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The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose
   The main purpose of this Act is to amend the Road Safety Act 1986 to establish a regime for the trialling of automated vehicles on highways.

2 Commencement
   This Act comes into operation on the day after the day on which it receives the Royal Assent.
Part 2—Amendment of Road Safety Act 1986

3 Definitions

In section 3(1) of the Road Safety Act 1986 insert the following definitions—

"ADS guidelines" means guidelines issued by the Minister under section 33M;

ADS permit means a permit granted under section 33D;

ADS permit holder, in relation to an automated vehicle, means the holder of an ADS permit that specifies the vehicle;

ADS trial means a trial on a highway of the automated driving system of an automated vehicle—

(a) for the purpose of testing the operation of the vehicle in automated mode; or

(b) for the purpose of testing the safety with which the automated capabilities of the vehicle may be deployed; or

(c) for the purpose of assisting the development of the automated capabilities of the vehicle; or

(d) for any other prescribed purpose;

automated driving system means technology (comprised of a combination of hardware and software) that is capable of performing the dynamic driving task of a motor vehicle;

automated mode, in relation to an automated vehicle, means the mode of operation of the vehicle in which the dynamic driving task is being performed by the automated driving system;
automated vehicle means a motor vehicle that is equipped with an automated driving system;

dynamic driving task means all of the real-time operational and tactical functions (other than the selection of final and intermediate destinations) required to operate a vehicle in on-road traffic including (but not limited to)—

(a) turning, lane keeping and lane changing and providing the appropriate signal for any such manoeuvre; and

(b) accelerating and decelerating; and

(c) monitoring the driving environment and responding to whatever objects or events are detected; and

(d) manoeuvre planning;

vehicle supervisor, in relation to an automated vehicle specified in an ADS permit, means a person named in the application for the permit as a vehicle supervisor for the vehicle;".

4 Circumstances in which person is to be taken to be in charge of a motor vehicle

In section 3AA of the Road Safety Act 1986, after paragraph (b) insert—

"(ba) a person who is a vehicle supervisor of an automated vehicle for which an ADS permit is in force and which is operating in automated mode at any time while the person is assigned by the ADS permit holder to perform duties as a vehicle supervisor in relation to the vehicle;".
5 Circumstances in which person is to be taken to be driving a motor vehicle

At the end of section 3AB of the Road Safety Act 1986 insert—

"(2) Without limiting the circumstances in which a person is driving an automated vehicle for which an ADS permit is in force—

(a) the ADS permit holder is to be taken to be driving the vehicle for the purposes of this Act at any time when the vehicle is operating in automated mode, whether or not at that time a vehicle supervisor is assigned by the ADS permit holder to perform duties as a vehicle supervisor in relation to the vehicle; and

(b) a vehicle supervisor who is assigned by the ADS permit holder to perform duties as a vehicle supervisor in relation to the vehicle is to be taken to be driving the vehicle for the purposes of this Act at any time when the vehicle is operating other than in automated mode.

(3) Without limiting the circumstances in which a person is driving an automated vehicle for which there is not an ADS permit in force, any of the following persons is to be taken to be driving the vehicle for the purposes of this Act, even if the vehicle is operating in automated mode—

(a) a person who is seated in the driver seat at a time when the vehicle is being used on a highway;
6 New Part 3A inserted

After Part 3 of the Road Safety Act 1986 insert—

"Part 3A—Automated vehicles

33C Application for ADS permit

(1) A person may apply to the Corporation for the grant of an ADS permit in relation to a motor vehicle or 2 or more motor vehicles.

(2) An application must—

(a) be made in the manner and form determined by the Corporation; and

(b) contain the details required by the regulations to be contained in an application about—

(i) the applicant; and

(ii) the motor vehicle or each motor vehicle; and

(iii) any proposed vehicle supervisor; and

(iv) the nature of the proposed ADS trial; and

(c) be accompanied by—

(i) a copy of a safety management plan that complies with the ADS guidelines; and
(ii) any other thing that is required to be provided with the application by the Corporation or the ADS guidelines.

(3) The Corporation—

(a) may require the applicant, or any proposed vehicle supervisor—

(i) to pass any appropriate test or undergo any appropriate assessment; or

(ii) to undergo any appropriate training; or

(iii) to comply with any prescribed procedure or requirement; and

(b) may examine, or carry out any appropriate test on, or make any assessment of, any motor vehicle to which the application relates.

Note
See also section 33K as to tests and assessments.

33D Determination of application

(1) The Corporation may grant or refuse to grant an ADS permit.

(2) Without limiting subsection (1), the Corporation may refuse to grant an ADS permit if—

(a) the application does not contain all the details required for an application or is not accompanied by all the things that are required to accompany an application; or
(b) the applicant fails to meet any criteria set out in the regulations for eligibility to hold such a permit; or

(c) the applicant, or any proposed vehicle supervisor, refuses or fails to undergo any test, assessment or training that the applicant or proposed vehicle supervisor is required to undergo by the Corporation under section 33C(3)(a); or

(d) the vehicle, or any vehicle, to which the application relates does not pass any examination, test or assessment made or carried out under section 33C(3)(b); or

(e) the vehicle, or any vehicle, to which the application relates is not an automated vehicle; or

(f) the applicant has not otherwise complied with a requirement under this Part or the regulations; or

(g) for any other reason the Corporation does not consider it appropriate to grant such a permit.

(3) In considering an application, the Corporation may have regard to a judgment, order or decision made in accordance with this Act or a law of another State or of a Territory under which authority is given to drive motor vehicles on highways.

(4) In determining whether a motor vehicle is eligible to be considered as an automated vehicle, the Corporation may accept as evidence of that a certificate as to the level of driving automation of which the vehicle is capable issued by a person the Corporation considers qualified to issue it.
33E ADS permit

(1) Unless sooner cancelled, an ADS permit remains in force for the period specified in the permit, which must not be more than 3 years.

(2) An ADS permit may be renewed or cancelled only in accordance with the regulations.

(3) An ADS permit holder must ensure that the permit is located within the automated vehicle, or in the possession of a vehicle supervisor in the vehicle, at all times while the vehicle is being used in an ADS trial.

Penalty: 5 penalty units.

33F What an ADS permit authorises

An ADS permit authorises, for the period and subject to the conditions specified in it—

(a) the ADS permit holder to drive any automated vehicle specified in the permit for the purpose of conducting an ADS trial on a highway of the automated driving system of the vehicle; and

(b) a person, who is the holder of a full driver licence and who is specified in the permit as a vehicle supervisor for any automated vehicle specified in the permit, to act as a vehicle supervisor for that vehicle; and

(c) the participation of any automated vehicle specified in the permit in an ADS trial on a highway.
33G Conditions of ADS permit

(1) An ADS permit is subject to—

(a) any conditions, determined by the Corporation, that are specified in the permit (including a condition allowed to be determined by the Corporation under regulations made under subsection (3)); and

(b) any conditions that are prescribed for an ADS permit.

(2) Without limiting subsection (1), conditions of an ADS permit may include conditions relating to—

(a) the highways on which, the days on which and the times at which any automated vehicle specified in the permit may participate in an ADS trial; and

(b) ensuring the safe operation on a highway of any automated vehicle specified in the permit; and

(c) compliance in relation to an ADS trial with the safety management plan submitted with the application for the permit; and

(d) the absence in the blood, breath or oral fluid of the ADS permit holder, or of any vehicle supervisor specified in the permit, of any concentration of alcohol or of a prescribed illicit drug while an automated vehicle specified in the permit is being used for the purposes of an ADS trial; and
(e) a requirement for a vehicle supervisor to be in an automated vehicle specified in the permit at specified times and their positioning within the vehicle; and

(f) the submission of reports in specified circumstances and at specified intervals; and

(g) the display on any automated vehicle specified in the permit of a mark, sign or symbol indicating that the vehicle is participating in an ADS trial on a highway; and

(h) real-time monitoring, in relation to any automated vehicle specified in the permit, of—
   (i) the performance of its automated driving system; and
   (ii) its location; and
   (iii) its compliance with specified conditions; and

(i) ongoing training requirements for the ADS permit holder and any vehicle supervisor specified in the permit; and

(j) any other matter dealt with in the ADS guidelines.

(3) The regulations may allow the Corporation to determine a condition of an ADS permit that, for the period when any automated vehicle specified in the permit is participating in a specified ADS trial, has the effect of—

(a) exempting from the application of specified provisions of this Act or of the regulations or of rules made under section 95D—
(i) the ADS permit holder; or
(ii) any vehicle supervisor specified in the permit; or
(iii) the automated vehicle; or
(b) applying specified provisions of this Act or of the regulations or of rules
made under section 95D with specified modifications to—
(i) the ADS permit holder; or
(ii) any vehicle supervisor specified in the permit; or
(iii) the automated vehicle.

33H Cancellation, suspension or variation of ADS permit

(1) The Corporation may, in accordance with the regulations, by notice served on the ADS permit holder, do any of the following in relation to an ADS permit granted by it—

(a) suspend the permit for any time that it thinks fit;
(b) cancel the permit;
(c) vary the permit by excluding or including a specified automated vehicle;
(d) vary the permit by excluding or including a specified vehicle supervisor;
(e) vary the conditions to which the permit is subject by imposing, removing or amending a condition.
(2) The Corporation may act under subsection (1) on the basis of a report given by a law enforcement agency (within the meaning of Part 7B) without conducting any other hearing or investigation into the matter before acting.

(3) A suspension, cancellation or variation has effect from—

(a) the time the notice is served on the ADS permit holder; or

(b) a later time or date specified in the notice.

(4) An ADS permit is of no effect during the period of a suspension.

33I Offences related to driving, or being in charge of, automated vehicle for which an ADS permit is not in force

(1) A person commits an offence if—

(a) the person drives, or is in charge of, an automated vehicle on a highway; and

(b) the vehicle is operating in circumstances that, under the regulations, an ADS permit is required for the operation of the vehicle; and

(c) an ADS permit is not in force for the vehicle.

(2) A person who commits an offence against subsection (1) is liable to a penalty not exceeding 100 penalty units.
(3) A person commits an offence if—

(a) the person—

(i) causes another person to drive, or be in charge of, an automated vehicle on a highway; or

(ii) engages in conduct that aids, facilitates or contributes in any way to another person driving, or being in charge of, an automated vehicle on a highway; and

(b) the vehicle is operating in circumstances that, under the regulations, an ADS permit is required for the operation of the vehicle; and

(c) an ADS permit is not in force for the vehicle.

(4) A person who commits an offence against subsection (3) is liable to a penalty not exceeding—

(a) 500 penalty units, in the case of a body corporate; and

(b) 100 penalty units in any other case.

Note
See section 3AB(3) as to circumstances in which a person is driving an automated vehicle for which there is not an ADS permit in force.

33J Offence to drive, or be in charge of, automated vehicle operating in breach of ADS permit condition

(1) A person commits an offence if—

(a) the person drives, or is in charge of, an automated vehicle on a highway; and
(b) the vehicle is operating in circumstances that, under the regulations, an ADS permit is required for the operation of the vehicle; and

(c) an ADS permit is in force for the vehicle; and

(d) the vehicle is operating in breach of a condition of the ADS permit.

(2) A person who commits an offence against subsection (1) is liable to a penalty not exceeding—

(a) 500 penalty units, in the case of a body corporate; and

(b) 100 penalty units in any other case.

33K Power of Corporation to conduct tests or assessments

(1) The Corporation may conduct any test on, or make any assessment of, an automated vehicle that is specified in an ADS permit, or in an application for an ADS permit, to determine if it may be operated on a highway with safety.

(2) For the purposes of subsection (1), the automated vehicle may be the subject of—

(a) a test or assessment of its automated driving system; or

(b) any other test or assessment the Corporation considers necessary and appropriate in the circumstances.
3. If the Corporation conducts a test or makes an assessment under this section—

(a) the test or assessment must be conducted—

(i) by a person of the class prescribed in relation to that class of test or assessment; and

(ii) in accordance with the ADS guidelines (if any are applicable); and

(b) the use of the results of the test or assessment by the Corporation to determine whether an automated vehicle may be operated on a highway with safety must be in accordance with the ADS guidelines.

4. A person who, in good faith, reports to the Corporation any information that discloses or suggests that the automated driving system of a specified motor vehicle is such as to make the operation of the vehicle on a highway unsafe, is not civilly or criminally liable by reason only of making that report.

33L Corporation may maintain records of persons driving, or in charge of, automated vehicles

(1) The Corporation may create and maintain a record in relation to any person who drives, or is in charge of, or intends to drive or be in charge of, an automated vehicle.

(2) The Corporation may create a record in relation to a person—

(a) when the person applies for an ADS permit for an automated vehicle; or
(b) when the person is named, in the application for an ADS permit for an automated vehicle, as a vehicle supervisor for the vehicle; or

(c) in any other prescribed circumstances.

(3) The information that may be recorded against a person in the record is as prescribed.

33M Minister may issue guidelines

(1) The Minister may, from time to time, issue guidelines about—

(a) trials of automated vehicles; or

(b) the testing, assessment or safety assurance of automated vehicles; or

(c) enforcement in relation to automated vehicles.

(2) Without limiting subsection (1), the guidelines about trials of automated vehicles may provide for—

(a) the highways on which trials may be conducted; and

(b) the way in which trials must be conducted, including the public notice to be given of them; and

(c) the matters to be addressed in an application for an ADS permit; and

(d) the content of safety management plans; and

(e) the kinds of insurance required to be held in relation to risks associated with trials; and
(f) the information and reports required to be provided arising out of, or in relation to, the conduct of trials.

(3) The Minister must ensure that the guidelines are published in the Government Gazette.

(4) The guidelines may incorporate any matter contained in an external document whether—

(a) wholly or partially or as amended by the guidelines; or

(b) as issued at the time the guidelines are made or at any time before then; or

(c) as issued from time to time.

(5) Subsection (6) applies if—

(a) the guidelines incorporate any matter contained in an external document as issued from time to time; and

(b) the external document is amended after the guidelines are issued.

(6) For the purpose of the guidelines, the external document must be taken not to have been amended until the Minister publishes notice of the amendment in the Government Gazette.

(7) In this section—

external document means a document, code, guideline, rule, specification, standard or method issued by any authority, person or body;

incorporate includes apply and adopt;
33N Power to exempt from, or vary the operation of, this Act, the regulations or rules

(1) The regulations may provide that specified provisions of this Act or of the regulations or of rules made under section 95D do not apply to, or apply with specified modifications to—

(a) ADS permit holders or a specified ADS permit holder or a specified class of ADS permit holder; or

(b) vehicle supervisors specified in ADS permits or any vehicle supervisor specified in a specified ADS permit or a specified class of ADS permit; or

(c) automated vehicles specified in ADS permits or any automated vehicle specified in a specified ADS permit or a specified class of ADS permit.

(2) An exemption given, or modification made, by the regulations under subsection (1) may be expressed as operating—

(a) for a specified period or for the whole or part of the period of a specified ADS trial or a specified class of ADS trial; and

(b) unconditionally or on specified conditions.".
7 New section 46EA inserted

After section 46E of the Road Safety Act 1986 insert—

"46EA ADS permit holders

Despite anything to the contrary in this Part or the regulations, the driver of an automated vehicle that is specified in an ADS permit that is in force for the vehicle does not incur any demerit points in respect of the operation of the vehicle in automated mode.".

8 General duty of driver or person in charge of motor vehicle

In section 59(9) of the Road Safety Act 1986, after "vehicle" insert "and, in the case of an automated vehicle, an ADS permit in force for the vehicle".

9 Duty of driver etc. of motor vehicle if accident occurs

(1) In section 61(1)(c) of the Road Safety Act 1986, after "vehicle" (where secondly occurring) insert "and, in the case of an automated vehicle, state whether it was operating in automated mode at the time of the accident".

(2) In section 61(1)(d) of the Road Safety Act 1986, after "addresses" insert "and the other information required under paragraph (c)".

10 Impoundment, immobilisation and forfeiture of motor vehicles

In section 84C(1) of the Road Safety Act 1986, in the definition of tier 2 relevant offence, after paragraph (f) insert—

"(fa) an offence against section 33I(1) or (3) or 33J(1);".
11 Information to which Part 7B applies

(1) After section 90J(1) of the Road Safety Act 1986 insert—

"(1A) This Part also applies to information—

(a) that is collected or received by the Corporation in relation to its functions and activities under Part 3A; and

(b) that identifies an individual or from which an individual's identity can be reasonably ascertained.".

(2) In section 90J(2) of the Road Safety Act 1986, for "subsection (1)" substitute "subsections (1) and (1A)".

(3) After section 90J(3) of the Road Safety Act 1986 insert—

"(4) For the purposes of subsection (1A), information collected or received by the Corporation in relation to its functions and activities under Part 3A includes, but is not limited to, information relating to any of the following—

(a) the conduct of ADS trials, including details of offences committed during such trials;

(b) the grant, refusal, renewal, variation of the conditions of, suspension or cancellation of ADS permits;

(c) the variation of ADS permits by excluding or including specified automated vehicles or specified vehicle supervisors;

(d) tests or assessments conducted under section 33K;

(e) ADS guidelines.".
12 Regulations concerning automated vehicles

At the end of Schedule 2 to the Road Safety Act 1986 insert—

"Automated vehicles"

87. Levels of driving automation applicable to automated vehicles.

88. The circumstances in which, and the categories of motor vehicles for which, an ADS permit is required.

89. Applications for an ADS permit or for the variation or renewal of an ADS permit; the dates by which applications must be made and the information and evidence to accompany applications.

90. Requirements to be complied with before an ADS permit may be granted, varied or renewed.

91. The conditions on which an ADS permit may be granted, varied or renewed.

92. The date on which an ADS permit commences and the period for which it remains in force.

93. The taking of photographs, or making of digitised images, for inclusion in ADS permit documents.

94. The issue of duplicate ADS permit documents.

95. Tests or assessments and driver training.

96. Rules to be observed by vehicle supervisors.

97. The grounds on which an ADS permit may be cancelled, suspended or varied by the Corporation and the procedures to be followed in such cases.
98. The circumstances in which the Corporation is required to cancel, suspend or vary an ADS permit or refuse an application for a variation of an ADS permit and the procedures to be followed in those cases.

99. The surrender of ADS permit documents if the ADS permit has been cancelled or suspended by the Corporation.

100. Fees payable—

   (a) in respect of an application for an ADS permit; or
   
   (b) in respect of anything that the Corporation requires to be done under section 33C(3) before granting an ADS permit; or
   
   (c) for the grant or renewal of an ADS permit; or
   
   (d) for varying an ADS permit or the conditions to which an ADS permit is subject.”.

13 Minor and consequential amendments

(1) In the heading to section 16G of the Road Safety Act 1986, after "driving" insert "non-automated".

(2) For the note at the foot of section 16G of the Road Safety Act 1986 substitute—

"Notes

1 See section 33L for the maintenance of records in relation to persons driving, or in charge of, automated vehicles.

2 See also section 35 which requires the Corporation to record demerit points against certain persons.".
(3) In section 95(6) of the Road Safety Act 1986, after "trailers" insert "or ADS permits under Part 3A".
Part 3—Consequential amendment of Crimes Act 1958

14 Crimes Act 1958

In section 317B(1) of the Crimes Act 1958, for the definition of drive substitute—

"drive, in relation to a motor vehicle, has the same meaning as it has in the Road Safety Act 1986 and includes to operate a vessel;".
Part 4—Repeal of amending Act

15 Repeal of amending Act

This Act is **repealed** on 31 December 2018.

**Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the *Interpretation of Legislation Act 1984*).
Endnotes

1 General information


† Minister's second reading speech—

Legislative Assembly: 15 November 2017
Legislative Council: 30 November 2017

The long title for the Bill for this Act was "A Bill for an Act to amend the Road Safety Act 1986 to establish a regime for the trialling of automated vehicles on highways, to make a consequential amendment to the Crimes Act 1958 and for other purposes."