



ANNO QUADRAGESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1992

No. 1 of 1992

An Act to amend the Motor Vehicles Act 1959; and to make a consequential amendment to the Road Traffic Act 1961.

[Assented to 5 March 1992]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Motor Vehicles (Licences and Demerit Points) Amendment Act 1992*.

(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.

Only one licence to be held at any time

3. Section 75aa of the principal Act is amended by inserting after subsection (3) the following subsections:

(4) Where a person holds a licence or learner’s permit and one or more interstate licences, the Registrar may, by written notice to the person, require the person to elect either—

(a) to surrender the licence or learner’s permit to the Registrar;

or

(b) to surrender the interstate licences to the Registrar and provide the Registrar with letters addressed to the authorities that issued the interstate licences requesting those authorities to cancel the licences.

(5) If a person does not surrender his or her licence or learner’s permit or surrender his or her interstate licences and provide appropriate letters within the period allowed in a notice under subsection (4), the licence or learner’s permit will, for the purposes of this Act, be taken to have been cancelled on the expiry of that period.

Learner’s permit

4. Section 75a of the principal Act is amended by striking out from subsection (6) “, 98b”:

Powers of Registrar in relation to applicant for licence or permit

5. Section 77b of the principal Act is amended—

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

(1a) The Registrar may require an applicant for the issue or renewal of a licence or learner's permit to provide such evidence as the Registrar thinks appropriate as to the identity, age or address of the applicant.;

(b) by striking out from subsection (2) (a) "subsection (1)" and substituting "this section";

and

(c) by inserting after paragraph (a) of subsection (2) the following paragraph:

(ab) the Registrar is not satisfied as to the identity, age or address of an applicant for the issue or renewal of a licence or learner's permit.;

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

6. Section 81b of the principal Act is amended by striking out from subsection (2) "upon receiving notice under section 93 of the conviction, or the expiation, of the offence" and substituting "on becoming aware of that fact".

Insertion of s. 98aaa

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

Duty to carry licence when driving heavy vehicle

98aaa. (1) A person must carry his or her driver's licence at all times while driving a heavy vehicle on a road and must produce the licence forthwith if requested to do so by a member of the police force.

Penalty: Division 9 fine.

(2) It is a defence to a charge of an offence against this section if it is proved that the vehicle was being used on a journey wholly—

(a) within a radius of 80 kilometres from a farm occupied by the driver of the vehicle;

and

(b) outside Metropolitan Adelaide within the meaning of the Development Plan under the *Planning Act 1982*.

(3) In this section—

"gross vehicle mass", in relation to a vehicle, means—

(a) if the vehicle is registered in this State and a gross vehicle mass limit has been fixed in respect of that vehicle by the Registrar—the mass by reference to which that limit has been fixed;

(b) if the vehicle is registered in another State or a Territory of the Commonwealth and a limitation or restriction on the mass of the vehicle has been imposed by or under the law of that State or Territory—the mass by reference to which that limitation or restriction is imposed;

(c) in any other case—the unladen mass of the vehicle:

"heavy vehicle" means—

(a) a motor vehicle with a gross vehicle mass exceeding 15 tonnes;

or

(b) a prime mover with an unladen mass exceeding 4 tonnes:

"unladen mass" has the same meaning as in the *Road Traffic Act 1961*.

Substitution of Part IIIB

8. Part IIIB of the principal Act is repealed and the following Part is substituted:

PART IIIB
DEMERIT POINTS SCHEME

Demerit points for offences in this State

98b. (1) Where a person is convicted of, or expiates, an offence specified in the third schedule, the number of demerit points prescribed by the schedule in relation to that offence is, subject to this section, incurred by that person.

(2) Where a person is convicted of an offence against this Part, two demerit points are, subject to this section, incurred by that person.

(3) Where a person is convicted of or expiates two or more offences arising from the same incident, demerit points are incurred only in respect of the offence (or one of the offences) that attracts the most demerit points.

(4) If a court by which a person is convicted of an offence is satisfied by evidence given on oath forthwith on conviction that the offence is trifling, or that any other proper cause exists, it may order that a reduced number of demerit points, or no demerit points, are incurred by the person in respect of that offence.

Demerit points for offences interstate

98bb. Where demerit points are incurred or recorded by or in relation to a person 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, they will be taken to be incurred by that person under this Part.

Liability to disqualification

98bc. (1) A person—

(a) who holds a licence or learner's permit;

or

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

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

(2) A person who holds an interstate licence is liable to be disqualified under this Part from holding or obtaining a licence for a period of three months if the person has incurred an aggregate of 12 or more demerit points in respect of offences of a kind set out in Part II of the third schedule committed within a period of three years preceding the most recent date on which the person committed an offence of that kind in respect of which the person incurred demerit points.

Notices to be sent by Registrar

98bd. (1) Subject to this section, the Registrar must notify a person when he or she has incurred a number or aggregate of demerit points equal to or exceeding one-half of the number that results in liability to be disqualified under this Part.

(2) Where a person is liable to be disqualified under this Part, the Registrar must, subject to this section, give the person notice of the disqualification.

(3) Notice under this section must be in writing and may be given personally or sent by post.

(4) The Registrar may, but is not required to, give notice under this section to a person who the Registrar is satisfied is not usually resident in this State.

(5) The operation of this Part is not affected by any failure to comply with subsection (1).

Disqualification and discounting of demerit points

98be. (1) Subject to this section, on service of notice of disqualification on a person, the person is disqualified from holding or obtaining a licence for a period of three months and any licence held by the person is, by force of this section, suspended for that period.

(2) If, at the time of service of notice of disqualification, the person is already disqualified from holding or obtaining a licence, the disqualification takes effect on termination of that prior disqualification.

(3) Where a disqualified person—

(a) institutes an appeal against a conviction in respect of which demerit points were incurred that are included in the points resulting in the disqualification;

or

(b) applies for a rehearing of the proceedings that led to the conviction,

the disqualification is inoperative until the appeal or application for rehearing is determined or withdrawn.

(4) Where a disqualified person appeals under this Part against the disqualification, the disqualification is inoperative until the appeal has been determined or withdrawn.

(5) Where a disqualification has taken effect under this section, the following demerit points are discounted:

(a) all demerit points in respect of the offence that brought the aggregate of the demerit points to 12 or more (and led to notice of disqualification being sent to the person);

(b) all demerit points in respect of offences committed prior to the time at which the person committed that offence (whether or not the person had been convicted of, or had expiated, those offences when the disqualification took effect).

Appeal against disqualification

98bf. (1) Subject to this section, a person who has become liable to disqualification under this Part may (whether or not the disqualification has taken effect) appeal to a local court against the disqualification.

(2) A person is not entitled to appeal against disqualification if any of the demerit points on which the person is liable to be disqualified formed part of an aggregate that was reduced by the court on a previous appeal under this section.

(3) The appellant and the Crown are entitled to be heard on the appeal.

(4) If the court is satisfied by evidence given on oath by or on behalf of the appellant that—

(a) it is not in the public interest that the appellant should be disqualified under this Part;

or

(b) that the disqualification would result in undue hardship to the appellant, the court may order that demerit points in respect of offences committed by the appellant before the determination of the appeal (including any offence that appellant may subsequently expiate or be convicted of) are discounted so that the aggregate of the appellant's demerit points is reduced to 10.

(5) Where a court makes an order under subsection (4), it may also order—

(a) that specified conditions are imposed on the appellant's licence until the expiry of a period of three months from the time of endorsement of the conditions on the licence;

and

(b) that the appellant deliver the licence to the Registrar to enable those conditions to be endorsed on the licence.

(6) Where a court has made an order under this section, demerit points are discounted according to the order in which the offences attracting the points were committed by the appellant, commencing with the offence committed earliest in time.

Offence of contravention of conditions

98bg. A person who fails to comply with a condition imposed on a licence under this Part is guilty of an offence.

Penalty: Division 10 fine.

Court not to take into account demerit points

98bh. A court in determining the penalty to be imposed on a person convicted of an offence must not take into account the fact that, in consequence of the conviction, demerit points will be incurred by the person.

Facilitation of proof

9. Section 142 of the principal Act is amended by inserting after paragraph (c) the following paragraph:

(ca) the allegation in a complaint that a specified vehicle was a heavy vehicle within the meaning of section 98aaa is, in the absence of proof to the contrary, proof of that fact;.

Substitution of third schedule

10. The third schedule of the principal Act is repealed and the schedule set out in schedule 1 is substituted.

SCHEDULE 1

Third schedule to be substituted in principal Act

(s. 10)

THIRD SCHEDULE

Demerit Points

Where a section of the Road Traffic Act 1961 set out below does not itself create an offence, the demerit points prescribed in relation to the section are prescribed in relation to an offence against section 164a of that Act arising from a contravention of the section.

PART I

DEMERIT POINTS WITHIN NATIONAL SCHEME

<i>Offence under Road Traffic Act 1961</i>	<i>Nature of offence</i>	<i>Number of demerit points attracted by offence</i>
Section 20 (4)	Exceeding the speed indicated by signs where works are in progress	1
	—by not more than 15 km/hr	
	—by more than 15 km/hr but not more than 30 km/hr	3
	—by more than 30 km/hr but not more than 45 km/hr	4
	—by 45 km/hr or more	6
Section 41 (2)	Driver of vehicle failing to comply with directions of a member of the police force	3
Section 42 (2) (a)	Failing to stop a vehicle when requested by a member of the police force or an inspector	3
Section 45	Careless driving	3
Section 45a	Entering or attempting to drive across blocked intersection	3
Section 48	Exceeding general speed limit	
	—by not more than 15 km/hr	1
	—by more than 15 km/hr but not more than 30 km/hr	3
	—by more than 30 km/hr but not more than 45 km/hr	4
	—by 45 km/hr or more	6
Section 49 (1)	Exceeding a special speed limit	
	—by not more than 15 km/hr	1
	—by more than 15 km/hr but not more than 30 km/hr	3
	—by more than 30 km/hr but not more than 45 km/hr	4
	—by 45 km/hr or more	6
Section 50 (1)	Exceeding speed limit in speed zone	
	—by not more than 15 km/hr	1
	—by more than 15 km/hr but not more than 30 km/hr	3
	—by more than 30 km/hr but not more than 45 km/hr	4
	—by 45 km/hr or more	6
Section 52	Exceeding speed indicated by signs on or near bridge	
	—by not more than 15 km/hr	1
	—by more than 15 km/hr but not more than 30 km/hr	3
	—by more than 30 km/hr but not more than 45 km/hr	4
	—by 45 km/hr or more	6
Section 53 (1)	Exceeding speed limit fixed for certain vehicles	
	—by not more than 15 km/hr	1
	—by more than 15 km/hr but not more than 30 km/hr	3
	—by more than 30 km/hr but not more than 45 km/hr	4
	—by 45 km/hr or more	6
Section 54 (1)	Failing to keep left	2
Section 55	Failing to keep left of oncoming vehicle	2
Section 56	Failing to keep vehicle entirely within traffic lane or moving from a lane when movement cannot be made with safety	3
Section 57 (1)	Failing to keep left of barrier lines	3

<i>Offence under Road Traffic Act 1961</i>	<i>Nature of offence</i>	<i>Number of demerit points attracted by offence</i>
Section 58 (1)	Overtaking or attempting to overtake without clear view or creating risk of collision or danger	3
Section 58 (2)	Overtaking on left	2
Section 58 (4)	Overtaking otherwise than on left of vehicle signalling right turn	2
Section 59	Failing to keep left when passing tram	2
Section 60 (1)	Failing to move to left, or increasing speed, when being overtaken	2
Section 61 (1)	Driving on footpath	3
Section 63 (1), (1b), (2)	Failing to give way at intersection or junction	3
Section 65	Failing to give way at crossover	3
Section 66 (1)	Failing to give way when entering road from private land	3
Section 67 (1)	Failing to give way to pedestrian on pedestrian crossing	3
Section 67 (3)	Passing vehicle stopped at pedestrian crossing to give way to pedestrian	3
Section 68	Failing to give way to pedestrian when turning at intersection or junction	3
Section 69	Failing to give way when driving from stationary position at or near boundary of carriageway	3
Section 69a	Failing to give way to emergency vehicle	3
Section 70 (1)	Failing to turn right at intersection or junction properly	2
Section 71a	Making U-turn at traffic lights	2
Section 72 (1)	Failing to give way to vehicle coming from opposite direction when making right turn or U-turn or proceeding across road after making such a turn at place other than intersection or junction	3
Section 73	Permitting vehicle turning right to obstruct tram or to stand in place likely to do so	3
Section 74 (1)	Failing to give appropriate turning or stopping signal	2
Section 74a	Failing to ensure signalling device switched off	2
Section 75 (1)	Driver disobeying traffic lights or signals or signs exhibited with traffic lights	3
Section 76 (2)	Failing to comply with traffic sign or traffic signal	3
Section 78 (1) to (3a)	Failing to comply with stop sign or to stop at stop line	3
Section 79	Driver failing to comply with direction of member of police force or other authorized person, notwithstanding traffic control device	3
Section 80	Failing to comply with restrictions on entering level crossings	3
Section 81 (1)	Failing to stop certain vehicles at railway level crossing	3
Section 91 (3)	Driver failing to comply with direction or request of authorized person in connection with ferry	3
Section 92	Failing to comply with stop sign at or near ramp or jetty leading to ferry or commencing to drive onto ramp or jetty before directed	3
Section 93	Driver opening or leaving open door or alighting from vehicle causing danger or impeding traffic	3
Section 94	Driving with person on roof or bonnet	3
Section 94a (1)	Driving with portion of body protruding from vehicle	3
Section 96 (2)	Permitting pedal cyclist to attach to or be drawn by vehicle	3
Section 97 (1)	Driving abreast of another vehicle	3
Section 102 (1)	Driving in unlawful position	3
Section 102 (2)	Driving motor cycle without at least one hand on handlebar	3
Section 110	Driving on unsealed portion of road	3
Section 122	Failing to dip headlamps	1
Section 160 (6)	Driving vehicle contrary to terms of defect notice	3
Section 162	Driving in non-compliance with requirements relating to loads	3

<i>Offence under Road Traffic Act 1961</i>	<i>Nature of offence</i>	<i>Number of demerit points attracted by offence</i>
Section 162ab (1)	Driver of vehicle failing to wear seat belt	3
Section 162ab (2)	Driving vehicle in which there is an unrestrained child of or above 1 but under 16 years	3
Section 162ab (3)	Driving vehicle in which there is an unrestrained child under 1 year	3
Section 162c (1)	Failing to wear safety helmet while driving a motor cycle	3

 PART II
 DEMERIT POINTS PECULIAR TO S.A.

<i>Offence under Road Traffic Act 1961</i>	<i>Nature of offence</i>	<i>Number of demerit points attracted by offence</i>
Section 43 (3) (a)	Failing to stop after an accident	
	—in which any real or personal property (other than an animal) is destroyed or damaged	3
	—in which any person or animal is injured or killed	5
Section 46 (1)	Reckless or dangerous driving	6
Section 47 (1)	Driving, or attempting to put a vehicle in motion, while under influence of liquor or drug	6
Section 47b (1)	Driving, or attempting to put a vehicle in motion, with a concentration of alcohol in blood of	
	—less than .08 grams in 100 millilitres of blood	3
	—.08 grams or more, but less than .15 grams, in 100 millilitres of blood	5
	—.15 grams or more in 100 millilitres of blood	6
Section 47e (3)	Refusing or failing to comply with reasonable direction of member of police force in relation to alcotest or breath analysis (including direction to exhale into apparatus)	6
Section 47i (14)	Refusing or failing to comply with request to provide sample of blood	6
Section 111	Driving or causing vehicle to stand if vehicle or load not in compliance with requirements relating to prescribed lamps or reflectors	1

SCHEDULE 2*Transitional Provisions***Demerit points incurred before commencement of Act**

1. Demerit points incurred by a person and recorded or required to be recorded against the person under Part IIIB of the principal Act as in force immediately before the commencement of this Act will be taken to have been incurred by the person under that Part as substituted by this Act as if that substituted Part had been in force when the demerit points were incurred.

Increase, decrease or imposition of demerit points

2. (1) Where the third schedule of the principal Act as substituted by this Act increases the number of demerit points prescribed in respect of an offence or prescribes demerit points in respect of an offence where previously none were prescribed, the increase in or imposition of demerit points only applies in respect of offences committed on or after the commencement of this Act.

(2) Where the third schedule of the principal Act as substituted by this Act decreases the number of demerit points prescribed in relation to an offence, the decrease applies only in relation to demerit points incurred after the commencement of this Act whether in respect of offences committed before, on or after that commencement.

SCHEDULE 3*Consequential Amendments*

The *Road Traffic Act 1961* is amended by inserting after section 69 the following section:

Giving way to emergency vehicles

69a. (1) The driver of a vehicle must give way to an emergency vehicle that is sounding a bell or siren (whether or not in conjunction with a visual warning signal).

(2) In this section—

“emergency vehicle” means a vehicle fitted with a bell or siren pursuant to section 134 (1).

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

ROMA MITCHELL Governor