



STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) ACT 1992

No. 37 of 1992

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ELIZABETHAE II REGINAE

A.D. 1992

No. 37 of 1992

An Act to amend the Criminal Law Consolidation Act 1935, the Road Traffic Act 1961 and the Summary Offences Act 1953.

[Assented to 21 May 1992]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Illegal Use of Motor Vehicles) Act 1992*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF THE CRIMINAL LAW CONSOLIDATION ACT 1935**

Insertion of ss. 86a and 86b

4. The following sections are inserted after section 86 of the principal Act:

Using motor vehicle without consent

86a. (1) A person who, on a road or elsewhere, drives, uses or interferes with a motor vehicle without first obtaining the consent of the owner of the vehicle is guilty of an offence.

Penalty: For a first offence—imprisonment for 2 years;

For a subsequent offence—imprisonment for not less than 3 months and not more than 4 years.

(2) Where an adult court finds a person guilty of an offence against this section, the court must (whether or not it convicts the person of the offence and in addition to any other order that it may make in relation to the person) order that the person be disqualified from holding or obtaining a driver's licence for a period of 12 months.

(3) Notwithstanding the *Children's Protection and Young Offenders Act 1979*, where the Children's Court finds a charge of an offence against this section proved against a child, the Court must (whether or not it convicts the child of the offence and in addition to any other order that it may make in relation to the child) order that the child be disqualified from holding or obtaining a driver's licence for a period of 12 months (commencing, in the case of a child who has not attained the qualifying age for a driver's licence, not earlier than when the child attains that age).

(4) The disqualification prescribed by subsection (2) or (3) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence.

(5) 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 sum as the court thinks proper by way of compensation for loss or damage suffered by the owner.

(6) Subsections (1) and (5) do not apply to any person acting in the exercise of any power conferred, or the discharge of any duty imposed, under the *Road Traffic Act 1961* or any other Act.

(7) In this section—

“drive”, “driver's licence”, “motor vehicle”, “road” and “owner” have the same meanings as in the *Road Traffic Act 1961*.

Entering land or premises with intent to use motor vehicle without consent

86b. A person who enters onto land or premises with intent to commit an offence against section 86a is guilty of an offence.

Penalty: Division 3 imprisonment.

PART 3

AMENDMENT OF THE ROAD TRAFFIC ACT 1961

Amendment of heading to ss. 44 and 44a

5. The heading to sections 44 and 44a of the principal Act is amended by striking out “Illegal and”.

Repeal of s. 44

6. Section 44 of the principal Act is repealed.

PART 4

AMENDMENT OF THE SUMMARY OFFENCES ACT 1953

Amendment of s. 17—Being on premises for an unlawful purpose

7. Section 17 of the principal Act is amended by striking out the penalty at the foot of subsection (1) and substituting the following penalty:

Penalty: Where the unlawful purpose is the commission of an offence punishable by a maximum term of imprisonment of two years or more—Division 5 imprisonment.

In any other case—Division 7 fine or division 7 imprisonment.

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

ROMA MITCHELL Governor