

South Australia

Road Traffic (Miscellaneous) Variation Regulations 2011

under the *Road Traffic Act 1961*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

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

- 4 Variation of regulation 4—Interpretation
 - 5 Variation of regulation 14—Apparatus approved as photographic detection devices
 - 6 Substitution of Schedule 4
- Schedule 4—Notice
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Road Traffic (Miscellaneous) Variation Regulations 2011*.

2—Commencement

These regulations will come into operation on the day on which section 86 of the *Statutes Amendment (Budget 2010) Act 2010* 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 *Road Traffic (Miscellaneous) Regulations 1999*

4—Variation of regulation 4—Interpretation

Regulation 4(1), definition of *registration offence*—delete the definition and substitute:

registration offence has the same meaning as in Schedule 1 of the *Motor Vehicles Act 1959*;

5—Variation of regulation 14—Apparatus approved as photographic detection devices

Regulation 14(1)—delete "Pursuant to section 79A of the Act, the following are approved as photographic detection devices" and substitute:

The following are approved as photographic detection devices for the purposes of the Act and the *Motor Vehicles Act 1959*

6—Substitution of Schedule 4

Schedule 4—delete the Schedule and substitute:

Schedule 4—Notice

Road Traffic Act 1961, Notice under section 79B(5) & (6)

Motor Vehicles Act 1959, Notice under Schedule 1 clause 3

Entitlement to view photographic evidence

You are entitled to see the photographic evidence.

A copy of the photographic evidence on which the allegation is based:

- will, on written application to the Commissioner of Police, be sent by post to you at the address nominated by you in the written application or, in the absence of such a nomination, to your last known address; and
- may be viewed by telephoning the Expiation Notice Branch and making an appointment.

Statutory Declarations

The Commissioner of Police will, in relation to the question of withdrawal of the expiation notice, reminder notice or complaint, give due consideration to any exculpatory evidence (ie. evidence indicating that you have a defence under the relevant legislation or are otherwise not liable for the offence) that is verified by statutory declaration. A statutory declaration must be furnished to the Commissioner 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.

You must provide the following information in the statutory declaration:

- your full name and address; and
- expiation notice number (where relevant); and
- motor vehicle registration number; and
- details of the defence or other exculpatory circumstances (in keeping with the requirements of the relevant legislation).

Examples—

If, for example, you sold the vehicle before the commission of the alleged offence you would need to provide details of that sale including the date on which it occurred and the name and address of the purchaser.

Similarly, in relation to an offence against section 79B of the *Road Traffic Act 1961*, if you are nominating another person as the driver of the vehicle at the relevant time you would need to provide that person's name and address or if you do not know the identity of the driver you would need to specify that fact and outline why the driver's identity is not known and what enquiries you have made to ascertain the driver's identity.

If, in relation to an offence against section 9(3) or 102(2) of the *Motor Vehicles Act 1959*, you are claiming the defence set out in section 9(4a) or 102(3aa), you would need to specify that the vehicle was not driven or left standing on the road by you at the time of the alleged offence and you would need to provide details of the steps you took to ensure that people who might use the vehicle would have been aware that it was unregistered or uninsured.

The statutory declaration must be witnessed by one of the following:

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

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.

General information

An application to view photographic evidence or a statutory declaration verifying a defence or other exculpatory circumstances must be sent to the Expiation Notice Branch by post (at GPO Box 2029, Adelaide SA 5001) or by fax. Further information regarding expiation notices, statutory declarations and photographic evidence can be found on the SAPOL internet site at:

http://www.police.sa.gov.au/sapol/services/expiations/expiation_notice_faqs.jsp

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 29 April 2011

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