

South Australia

Security and Investigation Industry (Classes of Offences) Variation Regulations 2017

under the *Security and Investigation Industry Act 1995*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Security and Investigation Industry (Classes of Offences) Variation Regulations 2017*.

2—Commencement

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

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 *Security and Investigation Industry Regulations 2011*

4—Variation of regulation 6—Classes of offences (sections 3, 9, 23, 23A, 23B and 23G of Act)

- (1) Regulation 6(1)(d) and (e)—delete paragraphs (d) and (e) and substitute:
 - (d) the person has been found guilty but not convicted of a category B offence within the preceding 5 years and the penalty imposed or an order made in respect of the offence included any of the following:

- (i) a fine of or greater than \$500;
 - (ii) an order or a condition of a bond that the defendant be under the supervision of a community corrections officer;
 - (iii) a bond under which the defendant or a guarantor is obliged to pay a sum of or greater than \$500 in the event of non-compliance with a condition of the bond;
 - (iv) a sentence or condition of a bond requiring the performance of 25 hours or more of community service;
 - (e) the person has been convicted of a category B offence within the preceding 10 years and the penalty imposed or an order made in respect of the offence included any of the following:
 - (i) a fine of or greater than \$500;
 - (ii) an order or a condition of a bond that the defendant be under the supervision of a community corrections officer;
 - (iii) a bond under which the defendant or a guarantor is obliged to pay a sum of or greater than \$500 in the event of non-compliance with a condition of the bond;
 - (iv) a sentence or condition of a bond requiring the performance of 25 hours or more of community service;
 - (v) detention;
 - (vi) imprisonment.
- (2) Regulation 6(3)—delete subregulation (3) and substitute:
- (3) For the purposes of section 23B of the Act, the following are prescribed offences:
 - (a) a category A offence;
 - (b) a category B offence constituted of assault or an offence of violence alleged to have been committed in the course of, or in connection with, the performance by the person of the function of controlling crowds.
- (3) Regulation 6(4)(b)—delete paragraph (b) and substitute:
- (b) the person has been found guilty of a category B offence constituted of assault or an offence of violence and the person is the holder of a security agents licence authorising the person to perform the function of controlling crowds and the offence was committed in the course of, or in connection with, the performance of that function;
 - (c) the person has been found guilty of a category B offence and the penalty imposed or an order made in respect of the offence included any of the following:
 - (i) a fine of or greater than \$500;
 - (ii) an order or a condition of a bond that the defendant be under the supervision of a community corrections officer;

- (iii) a bond under which the defendant or a guarantor is obliged to pay a sum of or greater than \$500 in the event of non-compliance with a condition of the bond;
 - (iv) a sentence or condition of a bond requiring the performance of 25 hours or more of community service;
 - (v) detention;
 - (vi) imprisonment.
- (4) Regulation 6(5)—delete subregulation (5)
 - (5) Regulation 6(6), definition of **category A offence**, (e)(i)—after "*Listening and Surveillance Devices Act 1972*" insert:
 - or the *Surveillance Devices Act 2016*
 - (6) Regulation 6(6), definition of **category B offence**, (c)—delete "common"
 - (7) Regulation 6(6), definition of **category B offence**, after paragraph (d) insert:
 - (da) an offence against the *Firearms Act 2015*; or

Schedule 1—Transitional provisions

1—Transitional provisions

- (1) For the purposes of the application of section 23(1)(d) of the Act to a person who was carrying on business, or otherwise acting, as a process server immediately before the relevant day, a finding of guilt or a conviction, in respect of an offence committed by the person before that day, is to be disregarded if the finding of guilt or conviction would not have prevented the person from being entitled to carry on a business, or otherwise act, as a process server before that day.
- (2) For the purposes of the application of section 23B of the Act to a person who holds a security agents licence that authorises the licensee to perform the function of controlling crowds immediately before the relevant day, a charge laid in respect of an offence committed by the person before that day, is to be disregarded if the laying of the charge would not have resulted in the suspension of the licence before that day.
- (3) For the purposes of the application of section 23G of the Act to a person who holds a security agents licence or security industry trainers licence, or is a director of a body corporate that is the holder of a security agents licence, immediately before the relevant day, a finding of guilt or a conviction in respect of an offence committed by the person before that day, is to be disregarded if the finding of guilt or conviction would not have resulted in the cancellation of the licence before that day.
- (4) For the purposes of the application of section 25(1)(e)(ii) of the Act to a person licensed as an agent or security industry trainer, or a director of a body corporate that holds a licence as an agent, immediately before the relevant day, a finding of guilt or a conviction, in respect of an offence committed by the person before that day, is to be disregarded if the finding of guilt or the conviction would not have been relevant to deciding whether the person was a fit and proper person to hold a licence or to be a director of a body corporate that holds a licence before that day.

(5) In this clause—

Act means the *Security and Investigation Industry Act 1995*;

relevant day means the day on which this clause comes into operation.

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 19 April 2017

No 31 of 2017

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