

South Australia

Terrorism (Police Powers) Regulations 2006

under the *Terrorism (Police Powers) Act 2005*

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1—Short title

These regulations may be cited as the *Terrorism (Police Powers) Regulations 2006*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

In these regulations—

Act means the *Terrorism (Police Powers) Act 2005*.

4—Confirmation of special powers authorisation (section 19 of Act)

- (1) Subject to this regulation, an application by a relevant authority to a relevant judicial officer seeking confirmation that the authority has or had proper grounds for issuing a special powers authorisation must be made by written application followed by personal appearance before the judicial officer and, if required by the judicial officer, the giving of evidence on oath.
- (2) The application must—
 - (a) set out the name and rank in the police force of the authority; and
 - (b) set out details of the following:
 - (i) in the case of a preventative authorisation—the grounds on which the authority believes—
 - (A) that a terrorist act is imminent, whether in or outside this State; and
 - (B) that the exercise of powers under the Act will substantially assist in the prevention of the terrorist act;
 - (ii) in the case of an investigative authorisation—the grounds on which the authority believes—

- (A) that a terrorist act is being or has been committed, whether in or outside this State; and
 - (B) that the exercise of powers under the Act will substantially assist in the investigation of the terrorist act;
 - (iii) in the case of a preventative or investigative authorisation issued under section 3(6) of the Act—the grounds on which the authority was satisfied that it was necessary to issue the authorisation without confirmation because of the urgency of the circumstances; and
- (c) be accompanied by—
 - (i) a copy of the special powers authorisation if already issued under section 3(6) of the Act or a copy of the proposed special powers authorisation; and
 - (ii) an affidavit made by the authority verifying the grounds set out in the application.
- (3) If the process set out in the preceding subregulations would result in undue delay, the application may be made—
 - (a) by facsimile; or
 - (b) if facsimile facilities are not readily available—by telephone.
- (4) If the application is made by facsimile—
 - (a) the information and documents required under subregulation (2) must be provided by the facsimile transmission; and
 - (b) the authority must be available to speak to the judicial officer by telephone; and
 - (c) the judicial officer is entitled to assume, without further inquiry, that a person who identifies himself or herself as the relevant authority during a telephone conversation with the officer is the relevant authority; and
 - (d) the authority must provide further information in relation to the application as required by the judicial officer and, if required by the judicial officer, provide by facsimile transmission an affidavit verifying the information; and
 - (e) the judicial officer must inform the authority of his or her decision on the application by facsimile transmission or telephone.
- (5) If the application is made by telephone—
 - (a) the information required under subregulation (2) must be provided in the telephone conversation; and
 - (b) the judicial officer is entitled to assume, without further inquiry, that a person who identifies himself or herself during the telephone conversation as the relevant authority is the relevant authority; and
 - (c) the authority must inform the judicial officer of the terms of the special powers authorisation or proposed special powers authorisation (as the case requires); and

- (d) the authority must undertake to forward to the judicial officer the documents that would have accompanied the application had it been a written application; and
- (e) the authority must provide further information in relation to the application as required by the judicial officer; and, if required by the judicial officer, must undertake to forward to the judicial officer an affidavit verifying the information; and
- (f) the judicial officer must inform the authority of his or her decision on the application by telephone; and
- (g) the authority must forward documents to the judicial officer in accordance with an undertaking, as soon as practicable after the telephone conversation ends.

5—Confirmation of special area declaration (section 19 of Act)

- (1) An application by the Commissioner of Police to a relevant judicial officer seeking confirmation that the issuing of a special area declaration is appropriate in the circumstances—
 - (a) must be made in writing; and
 - (b) must be accompanied by a copy of the proposed special area declaration; and
 - (c) must set out details of the grounds on which the Commissioner of Police is satisfied that the declaration is required because of the nature of the site or area and the risk of occurrence of a terrorist act; and
 - (d) must be accompanied by an affidavit made by the Commissioner of Police verifying—
 - (i) that the site or area specified in the proposed special area declaration is—
 - (A) the site of an airport, train station, bus station, tram station or ship or ferry terminal; or
 - (B) the site of a special event; or
 - (C) a public area where persons gather in large numbers; and
 - (ii) the grounds set out in the application.
- (2) The Commissioner of Police must provide further information in relation to the application as required by the judicial officer and verify the information as required by the judicial officer.

Schedule 1—Forms

Special powers authorisation issued under the *Terrorism (Police Powers) Act 2005*

1—Type of authorisation

This is a *preventative/investigative authorisation.

2—Authorisation confirmed or not

*This authorisation has been confirmed by the Police Minister and a relevant judicial officer.

*I am satisfied that it is necessary to issue this authorisation without the confirmation of both the Police Minister and a relevant judicial officer because of the urgency of the circumstances.

3—Date and time of issue of authorisation

This authorisation is issued on *insert date* at *insert time*.

4—Date and time authorisation will cease to operate

This authorisation will cease to operate on *insert date* at *insert time*.

5—Terrorist act

The general nature of the terrorist act to which this authorisation applies is as follows:

Insert description

6—Target of authorisation

The following are targets of the authorisation:

Name or describe (if appropriate by using a picture, map or other visual depiction) 1 or more of the following:

- (a) *an area of the State in which the powers conferred by the Act may be exercised (the area must not be larger than is reasonably necessary for the prevention or investigation of the terrorist act);*
- (b) *a person sought in connection with the terrorist act;*
- (c) *a vehicle sought in connection with the terrorist act.*

Signed:

*Commissioner of Police/Deputy Commissioner of Police/Assistant Commissioner of Police/Police officer above the rank of superintendent (*relevant authority*)

Date:

Confirmation

Pursuant to section 3(5) of the *Terrorism (Police Powers) Act 2005*, I confirm that the relevant authority has proper grounds for issuing the authorisation under *section 3(1)/section 3(2) of the Act.

Signed:

Police Minister

Date:

Signed:

*Judge of the Supreme Court/Judge of the District Court

Date:

* *delete the inapplicable*

Special areas declaration issued under the *Terrorism (Police Powers) Act 2005*

1—Site or area

The following is declared to be a special area:

Describe the site or area and define its boundaries

2—Grounds

I am satisfied that the declaration is required because of the nature of the site or area and the risk of occurrence of a terrorist act.

3—Date and time declaration commences

This declaration commences to operate on *insert date at insert time*.

4—Date and time declaration will cease to operate

This declaration will cease to operate on *insert date at insert time* or on revocation of the declaration.

Signed:

Commissioner of Police

Date:

Confirmation

Pursuant to section 13(3) of the *Terrorism (Police Powers) Act 2005*, I confirm that the issuing of this declaration is appropriate in the circumstances.

Signed:

Police Minister

Date:

Signed:

*Judge of the Supreme Court/Judge of the District Court

Date:

* *delete the inapplicable*

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 25 May 2006

No 62 of 2006

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