

South Australia

## **Rail Safety Regulations 1998**

under the *Rail Safety Act 1996*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Rail Safety Regulations 1998*.

### 2—Commencement

These regulations will come into operation on the day on which the *Rail Safety Act 1996* comes into operation.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Rail Safety Act 1996*;

*quarter* means any period of three months commencing on 1 January, 1 April, 1 July or 1 October.

### 4—Act not to apply in certain cases (section 4(2)(d))

The following are excluded from the operation of the Act:

- (a) a railway used solely for the purposes of horse-drawn trams;
- (b) a railway used solely for the purposes of static displays;
- (c) a railway at an amusement park used solely for the purposes of an amusement structure within the meaning of the *Occupational Health, Safety and Welfare Regulations 1995*.

## **Part 2—Accreditation**

### **Division 1—Conditions**

#### **5—Conditions**

- (1) Pursuant to section 14(1)(b) of the Act, the following conditions are prescribed in relation to an accreditation under the Act—
  - (a) that the accredited person must, within seven days, inform the Administrating Authority—
    - (i) of a change in the person's name or residential address or, in the case of a body corporate, of a change in the name of the body corporate, or in the registered office or principal office of the body corporate; or
    - (ii) of a change in the person's business name or trading name;
  - (b) that the accredited person must, within seven days, inform the Administrating Authority of a change—
    - (i) affecting the accuracy of information furnished to the Administrating Authority for the purposes of gaining accreditation; or
    - (ii) affecting the accuracy of particulars specified in the accreditation;
  - (c) that the accredited person must, within seven days, inform the Administrating Authority of a change in the person who is responsible for the implementation and management of the accredited person's safety management plan (see section 9 of the Act);
  - (d) in the case of an accredited owner, that the accredited person will, at least 28 days before each anniversary of the person's accreditation, submit to the Administrating Authority information on the private sidings that are connected with, or have access to, the railway to which the accreditation relates.
- (2) A person who is required to provide information to the Administrating Authority under this regulation must provide the information in a manner and form determined by the Administrating Authority.

### **Division 2—Dispute resolution**

#### **6—Dispute resolution**

- (1) The following procedures are prescribed for the purposes of section 20(1) of the Act.
- (2) An application for a matter to be dealt with by conciliation or mediation must—
  - (a) be made in writing to the Minister in a manner determined by the Minister; and
  - (b) contain information about the matter and the grounds on which the application is made.

- (3) The Minister must, on receipt of an application under subregulation (2), after consultation with the applicant and the Adminstrating Authority, appoint a suitable person to act as a conciliator or mediator.
- (4) For the purposes of conciliation proceedings—
  - (a) the conciliator must call a conference of the parties to the dispute and at that conference seek to identify the issues and the possibilities of resolving the matter by agreement; and
  - (b) the parties must attend a conference under paragraph (a); and
  - (c) a conference may be adjourned from time to time by the conciliator; and
  - (d) the conciliator may at any time interview the parties separately or together; and
  - (e) the conciliator may at any time bring the proceedings to an end if the conciliator considers that the proceedings will not result in an agreed settlement between the parties.
- (5) For the purposes of mediation proceedings—
  - (a) the parties must attend before the mediator at a time and place determined by the mediator; and
  - (b) the mediator must hear the parties and seek to make relevant determinations and recommendations about what should be an acceptable outcome in the matter; and
  - (c) the mediator may adjourn any proceedings from time to time; and
  - (d) the mediator may at any time interview the parties separately or together; and
  - (e) the mediator may at any time bring the proceedings to an end if the mediator considers that the proceedings will not result in a resolution of the matter between the parties.
- (6) A conciliator or mediator may otherwise inform himself or herself on a matter as he or she thinks fit.
- (7) Evidence of anything said or done in an attempt to resolve a matter by conciliation or mediation under this regulation must not be disclosed in subsequent proceedings.
- (8) Unless otherwise determined by the Minister, costs and expenses associated with the appointment and work of a conciliator or mediator under this regulation will be shared equally between the parties.

## **Division 3—Periodical returns**

### **7—Periodical returns**

- (1) For the purposes of section 23 of the Act, accredited operators are the only accredited persons who are required to lodge returns under that section.

- (2) Pursuant to section 23 of the Act—
- (a) the prescribed period is a period of four consecutive quarters (applying on an annual basis) determined by the Administrating Authority for the purposes of this regulation for the particular accredited person, being a period ending at least eight weeks before the anniversary of the person's accreditation under the Act; and
  - (b) the relevant day is 28 days before the anniversary of the person's accreditation under the Act.
- (3) Pursuant to section 23(1) of the Act, the following information is prescribed for the purposes of a return lodged by an accredited operator under that section:
- (a) the kilometres travelled by trains operated by the operator during the relevant prescribed period; and
  - (b) the quantity of freight or the number of passengers (or both) hauled by trains operated by the operator during the relevant prescribed period; and
  - (c) the number and type of units of rolling stock operated by the operator during the relevant prescribed period; and
  - (d) a projected assessment of the kilometres to be travelled by trains operated by the operator during the next prescribed period; and
  - (e) a projected assessment of the quantity of freight or number of passengers (or both) to be hauled by trains operated by the operator during the next prescribed period; and
  - (f) a projected assessment of the number and type of units of rolling stock to be operated by the operator during the next prescribed period.
- (4) Information contained in a return lodged under section 23 of the Act must be verified by statutory declaration.
- (5) The requirement that a person lodge a return that accords with this regulation may, in respect of a particular person, or a person of a class determined by the Administrating Authority, be dispensed with according to the discretion of the Administrating Authority.

## Part 3—Notifiable occurrences

### 8—Notifiable occurrences

- (1) For the purposes of section 37 of the Act and these regulations, notifiable occurrences specified in Schedule 1 of the Act are divided into two categories, Category A and Category B.
- (2) A notifiable occurrence specified in Schedule 1 of the Act is prescribed as a Category A occurrence or Category B occurrence according to the following table:

Notifiable occurrence <sup>1</sup>	Category A <sup>2</sup>	Category B <sup>2</sup>
1	*	
2	*	
3		*

Notifiable occurrence <sup>1</sup>	Category A <sup>2</sup>	Category B <sup>2</sup>
4	* (Running line)	* (Other)
5(a)	*	
5(b)	*	
5(c)		*
6		*
7		*
8		*
9		*
10		*
11		*
12		*
13		*
14		*
15	*	
16	*	
17		*
18		*

**Notes to table—**

- 1 The notifiable occurrences are identified according to the item numbers and, if relevant, paragraph designations, used in Schedule 1 of the Act.
  - 2 Asterisks indicate whether a notifiable occurrence is a Category A or Category B occurrence.
- (3) The following requirements apply to the manner in which a notifiable occurrence specified in Schedule 1 of the Act must be reported to the Administrating Authority:
- (a) in the case of a Category A occurrence, the accredited owner or operator must notify the Administrating Authority of the occurrence as soon as practicable after the occurrence, and provide to the Administrating Authority a report on the matter within 72 hours after the occurrence; and
  - (b) in the case of a Category B occurrence, the accredited owner or operator must, within 72 hours after the occurrence, provide to the Administrating Authority a report on the matter.
- (4) A notification or report under subregulation (3) must be provided in a manner and form determined by the Administrating Authority and include the information determined by the Administrating Authority.
- (5) Pursuant to section 37(5) of the Act, Schedule 1 of the Act is amended by inserting after item 18 the following item:
- 19 A case where a railway employee is found to be carrying out railway safety work—

- (a) while there is present in his or her blood a concentration of alcohol of .02 grams or more of alcohol in 100 millilitres of blood; or
  - (b) while under the influence of a drug.
- (6) If an occurrence of the kind referred to in subregulation (5) occurs, the accredited owner or operator must, within 72 hours after the occurrence, provide the Administrating Authority a report on the matter.
- (7) A report under subregulation (6) must be provided in a manner and form determined by the Administrating Authority and include the following information:
  - (a) the name of the railway employee and a description of the work being carried out by the railway employee at the time of the occurrence;
  - (b) the date and time when, and the place where, the railway employee was found to have the relevant concentration of alcohol in his or her blood, or to be under the influence of a drug;
  - (c) —
    - (i) if the case involves alcohol—the concentration of alcohol found in the railway employee's blood;
    - (ii) if the case involves a drug—the degree to which the railway employee was affected by the drug;
  - (d) the action taken by the accredited person in the circumstances of the particular case;
  - (e) other information (if any) determined by the Administrating Authority.

## **Part 4—Miscellaneous**

### **9—Railway employees—alcohol and drugs**

- (1) For the purposes of section 30 of the Act, the prescribed concentration of alcohol is a concentration of .02 grams or more of alcohol in 100 millilitres of blood.
- (2) The Schedule sets out procedures and requirements for testing for the presence of alcohol or drugs in railway employees who are about to carry out, or who are carrying out, railway safety work.

### **10—Service of documents**

- (1) A notice or document required or authorised by or under the Act to be given to or served on a person may—
  - (a) be served on the person personally; or
  - (b) be posted in an envelope addressed to the person—
    - (i) at the person's last known address; or
    - (ii) if the person holds an accreditation under the Act—at the person's address for service; or

- (c) if the person holds an accreditation under the Act—be left for the person at the person's address for service with someone apparently over the age of 16 years; or
  - (d) be transmitted by facsimile transmission to a facsimile number provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).
- (2) The address for service of an accredited person is the address of which the Adminstrating Authority has been last notified in writing by the person as the person's address for service.

## 11—General offence

- (1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.
- (2) A person who is guilty of an offence against these regulations for which no penalty is specifically prescribed is liable to a fine not exceeding \$2 500.

## 12—Transitional provisions

The prescribed period for the purposes of clause 1 of Schedule 3 of the Act is 12 months.

# Schedule—Railway employees—alcohol and drugs—testing procedures and requirements

## Part 1—Preliminary

### 1—Preliminary

- (1) In this Schedule—

*alcotest* means a test by means of apparatus approved under the *Road Traffic Act 1961* or this Schedule for the purpose of conducting alcotests;

*analyst* means—

- (a) a person who is an analyst for the purposes of the *Road Traffic Act 1961*; or
- (b) a person appointed as an analyst by the Minister specifically for the purposes of these regulations; or
- (c) a person holding an office of a class approved by the Minister for the purposes of these regulations;

*authorised person* means—

- (a) a person appointed under clause 2; or
- (b) a member of the police force;

*breath analysing instrument* means an apparatus of a kind approved under the *Road Traffic Act 1961* or this Schedule as a breath analysing instrument;

*breath analysis* means an analysis of breath by a breath analysing instrument;

**Department** means the department of the Minister to whom the administration of the Act is committed;

**medical practitioner** means a legally qualified medical practitioner;

**Metropolitan Adelaide** has the same meaning as in the *Development Act 1993*;

**prescribed concentration of alcohol** means a concentration of .02 grams or more of alcohol in 100 millilitres of blood;

**registered nurse** means a person registered on the nurses register under the *Nurses Act 1984*.

- (2) For the purposes of this Schedule, a thing is to be regarded as having been done by a medical practitioner, registered nurse or analyst if it is done by a person acting under the supervision or direction of the medical practitioner, registered nurse or analyst.
- (3) For the purposes of this Schedule, a power to require a person to provide a sample of blood or urine includes a power to require a person to provide samples of both blood and urine.
- (4) Medical practitioners and registered nurses are persons of a prescribed class who may carry out testing for the purposes of section 30 of the Act or pursuant to clause 10 of Schedule 2 of the Act.
- (5) The results of any testing carried out under this Schedule on a railway employee who is about to carry out railway safety work may be used for the purposes of disciplinary proceedings against the railway employee, but are not admissible in proceedings for an offence.

## 2—Authorised persons

- (1) The Administrating Authority may, by instrument in writing, appoint—
  - (a) an authorised officer; or
  - (b) an officer of the Department, or any other person holding office in the Public Service of the State; or
  - (c) a person with qualifications or experience considered by the Administrating Authority to be appropriate for the performance of relevant functions under this Schedule; or
  - (d) a person nominated by an accredited person,to be an authorised person for the purposes of this Schedule.
- (2) The authority of an authorised person may be limited by the relevant instrument of appointment to a particular part of the State, to a particular railway or to particular railway employees, or otherwise.
- (3) The Administrating Authority must furnish authorised persons appointed under this clause with certificates of appointment as authorised persons.
- (4) An authorised person appointed under this clause must, if requested to do so, produce the certificate of appointment to a person required by the authorised person to submit to a test or to do any other thing under this Schedule.
- (5) Authorised persons are persons of a prescribed class who may carry out testing for the purposes of section 30 of the Act or pursuant to clause 10 of Schedule 2 of the Act.

## **Part 2—Testing**

### **3—Random testing**

- (1) An authorised person may at any time require a railway employee who is about to carry out, or who is carrying out, railway safety work—
  - (a) to submit to testing by alcotest or breath analysis (or both); or
  - (b) to provide a sample of the railway employee's blood or urine.
- (2) Testing under subregulation (1)—
  - (a) must be undertaken on a random basis; and
  - (b) must be undertaken with a view to ascertaining whether the railway employee has present in his or her blood the prescribed concentration of alcohol, or is under the influence of a drug.
- (3) If a test or analysis is carried out under subregulation (1) and leads the authorised person to believe that the railway employee may be under the influence of a drug other than alcohol, the authorised person may require the railway employee to provide a sample of the railway employee's blood or urine.

### **4—Other testing of railway employees**

- (1) An authorised person may require a railway employee who is about to carry out, or who is carrying out, railway safety work to submit to an alcotest or breath analysis (or both).
- (2) However, an authorised person may only make a requirement under subclause (1) on a non-random basis if the authorised person has reasonable grounds on which to base the requirement.
- (3) If an authorised officer is entitled under subclause (1) to require a railway employee to undergo a test or analysis and—
  - (a) the device required to carry out the test or analysis is not readily available; or
  - (b) the test or analysis is carried out and leads the authorised person to believe that the railway employee may be under the influence of a drug other than alcohol,

the authorised person may require the railway employee to provide a sample of the railway employee's blood or urine.

### **5—Breath analysis**

If an alcotest leads an authorised person to believe that the prescribed concentration of alcohol may be present in the blood of a railway employee, an authorised person may require the railway employee to submit to breath analysis.

## **6—Authorised person to facilitate blood or urine testing**

- (1) If a person of whom a requirement is made under clause 3(1)(a), 4(1) or 5 refuses or fails to comply with the requirement by reason of a physical or medical condition of the person and the person forthwith requests an authorised person that a sample of his or her blood or urine be taken, an authorised person must endeavour to facilitate the taking of the sample by—
  - (a) a medical practitioner nominated by, or acceptable to, the person; or
  - (b) if a nomination is not made or it appears to an authorised person that a medical practitioner nominated by, or acceptable to, the person will not be available to take the sample within one hour after the making of the request at a place within ten kilometres of the place of the request—any medical practitioner (at any place).
- (2) If a sample of blood or urine is to be taken under clause 4, an authorised person must endeavour to facilitate the taking of the sample by—
  - (a) a medical practitioner nominated by, or acceptable to, the railway employee; or
  - (b) if a nomination is not made or it appears to an authorised person that a medical practitioner nominated by, or acceptable to, the railway employee will not be available to take the sample within one hour after the making of the request at a place within ten kilometres of the place of the request—any medical practitioner (at any place).
- (3) The taking of a sample under this clause must be carried out in the presence of an authorised person.

## **7—Provision of information on analysis of breath and blood test requirement**

- (1) If a person has submitted to an analysis of breath by means of a breath analysing instrument and the concentration of alcohol indicated as being present in the blood of that person by the breath analysing instrument is the prescribed concentration of alcohol, the person operating the instrument must forthwith deliver to the person a written notice setting out the date, time and results of the breath analysis, and advise the person of his or her right to request that a sample of his or her blood be taken.
- (2) A person required to submit to breath analysis may, after the breath analysis, request that a sample of his or her blood be taken.
- (3) If a request is made under subclause (2), an authorised person must endeavour to facilitate the taking of a sample of the person's blood by—
  - (a) a medical practitioner nominated by, or acceptable to, the person; or
  - (b) if a nomination is not made or it appears to an authorised person that a medical practitioner nominated by, or acceptable to, the person will not be available to take the sample within one hour after the making of the request at a place within ten kilometres of the place of the request—any medical practitioner (at any place).
- (4) The taking of a sample of blood under this clause must be carried out in the presence of an authorised person.

## **8—Procedures relating to blood or urine tests**

- (1) A medical practitioner by whom a sample of blood or urine is taken under this Schedule must place it, in approximately equal proportions, in two separate containers, seal the containers and—
  - (a) must make available to an authorised person—
    - (i) one of the containers marked with an identification number distinguishing the sample from other samples taken under this Schedule; and
    - (ii) a certificate signed by the medical practitioner containing the information required under subclause (3); and
  - (b) must cause the other container to be delivered to, or retained on behalf of, the person from whom the sample was taken.
- (2) It is the duty of the medical practitioner by whom the sample is taken to take such measures as are reasonably practicable in the circumstances to ensure that the sample is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of alcohol or drug present in the blood or urine of the person from whom the sample was taken.
- (3) The certificate referred to in subclause (1)(a) must be signed by the medical practitioner by whom the sample was taken and contain the following information:
  - (a) the identification number of the sample marked on the container referred to in subclause (1)(a); and
  - (b) the name and address of the person from whom the sample was taken; and
  - (c) the name of the medical practitioner by whom the sample was taken; and
  - (d) the date, time and place at which the sample was taken.
- (4) An authorised person may arrange for a portion of a sample of a railway employee's blood or urine taken in accordance with this Schedule and provided under subclause (1)(a) to be submitted for analysis by an analyst to determine the concentration of alcohol in the blood or to determine whether the blood or urine contains a drug or drugs.
- (5) After analysis of the sample, the analyst must sign a certificate containing the following information:
  - (a) the identification number of the sample marked on the container; and
  - (b) the name and professional qualifications of the analyst; and
  - (c) the date the sample was received in the laboratory in which the analysis was performed; and
  - (d) the concentration of alcohol or drug found to be present in the sample; and
  - (e) any factors relating to the sample or the analysis that might, in the opinion of the analyst, adversely affect the accuracy or validity of the analysis; and
  - (f) any other information relating to the sample or analysis that the analyst thinks fit to include.

- (6) On completion of an analysis of a sample, the certificate of the medical practitioner by whom the sample was taken and the certificate of the analyst who performed or supervised the analysis must be sent to the Administrating Authority or retained on behalf of the Administrating Authority and, in either event, copies of the certificates must be sent—
- (a) to the medical practitioner by whom the sample was taken; and
  - (b) to the person from whom the sample was taken.
- (7) If a copy cannot be sent under subclause (6)(b) because the whereabouts of that person are unknown, a copy must be provided on application made within three years of the date of the analysis by the person from whom the sample was taken or a relative or the personal representative of that person.

## **Part 3—Offences**

### **9—Offences**

- (1) A person required to submit to an alcotest or breath analysis under this Schedule must comply with all reasonable directions of an authorised person and, in particular, must exhale into the apparatus by which the alcotest or breath analysis is conducted, in accordance with the directions of an authorised person.  
Maximum penalty: \$2 500.
- (2) A person must, when required under this Schedule to do so, provide a sample of blood or urine, or must submit to procedures necessary to provide a sample of blood or urine under this Schedule.  
Maximum penalty: \$2 500.
- (3) A person who does anything to introduce, or alter the concentration of, alcohol or a drug in the person's blood or urine before submitting to a breath analysis or providing a sample of blood or urine under this Schedule is guilty of an offence if the person does so for the purpose of preventing or restricting the use of the results of the analysis in any proceedings.  
Maximum penalty: \$2 500.
- (4) It is a defence to a prosecution under this clause that—
- (a) the requirement or direction to which the prosecution relates was not lawfully made; or
  - (b) there was, in the circumstances of the case, good cause for the refusal or failure of the defendant to comply with the requirement or direction.
- (5) No person is entitled to refuse or fail to comply with a requirement or direction under this Schedule on the ground that—
- (a) the person would, or might, by complying with that requirement or direction, furnish evidence that could be used against himself or herself; or
  - (b) the person consumed alcohol or a drug after the person last performed railway safety work and before the requirement was made or the direction given.

- (6) A person may not raise a defence that the person had good cause for a refusal or failure to comply with a requirement or direction under this Schedule by reason of some physical or medical condition of the person unless—
- (a) a sample of the person's blood was taken in accordance with clause 6; or
  - (b) the person made a request as referred to in clause 6 but—
    - (i) an authorised person failed to facilitate the taking of a sample of the person's blood as required by that clause; or
    - (ii) a medical practitioner was not reasonably available for the purpose of taking such a sample; or
  - (c) the taking of a sample of the person's blood in accordance with clause 6 was not possible or reasonably advisable or practicable in the circumstances by reason of a physical or medical condition of the person.

## **Part 4—Evidence**

### **10—Evidence**

- (1) Without affecting the admissibility of evidence that might otherwise be given in proceedings under the Act or these regulations, if the requirements of this Schedule relating to breath analysing instruments and analysis are complied with, it will be presumed in proceedings under the Act or these regulations that a concentration of alcohol indicated as being present in the blood of a person by a breath analysing instrument was present in the blood of the person at the time of analysis and throughout the preceding period of two hours.
- (2) No evidence can be adduced in rebuttal of the presumption created by subclause (1) except—
- (a) evidence of the concentration of alcohol in the blood of the defendant as indicated by analysis of a sample of blood taken and dealt with in accordance with this Schedule; and
  - (b) evidence as to whether the results of analysis of the sample of blood demonstrate that the breath analysing instrument gave an exaggerated reading of the concentration of alcohol present in the blood of the defendant.
- (3) A certificate—
- (a) purporting to be signed by the Administrating Authority and to certify that a person named in the certificate is an authorised person; or
  - (b) purporting to be signed by an authorised person and to certify that—
    - (i) the apparatus used by the authorised person was a breath analysing instrument within the meaning of this Schedule; and
    - (ii) the breath analysing instrument was in proper order and was properly operated; and
    - (iii) in relation to the breath analysing instrument, the provisions of this Schedule with respect to breath analysing instruments were complied with,

is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters so certified.

- (4) A certificate purporting to be signed by an authorised person and to certify that an apparatus referred to in the certificate is or was of a kind approved under this Schedule for the purpose of performing alcotests is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matter so certified.
- (5) A certificate purporting to be signed by an authorised person and to certify that a person named in the certificate submitted to an alcotest on a specified day and at a specified time and that the alcotest indicated that the prescribed concentration of alcohol may then have been present in the blood of that person is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters so certified.
- (6) Subject to subclause (7), a certificate purporting to be signed by an authorised person and to certify that—
  - (a) a sample of the breath of a person named in the certificate was furnished for analysis in a breath analysing instrument; and
  - (b) a concentration of alcohol expressed in grams in 100 millilitres was indicated by that breath analysing instrument as being present in the blood of that person on the day and at the time stated in the certificate; and
  - (c) a written notice required by clause 7 was delivered in accordance with that clause, and the advice required by that clause was given in the appropriate circumstances,

is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters so certified.

- (7) A certificate referred to in subclause (6) cannot be received as evidence in proceedings for an offence—
  - (a) unless a copy of the certificate proposed to be put in evidence at the trial of a person for an offence has, not less than seven days before the commencement of the trial, been served on that person; or
  - (b) if the person on whom a copy of the certificate has been served has, not less than two days before the commencement of the trial, served written notice on the complainant or informant requiring the attendance at the trial of the person by whom the certificate was signed; or
  - (c) if the court, in its discretion, requires the person by whom the certificate was signed to attend at the trial.
- (8) Subject to subclause (11), an apparently genuine document purporting to be a certificate, or copy of a certificate, of a medical practitioner or analyst under this Schedule is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters stated in the certificate.
- (9) If certificates of a medical practitioner and analyst are received as evidence in proceedings before a court and contain the same identification number for the samples of blood or urine to which they relate, the certificates will be presumed, in the absence of proof to the contrary, to relate to the same sample of blood or urine.

- (10) If a certificate of an analyst is received as evidence in proceedings before a court, it will be presumed, in the absence of proof to the contrary, that the concentration of alcohol or other drug stated in the certificate as having been found to be present in the sample of blood or urine to which the certificate relates was present in the sample when the sample was taken and throughout the preceding period of two hours.
- (11) A certificate referred to in subclause (8) cannot be received as evidence in proceedings for an offence—
  - (a) unless a copy of the certificate proposed to be put in evidence at the trial of a person for the offence has, not less than seven days before the commencement of the trial, been served on that person; or
  - (b) if the person on whom a copy of the certificate has been served has, not less than two days before the commencement of the trial, served written notice on the complainant or informant requiring the attendance at the trial of the person by whom the certificate was signed; or
  - (c) if the court, in its discretion, requires the person by whom the certificate was signed to attend at the trial.

## **Part 5—Miscellaneous**

### **11—Tests may be taken by nurses outside Metropolitan Adelaide**

- (1) If a person is to provide a sample of blood or urine in accordance with the requirements of this Schedule and the place at which the person attends for that purpose is outside Metropolitan Adelaide, a sample of the person's blood or urine may be taken by a registered nurse instead of a medical practitioner for the purposes of this Schedule.
- (2) The provisions of this Schedule apply in relation to the taking of the sample by a registered nurse, and the subsequent dealing with the sample, as if a reference in those provisions to a medical practitioner included a reference to a registered nurse.

### **12—Protection of medical practitioners from liability**

No proceedings lie against a medical practitioner or a registered nurse, or a person acting under the supervision or direction of a medical practitioner or registered nurse, in respect of anything done in good faith and in compliance, or purported compliance, with the provisions of this Schedule.

### **13—Approval of apparatus for the purposes of breath analysis and alcotests**

- (1) The Governor may, by notice published in the Gazette—
  - (a) approve apparatus of a specified kind as breath analysing instruments for the purposes of this Schedule; or
  - (b) approve apparatus of a specified kind for the purpose of conducting alcotests for the purposes of this Schedule.
- (2) The Governor may, by subsequent notice, vary or revoke any such notice.
- (3) An apparatus approved as a breath analysing instrument, or for the purpose of conducting alcotests, under the *Road Traffic Act 1961* does not require further approval for the purposes of this Schedule.

## 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](http://www.legislation.sa.gov.au).

### Revocation of regulations

These regulations became obsolete on the repeal of the *Rail Safety Act 1996* on 29.9.2008

### Principal regulations

Year	No	Reference	Commencement
1998	41	<i>Gazette 30.4.1998 p2085</i>	30.4.1998: r 2