



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 108 of 1978

An Act to amend the Boating Act, 1974-1975.

[Assented to 7th December, 1978]

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

1. (1) This Act may be cited as the "Boating Act Amendment Act, 1978". Short titles.

(2) The Boating Act, 1974-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Boating Act, 1974-1978".

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) This Act shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in this State.

3. Section 5 of the principal Act is amended by striking out the definition of "boat" and inserting in lieu thereof the following definition:— Amendment of principal Act, s. 5— Interpretation.

"boat" means any vessel that is used, or is capable of being used, as a means of transportation on water but does not include any such vessel used and operated solely for—

(a) the transportation for monetary or other consideration of passengers, livestock or goods;

or

(b) other commercial purposes:.

4. Section 12 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (1);

(b) by inserting in subsection (4) after the passage "renew the registration of the motor boat" the passage "(as from expiration of the period of registration during which the application for renewal was made)";

and

Amendment of principal Act, s. 12— Application for registration.

(c) by striking out subsection (7) and inserting in lieu thereof the following subsection:—

(7) Upon the expiration of the period for which registration of a motor boat was granted or last renewed, the registration shall (unless renewed, or further renewed) lapse.

Amendment of
principal Act,
s. 14—
Registration
label, etc.

5. Section 14 of the principal Act is amended—

(a) by striking out from subsection (3) the passage “A registration label” and inserting in lieu thereof the passage “A current registration label”;

and

(b) by striking out from subsection (4) the passage “The identifying mark” and inserting in lieu thereof the passage “The current identifying mark”.

Amendment of
principal Act,
s. 15—
Offences
relating to
registration.

6. Section 15 of the principal Act is amended by striking out paragraphs (a), (b) and (c) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(a) without being currently registered under this Part;

(b) without a current registration label affixed as required by this Part;

(c) without a current identifying mark or number displayed as required by this Part;

Amendment of
principal Act,
s. 23—
Unlawful
operation of
motor boats.

7. Section 23 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsections:—

(3) No offence is committed under this section by a person who operates, or permits another to operate, a motor boat without a licence or permit under this Part—

(a) if—

(i) the boat is not operated at a speed in excess of 18 kilometres per hour;

(ii) the operator is above the age of twelve years;

and

(iii) a licensed person is in charge of the boat;

or

(b) if the motor boat is exempted from the provisions of this Part by proclamation.

(4) The Governor may, by proclamation, exempt any motor boat, or class of motor boats, from the provisions of this Part, and may, by subsequent proclamation, revoke, amend or vary any such proclamation.

(5) An exemption may be granted under subsection (4) of this section upon conditions stipulated in the proclamation.

Amendment of
principal Act,
s. 25—
Unseaworthy
boats.

8. Section 25 of the principal Act is amended by striking out subsections (7) and (8).

9. Section 31 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of
s. 31 of
principal Act
and enactment
of section in
its place.

31. (1) A member of the police force, or a person authorized in writing by the Minister, may, for any purpose connected with the administration or enforcement of this Act, exercise any of the following powers—

Powers of
police officer
or authorized
officer.

- (a) he may direct a person who is operating a boat—
 - (i) to manoeuvre the boat in a specified manner;
 - or
 - (ii) to stop the boat and secure it in a specified manner;
- (b) he may board a boat—
 - (i) for the purpose of determining whether a registration label is affixed to the boat in accordance with this Act;
 - (ii) for the purpose of inspecting the boat to determine whether it is seaworthy;
 - or
 - (iii) for the purpose of investigating an offence that he reasonably suspects to have been committed by a person on board the boat;
- (c) he may require the operator of a motor boat to produce his licence or permit, within forty-eight hours, or some specified longer period, for inspection—
 - (i) by a member of the police force at a police station in South Australia nominated by the operator of the motor boat, or if the operator fails to nominate a police station after being invited to do so, at a police station nominated by the member of the police force or authorized person;
 - or
 - (ii) by a nominated person at a place agreed upon by the operator of the motor boat and the member of the police force or authorized person;
- (d) he may require any person—
 - (i) whom he reasonably suspects of having committed an offence against this Act;
 - or
 - (ii) who is, in his opinion, in a position to give evidence relating to the commission of an offence,

to state his name and address.

(2) A person who—

- (a) fails to obey a direction or requirement under subsection (1) of this section;
- (b) hinders a member of the police force or an authorized person acting in the exercise of powers conferred by subsection (1) of this section;

or

(c) when required to state his name and address, states a false name or address,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(3) Where a person is charged with an offence consisting of a failure to obey a direction given under paragraph (a) of subsection (1) of this section, it shall be a defence to prove that compliance with the direction would have endangered life or property.

Amendment of
principal Act,
s. 32—
Power of
arrest.

10. Section 32 of the principal Act is amended by striking out from subsection (1) the word "Director" and inserting in lieu thereof the word "Minister".

Enactment of
s. 35a of
principal Act.

11. The following section is enacted and inserted in the principal Act after section 35 thereof:—

Explanation of
offences.

35a. (1) If the Director believes on reasonable grounds that a person has committed an offence to which this section applies, he may give that person a written notice to the effect that the offence may be expiated by payment to the Minister of an amount specified in the notice (being an amount fixed by regulation) before any day, or within any period, specified in the notice.

(2) A notice under subsection (1) of this section may be given to the person believed to have committed the offence—

(a) personally;

or

(b) by post.

(3) Where an offence is expiated in accordance with the terms of a notice under subsection (1) of this section, the person alleged to have committed the offence shall not be prosecuted in any court for that offence.

(4) The expiation of an offence under this section shall not be regarded in any legal proceedings as—

(a) an admission of guilt by the person who expiated the offence;

or

(b) evidence of any act or omission, that constitutes an element of the offence, on the part of the person who expiated the offence.

(5) In this section—

"offence to which this section applies" means an offence under this Act declared by regulation to be an offence to which this section applies.

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

K. D. SEAMAN, Governor