

South Australia

# Road Traffic (Miscellaneous) (Form 7) Amendment Regulations 2023

under the *Road Traffic Act 1961*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Road Traffic (Miscellaneous) (Form 7) Amendment Regulations 2023*.

### 2—Commencement

These regulations come into operation on the day on which section 56 of the *Statutes Amendment (Transport Portfolio) Act 2021* comes into operation.

## Part 2—Amendment of *Road Traffic (Miscellaneous) Regulations 2014*

### 3—Amendment of Schedule 1—Forms

Schedule 1, Form 7—delete the Form and substitute:

#### **Form 7—Notice**

#### **Road Traffic Act 1961, Notice under section 79B(5) & (6)**

#### **Entitlement to view photographic evidence**

You are entitled to see the photographic evidence.

A copy of the photographic evidence on which the allegation is based:

- will, on written application to the Commissioner of Police at the Expiation Notice Branch [*insert address*], be sent by post to you at the address nominated by you in the written application or, in the absence of such a nomination, to your last known address; and

- may be viewed—
  - online by following the instructions available at *[insert website]*; or
  - by telephoning the Expiation Notice Branch on *[insert phone number]* and making an appointment.

### **Statutory Declarations**

The Commissioner of Police will, in relation to the question of withdrawal of the expiation notice, reminder notice or information, give due consideration to any exculpatory evidence (ie evidence indicating that you have a defence under the relevant legislation or are otherwise not liable for the offence) that is verified by statutory declaration. A statutory declaration must be furnished to the Commissioner before the due date for payment specified in the enclosed expiation notice or expiation reminder notice or, if the enclosed document is a summons, within 28 days after the date of issue of the summons.

You must provide the following information in the statutory declaration:

- your full name and address; and
- expiation notice number (where relevant); and
- motor vehicle registration number; and
- details of the defence or other exculpatory circumstances (in keeping with the requirements of the relevant legislation).

### **Examples—**

If the allegation of an offence against section 79B of the Act, or an allegation of a speeding or reckless or dangerous driving offence, is based on evidence of the average speed of the vehicle between 2 locations you would need to provide this information in relation to each person who drove the vehicle during that time (if there was more than 1) and in the case of an offence against section 79B of the Act state whether or not you were 1 of those persons.

If, for example, you sold the vehicle before the commission of the alleged offence you would need to provide details of that sale including the date on which it occurred and the name and address of the purchaser.

The statutory declaration must be witnessed by one of the following:

- Justice of the Peace (including ID No.)
- Proclaimed Police Officer
- Commissioner for taking affidavits
- any other person before whom a statutory declaration may be made under the *Oaths Act 1936*.

NOTE: It is an offence to make a statutory declaration that you know to be untrue in a material particular. The maximum penalty is 4 years imprisonment.

A completed statutory declaration must either be lodged in accordance with instructions available at *[insert website]* or sent by post to the Expiation Notice Branch *[insert address]*.

### **Driver Nominations (section 79B(2)(b))**

If you are the owner of a vehicle involved in the commission of a prescribed offence (within the meaning of section 79B of the Act) and you were not the driver at the time, you may, in accordance with section 79B(2)(b) of the Act, state the name and address of the person who was driving the vehicle at the time by making a nomination in accordance with the form accessible from the Expiation Notice Branch at *[insert website]*.

A driver nomination form must be given to the Commissioner of Police before the due date for payment specified in the enclosed expiation notice or expiation reminder notice or, if the enclosed document is a summons, within 28 days after the date of issue of the summons or within such longer period as the Commissioner may allow if satisfied that exceptional circumstances exist.

The Commissioner of Police may require a person who makes a nomination under section 79B(2)(b) of the Act to verify the information contained in the nomination by statutory declaration.

NOTE: It is an offence to make a nomination that is false or misleading in a material particular. The maximum penalty is \$25 000 or 4 years imprisonment.

A completed driver nomination form must either be lodged in accordance with instructions available at *[insert website]* or sent by post to the Expiation Notice Branch *[insert address]*.

### **General information**

Further information regarding expiation notices, statutory declarations, nomination forms and photographic evidence can be found at *[insert website]*.

### **Motor Vehicles Act 1959, Notice under Schedule 1 clause 3**

#### **Entitlement to view photographic evidence**

You are entitled to see the photographic evidence.

A copy of the photographic evidence on which the allegation is based:

- will, on written application to the Commissioner of Police at the Expiation Notice Branch *[insert address]*, be sent by post to you at the address nominated by you in the written application or, in the absence of such a nomination, to your last known address; and
- may be viewed—
  - online by following the instructions available at *[insert website]*; or
  - by telephoning the Expiation Notice Branch on *[insert phone number]* and making an appointment.

### **Statutory Declarations**

The Commissioner of Police will, in relation to the question of withdrawal of the expiation notice, reminder notice or information, give due consideration to any exculpatory evidence (ie evidence indicating that you have a defence under the relevant legislation or are otherwise not liable for the offence) that is verified by statutory declaration. A statutory declaration must be furnished to the Commissioner before the due date for payment specified in the enclosed expiation notice or expiation reminder notice or, if the enclosed document is a summons, within 21 days after the date of issue of the summons.

You must provide the following information in the statutory declaration:

- your full name and address; and
- expiation notice number (where relevant); and
- motor vehicle registration number; and
- details of the defence or other exculpatory circumstances (in keeping with the requirements of the relevant legislation).

**Example—**

If, in relation to an offence against section 9(3) or 102(2) of the *Motor Vehicles Act 1959*, you are claiming the defence set out in section 9(4a) or 102(3aa), you would need to specify that the vehicle was not driven or left standing on the road by you at the time of the alleged offence and you would need to provide details of the steps you took to ensure that people who might use the vehicle would have been aware that it was unregistered or uninsured.

If, in relation to an offence against section 9(1) of the *Motor Vehicles Act 1959*, you are claiming the defence set out in section 9(1c), you would need to provide information that you were not the owner or the registered operator of the vehicle and that you did not know, and could not reasonably be expected to have known, that the vehicle was unregistered.

The statutory declaration must be witnessed by one of the following:

- Justice of the Peace (including ID No.)
- Proclaimed Police Officer
- Commissioner for taking affidavits.
- any other person before whom a statutory declaration may be made under the *Oaths Act 1936*.

NOTE: It is an offence to make a statutory declaration that you know to be untrue in a material particular. The maximum penalty is 4 years imprisonment.

A completed statutory declaration must either be lodged in accordance with instructions available at *[insert website]* or sent by post to the Expiation Notice Branch *[insert address]*.

**General information**

Further information regarding expiation notices, statutory declarations and photographic evidence can be found at *[insert website]*.

**Editorial note—**

As required by section 10AA(2) of the *Legislative Instruments 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 11 May 2023

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