



**MOTOR VEHICLES (HEAVY VEHICLES SPEEDING CONTROL
SCHEME) AMENDMENT ACT 1999**

No. 67 of 1999

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PART 2A

HEAVY VEHICLES SPEEDING CONTROL SCHEME

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ELIZABETHAE II REGINAE

A.D. 1999

No. 67 of 1999

An Act to amend the Motor Vehicles Act 1959.

[Assented to 18 November 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Motor Vehicles (Heavy Vehicles Speeding Control Scheme) Amendment Act 1999*.

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

Commencement

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

Insertion of Part 2A

3. The following Part is inserted after Part 2 of the principal Act:

**PART 2A
HEAVY VEHICLES SPEEDING CONTROL SCHEME**

Interpretation

71C. (1) In this Part—

"bus" means a motor vehicle built mainly to carry people that seats more than 9 adults (including the driver);

"corresponding law" means a law of the Commonwealth or another State or Territory of the Commonwealth declared by the regulations to be a corresponding law for the purposes of this Part;

"heavy vehicle" means—

- (a) a bus with a GVM over 5 tonnes; or
- (b) any other motor vehicle with a GVM over 12 tonnes; or
- (c) a motor vehicle of a prescribed class;

"prescribed speed", in relation to a heavy vehicle, means—

- (a) if different speeds are prescribed by regulation for the purposes of this definition in relation to different classes of heavy vehicles—the speed prescribed in relation to the class to which the heavy vehicle belongs; or
- (b) in any other case—the speed prescribed by regulation for the purposes of this definition;

"registered date" of a relevant speeding offence means the date registered under this Part in the register of motor vehicles as the date of the offence;

"registration authority" means the person or body responsible for registering vehicles under a corresponding law;

"speed limiting device" means a device that limits the maximum road speed capability of a vehicle to the prescribed speed;

"vehicle standards" means the vehicle standards under the *Road Traffic Act 1961*.

(2) For the purposes of this Part, a heavy vehicle is to be taken to have been involved in a relevant speeding offence if—

- (a) a person has been convicted of an offence in this State of driving the vehicle at a speed 15 kilometres per hour or more over the speed limit applying to the vehicle; or
- (b) a person has expiated an offence in this State in respect of which an expiation notice has been issued alleging that the vehicle was driven at a speed 15 kilometres per hour or more over the speed limit applying to the vehicle; or
- (c) the registration authority under a corresponding law has notified the Registrar of an offence in another State or Territory of the Commonwealth involving the driving of the vehicle at a speed 15 kilometres per hour or more over the speed limit applying to the vehicle and a person has—
 - (i) been convicted of the offence; or
 - (ii) paid the amount payable in connection with an infringement notice or penalty notice issued under the law of that State or Territory in respect of the offence.

- (3) For the purposes of this Part, a person is an associate of another if—
- (a) one is a spouse, parent, brother, sister or child of the other; or
 - (b) they are members of the same household; or
 - (c) they are partners; or
 - (d) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
 - (e) one is a body corporate and the other is a director or member of the governing body of the body corporate; or
 - (f) one is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
 - (g) they are related bodies corporate within the meaning of the *Corporations Law*; or
 - (h) a chain of relationships can be traced between them under any one or more of the above paragraphs.

(4) For the purposes of subsection (3), a **beneficiary** of a trust includes an object of a discretionary trust.

Registrar to register relevant speeding offences

71D. (1) The Registrar must register in relation to a heavy vehicle registered under this Act each relevant speeding offence in which the vehicle has been involved.

(2) Registration must be effected by entering in the register of motor vehicles, in relation to the vehicle, the date and place of the relevant speeding offence and any other details the Registrar considers appropriate.

(3) An offence must not be registered in relation to a vehicle if—

- (a) the Registrar is satisfied, as a result of notification by the police or otherwise, that, in consequence of some unlawful act, the vehicle was not in the possession or control of the registered owner or the registered operator of the vehicle at the time of the offence; or
- (b) the regulations require that the offence not be registered.

Notice to be served on registered owner

71E. On registering a relevant speeding offence in relation to a heavy vehicle under this Part, the Registrar must serve on the registered owner of the vehicle a written notice that—

- (a) describes the entry made in the register; and
- (b) if the vehicle is not already required to be fitted with a speed limiting device, contains a statement of the Registrar's obligations under this Part with respect to the fitting of speed limiting devices; and

- (c) contains a statement of the Registrar's obligations under this Part with respect to the suspension of vehicle registration; and
- (d) contains a statement of the right to apply for the correction of the register or for the review of a decision under this Part.

Removal of entries relating to offences on certain change in registered ownership

71F. The Registrar must remove from the register any entry relating to an offence registered in relation to a heavy vehicle under this Part if—

- (a) a person or persons become registered as the owner or owners of the vehicle in place of the previously registered owner or owners of the vehicle; and
- (b) the newly registered owner is not an associate, or none of the newly registered owners is an associate, of the previously registered owner or any of the previously registered owners of the vehicle.

Correction of register

71G. (1) The Registrar may at any time, on application by the registered owner, or on the Registrar's own initiative, correct an error in the register in relation to a heavy vehicle.

(2) A decision on an application under this section is to be taken to be a decision of the Registrar on an application under Part 3E for the review of a decision under this Part.

Requirement to fit speed limiting device

71H. (1) The Registrar must require a speed limiting device to be fitted to a heavy vehicle (not already required to be fitted with such a device under the vehicle standards) if, on registering a relevant speeding offence in relation to the vehicle under this Part (the last offence), it appears from the register that the vehicle has been involved in a previous relevant speeding offence with a registered date within the period of three years up to the registered date of the last offence.

(2) A requirement under subsection (1) must be made by written notice served on the registered owner of the vehicle and must—

- (a) require the speed limiting device to be fitted to the vehicle so that the vehicle complies with the speed limiting requirements of the vehicle standards (as if those requirements apply to the vehicle); and
- (b) specify a period within which the work must be carried out.

(3) A vehicle in relation to which a notice has been issued under this section must not be driven on a road after the expiry of the period specified in the notice unless a speed limiting device is fitted to the vehicle in accordance with the requirements of the notice and is operating effectively to limit the maximum road speed capability of the vehicle to the prescribed speed.

(4) If a vehicle is driven in contravention of subsection (3), the driver and the registered owner of the vehicle are each guilty of an offence.

Maximum penalty: \$2 500.

(5) It is a defence to a charge of an offence against subsection (4) to prove—

- (a) if the defendant is charged as the driver of the vehicle, that, at the time the vehicle is alleged to have been driven in contravention of subsection (3), the defendant was not a registered owner of the vehicle and had no knowledge that the notice had been issued in relation to the vehicle under this section; or
- (b) if the defendant is charged as a registered owner of the vehicle, that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was alleged to have been driven in contravention of subsection (3).

(6) In proceedings for an offence against subsection (4), proof that a vehicle in relation to which a notice has been issued under this section was driven 15 kilometres per hour or more over the prescribed speed constitutes proof that the vehicle was driven in contravention of subsection (3) in the absence of proof to the contrary.

(7) Section 175 of the *Road Traffic Act 1961* applies in relation to proceedings for an offence against subsection (4) in the same way as in relation to proceedings for an offence against that Act.

Requirement to satisfy Registrar as to fitting and effective operation of speed limiting device

71I. (1) The Registrar may require the registered owner of a vehicle—

- (a) in relation to which a notice has been issued under this Part for the fitting of a speed limiting device; or
- (b) that is otherwise required to comply with the speed limiting provisions of the vehicle standards,

to satisfy the Registrar, by a date specified by the Registrar, that a speed limiting device is fitted to the vehicle as required and is operating effectively to limit the maximum road speed capability of the vehicle to the prescribed speed.

(2) A requirement under subsection (1) may be included in a notice served on the registered owner under another provision of this Part or may be made by separate written notice served on the registered owner.

(3) If the Registrar is not satisfied as to the matters required under subsection (1) in relation to a vehicle by the specified date, the Registrar may, by written notice served on the registered owner of the vehicle, suspend the registration of the vehicle until the owner satisfies the Registrar as to those matters.

Suspension of registration

71J. (1) The Registrar must suspend the registration of a heavy vehicle if, on registering a relevant speeding offence in relation to the vehicle under this Part (**the last offence**), it appears from the register that the vehicle has been involved in at least the prescribed number of previous relevant speeding offences with registered dates within the period of three years up to the registered date of the last offence.

(2) For the purposes of subsection (1), the prescribed number of previous relevant speeding offences is—

- (a) in relation to a vehicle that has been required under this Part to be fitted with a speed limiting device (and was not already required to be fitted with such a device under the vehicle standards)—three;
- (b) in any other case—two.

(3) Suspension of a vehicle's registration under this section commences on a date specified by the Registrar by written notice served on the registered owner of the vehicle and continues for—

- (a) 28 days; or
- (b) if the vehicle's registration has previously been suspended under this section following a relevant speeding offence recorded in the register with a registered date within the period of three years up to the registered date of the last offence—three months.

Registration not to be renewed, transferred, cancelled, etc., during period of suspension

71K. An application for the renewal, transfer or cancellation of the registration of a heavy vehicle, or for the re-registration of a heavy vehicle, cannot be made or granted during a period for which the vehicle's registration is suspended under this Part.

Notification of relevant speeding offences to other registration authorities

71L. (1) The Registrar must notify the registration authority under a corresponding law if a heavy vehicle registered by that authority has been involved in a relevant speeding offence in this State.

(2) The notice to the registration authority must include details of the vehicle and the date and place of the relevant speeding offence and any other details the Registrar considers appropriate.

Amendment of s. 98Z—Review by Registrar or review committee

4. Section 98Z of the principal Act is amended by striking out from subsection (1) "to exercise a power conferred by Part 2, 3, 3A, 3C or 3D in a manner adverse to the aggrieved person" and substituting "under Part 2, 2A, 3, 3A, 3C or 3D".

Amendment of Road Traffic Act

5. Section 81 of the *Road Traffic Act 1961* is repealed.

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

E. J. NEAL Governor