

South Australia

Summary Offences (General) Regulations 2001

under the *Summary Offences Act 1953*

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Legislative history

Part 1—Preliminary

1—Short title

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

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 3A—Tattooing, body piercing and body modification

14AA—Interpretation

In this Part—

customer, in relation to a service provider, means a person on whom the service provider is to carry out a body piercing or body modification procedure;

service provider means a person who (or on whose behalf another person) is to perform a body piercing or body modification procedure on a third person.

14AB—Evidence of age of person (sections 21R and 21T)

For the purposes of sections 21R(4)(a)(i) and 21T(2)(a) of the Act, the following kinds of evidence of a person's age may be produced to a service provider:

- (a) a current photographic driver's licence issued under the *Motor Vehicles Act 1959* or under a corresponding law of another State or a Territory;
- (b) a current photographic student identification card issued by an Australian education institution that shows the age of the person;
- (c) a current photographic Proof of Age card issued by the Registrar of Motor Vehicles or by a corresponding public authority of the Commonwealth or another State or a Territory;
- (d) a current passport issued by the Commonwealth or under the law of another country, bearing a photograph of the person and enabling the age of the person to be determined;

- (e) a current photographic Keypass identification card issued by Alfa Omega Nominees Pty Ltd, trading as Commonwealth Key and Property Register.

14AC—Pre-conditions to performing certain procedures (section 21S)

- (1) For the purposes of section 21S(1)(a) of the Act, the following prescribed information must be included in the written agreement entered into between the service provider and the customer:
 - (a) the name, address and phone number of the business where the procedure is to be performed;
 - (b) the name of the person who will perform the procedure;
 - (c) the name and address of the customer;
 - (d) a description of the nature of the procedure to be performed on the customer and the manner in which it is to be carried out;
 - (e) if more than 1 session will be required for the purpose of completing the procedure, an estimation of the number of such sessions required;
 - (f) if the procedure includes a body piercing—
 - (i) a detailed description of the type of jewellery that will be used in the piercing; and
 - (ii) a description of the precise part of the body on which the procedure is to be performed.
- (2) For the purposes of section 21S(1)(b)(ii) of the Act, the consent form for a customer who is less than 16 years of age on whom a body piercing is to be performed must include the following information:
 - (a) the name and address of the customer;
 - (b) the date of birth of the customer;
 - (c) the name, address and phone number of the customer's guardian;
 - (d) the name, address and phone number of the business where the procedure is to be performed;
 - (e) a detailed description of the body piercing to be performed on the customer.
- (3) The consent form must be—
 - (a) signed and dated by the customer's guardian; and
 - (b) verified by statutory declaration.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) For the purposes of paragraph (b) of the definition of *prescribed information* in section 21S(4) of the Act, information about the possible risks associated with body piercing or body modification is prescribed.

14AD—Prescribed information (section 21U)

- (1) For the purposes of section 21U of the Act, the following information is prescribed:
 - (a) that it is an offence to perform an intimate body piercing or body modification procedure on a person under the age of 18 years;
 - (b) that the penalty for an offence referred to in paragraph (a) is a fine of \$5 000 or imprisonment for 12 months;
 - (c) that it is an offence to perform any other body piercing on a minor under the age of 16 years without first obtaining the consent of the minor's guardian—
 - (i) in person; or
 - (ii) in writing in the prescribed form and verified by statutory declaration;
 - (d) that the penalty for an offence referred to in paragraph (c) is a fine of \$5 000 or imprisonment for 12 months;
 - (e) that it is an offence to sell body modification equipment to a person under the age of 18 years;
 - (f) that the penalty for an offence referred to in paragraph (e) is a fine of \$2 500;
 - (g) that proof of age may be required—
 - (i) before a body piercing or body modification procedure may be performed; or
 - (ii) before body modification equipment may be purchased.
- (2) The prescribed information must be printed on a notice in any readily legible font no smaller than 12 points and displayed in a prominent place at the premises at which the procedures are offered.

14AE—Record keeping (section 21V)

For the purposes of section 21V(1), a service provider must keep the following records:

- (a) a written agreement entered into with a customer under section 21S(1)(a) of the Act;
- (b) the written consent of a customer's guardian and the statutory declaration verifying the consent under section 21S(1)(b)(ii) of the Act;
- (c) evidence of a person's age produced to the service provider.

Part 4—Miscellaneous

14A—Declaration of vehicle immobilisation device (section 74BAA)

Pursuant to section 74BAA(2) of the Act, the Stinger Spike System Series 2000 is declared to be a vehicle immobilisation device.

14B—Prescribed serious criminal offences (section 74BA)

For the purposes of the definition of *serious criminal offence* in section 74BA of the Act, offences against the following provisions are prescribed:

- (a) sections 15(1b)(a) and 15(1c)(a) of the Act;
- (b) section 25 of the *Controlled Substances Act 1984*;
- (c) sections 12, 23 and 48 of the *Explosives Act 1936*;
- (d) sections 75, 76 and 90 of the *Lottery and Gaming Act 1936*;
- (e) regulations 2.02, 4.02, 4.08, 4.10, 4.17, 4.25, 9.02 and 15.10 of the *Explosives Regulations 1996*;
- (f) regulation 5 of the *Explosives (Fireworks) Regulations 2001*.

15—Fees (sections 74D and 81)

For the purposes of sections 74D and 81 of the Act, a fee of \$19 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.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Summary Offences (General) Regulations 2001* revoked the following:

Summary Offences (General) Regulations 1990

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
2005	31	<i>Gazette 28.4.2005 p1100</i>	2.5.2005: r 2
2006	16	<i>Gazette 2.2.2006 p420</i>	2.2.2006: r 2
2007	295	<i>Gazette 6.12.2007 p4753</i>	16.12.2007: r 2
2011	82	<i>Gazette 9.6.2011 p2116</i>	1.7.2011: r 2
2012	92	<i>Gazette 31.5.2012 p2382</i>	1.7.2012: r 2
2012	227	<i>Gazette 15.11.2012 p5021</i>	15.12.2012: r 2
2013	134	<i>Gazette 6.6.2013 p2345</i>	1.7.2013: r 2
2014	141	<i>Gazette 19.6.2014 p2669</i>	1.7.2014: 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
Pt 1		
<i>rr 2 and 3</i>	<i>omitted under the Legislation Revision and Publication Act 2002</i>	<i>10.1.2005</i>
Pt 2		
	<i>deleted by 4/2002 r 3</i>	<i>22.2.2002</i>
	<i>inserted by 31/2005 r 4</i>	<i>2.5.2005</i>

	<i>deleted by 295/2007 r 4</i>	<i>16.12.2007</i>
Pt 3A	inserted by 227/2012 r 4	15.12.2012
Pt 4		
r 14A	inserted by 242/2004 r 4	10.1.2005
r 14B	inserted by 16/2006 r 4	2.2.2006
r 15	varied by 82/2011 r 4	1.7.2011
	varied by 92/2012 r 4	1.7.2012
	varied by 134/2013 r 4	1.7.2013
<i>Schs A1 and B1</i>	<i>inserted by 31/2005 r 5</i>	<i>2.5.2005</i>
	<i>deleted by 295/2007 r 5</i>	<i>16.12.2007</i>

Historical versions

10.1.2005
2.5.2005
2.2.2006
16.12.2007
1.7.2011
1.7.2012
15.12.2012