



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 72 of 1985

An Act to amend the Motor Vehicles Act, 1959.

[Assented to 6 June 1985]

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

Short title.

1. (1) This Act may be cited as the "Motor Vehicles Act Amendment Act (No. 2), 1985".

(2) The Motor Vehicles Act, 1959, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of
s. 75a—
Learner's permits.

3. Section 75a of the principal Act is amended—

(a) by striking out subsections (2), (3), (3a), (4) and (5) and substituting the following subsections:

(2) A learner's permit shall—

(a) be in a form determined by the Minister;

(b) authorize the holder of the permit to drive a motor vehicle on roads—

(i) during the period specified in the permit;
and

(ii) subject to the conditions endorsed upon the permit;

and

(c) while the conditions endorsed upon the permit are observed, have effect as a licence.

(3) The Registrar shall endorse upon a learner's permit—

- (a) a condition that the holder of the permit shall not drive a motor vehicle, or attempt to put a motor vehicle in motion, on a road while there is present in his blood the prescribed concentration of alcohol;
- (b) a condition that the holder of the permit shall not drive a motor vehicle at a speed exceeding by 10 kilometres an hour or more a speed limit that applies under the Road Traffic Act, 1961, or this Act;
- (c) a condition that the holder of the permit shall not drive a motor vehicle on a road unless one plate bearing the letter "L" is affixed to the vehicle in accordance with the regulations;
- (d) a condition that the holder of the permit shall not drive a motor vehicle on a road—
 - (i) being a motor vehicle other than a motor cycle—unless another person who holds a driver's licence authorizing the person to drive that motor vehicle (not being a licence endorsed with conditions pursuant to section 81a) occupies a seat in the vehicle next to the holder of the permit;

or

- (ii) being a motor cycle—unless any person who is carried by the holder of the permit as a passenger on the motor cycle or in a sidecar attached to the motor cycle is the holder of a driver's licence authorizing the person to drive that motor cycle (not being a licence endorsed with conditions pursuant to section 81a);

and

(e) any other condition—

- (i) limiting the kind of vehicle that may be driven pursuant to the permit;
- (ii) limiting the hours during which or the locality within which a vehicle may be driven pursuant to the permit;

or

- (iii) imposing any other restriction,

that the Registrar thinks necessary.

(3a) In this section—

“prescribed concentration of alcohol” means any concentration of alcohol in the blood.

(3b) The conditions referred to in subsection (3) do not apply to the holder of a permit when driving any vehicle that the person is authorized to drive pursuant to a driver's licence.

(3c) The condition referred to in subsection (3) (d) does not apply to the holder of a permit when driving a motor vehicle during the course of a practical driving test conducted pursuant to this Act.

(4) If an applicant is not willing to accept a learner's permit endorsed with conditions pursuant to this section, the Registrar shall refuse to issue a permit to the applicant.

(4a) The conditions referred to in subsection (3) (a), (b), (c) and (d) shall be deemed to have been endorsed upon any learner's permit in force immediately before the commencement of this subsection in place of any conditions of that kind previously endorsed upon the permit but without affecting the continuing operation of any conditions of a kind referred to in subsection (3) (e) previously endorsed upon the permit.

(5) A person shall not contravene a condition endorsed upon a learner's permit under this section.

Penalty: \$1 000.

(5aaa) The holder of a learner's permit shall not drive a motor vehicle, other than a motor cycle, on a road unless two plates bearing the letter "L" are affixed to the vehicle in accordance with the regulations.

Penalty: \$100.

(5aa) The holder of a learner's permit shall not drive a motor vehicle on a road in any part of the State at a speed exceeding 80 kilometres an hour.

Penalty: \$1 000.;

and

(b) by inserting after subsection (5d) the following subsection:

(5e) Section 175 of the Road Traffic Act, 1961, shall apply in relation to—

(a) an offence against subsection (5) of contravening the condition referred in subsection (3) (b);

or

(b) an offence against subsection (5aa),

as if a reference in that section to an offence against that Act were a reference to an offence against subsection (5) or (5aa).

4. Section 81a of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (1) the passage "a licence" and substituting the passage "an unconditional licence";

(b) by striking out paragraph (c) of subsection (1) and substituting the following paragraph:

(c) has been disqualified from holding or obtaining a licence—

(i) pursuant to section 81b;

or

(ii) by order of a court made pursuant to section 47, 47b, 47e or 47i of the Road Traffic Act, 1961.

and has not held an unconditional licence issued under this Act since the end of the period of disqualification.;

(c) by inserting in paragraph (ca) of subsection (1) after the word “motion” the passage “on a road”;

(d) by striking out from paragraph (d) of subsection (1) the passage “on a road in any part of the State at a speed exceeding eighty kilometres per hour” and insert “at a speed exceeding by 10 kilometres an hour or more a speed limit that applies under the Road Traffic Act, 1961, or this Act”;

(e) by striking out from paragraph (e) of subsection (1) the passage “there are affixed to the vehicle, in accordance with the regulations, plates bearing the letter ‘P’ ” and substituting the passage “one plate bearing the letter ‘P’ is affixed to the vehicle in accordance with the regulations”;

(f) by striking out from subsection (1aa) the passage “a licence issued” and substituting the passage “an unconditional licence issued”;

(g) by striking out from subsection (1a) the definition of “prescribed concentration of alcohol” and substituting the following definitions:

“prescribed concentration of alcohol” means any concentration of alcohol in the blood:

“unconditional licence” means a licence not subject to the conditions referred to in subsection (1) (d) and (e) or conditions substantially the same as those conditions and includes a licence issued under this Act that has been subject to such conditions for the period fixed by or under this Act.;

(h) by striking out subsection (3) and substituting the following subsection:

(3) Where—

(a) a licence is issued to an applicant referred to in subsection (1) (b)—the Registrar may, if of the opinion that there is proper cause to do so, reduce the period for which the conditions shall be effective;

or

(b) a licence is issued to an applicant referred to in subsection (1) (c) (ii) and the court by which the order of disqualification was made ordered

that the conditions shall be effective for a greater period than that prescribed by subsection (2)—the conditions shall be effective for the period ordered by the court.;

(i) by inserting after subsection (4) the following subsection:

(4a) Where a licence was, immediately before the commencement of this subsection, endorsed with conditions under this section, the conditions referred to in this section as in force after that commencement shall be deemed to have been endorsed upon the licence in place of the conditions previously endorsed upon the licence and shall be effective until the expiration of the period for which those other conditions would have been effective.

(j) by striking out from subsection (5) the passage "Two hundred dollars" and substituting the passage "\$1 000".

(k) by inserting after subsection (5) the following subsections:

(5a) The holder of a licence endorsed with conditions pursuant to this section shall not drive a motor vehicle, other than a motor cycle, on a road unless two plates bearing the letter "P" are affixed to the vehicle in accordance with the regulations.

Penalty: \$100.

(5b) The holder of a licence endorsed with conditions pursuant to this section shall not drive a motor vehicle on a road in any part of the State at a speed exceeding 80 kilometres an hour.

Penalty: \$1 000.

and

(l) by inserting after subsection (9) the following subsection:

(10) Section 175 of the Road Traffic Act, 1961, shall apply in relation to—

(a) an offence against subsection (5) of contravening the condition referred to in subsection (1) (d);

or

(b) an offence against subsection (5b),

as if a reference in that section to an offence against that Act were a reference to an offence against subsection (5) or (5b).

5. Section 81b of the principal Act is amended—

(a) by striking out subsections (1), (1a), (2), (4), (5) and (6) and substituting the following subsections:

(1) In this section—

“probationary conditions”—

(a) in relation to a learner’s permit, means the conditions referred to in section 75a;

Amendment of
s. 81b—
Consequences of
learner or
probationary
driver
contravening a
probationary
condition or
incurring four or
more demerit
points.

or

(b) in relation to a driver's licence, means the conditions referred to in section 81a.

(2) Where a person who holds a learner's permit or a driver's licence endorsed with probationary conditions—

(a) commits an offence of contravening a probationary condition;

or

(b) commits an offence in respect of which a demerit point is, or demerit points are, recorded against him and, in consequence, the total number of demerit points recorded against him in respect of offences committed while the holder of a learner's permit or a driver's licence endorsed with probationary conditions equals or exceeds four,

the Registrar shall, upon receiving notice under section 93 of the conviction, or the expiation, of the offence, give notice—

(c) that the person is disqualified from holding or obtaining a permit or licence for a period of six months commencing on a day specified in the notice;

and

(d) that, if the person holds any permit or licence at the commencement of the period of disqualification, the permit or licence is cancelled.

(3) Any notice under subsection (2) shall be given by writing served personally or by post upon the person to whom it is directed.

(4) Notwithstanding the provisions of subsection (2), any notice given to a person under that subsection does not apply in relation to any unconditional licence held or sought by the person if the person held an unconditional licence when the offence giving rise to the notice was committed.

(5) In subsection (4)—

“unconditional licence” means a licence not subject to probationary conditions.

(6) Where a person has been or is liable to be given notice of disqualification under subsection (2), that person may, in accordance with the relevant rules of court, appeal to a local court against the disqualification.;

(b) by striking out from subsection (8) the word “cancellation” and substituting the word “disqualification”;

(c) by striking out subsections (9) and (10) and substituting the following subsections:

(9) Where a court has allowed an appeal against disqualification under this section, the court shall order—

- (a) that the disqualification be removed;
- (b) that any licence held by or issued to the appellant shall be subject to probationary conditions effective until the expiration of one year from the date of the order;

and

- (c) that the appellant shall, if the holder of a licence, deliver the licence to the Registrar for the purpose of the Registrar endorsing probationary conditions upon the licence or varying any existing endorsement.

(10) Where an appeal against disqualification has been instituted under this section, the disqualification and any related cancellation shall be deemed to have been suspended until the determination or withdrawal of the appeal.

(10a) Where an appeal against disqualification is allowed under this section, any related cancellation shall be deemed to be of no effect.

(10b) An order under subsection (9) (b) does not affect the period for which probationary conditions endorsed pursuant to section 81a upon a licence issued to the appellant after the date of the order would be effective under that section.;

and

- (d) by striking out from subsection (11) the passage "cancellation of his licence" twice occurring and substituting, in each case, the word "disqualification".

Amendment of
s. 92—
Production of
licence on
disqualification,
etc.

6. Section 92 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) Where, under the provisions of the Road Traffic Act, 1961, a licence is deemed to be cancelled at the commencement of a period of disqualification ordered under that Act, the person to whom the licence is produced pursuant to subsection (1) may retain the licence or endorse particulars of the cancellation upon the licence.

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

D. B. DUNSTAN, Governor