



ANNO TERTIO

GEORGII VI REGIS.

A.D. 1939.

No. 47 of 1939.

An Act to amend the Road and Railway Transport Act, 1930-1935.

[Assented to 21st December, 1939.]

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

- Short titles.** **1.** (1) This Act may be cited as the " Road and Railway Transport Act Amendment Act, 1939 ".
- (2) The Road and Railway Transport Act, 1930-1935, as amended by this Act, may be cited as the " Road and Railway Transport Act, 1930-1939 ".
- (3) The Road and Railway Transport Act, 1930-1935, is hereinafter called " the principal Act ".
- Incorporation.** **2.** This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.
- Enactment of ss. 9a and 9b of principal Act—** **3.** The following sections are hereby enacted and inserted in the principal Act after section 9 thereof :—
- Annual report of board.** **9a.** The board shall make a yearly report to the Governor upon the administration of this Act. Every such report shall be laid before both Houses of Parliament.

9b. (1) Once in every three years the Governor shall appoint a person or persons to make an investigation into the operations of the board and the administration of this Act and to report thereon to the Governor.

Triennial
investigation.

(2) Every such report shall be laid before both Houses of Parliament as soon as practicable after the receipt thereof.

4. Section 14 of the principal Act is amended by striking out the first four lines in subsection (2) thereof and inserting in lieu thereof the following passage :—

Amendment of
s. 14 of
principal Act—
Driving on
controlled
routes.

“(2) After the appointed day no person shall drive on any controlled route or cause to be driven on any controlled route any vehicle on which passengers or goods or both are being carried for hire—”

5. The following sections are hereby enacted and inserted in the principal Act after section 18 :—

Enactment of
ss. 18a-18c of
the principal
Act—

18a. Without restricting the operation of any other section of this Act, it is declared that the terms and conditions contained in a licence or permit—

Terms and
conditions
of licences
and permits.

(a) may impose duties and liabilities on the holder of the licence or permit in relation to the carriage of passengers or goods or both during the whole of any journeys taken by vehicles operated by such holder, including journeys taken wholly on controlled routes, and journeys taken partly on controlled routes and partly on routes which are not controlled ; and

(b) in particular may (in the case of a licence) provide that the charge to be made for the licence is to be computed on the basis of money earned or mileage run both on journeys taken wholly on controlled routes, and on journeys taken partly on controlled routes and partly on routes which are not controlled.

18b. (1) The board may with the consent of the holder of any licence or permit vary any terms or conditions of that licence or permit or include any additional terms or conditions therein.

Variation of
terms and
conditions of
licences and
permits.

(2) No variation of any term or condition of a licence or permit, and no additional term or condition therein shall have any effect unless endorsed by the board on the licence or permit or on a document annexed thereto.

Road and Railway Transport Act Amendment Act, 1939.

Duty to produce licence or permit.

18c. (1) The holder of a licence or permit shall, upon the request of the secretary to the board or of any other person authorized by the board to make the request, deliver the licence or permit to some person nominated by the said secretary or authorized person within such reasonable time as the secretary or other person specifies at the time of making the request.

(2) If any person contravenes this section he shall be guilty of an offence.

(3) The board may retain a licence or permit delivered to it under this section for such reasonable period as is necessary to enable the board to endorse on the licence or permit any variation of its terms or conditions, or any additional term or condition.

Enactment of s. 22a of principal Act—

Return of discs to board.

6. The following section is enacted and inserted in the principal Act after section 22 thereof :—

22a. (1) If a person, to whom a licence has been granted under this Act, for any reason ceases to hold a licence, the board may by notice in writing require him to deliver to the secretary of the board within a time mentioned in the notice, all discs which have been issued to him under section 22 of this Act.

(2) If any person fails to comply with any such notice he shall be guilty of an offence.

Penalty : A fine not exceeding twenty pounds.

Enactment of s. 24a of principal Act—

Security to be given by holders of permits.

7. The following section is hereby enacted and inserted in the principal Act after section 24 thereof :—

24a. The board may in its discretion require any applicant for a licence or permit under any provision of this Act to give reasonable security in the prescribed form and manner for due compliance with the conditions imposed or to be imposed in the licence or permit, or on the holder thereof; and such security shall be in such amount as the board requires in each case.

Repeal of s. 23 of principal Act.

8. Section 23 of the principal Act is repealed.

Amendment of s. 25 of principal Act—
Consequential amendment.

9. Section 25 of the principal Act is amended by striking out the words " Outer Harbour permit or " in the second line thereof and the words " under either of the last two preceding sections " in the second and third lines thereof.

Repeal of s. 26 of principal Act—

Expired provision.

10. Section 26 of the principal Act is repealed.

11. The following headings and sections are enacted and inserted in the principal Act after section 27a thereof :—

Enactment of
ss. 27b-27c of
principal Act.

Provisions for Preventing Evasions of this Act.

27b. Subject to any exceptions prescribed by regulations, if a vehicle is let on hire and whilst it is so let it is driven on a controlled route carrying goods, the person to whom the vehicle is let shall be guilty of an offence unless—

Restriction on
use of vehicles
let on hire.

- (a) the board has given its consent in writing to the hiring ; or
- (b) the said person holds a licence or permit under this Act, and the vehicle is driven in accordance with the terms and conditions of the licence or permit ; or
- (c) the vehicle is taken on hire under a hire-purchase agreement entered into in good faith for the purpose of disposing of the ownership of the vehicle.

Penalty : A fine not exceeding one hundred pounds.

27c. For the purposes of this Act a vehicle shall be deemed to be a vehicle on which passengers are being carried for hire if—

Restriction on
carriage of
passengers on
trucks, etc.

- (a) it is constructed or adapted wholly or mainly for the carriage of goods ; and
- (b) without the written consent of the board the vehicle carries on a controlled route any passengers except—
 - (i.) the owner, driver, and one other person employed by the owner or driver in the working, loading or unloading of the vehicle :
 - (ii.) the wife, child, mother, or father of the owner :
 - (iii.) any other relatives of the owner who usually reside with him.

Provided that this section shall not apply in relation to a vehicle constructed or adapted partly for the carriage of goods and partly for the carriage of passengers and weighing, when unladen, less than thirty-two hundredweights, but shall apply to such a vehicle if driven by the holder of a hawker's licence or a hide, skin, and wool dealer's licence.

Road and Railway Transport Act Amendment Act, 1939.

Saving of
power to make
regulations.

27d. Nothing contained in the last two preceding sections shall be held to restrict the power of the Governor to make regulations under section 15 of this Act.

Wages and Working Conditions of Motor Drivers.

Submission to
Industrial
Court of
industrial
matters
affecting
certain
employees.

27e. (1) Notwithstanding the provisions of section 17 of the Industrial Code, 1920-1936, the Industrial Court mentioned in that Act shall have jurisdiction to deal with all industrial matters (as defined in Part II. of the said Code) relating to or arising in connection with the employment of employees in the industry (within the meaning of the said Part) of the occupations of drivers of motor vehicles used for carrying passengers or goods or both for hire or reward. The said industrial matters are hereby submitted to the said court.

For the purposes of this section the driver of a taxi-cab who drives it pursuant to an agreement under which he takes the taxi-cab on hire from a person engaged in business as a proprietor of taxi-cabs, shall be deemed to be an employee of that person.

(2) The industrial matters submitted to the said court under subsection (1) of this section shall, as soon after the enactment of this section as convenient, and also whenever in the opinion of the court occasion therefor has arisen, be dealt with in all respects by that court as if the said industrial matters had been submitted to the court by the Minister of Industry pursuant to section 17 (1) (b) I. of the said Code as being proper, in the public interest, to be dealt with by the court.

(3) Nothing in this section shall limit the jurisdiction or powers of the said court or the right of any person to make any application, reference, or submission to the court.

(4) Notwithstanding anything contained in the said Code, or in any regulation made thereunder, no industrial board appointed or to be appointed under Part III. of the said Code shall have jurisdiction to make a determination with respect to the industrial matters mentioned in subsection (1) of this section, and no determination of any such board shall apply to any of the employees referred to in the said subsection.

(5) The preceding subsections of this section shall come into operation on a day to be fixed by the Governor by proclamation.

12. The following sections are hereby enacted and inserted in the principal Act after section 28 thereof :—

Enactment of
ss. 28a and 28b
of principal
Act—

Carriers' Agents.

28a. (1) Any person who as agent for the holder of a licence or permit—

Licensing of
carrier's
agents.
Cf. N.S.W. 32,
1931, s. 20.

(a) books (whether by the selling of tickets or otherwise) any passengers or goods for carriage on any vehicle operated by or on behalf of such holder under his licence or permit; or

(b) receives goods at any depot, shop, shed, or other building or premises for carriage on any vehicle operated by or on behalf of such holder under his licence or permit,

shall, unless he is registered by the board as a carrier's agent, be guilty of an offence against this Act.

Penalty: A fine not exceeding fifty pounds.

(2) Applications for registration as a carrier's agent shall be made to the board in the form fixed by the board.

(3) There shall be payable in respect of every such registration and every renewal thereof such fee not exceeding one pound, as the board fixes.

(4) The registration of an agent shall, unless lawfully terminated earlier, remain in force for one year.

(5) Every registration shall be subject to such conditions as are prescribed.

(6) If any registered carrier's agent commits a breach of any of the terms or conditions of his registration he shall be guilty of an offence.

Penalty: A fine not exceeding twenty-five pounds.

28b. (1) Every registered carrier's agent shall record in a book in the prescribed form to be kept by him for the purpose, full and correct particulars of all bookings (whether by selling tickets or otherwise) effected by him in respect of passengers and of goods, and shall produce such book for the purpose of inspection thereof on demand by any officer authorized by the board.

Agents to
keep records.
Cf. N.S.W. 32,
1931, s. 30 (3).

(2) Any person who contravenes this section in any way shall be guilty of an offence.

Penalty: A fine not exceeding fifty pounds.

Road and Railway Transport Act Amendment Act, 1939.

Enactment of
s. 32a of the
principal Act—

13. The following section is hereby enacted and inserted in the principal Act after section 32 thereof :—

Recovery of
charges for
licences and
permits.

32a. The board may recover any charges or fees payable for or under any licence or permit, by action brought by the board in the name of the Transport Control Board in any court of competent jurisdiction.

Enactment of
ss. 35a-35d of
principal Act—

14. The following sections are hereby enacted and inserted in the principal Act after section 35 thereof :—

Vehicles used
for carrying
passengers
and goods for
hire and
reward to be
fit and
serviceable.

35a. Any person who drives on a controlled route or causes or permits to be driven on a controlled route any motor vehicle on which passengers or goods or both are being carried for hire or reward, and which in any way is unsafe, or not in good running order, shall be guilty of an offence.

Penalty : A fine not exceeding fifty pounds.

Penalty for
obstructing.
Cf. N.S.W. 32,
1931, s. 31.

35b. Every person who obstructs any person in the execution of any power, duty, or function conferred or imposed on him by or under this Act or the regulations shall be guilty of an offence.

Penalty : A fine not exceeding fifty pounds.

Production of
books.
Cf. N.S.W. 32,
1931, s. 32.

35c. (1) Any person having the custody of any book or record required to be kept by or under this Act or any licence or permit, shall produce and deliver that book or record for examination to any person authorized by the board on demand made by that person at any reasonable hour.

(2) Any person who fails to comply with this section shall be guilty of an offence.

Penalty : A fine not exceeding fifty pounds.

Penalty for
false returns
or information.
Cf. N.S.W. 32,
1931, s. 33.

35d. Any person required under this Act or by a licence or permit to furnish or supply any return or information or to write any entries in books or records, who furnishes or supplies a return or information or makes any entry in book or record which is false in any material particular, shall be guilty of an offence.

Penalty : A fine not exceeding one hundred pounds.

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

C. M. BARCLAY-HARVEY, Governor.