



HIGHWAYS (MISCELLANEOUS) AMENDMENT ACT 1998

No. 5 of 1998

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ELIZABETHAE II REGINAE

A.D. 1998

No. 5 of 1998

An Act to amend the Highways Act 1926.

[Assented to 26 March 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Highways (Miscellaneous) Amendment Act 1998*.

(2) The *Highways Act 1926* 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.

Amendment of s. 12A—Commissioner may delegate

3. Section 12A of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsections:

(1) The Commissioner may delegate any of his or her functions, powers or duties under this Act (except this power of delegation)—

- (a) to a public sector employee; or
- (b) to a member or employee of a council; or
- (c) to any other person.

(2) A delegation under this section—

- (a) must be by instrument in writing; and
- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the Commissioner to act in any matter; and

(d) is revocable at will by the Commissioner.

Amendment of s. 26—Powers of Commissioner as to roads and works

4. Section 26 of the principal Act is amended—

(a) by striking out "Penalty for contravention of this subsection: One hundred dollars" from subsection (3g) and substituting:

"Maximum penalty:

- (a) for a first offence—\$1 250
- (b) for a subsequent offence—\$2 500.";

(b) by inserting the following subsection after subsection (3g):

(3h) A court may, on finding a person guilty of an offence against subsection (3g), order the person to pay compensation to the Commissioner for loss or damage arising from the offence.

Amendment of s. 30A—Power to proclaim controlled-access roads

5. Section 30A of the principal Act is amended by striking out paragraph (b) of subsection (1) and substituting the following paragraph:

(b) declare that a controlled-access road or part of a controlled-access road will cease to be a controlled-access road or part of a controlled-access road;.

Amendment of s. 30DA—Access to property

6. Section 30DA of the principal Act is amended—

(a) by inserting "(whether lawful or unlawful)" after "access" first occurring in paragraph (a) of subsection (2);

(b) by striking out "the means of access" from subsection (3) and substituting "a lawful means of access".

Amendment of s. 30E—Offences in relation to controlled-access roads

7. Section 30E of the principal Act is amended—

(a) by striking out paragraph (a) and substituting the following paragraph:

(a) enters a controlled-access road from any other land (whether the land is privately or publicly owned and whether it comprises another road or not) or enters such land from a controlled-access road except—

- (i) by means of a route or means of access specified in a proclamation under section 30A; or
- (ii) at a place provided for or approved for the purpose by the Commissioner;;

(b) by striking out "shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars" and substituting "is guilty of an offence".

Maximum penalty: \$1 250.";

(c) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsections:

(2) The Commissioner may serve on a person who has constructed, formed or paved a means of access in contravention of subsection (1)(b) a notice requiring the person to remove the means of access and to restore the land affected to its former state and condition.

(3) A person who fails to comply with a notice under subsection (2) is guilty of an offence.

Maximum penalty: \$1 250.

(4) A person convicted of an offence against subsection (1) or (3) in respect of a continuing act or omission—

(a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than \$125; and

(b) is, if the act or omission continues after the conviction, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than \$125.

(5) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

(6) A court may, on finding a person guilty of an offence against this section, order the person to pay compensation to the Commissioner for loss or damage arising from the offence.

Amendment of s. 39D—Regulations

8. Section 39D of the principal Act is amended by striking out "forty dollars" from paragraph (c) of subsection (2) and substituting "\$1 250".

Insertion of s. 42A

9. The following section is inserted after section 42 of the principal Act:

Service of notices, etc.

42A. (1) Where this Act requires or authorises a notice or other document to be served on, or given to, a person, the notice or document may—

(a) be served on, or given to, the person or an agent of the person; or

(b) be left for the person at his or her place of residence or business with someone apparently over the age of 16 years; or

(c) be sent by post to the person or an agent of the person at his or her last known address; or

(d) be sent to the person by facsimile transmission.

(2) Without limiting subsection (1), a notice or document to be served on or given to a company may be served on the company in accordance with section 220 of the Corporations Law.

(3) Subsections (1) and (2) are in addition to and do not derogate from any other provision of this Act prescribing the manner in which a notice or other document may be served or given.

Amendment of s. 43—Regulations

10. Section 43 of the principal Act is amended by striking out "forty dollars" from subsection (2) and substituting "\$1 250".

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

E. J. NEAL Governor