

South Australia

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2007

under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

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Legislative history

1—Short title

These regulations may be cited as the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2007*.

3—Interpretation

In these regulations—

Act means the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*.

4—Prescribed offences

For the purposes of the definition of *prescribed offence* in section 3(1) of the Act the following offences are prescribed:

- (a) an offence against section 19A or 19AC of the *Criminal Law Consolidation Act 1935*;
- (b) an offence against section 44B, 45A, 46, 47, 47B or 47BA of the *Road Traffic Act 1961*;
- (c) an offence against section 54 of the *Summary Offences Act 1953*;
- (d) an offence against section 9 of the *Graffiti Control Act 2001*;

- (e) an offence against section 85 of the *Criminal Law Consolidation Act 1935* if the offence involves the marking of graffiti;
- (f) an offence against section 9, 74(2), 91(5) or 102 of the *Motor Vehicles Act 1959* (other than a first offence against any of those sections).

5—Prescribed circumstances

The following circumstances in which a motor vehicle is used by a person are prescribed for the purposes of sections 8(2)(a) and 11(c)(i) 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 Australia 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.

6—Prescribed fees

The fees set out in Schedule 1 are prescribed for the purposes set out in that Schedule.

7—Prescribed forms

- (1) For the purposes of section 14(1) of the Act, a notice that includes the particulars set out in Form 1 in Schedule 2 is a notice in the prescribed form.
- (2) For the purposes of section 14(2) of the Act, a notice that includes the particulars set out in Form 2 in Schedule 2 is a notice in the prescribed form.
- (3) For the purposes of section 15(1) of the Act—
 - (a) if the relevant authority giving the notice is a police officer or person authorised by the Commissioner to exercise the powers of a relevant authority—a notice that includes the particulars set out in Form 3 in Schedule 2 is a notice in the prescribed form; or
 - (b) if the relevant authority giving the notice is the Sheriff or a person authorised by the Sheriff to exercise the powers of a relevant authority—a notice that includes the particulars set out in Form 4 in Schedule 2 is a notice in the prescribed form.

8—Sale or disposal of motor vehicles

For the purpose of exercising a power to sell a motor vehicle under section 20 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.

9—Service of notices

In accordance with section 23(1)(d) of the Act, a notice required or authorised to be given to, or served on, a person for the purposes 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.

Schedule 1—Prescribed fees

Fees payable to Commissioner in relation to impounding of a motor vehicle (section 9)	Fee
Administration fee (to be charged once only in relation to the impounding of a particular motor vehicle in relation to a particular offence)	\$73.00
Fee for transportation of vehicle to storage facility	\$232.00
Vehicle storage fee	\$19.40 per day (or part thereof) during which the vehicle is impounded or remains uncollected
Fees payable to Commissioner in relation to clamping of a motor vehicle (section 9)	Fee
Administration fee (to be charged once only in relation to the clamping of a particular motor vehicle in relation to a particular offence)	\$30.75
Fee for attending to attach clamps to motor vehicle	\$73.00 plus a fee of 88 cents per kilometre travelled to and from the location at which the clamps are attached
Fee for attending to remove clamps from motor vehicle	\$73.00 plus a fee of 88 cents per kilometre travelled to and from the location at which the clamps are removed
Fees payable to Sheriff in relation to impounding or forfeiture of motor vehicle (section 12(1)(b))	Fee
Administration fee (to be charged once only in relation to the impounding or forfeiture of a particular motor vehicle in relation to a particular offence)	\$58.00
Seizure fee	\$80.50
Fee for transportation of vehicle to storage facility	\$232.00

Fees payable to Sheriff in relation to impounding or forfeiture of motor vehicle (section 12(1)(b))	Fee
Vehicle storage fee (for impounded vehicles only)	\$19.40 per day (or part thereof) during which the vehicle is impounded or remains uncollected

Schedule 2—Prescribed forms

Form 1

Prescribed form for the purpose of a notice under section 14(1) of the Act

Notice prohibiting sale or disposal of motor vehicle

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007
Section 14(1)

To
(full name)

of
(address)

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

and

the Commissioner of Police reasonably believes that—

- a power to clamp or impound this motor vehicle may be exercised under Part 2 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* in respect of a prescribed offence (as defined in section 3 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*) that is alleged to have occurred on the day of 20 at
(location)

but

- that power is not to be exercised immediately.

YOU ARE PROHIBITED FROM SELLING OR OTHERWISE DISPOSING OF THE MOTOR VEHICLE DESCRIBED IN THIS NOTICE UNTIL THE POWER TO CLAMP OR IMPOUND HAS BEEN EXERCISED. CONTRAVENTION OF THIS NOTICE IS AN OFFENCE AS FOLLOWS:

AN OWNER OF A MOTOR VEHICLE MUST NOT SELL OR OTHERWISE DISPOSE OF THE MOTOR VEHICLE IN CONTRAVENTION OF A NOTICE GIVEN UNDER SECTION 14 OF THE *CRIMINAL LAW (CLAMPING, IMPOUNDING AND FORFEITURE OF VEHICLES) ACT 2007*.

Maximum penalty: \$2 500 or imprisonment for 6 months.

Given by the Commissioner of Police on
(date)

If you have any questions about this notice please contact SAPOL on telephone during business hours.

Form 2
Prescribed form for the purpose of a notice under section 14(2) of the Act
Notice prohibiting sale or disposal of motor vehicle

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007
Section 14(2)

To
(full name)

of
(address)

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

and you **or** another person
(name of other person if applicable)

are to be reported for, have been reported for, have been charged with or have been arrested in relation to a prescribed offence (as defined in section 3 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*), that is alleged to have occurred on the day of 20..... at
(location)

and the Commissioner of Police reasonably believes that, on conviction for the offence an application could be made under Part 3 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* for the court to impound or forfeit the motor vehicle.

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

AN OWNER OF A MOTOR VEHICLE MUST NOT SELL OR OTHERWISE DISPOSE OF THE MOTOR VEHICLE IN CONTRAVENTION OF A NOTICE SERVED UNDER SECTION 14 OF THE *CRIMINAL LAW (CLAMPING, IMPOUNDING AND FORFEITURE OF VEHICLES) ACT 2007*.

Maximum penalty: \$2 500 or imprisonment for 6 months.

Given by the Commissioner of Police on
(date)

If you have any questions about this notice please contact SAPOL on telephone during business hours.

Further important information

Finalisation of proceedings

For the purposes of section 14(2) of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* 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.

The Commissioner of Police may at any time withdraw this notice and must do so if the Commissioner becomes aware that no charges are to be laid in respect of the relevant prescribed offence or that charges relating to the relevant prescribed offence are not to be proceeded with.

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

Form 3

Prescribed form for the purpose of a notice under section 15 of the Act (where a police officer or a person authorised by the Commissioner is the relevant authority)

Notice requiring production of motor vehicle for the purposes of Part 2 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007
Section 15

To
(full name)

of
(address)

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

and you or another person
(name of other person if applicable)

are to be reported for, have been reported for, have been charged with or have been arrested in relation to a prescribed offence (as defined in section 3 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*), that is alleged to have occurred on the day of 20..... at
(location)

FOR THE PURPOSES OF (tick appropriate action) CLAMPING IMPOUNDING
**THAT MOTOR VEHICLE IN ACCORDANCE WITH PART 2 OF THE CRIMINAL LAW (CLAMPING, IMPOUNDING AND FORFEITURE OF VEHICLES) ACT 2007, I, BEING A RELEVANT AUTHORITY FOR THE PURPOSES OF THAT ACT, AND BY AUTHORITY OF SECTION 15 OF THAT ACT, REQUIRE YOU TO PRODUCE THE MOTOR VEHICLE BETWEEN THE HOURS OF..... am/pm and am/pm on the day of 20..... at
(location)**

**It is an offence, without reasonable excuse, to refuse or fail to comply with this notice.
Maximum penalty: \$2 500 or imprisonment for 6 months.**

RELEVANT AUTHORITY:		
..... (officer's signature) (print name) (officer's ID)
..... (location) (date)	

If you are unable to produce the vehicle on this day, please contact SAPOL on telephone during business hours before that day.

Form 4

Prescribed form for the purpose of a notice under section 15 of the Act (where the Sheriff or a person authorised by the Sheriff is the relevant authority)

Notice requiring production of motor vehicle for the purposes of Part 3 of the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007
Section 15

To
(full name)

of
(address)

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

And the motor vehicle is the subject of an order for impounding forfeiture (tick appropriate order) that was made by

(name of court)
upon the conviction of
(name of defendant)

in these proceedings
(name and number of proceedings)

on..... the day of 20.....

**FOR THE PURPOSES OF ENFORCING THAT ORDER, I, BEING A RELEVANT AUTHORITY FOR THE PURPOSES OF THAT ACT, AND BY THE AUTHORITY OF SECTION 15 OF THE CRIMINAL LAW (CLAMPING, IMPOUNDING AND FORFEITURE OF VEHICLES) ACT 2007, REQUIRE YOU TO PRODUCE THE MOTOR VEHICLE BETWEEN THE HOURS OF am/pm and..... am/pm on the day of 20..... at
(location)**

It is an offence, without reasonable excuse, to refuse or fail to comply with this notice.

Maximum penalty: \$2 500 or imprisonment for 6 months.

RELEVANT AUTHORITY: (signature of Sheriff or authorised person) (print name) (date)
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If you are unable to produce the vehicle on this day, please contact the Sheriff's office on telephone during business hours before that day.

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.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2007	294	<i>Gazette 6.12.2007 p4746</i>	16.12.2007: r 2
2009	110	<i>Gazette 4.6.2009 p2542</i>	1.7.2009: r 2
2010	146	<i>Gazette 10.6.2010 p2996</i>	1.7.2010: r 2
2010	208	<i>Gazette 30.9.2010 p4991</i>	31.10.2010: 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
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2009</i>
Sch 1	substituted by 110/2009 r 4	1.7.2009
	substituted by 146/2010 r 4	1.7.2010

Historical versions

1.7.2009