

South Australia

Summary Offences (General) Regulations 2001

under the *Summary Offences Act 1953*

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Schedule 1—Register form

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Summary Offences (General) Regulations 2001*.

4—Interpretation

In these regulations, unless the contrary intention appears—
Act means the *Summary Offences Act 1953*.

Part 2—Impounding and forfeiture of motor vehicles (Part 14A)

5—Prescribed circumstances (section 66B, 66D and 66E)

The following circumstances in which a motor vehicle is used by a person are prescribed for the purposes of section 66B(6)(b), 66D(1)(c) and 66E(1)(a)(ii) of the Act:

- (a) the motor vehicle is being used by the person (not being the owner of the motor vehicle) in accordance with a contractual arrangement with the owner of the motor vehicle, other than a contractual arrangement that confers on the person an express or implied right or option to purchase the motor vehicle; and
- (b) the owner of the motor vehicle is a person who carries on a business that consists of, or involves, hiring or otherwise supplying motor vehicles to others for business or personal use.

Examples—

A person visiting South Australian on holiday hires a car from a car hire company to use while in the State. While that person is driving the car in accordance with the hire contract, the car is being used in circumstances prescribed by this regulation.

A taxi driver drives a taxi that is owned, not by the driver, but by the taxi company for whom the driver works. While the taxi driver is using the taxi in accordance with his or her employment contract, the taxi is being used in circumstances prescribed by this regulation.

5A—Fees payable under Part 14A

The fees set out in Schedule A1 are prescribed for the purposes set out in that Schedule.

5B—Prescribed form of notice (section 66E)

A notice prohibiting the sale or disposal of a motor vehicle served under section 66E(1) of the Act must be in the form set out in Schedule B1.

5C—Sale or disposal of motor vehicles (section 66I)

For the purpose of exercising a power to sell a motor vehicle under section 66I of the Act, the Sheriff or the Commissioner may—

- (a) set a reserve price for the motor vehicle; and
- (b) move the motor vehicle to another location within the State.

5D—Service of notices (section 66K)

A notice required or authorised to be given to, or served on, a person for the purposes of Part 14A of the Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be given to or served on the person in accordance with that Act.

Part 3—Special provisions relating to intimate search records

Division 1—Interpretation

6—Interpretation

In this Part—

intimate search record means any videotape recording, or a written record of an intimate search, made under section 81 of the Act;

register book means the register book required to be kept at a police station by these regulations.

Division 2—Register books

7—Obligation to keep register book

- (1) The officer in charge of a police station must maintain and keep at the station a register book in which the details relating to intimate search records must be entered legibly as required by these regulations, using the form in Schedule 1.
- (2) The officer must comply with any directions of the Commissioner as to the form in which the register book is to be kept.

8—Initial entry in register book

The officer in charge of a police station at which an intimate search record is made must, as soon as practicable after the record is made, ensure that—

- (a) the details required by Part A of the form in Schedule 1 are entered in the register book; and
- (b) the record is clearly marked with a unique identifier enabling it to be linked with that entry in the register book.

9—Signing of register book etc

A person who enters details in the register book must comply with the requirements of the form set out in Schedule 1 as to the signing of the register book and the obtaining of signed receipts.

10—Inspection of register book by Commissioner

- (1) The officer in charge of a police station must ensure that the register book kept at the station is available for inspection at any time by the Commissioner or by a police officer authorised by the Commissioner to inspect register books.
- (2) The Commissioner must cause all register books to be inspected regularly and at least twice yearly for the purposes of ascertaining—
 - (a) whether these regulations are being complied with; and
 - (b) whether any intimate search records should be destroyed.

Division 3—Storage, movement and destruction of intimate search records

11—Storage of intimate search records

The officer in charge of a police station at which an intimate search record is made must ensure that at all times, except while it is being used in connection with a purpose authorised by the Act or these regulations, the record is stored in a secure place at the police station so as to prevent unauthorised access.

12—Removal from storage and return of intimate search records

- (1) Subject to subregulation (2), a person must not remove an intimate search record from storage.
- (2) The officer in charge of the police station at which an intimate search record is stored may remove an intimate search record from storage only in the following circumstances:
 - (a) if the officer requires the record for the purposes of these regulations or section 81(3c), (3d), (3e) or (3f) of the Act; or
 - (b) if another person has requested access to the record and the officer reasonably believes that the person requires the record for a purpose referred to in paragraph (a).
- (3) As soon as practicable after removing the record from storage, the officer in charge must enter in the register book the details required by Part B of the form in Schedule 1, including, except where the purpose of removal is destruction of the record, the estimated date of return of the record.
- (4) As soon as practicable after the record is returned, the officer in charge must ensure that the details required by Part C of the form in Schedule 1 are entered in the register book.
- (5) If an intimate search record is not returned by the estimated date of return—
 - (a) the officer in charge must ask the person to whom the record was given to give an undertaking to return the record either immediately or on a reviewed estimated date of return; and
 - (b) the officer in charge must ensure that the details required by Part D of the form in Schedule 1 are entered in the register book.

- (6) If the record is not returned within the time specified in an undertaking given under subregulation (5), the officer in charge must notify the Commissioner of that fact in writing.

13—Copies of intimate search records

- (1) Subject to subregulation (2), a person (other than the detainee) must not make a copy of an intimate search record.
- (2) An officer in charge of a police station at which an intimate search record is stored, or another person with the approval of that officer, may make a copy of the record—
- (a) on request by the detainee; or
 - (b) as may be required for purposes related to the investigation of an offence or alleged misconduct or for the purposes of, or purposes related to, legal proceedings, or proposed legal proceedings, to which the record is relevant.
- (3) The officer in charge must ensure that—
- (a) as soon as practicable after the copy is made—
 - (i) the details of the making of the copy required by Part E of the form in Schedule 1 are entered in the register book; and
 - (ii) the copy is clearly marked with a unique identifier enabling it to be linked with that entry in the register book; and
 - (b) the copy—
 - (i) is stored in a secure place at the police station so as to prevent unauthorised access; and
 - (ii) is not removed from storage except by the officer in charge for the purpose of providing the copy to the person on whose request the copy was made.
- (4) As soon as practicable after a copy of an intimate search record is lawfully removed from storage or is given to the detainee, the officer in charge must ensure that the details required by Part F of the form in Schedule 1 are entered in the register book, including, except where the purpose of removal is destruction of the copy, the estimated date of return of the copy.
- (5) As soon as practicable after a copy of an intimate search record is returned to the police station, the officer in charge must ensure that the details required by Part G of the form in Schedule 1 are entered in the register book.
- (6) If a copy of an intimate search record is not returned by the estimated date of return—
- (a) the officer in charge must ask the person to whom the copy was given to give an undertaking to return the copy either immediately or on a reviewed estimated date of return; and
 - (b) the officer in charge must ensure that the details required by Part H of the form in Schedule 1 are entered in the register book.
- (7) If the copy is not returned within the time specified in an undertaking given under subregulation (6), the officer in charge must notify the Commissioner of that fact in writing.

14—Destruction of intimate search records and copies

- (1) An intimate search record and any copy of such a record may only be destroyed—
 - (a) by the officer in charge of the police station at which the record is required to be kept; or
 - (b) by some other person with the approval of that officer.
- (2) If an intimate search record is lawfully destroyed, any copies of the record (other than a copy provided to the detainee) must also be destroyed.
- (3) If an intimate search record is to be destroyed but the record or any copies of the record are not at the police station at which they are required to be kept, the Commissioner must direct the immediate return of the record or copies to that station.
- (4) If a record or a copy of a record is not returned as required by a direction given under subregulation (3), the officer in charge of the police station must notify the Commissioner of that fact in writing.
- (5) The officer in charge of a police station responsible for the destruction of an intimate search record and any copies must, as soon as practicable after the destruction, ensure that the details required by Part I of the form in Schedule 1 are entered in the register book.
- (6) An intimate search record consisting of a videotape recording will be regarded as having been destroyed if all material recorded on the videotape has been erased.

Part 4—Miscellaneous

14A—Declaration of vehicle immobilisation device (section 74BAA)

Pursuant to section 74BAA(2) of the Act, the Stinger Spike System Series 2000 is declared to be a vehicle immobilisation device.

14B—Prescribed serious criminal offences (section 74BA)

For the purposes of the definition of *serious criminal offence* in section 74BA of the Act, offences against the following provisions are prescribed:

- (a) sections 15(1b)(a) and 15(1c)(a) of the Act;
- (b) section 25 of the *Controlled Substances Act 1984*;
- (c) sections 12, 23 and 48 of the *Explosives Act 1936*;
- (d) sections 75, 76 and 90 of the *Lottery and Gaming Act 1936*;
- (e) regulations 2.02, 4.02, 4.08, 4.10, 4.17, 4.25, 9.02 and 15.10 of the *Explosives Regulations 1996*;
- (f) regulation 5 of the *Explosives (Fireworks) Regulations 2001*.

15—Fees (sections 74D and 81)

For the purposes of sections 74D and 81 of the Act, a fee of \$10 is payable for—

- (a) an audio tape of the soundtrack of a videotape recording of an interview with a suspect; or
- (b) a copy of an audio tape recording of an interview with a suspect; or

(c) a copy of a videotape recording made under section 81.

16—Prescribed form of written record of telephone application (section 78)

The prescribed form for a written record of a telephone application for the purposes of section 78(4) of the Act is that set out in Form 1 of Schedule 2.

17—Prescribed form of warrant (section 83C)

The prescribed form for a warrant for the purposes of section 83C of the Act is that set out in Form 2 of Schedule 2.

Schedule A1—Fees payable under Part 14A

| Fees payable to Commissioner in relation to impounding of a motor vehicle (section 66C) | Fee |
|--|------------|
|--|------------|

| | |
|---|---|
| Administration fee | \$20.00 |
| Fee for transportation of vehicle to storage facility | \$125.00 |
| Vehicle storage fee | \$30.00 for first 48 hours plus \$15.00 for each additional day (or part of a day) for which the vehicle remained uncollected |

| Fees payable to Sheriff in relation to impounding or forfeiture of motor vehicle (section 66D(2)(b)) | Fee |
|---|------------|
|---|------------|

| | |
|---|--------------|
| Seizure fee | \$58.00 |
| Fee for transportation of vehicle to storage facility | \$180.00 |
| Vehicle storage fee | \$15 per day |

Schedule B1—Notice prohibiting sale or disposal of motor vehicle

Form 1

NOTICE PROHIBITING SALE OR DISPOSAL OF MOTOR VEHICLE

Summary Offences Act 1953
Section 66E

To
(full name)
of
(address)

You are a registered owner of motor vehicle, registration number
a
(description of vehicle)

And

the Commissioner of Police reasonably believes that, at about a.m./p.m. on the
..... day of, 20 .. at
(location)

- this motor vehicle was the subject of an impounding offence as defined in section 66(1) of the Summary Offences Act 1953; and
- the person driving or operating the motor vehicle at the time of the impounding offence is to be, or has been reported for the relevant impounding offence and has been advised of that fact; or has been charged with, or arrested in relation to, the relevant impounding offence; and
- the person driving or operating the motor vehicle at the time of the impounding offence has, during the period of 5 years immediately preceding the date of the impounding offence, been convicted of at least one other prescribed offence as defined in section 66(1) of the Summary Offences Act 1953; and
- the motor vehicle was not, at the time of the impounding offence, stolen or otherwise unlawfully in the possession of the convicted person and was not being used by the person in circumstances prescribed by regulation.

YOU ARE PROHIBITED FROM SELLING OR OTHERWISE DISPOSING OF THE MOTOR VEHICLE DESCRIBED IN THIS NOTICE UNTIL PROCEEDINGS RELATING TO THE IMPOUNDING OFFENCE HAVE BEEN FINALISED. CONTRAVENTION OF THIS NOTICE IS AN OFFENCE AS FOLLOWS:

AN OWNER OF MOTOR VEHICLE MUST NOT SELL OR OTHERWISE DISPOSE OF THE MOTOR VEHICLE IN CONTRAVENTION OF A NOTICE SERVED UNDER SECTION 66E OF THE SUMMARY OFFENCES ACT 1953. Maximum penalty: \$2 000 or imprisonment for 6 months.

YOU ARE ALSO NOTIFIED THAT POLICE INTEND TO APPLY FOR THE FORFEITURE OR A FURTHER PERIOD OF IMPOUNDMENT OF THIS VEHICLE ON CONVICTION OF THE DRIVER OR PERSON OPERATING THE MOTOR VEHICLE FOR THE IMPOUNDING OFFENCE.

(SEE FURTHER IMPORTANT INFORMATION OVERLEAF)

FURTHER IMPORTANT INFORMATION

Finalisation of proceedings

For the purposes of section 66E of the Summary Offences Act 1953 proceedings relating to an offence are finalised if

- (a) the charge of the offence is withdrawn or proceedings for the offence are otherwise discontinued; or
- (b) a court has determined the charge.

Where the driver or operator charged with an impounding offence is not convicted by a court or the prosecution of that impounding offence is withdrawn or the proceedings for the offence are otherwise discontinued, or no application is to be made by police for forfeiture or a further period of impoundment, police may withdraw this notice.

You will be advised of the withdrawal of the notice in writing.

Court orders for impounding or forfeiture where offender has committed previous prescribed offence

Where an application for forfeiture or further impoundment is made by the police, each registered owner and any other person claiming ownership of the motor vehicle and any other person who is likely to suffer financial or physical hardship as a result of an order made in relation to the application for forfeiture or further impounding, may make representation to the court hearing the application.

You will be advised of the date, time and place of the hearing of any application for forfeiture or further impoundment in accordance with section 66D Summary Offences Act 1953.

PROOF OF SERVICE

Name of deponent
Address of deponent
Name of person served
Address at which service effected
Date service effected (between)..... a.m./p.m. and a.m./p.m. on the day of, 20

Method of service (tick box)

- personally,
- by leaving a copy for the person at the last known address of the person or the person's address for service with someone apparently over the age of 16 years
- by giving to or serving on the person in a manner prescribed by regulation
- by posting in an envelope addressed to the person at the person's last known address or at the person's address for service (being the address at which service was effected detailed above)

I certify that I served the attached document in the manner described.

Certified this day of....., 20
(signature of deponent)

Schedule 1—Register form

(Part 3)

Part A

Initial entry in register book (regulation 8)

Name and address of police station

.....

Name of detainee

Address

Age

Sex

Type of record (videotape of search, written record of search or videotape of read over of written record)

.....

Unique identifier for the record

Date of search

Names of persons present at search, rank and station (if member of police force) and their role in the search

.....

.....

.....

Objects found (if any) as a result of search

Date on which the written record (if any) was made

Name (and rank and station if member of police force) of person completing this Part

.....

Signature of person completing this Part

Date

Name, rank and station of officer in charge of police station

.....

Signature of officer in charge of police station

Date

Part B

Removal of intimate search record from storage
(regulation 12)

Name and address of police station

.....

Date on which record removed from storage

Name (and rank and station if member of the police force) of person requesting access to record.....

.....

Office hours telephone no. of person requesting access.....

Reason for access to the record

.....

Estimated date of return of record (unless record is to be destroyed)

Signature of person to whom record is supplied

Date.....

Name, rank and station of officer in charge of police station removing record from storage

.....

Signature of officer in charge of police station

Date.....

Part C

Return of intimate search record
(regulation 12)

Name and address of police station

.....

Date of return of record

Name (and rank and station if member of police force) of person returning record

.....

Signature of person returning the record

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station

Date.....

Part D

If intimate search record not returned by estimated date of return
(regulation 12)

Name and address of police station

Action taken by officer in charge of police station in respect of non-return of record by
estimated date of return stated in Part B.....

Undertakings given to officer in charge of police station as to return of record

Name (and rank and station if member of police force) of person completing this Part.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

Signature of officer in charge of police station

Date.....

Part E

Copies of intimate search records
(regulation 13)

Name and address of police station

Unique identifier for the copy

Date on which copy is made.....

Reasons for making copy (request by detainee/required for legal proceedings).....

Details of person copy supplied to:

Name.....

Address

Office hours telephone no.....

Receipt signed & dated.....

Name (and rank and station if member of police force) of person completing this Part.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

Signature of officer in charge of police station

Date.....

Part F

Removal of copies
(regulation 13)

Name and address of police station

.....

Date on which copy removed from storage.....

Name (and rank and station if member of the police force) of person requesting access to copy

.....

Office hours telephone no. of person requesting access.....

Reason for access to the copy.....

.....

Estimated date of return of copy (unless copy is to be destroyed)

Signature of person to whom copy supplied.....

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station removing copy from storage

.....

Signature of officer in charge of police station

Date.....

Part G

Return of copies (regulation 13)

Name and address of police station

.....

Date of return of copy.....

Name (and rank and station if member of police force) of person returning copy.....

.....

Signature of person returning copy

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station

Date.....

Part H

If copy not returned by estimated date of return (regulation 13)

Name and address of police station

.....

Action taken by officer in charge of police station in respect of non-return by the estimated date of return stated in Part F.....

.....

.....

Undertakings given to the officer as to the return of the record.....

.....

.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station

Date.....

Part I

Destruction of intimate search record and any copies

(regulation 14)

Name and address of police station

Reason for destruction (tick whichever is applicable):

- (a) Commissioner satisfied that record not likely to be required for purposes referred to in section 81(3e)
- (b) order of court or tribunal

Date and time of destruction.....

Method of destruction.....

Have all copies (other than that supplied to detainee) been destroyed? YES/NO

Name, rank and station of officer carrying out the destruction

Signature of officer carrying out the destruction

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

Signature of officer in charge of police station

Date.....

Schedule 2—Forms

(Part 4)

Form 1

Summary Offences Act 1953

Application made by telephone for an authorisation pursuant to section 78

Application made by

of

on at

(date)

(time)

Name of person apprehended

Address

Age

Sex

Details of offence under investigation

Time and date of apprehension *

or

Time and date delivered into custody at police station *

Grounds on which application made

Determination of application

If the application is granted, details of terms and conditions

Dated this day of 20 ..

Magistrate

*(*Delete whichever is inapplicable)*

cc Manager, Criminal Justice Section.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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.

Legislation revoked by principal regulations

The *Summary Offences (General) Regulations 2001* revoked the following:

Summary Offences (General) Regulations 1990

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|-----------|-------------------------------------|----------------------|
| 2001 | 197 | <i>Gazette 23.8.2001 p3283</i> | 22.2.2002: r 2 |
| 2002 | 4 | <i>Gazette 15.1.2002 p204</i> | 22.2.2002: r 2 |
| 2004 | 242 | <i>Gazette 2.12.2004 p4450</i> | 10.1.2005: r 2 |
| 2005 | 31 | <i>Gazette 28.4.2005 p1100</i> | 2.5.2005: r 2 |
| 2006 | 16 | <i>Gazette 2.2.2006 p420</i> | 2.2.2006: r 2 |
| 2007 | 295 | <i>Gazette 6.12.2007 p4753</i> | 16.12.2007: r 2 |

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision | How varied | Commencement |
|-------------------|--|------------------|
| Pt 1 | | |
| <i>rr 2 and 3</i> | <i>omitted under the Legislation Revision and Publication Act 2002</i> | <i>10.1.2005</i> |
| Pt 2 | deleted by 4/2002 r 3 | 22.2.2002 |
| | inserted by 31/2005 r 4 | 2.5.2005 |
| Pt 4 | | |
| r 14A | inserted by 242/2004 r 4 | 10.1.2005 |
| r 14B | inserted by 16/2006 r 4 | 2.2.2006 |
| Schs A1 and B1 | inserted by 31/2005 r 5 | 2.5.2005 |

Historical versions

10.1.2005

2.5.2005