No 208 of 2010 published in *Gazette 30.9.2010 p 4991*

South Australia

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Variation Regulations 2010

under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Variation Regulations 2010*.

2—Commencement

These regulations come into operation on the day on which section 11 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) (Miscellaneous) Amendment Act 2009* comes into operation.

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 *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2007*

4—Insertion of regulation 3A

After regulation 3 insert:

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.

5—Variation of regulation 4—Prescribed offences

(1) Regulation 4—delete paragraph (a) and substitute:

(a) an aggravated offence against section 45 of the *Road Traffic Act 1961*;

(2) Regulation 4(c)—after "section" insert:

17AA or

(3) Regulation 4(f)—delete paragraph (f) and substitute:

(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*.

6—Substitution of regulation 7

Regulation 7—delete the regulation and substitute:

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.

7—Substitution of Schedules 1 and 2

Schedules 1 and 2—delete the Schedules and substitute:

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)	$73.00
2	Fee for transportation of vehicle to storage facility	$232.00
3	Vehicle storage fee	$19.40 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)	$30.75
5	Fee for attending to attach clamps to motor vehicle	$73.00 plus a fee of 88 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	$73.00 plus a fee of 88 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)	$58.00
8	Seizure fee	$80.50
9	Fee for transportation of vehicle to storage facility	$232.00
10	Vehicle storage fee (for impounded vehicles only)	$19.40 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.

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's Deputy

with the advice and consent of the Executive Council
on 30 September 2010

No 208 of 2010

AGO0209/09CS