

South Australia

Serious and Organised Crime (Control) Regulations 2023

under the *Serious and Organised Crime (Control) Act 2008*

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Schedule 1—Repeal of *Serious and Organised Crime (Control) Regulations 2008*

1—Short title

These regulations may be cited as the *Serious and Organised Crime (Control) Regulations 2023*.

2—Commencement

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

3—Interpretation

In these regulations—

Act means the *Serious and Organised Crime (Control) Act 2008*;

Uniform Poisons Standard has the same meaning as in the *Controlled Substances (Poisons) Regulations 2011*.

4—Corresponding control orders and declarations

- (1) For the purposes of the definition of *corresponding control order* in section 3 of the Act, the following provisions are prescribed:
 - (a) section 161T of the *Penalties and Sentences Act 1992* of Queensland;
 - (b) section 19 of the *Crimes (Criminal Organisations Control) Act 2012* of New South Wales;

- (c) sections 25(2)(a) and 26(4)(a) of the *Serious Crime Control Act 2009* of the Northern Territory.
- (2) For the purposes of the definition of **corresponding declaration** in section 3 of the Act, the following provisions are prescribed:
 - (a) section 9 of the *Crimes (Criminal Organisations Control) Act 2012* of New South Wales;
 - (b) section 15 of the *Serious Crime Control Act 2009* of the Northern Territory.

5—Serious criminal offences—prescribed offences

For the purposes of paragraph (b) of the definition of **serious criminal offences** in section 3 of the Act, the following summary offences are prescribed:

- (a) offences under section 18 of the *Controlled Substances Act 1984* involving—
 - (i) anabolic or androgenic steroidal agents (including when separately specified in Schedule 4 of the Uniform Poisons Standard); or
 - (ii) steroid hormones (as set out in Schedule 4 of the Uniform Poisons Standard);
- (b) offences under section 25 or 33K(1)(b) of the *Controlled Substances Act 1984*;
- (c) offences under section 20(3) of the *Criminal Law Consolidation Act 1935* (being basic offences within the meaning of the Act);
- (d) offences under section 12, 23 or 48 of the *Explosives Act 1936*;
- (e) offences under section 9 and 22 of the *Firearms Act 2015* (being summary offences under any of those sections);
- (f) offences under section 75, 76 or 90 of the *Gaming Offences Act 1936*;
- (g) offences under section 21B, 21C, 21D, 21E, 21F, 25A, 26, 28, 29, 51 or 61 of the *Summary Offences Act 1953*;
- (h) offences under regulation 4.02, 4.08, 4.10, 4.17, 4.25, 9.02 or 15.10 of the *Explosives Regulations 2011*;
- (i) offences under regulation 5 of the *Explosives (Fireworks) Regulations 2016*;
- (j) offences under a previous enactment corresponding to an offence referred to in a preceding paragraph;
- (k) offences consisting of a conspiracy to commit an offence referred to in a preceding paragraph;
- (l) offences consisting of an attempt to commit an offence referred to in paragraphs (b) to (j) (inclusive).

6—Prescribed office

For the purposes of paragraph (a) of the definition of **registrar** in section 37 of the Act, the office of registrar of the Supreme Court is prescribed.

7—Prescribed activity

For the purposes of the definition of *prescribed activity* in section 22(9) of the Act, any occupation or activity engaged in pursuant to an authorisation (within the meaning of section 22 of the Act) issued under any of the following Acts is prescribed:

- (a) *Firearms Act 2015*;
- (b) *Gaming Machines Act 1992*;
- (c) *Hydroponics Industry Control Act 2009*;
- (d) *Liquor Licensing Act 1997*;
- (e) *Security and Investigation Industry Act 1995*.

8—Prescribed criminal convictions

- (1) For the purposes of section 35(3)(a) of the Act, criminal convictions of the following kinds are prescribed:
 - (a) conviction of a major indictable offence or an offence against the law of another jurisdiction consisting of conduct that would, if engaged in this State, be a major indictable offence;
 - (b) conviction of an offence under the Act or a corresponding Act;
 - (c) conviction of an offence consisting of a conspiracy to commit an offence referred to in a preceding paragraph;
 - (d) conviction of an offence consisting of an attempt to commit an offence referred to in paragraph (a) or (b).
- (2) In this regulation—

corresponding Act means—

 - (a) the *Crimes (Criminal Organisations Control) Act 2012* of New South Wales; and
 - (b) the *Serious Crime Control Act 2009* of the Northern Territory.

9—Prescribed forms of association

- (1) For the purposes of section 35(6)(c) of the Act, courses of training or education of the following kinds are prescribed:
 - (a) courses of training or education provided in accordance with the *Education and Children's Services Act 2019*;
 - (b) courses of training or education comprising higher education or vocational education and training provided in accordance with the *South Australian Skills Act 2008*;
 - (c) courses of training or higher education provided by an institution (within the meaning of the *Higher Education Funding Act 1988* of the Commonwealth);
 - (d) courses of training or education required to be undertaken as a condition of parole under the *Correctional Services Act 1982*;
 - (e) courses of training or education provided in accordance with the *Family and Community Services Act 1972* or the *Youth Justice Administration Act 2016*;

- (f) courses of training or education provided in accordance with the *Children and Young People (Safety) Act 2017*;
 - (g) courses of training or education in relation to which a youth is granted a leave of absence under section 34 of the *Youth Justice Administration Act 2016*.
- (2) For the purposes of section 35(6)(d) of the Act, rehabilitation, counselling or therapy sessions of the following kinds are prescribed:
- (a) rehabilitation, counselling or therapy sessions conducted by or provided by a charitable organisation;
 - (b) rehabilitation, counselling or therapy sessions conducted or provided in the course of the provision of a health service (within the meaning of the *Health Care Act 2008*);
 - (c) rehabilitation, counselling or therapy sessions conducted or provided in accordance with the *Children and Young People (Safety) Act 2017*;
 - (d) rehabilitation, counselling or therapy sessions conducted or provided in accordance with the *Family and Community Services Act 1972* or the *Youth Justice Administration Act 2016*;
 - (e) rehabilitation, counselling or therapy sessions in relation to which a youth is granted a leave of absence under section 34 of the *Youth Justice Administration Act 2016*.
- (3) For the purposes of section 35(6)(f) of the Act, associations of the following kinds are prescribed:
- (a) associations between persons residing (whether permanently or temporarily)—
 - (i) in a supported residential facility (within the meaning of the *Supported Residential Facilities Act 1992*); or
 - (ii) in an approved treatment centre (within the meaning of the *Mental Health Act 2009*); or
 - (iii) in a facility providing emergency housing operated by State, Commonwealth or local government, or by a charitable organisation;
 - (b) associations occurring for the genuine purpose of political communication;
 - (c) associations occurring in the course of legal proceedings;
 - (d) associations occurring in the course of the provision of a health service (within the meaning of the *Health Care Act 2008*) (other than in relation to a rehabilitation, counselling or therapy session referred to in subregulation (2)(b));
 - (e) associations occurring in the course of complying with a lawful direction of a person exercising a power, or carrying out official duties, under an Act (whether of this State or another jurisdiction).

- (4) In this regulation—

charitable organisation means an organisation, society, institution or body carried on for a religious, educational, benevolent or charitable purpose, provided that it is not also carried on for the purpose of securing pecuniary benefit for its members.

10—Registration of corresponding declaration—prescribed manner

In accordance with section 39(2)(a) of the Act, an application for registration of a corresponding declaration must be made by providing the registrar with a written request for registration setting out—

- (a) the name of the respondent; and
- (b) a statement indicating that none of the matters set out in paragraphs (a) to (f) of section 39(4) apply in relation to the application; and
- (c) either—
 - (i) the date on which the corresponding declaration will cease to be in force in the jurisdiction in which it was made (if not revoked sooner); or
 - (ii) a statement indicating that under the law of the jurisdiction in which it was made, the corresponding declaration will remain in force for an indefinite period.

11—Registration of corresponding control order—prescribed manner

In accordance with section 39I(2)(a) of the Act, an application for registration of a corresponding control order must be made by providing the registrar with a written request for registration setting out—

- (a) the name of the respondent; and
- (b) a statement indicating that none of the matters set out in paragraphs (a) to (c) of section 39I(4) apply in relation to the application; and
- (c) either—
 - (i) the date on which the corresponding control order will cease to be in force in the jurisdiction in which it was made (if not revoked sooner); or
 - (ii) a statement indicating that under the law of the jurisdiction in which it was made, the corresponding control order will remain in force for an indefinite period.

Schedule 1—Repeal of *Serious and Organised Crime (Control) Regulations 2008*

The *Serious and Organised Crime (Control) Regulations 2008* are repealed.

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 3 August 2023

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