

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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### **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*.

### **3A—Forfeiture offences**

For the purposes of the definition of *forfeiture offence* in section 3 of the Act, indictable offences against Part 3 Division 6 of the *Criminal Law Consolidation Act 1935* are prescribed.

### **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 aggravated offence against section 45 of the *Road Traffic Act 1961*;
- (b) an offence against section 44B, 45A, 46, 47, 47B or 47BA of the *Road Traffic Act 1961*;

- (c) an offence against section 17AA or 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 or 102 of the *Motor Vehicles Act 1959* (other than a first offence against either of those sections);
- (g) an offence against section 74(2), 74(2a) or 91(5) of the *Motor Vehicles Act 1959*.

## **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, the notice set out in Form 1 of Schedule 2 is prescribed.
- (2) For the purposes of section 14(2) of the Act, the notice set out in Form 1 of Schedule 2 is prescribed.
- (3) For the purposes of section 15(1) of the Act—
  - (a) if the relevant authority giving the notice is a police officer—the notice set out in Form 1 of Schedule 2 is prescribed; 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—the notice set out in Form 2 of Schedule 2 is prescribed.

## 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 of Act)

1	Administration fee (to be charged once only in relation to the impounding of a particular motor vehicle in relation to a particular offence)	\$75.00
2	Fee for transportation of vehicle to storage facility	\$239.00
3	Vehicle storage fee	\$20.00 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 of Act)

4	Administration fee (to be charged once only in relation to the clamping of a particular motor vehicle in relation to a particular offence)	\$31.75
5	Fee for attending to attach clamps to motor vehicle	\$75.00 plus a fee of 90 cents per kilometre travelled to and from the location at which the clamps are attached
6	Fee for attending to remove clamps from motor vehicle	\$75.00 plus a fee of 90 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) of Act)

7	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)	\$59.50
8	Seizure fee	\$83.00
9	Fee for transportation of vehicle to storage facility	\$239.00
10	Vehicle storage fee (for impounded vehicles only)	\$20.00 per day (or part thereof) during which the vehicle is impounded or remains uncollected*

- \* If a person entitled to custody of an impounded motor vehicle has, after the end of the impounding period and during ordinary business hours, applied to the relevant authority for release of the motor vehicle and has attended to collect the vehicle in accordance with any instructions of the relevant authority, no vehicle storage fee is payable in respect of any day occurring after the date of that application.

## **Schedule 2—Prescribed forms**

### **Form 1**

To the owner of the following motor vehicle:

Registration No:

Description:

It is alleged that a relevant prescribed offence occurred as follows:

Date:

Time:

Location:

### **Notice under section 14 of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007***

You are prohibited from—

- selling or disposing of the motor vehicle
- intentionally damaging or altering the motor vehicle or causing or permitting another person to damage or alter the motor vehicle

The prohibition continues until—

- the power under Part 2 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* to clamp or impound has been exercised in relation to the relevant prescribed offence
- proceedings relating to the relevant prescribed offence have been finalised

It is an offence to contravene the prohibitions specified in this notice.

### **Notice under section 15 of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007***

You are required to produce the motor vehicle—

Between the hours of:

On:

At:

If you are unable to do so, you must contact SAPOL during business hours before that day on the following number to arrange another time:

The motor vehicle is to be produced for the purpose of a relevant authority exercising a power under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* in relation to the motor vehicle.

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

Issuing police officer's ID number:

## Form 2

### Notice under section 15 of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

To the owner of the following motor vehicle:

Registration No:

Description:

An order for impounding or forfeiture of the motor vehicle has been made as follows:

Court:

Name and number of proceedings:

Date:

You are required to produce the motor vehicle—

Between the hours of:

On:

At:

If you are unable to do so, you must contact the Sheriff's office during business hours before that day on the following number to arrange another time:

The motor vehicle is to be produced for the purpose of a relevant authority exercising a power under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* in relation to the motor vehicle.

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

## 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](http://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
<b>2011</b>	<b>83</b>	<b><i>Gazette 9.6.2011 p2118</i></b>	<b>1.7.2011: r 2</b>
2012	89	<i>Gazette 31.5.2012 p2375</i>	1.7.2012: 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>
r 3A	inserted by 208/2010 r 4	31.10.2010
r 4	varied by 208/2010 r 5(1)—(3)	31.10.2010
r 7	substituted by 208/2010 r 6	31.10.2010
Sch 1	substituted by 110/2009 r 4	1.7.2009
	substituted by 146/2010 r 4	1.7.2010
	substituted by 208/2010 r 7	31.10.2010
	<b>substituted by 83/2011 r 4</b>	<b>1.7.2011</b>
Sch 2	substituted by 208/2010 r 7	31.10.2010

### Historical versions

1.7.2009

1.7.2010

31.10.2010