

South Australia

Police (Police Security Officers) Amendment Regulations 2022

under the *Police Act 1998*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement

Part 2—Amendment of *Police Regulations 2014*

- 3 Amendment of regulation 3—Interpretation
- 4 Amendment of regulation 29—Interpretation
- 5 Amendment of regulation 53—Grievance process for selection decision
- 6 Amendment of regulation 54—Applications to SAET or Police Review Tribunal—time and procedures
- 7 Amendment of regulation 68—Interpretation
- 8 Amendment of regulation 85—Legal, medical and other assistance for prisoners
- 9 Insertion of Part 16

Part 16—Provisions enabling police security officers to perform certain additional duties

Division 1—Preliminary

- 94 Interpretation
- 95 Application of Part

Division 2—Provisions enabling police security officers to perform additional duties

- 96 Power of arrest of certain police security officers
- 97 Person apprehended by police security officer without warrant—how dealt with
- 98 Other powers etc of police security officers performing additional duties

Division 3—Miscellaneous

- 99 Application of section 82A of *Summary Offences Act 1953*
- 100 Form of oath or affirmation
- 101 Liability for loss of equipment
- 102 Offence for former police security officers to use or disclose information

10 Insertion of Schedule 3A

Schedule 3A—Form of oath or affirmation—police security officers

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Police (Police Security Officers) Amendment Regulations 2022*.

2—Commencement

These regulations come into operation on the day on which section 33 of the *Statutes Amendment and Repeal (Budget Measures) Act 2021* comes into operation.

Part 2—Amendment of *Police Regulations 2014*

3—Amendment of regulation 3—Interpretation

- (1) Regulation 3, definition of *Code of Conduct*—delete the definition
- (2) Regulation 3, definition of *employee in the department*—after paragraph (b) insert:
 - (ba) a police security officer; or

4—Amendment of regulation 29—Interpretation

Regulation 29(1), definition of test subject—delete "or a police cadet" and substitute:
, a police cadet or a police security officer

5—Amendment of regulation 53—Grievance process for selection decision

Regulation 53(1)—after "SA Police" insert:
or police security officer (as the case requires)

6—Amendment of regulation 54—Applications to SAET or Police Review Tribunal—time and procedures

- (1) Regulation 54(1)—after "SA Police" insert:
, or police security officer (or former police security officer), (as the case requires)
- (2) Regulation 54(2)—after "SA Police" insert:
or police security officer
- (3) Regulation 54(2)—after "member" second and third occurring insert:
or officer
- (4) Regulation 54(3)—after "SA Police" insert:
or police security officer
- (5) Regulation 54(3)—after "member" second occurring insert:
or officer
- (6) Regulation 54(5)—after "SA Police" insert:
or police security officer

7—Amendment of regulation 68—Interpretation

Regulation 68—after its present contents (now to be designated as subregulation (1)) insert:

- (2) For the purposes of this Part, a reference to a member of SA Police will be taken to include a reference to a police security officer.

8—Amendment of regulation 85—Legal, medical and other assistance for prisoners

Regulation 85(2)(c)(ii)—after "SA Police" insert:

or police security officer

9—Insertion of Part 16

After regulation 93 insert:

Part 16—Provisions enabling police security officers to perform certain additional duties

Division 1—Preliminary

94—Interpretation

In this Part—

additional duties means additional duties imposed on police security officers, a class of police security officers or a specified police security officer or officers by the Commissioner under the Act (being additional duties contemplated by section 63D(2) of the Act).

95—Application of Part

- (1) This Part applies to police security officers, a class of police security officers, or a specified police security officer or officers who are, pursuant to regulations made under section 63D(2) of the Act, able to perform additional duties.
- (2) Nothing in this Part limits the Commissioner's ability to impose limitations on the powers of a police security officer to whom this Part applies under section 63O of the Act.
- (3) Nothing in this Part limits or derogates from any other powers of a police security officer under the Act or any other Act or law.
- (4) This Part applies despite a provision of the *Summary Offences Act 1953* or any other Act or law.

Division 2—Provisions enabling police security officers to perform additional duties

96—Power of arrest of certain police security officers

Pursuant to section 63D(2) of the Act, a police security officer to whom this Part applies, without any warrant other than this Part, at any hour of the day or night, may, in the course of performing additional duties, apprehend any person whom the police security officer finds committing, or has reasonable cause to suspect of having committed, or being about to commit, an offence.

97—Person apprehended by police security officer without warrant—how dealt with

- (1) Pursuant to section 63D(2) of the Act, a person who is apprehended without warrant by a police security officer to whom this Part applies must, as soon as reasonably practicable, be delivered into the custody of a police officer.
- (2) Pursuant to section 63D(2) of the Act, if a police officer decides not to accept custody of a person apprehended by a police security officer, the police security officer must ensure that the person is, if the person so requires—
 - (a) returned to the place of apprehension; or
 - (b) delivered to another place that may be reasonably nominated by the person.
- (3) To avoid doubt, nothing in this Division limits any other power or discretion that a police officer into whose custody a person is delivered under subregulation (1) has in relation to the person.

Example—

A police officer may, for example, give the person a formal caution, release the person without charge or decide to report the person for the relevant offence.

- (4) Pursuant to section 63D(2) of the Act, section 78 of the *Summary Offences Act 1953* will be taken not to apply to, or in relation to, the apprehension of a person by a police security officer to whom this Part applies during the period between apprehension and delivery into the custody of a police officer under subregulation (1) (however, section 78 will apply to, or in relation to, the person from the time the person is delivered into such custody).
- (5) Pursuant to section 63D(2) of the Act, the requirements under section 79A of the *Summary Offences Act 1953* relating to the rights of a person apprehended by a police officer are modified as follows in relation to the apprehension of a person by a police security officer to whom this Part applies:
 - (a) the rights conferred on an apprehended person under that section will be taken not to apply until the person is delivered into the custody of a police officer; and
 - (b) for the purposes of that section, the apprehended person will, once delivered into the custody of a police officer, be taken to have been apprehended by the police officer.

98—Other powers etc of police security officers performing additional duties

Pursuant to section 63D(2) of the Act, but subject to this Part and to any limitations imposed by the Commissioner, a police security officer to whom this Part applies—

- (a) has, in the course of performing additional duties, the same powers, responsibilities and immunities as a member of SA Police; and
- (b) has, in addition to the powers, privileges, duties and responsibilities conferred or imposed by this or any other Act, all such powers, privileges, duties and responsibilities as a constable has by the common law.

Division 3—Miscellaneous

99—Application of section 82A of *Summary Offences Act 1953*

Pursuant to section 63D of the Act, section 82A of the *Summary Offences Act 1953* applies to a police security officer to whom this Part applies as if a reference in that section to a police officer were a reference to a police security officer.

100—Form of oath or affirmation

- (1) For the purposes of section 63G of the Act, the form of the oath or affirmation to be made by a police security officer on appointment is as set out in Schedule 3A.
- (2) An oath or affirmation in the form specified in Schedule 3A may be made before a justice of the peace for South Australia or of another State or a Territory of the Commonwealth.

101—Liability for loss of equipment

A police security officer to whom equipment is issued is responsible for that equipment and is liable for any loss of or damage to the equipment incurred as a result of the police security officer's negligence.

102—Offence for former police security officers to use or disclose information

- (1) A person who has been a protective security officer (within the meaning of the *Protective Security Act 2007*) or police security officer must not, after the person ceases to be a protective security officer or police security officer (as the case requires), use or disclose information gained by virtue of that appointment if the use or disclosure of the information would constitute an offence or breach of the Code assuming that the person were a police security officer.
Penalty: \$1 250.

