

South Australia

## **Summary Offences (General) Regulations 2001**

under the *Summary Offences Act 1953*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Summary Offences (General) Regulations 2001*.

### 2—Commencement

These regulations will come into operation on the day on which the *Summary Offences (Searches) Amendment Act 2000* comes into operation.

### 3—Revocation

The *Summary Offences (General) Regulations 1990* (see *Gazette 19.7.1990 p379*), as varied, are revoked.

### 4—Interpretation

In these regulations, unless the contrary intention appears—  
*Act* means the *Summary Offences Act 1953*.

## Part 3—Special provisions relating to intimate search records

### Division 1—Interpretation

#### 6—Interpretation

In this Part—

*intimate search record* means any videotape recording, or a written record of an intimate search, made under section 81 of the Act;

*register book* means the register book required to be kept at a police station by these regulations.

### Division 2—Register books

#### 7—Obligation to keep register book

- (1) The officer in charge of a police station must maintain and keep at the station a register book in which the details relating to intimate search records must be entered legibly as required by these regulations, using the form in Schedule 1.
- (2) The officer must comply with any directions of the Commissioner as to the form in which the register book is to be kept.

#### 8—Initial entry in register book

The officer in charge of a police station at which an intimate search record is made must, as soon as practicable after the record is made, ensure that—

- (a) the details required by Part A of the form in Schedule 1 are entered in the register book; and
- (b) the record is clearly marked with a unique identifier enabling it to be linked with that entry in the register book.

## **9—Signing of register book etc**

A person who enters details in the register book must comply with the requirements of the form set out in Schedule 1 as to the signing of the register book and the obtaining of signed receipts.

## **10—Inspection of register book by Commissioner**

- (1) The officer in charge of a police station must ensure that the register book kept at the station is available for inspection at any time by the Commissioner or by a police officer authorised by the Commissioner to inspect register books.
- (2) The Commissioner must cause all register books to be inspected regularly and at least twice yearly for the purposes of ascertaining—
  - (a) whether these regulations are being complied with; and
  - (b) whether any intimate search records should be destroyed.

## **Division 3—Storage, movement and destruction of intimate search records**

### **11—Storage of intimate search records**

The officer in charge of a police station at which an intimate search record is made must ensure that at all times, except while it is being used in connection with a purpose authorised by the Act or these regulations, the record is stored in a secure place at the police station so as to prevent unauthorised access.

### **12—Removal from storage and return of intimate search records**

- (1) Subject to subregulation (2), a person must not remove an intimate search record from storage.
- (2) The officer in charge of the police station at which an intimate search record is stored may remove an intimate search record from storage only in the following circumstances:
  - (a) if the officer requires the record for the purposes of these regulations or section 81(3c), (3d), (3e) or (3f) of the Act; or
  - (b) if another person has requested access to the record and the officer reasonably believes that the person requires the record for a purpose referred to in paragraph (a).
- (3) As soon as practicable after removing the record from storage, the officer in charge must enter in the register book the details required by Part B of the form in Schedule 1, including, except where the purpose of removal is destruction of the record, the estimated date of return of the record.
- (4) As soon as practicable after the record is returned, the officer in charge must ensure that the details required by Part C of the form in Schedule 1 are entered in the register book.

- (5) If an intimate search record is not returned by the estimated date of return—
- (a) the officer in charge must ask the person to whom the record was given to give an undertaking to return the record either immediately or on a reviewed estimated date of return; and
  - (b) the officer in charge must ensure that the details required by Part D of the form in Schedule 1 are entered in the register book.
- (6) If the record is not returned within the time specified in an undertaking given under subregulation (5), the officer in charge must notify the Commissioner of that fact in writing.

### **13—Copies of intimate search records**

- (1) Subject to subregulation (2), a person (other than the detainee) must not make a copy of an intimate search record.
- (2) An officer in charge of a police station at which an intimate search record is stored, or another person with the approval of that officer, may make a copy of the record—
- (a) on request by the detainee; or
  - (b) as may be required for purposes related to the investigation of an offence or alleged misconduct or for the purposes of, or purposes related to, legal proceedings, or proposed legal proceedings, to which the record is relevant.
- (3) The officer in charge must ensure that—
- (a) as soon as practicable after the copy is made—
    - (i) the details of the making of the copy required by Part E of the form in Schedule 1 are entered in the register book; and
    - (ii) the copy is clearly marked with a unique identifier enabling it to be linked with that entry in the register book; and
  - (b) the copy—
    - (i) is stored in a secure place at the police station so as to prevent unauthorised access; and
    - (ii) is not removed from storage except by the officer in charge for the purpose of providing the copy to the person on whose request the copy was made.
- (4) As soon as practicable after a copy of an intimate search record is lawfully removed from storage or is given to the detainee, the officer in charge must ensure that the details required by Part F of the form in Schedule 1 are entered in the register book, including, except where the purpose of removal is destruction of the copy, the estimated date of return of the copy.
- (5) As soon as practicable after a copy of an intimate search record is returned to the police station, the officer in charge must ensure that the details required by Part G of the form in Schedule 1 are entered in the register book.

- (6) If a copy of an intimate search record is not returned by the estimated date of return—
  - (a) the officer in charge must ask the person to whom the copy was given to give an undertaking to return the copy either immediately or on a reviewed estimated date of return; and
  - (b) the officer in charge must ensure that the details required by Part H of the form in Schedule 1 are entered in the register book.
- (7) If the copy is not returned within the time specified in an undertaking given under subregulation (6), the officer in charge must notify the Commissioner of that fact in writing.

#### **14—Destruction of intimate search records and copies**

- (1) An intimate search record and any copy of such a record may only be destroyed—
  - (a) by the officer in charge of the police station at which the record is required to be kept; or
  - (b) by some other person with the approval of that officer.
- (2) If an intimate search record is lawfully destroyed, any copies of the record (other than a copy provided to the detainee) must also be destroyed.
- (3) If an intimate search record is to be destroyed but the record or any copies of the record are not at the police station at which they are required to be kept, the Commissioner must direct the immediate return of the record or copies to that station.
- (4) If a record or a copy of a record is not returned as required by a direction given under subregulation (3), the officer in charge of the police station must notify the Commissioner of that fact in writing.
- (5) The officer in charge of a police station responsible for the destruction of an intimate search record and any copies must, as soon as practicable after the destruction, ensure that the details required by Part I of the form in Schedule 1 are entered in the register book.
- (6) An intimate search record consisting of a videotape recording will be regarded as having been destroyed if all material recorded on the videotape has been erased.

### **Part 4—Miscellaneous**

#### **15—Fees (sections 74D and 81)**

For the purposes of sections 74D and 81 of the Act, a fee of \$10 is payable for—

- (a) an audio tape of the soundtrack of a videotape recording of an interview with a suspect; or
- (b) a copy of an audio tape recording of an interview with a suspect; or
- (c) a copy of a videotape recording made under section 81.

#### **16—Prescribed form of written record of telephone application (section 78)**

The prescribed form for a written record of a telephone application for the purposes of section 78(4) of the Act is that set out in Form 1 of Schedule 2.

## 17—Prescribed form of warrant (section 83C)

The prescribed form for a warrant for the purposes of section 83C of the Act is that set out in Form 2 of Schedule 2.

## Schedule 1—Register form

(Part 3)

### Part A

#### Initial entry in register book (regulation 8)

Name and address of police station .....

.....

Name of detainee .....

Address .....

Age .....

Sex .....

Type of record (videotape of search, written record of search or videotape of read over of written record) .....

.....

Unique identifier for the record .....

Date of search .....

Names of persons present at search, rank and station (if member of police force) and their role in the search

.....

.....

.....

.....

Objects found (if any) as a result of search .....

Date on which the written record (if any) was made .....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station .....

Date.....

**Part B**

**Removal of intimate search record from storage**  
(regulation 12)

Name and address of police station .....

.....

Date on which record removed from storage .....

Name (and rank and station if member of the police force) of person requesting access to record.....

.....

Office hours telephone no. of person requesting access.....

Reason for access to the record .....

.....

Estimated date of return of record (unless record is to be destroyed) .....

Signature of person to whom record is supplied .....

Date.....

Name, rank and station of officer in charge of police station removing record from storage .....

.....

Signature of officer in charge of police station .....

Date.....

**Part C**

**Return of intimate search record**  
(regulation 12)

Name and address of police station .....

.....

Date of return of record .....

Name (and rank and station if member of police force) of person returning record .....

.....

Signature of person returning the record .....

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station .....

Date.....

**Part D**

**If intimate search record not returned by estimated date of return**  
(regulation 12)

Name and address of police station .....

Action taken by officer in charge of police station in respect of non-return of record by  
estimated date of return stated in Part B.....

Undertakings given to officer in charge of police station as to return of record .....

Name (and rank and station if member of police force) of person completing this Part.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

Signature of officer in charge of police station .....

Date.....

**Part E**

**Copies of intimate search records**  
(regulation 13)

Name and address of police station .....

.....

Unique identifier for the copy .....

Date on which copy is made.....

Reasons for making copy (request by detainee/required for legal proceedings).....

.....

Details of person copy supplied to:

Name.....

Address.....

Office hours telephone no.....

Receipt signed & dated.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station .....

Date.....

**Part F**

**Removal of copies**

(regulation 13)

Name and address of police station .....

.....

Date on which copy removed from storage .....

Name (and rank and station if member of the police force) of person requesting access to copy .....

.....

Office hours telephone no. of person requesting access .....

Reason for access to the copy .....

.....

Estimated date of return of copy (unless copy is to be destroyed) .....

Signature of person to whom copy supplied.....

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station removing copy from storage .....

.....

Signature of officer in charge of police station .....

Date.....

## **Part G**

### **Return of copies** (regulation 13)

Name and address of police station .....

.....

Date of return of copy.....

Name (and rank and station if member of police force) of person returning copy.....

.....

Signature of person returning copy .....

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station .....

Date.....

## **Part H**

### **If copy not returned by estimated date of return** (regulation 13)

Name and address of police station .....

.....

Action taken by officer in charge of police station in respect of non-return by the estimated date of return stated in Part F.....

.....

.....

Undertakings given to the officer as to the return of the record.....

.....

.....

Name (and rank and station if member of police force) of person completing this Part.....

.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

.....

Signature of officer in charge of police station .....

Date.....

**Part I**

**Destruction of intimate search record and any copies**

(regulation 14)

Name and address of police station .....

Reason for destruction (tick whichever is applicable):

- (a) Commissioner satisfied that record not likely to be required for purposes referred to in section 81(3e)
- (b) order of court or tribunal

Date and time of destruction.....

Method of destruction.....

Have all copies (other than that supplied to detainee) been destroyed? YES/NO

Name, rank and station of officer carrying out the destruction .....

Signature of officer carrying out the destruction.....

Date.....

Name (and rank and station if member of police force) of person completing this Part.....

Signature of person completing this Part.....

Date.....

Name, rank and station of officer in charge of police station.....

Signature of officer in charge of police station .....

Date.....

## Schedule 2—Forms

(Part 4)

### Form 1

*Summary Offences Act 1953*

#### **Application made by telephone for an authorisation pursuant to section 78**

Application made by .....

of .....

.....

on ..... at .....

(date)

(time)

Name of person apprehended .....

Address .....

Age .....

Sex .....

Details of offence under investigation.....

.....

.....

Time and date of apprehension \*

.....

or

Time and date delivered into custody at police station \*

.....

Grounds on which application made .....

.....

Determination of application .....

.....

If the application is granted, details of terms and conditions

.....

.....

Dated this ..... day of ..... 20 .. .

Magistrate .....

(\*Delete whichever is inapplicable)

cc Manager, Criminal Justice Section.



## Legislative history

### Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2001	197	<i>Gazette 23.8.2001 p3283</i>	22.2.2002: r 2
2002	4	<i>Gazette 15.1.2002 p204</i>	22.2.2002: r 2
2004	242	<i>Gazette 2.12.2004 p4450</i>	10.1.2005: r 2

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>Pt 2</i>	<i>deleted by 4/2002 r 3</i>	22.2.2002