

South Australia

## **Police (Drug Testing) Variation Regulations 2019**

under the *Police Act 1998*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Police (Drug Testing) Variation Regulations 2019*.

#### **2—Commencement**

These regulations come into operation on the day on which the *Police (Drug Testing) Amendment Act 2017* 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 *Police Regulations 2014***

#### **4—Variation of regulation 29—Interpretation**

Regulation 29(1), definition of *prescribed drug*—delete the definition and substitute:

*prescribed drug* means—

- (a) cocaine;
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- (b) delta-9-tetrahydrocannabinol;
- (c) diacetylmorphine;
- (d) methylamphetamine;
- (e) 3, 4-methylenedioxymethamphetamine (MDMA);

## **5—Insertion of regulation 29A**

After regulation 29 insert:

### **29A—Approval of apparatus for conduct of drug screening tests**

The following apparatus is approved for the conduct of drug screening tests:

Securetec Drugwipe S

## **6—Variation of regulation 30—Commissioner may give approvals and authorisations for purposes of this Part**

Regulation 30(2) and (3)—delete subregulations (2) and (3) and substitute:

- (2) Subject to subregulation (3), the Commissioner may, for the purposes of Part 6 Division 2 of the Act, authorise a member of SA Police to do any or all of the following:
  - (a) to operate breath analysing instruments;
  - (b) to conduct drug screening tests;
  - (c) to take oral fluid samples;
  - (d) to take urine samples.
- (3) The Commissioner may not authorise a member of SA Police to take oral fluid or urine samples, or to conduct breath analyses or drug screening tests, unless the Commissioner is satisfied that the member has completed to a satisfactory level a course of training approved by the Commissioner.

## **7—Substitution of regulation 31**

Regulation 31—delete the regulation and substitute:

### **31—General requirements**

- (1) If a test subject (other than a person to whom section 41C(1) of the Act applies) has been required to submit to drug testing under Part 6 Division 2 of the Act—
  - (a) any drug screening test may not be commenced more than 8 hours after the subject has come off duty or more than 8 hours following a critical incident or high risk driving occurrence (as the case may be); and

- (b) any biological sample that is required to be taken from the test subject must not be taken more than 8 hours after the subject has come off duty or more than 8 hours following a critical incident or high risk driving occurrence (as the case may be).
- (2) The performance of a drug screening test commences when a direction is first given to the test subject to provide a sample of oral fluid to be used for the drug screening test.
- (3) The following applies to the taking of a biological sample from a test subject by an authorised member for the purposes of drug testing:
  - (a) if the authorised member considers that a sample of oral fluid can be taken—the authorised member must take a sample of oral fluid;
  - (b) if the authorised member considers that a sample of oral fluid cannot be taken but that a sample of urine can—the authorised member must take a sample of urine;
  - (c) if the authorised member considers that neither a sample of oral fluid nor a sample of urine can be taken—the authorised member must arrange for a medical practitioner or registered nurse to take a sample of blood.

#### **8—Variation of regulation 32—Oral fluid sample processes**

- (1) Regulation 32(1)(b) and (c)—delete paragraphs (b) and (c) and substitute:
  - (b) when the authorised member is satisfied that the test subject has provided a satisfactory sample of the test subject's oral fluid, the member must place the sample, in approximately equal proportions, in 2 containers suitable for the purpose;
- (2) Regulation 32(1)(i)—delete paragraph (i) and substitute:
  - (i) a copy of the signed certificate must be delivered to the test subject together with a written notice advising that a container containing part of the oral fluid sample taken from the test subject and marked with the identification number specified in the notice will be available for collection by or on behalf of the test subject at a specified place.

#### **9—Variation of regulation 41—Evidence etc**

- (1) Regulation 41—after subregulation (10) insert:
  - (10a) A certificate purporting to be signed by an authorised member and to certify that an apparatus referred to in the certificate is or was of a kind approved by regulation 29A for the conduct of drug screening tests is, in the absence of proof to the contrary, proof of the matter so certified.

- (10b) A certificate purporting to be signed by an authorised member and to certify that a person named in the certificate submitted to a drug screening test on a specified day and at a specified time and that the drug screening test indicated that a prescribed drug may then have been present in the oral fluid of the person is, in the absence of proof to the contrary, proof of the matters so certified.
- (10c) A certificate purporting to be signed by an authorised member and to certify that apparatus used to conduct a drug screening test was in proper order and that the drug screening test was properly conducted is, in the absence of proof to the contrary, proof of the matters so certified.

- (2) Regulation 41(13)(c)—delete paragraph (c)

**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 21 March 2019

No 23 of 2019

MPOL17/05CS