with—

- (a) the requirement that the application state the name and address of any new owner of the vehicle other than the person who has taken the vehicle on hire; or
- (b) the requirement that the application state the name and address of the person who has taken the vehicle on hire,

as the Registrar thinks fit.

(7) If an application for transfer of registration of a motor vehicle falsely states the name of the new owner or of the operator of the vehicle, any registration of the vehicle in the name of the transferee pursuant to that application is void and of no effect.

(8) An application cannot be made or granted for—

- (a) a person under the age of 18 years to be registered as the new owner or the operator of a heavy vehicle; or
- (b) a person under the age of 16 years to be registered as the new owner or the operator of a motor vehicle other than a heavy vehicle; or
- (c) a garage address outside this State to be registered as a motor vehicle's garage address.

Amendment of s. 58—Transfer of registration

37. Section 58 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) The Registrar may refuse to transfer the registration of a motor vehicle pending investigations (which may include examination of the vehicle)—

- (a) to verify any information disclosed in the application or any evidence provided by the applicant in response to any requirement of the Registrar under this Act; or
- (b) to ascertain whether the vehicle—
 - (i) complies with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
 - (ii) would, if driven on a road, put the safety of persons using the road at risk; or
 - (iii) is or may be stolen.

(4) The Registrar may refuse to transfer the registration of the vehicle if—

- (a) the Registrar reasonably believes that information disclosed in the application or any evidence provided by the applicant in response to a requirement of the Registrar under this Act is or may be inaccurate, incomplete or misleading; or
- (b) the vehicle—
 - (i) does not comply with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
 - (ii) would, if driven on a road, put the safety of persons using the road at risk; or
- (c) the Registrar reasonably believes that the vehicle is or may be stolen.

Substitution of s. 71A and heading

38. Section 71A of the principal Act and the heading above that section are repealed and the following heading and sections are substituted:

Property in and Replacement of Plates, Certificates or Labels

Property in plates, certificates or labels

71A. Number plates, trade plates, registration certificates and registration labels issued under this Act remain the property of the Crown.

Replacement of plates, certificates or labels

71B. (1) If the Registrar is satisfied by statutory declaration or such other evidence as the Registrar may require that a number plate, trade plate, registration certificate or registration label issued in respect of a motor vehicle has been lost, stolen, damaged or destroyed, the Registrar may, on application made in a manner and form determined by the Minister and payment of the prescribed fee, issue, or authorise the issue of, a replacement number plate or trade plate or duplicate registration certificate or registration label.

(2) The person to whom a replacement plate or duplicate certificate or label is issued under subsection (1) must, if the original plate, certificate or label is found or recovered, return it to the Registrar.

Maximum penalty: \$250.

Amendment of s. 72—Classification of licences

39. Section 72 of the principal Act is amended by inserting after subsection (9) the following subsection:

(10) Where a person who holds a licence satisfies the Registrar by such evidence as the Registrar may require that he or she is competent to drive motor vehicles for which a licence endorsed with any further or other classification is required under this Act, the Registrar must, on production of the licence, endorse the licence with the appropriate further or other classification.

Substitution of s. 74

40. Section 74 of the principal Act is repealed and the following section is substituted:

Duty to hold licence or learner's permit

74. (1) Subject to this Act, a person must not drive a motor vehicle on a road unless—

- (a) the person holds a licence under this Act that authorises the holder to drive a motor vehicle of the class to which the vehicle belongs; or
- (b) the person—
 - (i) holds a licence under this Act; and
 - (ii) has the minimum driving experience required by the regulations for the grant of a licence that would authorise the driving of a motor vehicle of the class to which the vehicle belongs; or
- (c) the person holds a learner's permit.

Maximum penalty: \$1 250.

(2) When the holder of a licence under this Act drives a motor vehicle on a road as authorised under subsection (1)(b), the obligations imposed by section 75A on the holders of learner's permits and qualified passengers for learner drivers apply to the holder of the licence and any accompanying passenger with such modifications and exclusions as are prescribed by the regulations.

Amendment of s. 75—Issue and renewal of licences

41. Section 75 of the principal Act is amended by inserting before paragraph (a) of subsection (1) the following paragraph:

- (aa) is of or above the age of 16 years and 6 months and is resident in this State; and.

Insertion of s. 75AAA

42. The following section is inserted after section 75 of the principal Act:

Term of licence and surrender

75AAA. (1) Subject to this section and the regulations, every licence will be issued or renewed for a term not exceeding 10 years, specified on the licence.

(2) The term of a licence commences—

- (a) on the day on which it is granted; or
- (b) if the licence is renewed on application made before the expiry of the previous licence—on the day after that expiry.

(3) If a licence is renewed on application made within six months after the expiry of the previous licence, the term for which the licence is renewed is to be calculated from the day after that expiry.

(4) Subject to this Act and any other Act, a licence expires on the last day of the term for which it was granted or renewed.

(5) A probationary licence expires at the end of the period for which the probationary licence conditions are effective but may be renewed as a licence not subject to probationary licence conditions.

(6) A provisional licence expires at the end of the period for which the provisional licence conditions are effective but may be renewed as a licence not subject to provisional licence conditions.

(7) Subject to subsection (8), an application for renewal of a licence must be made before the expiry of that licence.

(8) The Registrar may renew a licence despite its expiry provided that application for renewal is made within five years of the expiry.

(9) Despite the renewal of a licence after its expiry, the holder of the licence is not, for the purposes of this Act, to be taken to have been licensed during the period between the expiry of the licence and the date of its renewal.

(10) The Registrar may, if of the opinion that it is appropriate to do so, extend the term of a licence for a period not exceeding 12 months.

(11) On surrender of a licence, the person surrendering the licence is, subject to the regulations, entitled to a refund of a proportion of the licence fee determined in accordance with the regulations.

Amendment of s. 75AA—Only one licence to be held at any time

43. Section 75AA of the principal Act is amended—

- (a) by inserting after "interstate licence" first and second occurring in subsection (1) "or foreign licence";
- (b) by inserting "in the case of a person who holds an interstate licence—" in subsection (1)(b) before "provides";
- (c) by inserting after "interstate licence" wherever occurring in subsections (2) and (3) "or foreign licence";
- (d) by inserting after subsection (5) the following subsection:

(6) The Registrar may, if satisfied that it would be unreasonable in the circumstances to require a person who holds a foreign licence to surrender the licence, exempt the person from the operation of this section.

Amendment of s. 75A—Learner's permits

44. Section 75A of the principal Act is amended—

- (a) by inserting before paragraph (a) of subsection (1) the following paragraph:

(aa) is of or above the age of 16 years and is resident in this State; and;

- (b) by striking out from subsection (3)(d)(i) and (ii) "cycle" wherever occurring and substituting, in each case, "bike";
- (c) by striking out from subsection (5aaa) "cycle" and substituting "bike";
- (d) by striking out from subsection (5a)(a) "(apart from section 47E(1))";
- (e) by striking out subsection (6);
- (f) by striking out from subsection (8)(a)(i) "cycle" wherever occurring and substituting, in each case, "bike";
- (g) by striking out from subsection (9)(a) "(apart from section 47E(1))".

Repeal of s. 77

45. Section 77 of the principal Act is repealed.

Repeal of s. 78

46. Section 78 of the principal Act is repealed.

Repeal of ss. 79B, 79BA and 79C

47. Sections 79B, 79BA and 79C of the principal Act are repealed.

Amendment of s. 80—Testing and ability or fitness to be granted or hold licence or permit

48. Section 80 of the principal Act is amended—

- (a) by striking out from subsections (1) and (1a) "learner's permit or driver's licence" wherever occurring and substituting, in each case, "licence or learner's permit";
- (b) by striking out subsection (2) and substituting the following subsections:

(2) Medical tests required by the Registrar under this section must be conducted in accordance with guidelines published or adopted by the Minister by notice in the *Gazette* and the results of the tests must be applied by the Registrar, in accordance with any policies published or adopted by the Minister by notice in the *Gazette*, in assessing the person's competence to drive motor vehicles or motor vehicles of a particular class.

(2a) If—

- (a) a person fails to comply with a requirement of the Registrar under this section; or
- (b) the Registrar is satisfied—
 - (i) after considering the results of tests or evidence required under this section; or
 - (ii) on such other evidence as the Registrar may require,

that a person is not competent to drive a motor vehicle or a motor vehicle of a particular class,

the Registrar may—

- (c) refuse to issue a licence or permit to the person; or
- (d) refuse to renew the person's licence or permit; or
- (e) suspend the person's licence or permit until the person satisfies the Registrar, in such a manner as the Registrar directs, that he or she is competent to drive a motor vehicle; or
- (f) remove a classification from the person's licence, or substitute for a classification endorsed on the person's licence another classification.

Amendment of s. 81—Restricted licences and learner's permits

49. Section 81 of the principal Act is amended—

- (a) by striking out from subsection (1) "learner's permit or driver's licence" twice occurring and substituting, in each case, "licence or learner's permit";
- (b) by striking out from subsections (1), (2) and (3) "permit or licence" wherever occurring and substituting, in each case, "licence or permit".

Amendment of s. 81A—Provisional licences

50. Section 81A of the principal Act is amended—

- (a) by striking out from subsection (1)(a) "three years" and substituting "five years";
- (b) by striking out paragraphs (c) and (caa) of subsection (1) and substituting the following paragraph:
 - (c) has been disqualified from holding or obtaining a licence as a consequence of committing an offence while the holder of a provisional licence and has not held an unconditional licence issued under this Act since the end of the period of disqualification,;
- (c) by striking out from subsection (1aa) "three years" and substituting "five years";
- (d) by striking out subsection (3) and substituting the following subsection:
 - (3) Where a licence is issued to an applicant referred to in subsection (1)(b) or (ba), the Registrar may, if of the opinion that there is proper cause to do so, reduce the period for which the conditions will be effective.;
- (e) by striking out from subsection (5a) "cycle" and substituting "bike";
- (f) by striking out from subsection (6)(a) "(apart from section 47E(1))".

Insertion of s. 81AB

51. The following section is inserted after section 81A of the principal Act:

Probationary licences

81AB. (1) Without derogating from any other provision of this Act, where a person applies for the issue of a driver's licence following a period of disqualification from holding or obtaining such a licence pursuant to section 81B or by order of a court in this State or any other State or Territory of the Commonwealth, a licence issued to the applicant is subject to the following conditions:

- (a) a condition that the holder of the licence must carry the licence at all times while driving a motor vehicle on a road pursuant to the licence;
- (b) a condition that the holder of the licence must not drive a motor vehicle or attempt to put a motor vehicle in motion on a road while there is present in his or her blood the prescribed concentration of alcohol;
- (c) a condition that the holder of the licence must not incur two or more demerit points.

(2) Subsection (1) does not apply where a person applies for the issue of a driver's licence following a period of disqualification—

- (a) if the disqualification did not result in the cancellation of any driver's licence held by the person; or
- (b) if the person is required to be issued a provisional licence.

(3) The conditions imposed under subsection (1) are effective for a period of one year or, if the court by which the order of disqualification was made ordered that the conditions were to be effective for a greater period, the period ordered by the court.

(4) If an applicant is not willing to accept a probationary licence, the Registrar must refuse to issue a licence to the applicant.

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

Maximum penalty: \$1 250.

(6) Sections 47B(2), 47C, 47D, 47E, 47G and 47GA of the *Road Traffic Act 1961* apply in relation to an offence against subsection (5) of contravening the condition referred to in subsection (1)(b) as if—

- (a) a reference in any of those sections to an offence against that Act were a reference to an offence against subsection (5); and
- (b) a reference in any of those sections to the prescribed concentration of alcohol as defined in section 47A of that Act were a reference to the prescribed concentration of alcohol as defined in this section.

(7) In this section—

"prescribed concentration of alcohol" means any concentration of alcohol in the blood.

Amendment of s. 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions, etc.

52. Section 81B of the principal Act is amended—

(a) by striking out the definition of **"prescribed conditions"** in subsection (1) and substituting the following definition:

"prescribed conditions" means learner's permit conditions, probationary licence conditions or provisional licence conditions.;

(b) by striking out from subsection (2) "Where a person who holds a learner's permit or a provisional licence—" and substituting "If—";

(c) by inserting in subsection (2)(a) "a person who holds a learner's permit, probationary licence or provisional licence" before "commits";

(d) by inserting in subsection (2)(b) "a person who holds a learner's permit or a provisional licence" before "commits";

(e) by striking out subsection (9) and substituting the following subsection:

(9) If a court allows an appeal against a disqualification under this section, the court must—

(a) order that the disqualification be removed (in which case any licence held by the appellant at the time the disqualification took effect is to be taken to be in force again); and

(b) —

(i) if the appellant holds a provisional licence or probationary licence—order that the period for which prescribed conditions are effective be extended for a period of 12 months (except where the appellant is under the age of 19 years in which case the extension is for a period of six months); or

(ii) if the appellant holds a licence not subject to prescribed conditions but held a provisional licence at the time when the offence that led to the notice of the disqualification was committed—order that the licence be subject to provisional licence conditions for a period of 12 months commencing on the date of the order (except where the appellant was under the age of 19 years when the offence was committed in which case the licence will be subject to provisional licence conditions for six months);

- (iii) if the appellant holds a licence not subject to prescribed conditions but held a probationary licence at the time when the offence that led to the notice of the disqualification was committed—order that the licence be subject to probationary conditions for a period of 12 months commencing on the date of the order;
- (iv) if the appellant does not hold a licence but held a provisional licence at the time when the offence that led to the notice of the disqualification was committed—order that any licence issued to the appellant be subject to provisional licence conditions for a period of 12 months commencing on the issue of the licence (except where the appellant was under the age of 19 years when the offence was committed in which case the licence will be subject to provisional licence conditions for a period of six months);
- (v) if the appellant does not hold a licence but held a probationary licence at the time when the offence that led to the notice of disqualification was committed—order that any licence issued to the appellant be subject to probationary licence conditions for a period of 12 months commencing on the issue of the licence.;

(f) by striking out subsections (10a) and (10b).

Substitution of ss. 82, 84, 85, 88, 89 and 90

53. Sections 82, 84, 85, 88, 89 and 90 of the principal Act and the heading above section 88 are repealed and the following sections are substituted:

Vehicle offences and unsuitability to be granted or hold licence or permit

82. The Registrar may—

- (a) refuse to issue a licence or learner's permit to a person or to renew a person's licence or learner's permit; or
- (b) suspend a person's licence or learner's permit for a specified period; or
- (c) cancel a person's licence and issue in its place a probationary or provisional licence subject to probationary or provisional licence conditions effective for a specified period; or
- (d) cancel a person's licence or learner's permit,

if the person has been convicted of or has expiated an offence, or series of offences, involving the use of a motor vehicle (whether in this State or elsewhere) such that it appears that the person should not hold a licence or permit, or should hold a licence subject to conditions, in order to prevent accident or injury or a repetition of the offence or offences by the person.

Action following disqualification or suspension outside State

83. (1) If a person is disqualified from driving a motor vehicle in another State or Territory of the Commonwealth, the Registrar must—

- (a) if the person holds a licence or learner's permit under this Act, cancel the licence or permit;

- (b) refuse to issue a licence or learner's permit to the person during the period of disqualification.

(2) If an order is made in another State or Territory of the Commonwealth that a person's licence or learner's permit be suspended, the Registrar must—

- (a) suspend the licence or permit;
- (b) refuse to issue a licence or learner's permit to the person during the period of suspension.

(3) If a person is disqualified from driving a motor vehicle in another country, the Registrar may—

- (a) if the person holds a licence or learner's permit under this Act, cancel the licence or permit;
- (b) refuse to issue a licence or learner's permit to the person during the period of disqualification.

(4) If a person's licence or other authority to drive a motor vehicle in another country is suspended, the Registrar may—

- (a) if the person holds a licence or learner's permit under this Act, suspend the licence or permit;
- (b) refuse to issue a licence or learner's permit to the person during the period of suspension.

Cancellation of licence or permit where issued in error

84. If the Registrar is satisfied that a licence or learner's permit has been issued or renewed in error, the Registrar may cancel the licence or permit.

Procedures for suspension, cancellation or variation of licence or permit

85. If the Registrar decides to exercise a power to suspend, cancel or (otherwise than on the person's application) vary a person's licence or learner's permit, the Registrar must give the person notice in writing of—

- (a) the reasons for the suspension, cancellation or variation; and
- (b) any action required to be taken to have the suspension removed or to avoid the cancellation or variation; and
- (c) the date on which the licence or permit is to be suspended, cancelled or varied; and
- (d) the right to apply for a review of the decision.

Amendment of s. 91—Effect of suspension and disqualification

54. Section 91 of the principal Act is amended by—

- (a) inserting "or learner's permit" after "licence" wherever occurring;
- (b) by inserting in subsection (5) "in this State or another State or Territory of the Commonwealth" after "disqualified".

Amendment of s. 93—Notice to be given to Registrar

55. Section 93 of the principal Act is amended—

- (a) by striking out subsections (2a) and (3);
- (b) by inserting in subsection (3a)(b) ", probationary licence or" after "learner's permit".

Amendment of s. 96—Duty to produce licence or permit

56. Section 96 of the principal Act is amended—

- (a) by inserting "or learner's permit" after "licence" wherever occurring.
- (b) by striking out from paragraph (b) of the definition of "driver" in subsection (4) "cycle" and substituting "bike".

Amendment of s. 97—Duty to produce licence or permit at court

57. Section 97 of the principal Act is amended—

- (a) by striking out from subsection (1) "licensed driver who" and substituting "driver who holds a licence or learner's permit and";
- (b) by inserting "or learner's permit" after "licence" wherever occurring.

Amendment of s. 97A—Visiting motorists

58. Section 97A of the principal Act is amended—

- (a) by striking out subsections (1) and (2) and substituting the following subsection:

(1) Subject to this section, a person may drive a motor vehicle on roads in this State without holding a licence under this Act if—

- (a) the person holds—
 - (i) an interstate licence that authorises the person to drive a motor vehicle of the class to which that motor vehicle belongs; or
 - (ii) an interstate licence and an exemption under a law of the place where the licence was issued from the requirement to hold a driver's licence that authorises the driving of a motor vehicle of the class to which that motor vehicle belongs; or
 - (iii) —
 - (A) a foreign licence that authorises the person to drive a motor vehicle of the class to which that motor vehicle belongs; and

- (B) an international driving permit; or
- (iv) a foreign driver's licence that—
 - (A) authorises the person to drive a motor vehicle of the class to which that motor vehicle belongs; and
 - (B) is written in English or is accompanied by an English translation; and
- (b) —
 - (i) in the case of a person who holds an interstate licence—
 - (A) the person has not resided in this State for a continuous period of more than three months; or
 - (B) the person has resided in this State for a continuous period of more than three months but also holds a valid Driver Identification Document issued by the Commonwealth Department of Defence; or
 - (ii) in the case of a person who holds a foreign licence—the person has not held a current permanent visa under the *Migration Act 1958* of the Commonwealth for more than three months; and
- (c) the person is not disqualified from holding or obtaining—
 - (i) an interstate licence in any State or Territory of the Commonwealth; or
 - (ii) a foreign licence in any country.
- (2) If the Registrar is of the opinion that—
 - (a) a person to whom subsection (1) applies is not suitable to drive a motor vehicle in this State; or
 - (b) the ability of a person to whom subsection (1) applies to drive a motor vehicle safely is impaired due to a permanent or long-term injury or illness,the Registrar may give the person notice in writing—
 - (c) prohibiting the person from driving a motor vehicle on roads in this State without holding a driver's licence issued under this Act while the notice is in force; and
 - (d) stating the reasons for the giving of the notice; and
 - (e) specifying any action that may be taken by the person to regain the benefit of subsection (1); and
 - (f) advising of the right to apply for a review of the decision.

(2a) The Registrar may revoke a notice under subsection (2) by further notice in writing to the person.

(2b) If the Registrar gives a person a notice under subsection (2), subsection (1) does not apply to the person while the notice is in force.;

(b) by striking out subsections (4), (5) and (6) and substituting the following subsections:

(4) If a person drives a vehicle in this State pursuant to subsection (1), the person's licence will—

(a) for the purposes of the law of this State, be taken to be a licence under this Act; and

(b) for the purposes of a contract or policy of insurance relating to the vehicle, be taken to be a licence under this Act.

(5) In subsections (3) and (4)—

"**licence**", in relation to a person, includes any exemption, international driving permit or Driver Identification Document that the person is required to hold under subsection (1) in addition to an interstate or foreign licence.

(6) In this section—

"**Contracting State**" means a foreign country that is a signatory to the United Nations Convention on Road Traffic, Geneva, 1949;

"**international driving permit**" means a permit issued by—

(a) a competent authority of a Contracting State or a subdivision of such a State; or

(b) an association duly empowered by such an authority,

in accordance with the United Nations Convention on Road Traffic, Geneva, 1949;

"**interstate licence**" includes a licence or permit issued under the law of New Zealand that corresponds to a learner's permit under this Act.

Amendment of s. 98AAA—Duty to carry licence when driving certain heavy vehicles

59. Section 98AAA of the principal Act is amended—

(a) by striking out from subsection (1) "a heavy vehicle" and substituting "a motor vehicle with a GVM greater than 8 tonnes";

(b) by striking out from subsection (2)(b) "Development Plan under the *Planning Act 1982*" and substituting "*Development Act 1993*";

(c) by striking out subsection (3).

Amendment of s. 98AA—Duty to carry licence when teaching holder of learner's permit to drive

60. Section 98AA of the principal Act is amended by striking out from paragraph (b) "cycle" and substituting "bike".

Substitution of s. 98AAB

61. Section 98AAB of the principal Act is repealed and the following sections are substituted:

Duty to carry probationary licence, provisional licence or learner's permit

98AAB. A person who holds a probationary licence, provisional licence or learner's permit must carry the licence or permit at all times while driving a motor vehicle and must produce the licence or permit immediately if requested to do so by a member of the police force.

Maximum penalty: \$250.

Issue of duplicate licence or learner's permit

98AAC. On application by the holder of a licence or learner's permit and payment of the prescribed fee, the Registrar may, if satisfied that the licence or learner's permit has been lost, stolen or destroyed, or on the surrender of the licence or permit to the Registrar, issue to the holder a duplicate licence or learner's permit.

Licence or learner's permit falsely obtained is void

98AAD. (1) A licence or learner's permit that is issued or renewed by the Registrar on the basis of a false or misleading statement of the applicant or false or misleading evidence produced by the applicant is void and of no effect.

(2) A person must not, without lawful excuse, have possession of a licence or learner's permit that was issued or renewed by the Registrar on the basis of a false or misleading statement of the applicant or false or misleading evidence produced by the applicant.

Maximum penalty: \$750.

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

98AAE. If a person, without lawful authority, wilfully alters, defaces or otherwise damages a licence or learner's permit—

- (a) the person is guilty of an offence and liable to a fine not exceeding \$750; and
- (b) the licence or permit is void and of no effect.

Duty on holder of licence or learner's permit to notify illness, etc.

98AAF. The holder of a licence or learner's permit who, during the term of the licence or permit, suffers any illness or injury that may impair his or her competence to drive a motor vehicle without danger to the public must, within a reasonable time after the occurrence of the illness or injury, notify the Registrar in writing of that fact.

Maximum penalty: \$750.

Amendment of s. 98A—Instructors' licences

62. Section 98A of the principal Act is amended—

- (a) by striking out subsection (2b);
- (b) by striking out subsection (7a);
- (c) by striking out from subsection (9) "sections 77, 96," and substituting "sections 96, 98AAC,".

Amendment of s. 98B—Demerit points for offences in this State

63. Section 98B of the principal Act is amended—

- (a) by striking out from subsection (1) "specified in schedule 3" and substituting "of a kind prescribed by the regulations";
- (b) by striking out from subsection (1) "by the schedule" and substituting "by the regulations";
- (c) by striking out subsection (2).

Substitution of s. 98BC

64. Section 98BC of the principal Act is repealed and the following section is substituted:

Liability to disqualification

98BC. (1) If a person—

- (a) who holds a licence or learner's permit; or
- (b) who does not hold a licence, learner's permit or an interstate licence,

has incurred an aggregate of 12 or more demerit points in respect of offences committed within a period of three years up to and including the most recent date on which the person committed an offence in respect of which the person incurred demerit points, the person is liable to be disqualified under this Part from holding or obtaining a licence for the prescribed period.

(2) If a person who holds an interstate licence has incurred an aggregate of 12 or more demerit points in respect of offences of a kind prescribed by the regulations for the purposes of this subsection committed within a period of three years up to and including the most recent date on which the person committed an offence of that kind in respect of which the person incurred demerit points, the person is liable to be disqualified under this Part from holding or obtaining a licence for the prescribed period.

(3) For the purposes of this section, the prescribed period of disqualification is—

- (a) where the number of demerit points incurred within the period of three years referred to in subsection (1) or (2) is not less than 12 points but not more than 15 points—three months;
- (b) where the number of demerit points incurred within the period of three years referred to in subsection (1) or (2) is not less than 16 points but not more than 19 points—four months;

- (c) where the number of demerit points incurred within the period of three years referred to in subsection (1) or (2) is 20 or more points—five months.

Amendment of s. 98BD—Notices to be sent by Registrar

65. Section 98BD of the principal Act is amended—

- (a) by striking out from subsections (1) and (2) "under this Part" and substituting "under section 98BC";
- (b) by inserting after subsection (3) the following subsection:

(3a) A notice under this section must inform the person of the person's right to make an election under section 98BE.

Amendment of s. 98BE—Disqualification and discounting of demerit points

66. Section 98BE of the principal Act is amended—

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

(1) Subject to this section, a notice of disqualification takes effect 28 days after the day specified in the notice.

(1a) If a person who holds a licence is given a notice of disqualification, the person may, by notice in writing given to the Registrar personally or by post within 21 days of the day specified in the notice of disqualification, elect in lieu of suffering disqualification to accept a condition on the licence requiring the person to be of good behaviour for a period of 12 months commencing on the day on which the disqualification would have taken effect under subsection (1) and, in that case, the notice of disqualification does not take effect.

(1b) If a person who is given a notice of disqualification does not make an election under subsection (1a), subject to this section, the person is disqualified from holding or obtaining a licence for the prescribed period referred to in section 98BC and any licence held by the person is, by force of this section, suspended for that period.

(1c) If a person whose licence is subject to the condition referred to in subsection (1a) incurs two or more demerit points during the 12 month period for which the person is required to be of good behaviour, the Registrar must give the person a notice in writing suspending the licence, and disqualifying the person from holding or obtaining a licence, for a period that is twice the period for which the suspension and disqualification would have applied if the person's licence had not been subject to that condition.

(1d) A notice under subsection (1c) takes effect on the day after the day specified in the notice.;

- (b) by striking out subsection (4);
- (c) by inserting in subsection (5) "or condition referred to in subsection (1a)" after "Where a disqualification";
- (d) by inserting in subsection (5)(a) "under section 98BD" after "person";
- (e) by inserting in subsection (5)(b) "or condition" after "disqualification".

Repeal of ss. 98BF and 98BG

67. Sections 98BF and 98BG of the principal Act are repealed.

Insertion of s. 98BI

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

Notification of demerit points to interstate licensing authorities

98BI. (1) The Registrar must notify the licensing authority of another State or Territory of the Commonwealth of—

- (a) demerit points incurred under this Act in respect of an offence of a kind prescribed by the regulations for the purposes of this subsection by—
 - (i) a person who holds an interstate licence issued in that State or Territory; or
 - (ii) a person who does not hold a licence or learner's permit under this Act or an interstate licence but who resides in that State or Territory; and
- (b) such information about the person and the offence in respect of which the person incurred the demerit points as the Registrar considers appropriate.

(2) In this section—

"licensing authority" means the person or body responsible for issuing interstate licences under a law of another State or Territory of the Commonwealth declared by the regulations to be a corresponding law for the purposes of this Part.

Amendment of s. 98C—Interpretation

69. Section 98C of the principal Act is amended by striking out the definition of "District Court".

Amendment of s. 98F—Entitlement to be granted towtruck certificates

70. Section 98F of the principal Act is amended by striking out from subsection (1)(b) "class 2 or class 3".

Amendment of s. 98J—Suspension of towtruck certificate

71. Section 98J of the principal Act is amended by striking out "class 2 or class 3".

Repeal of s. 98PB

72. Section 98PB of the principal Act is repealed.

Repeal of s. 98PH

73. Section 98PH of the principal Act is repealed.

Repeal of s. 98W

74. Section 98W of the principal Act is repealed.

Insertion of Part 3E

75. The following Part is inserted after section 98X of the principal Act:

PART 3E
RIGHTS OF REVIEW AND APPEAL

Review committee

- 98Y.** (1) The Minister must appoint a review committee for the purposes of this Act.
- (2) The review committee consists of—
- (a) the Registrar or a nominee of the Registrar; and
 - (b) the Commissioner of Police or a nominee of the Commissioner; and
 - (c) a legal practitioner of at least five years standing.
- (3) The members of the review committee hold office on such terms and conditions as the Minister may determine.
- (4) A member of the review committee is entitled to receive such remuneration, allowances and expenses as the Minister may determine.
- (5) The Minister may appoint a suitable person to be the deputy of a member of the review committee and any such person will, while acting in the absence of that member, be taken to be a member of the committee with all the powers, authorities, duties and obligations of a member of the committee.
- (6) Two members of the review committee constitute a quorum at any meeting of the committee and any decision concurred in by two members of the committee is the decision of the committee.
- (7) Subject to this section, the review committee may determine its own procedures and inform itself in any manner the committee sees fit.

Review by Registrar or review committee

- 98Z.** (1) A person who is aggrieved by a decision of the Registrar to exercise a power conferred by Part 2, 3, 3A, 3C or 3D in a manner adverse to the aggrieved person may, within one month of the making of the decision, apply to the Registrar for a review of the decision.
- (2) An application for a review must be made in accordance with the regulations.
- (3) Subject to subsections (4) and (5), if an application is made under subsection (1), the Registrar must review the decision to which the application relates.
- (4) If an application is made under subsection (1) for review of a decision of the Registrar—
- (a) to exercise any of the powers conferred by section 82; or
 - (b) to refuse an application for an instructor's licence on the ground that the applicant is not a fit and proper person to hold such a licence; or
 - (c) to cancel an instructor's licence; or

- (d) to refuse an application for a towtruck certificate or temporary towtruck certificate; or
- (e) to impose conditions on a certificate issued under Part 3C,

the Registrar must refer the application to the review committee.

(5) If—

- (a) an application for review is made under subsection (1) (other than for a review of a decision of the Registrar referred to in subsection (4)); and
- (b) in the Registrar's opinion it is desirable that the review be conducted by the review committee rather than the Registrar,

the Registrar may refer the application to the review committee.

(6) If the Registrar refers an application for review to the review committee, the Registrar must notify the applicant in writing of that fact.

(7) The review committee must review a decision of the Registrar that is the subject of an application for review referred to it under this section.

(8) The Registrar must furnish the review committee with any information known to the Registrar that is relevant to any matter being considered by the committee.

(9) The applicant must, if so required by the Registrar or review committee—

- (a) appear personally before the Registrar or committee in support of the application; and
- (b) provide any information sought by the Registrar or committee; and
- (c) verify information provided to the Registrar or committee by statutory declaration.

(10) The applicant may be assisted before the Registrar or review committee by an agent or representative (not being a legal practitioner).

(11) On a review under this section, the Registrar or review committee may confirm or vary the decision under review or set aside the decision and substitute a new decision.

Appeal to District Court

98ZA. (1) A person who is dissatisfied with a decision of the Registrar or the review committee on a review under section 98Z may, in accordance with the rules of court, appeal to the District Court against the decision.

(2) If the Registrar or review committee does not give reasons in writing for a decision on a review when the decision is made, the Registrar or committee must do so on request made by a person affected by the decision within one month of the making of the decision.

(3) An appeal must be instituted—

- (a) within one month of the making of the decision being appealed against; or
- (b) if a request for reasons in writing for the decision has been made under subsection (2)—within one month of the receipt of the reasons in writing.

(4) The District Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that an appeal be instituted within the period fixed by this section.

(5) The Registrar will be a party to an appeal under this section.

(6) On an appeal under this section, the District Court may—

- (a) confirm or vary the decision under appeal or set aside the decision and substitute a new decision;
- (b) make any further or other order as to any other matter that the case requires.

Operation of decision subject to review or appeal

98ZC. (1) Subject to subsections (2) and (3), the making of an application for review or an appeal under this Part does not affect the operation of the decision the subject of the application or appeal.

(2) The Registrar may, on application, make an order staying or otherwise affecting the operation of a decision the subject of an application for review.

(3) The Registrar or the District Court may, on application, make an order staying or otherwise affecting the operation of a decision the subject of an appeal.

(4) An order under this section—

- (a) is subject to such conditions as are specified in the order; and
- (b) may be varied or revoked by the Registrar or the Court by further order.

Amendment of s. 99—Interpretation

76. Section 99 of the principal Act is amended—

- (a) by inserting after the definition of "**insured person**" in subsection (1) the following definition:

"mobile fork lift" means a motor vehicle fitted with an apparatus of the kind commonly known as a fork lift and constructed or adapted solely or mainly for lifting and moving goods by means of the fork lift;;

- (b) by inserting after the definition of "**policy of insurance**" in subsection (1) the following definition:

"self-propelled lawn care machine" means a motor vehicle constructed and used for rolling, watering or otherwise maintaining lawn or grass, but does not include a self-propelled lawn mower.;

- (c) by striking out from subsection (4) "tractor or farm machine" and substituting "tractor, agricultural machine, mobile fork lift or self-propelled lawn care machine".

Amendment of s. 102—Duty to insure against third party risks

77. Section 102 of the principal Act is amended—

- (a) by striking out subsections (1), (2) and (3a) and substituting the following subsections:

(1) A person must not drive an uninsured motor vehicle, or cause an uninsured motor vehicle to stand, on a road.

Maximum penalty: In the case of an offence arising out of the towing of an uninsured trailer that is not a heavy vehicle—\$250.

In any other case—\$2 500 and disqualification from holding and obtaining a driver's licence for a period of not more than 12 months.

(2) If an uninsured motor vehicle is found standing on a road, the owner of the vehicle is guilty of an offence.

Maximum penalty: \$2 500.

(3) It is a defence to a charge of an offence against subsection (1) or (2) to prove that the motor vehicle was driven or left standing on a road in circumstances in which this Act permits an uninsured motor vehicle to be driven on a road.

(3a) It is a defence to a charge of an offence against subsection (2) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was left standing on the road.

(3b) It is a defence to a charge of an offence against subsection (2) where the defendant is the last registered owner or last registered operator to prove that the defendant was not the owner or the operator of the motor vehicle, as the case may be, at the time of the alleged offence.;

- (b) by striking out from subsection (4) "Subsection (1)" and substituting "This section";

- (c) by inserting after subsection (6) the following subsection:

(7) In this section—

"owner", in relation to a vehicle, includes the last registered owner and the last registered operator of the vehicle.

Repeal of s. 134A

78. Section 134A of the principal Act is repealed.

Insertion of ss. 135B and 135C

79. The following sections are inserted after section 135A of the principal Act:

Applications made by agent

135B. (1) Where it appears to the Registrar that an application under this Act is made by an agent of a person, the Registrar may require the agent to provide evidence to the satisfaction of the Registrar that the agent is authorised by that person to make the application on his or her behalf.

(2) If an agent fails or refuses to comply with a requirement of the Registrar under subsection (1), the Registrar may refuse to deal with the application.

Proof of identity

135C. The Registrar may require a person making an application or furnishing information under this Act to produce evidence to the satisfaction of the Registrar of the person's identity.

Amendment of s. 136—Duty to notify change of name, address etc.

80. Section 136 of the principal Act is amended—

(a) by striking out subsections (1), (1a), (2) and (2a) and substituting the following subsections:

(1) If a person (other than a body corporate) who is—

- (a) a registered owner or the registered operator of a motor vehicle; or
- (b) the holder of a licence or learner's permit,

changes his or her name or the place at which he or she is ordinarily resident, the person must within 14 days of doing so give notice to the Registrar in a prescribed manner of the new name or new place at which he or she is ordinarily resident, as the case may require.

Maximum penalty: \$250.

(2) If a person (other than a body corporate) who holds trade plates changes his or her name or principal place of business within the State, the person must within 14 days of doing so give notice to the Registrar in a prescribed manner of his or her new name or new principal place of business, as the case may require.

Maximum penalty: \$250.

(2a) If a body corporate that is—

- (a) a registered owner or the registered operator of a motor vehicle; or
- (b) the holder of trade plates,

changes the principal place of business of the body corporate within the State, the body corporate must within 14 days of doing so give notice to the Registrar in a prescribed manner of the new principal place of business of the body corporate.

Maximum penalty: \$250.

(2b) If a motor vehicle ceases to have the garage address registered in respect of the vehicle, the registered operator of the vehicle must within 14 days of the change of garage address, give notice to the Registrar in a prescribed manner of the vehicle's new garage address.

Maximum penalty: \$250.

(2c) If the person recorded on the register of motor vehicles as the operator of a registered motor vehicle ceases to be the operator of the vehicle and no change of the vehicle's ownership occurs, the registered owner of the vehicle must within 14 days of the change of operator, give notice to the Registrar in a prescribed manner of the vehicle's new operator.

Maximum penalty: \$250.;

(b) by inserting in subsection (3) "name," before "residence".

Substitution of s. 138

81. Section 138 of the principal Act is repealed and the following sections are substituted:

Obligation to provide evidence of design, etc., of motor vehicle

137A. The registered owner or the registered operator of a motor vehicle must, on request by the Registrar or an inspector, provide to the Registrar or inspector such evidence of the design, construction, maintenance, safety or ownership of the vehicle as is required by the Registrar or inspector.

Maximum penalty: \$250.

Obligation to provide information

138. (1) If the Registrar believes on reasonable grounds that any information contained in the register of motor vehicles or the register of licences is inaccurate, incomplete or misleading, the Registrar may by notice in writing require the registered owner or the registered operator of a motor vehicle, or the holder of a licence, as the case may require, to provide evidence to the Registrar in such form as the Registrar may require, relevant to the issuing, variation or continuation of the registration of the vehicle or the licence, including the holder's personal details and residential address.

(2) For the purposes of subsection (1), the Registrar may require a person to provide specified documents for inspection and attend at a time and place specified in the notice for identification.

(3) If a person who is required to attend for identification requests a change to the time or place specified in the notice, the Registrar must consider that request and may change the time or place in accordance with the request.

(4) If a person fails to comply with a requirement made of the person under this section, the person is guilty of an offence.

Maximum penalty: \$250.

Amendment of s. 138A—Commissioner of Police to give certain information to Registrar

82. Section 138A of the principal Act is amended by striking out "an authorised agent" and substituting "delegated powers or functions of the Registrar under this Act".

Amendment of s. 139—Inspection of motor vehicles

83. Section 139 of the principal Act is amended—

- (a) by inserting in subsection (1)(ab) ", or transfer the registration of," after "register";
- (b) by striking out from subsection (1) "has been reported as" twice occurring and substituting, in each case, "is or may be".

Amendment of s. 139AA—Where vehicle suspected of being stolen

84. Section 139AA of the principal Act is amended by striking out "has been reported as" and substituting "is or may be".

Repeal of s. 139B

85. Section 139B of the principal Act is repealed.

Amendment of s. 139C—Service of documents

86. Section 139C of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) If a document or notice is required or authorised to be given to or served on the registered owner of a motor vehicle, it is sufficient for the purposes of this Act, in a case where there is more than one registered owner of the vehicle, if it is given to or served on only one or some of the registered owners.

Amendment of s. 139E—Protection from liability

87. Section 139E of the principal Act is amended—

- (a) by inserting in subsection (1) "review" before "committee";
- (b) by inserting after subsection (2) the following section:

(3) No civil or criminal liability is incurred by a person who, in good faith, furnishes the Registrar with information that discloses or suggests that another person is or may be unfit to drive a motor vehicle.

Amendment of s. 139F—Offence to hinder, etc., inspector

88. Section 139F of the principal Act is amended by striking out "or authorised agent".

Amendment of s. 140—Evidence of registers

89. Section 140 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) With respect to the ownership of a motor vehicle, subsection (1) operates to facilitate proof of the person recorded on the register of motor vehicles as the owner of the vehicle but neither the register nor an extract from, or copy of, an entry contained in the register constitutes evidence of actual title to the vehicle.

Amendment of s. 141—Evidence by certificate, etc.

90. Section 141 of the principal Act is amended—

- (a) by striking out from paragraph (ac) "or a business name";
- (b) by inserting in paragraph (i) "name," before "residence";
- (c) by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) A document purporting to be a certificate signed by an authority under a corresponding law stating matters relating to—

- (a) the registration or non-registration of a motor vehicle; or
- (b) the person recorded on a register as the operator of a motor vehicle; or
- (c) the GCM, GVM, load capacity or identification of a motor vehicle; or
- (d) any other matter relating to the use of a motor vehicle on roads;
- (e) whether a person has a licence or other authority to drive a motor vehicle, the extent of the authority conferred by the licence or other authority and any conditions of the licence or other authority; or
- (f) any offence found to have been committed by a person in relation to the driving of a motor vehicle or in relation to driver licensing, including any penalty imposed or other order made in respect of that offence; or
- (g) demerit points incurred by any person,

is in all legal proceedings and arbitrations proof of the matters so stated in the absence of proof to the contrary.

(3) A court may admit into evidence other documents prescribed by the regulations in the circumstances set out in the regulations.

(4) In this section—

"corresponding law" means a law of another State or Territory of the Commonwealth declared by the regulations to be a corresponding law for the purposes of this section.

Amendment of s. 142—Facilitation of proof

91. Section 142 of the principal Act is amended by striking out paragraphs (b), (ba) and (ca).

Amendment of s. 145—Regulations

92. Section 145 of the principal Act is amended—

(a) by striking out paragraphs (ca) and (cb) of subsection (1) and substituting the following paragraphs:

(ca) requiring—

(i) notice to be given to the Registrar of specified matters in relation to any written-off motor vehicle (whether registered or unregistered) or any specified vehicle part;

(ii) notices containing specified information to be affixed to written-off motor vehicles (whether registered or unregistered) or any specified vehicle part; and

(cb) prohibiting or restricting the use on roads of written-off motor vehicles or the defacing, alteration or removal of notices affixed to written-off motor vehicles or specified vehicle parts; and;

(b) by striking out from subsection (3) "as amended and in force from time to time";

(c) by inserting after subsection (4) the following subsections:

(5) The regulations may impose a requirement, or make other provision, by reference to—

(a) a document published by the National Road Transport Commission and approved by the Ministerial Council for Road Transport; or

(b) a specified standard, code or other document,

as in force at a specified time, or as in force from time to time.

(6) If the regulations make some provision by reference to a standard, code or other document—

(a) a copy of the standard, code or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices determined by the Minister; and

(b) in any legal proceedings, evidence of the contents of the standard, code or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the standard, code or other document.

(7) The regulations may include evidentiary provisions to facilitate proof of breaches of the regulations for the purposes of proceedings for offences against this Act.

(8) In this section—

"written-off motor vehicle" means a motor vehicle that is to be or has been—

- (a) written off as a total loss or constructive total loss for insurance purposes; or
- (b) wrecked or wholly or partly disassembled for salvage; or
- (c) sold or acquired for wrecking or disassembling for salvage or when in a condition such that it cannot be driven on a road lawfully or at all and requires extensive repairs.

Substitution of s. 146

93. Section 146 of the principal Act is repealed and the following section is substituted:

Application orders and emergency orders

146. (1) The Minister may, by notice in the *Gazette*, declare that the operation of specified provisions of this Act—

- (a) are suspended for a specified period; or
- (b) are varied in a manner specified by the Minister.

(2) An order must be consistent with the provisions relating to application orders and emergency orders in the agreements scheduled to the *National Road Transport Commission Act 1991* of the Commonwealth.

(3) An order may have effect in relation to the whole of the State, or to a specified part of the State.

(4) If the Ministerial Council for Road Transport terminates an order in accordance with the terms of an agreement referred to in subsection (2), the Minister must publish notice of the termination in the *Gazette*.

Repeal of Sched. 3

94. Schedule 3 of the principal Act is repealed.

Amendment of Expiation of Offences Act 1996

95. The *Expiation of Offences Act 1996* is amended by striking out from section 6(5) "81 or 81A" and substituting "81, 81A or 81AB".

Amendment of Road Traffic Act 1961

96. The *Road Traffic Act 1961* is amended—

- (a) by inserting in section 47(3)(e) "or 81AB" after "section 81A";
- (b) by inserting in section 47B(3)(e) "or 81AB" after "section 81A";
- (c) by inserting in section 47E(6)(e) "or 81AB" after "section 81A";
- (d) by inserting in section 47I(14a)(e) "or 81AB" after "section 81A";
- (e) by inserting after the definition of "repairs" in section 160(1) the following definitions:

"safety risk" means a danger to persons, property or the environment;

"vehicle registration authority" means the Registrar of Motor Vehicles or the corresponding authority of another State or a Territory of the Commonwealth.;

- (f) by striking out from section 160(1a) "this Act or for any reason cannot safely be driven on roads" and substituting "the vehicle standards or may, if driven on roads, constitute a safety risk";
- (g) by striking out from section 160(1a) "or cannot be so driven" and substituting "may constitute a safety risk";
- (h) by striking out from section 160(1b) "this Act or for any reason cannot safely be driven on roads" and substituting "the vehicle standards or may, if driven on roads, constitute a safety risk";
- (i) by striking out from section 160(1b) "or cannot be so driven" and substituting "may constitute a safety risk";
- (j) by striking out from section 160(2) "this Act or for any reason cannot safely be driven on roads" and substituting "the vehicle standards or may, if driven on roads, constitute a safety risk";
- (k) by striking out from section 160(2a) "this Act or for any reason cannot safely be driven on roads" and substituting "the vehicle standards or may, if driven on roads, constitute a safety risk";
- (l) by inserting after subsection (4) of section 160 the following subsections:

(4a) If, on examination of a motor vehicle, a member of the police force or an inspector is of the opinion that the vehicle does not comply with the vehicle standards but that further use of the vehicle on roads would not give rise to a safety risk, the member or inspector may issue a formal written warning to the driver of the vehicle or, if the vehicle is unattended, cause a formal written warning to be affixed to the vehicle.

(4b) A driver of a motor vehicle who is given a formal written warning must cause the warning to be sent to the registered operator of the vehicle.

(4c) A formal written warning must—

- (a) state the date of issue of the warning; and
 - (b) identify the member of the police force or inspector who issued the warning; and
 - (c) identify the motor vehicle to which the warning relates; and
 - (d) state details of the vehicle's defects and the repairs that should be made to the vehicle to make it comply with the vehicle standards; and
 - (e) state such other matters as may be prescribed.;
- (m) by striking out subsection (5) of section 160 and substituting the following subsections:

(5) If, on examination of a motor vehicle, a member of the police force or an inspector is of the opinion that the vehicle does not comply with the vehicle standards and reasonably believes that further use of the vehicle on roads would give rise to a safety risk, the member or inspector may issue a written notice (a "defect notice") in relation to the vehicle, being—

- (a) if the member or inspector reasonably believes that further use of the vehicle on roads after the time specified in the notice would give rise to an imminent and serious safety risk—a major vehicle defect notice; or
- (b) in any other case—a minor vehicle defect notice.

(5a) A member of the police force or inspector who issues a defect notice in relation to a motor vehicle must—

- (a) give the defect notice to the driver of the vehicle if the driver is present or, if the vehicle is unattended, cause the defect notice to be affixed to the vehicle; and
- (b) in the case of a major vehicle defect notice—cause a defective vehicle label to be affixed to the vehicle; and
- (c) cause a copy of the defect notice to be sent to the Registrar of Motor Vehicles.

(5b) A driver of a motor vehicle who is given a defect notice must cause the defect notice to be sent to the registered operator of the vehicle.

(5c) A defect notice must—

- (a) state the date of issue of the notice; and
- (b) identify the member of the police force or inspector who issued the notice; and
- (c) identify the motor vehicle to which the notice relates; and
- (d) state whether the defect notice is a major vehicle defect notice or a minor vehicle defect notice; and
- (e) state details of the vehicle's defects and the repairs that are required to be made to the vehicle; and
- (f) specify the means by which the vehicle must be moved to the place at which the repairs required by the notice are to be made; and
- (g) direct that the vehicle must not, except as provided in the defect notice, stand or be driven on a road, or be sold or otherwise disposed of, after the issue of the defect notice until—
 - (i) the vehicle has been produced at a place specified in the notice for examination; and

- (ii) a certificate (a "clearance certificate") has been issued by a member of the police force, an inspector or a vehicle registration authority certifying—
 - (A) that the repairs required by the notice have been made; and
 - (B) in the case of a vehicle the subject of a major vehicle defect notice—that the vehicle does not have any other defects such that the vehicle does not comply with the vehicle standards; and
 - (iii) in the case of a vehicle to which a defective vehicle label is affixed—a member of the police force, an inspector or a vehicle registration authority has caused the label to be defaced or removed from the vehicle; and
- (h) state such other matters as may be prescribed.

(5d) A member of the police force, an inspector or a vehicle registration authority may examine a motor vehicle for the purpose of determining whether the repairs required by a defect notice issued in relation to the vehicle (whether issued under this section or under provisions of a law of another State or a Territory of the Commonwealth that correspond to this section) have been made and whether the vehicle has any other defects such that the vehicle does not comply with the vehicle standards.

(5e) A defective vehicle label must—

- (a) state the date of issue of the label; and
- (b) identify the member of the police force or inspector who issued the label; and
- (c) state the number allotted to the vehicle under section 46 of the *Motor Vehicles Act 1959*; and
- (d) state the time and date after which the vehicle must not be used on roads; and
- (e) specify the means by which the vehicle must be moved to the place at which the repairs required by the defect notice issued in relation to vehicle are to be made; and
- (f) state the serial number of the defect notice to which the label relates; and
- (g) state such other matters as may be prescribed.

(5f) A person must not, without lawful authority, deface or alter a defective vehicle label or remove a defective vehicle label from a motor vehicle to which it is affixed.

(5g) A member of the police force or inspector may at any time withdraw a defect notice and must cause notice of the withdrawal to be sent to the Registrar of Motor Vehicles and the registered operator of the motor vehicle in relation to which the defect notice was given.

(5h) A member of the police force or inspector who issues a clearance certificate must cause a copy of the certificate to be sent to the Registrar of Motor Vehicles.;

(n) by striking out subsection (7) of section 160 and substituting the following subsection:

(7) The Registrar of Motor Vehicles must—

(a) record on the register of motor vehicles—

(i) details of any defect notice issued under this section; or

(ii) if a defect notice is issued under provisions of a law of another State or a Territory of the Commonwealth that correspond to this section in relation to a motor vehicle registered in this State—details of that defect notice;

(b) remove from the register details of any such notice if the Registrar is satisfied—

(i) that a clearance certificate has been issued in respect of the vehicle in relation to which the defect notice was issued; or

(ii) that the defect notice has been withdrawn.

Report on operation of amended Act

97. 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 to be laid before each House of Parliament.

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

E. J. NEAL Governor