

South Australia

Terrorism (Police Powers) Regulations 2021

under the *Terrorism (Police Powers) Act 2005*

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Schedule 1—Repeal of *Terrorism (Police Powers) Regulations 2006*

1—Short title

These regulations may be cited as the *Terrorism (Police Powers) Regulations 2021*.

2—Commencement

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

3—Interpretation

In these regulations—

Act means the *Terrorism (Police Powers) Act 2005*.

4—Confirmation of special powers authorisation

- (1) Subject to this regulation, an application by a relevant authority to a relevant judicial officer seeking confirmation that the authority has or had proper grounds for issuing a special powers authorisation must be made by written application followed by personal appearance before the judicial officer and, if required by the judicial officer, the giving of evidence on oath.
- (2) The application must—
 - (a) set out the name and rank in the police force of the authority; and
 - (b) set out details of the following:
 - (i) in the case of a preventative authorisation—the grounds on which the authority believes—
 - (A) that a terrorist act is imminent, whether in or outside this State; and
 - (B) that the exercise of powers under the Act will substantially assist in the prevention of the terrorist act;
 - (ii) in the case of an investigative authorisation—the grounds on which the authority believes—

- (A) that a terrorist act is being or has been committed, whether in or outside this State; and
 - (B) that the exercise of powers under the Act will substantially assist in the investigation of the terrorist act;
 - (iii) in the case of a preventative or investigative authorisation issued under section 3(6) of the Act—the grounds on which the authority was satisfied that it was necessary to issue the authorisation without confirmation because of the urgency of the circumstances; and
- (c) be accompanied by—
 - (i) a copy of the special powers authorisation if already issued under section 3(6) of the Act or a copy of the proposed special powers authorisation; and
 - (ii) an affidavit made by the authority verifying the grounds set out in the application.
- (3) If the process set out in the preceding subregulations would result in undue delay, the application may be made—
 - (a) by electronic means; or
 - (b) if electronic means are not readily available—by telephone.
- (4) If the application is made by electronic means—
 - (a) the information and documents required under subregulation (2) must be provided electronically; and
 - (b) the authority must be available to speak to the judicial officer by telephone; and
 - (c) the judicial officer is entitled to assume, without further inquiry, that a person who identifies themselves as the relevant authority during a telephone conversation with the officer is the relevant authority; and
 - (d) the authority must provide further information in relation to the application as required by the judicial officer and, if required by the judicial officer, provide electronically an affidavit verifying the information; and
 - (e) the judicial officer must inform the authority of their decision on the application electronically or by telephone.
- (5) If the application is made by telephone—
 - (a) the information required under subregulation (2) must be provided in the telephone conversation; and
 - (b) the judicial officer is entitled to assume, without further inquiry, that a person who identifies themselves during the telephone conversation as the relevant authority is the relevant authority; and
 - (c) the authority must inform the judicial officer of the terms of the special powers authorisation or proposed special powers authorisation (as the case requires); and

- (d) the authority must undertake to forward to the judicial officer the documents that would have accompanied the application had it been a written application; and
- (e) the authority must provide further information in relation to the application as required by the judicial officer and, if required by the judicial officer, must undertake to forward to the judicial officer an affidavit verifying the information; and
- (f) the judicial officer must inform the authority of their decision on the application by telephone; and
- (g) the authority must forward documents to the judicial officer in accordance with an undertaking, as soon as practicable after the telephone conversation ends.

5—Confirmation of special area declaration

- (1) An application by the Commissioner of Police to a relevant judicial officer seeking confirmation that the issuing of a special area declaration is appropriate in the circumstances—
 - (a) must be made in writing; and
 - (b) must be accompanied by a copy of the proposed special area declaration; and
 - (c) must set out details of the grounds on which the Commissioner of Police is satisfied that the declaration is required because of the nature of the site or area and the risk of occurrence of a terrorist act; and
 - (d) must be accompanied by an affidavit made by the Commissioner of Police verifying—
 - (i) that the site or area specified in the proposed special area declaration is—
 - (A) the site of an airport, train station, bus station, tram station or ship or ferry terminal; or
 - (B) the site of a special event; or
 - (C) a public area where persons gather in large numbers; and
 - (ii) the grounds set out in the application.
- (2) The Commissioner of Police must provide further information in relation to the application as required by the judicial officer and verify the information as required by the judicial officer.

Schedule 1—Repeal of *Terrorism (Police Powers) Regulations 2006*

The *Terrorism (Police Powers) Regulations 2006* 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 27 May 2021

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