

South Australia

Sheriff's Regulations 2005

under the *Sheriff's Act 1978*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Participating bodies
- 5 Safe keeping and disposal of items
- 6 Fees

Schedule 1—Fees

Schedule 2—Revocation of *Sheriff's Regulations 1992*

Legislative history

1—Short title

These regulations may be cited as the *Sheriff's Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Interpretation

In these regulations—

Act means the *Sheriff's Act 1978*.

4—Participating bodies

For the purposes of the definition of *participating body* in section 4(1) of the Act, the following are declared to be participating bodies:

- (a) Industrial Relations Commission of South Australia;
- (b) Workers Compensation Tribunal.

5—Safe keeping and disposal of items

- (1) If a person fails, on leaving the premises of a participating body, to collect items held in safe keeping while the person is on the premises (see section 9G(h)(i) of the Act), the sheriff—
 - (a) must take reasonable care, for a period of 30 days, of the items (other than perishable items); and
 - (b) may, in the sheriff's absolute discretion—

- (i) in the case of perishable items—destroy or otherwise dispose of the items;
 - (ii) in any other case—destroy or otherwise dispose of the items after taking reasonable care of them for the period referred to in paragraph (a).
- (2) The items may be kept at a place considered appropriate by the sheriff and, before an item is released to a person, the person may be required to produce satisfactory evidence of identity and entitlement to the item.
- (3) If the items are sold, the net proceeds of the sale must be paid into the Consolidated Account.

6—Fees

- (1) The fees set out in Schedule 1 are payable to the sheriff.
- (2) The sheriff may also recover expenses reasonably incurred by the sheriff in the performance of duties imposed on the sheriff by or under the Act or any other Act.

Examples—

Expenses reasonably incurred that the sheriff may recover include—

- (a) meals while travelling;
 - (b) labour and removal of goods;
 - (c) cartage;
 - (d) storage;
 - (e) insurance;
 - (f) advertisements;
 - (g) seizure and maintenance of animals;
 - (h) postage;
 - (i) telephone calls;
 - (j) engaging assistants;
 - (k) engaging auctioneers or agents;
 - (l) conducting a sale of land or goods.
- (3) The sheriff may require—
 - (a) a deposit as security for the payment of fees before commencing a proceeding or at any time during the course of the proceeding; and
 - (b) a written undertaking to pay any further fees which may become payable above the amount of the deposit.
- (4) The fee for service of a document or execution of a process is payable despite the document not being served or the process not being executed if—
 - (a) the officer who attempted to serve the document or execute the process obtained information about the defendant of value to the plaintiff; or
 - (b) the sheriff is satisfied that other special circumstances exist justifying the fee, and a written report on the results of the attempted service or execution has been provided to the plaintiff.

Schedule 1—Fees

1	For receiving and entering a summons, notice, order or other document for service (other than in relation to proceedings in the Magistrates Court)	\$27.75 per copy
2	For receiving and entering a warrant (including a summons when issued as a joint process) or other process of execution	\$41.25
3	For serving a summons, claim, notice, order or other document where a written report must be submitted for the preparation of an affidavit of service	\$30.50 per copy
4	For serving a summons, claim, notice, order or other document where a written report does not have to be submitted for the preparation of an affidavit of service	\$26.25 per copy
5	For conducting inquiries as necessary before executing a warrant or other process of execution	\$30.50
6	For executing a warrant (including serving a summons when issued as a joint process) or other process of execution or making an arrest	\$58
7	Additional fee if, under a warrant, personal property is seized and processed for sale	\$58 plus \$32.75 for each hour or part of an hour after the first 3 hours
8	Allowance for travelling expenses incurred in the service of a document or execution of a process	\$0.90 per kilometre or part of a kilometre, after 50 kilometres
	Note—	
	Only 1 fee is payable where 2 or more processes are served or executed at the same time on the same person or on different persons at the same address.	
9	Poundage—	
	(a) on a warrant of sale or other process of execution (other than on a warrant of possession enforced against real property), calculated on the amount realised on sale or, if not sold, on the value of the property seized or the amount of the judgement debt, whichever is the lesser	\$0.10 per \$1 for the first \$2 000 and \$0.05 per \$1 over \$2 000
	(b) on a warrant of possession enforced against real property, calculated on the annual value (within the meaning of the <i>Valuation of Land Act 1971</i>) of the real property seized	\$0.10 per \$1 for the first \$2 000 and \$0.05 per \$1 over \$2 000
10	For sheriff's attendance to execute an enforcement process	\$32.75 per hour or part hour, after the first hour
11	For opening the office (or the office remaining open) after hours for an urgent execution of process	\$183 per hour or part hour

Schedule 2—Revocation of *Sheriff's Regulations 1992*

The *Sheriff's Regulations 1992* are revoked.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2005	128	<i>Gazette 26.5.2005 p1612</i>	1.7.2005: r 2
2006	142	<i>Gazette 15.6.2006 p1884</i>	1.7.2006: r 2