

South Australia

Protective Security Regulations 2008

under the *Protective Security Act 2007*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Protective Security Regulations 2008*.

2—Commencement

These regulations will come into operation on the day on which the *Protective Security Act 2007* comes into operation.

3—Interpretation

In these regulations—
Act means the *Protective Security Act 2007*.

Part 2—Code of Conduct

4—Code of Conduct

- (1) For the purposes of section 23 of the Act, the provisions of this Part constitute a Code of Conduct for the maintenance of professional standards by protective security officers.
- (2) A protective security officer who contravenes or fails to comply with a provision of this Part (or attempts, aids, abets, counsels or procures such a contravention or failure) is guilty of a breach of the Code.

5—Honesty and integrity

A protective security officer must at all times act with honesty and integrity, whether in the course of his or her appointment or otherwise.

6—Conduct prejudicial to protective security officers

A protective security officer must not, in the course of his or her appointment or otherwise, behave in a manner that—

- (a) reflects or is likely to reflect adversely on protective security officers; or
- (b) is prejudicial to good order and discipline of protective security officers.

7—Performance of orders and duties

A protective security officer must not, without good and sufficient cause, disobey a lawful order or fail to carry out a lawful order or a duty promptly and diligently.

8—Negligence

A protective security officer must not be negligent in carrying out a lawful order or a duty.

9—Proper exercise of authority

A protective security officer must—

- (a) use only such force as is reasonably necessary in the execution of his or her duties; and
- (b) exercise the powers conferred on the protective security officer by virtue of his or her appointment reasonably and for a proper purpose.

10—Conduct towards public, police officers and other protective security officers

A protective security officer, in dealing with members of the public in the course of his or her appointment, or in dealing at any time with police officers or other protective security officers—

- (a) must not unlawfully discriminate against any person; and
- (b) must not behave in an oppressive, offensive, abusive or insulting manner; and
- (c) must be impartial and respectful.

11—Conflict of interest

A protective security officer—

- (a) must not knowingly place himself or herself in a position that creates or is likely to create a conflict of interest with his or her appointment as a protective security officer; and
- (b) must immediately report any such conflict (or likelihood of conflict) that arises in accordance with general or special orders.

12—Improperly obtaining benefit or advantage

A protective security officer must not improperly obtain or seek to obtain a benefit or advantage for himself or herself or another person from his or her position as a protective security officer.

13—Confidentiality of information

A protective security officer must treat information obtained by the officer by virtue of his or her appointment, or by SA Police, as confidential and must not—

- (a) seek to obtain access to such information except in the proper execution of his or her duties; or
- (b) improperly use or disclose such information.

14—Responsibility for property

A protective security officer must not lose, damage, waste or misuse protective security property, SA Police property or property in the custody of a protective security officer or SA Police, and must do everything within his or her authority to prevent, and report in accordance with general or special orders, the loss, damage, waste or misuse of such property.

15—Improper complaint

A protective security officer must not make a false or frivolous complaint against a protective security officer or police officer.

16—Foreign law

A protective security officer must not be found guilty of an offence under foreign law in respect of conduct that would have constituted an offence if it had occurred in this State.

17—Interpretation of Code

In this Code—

behave includes any form of behaviour, whether by word, conduct or omission;

duty, in relation to a protective security officer, means a duty of the officer under the Act, these regulations or any other Act or law;

order, in relation to a protective security officer, means—

- (a) a general or special order made or given by the Commissioner; or
- (b) an order given by a police officer; or
- (c) an order given by a person with authority under the Act or these regulations to give such an order to the officer.

Part 3—Discipline

18—Charge for breach of Code

- (1) A charge against a protective security officer for a breach of the Code must be—
 - (a) reduced to writing and signed by the Commissioner;
 - (b) forwarded to the registrar of the Tribunal.
- (2) The registrar of the Tribunal must cause a copy of the charge to be served on the alleged offender together with a notice in the form prescribed in Schedule 2.

19—Procedure where breach admitted

- (1) If the protective security officer charged admits the charge in writing and forwards the admission so as to reach the registrar of the Tribunal within 21 days after service of the written charge, the registrar must forward the admission, any written statement or request made by the officer and all other relevant papers to the Commissioner.
- (2) On receipt of the admission, the Commissioner must consider any submissions in mitigation made by the protective security officer—
 - (a) by written statement attached to the admission;
 - (b) if the officer indicated in the admission a desire to appear before the Commissioner—by personal representation to the Commissioner,

before making a decision as to any action to be taken to impose a punishment on the officer.

20—Procedure where breach not admitted

If the protective security officer charged denies the charge or does not admit it in accordance with these regulations within 21 days after service of the written charge, the Tribunal must fix a time and place for hearing the charge.

21—Punishment for offence or breach of Code

- (1) If the action to be taken against a protective security officer under section 26 of the Act—
 - (a) is to reduce the officer's remuneration—the total amount that may be forfeited by the officer must not exceed \$2 500; or
 - (b) is to impose a fine—the fine must not exceed \$2 500.
- (2) The following kinds of action are prescribed as action that may be taken against a protective security officer under section 26:
 - (a) the officer may, for a specified time, be ineligible for promotion;
 - (b) the officer may, for a specified time, be ineligible to perform duties at a higher level;
 - (c) the officer may, for a specified time, be prohibited from sitting examinations or undertaking training courses for promotional purposes;
 - (d) the officer may, for a specified time, be transferred to another position (but not, without the officer's consent, involving relocation to a place beyond reasonable commuting distance from the officer's current place of employment).
- (3) The Commissioner may, on imposing a fine for an offence or breach of the Code—
 - (a) grant time for the payment of the fine or permit it to be paid in instalments;
 - (b) deduct the fine from the protective security officer's pay or from any money due to the officer.

Part 4—Miscellaneous

22—Form of oath or affirmation

- (1) For the purposes of section 12 of the Act, the form of the oath or affirmation to be made by a protective security officer on appointment is as set out in Schedule 1.
- (2) An oath or affirmation in the form specified in Schedule 1 may be made before a justice of the peace for South Australia or of another State or a Territory of the Commonwealth.

23—Annual report

The Commissioner must, in his or her annual report to the Minister under section 43 of the Act, report on—

- (a) the current state of protective security officers, including the numbers, components, distribution and operational efficiency of the officers; and
- (b) the operations of protective security officers; and

- (c) any other matter relevant to protective security officers and their operations on which the Commissioner wishes to report or on which the Minister requires a report.

24—Application for review of informal inquiry

- (1) If a protective security officer is found on informal inquiry to have committed a breach of the Code, an application by the officer for review under section 29 of the Act must be made to the first protective security officer in the same line of command as the officer, determined in ascending order from the next rank above the officer's rank—
 - (a) who was not involved in the informal inquiry or investigations leading up to the informal inquiry; and
 - (b) who is on duty during the 3 weekdays following the day on which the application is delivered to the Commissioner's office under subregulation (2).
- (2) An application for review under section 29 of the Act—
 - (a) must be addressed to the "Informal Inquiry Review Officer" and delivered to the Commissioner's office for forwarding to the protective security officer determined under subregulation (1); and
 - (b) must be in writing in a form approved by the Commissioner; and
 - (c) must identify the informal inquiry in respect of which the review is sought; and
 - (d) must state the grounds on which the review is sought; and
 - (e) must be delivered to the Commissioner's office within 7 days after the day on which the particulars of the finding or determination on the inquiry are provided to the officer.
- (3) In this regulation—

weekday means a day other than a Saturday or a Sunday or other public holiday.

25—Liability for loss of equipment

A protective security officer to whom equipment is issued is responsible for that equipment and is liable for any loss of or damage to the equipment incurred as a result of his or her negligence.

26—Offence for former protective security officers to use or disclose information

- (1) A person who has been a protective security officer must not, after he or she ceases to be a protective security officer, use or disclose information gained by virtue of that appointment if the use or disclosure of the information would constitute an offence or breach of the Code assuming that the person were still a protective security officer.
Penalty: \$2 500.
- (2) It is a defence to a charge of an offence against subregulation (1) if the person charged proves that he or she had lawful authority or excuse to so use or disclose the information.

Schedule 1—Form of oath or affirmation

1—Form of oath or affirmation for protective security officer

I, A.B. do swear [or I, A.B. do solemnly and truly declare and affirm] that I will well and truly serve Her Majesty Queen Elizabeth II and Her heirs and successors according to law in the office of protective security officer, without favour or affection, malice or ill-will; and that I will faithfully discharge all duties imposed on me as a protective security officer—[So help me God!].

Taken at

this day }
of 20 }

Before me

..... Justice of the Peace.

Schedule 2—Form of charge for breach of Code

Protective Security Act 2007

To

You have been charged with a breach of the Code of Conduct under the *Protective Security Act 2007* as indicated in the charge/s attached dated 20

If you admit the charge/s you may state any mitigating circumstances relating to it/them either in writing, or at a personal interview with the Commissioner.

If you deny the charge/s the matter will be heard and determined by the Protective Security Officers Disciplinary Tribunal.

You may detach the bottom portion of this form and, after striking out the clauses that do not apply, deliver it within 21 days after receipt of this notice to the registrar of the Tribunal.

If you do not admit the truth of the charge/s in writing (either on the bottom portion of this form or otherwise) delivered to the registrar of the Tribunal within 21 days after you receive this notice, you will be taken to have denied the truth of the charge.

Dated the day of 20

.....
Registrar, Protective Security Officers Disciplinary Tribunal

To the Registrar
Protective Security Officers Disciplinary Tribunal
Adelaide.

1. I admit the truth of the charge/s against me dated the day of20 for a breach of the Code of Conduct.
2. I attach a statement of mitigating circumstances.
3. I desire to appear before the Commissioner to make a personal representation.
4. I do not admit the truth of the said charge/s.

(Strike out clauses that do not apply.)

Dated the day of 20

.....Signature

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2008	30	<i>Gazette 3.4.2008 p1187</i>	28.4.2008: r 2