

South Australia

## Sheriff's Regulations 2005

under the *Sheriff's Act 1978*

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#### 1—Short title

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

#### 3—Interpretation

In these regulations—

*Act* means the *Sheriff's Act 1978*.

#### 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)—per copy    | \$40.25 |
| 2 | For receiving and entering a warrant (including a summons when issued as a joint process) or other process of execution  | \$59.50 |
| 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—per copy | \$44.25 |

|    |  |   |
|----|--|---|
| 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—per copy   | \$37.75   |
| 5  | For conducting inquiries as necessary before executing a warrant or other process of execution   | \$44.25   |
| 6  | For executing a warrant (including serving a summons when issued as a joint process) or other process of execution or making an arrest   | \$83.50   |
| 7  | Additional fee if, under a warrant, personal property is seized and processed for sale   | \$83.50 plus \$47.25 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  | \$1.35 per kilometre or part of a kilometre, after 50 kilometres              |
|    | <b>Note—</b>   |   |
|    | 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 dollar for the first \$2 000 and \$0.05 per dollar 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 dollar for the first \$2 000 and \$0.05 per dollar over \$2 000    |
| 10 | For sheriff's attendance to execute an enforcement process   | \$47.25 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   | \$317.00 per hour or part hour  |

## 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).

### Legislation revoked by principal regulations

The *Sheriff's Regulations 2005* revoked the following:

*Sheriff's Regulations 1992*

### 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        |
| 2007        | 93         | <i>Gazette 7.6.2007 p2393</i>         | 1.7.2007: r 2        |
| 2008        | 87         | <i>Gazette 5.6.2008 p2016</i>         | 1.7.2008: r 2        |
| 2009        | 104        | <i>Gazette 4.6.2009 p2524</i>         | 1.7.2009: r 2        |
| 2010        | 128        | <i>Gazette 10.6.2010 p2947</i>        | 1.7.2010: r 2        |
| 2011        | 142        | <i>Gazette 9.6.2011 p2379</i>         | 1.7.2011: r 2        |
| 2012        | 141        | <i>Gazette 31.5.2012 p2518</i>        | 1.7.2012: r 2        |
| 2013        | 115        | <i>Gazette 6.6.2013 p2271</i>         | 1.7.2013: r 2        |
| 2014        | 128        | <i>Gazette 19.6.2014 p2636</i>        | 1.7.2014: r 2        |
| 2015        | 72         | <i>Gazette 18.6.2015 p2578</i>        | 1.7.2015: r 2        |
| 2016        | 147        | <i>Gazette 23.6.2016 p2386</i>        | 1.7.2016: r 2        |
| <b>2017</b> | <b>52</b>  | <b><i>Gazette 16.5.2017 p1284</i></b> | <b>1.7.2017: r 2</b> |
| <b>2017</b> | <b>154</b> | <b><i>Gazette 22.6.2017 p2411</i></b> | <b>1.7.2017: r 2</b> |
| 2018        | 82         | <i>Gazette 21.6.2018 p2194</i>        | 1.7.2018: 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>1.7.2006</i>        |
| <b>r 4</b> | <b><i>deleted by 52/2017 r 4</i></b>                               | <b><i>1.7.2017</i></b> |
| Sch 1      | substituted by 142/2006 r 4  | 1.7.2006               |
|            | substituted by 93/2007 r 4   | 1.7.2007               |
|            | substituted by 87/2008 r 4   | 1.7.2008               |
|            | substituted by 104/2009 r 4  | 1.7.2009               |
|            | substituted by 128/2010 r 4  | 1.7.2010               |
|            | substituted by 142/2011 r 4  | 1.7.2011               |
|            | substituted by 141/2012 r 4  | 1.7.2012               |
|            | substituted by 115/2013 r 4  | 1.7.2013               |
|            | substituted by 128/2014 r 4  | 1.7.2014               |
|            | substituted by 72/2015 r 4   | 1.7.2015               |
|            | substituted by 147/2016 r 4  | 1.7.2016               |
|            | <b>substituted by 154/2017 r 4</b>                                 | <b>1.7.2017</b>        |
| Sch 2      | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2006</i>        |

## Historical versions

1.7.2006  
1.7.2007  
1.7.2008  
1.7.2009  
1.7.2010  
1.7.2011  
1.7.2012  
1.7.2013  
1.7.2014  
1.7.2015  
1.7.2016