



ANNO DECIMO

# ELIZABETHAE II REGINAE

A.D. 1961

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## No. 50 of 1961

An Act to consolidate and amend certain enactments relating to road traffic, and for other purposes.

[Assented to 16th November, 1961.]

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

### PART I.

### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Road Traffic Act, 1961". Short title.
2. (1) Sections 1, 2 and 3 of this Act shall come into force on the day on which this Act is assented to by the Governor. Commencement.  
 (2) The other provisions of this Act shall come into force on the day or on the several days fixed by the Governor by proclamation.  
 (3) The Governor may so fix different days for the coming into force of different parts or provisions of this Act.
3. (1) The Governor may by proclamation fix a day or days upon which the enactments mentioned in the first schedule or any of those enactments or any provisions of those enactments shall be repealed. Repeals.  
 (2) The said enactments or provisions shall be repealed as from the day or respective days so fixed.  
 (3) In relation to the repeal of any of the said enactments or provisions the provisions in the second schedule shall have effect.

**PART I.****Division of Act.****4. This Act is divided into Parts as follows :—**

**PART I.**—Preliminary. Sections 1 to 9.

**PART II.**—Administrative Provisions. Sections 10 to 38.

**PART III.**—Duties of Drivers and Pedestrians. Sections 39 to 110.

**PART IV.**—Equipment, Size, and Weight of Vehicles, and safety provisions. Sections 110 to 163.

**PART V.**—Supplementary Provisions. Sections 164 to 177.

**Interpretation.****5. In this Act unless the context otherwise requires or some other meaning is clearly indicated—**

“animal” means animal of any sex or age belonging to a species to which any of the following animals belong, namely horse, cow, mule, donkey, camel, sheep, pig, or goat :

“area” means a municipality or district council district and includes the town of Whyalla as defined by the Whyalla Town Commission Act, 1944-1949, and the suburb defined in the Garden Suburb Act, 1919-1960 :

“articulated motor vehicle” means a motor vehicle having at the rear thereof a portion on wheels which is pivoted on and partly superimposed on the forward part of the motor vehicle :

“axle” means that part of a vehicle consisting of one or more shafts, spindles, or bearings in the same transverse vertical plane or between two transverse vertical planes, not more than forty inches apart, by means of which, in conjunction with wheels mounted on such shafts, spindles or bearings, the whole or portion of the weight of the vehicle and its load is continually transmitted to the road surface :

“barrier line” means a double line marked longitudinally on a carriageway and consisting of two lines not more than six inches apart and being either two continuous lines or one continuous and one broken line :

“bicycle” means a pedal bicycle or a motor bicycle :

“carriageway” means that portion of a road ordinarily used for the passage of vehicular traffic. If a road has two or more portions ordinarily used for such traffic and separated by a dividing strip or strips, each such portion shall be a separate carriageway :

**s. 5. (Definition of “road”)** LIPPETT v. ROBERTSON (1953) S.A.S.R. 13. Held that streets within Woomera Village were “roads” within the meaning of Part VI of the Road Traffic Act, 1934. See also the Prohibited Areas (Application of State Laws) Act, 1952.

“commercial motor vehicle” means—

- (a) a motor vehicle constructed or adapted solely or mainly for the carriage of goods ; or
- (b) a motor vehicle of the type commonly called a utility :

“council” means a municipal or district council and includes The Whyalla Town Commission established under the Whyalla Town Commission Act, 1944-1949, and the Garden Suburb Commissioner appointed under the Garden Suburb Act, 1919-1960 :

“crossover” means a vehicular track which passes through a dividing strip and gives access from one carriageway to another, and includes any such track which is a continuation or part of a road adjoining a divided road, but does not include any such track which is a continuation or part of a road intersecting a divided road :

“divided road” means a road having two or more carriageways separated from each other by one or more dividing strips :

“dividing strip” means a strip of land in a road, which strip is not ordinarily used for the passage of vehicles along the road and divides the road into separate carriageways, but does not include a strip of land marked off only by lines on the road :

“drive” includes ride :

“driver” means a person riding driving or in actual physical control of a vehicle or animal and, in relation to a trailer, means the driver rider or person in actual physical control of the vehicle by which the trailer is drawn :

“give way sign” means a sign inscribed with the words “give way” across the face thereof :

“improved road” means a road the surface of which has been prepared, formed, metalled or gravelled :

“inspector” means a person appointed or holding office as an inspector under or by virtue of this Act :

“intersection” means the area comprised within imaginary straight lines joining the corners formed by the convergence of the lateral boundary lines or the prolongation of the lateral boundary lines of two or more roads which cross each other :

“junction” means the part of a road which is comprised within the prolongation across the road of the lateral boundary lines of another road which joins it :

A road shall be deemed to join another road within the meaning of this definition if it joins that road but does not cross it :

“level crossing” means a place where a road and a railway, or a road and a tramway laid on land other than a road, cross each other on the same level :

“motor vehicle” means a motor vehicle, motor tractor, or mobile machine propelled or capable of being propelled by power other than human or animal power but does not include a motor vehicle operated on a railway or tramway :

“one-way carriageway” means a carriageway on which vehicles are permitted to travel in one direction only :

“owner” includes a hirer under a hire-purchase agreement or the assignee of such a hirer :

“pedal bicycle” means a bicycle propelled by human power :

“pedestrian crossing” means a crossing for the use of pedestrians established in accordance with this Act :

“rider” includes driver and “ride” includes drive :

“road” means—

(a) a road, street or thoroughfare ; and

(b) any other place commonly used by the public or to which the public are permitted to have access :

“school omnibus” means a vehicle bearing signs on the front and rear thereof containing in clear letters at least four inches high the words “School Bus” :

“speed zone” means a road, portion of a road, carriageway, or portion of a carriageway for which a speed limit has been fixed under this Act :

“stop line” means a line marked with paint studs or otherwise across or partly across the surface of the carriageway near traffic lights or a stop sign or pedestrian crossing, so as to indicate a stopping place for vehicles approaching the lights, sign or crossing :  
or

“stop sign” means a sign inscribed with the word “Stop” across the face thereof :

"the Board" means the Road Traffic Board of South Australia :

"tractor" means a motor vehicle constructed or adapted wholly or principally for supplying motive power for machinery or for hauling other vehicles or machines:

"trailer" means a vehicle, or a machine on wheels, which vehicle or machine is not self-propelled and is constructed or adapted for being drawn by a motor vehicle, but does not include the rear portion of an articulated motor vehicle :

"traffic control device" means—

(a) any traffic lights, signal, stop sign, give way sign, sign indicating a speed limit, barrier line, line or mark indicating a course for turning vehicles, pedestrian crossing, safety island, safety zone, traffic island, roundabout or dividing strip ; and

(b) any other sign, signal, device, mark or structure the purpose of which is to regulate traffic and which is of a class declared by proclamation to be traffic control devices within the meaning of this Act :

but does not include a device by which visible or audible warning is given of the approach of railway rolling-stock to a level railway crossing :

"traffic lights" means signals for controlling traffic by means of illuminated circles or arrows or combinations thereof shown in succession :

"two-way carriageway" means a carriageway other than a one-way carriageway :

"unladen weight" in relation to a vehicle means the weight of the vehicle without any load other than the petrol, oil, tools and accessories ordinarily carried on the vehicle :

"vehicle" does not include a vehicle operated on a railway or tramway :

"walk" includes run.

6. Every reference in this Act to driving or riding a vehicle, or attempting to put a vehicle in motion, or to driving riding or leading an animal, or to walking, shall be construed as a reference to driving or riding a vehicle, or attempting to put a vehicle in motion, or driving riding or leading an animal, or walking on a road, unless it is otherwise expressly stated.

Application of  
Act to driving  
on roads.

**PART I.****Drivers of  
trailers.**

7. For the purposes of this Act, where a person drives a motor vehicle to which a trailer is attached, he shall be deemed to be the driver of the trailer, and the trailer shall be deemed to be driven by him.

**Application of  
Act to  
servants of  
the Crown.**

8. This Act shall apply to persons in the service of the Crown as well as to other persons.

**Power to  
proclaim  
additional  
traffic  
devices**

9. The Governor may by proclamation—

(a) declare that any signs signals devices marks or structures described or indicated in the proclamation shall be a class of traffic control devices within the meaning of this Act ;

(b) revoke or vary any proclamation for the time being in force under this section.

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## PART II.

## ADMINISTRATIVE PROVISIONS.

*The Minister.*

10. The Governor may by proclamation—

Administration  
by Minister.

- (a) commit the administration of this Act or any Part or provisions of this Act to any Minister ;
- (b) revoke or vary any proclamation made under paragraph (a) of this section.

*The Road Traffic Board of South Australia.*

11. (1) There shall be a board to be called the "Road Traffic Board of South Australia".

Constitution  
of Road  
Traffic Board.

(2) The members of the Board shall be appointed by the Governor and shall be—

- (a) a Traffic Engineer employed in the Highways and Local Government Department, and ;
- (b) the Commissioner of Police or a member of the Police Force holding a rank not lower than that of inspector and nominated by the Commissioner of Police ; and
- (c) a person representative of local government interests nominated by the Minister.

(3) The Governor shall appoint one of the members to be the chairman of the Board.

(4) A member of the Police Force appointed to the Board shall remain a member of that Force and shall be released from police duties so far as necessary to enable him to carry out his duties as a member of the Board.

(5) Subject to this Act, the terms and conditions on which members of the Board are appointed shall be fixed by the Governor.

12. (1) At a meeting of the Board two members shall form a quorum.

Procedure of  
Board.

(2) If the chairman is not present at a meeting, the members who are present may appoint one of their number to be acting chairman.

(3) Subject to this section, the Board may regulate its own proceedings.

(4) A decision concurred in by any two members of the Board on any matter before the Board shall be deemed a decision of the Board.

**PART II.****Expenses.**

**13.** The Governor may fix the remuneration and travelling and other expenses payable to the members of the Board.

**Staff of Board.**

**14. (1)** The Governor may appoint a secretary to the Board and any other officers whom he deems it necessary to appoint for enabling the Board to perform its functions.

**(2)** Unless the Governor otherwise determines in any case, the secretary and the said officers shall be appointed and hold their offices under the Public Service Act, 1936-1958.

**Functions of Board.**

**15.** The functions of the Board (in addition to those conferred on it by the other provisions of this Act and the Local Government Act, 1934-1959 and the amendments thereof) shall be—

- (a)** to make recommendations to the Minister and other authorities concerned with road construction or road traffic, on the use of traffic control devices and other measures to be taken to prevent road accidents, to improve the flow of traffic, and to eliminate causes of danger and traffic congestion on roads ;
- (b)** to promote uniformity in the design, specifications, location and proper use of traffic control devices ;
- (c)** to conduct research and collect statistics relating to road accidents and other road traffic problems ;
- (d)** to publish information for the instruction of road users on road safety and traffic laws and regulations ;
- (e)** to supply technical information and advice regarding road traffic problems to authorities concerned with road traffic ;
- (f)** to investigate and report on proposals for alterations of and additions to traffic laws and regulations ;
- (g)** to investigate and report on any other matter relating to roads or traffic referred to it by the Minister.

*Traffic Control Devices.*

**Power as to traffic control devices.**

**16.** The authorities mentioned in this Part may, with the approval of the Board in each case, erect place or mark traffic control devices on or near roads in accordance with this Part.

**Stop signs and give way signs.**

**17. (1)** The Commissioner of Highways or a council may erect stop signs or give way signs at any place on a road.



(2) The South Australian Railways Commissioner may erect stop signs at or near any railway level crossing, and the Municipal Tramways Trust may erect stop signs at or near any tramway level crossing.

18. A council may erect traffic lights at any place on a road. Traffic lights

19. The Commissioner of Highways or a council may erect on or near a bridge signs indicating a speed limit for vehicles crossing that bridge. Signs indicating speed limits on bridges.

20. (1) In this section "public authority" means—

- (a) any Minister of the Crown ;
- (b) the Commissioner of Highways ;
- (c) any council ;
- (d) any other authority or company authorized by an Act to carry out works on roads ; and
- (e) any member of the police force making investigations on a road at a place where an accident has occurred.

Signs indicating works on roads.

(2) A public authority, with the approval of the Board or of a person appointed by the Board to give approvals under this section, may place signs on a road for the purpose of indicating the portion of the road on which works are in progress, or on which men are working.

(3) If a public authority has engaged a contractor to carry out works on a road on behalf of the authority, the contractor may exercise the powers conferred on the authority by this section.

(4) A sign placed on a road pursuant to this section must bear on the face thereof visible to approaching drivers the words and figures "speed limit 15".

21. (1) The Commissioner of Highways or a council may erect at any suitable place on a road a sign for the purpose of warning drivers that they are approaching a portion of a road abutting on a school or playground, or a portion of a road used by children going to or coming from a school. Signs near schools and playgrounds.

(2) Every sign erected or placed on a road pursuant to this section must have the word "school" or "playground" (as the case may be) painted or marked on the face thereof.

(3) A committee, council or other board of governors or management of a school may place on a road abutting on or adjacent to a school a sign of the type commonly known as a 'safety sally'.

## (4) In this section—

“school” means a building (including a church or dwelling-house) regularly used as a school or Sunday school and any schoolgrounds abutting on or surrounding any such building :

“playground” means an area maintained for the sole or main purpose of being used as a playground for children.

Turning lines  
and barrier  
lines.

**22.** The Commissioner of Highways or a council may mark on any road—

- (a) lines, words, or signs for the purpose of indicating the route to be followed by vehicles turning to the right or left at or in an intersection or junction :
- (b) barrier lines for the purpose of indicating a duty to keep vehicles on the left of such lines.

Pedestrian  
crossings.

**23.** (1) A council may mark pedestrian crossings across the carriageway of any road. Different kinds of crossings may be marked according to local requirements and in particular special pedestrian crossings may be marked in the vicinity of schools.

(2) Any person authorized in accordance with the regulations to do so may exhibit a flag or sign bearing the word “stop” for the purpose of requiring drivers to stop before entering a pedestrian crossing.

(3) A person shall not on or near a pedestrian crossing exhibit a flag or sign bearing the word “stop” unless he is authorized to do so in accordance with the regulations.

Penalty : Twenty-five pounds.

Approval for  
traffic control  
devices.

**24.** A council shall not construct or erect a traffic control device on a road except with the approval of the Board.

General  
provisions as  
to traffic  
control devices.

**25.** (1) Every traffic control device—

- (a) must comply with any regulations applicable to it ;
- (b) subject to the regulations, must be of such design as is fixed or approved by the Board ; and
- (c) must (if it consists of a signal sign or notice erected vertically) be erected or placed or marked so as to be clearly visible to drivers travelling towards the face of the device.

(2) Every traffic control device existing at any time on or near a road shall be deemed to have been placed or marked on or near the road by an authority empowered by law so to place or mark it, and with the approval required by this Act.

(3) Any lights, signal, sign, line, device, marks, island, zone, or dividing strip substantially conforming to the requirements of this Act and the regulations applicable to any kind of traffic control device shall be deemed to be a traffic control device of that kind.

(4) The authority which erects or marks a traffic control device on a road shall maintain it in good order.

26. (1) Subject to subsection (2), an authority may remove any traffic control device erected or marked by that authority.

Removal of  
traffic control  
devices.

(2) Where a traffic control device was erected or marked by an authority with the approval of the Board, or is such that the Board's approval would be required under this Act for so erecting or marking it, it shall not be removed except with the approval of the Board.

27. (1) An authority which applies for the Board's approval for the erection marking or removal of any traffic control device shall supply the Board with such information relevant to the proposal as the Board reasonably requires.

Approvals.

(2) The Board shall consider every application for any such approval and any information submitted by the applicant authority and may grant or refuse the application or grant it subject to conditions and modifications.

28. (1) If the Board—

(a) refuses to give approval for the erection marking or removal of any traffic control device ; or

Review of  
Traffic  
Board's  
decisions.

(b) gives such approval subject to conditions or modifications—

the Board shall, if requested by the authority which applied for the approval state its reasons for its decision.

(2) The said authority may within twenty-eight days after receipt of the Board's reasons apply to the Board to review its decision. Upon such a request the Board—

(a) shall give the authority an opportunity of submitting information and arguments ; and

(b) may obtain further relevant information ; and

(c) shall reconsider its previous decision ; and

(d) shall report to the Minister who may affirm or reverse that decision or approve of any alternative proposal submitted by the authority.

(3) Before affirming or reversing a decision of the Board or approving of any alternative proposal under this section, the Minister shall give the Board and the authority an opportunity of making representations to him thereon.

Financial provision.

**29.** The cost of any traffic control devices erected or marked by the Commissioner of Highways with the approval of the Board shall be paid out of any money voted by Parliament for expenditure on roads.

Unsatisfactory traffic signals, devices, etc.

**30.** (1) For the purpose of this section, a traffic control device or other sign or mark used to regulate or warn traffic shall be unsatisfactory if it has been erected or marked without an approval or consent required by law, or is not in accordance with law or does not comply with an accepted standard, or is likely to confuse or mislead road users, or to increase the risk of accident.

(2) If the Board is of opinion that any traffic control device or other sign line or mark used to regulate or warn traffic is unsatisfactory, it may give the authority which erected or marked the device sign line or mark (in this section called "the authority") a notice to show cause why the device, sign line or mark should not be removed, or placed in another position, or altered or modified.

(3) In the notice the Board shall state a time within which the authority may make representations to it orally or in writing.

(4) If after considering any representations made by the authority within the time so stated and any other relevant matters the Board is satisfied that the device, sign line or mark is unsatisfactory it may request the authority to remove it or to alter its position, or to alter or modify it in some other way. The notice shall state a time within which the request is to be complied with and the authority shall comply with the request within that time or any extended time fixed by the Board.

(5) Where a device, sign line or mark has been removed under this section, the authority shall not reinstate or renew it without the consent of the Board.

Removal of certain lights and signs.

**31.** (1) In this section—

"false traffic sign" means a sign or device which is a colourable imitation of any traffic control device or purports to be a traffic control device and is erected or marked on a road or elsewhere, otherwise than in accordance with this Act :

"light" means a lamp, sign, advertisement or device of any kind from which light is projected.

(2) If the Board is satisfied that any light or false traffic sign erected or placed on or near a road is likely to increase the risk of accident on any road, the Board may by notice in writing require the owner of the light or sign or any person in control of it to take such action, whether by way of removing, modifying, screening, or otherwise dealing with the light or sign, as is specified in the notice, and within a time so specified.

(3) A notice under this section may be served either by post, by means of a letter addressed to the usual place of residence or business of the person to be served, or by delivering it to him personally.

(4) A person to whom a notice under this section is duly given shall comply with it.

Penalty : Fifty pounds.

(5) If within the time specified in a notice duly given under this section the person required to comply with the notice does not comply with it, the Board may take the action specified in the notice and recover the cost of doing so from the said person as a debt, by action in a local court.

#### *Speed Zones.*

**32.** (1) In this section "zone" means a road or portion of a road, or a carriageway of a road or portion of any such carriageway. Speed zones.

(2) The Board may, by regulation which it is hereby empowered to make, fix a speed limit for any zone.

(3) Every speed zone and the speed limit for that zone shall be indicated by signs on the road at or near the beginning and end of the zone. The signs shall comply with such requirements as to size, design, markings, location and other matters as are prescribed by regulations.

(4) The Commissioner of Highways shall provide and erect the signs required to indicate the speed zones and the speeds fixed for those zones.

#### *Road Closing and Exemptions for Road Races.*

**33.** (1) Upon the application of any persons interested, the Minister may make an order directing either or both of the following matters :— Closing roads and exemption for road races.

(a) That a road upon which any races or tests are to be held, and any other adjacent or adjoining road shall be closed to traffic on any day or days ;

(b) That persons taking part in any races or tests on a road closed to traffic under this section be exempted from the duty to observe any enactment, regulation or by-law prescribing speed limits or other rules to be observed on roads by drivers of vehicles.

(2) An order under this section shall not be made except with the consent of every council within whose area any road intended to be closed by the order is situated.

(3) At least two clear days before an order under this section takes effect the Minister shall advertise a copy of the order in two newspapers, one of which shall be a daily newspaper circulating generally in the State. The costs of every such advertisement shall be paid by the applicants.

(4) An order under this section shall be subject to any conditions which the Minister thinks fit to impose, and upon breach of any condition shall cease to have effect.

(5) An order under this section shall render lawful anything done in accordance therewith.

(6) An order under this section may apply to the whole or a part of any road.

#### *Weighing Instruments.*

Weighbridges  
and weighing  
instruments.

34. A council may within its area, and the Minister may in any part of the State, erect or provide and maintain weighbridges or other weighing instruments for the purpose of weighing vehicles with or without their loads, or the loads on vehicles, or for ascertaining the weight carried on any axle or two or more axles of a vehicle.

#### *Inspectors.*

Inspectors.

35. (1) The Commissioner of Highways may appoint any persons to be inspectors under this Act.

(2) Every person for the time being in charge of a ferry established under Part XXIX of the Local Government Act, 1934-1959, shall be an inspector under this Act.

Hindering  
inspectors.

36. A person shall not hinder or obstruct an inspector in the execution of any power conferred or duty imposed on him by this Act.

Penalty : Fifty pounds.

*Powers of Search and Inquiry.*

**37.** A member of the police force may, if he has reasonable cause to suspect that a vehicle has been involved in a collision or has been driven on a road recklessly or at a speed or in a manner which is dangerous to the public or has been stolen or used without the consent of the owner and is on any land or premises, enter that land or those premises and therein search for the vehicle and examine it if found.

Power to  
examine  
vehicles  
involved in  
offences.

**38.** A person shall truly answer any question put to him by a member of the police force or an inspector for the purpose of obtaining information which may lead to the identification of the person who was driving a vehicle on any occasion.

Questions as  
to identity  
of drivers.

Penalty : Fifty pounds.

PART III.

## PART III.

## DUTIES OF DRIVERS AND PEDESTRIANS.

*Scope of this Part.***Application of  
this Part.**

**39.** (1) A rider or driver of an animal shall have the duties, rights and privileges imposed or conferred on the rider or driver of a vehicle by the provisions of this Part, other than provisions which by their nature cannot apply in relation to animals.

(2) Unless the context otherwise requires the word "vehicle" in this Part includes an animal which is ridden or driven.

(3) Sections 41, 43, 45 and 46 of this Act shall apply in relation to tramcars and their drivers as well as other vehicles and drivers.

**Exemptions of  
fire, ambulance  
and police  
vehicles.**

**40.** (1) The following shall be exempt vehicles within the meaning of this section :—

(a) Any motor vehicle used by The Fire Brigades Board or by a fire brigade registered under the Fire Brigades Act, 1936-1958 while it is being driven to any place in answer to a call for the services of a fire brigade or is in use at a fire ;

(b) Any motor ambulance which is being driven in answer to an urgent call or is conveying an injured or sick person to any place for treatment urgently required ;

(c) Any motor vehicle driven by a member of the police force in the execution of his duty.

(2) While a vehicle is an exempt vehicle the provisions of this Act relating to the following matters shall not apply in relation to the driving or use of that vehicle :—

(a) Speed limits ;

(b) Stopping at stop signs or traffic lights ;

**s. 40. THE SOUTH AUSTRALIAN AMBULANCE TRANSPORT INCORPORATED v. WAHLHEIM** (1948) 77 C.L.R. 215; 22 A.L.J. 545, reversing **WAHLHEIM v. THE SOUTH AUSTRALIAN AMBULANCE TRANSPORT INCORPORATED** (1948) S.A.S.R. 152. Observations upon the duties of a driver of an exempt vehicle.

**THE FIRE BRIGADES BOARD v. MUNICIPAL TRAMWAYS TRUST** (1950) S.A.S.R. 262. The duties of drivers of tramcars and vehicles, such as fire engines, exempted from compliance with normal provisions for the regulation of road traffic, considered.

**HINE v. O'CONNOR AND CHAMBERS AND THE FIRE BRIGADES BOARD** (1951) S.A.S.R. 1. Although a fire-engine proceeding to a fire is exempted by section 156a of the Road Traffic Act, 1934, from compliance with certain traffic regulations, the driver is nevertheless bound to exercise reasonable care, and the urgency of the duty upon which it is proceeding will not justify him in driving at a speed which in the circumstances is excessive and dangerous.



- (c) Giving right of way ;
- (d) Driving or standing on any side or part of a road ;
- (e) Passing other vehicles on any specified side thereof ;
- (f) The mode of making right turns ;
- (g) Stopping in case of accident ;
- (h) Boarding or leaving a vehicle in motion ;
- (i) Carrying persons on the bonnet or roof.

*Compliance with Directions.*

41. (1) A member of the police force may give such reasonable directions to persons driving vehicles or walking on a road as are, in his opinion, necessary for the safe and efficient regulation of traffic thereon, or for clearing vehicles and persons from any road or part of a road closed to traffic, or for the purpose of ascertaining whether an offence against this Act has been or is being committed.

Directions for  
regulation of  
traffic.

(2) A person to whom a direction of a member of the police force is given pursuant to this section shall forthwith comply with it.

Penalty : Fifty pounds.

42. (1) A member of the police force, or an inspector, may—

Power to stop  
vehicle and  
ask questions.

- (a) request the driver of a vehicle on a road to stop that vehicle ;
- (b) ask the driver or the person apparently in charge of a vehicle (whether on a road or elsewhere) questions for the purpose of ascertaining the name and place of residence or place of business of that driver or person or of the owner of the vehicle, or the nature or constituents of the load on the vehicle, or for the purpose of estimating the weight of the vehicle.

(2) A person shall forthwith—

- (a) comply with a request made to him under subsection (1) of this section to stop a vehicle ;
- (b) truly answer a question put to him under subsection (1) of this section.

Penalty : Fifty pounds.

*Accidents.*

Duty to stop  
and report  
in case of  
accident.

**43. (1)** In this section—

“accident” includes a collision whether caused intentionally or otherwise:

“animal” includes a dog.

**(2)** This section applies only to accidents in which

(a) any person or animal is injured or killed ; or

(b) any real or personal property (other than an animal) is destroyed or damaged.

**(3)** If owing to the presence of a vehicle on a road an accident occurs the driver of every vehicle concerned in the accident shall—

(a) stop his vehicle forthwith ;

(b) if requested so to do by any person having reasonable grounds for such request, state his name and address and the registered number (if any) of his vehicle ;

(c) as soon as reasonably practicable, and in any case within twenty-four hours after the occurrence of the accident, report the accident to a member of the police force or at a police station.

**Penalty :** For an offence against paragraph (a) of this subsection, if it is proved that a person was injured or killed in the accident, one hundred pounds or imprisonment for six months.

For any other offence against this subsection, one hundred pounds.

**s. 43. MINERVINI v. WALSH (1928) S.A.S.R. 286.** The obligation to stop implies that the vehicle must be brought to rest within such a distance and time as is reasonable in the circumstances.

**NOBLET v. CONDON (1935) S.A.S.R. 329.** Held that section 52 of the Road Traffic Act, 1934 (re-enacted by section 139 of that Act with amendments not material to this case), required the driver to stop so long as reasonably necessary to enable the proper questions to be put, if there was anyone in the vicinity who desired to put them.

**JARMAN v. WALSH (1936) S.A.S.R. 25.** Held that section 52 of the Road Traffic Act, 1934 (re-enacted by section 139 of that Act with amendments not material to this case), required the driver of a motor vehicle to stop in case of accident as soon as practicable in the circumstances.

**BOND v. GILBERT (1938) S.A.S.R. 37.** The offence of failing to stop may be of a trifling nature although the accident occasioning the stop may be more than trivial.

**COX v. BUTTON (1949) S.A.S.R. 244.** Observations on the duty to stop imposed by section 139 of the Road Traffic Act, 1934.

**CLEMENT v. GILL (1953) S.A.S.R. 25.** Where a pedestrian was struck by a motor vehicle, thrown to the ground, shaken and dazed but no evidence was given of any actual physical injury, held that the evidence was insufficient to prove that injury had been caused to him within the meaning of subsection (1) of section 139 of the Road Traffic Act, 1934.

(4) It shall be a defence to a charge of any offence against this section to prove—

- (a) that the defendant did not know that the accident had occurred and that his want of knowledge was not due to carelessness or recklessness; or
- (b) that the only damage or injury resulting from the accident was damage or injury to property owned by the defendant.

(5) It shall be a defence to a charge of an offence against paragraph (c) of subsection (3) of this section to prove that the only damage or injury resulting from the accident was damage or injury to property and that a fair estimate of the cost of making good such damage or injury was not more than twenty-five pounds.

(6) An apparently genuine document produced by the prosecution, purporting to be signed by the Commissioner of Police and to certify that an accident indicated in the document (whether by reference to the approximate time and place thereof or to the person or persons involved or otherwise so as to reasonably identify it) had not been reported at a police station or to a police constable prior to any date mentioned in the certificate shall be *prima facie* evidence of the matter so certified.

#### *Illegal Use of Motor Vehicles.*

44. (1) A person shall not, on a road or elsewhere, drive, use or interfere with a motor vehicle without first obtaining the consent of the owner thereof. Using motor vehicle without consent.

Penalty: For a first offence, imprisonment for not more than twelve months. For a subsequent offence, imprisonment for not less than three months or more than two years.

(2) The court may, in addition to imposing a penalty under this section, order the defendant to pay to the owner of the motor vehicle driven, used or interfered with in contravention of this section, such a sum as the court thinks proper by way of compensation for any loss or damage suffered by the owner.

s. 44. BOLLMEYER v. DALY (1933) S.A.S.R. 295; 5 Austn. Digest 168. "Use" covers every degree of use. The *mens rea* necessary to support a charge under section 53 of the Road Traffic Act, 1934, is an intention to use a motor vehicle without the consent of the owner.

LOGAN v. COPP (1942) S.A.S.R. 45. When a soldier was convicted, on a plea of guilty, of unlawfully using a motor vehicle without first obtaining the consent of the "Commonwealth Military Defence Department" alleged in the complaint to be the owner of the vehicle, held that the conviction was bad as the owner of the vehicle must, by reason of section 111 of the Defence Act, 1903-1939, be deemed to be the commanding officer of the corps.

CRAFTER v. SIMPSON (1943) S.A.S.R. 87. When a soldier, without any authority from the officer commanding his unit, took and used on his own affairs a motor cycle belonging to the Commonwealth, held that he could properly be convicted of an offence under section 53 of the Road Traffic Act, 1934.

(3) Subsections (1) and (2) of this section shall not apply to a member of the police force or any officer of a council in the execution of his duty under this Act or any other Act.

(4) A complaint for an offence against this section may be laid at any time not later than two years after the commission of the offence.

*Careless and Dangerous Driving.*

Careless  
driving.

**45.** A person shall not drive a vehicle without due care or attention or without reasonable consideration for other persons using the road.

Penalty : Fifty pounds.

**s. 45. HUNT v. BOND** (1930) S.A.S.R. 46; 12 Austn. Digest 285. Held, that a complaint alleging negligent driving, without giving particulars of the negligence, was sufficient.

**WINTULICH v. LENTHALL** (1932) S.A.S.R. 60. Held, under section 21 of the Motor Vehicles Act, 1921, which made it an offence to drive a motor car negligently, that the standard of care required was that which an ordinary prudent man would deem necessary in the circumstances presented to him, in order to avoid injury or damage to the person or property of others. Wilful or intentional negligence need not be proved.

**NEALE v. WALSH** (1932) S.A.S.R. 429. Any substantial breach of the ordinary duty to take care amounted to "driving negligently" within the meaning of section 21 of the Motor Vehicles Act, 1921.

**KIERNAN v. PIERCE** (1933) S.A.S.R. 137. Where the circumstances proved against a defendant proved to have been involved in a collision are such that he may be presumed to know why the collision occurred, and the only evidence before the court indicates that the other party was not blameworthy, the defendant must either explain why the collision occurred or submit to the conclusion that it occurred because he was driving negligently.

**TAYLOR v. GEARY** (1939) S.A.S.R. 89. Where the defendant, driving a motor vehicle, had collided with a horse-drawn vehicle emerging from a side-street and crossing over the road on which the defendant was travelling, and there was evidence to show that the defendant, had he been keeping a proper look-out, could have seen there was ample room to pass behind the other vehicle, held that he had been properly convicted under subsection (1) of section 120 of the Road Traffic Act, 1934, for driving without due care.

**JOHNS v. SILBEY** (1939) S.A.S.R. 133. Where a collision occurred between a motor vehicle driven by the defendant and a cycle, held that the dismissal of a complaint under subsection (1) of section 120 of the Road Traffic Act, 1934, for driving without due care could be supported upon the view that the defendant had been guilty of a mere error of judgment in the emergency created by the cyclist. The court should take into account the difficulty created by conditions of poor visibility.

**DAYMAN v. SARIS** (1939) S.A.S.R. 176. The negligence of a driver of a vehicle contributing to a collision with another vehicle is irrelevant on a charge under subsection (1) of section 120 of the Road Traffic Act, 1934, for driving without due care against the driver of the second vehicle.

**VIRGO v. ELDING** (1939) S.A.S.R. 294. To constitute the offence of driving without due care, it is not necessary to show that the driver is driving without due regard to the safety of other users of the highway. Where a driver had fallen asleep at the wheel and his car had run off the road, held that he was properly convicted of driving without due care.

**DAYMAN v. SARIS** (1939) S.A.S.R. 445. Held, in the particular facts, that the driver of a vehicle drove without due care.

**STEPHENS v. STEWART** (1941) S.A.S.R. 24. Where a driver of a vehicle turned his vehicle for the purpose of proceeding in the opposite direction, held out his hand to signal the turn, but did not look for traffic whilst on the turn, held that he drove without due care.

**DAYMAN v. GILL** (1941) S.A.S.R. 208. Where a driver of a vehicle turned across a street and his explanation was accepted that when he commenced his turn

**46. (1)** A person shall not drive a vehicle recklessly or at a speed or in a manner which is dangerous to the public. Reckless and dangerous driving.

**Penalty:** Not less than thirty and not more than one hundred pounds. For a second or subsequent offence, a fine of the said amount or imprisonment for not more than three months or both such a fine and imprisonment.

(2) In considering whether an offence has been committed under this section the court shall have regard to—

- (a) the nature condition and use of the road on which the offence is alleged to have been committed; and
- (b) the amount of traffic on the road at the time of the offence; and

s. 45. approaching vehicles were at a distance which made it appear safe to cross in front of them, held that the dismissal of the complaint should not be disturbed. (contd.)

**FRASER v. DAYMAN** (1942) S.A.S.R. 5. Where a motor car stopped at about twenty feet from the kerb and a motor omnibus overtook and ran down the motor car, held that, notwithstanding the unexpected place where the motor car was stopped, the driver of the omnibus had driven without due care.

**HOWE v. DAYMAN** (1943) S.A.S.R. 20. There is no general rule that a driver is guilty of driving without due care if he makes a right hand turn in a busy thoroughfare without looking behind him to see whether there is any risk of collision with a following vehicle.

**MILKINS v. ROBERTS** (1949) S.A.S.R. 251. Nature of the offence of driving or riding a vehicle or animal without due care or attention considered.

s. 46. **MOORE v. THE KING** (1926) S.A.S.R. 52; 5 Austn. Digest 280; affirmed by **MOORE v. THE KING** (1926) 39 C.L.R. 602. *Seemle*, that if the accused (although not guilty of criminal negligence) had committed the offence of negligent or dangerous driving, and thereby killed a person, he could not make out the defence of homicide by misadventure.

**KELLY v. WALSH** (1929) S.A.S.R. 481. On a charge of dangerous driving it is not necessary to show that the safety of any particular person was endangered. It is enough if there is some substantial possibility of injury to persons who might reasonably be expected to come upon a road. Conviction quashed where the defendant had not endangered any person and the court was of opinion that there was no potentiality of mischief to the public in the circumstances.

**BARNETT v. WALSH** (1934) S.A.S.R. 303. Where the defendant and another person, through an error of judgment, endangered each other's safety, but not that of the public, held that the defendant was not guilty of dangerous driving.

**KELDOULIS v. FRENCH** (1935) S.A.S.R. 192. An attempt to pass between stationary motor cars held to be dangerous driving.

**THOMPSON v. COPELAND** (1936) S.A.S.R. 45. Held, that "recklessness" implies that the possible consequences of his act are adverted to by the actor, but he is indifferent whether they occur or not.

**BOND v. COCKS** (1938) S.A.S.R. 14. Circumstances which would justify a reduction of penalty under section 75 of the Justices Act, 1921, discussed.

**DANKEL v. BOND** (1938) S.A.S.R. 45. Where evidence was given that the defendant (who collided with a woman) drove in a normal manner and at a reasonable speed and that he was not drunk but to some extent under the influence of liquor, and it was inferred he did not keep a proper look-out, held that a conviction for driving in a manner dangerous to the public could not be supported.

**SMITH v. DAYMAN. DAYMAN v. THOMPSON** (1938) S.A.S.R. 477. The condition of the vehicle being driven is part of the manner of driving.

**WELLS v. GILL** (1960) S.A.S.R. 106. Although it is not necessarily dangerous to the public for a motor vehicle to be driven on a road at a speed of sixty miles per hour or more, the driving at that speed on a suburban road usually will be a grave threat to other users of the road and may then constitute driving in a manner dangerous to the public, within the meaning of section 121 (1) of the Road Traffic Act, 1934.

(c) the amount of traffic which might reasonably be expected to enter the road from other roads and places ; and

(d) all other relevant circumstances whether of the same nature as those mentioned or not.

*Driving under Influence of Liquor or Drugs.*

Driving under  
influence.

47. (1) A person shall not—

(a) drive a vehicle ; or

(b) attempt to put a vehicle in motion,

while he is so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle.

Penalty—

(a) If the vehicle concerned was a motor vehicle—

(i) for a first offence, not less than thirty and not more than one hundred pounds or imprisonment for not more than three months and, in either case, disqualification from holding and obtaining a driver's licence for such period as the court thinks fit, but in no case less than three months ;

(ii) for a second offence, imprisonment for not less than one month and not more than six months and disqualification from holding and obtaining a driver's licence for such period as the court thinks fit, but not less than six months ;

(iii) for a third or subsequent offence, imprisonment for not less than three months and not more than twelve months and disqualification

**S. 47. BURROWS v. HANLIN** (1930) S.A.S.R. 54. The opinion of persons, not experts, as to whether a man is drunk, or capable of driving a car, is not admissible as evidence.

**DAYMAN v. SIMPSON** (1935) S.A.S.R. 320. Where the defence suggests that an expert witness, called by the prosecutor as to the condition of the defendant, has given an unsound opinion, that should be suggested to the witness before he leaves the box. Complaint referred for re-hearing where this rule was not observed.

**HENNIG v. ROBERTSON. ROBERTSON v. HENNIG** (1937) S.A.S.R. 400. Where a person, who had been convicted under section 26 of the Motor Vehicles Act, 1921, of driving a motor vehicle whilst so much under the influence of liquor as to be incapable of exercising effective control of the vehicle, committed this offence under section 48 of the Road Traffic Act, 1934, held that the penalty to be inflicted was that appropriate to a second offence under section 48.

**CHUCK v. WEST** (1938) S.A.S.R. 51. It is not necessary on a charge under section 48 of the Road Traffic Act, 1934, to show that the defendant was drunk.

**PULLEINE v. BUTTON** (1948) S.A.S.R. 1. Upon a charge under section 48 of the Road Traffic Act, 1934, proof that the defendant actually drove the vehicle for some distance in an apparently normal manner and without mishap does not necessarily compel a finding that he was capable of exercising effective control of it. The court may be satisfied that the defendant was incapable of exercising effective

from holding and obtaining a driver's licence for such period as the court thinks fit, but not less than three years ;

(b) if the vehicle concerned was not a motor vehicle, fifty pounds.

(2) For purpose of subsection (1) of this section a person shall be deemed to be incapable of exercising effective control of a vehicle if, owing to the influence of intoxicating liquor

s. 47. any actual act of driving or notwithstanding evidence of acts of apparently normal control of the vehicle upon inferences drawn from evidence which may not include driving.  
(contd.)

HUNTER v. FITZGERALD (1951) S.A.S.R. 126. Observations as to the nature of the offence of driving a motor vehicle whilst so much under the influence of liquor as to be incapable of exercising effective control over the vehicle.

THOMAS v. O'SULLIVAN (1951) S.A.S.R. 149. Where the defendant, a mild diabetic, had taken an excessive dose of insulin with the result that he drove erratically, held that he was guilty of an offence against section 48 of the Road Traffic Act, 1934.

WEBB v. O'SULLIVAN (1952) S.A.S.R. 65. Observations as to the principles on which penalties should be imposed for driving a motor vehicle whilst under the influence of liquor.

SIMS v. O'SULLIVAN (1952) S.A.S.R. 179. Held, that "appreciably impaired" means an impairment capable of being appreciated, valued or recognized by the mind.

PICKEN v. O'SULLIVAN (1952) S.A.S.R. 184. The fact that a disqualification from holding a driver's licence will be a severe penalty to the defendant because he earns his living by driving a motor vehicle does not in itself justify a reduction in the period of disqualification which would otherwise have been ordered.

HUTT v. O'SULLIVAN (1953) S.A.S.R. 158. Observations as to the circumstances in which imprisonment should be imposed for a first offence of driving a motor vehicle whilst under the influence of liquor.

AINSWORTH v. O'SULLIVAN (1955) S.A.S.R. 323. Held (1) That the effect of section 48 (4) of the Road Traffic Act, 1934, is to create an irrebuttable presumption of incapacity to exercise effective control of a motor vehicle when the driver of the motor vehicle is in the state referred to in the subsection, whether he is or is not, in fact, "incapable of exercising effective control of a motor vehicle", in the natural meaning of these words. (2) For the presumption created by section 48 (4) to be operative, it is not necessary that the mental or physical faculty, the use of which is impaired, should be one which has a direct bearing upon the ability to exercise effective control of a motor vehicle. (3) That if it is proved by the prosecution that the use of any mental or physical faculty of the driver of a motor vehicle was lost or appreciably impaired, owing to the influence of intoxicating liquor, it is no answer for the driver to prove that he would have been incapable of exercising effective control of a motor vehicle if he had not drunk any intoxicating liquor.

LOCKWOOD v. HASELOFF (1956) S.A.S.R. 123. "Appreciably impaired" means an impairment capable of being appreciated, valued, or recognised by the mind.

GILL v. FORREST. HANSBERRY v. FORREST (1959) S.A.S.R. 48. The evidence for the prosecution showed that the defendant was found sitting in the front seat of a stationary motor vehicle which had apparently collided with a fence. In answer to questions put by a police officer, the defendant said he had driven the vehicle to the place where it was found but he was so much under the influence of liquor that little reliance could be placed on his statements. There was no other evidence as to when the motor vehicle had been driven to the place where it was found. Held, that the facts proved were sufficient to make out a *prima facie* case upon the complaint under section 48 (1) of the Road Traffic Act, 1934.

ABROOK v. BREBNER (1960) S.A.S.R. 119. In imposing penalties for the offence of driving a motor vehicle whilst so much under the influence of intoxicating liquor as to be incapable of exercising effective control of the vehicle, a distinction should be drawn between cases in which the driver of the vehicle may not realize that he is not in a fit state to drive the vehicle, and cases in which his condition is such that any reasonable man ought to realize that he is a menace to other users of the highway.

or a drug, the use of any mental or physical faculty of that person is lost or appreciably impaired.

This subsection shall not restrict the meaning of the words "incapable of exercising effective control of a vehicle".

(3) In determining whether an offence is a first, second, third or subsequent offence within the meaning of subsection (1) of this section, a previous offence for which the defendant was convicted more than five years before the commission of the offence under consideration shall not be taken into account, but a previous offence for which the defendant was convicted within the said period shall be so taken into account, whether the conviction took place before or after the commencement of this Act.

(4) Notwithstanding any other Act the minimum amount of any fine and the minimum period of imprisonment or disqualification prescribed by this section shall not be reduced or mitigated in any way except as follows:—

In the case of a first offence, the court, if it is satisfied by evidence given on oath that the offence is trifling, may order disqualification for a period less than three months but not less than fourteen days.

(5) The court by which a person is convicted under this section on the complaint of a member of the police force, may, in addition to ordering any other penalty, order on the application of the complainant that the defendant pay to the complainant a reasonable sum to cover the expenses of all or any of the following things:—

- (a) Apprehending the defendant;
- (b) Conveying him to a police station;
- (c) Keeping him in custody until trial;
- (d) Medically examining him.

Any amount received by the complainant under this subsection shall be paid by him into the general revenue of the State.

#### *Speed Restrictions.*

General speed  
limit.

**48.** (1) A person shall not drive a vehicle at a greater speed than sixty miles an hour.

Penalty: Fifty pounds.

(2) It shall be a defence to a charge of an offence under subsection (1) of this section if the defendant satisfies the court that

**a. 48.** *BOND v. HALL* (1938) S.A.S.R. 59. Where evidence was given as to speed by reference to a speedometer but there was evidence that the speedometer had not been tested, held that the recording by the speedometer was lawful evidence (and see also section 175 (3) enacted since this decision).

*GIBSON v. JENNINGS AND ANOTHER* (1938) S.A.S.R. 330. A speed exceeding that mentioned in subsection (2) of section 43 of the Road Traffic Act, 1934, is an element to consider on the question of negligence in a civil action.



the speed at which the vehicle was driven was not dangerous having regard to all the relevant circumstances.

**49.** (1) A person shall not drive a vehicle at a greater speed than— Speed limits.

- (a) thirty-five miles an hour in a municipality, town or township ; or
- (b) fifteen miles an hour while passing a school omnibus which is stopped on a road apparently for the purpose of permitting children to board or alight ; or
- (c) fifteen miles an hour on a portion of a road which is between signs bearing the word "school" or "play-ground" at a time when children proceeding to or from the school or playground are on that portion of the road ; or
- (d) fifteen miles an hour on a portion of a road within seventy-five feet of a pedestrian crossing which is in the vicinity of a school and on which flashing lights are for the time being in operation ; or
- (e) fifteen miles an hour on a portion of a road between signs indicating a speed limit of fifteen miles an hour ; or
- (f) six miles an hour when proceeding from land abutting on a road into that road ; or
- (g) six miles an hour when passing a tramcar which in the course of a journey in the same direction as the vehicle has stopped for the purpose of allowing passengers to board or alight ; or
- (h) six miles an hour when the vehicle is on a ramp or jetty leading to a ferry.

Penalty : Fifty pounds.

(2) In this section "school" includes a Sunday school and schoolgrounds abutting on or surrounding a school.

**50.** (1) A person shall not drive a vehicle within a speed zone at a greater speed than the speed fixed for that zone under this Act. Speed limit in zones.

Penalty : Fifty pounds.

s. 49. JOLLY v. WALLMAN (1936) S.A.S.R. 121. Held, that a Sunday school was not a school within the meaning of a regulation prescribing a speed limit for vehicles passing schools. But see section 21 (4).

GERAGHTY v. ANGUS AND OTHERS (1938) S.A.S.R. 455, appeal to the High Court dismissed, 62 C.L.R. 747 (note). "Passing" a tram car in a regulation relating to the passing of stationary tram cars, held to mean overtaking a tram car which is using the same road and is going in the same direction as the vehicle.

(2) The speed limit of thirty-five miles an hour fixed by paragraph (a) of the preceding section shall not apply within a speed zone.

Speed of  
vehicles  
carrying  
pillion  
passengers.

**51.** (1) A person shall not drive a motor bicycle carrying any person in addition to the driver—

(a) at a greater speed than twenty-five miles an hour in a municipality town or township ; or

(b) at a greater speed than thirty-five miles an hour outside a municipality, town or township.

Penalty : Fifty pounds.

(2) Subsection (1) of this section does not apply where the person other than the driver is carried in a sidecar.

Speed on  
bridges.

**52.** A person shall not drive a vehicle on a bridge at a speed greater than that shown on signs erected pursuant to this Act on or near the bridge.

Penalty : Fifty pounds.

Speed of  
heavy  
vehicles.

**53.** (1) A person shall not drive on a road outside a municipality, town or township a commercial motor vehicle (whether with or without a trailer) at a speed in excess of those hereinafter prescribed :—

(a) If the aggregate weight of the vehicle and every trailer drawn thereby exceeds three but does not exceed seven tons—forty miles an hour.

(b) if the aggregate weight of the vehicle and every trailer drawn thereby exceeds seven tons but does not exceed thirteen tons—thirty-five miles an hour.

(c) If the aggregate weight of the vehicle and every trailer drawn thereby exceeds thirteen tons—thirty miles an hour.

(2) A person shall not drive on a road within a municipality, town or township a commercial motor vehicle (whether drawing a trailer or not) at a speed in excess of those hereinafter prescribed :—

(a) If the aggregate weight of the vehicle and every trailer drawn thereby exceeds three but does not exceed seven tons—thirty miles an hour.

(b) If the aggregate weight of the vehicle and every trailer drawn thereby exceeds seven tons but does not exceed thirteen tons—twenty-five miles an hour.

- (c) If the aggregate weight of the vehicle and every trailer drawn thereby exceeds thirteen tons—twenty miles an hour.

(3) For the purposes of this section the weight of a vehicle or of a trailer drawn thereby shall be the weight of the vehicle or trailer together with the weight of the load (if any), including passengers, fuel, and equipment, carried thereon.

(4) In this section "commercial motor vehicle" includes a tractor.

(5) Penalty for any contravention of this section: Not less than ten and not more than seventy-five pounds.

*Driving on Left and Passing.*

54. (1) Except as provided in subsection (2) of this section the driver of a vehicle shall keep the vehicle as near as is reasonably practicable to the left boundary of the carriageway. Duty to drive on left of carriageway  
Penalty: Fifty pounds.

(2) A driver need not keep his vehicle as near as is reasonably practicable to the left boundary of the carriageway—

- (a) where he is about to make or is making a right turn in accordance with this Act; or
- (b) where his vehicle is on a carriageway marked with two or more lanes for traffic moving in the direction in which the vehicle is moving and the vehicle is within any such lane other than the left-hand lane.

55. The driver of a vehicle when passing a vehicle proceeding in the opposite direction, shall keep to his left of that vehicle. Passing oncoming vehicles.  
Penalty: Fifty pounds.

56. The driver of a vehicle on a carriageway or part of a carriageway divided into two or more marked lanes for traffic proceeding in the same direction— Driving in lanes.

- (a) shall whenever practicable keep his vehicle entirely within a single lane:
- (b) shall not move from a lane unless that movement can be made with safety.

Penalty: Fifty pounds.

a. 54. DUNN v. BEEVOR (1937) S.A.S.R. 386. Held that the regulation which required vehicles to keep close to the left of the road was not directed to the safety of vehicles emerging from by-streets.

WILLIAMS v. STEWART (1944) S.A.S.R. 254. *Quaere*, whether the word "practicable" is to be interpreted subjectively or objectively.

**PART III.**

Duty to drive  
on left of  
barrier lines.

**57.** (1) Where a carriageway is marked with a barrier line consisting of—

- (a) two continuous lines ; or
- (b) a continuous line on the left of a broken line,

a driver shall keep the whole of his vehicle on the left of the barrier line.

Penalty: Fifty pounds.

(2) It shall be a defence to a charge of contravening subsection (1) of this section if the defendant proves that the contravention was necessary in order to avoid an accident or owing to an obstruction on the road.

Passing  
vehicles.

**58.** (1) A driver shall not diverge his vehicle to the right for the purpose of passing another vehicle proceeding in the same direction, or commence to pass another such vehicle—

- (a) if owing to a bend or rise in the road or any other obstruction he has not a clear view of the road ahead for a sufficient distance ; or
- (b) if any vehicles are approaching from the opposite direction so as to create a risk of collision or danger.

(2) Except as provided in subsections (3) and (4) of this section, the driver of a vehicle passing another vehicle proceeding in the same direction shall keep his vehicle on the right of that other vehicle.

(3) The driver of a vehicle may pass a vehicle proceeding in the same direction on the left when the carriageway has two or more marked lanes for vehicles proceeding in the same direction and the passing vehicle is in a lane on the left of the lane in which the other vehicle is proceeding and it is safe to pass that other vehicle on the left.

(4) When a driver has given a signal of intention to turn his vehicle to the right, the driver of another vehicle proceeding in the same direction shall when passing that vehicle keep his vehicle on the left thereof.

(5) Penalty for any breach of this section : Fifty pounds.

s. 57. **SANDERS v. LITSTER** (1947) S.A.S.R. 21. A moving vehicle is not an "obstruction" within the meaning of the section.

s. 58. **BLUNDERFIELD v. MATES AND OTHERS** (1942) S.A.S.R. 1, appeal to the High Court dismissed, 66 C.L.R. 669 (note). Observations on section 129 of the Road Traffic Act, 1934.

**59.** (1) Except as provided in subsection (2) of this section a driver shall, when passing a tramcar proceeding or about to proceed in the same direction, keep his vehicle on the left of the tramcar.

Passing tramcars.

Penalty : Twenty-five pounds.

(2) A driver may pass a tramcar proceeding or about to proceed in the same direction, on the right, if the tramcar is so near the left boundary of the carriageway, or the road is so obstructed that it is not practicable to pass the tramcar on the left.

**60.** (1) The driver of a vehicle, upon the sounding of the warning instrument of another vehicle approaching from behind—

Duty of driver being overtaken.

- (a) shall, if it is safe to do so, move his vehicle to the left to the extent necessary to allow the other vehicle a reasonable space to pass his vehicle on the right ;
- (b) shall not increase the speed of his vehicle until the other vehicle has completely passed it.

Penalty : Fifty pounds.

(2) Subsection (1) of this section does not apply—

- (a) where a vehicle on a carriageway marked with two or more lanes for vehicles proceeding in the same direction is about to pass another vehicle on the left ;
- (b) where the driver of the vehicle in front gives a signal of intention to turn to the right.

**61.** A driver shall not drive his vehicle or any part thereof on a footpath except when crossing the footpath for the purpose of entering or leaving land or premises adjacent to the footpath.

Driving on footpaths.

Penalty : Twenty-five pounds.

### *Right of Way.*

**62.** Where by this Act a driver is required to give the right of way to a vehicle or person, it shall be his duty, in circumstances where if he proceeded there would be a reasonable possibility of his colliding with or otherwise endangering such vehicle or person, to slow down his vehicle to such an extent, or to stop and stand his vehicle for such time, as is necessary to allow such vehicle or person to continue on its or his course without risk of such collision or danger.

Meaning of "give right of way".

## PART III.

Right of way  
at intersections  
and junctions.

**63.** (1) The driver of a vehicle approaching an intersection or junction shall give right of way to any other vehicle approaching the intersection or junction from the right.

Penalty : Fifty pounds.

(2) The driver of a vehicle approaching an intersection or junction shall give the right of way to any tramcar approaching the intersection or junction from the right or left.

Penalty : Fifty pounds.

- s. 63. THE MUNICIPAL TRAMWAYS TRUST v. AUSTIN** (1930) S.A.S.R. 81. In civil proceedings the onus of proving a breach of the section and of negating subsection (3) is on the party who alleges the breach.
- MORRIS v. PFUHL** (1932) S.A.S.R. 78. The section does not apply to two vehicles approaching an intersection from the same direction along the same road.
- RECHNER v. PALMER** (1934) S.A.S.R. 409. Held as regards regulation 6A (which section 63 follows, with alterations). (a) Regulation 6A did not apply only when the driver having the other vehicle on his right could see or was otherwise made aware of the approaching vehicle before he reached the intersection: (b) the area to which the regulation applied included not only the quadrilateral of the intersection but the immediate neighbourhood: (c) regulation 6A did not lessen the obligation of a person who was about to drive out of a by-street into a main thoroughfare.
- SUTER v. RUEDIGER AND ANOTHER** (1936) S.A.S.R. 130. Held that the driver of a vehicle is entitled to assume that other drivers will observe the regulation applicable to traffic at an intersection, but is not entitled to disregard the possibility of traffic approaching from the left.
- RAKE v. ADELAIDE CO-OPERATIVE SOCIETY LIMITED** (1937) S.A.S.R. 281. Where two roads running northerly came together in the form of a V at the point of junction with a main road running north-east, held, under the regulation relating to traffic at intersections, that the junction of the two roads was an intersection within the meaning of the regulation. Held also that, in applying the regulation, allowance must be made for the nature of the intersection.
- DREW v. GLEESON** (1937) S.A.S.R. 380. Where a vehicle is already on a junction the driver does not, by altering his course, acquire a right-of-way as against the driver of another vehicle who is continuing his course and thus crossing the junction. Subsection (1) gives a right to continue a course, not to alter it across that of another vehicle. Meaning of "junction" examined.
- DUNN v. BEEVOR** (1937) S.A.S.R. 386. Held under the regulation relating to traffic at intersections that an intersection is a place where two or more ways cross each other and that the regulation made no provision for a by-road which merely meets or enters a main thoroughfare without anything in the nature of a crossing.
- PEARCE v. BOURKE** (1937) S.A.S.R. 404. Where justices, prior to the hearing, visited the intersection for the purposes of refreshing their memories and qualifying themselves to follow the evidence, but it did not appear that they used their own knowledge to correct or supplement the evidence, held that this did not constitute a ground of objection to the proceedings.
- ELLIS v. HOEPNER AND ANOTHER** (1937) S.A.S.R. 461. Observations as to the application of the regulation relating to traffic at intersections.
- BOND v. HOLLOWAY** (1938) S.A.S.R. 41. A driver of a motor vehicle on approaching an intersection is not entitled to ignore the risk that another driver will cross over the intersection at a speed beyond that allowed by law.
- BOURKE v. SMITH** (1938) S.A.S.R. 74. The driver of a vehicle, approaching an intersection when another vehicle is approaching from his right, is not entitled to assume that the other vehicle will alter its course or speed. The speed or course of the other vehicle may become relevant when it becomes necessary to consider whether the defendant's ignorance of its approach was consistent with due care on his part. There is no rule of law which requires a driver to approach an intersection at a speed which enables him to see whether any other vehicle is approaching from his right; the circumstances of each case must be taken into consideration (but see section 78 enacted since this decision).
- HART v. BRATCHELL** (1938) S.A.S.R. 141. Where two roads intersect by reason of one road curving towards and meeting the other, the section applies. It does not necessarily follow that, because a person commits a breach of the section, the breach confers upon a party injured thereby a civil cause of action for damage.

(3) It shall be a defence to a charge for an offence against subsection (1) to prove that the defendant was not aware and could not by the exercise of reasonable care have become aware of the approach of the other vehicle.

(4) This section does not apply if at the intersection or junction at the relevant time—

(a) traffic was being controlled by a member of the police force, or by some other person authorized by law to control traffic; or

s. 63. Where the section applies, there is an implied duty on the part of the person  
(cont'd.) entitled to proceed to continue on his course without change of speed, unless and until some other course of conduct, being possible, becomes prudent, proper, and imperative in the interests of safety and to avoid a collision.

BARRINGTON v. POWER (1938) S.A.S.R. 321. Where the driver of a motor vehicle approaching a junction became aware of the approach of another vehicle on his right, held that subsection (3) did not apply.

SMITH v. MAY (1938) S.A.S.R. 410. In an action for negligence arising out of the death of a person who failed to give way as required by the section, held that the onus of showing that the defendant could have avoided the collision, if he had acted reasonably, was upon the plaintiff.

MADDERN v. DAYMAN (1939) S.A.S.R. 12. The course of an oncoming vehicle having the right of the road at an intersection is not necessarily a straight line as a divergence from this course may be necessary. The driver of the vehicle whose duty it is to stop or slacken must so manage his vehicle that no act or omission on his part constrains the driver of the vehicle having the right to the road to deviate from his course. The degree of care reasonable to be taken in the circumstances of a given case by the driver of a vehicle under the obligation to stop or slacken speed will be the greater the more hindrances there are to his getting a clear view of the traffic approaching along an intersecting street.

DAYMAN v. DARWIN (1939) S.A.S.R. 29. The degree of error of judgment that can render it inexpedient to inflict any punishment when there has been any infringement of the rule laid down by subsection (1) should be very slight.

TAYLOR v. GEARY (1939) S.A.S.R. 89. Subsection (1) does not mean that a slow moving vehicle cannot enter upon an intersection so long as any fast moving vehicle is approaching at a speed which might create a situation of danger if maintained without alteration. If the circumstances are such that the approaching vehicle must of necessity have ample notice and opportunity to slacken speed, the driver of the slow moving vehicle may be justified in assuming that it will do so and that no situation of danger will be created.

DAYMAN v. SARIS (1939) S.A.S.R. 445. A driver of a vehicle does not comply with the section if he so drives as to suggest that he does not intend to give way.

VIRGO v. FIDDAMAN (1940) S.A.S.R. 17. If a defendant is driving at a reasonable speed along a main road and sounds his horn when approaching an intersection, he is not bound to stop at every blind corner upon the bare chance of another vehicle ignoring his horn and emerging upon the main road without answering.

MATTHEW v. FLOOD (1940) S.A.S.R. 48. *Seemle*, an unmade road is sufficiently a road for the locality to be a junction within the meaning of the section.

BOWDEN v. PETHERICK (1940) S.A.S.R. 90. Where a cyclist was riding along a street and the driver of a motor car proceeding in the opposite direction along the same street turned into another street at right angles to the first street so that each vehicle had the other on its right, held that section 131 of the Road Traffic Act, 1934, did not apply.

PETERS v. BECK (1940) S.A.S.R. 204. Where a cyclist crossing an intersection at slow speed was struck by a motor vehicle, the driver of which thought, without justification, that the cyclist intended to turn to the left, that is, in the same direction as the motor vehicle was proceeding, held that a breach of section 131 of the Road Traffic Act, 1934 had been committed.

SKINNER v. DAY (1941) S.A.S.R. 19. The provisions of section 131 of the Road Traffic Act, 1934, are applicable not only to an intersection but also to a junction of roads.

DAYMAN v. BLEWETT (1941) S.A.S.R. 32. To escape liability for failure to give way to the vehicle on the right, the person charged must establish on the balance of probabilities that he was not aware, and could not, by exercising reasonable care,

(b) traffic lights were in operation.

(5) This section does not apply to a driver approaching a give way sign at the entrance to an intersection or junction, from the direction in which the sign is facing.

(6) The duty of a driver to give the right of way under this section shall apply at an intersection or junction at which a

- s. 63.  
(contd.) have become aware of the approach of the other vehicle. The awareness referred to in subsection (3) is of the approach to the intersection and not of the situation of the two vehicles at the time when the approach is over and the intersection is reached or is being crossed. The duty to become aware is directed to the same time.
- SWANN v. THOMPSON (1941) S.A.S.R. 150. Where a collision occurred at an intersection where the plaintiff was travelling at an excessive speed and the defendant failed to give way, held that the plaintiff was guilty of contributory negligence and the action failed.
- DAYMAN v. TISHER (1941) S.A.S.R. 205. The section is directed to the regulation of crossing and converging lines of traffic.
- DAYMAN v. WILCKENS (1942) S.A.S.R. 88. The section requires the driver of a vehicle having an approaching vehicle on the right so to act that the driver of the approaching vehicle can maintain his course and speed, and it is no defence to a complaint under the section that the driver of a motor vehicle is approaching and crossing over an intersection at a slow speed and fails to give way to a vehicle approaching at a fast speed from his right.
- PARKER v. DAYMAN (1943) S.A.S.R. 326. A driver with the right-of-way is to be expected to maintain his course and speed when crossing an intersection unless there is something in the circumstances existing at the time that might reasonably demand a change in either. *Seem*, a substantial change of speed by the driver having the right of way while crossing the intersection from that at which the vehicle is travelling when approaching would seem to relieve the other driver from liability under the section, assuming that otherwise there would have been no reasonable possibility of danger.
- SLATER v. DAY (1946) S.A.S.R. 146. Duty of driver having another vehicle on his right discussed.
- BOEN v. O'SULLIVAN (1947) S.A.S.R. 121. A tramway thoroughfare and viaduct, used by tram cars and pedestrians but not by public vehicular traffic is not a "road" within the meaning of section 131 of the Road Traffic Act, 1934.
- ROBINSON v. CREASER (1948) S.A.S.R. 47. Held: (1) Where vehicles collide within a junction or intersection, having been visible to each other on their approach, and having maintained their respective courses and speeds, the impact affords cogent proof that the relationship of the vehicles to each other and to the junction or intersection was one to which subsection (1) applies. (2) Where the situation postulated in subsection (1) arises, an unqualified duty is imposed on the driver who has the other vehicle on his right to decrease his speed or stop to allow the other vehicle to continue on its course; and the existence of the duty is not negatived by showing that the other driver was negligent. (3) A driver approaching a junction or intersection is relieved by subsection (1) from maintaining a continuous lookout for the actions of drivers approaching a junction or intersection on his left; and his failure to look during the approach or when traversing the junction or intersection will not amount to negligence. If he has received some actual warning of the creation of a situation of danger by the approach of another vehicle from his left hand side, and unreasonably fails to act to prevent a collision, which he has had an opportunity of preventing, he may be guilty of negligence; but the onus is on the other party to prove these facts.
- BAKER v. O'SULLIVAN (1949) S.A.S.R. 127. The driver of a vehicle who has another vehicle on his right at a junction or intersection is not relieved from the liability to give way by stopping his vehicle at the boundary of the junction or intersection, and then starting again to cross the junction or intersection.
- O'SULLIVAN v. SARIS (1950) S.A.S.R. 127. Where a road bifurcated at an intersection, held that it was the duty of the driver of a vehicle entering the intersection to give way to another vehicle on his right.
- MOSS v. CAMPBELL (1951) S.A.S.R. 255. Where two motor vehicles approach an intersection and the driver of the stand-on vehicle stops before entering the intersection for such an appreciable time and in such circumstances as to amount to an invitation to the give-way vehicle to cross the intersection in front of him, the



stop sign is erected (as well as at other intersections and junctions) and notwithstanding the stopping of any vehicle at a stop sign.

**64.** A driver approaching a give way sign at or in an intersection or junction from the direction in which the sign is facing shall give the right of way to any vehicle approaching the intersection or junction from the right or left.

Right of way  
at give way  
signs.

Penalty: Fifty pounds.

**65.** The driver of a vehicle about to enter or entering a carriageway from a cross-over shall give the right of way to any vehicle on the carriageway.

Right of way  
at cross-overs

Penalty: Fifty pounds.

- s. 63. driver of the give-way vehicle is not guilty of an offence against subsection (1) if he proceeds to cross the intersection in front of the stand-on vehicle.
- (contd.)
- SINCLAIR v. KNIGHT (1952) S.A.S.R. 97. Meaning of the words "approaching the junction or intersection of two or more roads" in section 131 of the Road Traffic Act, 1934, and the relation between sections 130a and 131 of that Act considered.
- TAMKE v. MCKENZIE (1952) S.A.S.R. 235. Held that, in the circumstances, the driver of a horse-driven vehicle was guilty of negligence in not giving way at an intersection to a motor cycle on his right.
- HENDERSON v. MILLAR AND OTHERS (1952) S.A.S.R. 250. The driver of the vehicle having the right of way at an intersection by virtue of the section is not relieved by the section from the duty of exercising reasonable care in relation to traffic approaching from the left, and it is his duty to be on the watch for anything that indicates inattention or want of care in others.
- SAMUELS v. BLIGH (1954) S.A.S.R. 59. Where the defendant whilst driving a motor vehicle entered an intersection at the same time as another vehicle on the off side and whilst using that vehicle as a shield collided with a vehicle approaching from the right, held on the facts, that he was guilty of an offence against section 131 of the Road Traffic Act, 1934.
- SAMUELS v. SHARP (1954) S.A.S.R. 275. Where a driver of a motor vehicle was turning after stopping at a stop sign held that on approaching was under a duty under the section to decrease speed or to stop to allow the other driver to continue in his course and pass in front.
- SAMUELS v. NOONAN (1956) S.A.S.R. 32. Held that the effect of centre traffic islands and lanes was to create separate "roads" within an intersection.
- FELDMAN v. SAMUELS (1956) S.A.S.R. 55. Held that in imposing a penalty under section 131 of the Road Traffic Act, 1934, a death resulting from a collision was a relevant consideration in assessing the penalty for the offence, but that the fact ought not to be treated as a circumstance of aggravation.
- LOPRESTO v. GOLDING 31 A.L.J. 851. The fact that a defendant has been guilty of a breach of section 131 of the Road Traffic Act, 1934, constitutes cogent evidence in favour of the plaintiff but it does not conclude the issue of liability in an action for negligence.
- RICHARDS v. CHWALCZYK (1960) S.A.S.R. 243. The extent to which the driver of a motor vehicle, having the right of way at an intersection, is entitled to rely upon the observance of the rule of the road by the driver of a motor vehicle which is under a duty to give way to him, considered and discussed.
- WILLIAMS v. DUNLOP AND HANSBERRY (1960) S.A.S.R. 364. When, in an action for damages, it was proved that the driver of the "give-way" vehicle had failed to give way to the motor vehicle on his right, and that the driver of the "stand-on" vehicle had failed to keep a proper look out and had not seen the "give-way" vehicle, held, on the facts, that the drivers were equally responsible for the collision. Observations as to the application of the provisions of section 131 of the Road Traffic Act, 1934.
- s. 65. SCOTT v. ANTONY (1953) S.A.S.R. 1. Held that, in the particular circumstances, the driver of a motor vehicle was guilty of an offence against section 131a of the Road Traffic Act, 1934.
- ROSEY v. ALLEN (1959) S.A.S.R. 284. Duties of a driver of a motor vehicle proceeding from a cross-over into the carriage-way of a double road, considered and discussed.

## PART III.

Right of way  
when vehicle  
enters road  
from private  
land.

**66.** (1) The driver of a vehicle about to enter or entering a road from private land shall give the right of way to any vehicle or person on that road.

Penalty: Fifty pounds.

(2) In this section "private land" means land other than a road.

Right of way  
at pedestrian  
crossings.

**67.** (1) The driver of a vehicle approaching a pedestrian crossing shall give the right of way to any pedestrian on the crossing.

(2) While a flag or sign bearing the word "Stop" is exhibited by a person on or near a pedestrian crossing a driver shall not permit his vehicle or any part thereof to pass the stop line, or if there is no stop line to enter the crossing.

(3) A driver shall not permit his vehicle or a part thereof to pass another vehicle which is headed in the same direction and has stopped at a pedestrian crossing for the purpose of giving way to pedestrians thereon.

(4) Penalty for any breach of this section: Fifty pounds.

Right of way  
of pedestrians  
against turning  
vehicles.

**68.** A driver when turning his vehicle to the right or left at an intersection or junction shall give the right of way to pedestrians.

Penalty: Fifty pounds.

Driving from  
edge of  
carriageway.

**69.** A driver about to drive his vehicle from a stationary position at or near the boundary of a carriageway shall give the right of way to any vehicle proceeding along that carriageway.

Penalty: Fifty pounds.

### *Turning to the Right.*

Course to be  
followed by  
vehicles  
turning right.

**70.** (1) A driver who is about to make a right turn at an intersection or junction from a two-way carriageway shall drive his vehicle so that when it reaches the intersection or

**s. 70. REED v. THOMPSON** (1952) S.A.S.R. 242. Held that section 127a of the Road Traffic Act, 1934, is applicable whether the vehicle with which the collision might occur is approaching or overtaking the vehicle which is about to turn to the right.

**EDWARDS v. CHARD** (1954) S.A.S.R. 310. Observations as to the construction of the rules to be observed by traffic.

**SAMUELS v. NOONAN** (1956) S.A.S.R. 32. Held that the effect of centre traffic islands and lanes was to create separate "roads" within an intersection.

**ROSEY v. DRING** (1957) S.A.S.R. 160. Held that the presence in a road of a "roundabout" did not render the provisions of section 127a of the Road Traffic Act, 1934, inapplicable.

**ROSEY v. GORDON** (1960) S.A.S.R. 149. Held that the defendant when he reached the up track of a double road, had completed the turn of his vehicle through the intersection and had the right of way over traffic on the up track and that he had not committed an offence against section 127a of the Road Traffic Act, 1934.

junction it will be as near as practicable to but on the left of the centre of that carriageway.

(2) A driver who is about to make a right turn at an intersection or junction from a one-way carriageway shall drive his vehicle so that when it reaches the intersection or junction it will be as near as practicable to the right boundary of that carriageway.

(3) Before turning to the right at an intersection or junction a driver shall drive his vehicle as near as practicable to the left boundary of the carriageway which he is about to enter.

(4) A driver about to make or making a right turn in an intersection or junction having a traffic dome, beacon, or island at or near the centre thereof shall drive his vehicle so as to keep that dome beacon or island on his right.

(5) Notwithstanding the foregoing subsections a driver who is about to make or is making a right turn at an intersection where there are arrows, lines, words or signs indicating a course for turning to the right shall follow the course so indicated.

(6) Penalty for any breach of this section : Fifty pounds.

71. Notwithstanding the previous section a driver turning his vehicle to the right in a road—

Right turns not  
at intersections  
or junctions  
and U-turns.

(a) elsewhere than at an intersection or junction ; or

(b) at any place (whether an intersection or junction or elsewhere) for the purpose of making a U turn,

may make the right turn from any convenient place on the road.

72. (1) A driver when about to make or making a right turn, or when proceeding across a road after having turned to the right in that road shall give the right of way to all vehicles coming from the opposite direction.

Turning  
vehicles to  
give right of  
way.

Penalty : Fifty pounds.

(2) In this section "the opposite direction" means the direction opposite to that in which the driver was proceeding before commencing to turn.

(3) Subsection (1) applies to a vehicle about to make or making a right turn or a U-turn whether at an intersection, junction or elsewhere, and to a vehicle proceeding across a road after making any such turn, including a vehicle which after turning to the right from a carriageway of a divided road is proceeding between dividing strips or islands and is about to enter or cross another carriageway of that road.

## PART III.

Duty of  
driver to  
avoid  
tramcars  
when turning

**73.** A driver about to make or making a right turn shall not permit his vehicle to obstruct the progress of a tramcar or to stand in a place where it is likely to do so.

Penalty : Twenty-five pounds.

*Driving Signals.*

Signals for  
right turns,  
stops and  
slowing down.

**74.** (1) A driver shall not turn his vehicle to the right or stop or slow down his vehicle unless he first gives an appropriate signal as prescribed by this section.

Penalty : Fifty pounds.

(2) An appropriate signal for turning to the right is—

(a) to extend the right arm horizontally from the right side of the vehicle with the palm facing the front and the fingers extended ; or

(b) to extend horizontally from the right side of the vehicle a device of a kind approved by the Board consisting of a straight rod having attached on the outer end thereof an imitation of a human hand, extended horizontally ; or

(c) a signal given in a manner prescribed by the regulations and by a device complying with the regulations.

(3) An appropriate signal for stopping or slowing down is—

(a) to extend the right arm beyond the right side of the vehicle with the upper arm horizontal and the forearm and hand vertical and the fingers facing the front and extended upwards ; or

(b) to extend horizontally from the right side of the vehicle a device of a kind approved by the Board consisting of an imitation of a human hand in a vertical position and attached to the end of a straight rod ; or

**1. 74. COLLINS v. GOTTSCH** (1941) S.A.S.R. 256. It does not follow that, if circumstances arise in which prudence calls for slowing down without being able to comply with subsection (2) of section 134 of the Road Traffic Act, 1934, a driver is free from negligence in not slowing down.

**LE CORNU v. BARRINGTON** (1945) S.A.S.R. 163. There is a duty on the driver of a car in starting a stationary car ranked alongside a kerb and intending to turn to his right to give the signal prescribed in subsections (1) and (1a) of the Road Traffic Act, 1934.

**LITTLE v. FOX** (1950) S.A.S.R. 40. Provided the signal is given for such time as is necessary to give reasonable warning to traffic approaching from behind, it is not necessary that it should also have been given continuously for a distance of one hundred feet before the point where the vehicle turns.

**SINACA v. WOODS** (1958) S.A.S.R. 76. Held that a signal made by extending the arm horizontally with the fist clenched and the palm facing downwards and given in poor street lighting conditions would, in good artificial or natural light, be sufficient to give adequate meaning of an intention to turn, but was not in compliance with section 134 of the Road Traffic Act, 1934, and, in the particular circumstances, was not sufficient to give adequate meaning of the intention to turn to the driver of a following vehicle.

(c) a signal given in a manner prescribed by the regulations and by a device complying with the regulations.

(4) A signal given by the driver of a vehicle which has its steering wheel on the left of its longitudinal axis or which is seven feet wide or more shall not be an appropriate signal within the meaning of this section unless it is given by a mechanical or electrical device of a kind approved by the Board.

(5) A signal shall not be appropriate within the meaning of this section unless it is given—

(a) so as to be clearly visible to drivers approaching the vehicle from behind ; and

(b) for a sufficient time to give reasonable warning to such drivers.

(6) A signal given continuously while a vehicle is travelling one hundred feet before turning, slowing down or stopping shall be deemed to be given for a sufficient time to give reasonable warning to drivers approaching the vehicle from behind.

### *Traffic Lights and Signs.*

75. (1) A person (whether driving a vehicle or on foot) shall comply with any instructions applicable to him which are indicated by traffic lights or any signs exhibited with traffic lights.

Duties at  
traffic lights.

Penalty : Fifty pounds.

(2) Traffic lights and signs exhibited with traffic lights shall be deemed to indicate to drivers and pedestrians such instructions (whether mandatory or prohibitory) as are prescribed in the regulations under this Act.

76. If a sign bearing the words "no turns" or "no right turn" or "no left turn" or other words to the same effect as any of the said words is erected at an intersection or junction a driver shall not cause his vehicle to turn in or from the intersection or junction contrary to the instruction inscribed on the sign.

Signs  
prohibiting  
turns.

Penalty : Fifty pounds.

77. If a sign inscribed with the words "Keep left" or "Keep right" is erected on a road the driver of a vehicle coming from the direction in which the sign is facing, shall

Keep left and  
keep right  
signs.

when passing that sign keep his vehicle on the left or right of that sign, according to the instruction given by the sign.

Penalty : Fifty pounds.

**Duty at  
stop signs**

**78.** (1) A driver approaching a stop sign at an intersection or junction from the direction in which the sign is facing shall stop his vehicle before any part of it reaches the stop line, or if there is no stop line, before any part of it passes the stop sign.

(2) A driver approaching a stop sign at or near a level crossing from the direction in which the sign is facing shall stop his vehicle so that the front thereof is not less than ten feet and not more than forty feet from the railway line or tramway line.

(3) A driver approaching a stop sign elsewhere than at an intersection, junction or level crossing from the direction in which the sign is facing shall stop his vehicle before any part of it reaches the stop line, or if there is no stop line before any part of it passes the stop sign.

(4) The duty of a driver to give the right of way to vehicles on his right shall apply at an intersection or junction at which a stop sign is erected, and notwithstanding the stopping of any vehicle pursuant to this section.

(5) Penalty for any breach of this section : Fifty pounds.

**Duty to  
obey police  
directions not-  
withstanding  
signs.**

**79.** Where at a place where any traffic lights, stop sign, give way sign or other traffic sign is erected, traffic is being controlled by a member of the police force or some other authorized person, a driver or pedestrian must obey the directions of the member of the police force or authorized person, notwithstanding the existence of the lights or sign.

**s. 78. SMALLACOMBE v. DAY (1943) S.A.S.R. 368.** Where the appellant had approached a stop sign and failed to see a motor car approaching along the road into which he was converging, held that the appellant was guilty of an offence and it was immaterial whether the driver of the motor car had or had not been guilty of negligence

**SMITH AND OTHERS v. DYER AND WILSON (1949) S.A.S.R. 187.** The presence of a stop sign at an intersection does not relieve the driver who has the right of way from the duty of exercising vigilance with reference to possible traffic emerging from the intersecting road, and he is not entitled to assume that he may safely drive across the intersection without looking to see if there is any such traffic.

**HINE v. O'CONNOR AND CHAMBERS AND THE FIRE BRIGADES BOARD (1951) S.A.S.R. 1.** The presence of a stop sign at an intersection does not relieve the driver who has the right of way from the duty of exercising care with reference to possible traffic emerging from the intersecting road, and he must maintain a proper lookout for such traffic.

**BYBYK v. WILTON AND FOOTE LTD. AND TOOTH (1959) S.A.S.R. 112.** Duties of drivers of motor vehicles at an intersection where there is a stop sign considered.

*Level Crossings.*

**80.** A driver shall not drive his vehicle or any part thereof on to a level crossing—

Restrictions  
on entering  
level crossings.

- (a) when any railway rollingstock or tramcar with which his vehicle might collide is approaching the crossing ;  
or
- (b) if warned not to do so by a member of the police force or an employee of the South Australian Railways Commissioner or the Municipal Tramways Trust ;  
or
- (c) while any warning device at or near the crossing is oscillating or emitting sounds or flashing lights or while the crossing is closed against traffic by gates or barriers, unless he is directed by any such employee or member of the police force to proceed through the crossing.

Penalty : Fifty pounds.

**81. (1)** A person driving any of the following vehicles namely—

Certain  
vehicles to  
stop at rail  
crossings.

- (a) a vehicle carrying more than eight persons ; or
- (b) a vehicle which has seating accommodation for more than eight adult persons and is carrying any person in addition to the driver ; or
- (c) a vehicle carrying inflammable liquid, inflammable gas, or explosives,

shall before driving across a railway level crossing stop that vehicle not less than ten and not more than forty feet from the railway line.

Penalty : Fifty pounds.

(2) Subsection (1) of this section does not apply where a vehicle is driven across a railway level crossing equipped with—

- (a) wigwag signals, light signals or other devices for warning road users of the approach of rollingstock ; or
- (b) gates or other barriers for closing the crossing against road traffic when rollingstock is approaching.

s. 80. BOND v. CLARKE (1938) S.A.S.R. 55. It is unnecessary to prove *mens rea* to establish an offence.

FLINT v. BARBER (1944) S.A.S.R. 49. It is not necessary that a complaint under paragraph (b) of subsection (2) of section 122 of the Road Traffic Act, 1934, charging a driver with attempting to drive a motor vehicle across a railway line when there was a possibility of a collision with a train should contain a direct and specific allegation that the defendant was the driver of the vehicle.

(3) Subsection (1) of this section shall not apply to a vehicle by reason only of the fact that it carries inflammable liquid or inflammable gas for use in the engine of the vehicle.

*Standing of Vehicles.*

Position of  
stationary  
vehicles.

82. (1) A person shall not cause or permit a vehicle to stand—

- (a) on a two-way carriageway or a one-way carriageway of a divided road, unless it is as near as practicable and parallel to the left boundary of that carriageway;
- (b) on a one-way carriageway not being a carriageway of a divided road, unless it is as near as practicable and parallel to a boundary of that carriageway; or
- (c) on a footpath:

Provided that this subsection shall not make it unlawful to cause or permit a vehicle to stand in any place or at any angle, if the vehicle is so standing in accordance with any by-law or resolution passed by a Council and for the time being in force, or in accordance with a direction indicated by any line, sign, or notice marked or erected by a Council.

Penalty: Fifty pounds.

(2) This section shall not be construed as restricting the operation of any other enactment, regulation, by-law or resolution by which the standing of vehicles in a road is prohibited or restricted.

Vehicles  
standing on  
roads.

83. (1) A person shall not cause or permit a vehicle to stand on a road in such a position or condition as to—

- (a) cause danger to other traffic using the road; or
- (b) obstruct traffic on the road; or

s. 82. RUDALL AND OTHERS v. DEACON AND OTHERS (1943) S.A.S.R. 271. Appeal to the High Court dismissed (1943) 67 C.L.R. 641 (note); (1943) S.A.S.R. xxiii (note). Section 125 of the Road Traffic Act, 1934, is a remedial section and should receive a liberal construction pursuant to section 22 of the Acts Interpretation Act. Meaning of "as near as practicable" discussed.

O'SULLIVAN v. BARTON (1947) S.A.S.R. 4. Where a taxi driver was hailed by three pedestrians and stopped his vehicle but kept his engine running and when about to move off a motor cycle collided with the rear of his taxi, held that he had not left his vehicle stationary on the carriage-way within the meaning of section 125 of the Road Traffic Act, 1934.

s. 83. NOONAN v. JOHNS (1940) S.A.S.R. 4. Where the driver of a motor car stopped his car with its near side about twelve feet from the kerb in a busy street to allow a passenger to alight and there was a space a short distance away where the driver could have pulled in alongside the kerb, held that the driver had committed an offence against section 136 of the Road Traffic Act, 1934.



- (c) obstruct a gate door or entrance by which vehicles enter or leave any land or building, or a crossing place leading across a footpath to any such gate door or entrance.

(2) A person shall not cause or permit a vehicle to stand near the edge of the carriageway of a road within fifteen feet of an intersection or junction.

Provided that this subsection shall not apply where—

- (a) a vehicle about to enter the intersection or junction has stopped pursuant to a requirement of this Act; or
- (b) a vehicle stands within a junction on the side of the road which is opposite to the side on which another road joins that road to form a junction.

(3) A vehicle on a road shall be deemed to be within fifteen feet of an intersection or junction if any part of the vehicle is within fifteen feet of an imaginary line being the projection across that road of the lateral boundary of another road which intersects or joins it.

(4) Penalty for any breach of this section : Fifty pounds.

**84. (1)** A person shall not cause or permit a vehicle to stand on a bridge or culvert except in circumstances prescribed by this section.

Vehicles standing on bridges and culverts.

Penalty : Fifty pounds.

(2) The prescribed circumstances are—

- (a) that the vehicle is unable to move because of breakdown or accident; or
- (b) that the vehicle is being used in connection with construction or repairs of the bridge or culvert; or
- (c) that the vehicle has been stopped to comply with a traffic control device or a direction of a member of the police force or to avoid a collision, or for any reasonable cause in case of accident or emergency; or
- (d) that the vehicle is an omnibus owned or licensed by the Municipal Tramways Trust and has stopped on the bridge or culvert at a stopping place appointed by that Trust.

(3) If it is proved that a person caused or permitted a vehicle to stand on a bridge, the onus of proving that it was there in prescribed circumstances shall be on him.

## PART III.

Control of  
parking near  
Parliament  
House.

## 85. (1) The Governor may by proclamation—

(a) declare that any area in that part of any street which abuts on the site of either House of Parliament shall be a prohibited area within the meaning of this section ;

(b) revoke or amend any such proclamation.

(2) A person (whether holding any other licence, permit or other authority or not) shall not leave a vehicle stationary in a prohibited area proclaimed under this section, without the permission of the Minister of Works.

Penalty : Twenty-five pounds.

(3) This section shall have effect notwithstanding any other Act, regulation or by-law.

(4) A prosecution for an offence against this section shall not be commenced except with the authority of the Minister of Works. A document purporting to give such consent and purporting to be signed by the Minister of Works shall be *prima facie* evidence of such consent.

Removal of  
vehicles  
causing  
obstruction  
or danger.

## 86. (1) If a vehicle left unattended—

(a) on a bridge or culvert ; or

(b) on a road so as to be likely to obstruct traffic or any procession lawfully authorized to be held, or to be likely to cause injury or damage to any person or property on the road,

any member of the police force or any officer of the council of the area in which the vehicle is standing may remove that vehicle to any convenient place, and for that purpose may enter the vehicle, and drive it or arrange for it to be towed or driven.

(2) Forthwith after such removal, the person removing the vehicle or a person acting on his behalf shall give the owner written notice of the removal, and of the place to which the vehicle was removed. The notice shall, wherever practicable, be served upon the owner personally ; but if it is not so served within fourteen days after the removal, it shall be given by public advertisement in two newspapers circulating generally in the State.

(3) If the owner of the vehicle does not, within one month after the service or advertisement of the notice, pay all expenses in connection with the removal, custody, and maintenance of the vehicle, and of serving or advertising the notice, and take

possession of the vehicle, the Commissioner of Police, or the council whose officer removed the vehicle shall sell it by public auction, and apply the proceeds as follows :—

- (a) Firstly, in payment of the costs of and incidental to the sale ;
  - (b) Secondly, in payment of the costs of and incidental to the removal, custody, and maintenance of the vehicle and the notice served or advertised under this section ;
  - (c) Thirdly, in payment of the balance to the owner.
- (4) If after reasonable inquiry, the owner cannot be found, the balance shall be paid—
- (a) to the Treasurer in aid of the General Revenue of the State, in a case where the vehicle was sold by the Commissioner of Police ;
  - (b) to the council, in aid of its revenue, in a case where the vehicle was sold by the council.

#### *Pedestrians.*

**87.** A person shall not walk without due care and attention or without reasonable consideration for other persons using the road. Walking without care or consideration.

Penalty : Twenty-five pounds.

**88. (1)** A person walking along the carriageway of a road shall keep as near as reasonably practicable to the right side of the carriageway. Walking on right of road.

Penalty : Twenty-five pounds.

(2) Subsection (1) of this section does not apply to—

- (a) a pedestrian drawing or pushing a vehicle, or leading an animal ;
- (b) persons lawfully walking on the carriageway in a procession or an organized and controlled column or other formation.

(3) A pedestrian on a carriageway of a road drawing or pushing a vehicle or leading an animal, or being in a procession,

a. 88. CORRELL V. THOMAS (1939) S.A.S.R. 39. The primary distinction intended by subsection (1) is between carriage-way and footway, and if there is no part of the road apparently reserved for walking or some other special purpose, so much of the whole road as is practicable for vehicular traffic is a carriage-way.

DELLAMINA V. GIBBS (1940) S.A.S.R. 282. A "carriage-way" includes any part of the highway which is commonly and reasonably used by vehicles.

column or formation as mentioned in subsection (2) of this section shall keep as near as reasonably practicable to the left side of that carriageway.

Penalty : Twenty-five pounds.

Duty of  
pedestrians at  
level crossings.

**89.** (1) A pedestrian approaching a level crossing on or near which a stop sign is erected, shall stop before commencing to cross the railway or tramway track.

(2) A pedestrian shall not enter or remain on a level crossing—

(a) when any railway rolling stock or tramcar with which he might collide is approaching the crossing ; or

(b) if warned not to do so by a member of the police force or an employee of the South Australian Railways Commissioner or the Municipal Tramways Trust ; or

(c) while any warning device at or near the crossing is oscillating or emitting sounds or flashing lights or while the crossing is closed against traffic by gates or barriers unless he is directed by any such member of the police force or employee to proceed across the crossing.

(3) Penalty for any breach of this section : Twenty-five pounds.

Duty of  
pedestrians  
on pedestrian  
crossings.

**90.** A pedestrian shall not remain within the limits of a pedestrian crossing longer than is necessary for the purpose of passing over the crossing with reasonable speed.

Penalty : Twenty-five pounds.

#### *Duties at Ferries.*

Obedience to  
ferryman's  
directions.

**91.** (1) The driver of a vehicle which is about to enter a ferry or is on a ferry shall obey any reasonable directions given to him by the person in charge of the ferry as to—

(a) the order in which vehicles shall be driven on to or off the ferry ; or

(b) the position to be occupied by the vehicle on the ferry.

(2) Penalty : Fifty pounds.

Stopping at  
approach to  
ferry.

**92.** A driver approaching a stop sign at or near a ramp or jetty leading to a ferry—

(a) shall stop his vehicle before any part of it passes the stop sign ;

- (b) shall not commence to drive his vehicle on to the ramp or jetty until directed to do so by the person in charge of the ferry.

Penalty : Fifty pounds.

*Miscellaneous Duties of Road Users.*

93. A person shall not—

- (a) open or leave open a door of a vehicle on a road ; or

Opening doors and alighting so as to cause danger.

- (b) alight from a vehicle on to the carriageway of a road,

so as to cause danger to other persons using the road or so as to impede the passage of traffic on the road.

Penalty : Twenty-five pounds.

94. A person shall not drive a motor vehicle carrying any person on the roof or bonnet thereof.

Driving with person on roof or bonnet.

Penalty : Twenty-five pounds.

95. A person shall not ride on a vehicle without the consent of the driver thereof.

Riding without driver's consent.

Penalty : Ten pounds.

96. (1) A person riding a pedal bicycle shall not permit himself to be drawn by any other vehicle in motion.

Cyclists holding on to other vehicles.

Penalty : Ten pounds.

(2) The driver of a vehicle shall not permit a person riding a pedal bicycle to attach himself to or be drawn by the vehicle of such driver.

Penalty : Ten pounds.

97. (1) A driver shall whenever it is reasonably practicable to do so refrain from driving his vehicle abreast of another vehicle going in the same direction.

Driving abreast.

Penalty : Twenty-five pounds.

(2) Notwithstanding subsection (1) of this section a person may—

- (a) ride a pedal bicycle abreast of one other pedal bicycle ;  
or

S. 96. WALSH V. FAEHRMANN (1936) S.A.S.R. 49. Held under section 144 of the Road Traffic Act, 1934 (subsection (1) of which included the word "knowingly"), that the onus is on the complainant to prove that the driver did not consent to the defendant's action.

(b) ride a pedal bicycle abreast of other pedal bicycles on a portion of the road set apart exclusively for such bicycles ;

(c) drive a vehicle abreast of other vehicles, if the vehicle so driven is within a marked lane on a carriageway marked with two or more lanes for traffic going in the same direction ;

(d) drive a vehicle abreast of another vehicle for the purpose of passing that other vehicle.

(3) A vehicle shall be deemed to be abreast of another vehicle if any part of the vehicle is by the side of any part of the other vehicle.

Carriage of  
persons on  
bicycles.

**98.** A person riding upon a pedal bicycle constructed for propulsion by one person only shall not permit any other person to be carried on that bicycle except upon a seat forming part of or securely attached to the bicycle and providing safe accommodation for that person.

Penalty : Ten pounds.

Pacing by  
cyclists.

**99.** A person shall not ride a pedal bicycle for more than two hundred yards within six feet from the rear of a motor vehicle.

Penalty : Ten pounds.

Use of  
warning  
device.

**100.** (1) The driver of a motor vehicle shall sound the warning device attached to his vehicle when it is necessary to do so for the purpose of giving warning of danger.

(2) A person—

(a) shall not sound the warning device attached to a vehicle except for giving warning of danger, or indicating an intention to pass another vehicle from the rear ;

(b) shall not sound such a warning device so as to create unnecessary or offensive noise.

(3) Penalty for any breach of this section : Twenty-five pounds.

Driving while  
vehicle emits  
undue noise,  
smoke, etc.

**101.** A person shall not drive a motor vehicle while that vehicle emits—

(a) an undue amount of noise, smoke, sparks or visible vapour ; or

(b) an offensive smell.

Penalty : Twenty-five pounds.

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s. 100. JOLLY v. WALLMAN (1936) S.A.S.R. 121. Where a dangerous situation arises at a time when it is too late for a warning to be effective, there is no need to give warning of the approach of a vehicle.

**102.** (1) A person shall not drive a vehicle if he is in such a position that—

Driving position.

- (a) he has not full control over the vehicle ; or
- (b) he has not full control over any animal drawing the vehicle ; or
- (c) he has not a sufficient view of the road ahead and on each side of the vehicle to enable him to drive with safety ; or
- (d) (if the vehicle is a motor vehicle) he cannot, by means of a rear vision mirror attached to the vehicle, obtain a clear reflected view of any overtaking vehicle.

(2) A person shall not ride a bicycle without having at least one hand on the handle-bar in such a position as to have full control of the steering of the bicycle.

(3) Penalty for any breach of this section : Twenty-five pounds.

**103.** A person shall not board or leave a vehicle or tram-car while it is in motion.

Boarding and leaving vehicles in motion.

Penalty : Twenty-five pounds.

**104.** (1) Except as allowed by subsection (2) of this section a person shall not ride an animal within a municipality town or township so that three or more animals are abreast.

Riding animals abreast.

Penalty : Twenty-five pounds.

(2) This section does not apply where the animals are ridden by members of the police force on duty.

(3) An animal shall be deemed to be abreast of another animal if any part of that animal is by the side of any part of the other animal.

**105.** A person riding an animal or driving or being conveyed in a vehicle shall not lead more than two animals within a municipality, town or township.

Leading animals.

Penalty : Twenty-five pounds.

*Prevention of Damage to Roads.*

Damage to  
roads and  
works.

**106.** (1) A person shall not—

- (a) otherwise than by reasonable use thereof damage a road, bridge, or culvert ; or
- (b) remove, damage or interfere with a fence, post, barrier, lamp, traffic device or traffic counter erected or placed on a road, bridge or culvert.

Penalty : Fifty pounds.

(2) A person who damages a road, bridge or culvert, or a fence, post, barrier, lamp, traffic sign or traffic counter erected or placed on a road, bridge or culvert shall forthwith give notice of that damage with full particulars thereof to a member of the police force or to the Commissioner of Highways.

Penalty : Fifty pounds.

(3) In proceedings for an offence against subsection (1) of this section the Court may order the defendant to pay such sum as the court thinks just, by way of compensation for damage done by the defendant, to any authority body or person which or who the court deems to be entitled to the compensation.

(4) In this section "traffic device" includes any traffic control device as defined in section 5 of this Act and any other signal or sign erected or placed for the purpose of regulating, warning or directing traffic, and includes a gate or barrier at a level crossing and a mile post and a sign indicating the direction or distance of any town or place.

Damage to  
road surface.

**107.** A person shall not—

- (a) drive or haul over a road any implement constructed in such a manner as to injure or damage any portion of the road ;
- (b) draw or drag over a road any sledge, timber, tree, or other heavy material in contact with the surface of a road ;
- (c) except in crossing a road, drive on or within six feet of any part of the metalled, gravelled, or other prepared surface of a road a vehicle having an articulated track in lieu of road wheels, unless the grips on the track are covered with road plates having an even bearing surface across the full width of the track when in contact with the road surface.

Penalty : Fifty pounds.

s. 106. *GEORGEFF V. RYAN* (1954) S.A.S.R. 235. *Mens rea* is not an essential ingredient of an offence against the section.



**108.** (1) A person shall not—

- (a) without the permission of the Commissioner of Highways in writing stack or deposit any wood, sand, stone, or material of any description on a road or part of a road which is being maintained by the Commissioner; or

- (b) deposit on a road any article or material likely to damage the surface of the road, or to cause damage to vehicles or injury to persons.

Depositing  
material or oil  
on roads.

Penalty: Fifty pounds.

(2) If any article or material falls from a vehicle onto a road, the driver of the vehicle shall be deemed to have deposited such article or matter on the road, unless he proves that he had taken reasonable precautions to prevent the article or matter from falling from the vehicle.

(3) In this section "material" includes substances of all kinds whether solid or liquid.

**109.** A person shall not drive a vehicle on a road if any wheel of that vehicle is fitted with a pneumatic tyre inflated to a pressure exceeding one hundred pounds per square inch.

Tyres.

Penalty: Fifty pounds.

**110.** A person driving a vehicle on a road which has portion of its surface sealed with bitumen, cement or other sealing substance shall whenever it is reasonably practicable to do so keep the whole of his vehicle on the sealed portion of the surface.

Driving on  
sealed surface.

Penalty: Twenty-five pounds.

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PART IV.

## PART IV.

EQUIPMENT, SIZE AND WEIGHT OF VEHICLES  
AND SAFETY PROVISIONS.*Lamps.*Duty to  
carry lamps  
and reflectors.

**111.** (1) A person shall not drive a vehicle or cause a vehicle to stand in a road between half an hour after sunset and half an hour before sunrise or during any period of low visibility if in any respect the vehicle or any lamp or reflector thereon does not comply with the requirements of this Part relating to lamps or reflectors, or any regulations relating to lamps or reflectors on vehicles.

Penalty: Fifty pounds.

(2) In this Part "period of low visibility" means any time when, owing to insufficient daylight or unfavourable conditions, persons on a highway are not clearly visible at a distance of two hundred yards to a person of normal vision.

Headlamps.

**112.** (1) Every vehicle (other than a three-wheeled vehicle less than five feet wide, or a bicycle, or a trailer) must be fitted with two headlamps.

(2) Every three-wheeled vehicle less than five feet wide and every bicycle and every sidecar attached to a bicycle must be fitted with one headlamp.

(3) Every headlamp must be on the front of the vehicle to which it is fitted and must show a white light and project its main beam of light ahead of the vehicle.

Rear lamps.

**113.** Every vehicle must be fitted with a lamp on the rear thereof showing a red light to the rear.

Rear lamp on  
overhanging  
loads.

**114.** Where the load on a vehicle extends more than three feet behind the rear of the vehicle, there must be attached on the rear of that load a lamp shewing a red light to the rear.

s. 111. *YELLOW CABS (SOUTH AUSTRALIA) LIMITED v. BLIGHT* (1929) S.A.S.R. 118. Failure to comply with the section may be negligence.

s. 113. *RUDALL AND OTHERS v. DEACON AND OTHERS* (1943) S.A.S.R. 271. Appeal to the High Court dismissed (1943) 67 C.L.R. 642 (note); (1943) S.A.S.R. xxiii (note). It is not necessary that the red light required to be carried pursuant to paragraph (b) of subsection (1) of section 42 of the Road Traffic Act, 1934, shall be carried at the extreme edge of the off side rear part of the vehicle.

115. If a pedal bicycle is fitted with a lamp on the right side of the bicycle showing a white light to the front and a red light to the rear and such lights comply with the requirements of this Act and the regulations as to the light from the headlamp and rear lamp of a pedal bicycle, that bicycle need not be fitted with any other head lamp or rear lamp.

Dual purpose  
lamps on  
pedal cycles.

116. (1) Every motor vehicle must be fitted with a lamp on the rear thereof illuminating the rear number plate on the vehicle with white light.

Number plate  
lamps on  
motor vehicles.

(2) If the rear lamp fixed on a motor vehicle pursuant to section 113 of this Act also illuminates the number plate as required by this section, a separate lamp is not required for purposes of this section.

117. (1) In this section—

“hauling unit” means the forward portion of an articulated motor vehicle :

Clearance  
lamps on  
motor  
vehicles.

“rigid motor vehicle” means a motor vehicle other than an articulated motor vehicle :

“semi-trailer” means the rear portion of an articulated motor vehicle.

In calculating the width of a vehicle, trailer or semi-trailer for the purpose of this section, or the extent to which a vehicle, trailer or semi-trailer projects laterally, any projecting load or equipment carried on the vehicle, trailer or semi-trailer shall be regarded as part of the vehicle, trailer or semi-trailer.

(2) Every rigid motor vehicle which is seven feet or more in width, and every semi-trailer irrespective of its width, and every trailer which projects more than six inches laterally on either side beyond the motor vehicle by which it is drawn must be fitted with two front clearance lamps and two rear clearance lamps.

(3) Every hauling unit must be fitted with two front clearance lamps.

(4) Each front clearance lamp must display an amber light directly ahead of the vehicle.

(5) Each rear clearance lamp must display a red light from the rear of the vehicle.

118. (1) Every vehicle (not being a motor vehicle) which or the load on which is more than seven feet wide must be fitted, on the extreme off side of the vehicle, or if a load projects from

Clearance  
lamp on  
vehicles other  
than motor  
vehicles.

**PART IV.**

the off side of the vehicle. on the extreme off side of that load, with a clearance lamp displaying a white or amber light ahead of the vehicle.

(2) If a headlamp or rear lamp fitted to a vehicle pursuant to this Act complies with this section and the regulations relating to clearance lamps, a separate lamp is not required for purposes of this section.

Lamps to be  
alight at night.

**119.** Except as otherwise prescribed by the regulations, every lamp fitted to a vehicle or attached to the load on a vehicle pursuant to this Act must be alight at all times when the vehicle is being driven or standing on a road between half an hour after sunset, and half an hour before sunrise or during a period of low visibility.

Lamps to be  
in good order  
and clean.

**120.** Every lamp and reflector fitted to a vehicle or attached to the load on a vehicle must at all times be clean and in good working order.

Prevention  
of glare.

**121.** Every lamp fitted to a vehicle or attached to the load on a vehicle must diffuse efficiently the light therefrom so as to prevent as far as practicable any glare from that light which might affect adversely the vision of drivers of vehicles or pedestrians on a road on which the vehicle is used.

Duty to dip  
headlamps.

**122.** The driver of a vehicle which is fitted with a dipping device shall cause the main beam of light projected by the headlamps of the vehicle to be dipped at any time between half an hour after sunset and half an hour before sunrise or during a period of low visibility, when the vehicle is within three hundred yards of another vehicle approaching from the opposite direction.

Penalty : Twenty-five pounds.

Rear  
reflectors.

**123.** (1) Every bicycle and every sidecar must be fitted with a red reflector on the rear thereof.

(2) Every other vehicle must be fitted with two red reflectors on the rear thereof.

Additional  
requirements  
as to lamps  
and reflectors.

**124.** Every lamp and every reflector required by this Act to be fitted to a vehicle or attached to the load on a vehicle shall comply with such requirements relating to position, size, shape, construction, illuminating power, and other matters as are prescribed by regulations made under this Act.

*Brakes.*

Interpretation.

**125.** In this Act—

“independent braking system” means a braking system which—

(a) has no parts in common with any other braking system ; or

(b) has no parts in common with any other braking system except the brake shoes or other devices operating on or in the drums of the road wheels :

“retaining brake” means a brake capable of holding the vehicle equipped with it, together with any load carried or trailer towed by that vehicle, stationary on any road on which the vehicle is driven, irrespective of the grade of that road :

“capable of stopping” as applied to a brake means capable of bringing the vehicle equipped with the brake to a standstill from a speed of twenty miles per hour upon a hard, dry, level road free of loose material, without assistance from the compression of the engine, within the specified distance from the point at which the brake is applied.

**126.** A person shall not drive a vehicle if in any respect the vehicle does not comply with the requirements of this Part relating to brakes, or any regulations relating to brakes.

Duty to  
comply with  
brake  
requirements.

Penalty : Fifty pounds.

**127.** (1) This section applies to motor vehicles other than motor bicycles or trailers.

Brakes on  
motor vehicles  
other than  
cycles or  
trailers.

(2) Every motor vehicle must be equipped with two independent braking systems which shall comprise respectively a service brake and an emergency brake as defined in this section ; Provided that the regulations may provide exemptions from or modifications of this section concerning motor tractors or machinery used in primary production.

(3) A service brake is a brake which—

(a) is applied by a foot pedal ; and

(b) operates directly on road wheels and not on the transmission ; and

(c) if on a motor vehicle manufactured after the commencement of this section, operates on all the road wheels of the vehicle.

Provided that a service brake on a vehicle having an articulated track in lieu of road wheels may operate on the transmission.

(4) An emergency brake is a brake which—

- (a) is applied either by a hand lever or foot pedal ; and
- (b) is fitted with a ratchet or other locking device capable of holding the hand lever or foot pedal in any position ; and
- (c) operates on road wheels or transmission by direct mechanical action without the intervention of any hydraulic, electrical, or pneumatic device ; and
- (d) is a retaining brake.

(5) A braking system operating on road wheels shall operate on one or more pairs of such wheels symmetrically placed on either side of the longitudinal axis of the motor vehicle.

Brakes on  
motor cycles.

**128.** Every motor bicycle with or without a side-car shall have two independent braking systems, one actuated by a hand lever and the other by a foot pedal.

Brakes on  
trailers.

**129.** (1) A trailer need not have brakes if the brakes on the motor vehicle by which it is towed are capable of stopping the motor vehicle with trailer attached within the distance prescribed by this Act.

(2) If the trailer is equipped with brakes it shall be sufficient if the brakes of the towing vehicle and of the trailer acting together are capable of stopping the motor vehicle with the trailer attached within the distance prescribed by this Act.

Performance  
ability of  
brakes on  
motor vehicles  
other than  
cycles.

**130.** The braking systems on a motor vehicle (other than a motor bicycle or trailer) must comply with the following requirements :—

- (a) The braking system comprising a service brake must be capable of stopping the vehicle together with any trailer attached thereto within the following distances :—
  - (i) where the weight of the motor vehicle and of any trailer attached thereto is less than fifty hundredweight, thirty feet ;
  - (ii) where the said weight is fifty hundredweight or more, forty-five feet.

(b) The braking system comprising an emergency brake must be capable of stopping the vehicle within the following distances :—

(i) if the weight of the motor vehicle and of any trailer attached thereto is less than fifty hundredweights, seventy-five feet ;

(ii) if the weight of the motor vehicle and of any trailer attached thereto is fifty hundredweights or more, one hundred and twelve and one-half feet.

(c) For the purpose of this section the weight of a motor vehicle or trailer includes the weight of the load thereon.

**131.** Every braking system on a motor vehicle must be of sound and strong material and capable of adjustment so as to maintain its braking power and must be maintained in efficient working order.

Brakes to be in good working order.

*Warning Devices and Other Equipment.*

**132.** A person shall not drive a vehicle if in any respect the vehicle or any equipment thereon does not comply with the requirements of sections 133 to 138 (inclusive) of this Act.

Duty to comply with sections 133 to 138.

Penalty : Fifty pounds.

**133.** Every motor vehicle and every pedal bicycle must be fitted with a warning device which is capable of giving sufficient audible warning of the approach of the vehicle or bicycle, and is under the immediate control of the driver.

Warning device.

**134.** A bell or siren must not be fitted to a motor vehicle other than—

Bells and sirens.

(a) a vehicle used by the Fire Brigades Board or a fire brigade or a fire-fighting organization registered under the laws relating to fire brigades or bush-fires ; or

(b) a vehicle used by members of the police force in the course of their duties ; or

(c) an ambulance.

**135.** Every motor vehicle which—

(a) has its steering wheel on the left of the longitudinal axis of the vehicle ; or

(b) is seven feet wide or more,

Mechanical signals on certain vehicles.

must be fitted with a mechanical or electrical device of a kind approved by the Board by which turning stopping and slowing down signals prescribed by this Act can be given.

## PART IV.

Windscreen  
wipers.

**136.** (1) Every motor vehicle (other than a motor bicycle) having a windscreen must be equipped with a windscreen wiper, capable at all times of effectively removing rain and other moisture from the portion of the windscreen immediately in front of the driver, and so constructed and situated that it can be controlled or operated from the driver's seat.

(2) The windscreen wiper on a motor vehicle registered for the first time after the first of January, nineteen hundred and thirty-seven, must be automatic.

Reflecting  
mirrors.

**137.** (1) Every vehicle (other than a trailer) so constructed that the driver has not an unobstructed view to the rear must be equipped with a mirror or mirrors so designed and fitted as to be capable of reflecting to the driver a view of the approach of any vehicle about to pass such vehicle.

(2) Such mirror or mirrors must be affixed to the outside of the vehicle if—

(a) the vehicle is designed for the carriage of passengers and has seating accommodation for eight passengers or more; or

(b) for any reason the driver cannot obtain a view of an approaching vehicle by means of a mirror affixed to the inside of the vehicle.

## Silencers.

**138.** Every motor vehicle which has an internal combustion engine must be equipped with an efficient silencing device through which all exhaust from the engine is projected and which prevents the creation of undue noise.

*Dimensions of Vehicles.*Duty to  
comply with  
sections 140,  
141 and 142.

**139.** A person shall not drive a vehicle if in any respect the requirements of sections 140, 141 and 142 of this Act are not complied with in relation to that vehicle and any trailers or other vehicles attached thereto, or any load thereon.

Penalty : Fifty pounds.

Length of  
vehicles.

**140.** The overall length of a vehicle and of any trailers or vehicles attached thereto and of any load projecting from the front or rear of the vehicle or from the rear of any trailer or vehicle attached to the vehicle must not exceed sixty-six feet.

Width of  
vehicles.

**141.** (1) Except as provided in this section, the width of a vehicle must not exceed eight feet at any part.

s. 138. DAYMAN v. ELLIS (1933) S.A.S.R. 274. Section 41 of the Road Traffic Act, 1934, required that the silencer must at the material time be in actual use and eliminate all unnecessary noise.



(2) A vehicle may be driven on a road carrying a load more than eight feet wide, if that load consists of agricultural machines or motor bodies.

(3) An agricultural machine may be driven on a road although it is more than eight feet wide.

(4) In determining the width of a vehicle—

(a) any load or framework on the vehicle shall be regarded as part of the vehicle ;

(b) a rear vision mirror or a signalling device projecting from a side of the vehicle shall not be taken into account unless the total width of the vehicle and any such mirror or device—

(i) exceeds eight feet four and a half inches, where there is a mirror or device projecting from one side of the vehicle only :

(ii) exceeds eight feet nine inches, where there is a mirror or device projecting from each side of the vehicle.

(5) In this section “agricultural machine” means a machine (other than a tractor) used for cultivating land or sowing, handling or harvesting crops.

**142.** The height of a vehicle together with any load or equipment thereon must not exceed fourteen feet: Provided that this section shall not apply to an electrically driven omnibus having overhead poles for conducting electricity from overhead electrical conductors. Height of vehicles.

**143.** (1) If the Board is satisfied that reasonable cause exists for doing so, it may grant a permit permitting a vehicle to be driven on roads without compliance with any specified requirements of sections 140, 141 and 142 of this Act. Exemptions.

(2) Any such permit may be general, conditional or restricted as to time, place or circumstances, and shall render lawful anything done in accordance therewith.

#### *Axle Weights.*

**144.** A person shall not drive a vehicle if in any respect the vehicle does not comply with the requirements of sections 145 to 149 (inclusive) of this Act. Duty to comply with rules as to loads.

Penalty—

(a) For an offence involving non-compliance with a requirement as to the weight on an axle or axles,

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s. 143. *KEANE V. KNOWLES AND ANOTHER* (1942) S.A.S.R. 13. Failure to comply with conditions of a permit is a departure from the proper standard of care for the safety of the highway.

where the weight in excess of the permitted maximum is not more than twenty hundredweights—not less than five shillings and not more than two pounds for each hundredweight of the excess ;

- (b) For an offence involving non-compliance with a requirement as to the weight on an axle or axles, where the weight in excess of the permitted maximum is more than twenty hundredweights—not less than five shillings and not more than two pounds for each of the first twenty hundredweights of the excess and not less than two pounds and not more than five pounds for each additional hundredweight of the excess ;

- (c) For an offence against section 149 : Fifty pounds.

Computation  
of axle load.

**145.** In computing the weight carried on an axle the weight of the axle itself and the wheels on it, as well as the weight of the vehicle and its load so far as they bear upon the axle, shall be taken into account.

Maximum  
axle weight.

**146.** (1) If an axle of a vehicle is fitted with wheels having solid tyres the weight on that axle must not exceed the smaller of the following weights, namely five tons, or a weight computed at the rate of seven hundredweights for each inch of the width of the bearing surface of the said tyres.

(2) If an axle of a vehicle is fitted with wheels having pneumatic tyres, the weight on that axle must not exceed eight tons.

(3) The weight on any two axles of a vehicle must not exceed the sum of the maximum weights which could lawfully be carried on those axles under subsections (1) and (2) of this section.

Maximum  
vehicle weight.

**147.** (1) The total weight on all the axles of a vehicle, other than the front axle must not exceed thirty-two tons.

(2) For the purpose of this section, a combination of vehicles drawn by the same hauling unit shall be regarded as one vehicle, and the front axle of the hauling unit of a combination of vehicles shall be deemed to be the front axle of the combination.

Alteration of  
maximum  
weights.

**148.** The maximum weights fixed by either of the two preceding sections may be altered by regulations under section 176 of this Act.

**s. 145. JAMES V. JOHNSON (1922) S.A.S.R. 294.** The term "carry" means to support or sustain and applies to a stationary vehicle. Held, that the weight of the load carried by a jinker usually connected with a horse dray, was its weight ascertained when the jinker was disconnected from the dray and stationary.

**149.** Every metal tyre on the wheel of a vehicle must—

- (a) have an even bearing surface across its full width ;
- (b) be not less than one and a quarter inches wide.

Requirements  
for metal  
tyres.

**150.** A vehicle having an articulated track in lieu of road wheels is not subject to the requirements of the preceding five sections.

Exemption of  
vehicles with  
articulated  
track.

**151.** (1) The Board may grant a permit permitting a vehicle conveying heavy machinery or merchandise which cannot be taken apart without undue expense or loss to be driven on roads without compliance with any specified requirements of this Act or the regulations as to the maximum weight on any axle or axles of the vehicle: Provided that a permit granting exemption from the requirement of section 147 of this Act may be granted although the vehicle does not convey heavy machinery or merchandise which cannot be taken apart without undue expense or loss.

Exemptions.

(2) Any such permit may be general, conditional, or restricted as to time place or circumstance, and shall render lawful anything done in accordance therewith.

**152.** (1) A member of the police force or an inspector may request the driver or person in charge of a vehicle on a road—

Duty of  
driver as to  
weighing  
vehicles and  
loads.

- (a) to drive the vehicle or cause it to be driven forthwith to a weighbridge or weighing instrument specified by the person making the request, and situated not more than five miles from the place where the vehicle is at the time of the request ; and
- (b) to permit the weight of the vehicle and its load, or the weight carried on any axle of the vehicle, or all such weights to be ascertained by means of such weighbridge or weighing instrument ; and
- (c) to manoeuvre the vehicle as is necessary to enable such weighing to be carried out.

(2) A person to whom a direction is given under subsection (1) of this section shall forthwith comply with it.

Penalty : Fifty pounds.

**153.** (1) A member of the police force or an inspector may, by notice in the prescribed form, signed by the member or inspector, and by a justice of the peace, and served on the owner of a vehicle, direct that owner to do the following things within a reasonable time specified in the notice, namely—

Duty of owner  
as to weighing  
vehicle  
unladen.

- (a) to cause the vehicle to be driven to a weighbridge or other weighing instrument specified in the notice

and situated not more than five miles from the place where the vehicle is at the time of service of the notice ; and

(b) to permit the vehicle to be weighed unladen by means of the weighbridge or weighing instrument specified in the notice ; and

(c) to deliver the document issued by the person weighing the vehicle, and stating the unladen weight thereof, to the member or inspector who signed the notice.

(2) A person who receives such a notice shall forthwith comply with it.

Penalty : Fifty pounds.

Measurement  
of loads.

**154.** (1) A member of the police force, or an inspector, may require the owner or person in charge of a vehicle on a road to do any one or more of the following things :—

(a) to allow the member or inspector to examine and measure the vehicle and the load on the vehicle and the tyres on the wheels of the vehicle, or any of them ;

(b) to allow the member or inspector to test the vehicle to ascertain whether it is in running order ;

(c) to manoeuvre the vehicle as necessary to enable any such examination measuring and testing to be carried out.

(2) A person to whom a request under subsection (1) of this section is made shall forthwith comply with it.

Penalty : Fifty pounds.

Presumption  
of correct  
weight  
ascertained by  
measurement.

**155.** The weight of a vehicle with or without its load, or the weight on any axle or axles of a vehicle, calculated in accordance with the regulations shall in proceedings for an offence against this Act be deemed to be correct unless the contrary is proved.

Unloading of  
excess weight.

**156.** (1) If a member of the police force or an inspector has ascertained that—

(a) the weight on an axle of a vehicle on a road exceeds by more than ten hundredweights the maximum weight permitted by this Act or the regulations to be carried on that axle ; or

(b) that the weight on all the axles of the vehicle other than the front axle exceeds by more than thirty

hundredweights the maximum weight permitted by this Act or the regulations to be carried on those axles

he may give the driver or person in charge of the vehicle such of the following directions as he deems appropriate in the circumstances :

- (i) If the vehicle is on the carriageway of a road, that the driver or person in charge of the vehicle shall drive it forthwith off the carriageway to a place indicated by the person giving the direction :
- (ii) That the vehicle shall not be driven on a road (except for the purpose of removing it from the carriageway or driving it to a place nominated by the driver or person in charge of the vehicle and approved by the person giving the direction) until the load is reduced or adjusted so as to comply with this Act.

(2) A person to whom any such direction is given shall comply with it.

Penalty : Fifty pounds.

#### *Towed Vehicles and Trailers.*

**157.** A person shall not drive a vehicle having a vehicle (not being a trailer) attached thereto for the purpose of being towed, if any of the following provisions is not observed :—

Requirements  
as to towing.

- (a) The space between the vehicles must not exceed twelve feet :
- (b) Where the towed vehicle is a motor vehicle, a competent person must be in charge of that vehicle, to control it so far as the condition of its brakes and mechanism permit :
- (c) Where the two vehicles are joined by means of a rope, chain or wire, a white flag or cloth must be displayed on that rope, chain or wire, midway between the two vehicles :
- (d) Between half an hour after sunset, and half an hour before sunrise, a lighted lamp, showing a bright white light, must be affixed to the front of the towed vehicle in such a manner as to render clearly visible any flag or cloth displayed in accordance with paragraph (c) of this section, and a lighted lamp must be affixed to the off side of the rear of the towed vehicle, showing a red light clearly visible at a distance of 200 yards, to any person approaching the vehicle from the rear.

Provided that—

- (i) if the towed vehicle is attached to the towing vehicle by a towing device of a kind approved by the Board or complying with the regulations it shall not be necessary for a person to be in charge of the towed vehicle; and
- (ii) if the towed vehicle is fastened to the towing vehicle so as to be in contact therewith, the white flag or cloth mentioned in paragraph (c) of this section, and the lighted lamp affixed to the front of the towed vehicle as mentioned in paragraph (d), of this section are not required.

Penalty : Fifty pounds.

Number of  
trailers or  
towed vehicles.

**158.** (1) A person shall not drive—

- (a) a vehicle (other than a vehicle the unladen weight of which exceeds two tons, or a tractor) towing more than one trailer or other vehicle; or
- (b) a vehicle towing more than two trailers or other vehicles.

(2) The Board may grant to any person a permit permitting any vehicle, irrespective of its unladen weight, to be driven for the purpose of towing two trailers or other vehicles. Any such permit may be general, conditional or restrictive as to time, place or circumstances and shall render lawful the towing of two trailers or other vehicles in accordance with its terms.

Penalty : Fifty pounds.

#### *Safety Provisions.*

Vehicles used  
for carrying  
passengers.  
for hire.

**159.** (1) A person shall not drive a vehicle for the purpose of carrying passengers for hire unless that vehicle has been inspected and certified to be safe for the carriage of passengers, by an authorized person : Provided that this section shall not apply to—

- (a) a vehicle driven pursuant to a licence under the Road and Railway Transport Act, 1930-1957 or under by-laws of a council; or
- (b) a vehicle operated or licensed by the Municipal Tramways Trust; or
- (c) a taxicab licensed under the Metropolitan Taxicab Act, 1956-1957.

Penalty : Fifty pounds.

**s. 159. LOMAX v. REED** (1952) S.A.S.R. 225. Evidentiary effect of the failure of the driver of a motor vehicle to obtain a certificate, as required by section 154 of the Road Traffic Act, 1934, considered.

(2) For the purposes of this section the following persons shall be authorized persons :—

(a) Every member of the police force in charge of a police station situated more than fifteen miles from the General Post Office at Adelaide ;

(b) Any other person appointed by the Commissioner of Police as an authorized person within the meaning of this section.

(3) Every certificate granted under this section shall remain in force for twelve months from the date of the granting thereof unless sooner revoked by the Commissioner of Police on the ground that the vehicle is no longer safe for the carriage of passengers.

(4) A certificate granted under this section may contain a condition prescribing the maximum number of passengers who may lawfully be carried upon the vehicle to which the certificate applies.

A person shall not drive a vehicle to which a certificate granted under this section applies carrying more than the maximum number of passengers prescribed in that certificate.

Penalty : Fifty pounds.

(5) An apparently genuine document produced by the prosecution and purporting to be signed by the Commissioner of Police and to state that any vehicle specified in the document has not during any period specified in the document been inspected and certified to be safe for the carriage of passengers as required by this section shall be *prima facie* evidence of the fact so stated.

160. (1) In this section—

Defect  
notice.

“defect notice” means a notice issued under subsection (5) of this section :

“repairs” means repairs, replacements, reconditioning, additions, adjustments or work of any kind for remedying deficiencies or defects.

(2) If a member of the police force is of opinion that a vehicle does not comply with any one or more requirements of this Act or for any reason cannot safely be driven on roads he may direct the owner or person in charge of the vehicle to produce it for examination at a time and place stated by the said member.

(3) A person shall comply with a direction given to him under subsection (2) of this section.

Penalty : Fifty pounds.

(4) A member of the police force may—

(a) examine or cause to be examined any vehicle produced pursuant to a direction under this section :

(b) for the purpose of any such examination, drive or test or cause a person to drive or test the vehicle.

(5) If a vehicle, upon examination, is found not to comply with this Act or to be unsafe, a member of the police force may issue to the owner or person in charge of the vehicle a written notice (hereinafter called a defect notice)—

(a) specifying the repairs which are necessary in order to make the vehicle comply with this Act or to make it safe ;

(b) directing that the vehicle shall not, except as provided in the defect notice, stand or be driven on a road after the issue of the defect notice until the said repairs have been made and the vehicle has been produced at a place specified in the defect notice for examination by a member of the police force and the member of the police force has certified that the repairs have been made.

(6) A person shall not drive a vehicle or cause a vehicle to stand on a road contrary to the terms of a defect notice.

Penalty : Fifty pounds.

(7) A defect notice—

(a) may provide that the vehicle to which it applies may be driven on roads to a convenient place for the purpose of having repairs made as required by the notice ;

(b) shall provide that after the repairs have been made the vehicle to which it applies may be driven on a road by the nearest practicable route to the place specified in the defect notice for examination by a member of the police force.

Suspension of  
registration of  
unsafe  
vehicles.

**161.** (1) If the Commissioner of Police is satisfied that a motor vehicle is unsafe for use on roads he may suspend the registration of that vehicle.

(2) When the registration of a motor vehicle is so suspended the Registrar of Motor Vehicles or any person authorized by



him or any member of the police force may remove the registration label from the vehicle and for the purpose of so doing may enter and remain upon any land or premises.

(3) If the Commissioner of Police is subsequently satisfied that a vehicle the registration of which has been suspended under this section has been made safe for use on roads he may remove the suspension; and if at the time of the removal of the suspension the period for which the vehicle was registered has not expired, the Registrar of Motor Vehicles shall issue to the owner without fee a registration label similar to that removed from the vehicle under this section.

(4) The Commissioner of Police shall give to the owner of the vehicle concerned and to the Registrar of Motor Vehicles written notice of every suspension and removal of suspension under this section.

**162.** A person shall not drive a vehicle carrying a load if any one or more of the following requirements are not complied with:—

Securing  
of loads.

- (a) The load must be fastened or confined so as to ensure that it will remain in or upon the vehicle while it is in motion;
- (b) The load must not project from the vehicle so as to be likely to injure any person or damage any property;
- (c) If the load consists of iron, timber, piping or other solid material projecting beyond the front or rear of the vehicle, the projecting ends must be wrapped with bagging or other like material, and must be securely tied so as to prevent noise, flapping and swaying, and must have a piece of white material attached thereto so as to clearly indicate the projection.

Penalty: Fifty pounds.

*Information to be Marked on Certain Vehicles.*

**163.** (1) Every commercial motor vehicle the weight of which unladen exceeds thirty-five hundredweights and every vehicle carrying passengers or goods for hire must have the name and address of the owner thereof and the unladen weight of the vehicle painted on some conspicuous part of the off side of the vehicle in letters at least two inches high and at least one inch wide.

Information  
to be painted  
on certain  
vehicles.

(2) For the purpose of this section—

“name” means—

- (a) in the case of a vehicle owned by an individual—  
the Christian names or the initials of the

Christian names and the full surname of that individual ;

(b) in the case of a vehicle owned by a partnership—the registered business-name of the partnership or the names (stated as mentioned in paragraph (a) hereof) of each partner ;

(c) in the case of a vehicle owned by a body corporate—the registered business-name or the full name of the body corporate :

“address” means either place of abode or place of business.

(3) A person shall not drive a vehicle not complying with this section.

Penalty : Fifty pounds.

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## PART V.

PART V.

## SUPPLEMENTARY PROVISIONS.

**164.** Proceedings for offences against this Act shall be heard and determined summarily. Proceedings for offences.

**165.** In determining whether an offence against a provision of this Act is a second or subsequent offence within the meaning of this Act, a like offence committed against an Act repealed by this Act shall be taken into account as an offence against the said provision : Subsequent offences.

Provided that an offence against the repealed Act shall not be so taken into account if the court which tried the case certified the offence to be trifling.

**166.** If a person is charged with driving a vehicle which does not comply with a requirement of this Act as to lamps, warning devices, brakes, windscreen wipers, rear vision mirrors, mechanical signals or other equipment or is charged with causing such a vehicle to stand in a road, and proves that, at the time of the alleged offence— Offences by employees.

- (a) he was the employee of another person ; and
- (b) he drove the vehicle or caused it to stand under the express instructions of his employer ; and
- (c) he was not aware that the vehicle did not comply with the requirement of this Act or had before the time of the alleged offence called the attention of his employer to the fact that the vehicle did not comply with that requirement,

the person so charged shall be acquitted.

**167. (1)** A person who causes or permits another person to commit any offence against any provision of this Act shall be guilty of an offence and liable to the penalty prescribed for the offence which he so causes or permits. Causing or permitting certain offences.

**(2)** This section shall not restrict the application to any provision of this Act of section 53 of the Justices Act, 1921-1960 which relates to the liability of persons aiding, abetting, counselling or procuring the commission of offences.

## PART V.

Power of  
court to  
disqualify  
driver on  
conviction.

**168.** (1) When a person is convicted, before the Supreme Court or any other court, of—

- (a) an offence against any provision of this Act relating to motor vehicles ; or
- (b) an offence (under this Act or any other Act or law) in the commission of which a motor vehicle was used or the commission of which was facilitated by the use of a motor vehicle,

the court may order—

- (i) that that person be disqualified either for a period fixed by the court or until further order from holding and obtaining a driver's licence ; and
- (ii) may if it thinks fit order that the person so disqualified shall not at the end of the period of disqualification or upon the removal of the disqualification be granted a driver's licence until he passes a driving test as prescribed by section 79a of the Motor Vehicles Act, 1959-1960.

(2) The court which makes an order under this section may, if satisfied that reasonable cause exists for doing so, order that the disqualification shall take effect from a day or hour subsequent to the making of the order.

(3) Where an order is made requiring a person disqualified under this section to pass a driving test before being granted a driver's licence, his disqualification shall continue until the expiration or removal of the disqualification or the passing of the test whichever last occurs.

Duty of  
court to  
disqualify  
driver for  
certain  
offences.

**169.** (1) This section shall apply to offences against the following provisions of this Act, namely :—

Paragraph (a) of subsection (3) of section 43 (failure to stop after accident) :

Section 46 (reckless and dangerous driving) :

Section 48 (general speed limit of sixty miles an hour) :

**s. 168. GEORGE V. TROTTER** (1938) S.A.S.R. 48. Where the defendant entered an intersection at a very fast rate of speed and narrowly escaped a collision and was convicted under section 131 of the Road Traffic Act, 1934, held that the defendant's licence was rightly suspended.

**AUSTIN V. DAYMAN** (1939) S.A.S.R. 136. Circumstances discussed which may be taken into account in considering whether an order for disqualification should be made.

**HATCHER V. O'SULLIVAN** (1949) S.A.S.R. 240. Held, before the enactment of the proviso to subsection (1a) of section 38a of the Road Traffic Act, 1934, that, upon conviction of a second offence against one of the sections specified in section 38a of the Road Traffic Act, 1934, the court must make an order of disqualification from holding or obtaining a licence, notwithstanding that the first offence was committed prior to the passing of the amending Act of 1948.

**FELDMAN V. SAMUELS** (1956) S.A.S.R. 55. The power given to disqualify a person convicted of an offence against the Act from holding or obtaining a driver's licence ought to be used with discretion, but its use is amply justified where it is exercised for the subversion of any manner of driving which involves manifest danger to the safety of road users.

Paragraph (a) of section 49 (speed limit in a municipality town or township :

Section 50 (speed limit in speed zones) :

Section 63 (right of way at intersections and junctions).

(2) If a person after being convicted of an offence against a provision of this Act to which this section applies is convicted of another offence against the same provision committed within three years after the previous conviction the court shall order that that person shall be disqualified for a period fixed by the court or until further order from holding or obtaining a driver's licence : Provided that the court at the hearing of a complaint for any offence mentioned in subsection (1) of this section, if satisfied by evidence given on oath, that any such offence is trifling, may certify accordingly and if such a certificate is given the offence to which it relates shall not be taken into account for purposes of this subsection.

(2) An order made under this section may be in addition to any other penalty to which the defendant is liable.

170. If a court of summary jurisdiction on information or complaint duly laid is satisfied that a person has used or is likely to use a motor vehicle in connection with the commission of any offence by himself or any other person, or to facilitate the escape of himself or any other person from arrest or punishment, it may order that the person who used or is likely to use the vehicle be disqualified either for a period fixed by the court or until further order from holding and obtaining a driver's licence.

Disqualification where vehicle used for criminal purposes.

171. If a court of summary jurisdiction presided over by a special magistrate, on complaint duly laid by the Commissioner of Police or by the Registrar of Motor Vehicles, is satisfied that a person is by reason of intemperance in the consumption of alcoholic liquor or by reason of the habitual use of drugs, likely to cause danger to the public if he drives a motor vehicle on roads, the court may order that that person be disqualified either for a period fixed by the court or until further order from holding and obtaining a driver's licence.

Disqualification of addicts to liquor or drugs.

172. (1) Where an order has been made against a person disqualifying him from holding and obtaining a driver's licence until further order that person may on complaint duly laid before a court of summary jurisdiction, and served on the

Removal of disqualification.

s. 172. COMMISSIONER OF POLICE V. BRADY (1954) S.A.S.R. 314. An appeal lies to the Supreme Court against an order made by a court of summary jurisdiction removing a disqualification from holding or obtaining a driver's licence imposed by an order previously made under the Act.

Commissioner of Police as defendant to the proceedings, apply to that court for an order removing the disqualification, and the court may, if it deems it expedient to do so, order that the disqualification be removed as from any date which it thinks proper.

(2) An application shall not be made under this section within three months after the making of the original order for disqualification, nor within three months after a previous application relating to the same order of disqualification.

Appeals, and  
suspension of  
disqualification

**173.** (1) A person who by virtue of an order of a court under this Act is disqualified from holding and obtaining a driver's licence may appeal against the order in the same manner as against a conviction.

(2) Pending the hearing and determination of any such appeal the operation of any such order may be suspended—

(a) in the case of an order made by a court of summary jurisdiction, by the court which made the order, or a judge of the Supreme Court ;

(b) in the case of an order made by the Supreme Court, by a judge of that Court.

(3) An order of suspension may be made before or after the institution of the appeal, but shall not have any effect until the defendant—

(a) has duly instituted the appeal and paid the appropriate court fees ; and

(b) has served on the Registrar of Motor Vehicles the order of suspension or a copy thereof, and a notice that the appeal has been duly instituted and the fees paid.

Liability when  
hired vehicles  
driven for  
hire.

**174.** (1) If—

(a) the owner of a motor vehicle lets it on hire to a person who, for the purpose of or by virtue of any industrial award is deemed to be a servant of that owner ; and

(b) whilst the vehicle is so let the person taking it on hire drives it in the course of a business of carrying passengers or goods for hire,

that person shall, as regards liability for any injury, loss or damage caused by him whilst so driving the vehicle, be deemed

**s. 173.** *COX v. BUTTON* (1949) S.A.S.R. 244. On an appeal under the section the appellate court may rescind the order of disqualification or may increase or reduce the period of disqualification. Observations as to the principles upon which the appellate court will act.

to be the servant of the owner and to have been so driving the vehicle in the course of his employment by the owner.

(2) In this section "industrial award" means any award, order or determination of an authority of the Commonwealth having jurisdiction to deal with industrial disputes or of the Industrial Court or any industrial board constituted by or under the Industrial Code, 1920-1958.

175. (1) In proceedings for an offence against this Act an allegation in a complaint— Evidence.

- (a) that a specified traffic control device, warning device, gate, barrier, signal, sign, light, line or mark was on or near a road ; or
- (b) that any place was a road or carriageway or was on a road or carriageway ; or
- (c) that any road or part of a road was or was not within a municipality or in a town or township ; or
- (d) that any road or part of a road was within a speed zone ; or
- (e) that any carriageway was a one-way or a two-way carriageway ; or
- (f) that any person was at a time specified in the complaint the driver or rider of any vehicle or animal—

shall be *prima facie* evidence of the matters so alleged.

(2) Proof that a person is registered as the owner of a motor vehicle shall be *prima facie* evidence that he is the owner of that motor vehicle.

(3) In proceedings for an offence against this Act—

- (a) a statement produced by the prosecution and purporting to be signed by the person in charge of a weighbridge or weighing instrument and stating the weight on an axle, or any axles, of a vehicle shall be *prima facie* evidence of the facts so stated ;
- (b) a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or by a

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s. 175. GILL v. MAZZOLETTI (1956) S.A.S.R. 288. The section enables the prosecution to make out a *prima facie* case against the person alleged in the complaint to have been the rider or driver of any animal or vehicle, without tendering evidence that he actually was the rider or driver; but it does not throw on the person charged any onus of disproof. At the end of the case the prosecution has the burden of satisfying the court beyond reasonable doubt that the person charged was the rider or driver; and if there is then a reasonable doubt as to this fact, the prosecution has not made out its case.

GILL v. FORREST. HANSBERRY v. FORREST (1959) S.A.S.R. 48. Observations as to the application of section 157 (1) of the Road Traffic Act, 1934.

superintendent or an inspector of police, and purporting to certify that any stop-watch or speedometer specified therein had been tested on a day mentioned therein and was shown by the test to be accurate to the extent indicated in the document, shall be *prima facie* evidence of the facts certified and that the stop-watch or speedometer was accurate to the said extent on each of the fourteen days following the day of the test.

## Regulations.

**176.** (1) The Governor may make regulations for or with respect to all or any of the following matters, namely :—

- (a) prescribing the design, colour, marking or other specifications of traffic control devices and of any other lines, marks or words which may be placed or inscribed on road surfaces for the regulation or guidance of traffic and for regulating and controlling the construction, erection, marking and use of such devices, lines, marks or words ;
- (b) fixing a special speed limit for any specified classes of vehicles, and declaring that any limit so fixed shall apply to such vehicles on all roads, or on any specified roads ;
- (c) prohibiting regulating or restricting the driving or standing of vehicles upon prescribed roads or parts of roads or on roads or parts of roads within a prescribed area ;
- (d) requiring vehicles to be equipped or fitted with or to carry brakes, lamps, dipping devices for lamps, reflectors, warning devices, rear vision mirrors, protective covers on driving chains, mudguards mudflaps and other equipment or devices of any kind, in addition to any equipment or devices required by other provisions of this Act ;
- (e) prescribing requirements, additional to those mentioned in other provisions of this Act, with which brakes, lamps, dipping devices for lamps, reflectors, warning devices, rear vision mirrors and other equipment and devices carried on or fitted to vehicles or their loads pursuant to this Act must comply ;
- (f) declaring that any specified class of lamps or equipment (other than lamps or equipment with which vehicles

**s. 176.** **GRAVES V. WALKOM** (1926) S.A.S.R. 34. The breach of a statutory regulation may tend to show negligence on the part of the plaintiff or defendant.

**FORBY V. LAUCKE** (1933) S.A.S.R. 60. The existence of a statutory regulation for the use of the highway is a circumstance to be taken into account in applying the principles of common law in an action for negligence.



are required by law to be equipped) must not be carried on or fitted to vehicles or their loads ;

- (g) the couplings or other devices by which trailers are attached to or connected with the vehicles by which they are drawn, and requiring such trailers and vehicles to be fitted with safety chains complying with the regulations ;
  - (h) prescribing methods of ascertaining the weight of a vehicle with or without its load, or of any thing carried on a vehicle or the weight carried on any axle or axles of a vehicle by weighing, measurement, calculation or otherwise ;
  - (i) prescribing a maximum weight, lower than that prescribed by this Act, which may be carried on any axle or axles of a vehicle ;
  - (j) prohibiting the use on roads of vehicles which have any prescribed defect or deficiency or which in any particular do not comply with the regulations made under this Act ;
  - (k) prescribing any other matters which by this Act are required or permitted to be prescribed by regulations or which it is necessary or convenient to prescribe for the administration and enforcement of this Act ;
  - (l) prescribing any matters, additional to those prescribed in this Act, which it is necessary or convenient to prescribe for securing the safe or convenient operation of vehicles and the safety or convenience of persons on roads, or for improving or regulating the flow or management of traffic ;
  - (m) declaring that any regulation or any provision of any regulation made under this section shall be subject to limitations in respect of the hours, days, or period in which it applies, or the circumstances, roads, locality, or class of vehicles to which it applies ;
  - (n) prescribing exemptions from any of the requirements of sections 132 to 137 of this Act ;
  - (o) prescribing penalties recoverable summarily not exceeding twenty-five pounds for breach of any regulations made under this section.
- (2) Regulations prescribing a maximum weight under paragraph (i) of subsection (1) of this section may specify the actual weight, or prescribe the method by which it is to be calculated.

(3) For the purpose of enabling traffic experiments to be conducted, the Governor may make regulations—

- (a) suspending or amending any of the provisions of this Act contained in sections 48 to 105 inclusive ;
- (b) prescribing duties of road users different from or in substitution for any provisions so suspended and any other duties of road users or other matters which it is necessary or convenient to prescribe for the purpose of testing experimental traffic rules or schemes of traffic control.

Any regulations suspending or amending any provisions of this Act shall provide that the suspension or amendment will cease to operate on a day named in the regulations and being not later than six months from the day when the suspension or amendment takes effect.

The Governor may, however, by additional regulations extend the period of operation of any suspension or amendment for any period not exceeding three months at any one extension.

**Inconsistency  
of by-laws.**

**177.** If a by-law made by a council is inconsistent with this Act or a regulation made under this Act, this Act or the regulation shall prevail and the by-law shall to the extent of the inconsistency be invalid.

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

EDRIC BASTYAN, Governor.

## SCHEDULES.

### THE FIRST SCHEDULE.

Road Traffic Act, 1934, No. 2183 of 1934.  
Road Traffic Act Amendment Act, 1936, No. 2332 of 1936.  
Road Traffic Act Amendment Act, 1938, No. 2416 of 1938.  
Road Traffic Act Amendment Act, 1939, No. 23 of 1939.  
Road Traffic Act Amendment Act (No. 2), 1939, No. 34 of 1939.  
Road Traffic Act Amendment Act (No. 3), 1939, No. 45 of 1939.  
Road Traffic Act Amendment Act, 1940, No. 61 of 1940.  
Road Traffic Act Amendment Act, 1941, No. 2 of 1941.  
Road Traffic Act Amendment Act (No. 2), 1941, No. 46 of 1941.  
Road Traffic Act Amendment Act, 1942, No. 4 of 1942.  
Road Traffic Act Amendment Act (No. 2), 1942, No. 17 of 1942.  
Road Traffic Act Amendment Act, 1943, No. 35 of 1943.  
Road Traffic Act Amendment Act, 1944, No. 2 of 1944.  
Road Traffic Act Amendment Act (No. 2), 1944, No. 20 of 1944.  
Road Traffic Act Amendment Act, 1945, No. 2 of 1945.  
Road Traffic Act Amendment Act (No. 2), 1945, No. 40 of 1945.  
Road Traffic Act Amendment Act, 1946, No. 4 of 1946.  
Road Traffic Act Amendment Act, 1947, No. 3 of 1947.  
Road Traffic Act Amendment Act (No. 2), 1947, No. 40 of 1947.  
Road Traffic Act Amendment Act, 1948, No. 55 of 1948.  
Road Traffic Act Amendment Act, 1950, No. 29 of 1950.  
Road Traffic Act Amendment Act, 1951, No. 48 of 1951.  
Road Traffic Act Amendment Act, 1952, No. 41 of 1952.  
Road Traffic Act Amendment Act (No. 1), 1953, No. 36 of 1953.  
Road Traffic Act Amendment Act (No. 2), 1953, No. 37 of 1953.  
Road Traffic Act Amendment Act, 1954, No. 48 of 1954.  
Road Traffic Act Amendment Act, 1955, No. 34 of 1955.  
Road Traffic Act Amendment Act (No. 2), 1955, No. 56 of 1955.  
Road Traffic Act Amendment Act, 1956, No. 35 of 1956.  
Road Traffic Act Amendment Act, 1957, No. 51 of 1957.  
Road Traffic Act Amendment Act, 1958, No. 23 of 1958.  
Road Traffic Act Amendment Act, 1959, No. 51 of 1959.  
Road Traffic Board Act, 1960, No. 41 of 1960.

## THE SECOND SCHEDULE.

## TRANSITIONAL PROVISIONS.

In connection with the repeal of the enactments mentioned in the first schedule the following provisions shall have effect except where the context otherwise requires :—

1. Proceedings for an offence committed against a repealed enactment before the repeal, may be commenced or continued, and dealt with and completed in all respects as if this Act had not been passed.

2. Any order disqualifying a person from holding and obtaining a licence made under a repealed Act before the repeal, may be suspended or removed under this Act, but, subject to any such suspension or removal, shall remain in force.

3. Any approval, permit, exemption or certificate of safety granted under any of the repealed enactments and in force immediately before the repeal shall remain in force and have effect as if it had been lawfully granted by the appropriate authority under this Act.

4. The Road Traffic Board of South Australia appointed under Act No. 41 of 1960, shall continue in office as if appointed under this Act, and this Act had been in force at the time of the appointment.

5. If any doubt or difficulty arises as a result of the repeal by this Act of any enactment, or of the passing of this Act, the Governor may by proclamation give directions for the purpose of removing the doubt or difficulty or declaring what is to be done and such a proclamation shall have effect as if it were a provision of this Act.

6. The prohibited area declared by proclamation made on the 18th March 1937 under section 151 of the Road Traffic Act 1934-1936 shall be deemed to be a prohibited area proclaimed under section 85 of this Act.