

South Australia

Graffiti Control Regulations 2013

under the *Graffiti Control Act 2001*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Graffiti implements (section 3)
- 5 Supply to minor of prescribed class of graffiti implement (section 5)
- 6 Prescribed requirements for notice (section 6)
- 7 Carrying prescribed class of graffiti implement (section 10)
- 8 Seizure, forfeiture and return of prescribed graffiti implement (section 10C)

Schedule 1—Revocation of *Graffiti Control Regulations 2002*

1—Short title

These regulations may be cited as the *Graffiti Control Regulations 2013*.

2—Commencement

These regulations will come into operation on the day on which the *Graffiti Control (Miscellaneous) Amendment Act 2013* comes into operation.

3—Interpretation

In these regulations—

Act means the *Graffiti Control Act 2001*.

4—Graffiti implements (section 3)

For the purposes of the definition of *graffiti implement* in section 3 of the Act, an indelible marker or pen with a tip of 8 millimetres or greater is prescribed.

5—Supply to minor of prescribed class of graffiti implement (section 5)

For the purposes of section 5(2) of the Act, a spray paint can is a graffiti implement of a prescribed class.

6—Prescribed requirements for notice (section 6)

For the purposes of section 6(1) of the Act, a notice displayed in premises from which graffiti implements are sold must comply with the following requirements:

- (a) the notice must display the following words:

IT IS UNLAWFUL TO SELL GRAFFITI IMPLEMENTS TO PERSONS UNDER THE AGE OF 18 YEARS. PERSONS MAY BE REQUIRED TO PRODUCE EVIDENCE OF AGE WHEN MAKING A PURCHASE;

- (b) the words required to be displayed must appear on the notice in legible letters or numerals not less than 15 millimetres in height and be of a colour that contrasts with the background colour of the notice.

7—Carrying prescribed class of graffiti implement (section 10)

For the purposes of section 10(1)(b) of the Act, the following classes of graffiti implement are prescribed:

- (a) graffiti implements capable of spraying paint or a similar substance;
- (b) graffiti implements designed or modified to produce a mark that—
 - (i) is not readily removable by wiping or by use of water or detergent; and
 - (ii) is more than 15 millimetres wide.

8—Seizure, forfeiture and return of prescribed graffiti implement (section 10C)

- (1) For the purposes of section 10C of the Act, a spray paint can is a graffiti implement of a prescribed class.
- (2) The following procedures are prescribed in relation to the seizure of a graffiti implement from a person under section 10C:
 - (a) if the police officer seizing the implement determines that the implement is of no apparent marketable value (whether because part of its contents have been used or for any other reason), the police officer may advise the person of that determination and the implement is, by force of this regulation, forfeited to the Crown (and may be dealt with in any manner a police officer thinks fit);
 - (b) if the seized graffiti implement is not dealt with in accordance with paragraph (a), the following provisions apply:
 - (i) the police officer seizing the implement must—
 - (A) advise the person that—
 - it will be held at a specified police station for the next 7 days (the *holding period*); and
 - he or she may make a claim for its return at that police station during the holding period (at a time during which that police station is open to the public); and
 - (B) issue the person with a receipt for the implement;
 - (ii) if, on the expiration of the holding period, the implement has not been claimed in accordance with subregulation (3), the implement is, by force of this regulation, forfeited to the Crown (and may be dealt with in any manner a police officer thinks fit).
- (3) A person may only make a claim for the return of a seized graffiti implement if the person satisfies a police officer that he or she had a lawful excuse for the possession of the seized graffiti implement.

Schedule 1—Revocation of *Graffiti Control Regulations 2002*

The *Graffiti Control Regulations 2002* are revoked.

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 4 July 2013

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