

South Australia

Road Traffic (Miscellaneous) Variation Regulations 2003

under the *Road Traffic Act 1961*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Road Traffic (Miscellaneous) Variation Regulations 2003*.

2—Commencement

These regulations will come into operation on 15 December 2003.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Road Traffic (Miscellaneous) Regulations 1999*

4—Variation of regulation 4—Interpretation

Regulation 4—after the definition of *public place* insert:

recording media—

- (a) in relation to a wet film camera—means a film magazine;
- (b) in relation to a digital or other electronic camera—means any disk, card or other thing used to store electronic records made by the camera;

5—Substitution of Part 3

Part 3—delete Part 3 and substitute:

Part 3—Photographic detection devices

Division 1—Preliminary

14—Apparatus approved as photographic detection devices

Pursuant to section 79A of the Act, the following are approved as photographic detection devices:

- (a) in relation to a red light offence, a speeding offence or a red light offence and a speeding offence arising out of the same incident—
 - (i) a Traffipax Traffiphot III-SR manufactured by Robot Visual Systems GmbH of Germany, linked to and used in conjunction with an induction loop vehicle detector;
 - (ii) a Traffipax Traffiphot III-SRD manufactured by Robot Visual Systems GmbH of Germany, linked to and used in conjunction with an induction loop vehicle detector;
- (b) in relation to a red light offence (other than a red light offence arising out of the same incident as a speeding offence)—
 - (i) a Gatso RLC 36, manufactured by Gatsometer BV of Holland, linked to and used in conjunction with an induction loop vehicle detector;
 - (ii) an Image Master TC1SH red light camera, manufactured by Image Applications Pty Ltd, linked to and used in conjunction with an induction loop vehicle detector;

- (c) in relation to a speeding offence (other than a speeding offence arising out of the same incident as a red light offence)—a device (other than a device referred to in paragraph (a)) consisting of a camera that forms part of or is linked to a traffic speed analyser, where the camera is designed to operate as part of or in conjunction with, and is used as part of or in conjunction with, the traffic speed analyser.

15—Prescribed provisions for purposes of section 79B

For the purposes of the definition of *prescribed offence* in section 79B(1) of the Act, the following provisions are prescribed:

- (a) section 46(1) of the Act (Reckless or dangerous driving);
- (b) the following provisions of the *Australian Road Rules*:
 - (i) the provisions of Part 3 (Speed-limits);
 - (ii) rule 59(1) (Proceeding through a red traffic light);
 - (iii) rule 60 (Proceeding through a red traffic arrow);
- (c) the following provisions of the *Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999*:
 - (i) regulation 9A(1) (Speed-limits applying to driving of road trains);
 - (ii) regulation 9A(2) (Speed-limits applying to driving of road trains);
 - (iii) rule 9B(1) (Speed-limit applying in built-up areas).

Division 2—Notices

16—Notices for purposes of section 79B(5) and (6)

For the purposes of section 79B(5) and (6) of the Act, a notice that accompanies an expiation notice, expiation reminder notice or summons must be in the form set out in Schedule 4 and contain the information and instructions set out in that form.

Division 3—Operation and testing of photographic detection devices

17—Operation and testing of certain photograph detection devices for red light offences, speeding offences or red light and speeding offences arising out of the same incidents

- (1) In this regulation—
 - relevant offences* means—
 - (a) red light offences; or
 - (b) speeding offences; or

- (c) red light offences and speeding offences arising out of the same incidents.
- (2) Where a photographic detection device referred to in regulation 14(a) is used to provide evidence of relevant offences committed at an intersection, the following provisions must be complied with:
- (a) the camera forming part of the device must be positioned and aimed so that the vehicles to be photographed by the camera may be photographed from the rear when proceeding into the intersection and the photographs also depict the traffic light at the intersection towards which the vehicles are facing when proceeding towards the intersection;
 - (b) the induction loop vehicle detector (***induction loop***) must be installed under the road surface on the intersection side of the stop line before which vehicles must stop if the traffic light is showing a steady red signal;
 - (c) if the device is used to provide evidence of speeding offences only, the device must be programmed and set to operate, and the induction loop and traffic light must be linked up with the device, so that if the device registers a vehicle as passing over the induction loop at a speed equal to or greater than a speed set on the device—
 - (i) an exposure is taken, or an electronic record is made, of that vehicle from the rear and the date, time and code for the location at which the exposure is taken, or the electronic record is made, together with the lane in which the vehicle is travelling, are recorded on the exposure or electronic record; and
 - (ii) after a programmed delay, a second exposure is taken, or a second electronic record is made, of that vehicle from the rear and the date, time and code for the location at which the exposure is taken, or the electronic record is made, together with the lane in which the vehicle is travelling, the speed of the vehicle as registered by the device and the speed set on the device, are recorded on the exposure or electronic record;
 - (d) if the device is used to provide evidence of red light offences only, the device must be programmed and set to operate, and the induction loop and traffic light must be linked up with the device, so that—
 - (i) each time that the traffic light changes to a steady red signal the induction loop is activated after a programmed delay and each time that the traffic light changes from a steady red signal the induction loop is deactivated; and

- (ii) while the induction loop is activated—
 - (A) the camera takes an exposure, or makes an electronic record, of a vehicle passing over the induction loop; and
 - (B) the date, time and the code for the location at which the exposure is taken, or the electronic record is made, together with the lane in which that vehicle is travelling, are recorded on the exposure or electronic record; and
- (iii) after a programmed delay, as that vehicle or both that vehicle and other vehicles proceed over the intersection—
 - (A) the camera takes a second exposure, or makes a second electronic record, of that vehicle; and
 - (B) the date, time and the code for the location at which the exposure is taken, or the electronic record is made, together with the lane in which the vehicle is travelling, are recorded on the exposure or electronic record;
- (e) if the device is used to provide evidence of red light offences and speeding offences arising out of the same incidents, the device must be programmed and set to operate, and the induction loop and traffic light must be linked up with the device, so that—
 - (i) each time that the traffic light changes to a steady red signal the induction loop is activated after a programmed delay and each time that the traffic light changes from a steady red signal the induction loop is deactivated; and
 - (ii) while the induction loop is activated—
 - (A) the camera takes an exposure, or makes an electronic record, of a vehicle passing over the induction loop; and
 - (B) the date, time and the code for the location at which the exposure is taken, or the electronic record is made, together with the lane in which that vehicle is travelling, are recorded on the exposure or electronic record; and
 - (iii) after a programmed delay, as that vehicle or both that vehicle and other vehicles proceed over the intersection—

- (A) the camera takes a second exposure, or makes a second electronic record, of that vehicle; and
 - (B) the date, time and the code for the location at which the exposure is taken, or the electronic record is made, together with the lane in which the vehicle is travelling, are recorded on that exposure or electronic record; and
 - (C) if the device registers that vehicle as proceeding at a speed equal to or greater than a speed set on the device—the speed of the vehicle as registered by the device and the speed set on the device are also recorded on that exposure or electronic record;
- (f) subject to paragraph (g), once in every 7 days while the device is being used to provide evidence of speeding offences—
- (i) a test must be carried out using the camera's test mode (by reference to speeds not exceeding the speed-limit applying to drivers driving vehicles through the intersection) to ensure that the camera and induction loop operate correctly as referred to in paragraph (c) or (e); and
 - (ii) if a fault is indicated, corrective action must be taken and the test referred to in subparagraph (i) must be repeated until no fault is indicated by the camera in its testing mode;
- (g) if that part of the road surface under which the induction loop is installed is marked with two or more lanes for vehicles travelling in the same direction, the test referred to in paragraph (f)(i) is not required to be carried out in relation to each such lane in the same 7 day period provided that, once in every 7 days, the test is carried out in relation to one of those lanes and the lane in relation to which the test is carried out is not the same as the lane in relation to which the previous test was carried out;
- (h) once in every 7 days while the device is being used to provide evidence of red light offences—
- (i) a test must be carried out using the camera's testing mode (by reference to green light cycles) to ensure that the camera and induction loop operate correctly as referred to in paragraph (d) or (e); and

- (ii) if a fault is indicated, corrective action must be taken and the test referred to in subparagraph (i) must be repeated until no fault is indicated by the camera in its testing mode;
- (i) after a person relocates the device with recording media in place, that person must do the following:
 - (i) ensure that the camera is correctly positioned and aimed as referred to in paragraph (a) and that the induction loop is correctly installed as referred to in paragraph (b);
 - (ii) if the device is being used for the purpose of providing evidence of speeding offences, ensure that the test referred to in paragraph (f)(i) is carried out to ensure that the camera and induction loop operate correctly as referred to in paragraph (c) or (e);
 - (iii) if the device is being used for the purpose of providing evidence of red light offences, ensure that the test referred to in paragraph (h)(i) is carried out to ensure that the camera and induction loop operate correctly as referred to in paragraph (d) or (e);
 - (iv) if a fault is indicated, take corrective action and repeat the relevant test until no fault is indicated by the camera in its testing mode;
- (j) if—
 - (i) a test; or
 - (ii) in the case of a wet film camera—the film when developed; or
 - (iii) in the case of a digital or other electronic camera—any electronic record made by camera,

indicates a fault that has affected the proper operation of the device as required by this subregulation, that part of the film affected by the fault, or those electronic records affected by the fault, (as the case may be), must be rejected for evidentiary purposes;

- (k) the accuracy with which the device registers vehicle speeds must be tested on the day on which it is used (or on a day within the period of 6 days immediately preceding that day) with a view to the issuing of a certificate under section 175(3)(ba) of the Act.

18—Operation and testing of certain photographic detection devices for red light offences

Where a photographic detection device referred to in regulation 14(b) is used to provide evidence of red light offences committed at an intersection, the following provisions must be complied with:

- (a) the camera forming part of the device must be positioned and aimed so that the vehicles to be photographed by the camera may be photographed from the rear when proceeding into the intersection and the photographs also depict the traffic light at the intersection towards which the vehicles are facing when proceeding towards the intersection;
- (b) the induction loop vehicle detector (*induction loop*) must be installed under the road surface on the intersection side of the stop line before which the vehicles must stop if the traffic light is showing a steady red signal;
- (c) the camera, the induction loop and the traffic light must be linked up and the camera programmed so that—
 - (i) each time that the traffic light changes to a steady red signal the induction loop is activated after a programmed delay and each time that the traffic light changes from a steady red signal the induction loop is deactivated; and
 - (ii) while the induction loop is activated—
 - (A) the camera takes an exposure of a vehicle passing over the induction loop; and
 - (B) the date, time and the code for the location at which the exposure is taken are recorded on the exposure; and
 - (iii) after a programmed delay, as that vehicle or both that vehicle and other vehicles proceed over the intersection and the traffic light continues to show a steady red signal—
 - (A) the camera takes a second exposure of that vehicle; and
 - (B) the date, time and the code for the location at which the exposure is taken are recorded on the exposure;
- (d) after a person inserts a film magazine into the camera or relocates the camera with a film magazine in place, that person must do the following:

- (i) ensure that the camera is correctly positioned and aimed as referred to in paragraph (a) and, if the camera is relocated, that the induction loop is correctly installed as referred to in paragraph (b);
 - (ii) carry out a test using the camera's testing mode (by reference to green light cycles) to ensure that the camera and induction loop operate correctly as referred to in paragraph (c);
 - (iii) if a fault is indicated, take corrective action and repeat the test referred to in subparagraph (ii) until no fault is indicated by the camera in its testing mode;
- (e) if a test or the film when developed indicates a fault that has affected the proper operation of the device as required under this regulation, that part of the film affected by the fault must be rejected for evidentiary purposes.

19—Operation and testing of certain photographic detection devices for speeding offences

Where a photographic detection device referred to in regulation 14(c) is used to provide evidence of speeding offences, the following provisions must be complied with:

- (a) the device must be programmed, positioned and set to operate so that when the device registers a vehicle as proceeding at a speed equal to or greater than a speed set on the device—
 - (i) the camera forming part of or linked to the device takes an exposure, or makes an electronic record, of that vehicle from the front or from the rear; and
 - (ii) the date, time and code for the location at which the exposure is taken, or the electronic record is made, together with the speed and direction of travel of the vehicle as registered by the device, are recorded on the exposure or electronic record;
- (b) after a person—
 - (i) sets up the device at a given location; or
 - (ii) inserts recording media into the camera at that location; or
 - (iii) relocates the device with recording media in place, the person must make a check to ensure that the device—
 - (iv) correctly indicates on an electronic display the date, time and code for the location where exposures are taken, or electronic records are made, by the camera; and

- (v) is set to operate in accordance with the provisions of paragraph (a);
- (c) the checks referred to in paragraph (b) must be repeated immediately before the device is removed from a given location;
- (d) if—
 - (i) a check; or
 - (ii) in the case of a wet film camera—the film when developed; or
 - (iii) in the case of a digital or other electronic camera—any electronic record made by the camera,indicates a fault that has affected the proper operation of the device as required by this regulation, that part of the film affected by the fault, or those electronic records affected by the fault, (as the case may be), must be rejected for evidentiary purposes;
- (e) if a photograph produced from an exposure or electronic record obtained in accordance with the provisions of paragraph (a) depicts the whole or part of more than 1 vehicle—
 - (i) in the portion of the photograph specified by the device's manufacturer as the portion that should depict the vehicle whose speed is being registered; and
 - (ii) travelling in the direction recorded on the exposure or electronic record as the direction of travel of the vehicle whose speed is being registered,that photograph must be rejected for evidentiary purposes;
- (f) the accuracy with which the device registers vehicle speeds must be tested on the day on which it is used (or on the day immediately preceding that day) with a view to the issuing of a certificate under section 175(3)(ba) of the Act.

6—Substitution of Schedules 4 and 5

Schedules 4 and 5—delete Schedules 4 and 5 and substitute:

Schedule 4—Notice

(Section 79B(5) and (6))

ROAD TRAFFIC ACT 1961
NOTICE FOR THE PURPOSES OF SECTION 79B(5) AND (6)

Speed cameras & red light cameras - Your questions answered

- Q1.** There is more than one vehicle in the photograph. How do you know it is my vehicle that was speeding?
- A1.** There will often be more than one vehicle travelling in the same direction in the photograph. However, this does not mean that your vehicle cannot be accurately identified as being involved in an alleged offence.
- If the photograph was taken by a mobile speed camera, a template is used to mark the detection zone of the camera so that the infringing vehicle can be pinpointed and identified.
- If the photograph was taken by a fixed speed camera, the infringing vehicle is identified by its position on the road and its lane of travel. A detection area, or “loop”, has been installed in each traffic lane and a photograph is taken as the vehicle crosses that loop.
- Q2.** What if I was overtaking at the time?
- A2.** You cannot exceed the speed limit under any circumstances. This includes overtaking another vehicle.
- Q3.** I have never been booked before. Can you show some leniency because of this?
- A3.** No. Speeding and disobeying a red traffic light are considered to be offences that endanger life.
- Q4.** Can I be issued with an expiation notice if I am speeding through a green or yellow (amber) traffic light, or only through a red traffic light?
- A4.** At intersections or junctions where the operation of combined red light and speed cameras has been approved, you can be detected speeding through all phases of the traffic lights (green, yellow or red). If you are speeding through a red light, a single expiation notice listing both the speeding and red light offences will be issued to you.
- Q5.** If I pay the expiation fee, will I also incur demerit points?
- A5.** Yes. Demerit points will be incurred for speeding and red light offences detected by a camera. If you hold an unrestricted licence and you accumulate 12 or more demerit points, you will face a period of disqualification from driving. Provisional licence holders will face a period of disqualification if they breach their licence conditions or accumulate 4 or more demerit points. If a provisional licence holder incurs one or more demerit points before reaching the age of 19, the period for which their provisional conditions apply may be extended.
- Q6.** If the offence is minor or there are extenuating circumstances, can demerit points be reduced or not imposed?
- A6.** Only a court can reduce the number of demerit points. You are advised to seek independent legal advice to consider your options.
- Q7.** What if I did not see the speed limit sign?
- A7.** It is your responsibility as a driver to be aware of and obey the speed limit at all times. Failure to be aware of the speed limit is not a ground for the withdrawal of an expiation notice or summons.
- Q8.** If I want to see the photographic evidence, what do I need to do?
- A8.** You are entitled to see the photographic evidence. A copy of the photographic evidence on which the allegation is based:
- (a) will, if you complete the Request for Photographic Evidence form at the foot of this page and forward it by post to **Commissioner of Police Expiation Notice Branch GPO Box 2029 Adelaide SA 5001** (or by fax to **(08) 8463 4361**), be sent by post to you at the address nominated by you on the form (or in the absence of a nominated address, to your last known address); and
 - (b) may be viewed by appointment with the Expiation Notice Branch by telephoning **(08) 8463 4388**.

REQUEST FOR PHOTOGRAPHIC EVIDENCE Please forward a copy of the Traffic Camera Photograph relating to the following:
(Note the Expiation Notice DUE DATE WILL NOT BE EXTENDED upon request for photographic evidence)

Expiation Notice Number	<input style="width: 100%;" type="text"/>	Vehicle Registration	<input style="width: 100%;" type="text"/>
TO: Name	<input style="width: 100%;" type="text"/>		
Address	<input style="width: 100%;" type="text"/>		
Suburb / Town	<input style="width: 100%;" type="text"/>		
State	<input style="width: 50%;" type="text"/>	Postcode	<input style="width: 50%;" type="text"/>
		Signature	<input style="width: 100%; height: 40px;" type="text"/>
		Date	<input style="width: 100%; text-align: center;" type="text"/>

Defences available to registered owners

Q9. What if I was not driving the vehicle at the time?

A9. If the vehicle is registered in your name, an expiation notice or summons will automatically be sent to you. If you were not driving the vehicle at the time of the alleged offence, you can nominate the driver by completing a Statutory Declaration (as the registered owner of the vehicle) and forwarding it to the Commissioner of Police. The Statutory Declaration must state that you were not driving the vehicle and provide the name and address of the person who was driving.

Depending on the information you have provided, the expiation notice or summons may be withdrawn and an expiation notice or summons issued to the driver you have named.

Q10. What if I don't know who was driving my vehicle at the time?

A10. If you do not know who the driver was at the time of the alleged offence and can show that you have tried to find out his or her identity "by the exercise of reasonable diligence", you can send a Statutory Declaration to the Commissioner of Police, stating the reasons why the driver's identity is unknown to you and what inquiries (if any) you have made to find out who was driving the vehicle.

The Commissioner may ask you for further evidence in support of your claim and, in relation to the question of withdrawal of the expiation notice or summons, will give due consideration to the evidence you have provided.

However, owners who lend their vehicle or allow it to be taken for a test drive should record the driver's details. Failure to identify the driver in these circumstances will not be considered as grounds for withdrawal of an expiation notice or summons.

Q11. What if I have sold the vehicle to someone else and I receive an expiation notice or summons?

A11. You can send a completed Statutory Declaration to the Commissioner of Police, stating the name and address of the person or company to whom you sold the vehicle.

Q12. What if the vehicle is registered to a company?

A12. If an expiation notice or summons is issued to a company, the expiation fee or the fine that may be imposed is higher than that payable by a natural person.

Where the registered owner of the vehicle is a company, an officer of the company acting with the authority of the company must forward a Statutory Declaration to the Commissioner of Police stating the name and address of the person who was driving the vehicle at the time of the alleged speeding or red light offence.

If the vehicle was not being driven at the time by any officer or employee of the company acting in the ordinary course of his or duties as such, and the company does not know and could not, "by the exercise of reasonable diligence", have known who was driving the vehicle at the time, the officer of the company must forward a Statutory Declaration stating the reasons why the identity of the driver is not known to the company and what inquiries (if any) the company has made to find out who was driving the vehicle.

The Commissioner may ask for further evidence in support of the claim and, in relation to the question of withdrawal of the expiation notice or summons, will give due consideration to the evidence you have provided.

However, a company is expected to keep records of people who use company vehicles. Failure to nominate the driver in this circumstance will not be considered as grounds for withdrawal of an expiation notice or summons.

Q13. If I will be sending a Statutory Declaration should I also pay the expiation notice?

A13. No. If you nominate another person as the driver of the vehicle at the time of the alleged offence, **do not** forward any payment on behalf of that person.

An expiation notice or summons will be sent to the nominated person.

If you are unable to send a completed Statutory Declaration, you must pay the expiation fee unless you choose to defend the allegation in court.

Q14. What if my vehicle appears to have been involved in the alleged speeding or red light offence, but no such offence was in fact committed?

A14. You will have a defence if you can prove that your vehicle was not used in the commission of the alleged offence.

How to complete a Statutory Declaration

If you believe you have a defence to the offence alleged in the enclosed expiation notice, expiation reminder notice or summons, you must complete a Statutory Declaration and forward it to the Commissioner of Police by post to **Commissioner of Police Expiation Notice Branch GPO Box 2029 Adelaide SA 5001** or by fax to **(08) 8463 4361**.

You must provide the following information:

- your full name and address;
- expiation notice number;
- motor vehicle registration number; **and**,
- the full name and address of the person or company you wish to nominate or the reasons why the driver's identity is not known and what inquiries you have made to ascertain the driver's identity; or,
- information about the defence you have to the allegation; or,
- the full name and address of the person or company to whom you sold the vehicle.

The Statutory Declaration must be witnessed by one of the following:

- Justice of the Peace (including ID No.)
- Proclaimed Manager
- Proclaimed Police Officer
- Commissioner for taking affidavits

The Statutory Declaration must be received by the Commissioner of Police *before the due date for payment specified in the enclosed expiation notice or expiation reminder notice* or, if the enclosed document is a summons, *within 21 days after the date of issue of the summons*.

Depending on the information you have provided, the Commissioner may withdraw the notice or summons.

NOTE: It is an offence to make a Statutory Declaration that you know to be untrue in a material particular. The maximum penalty is 4 years imprisonment.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 11 December 2003

No 242 of 2003

CTSA2002/07261