

South Australia

# **Passenger Transport (Transit Barring Orders) Amendment Regulations 2025**

under the *Passenger Transport Act 1994*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Passenger Transport (Transit Barring Orders) Amendment Regulations 2025*.

### **2—Commencement**

These regulations come into operation on 1 July 2025.

## Part 2—Amendment of *Passenger Transport Regulations 2024*

### 3—Amendment of regulation 3—Interpretation

Regulation 3(1), definition of *transit barring order*—delete the definition and substitute:

*transit barring order* means an order issued to a person under Part 4 Division 2A barring the person from 1 or both of the following:

- (a) boarding or travelling on—
  - (i) specified classes of public transport; or
  - (ii) all public transport other than as specified by the order; or
  - (iii) all public transport;
- (b) entering or remaining on—
  - (i) specified prescribed premises; or
  - (ii) specified classes of prescribed premises; or
  - (iii) all prescribed premises other than as specified by the order; or
  - (iv) all prescribed premises;

### 4—Insertion of Part 4 Division 2A

Part 4—after Division 2 insert:

#### Division 2A—Transit barring orders

##### 137A—Interpretation

In this Division—

*approved person* means a person who has been expressly authorised by the Minister to issue a transit barring order under regulation 137B;

*relevant offence* means an offence against—

- (a) Part 3 Division 1 of the *Criminal Law Consolidation Act 1935*; or
- (b) Part 3 Division 7 of the *Criminal Law Consolidation Act 1935*; or
- (c) Part 3 Division 7A of the *Criminal Law Consolidation Act 1935*; or
- (d) section 48, 49, 56 or 58 of the *Criminal Law Consolidation Act 1935*; or
- (e) section 83C of the *Criminal Law Consolidation Act 1935*; or
- (f) section 6A of the *Summary Offences Act 1953*; or

- (g) section 7(1)(a) or (b) of the *Summary Offences Act 1953*; or
  - (h) section 21C(1)(a) or (2)(b) of the *Summary Offences Act 1953*; or
  - (i) section 21F(1)(b) of the *Summary Offences Act 1953*,
- that was committed on public transport or prescribed premises, or in an area adjacent to prescribed premises;

***senior police officer*** means—

- (a) in relation to a transit barring order to be made for a period exceeding 72 hours—a police officer of or above the rank of Inspector; or
- (b) in any other case—a police officer of or above the rank of Sergeant or in charge for the time being of a police station.

**137B—Transit barring orders issued by Minister, approved person or police officer**

- (1) Subject to this regulation, the Minister, an approved person or a police officer may issue a transit barring order to a person for a specified period not exceeding any applicable limit fixed by this regulation—
  - (a) if the Minister, approved person, or police officer suspects that the person has committed an offence on public transport or prescribed premises, or in an area adjacent to prescribed premises; or
  - (b) if the person behaves in an offensive or disorderly manner on public transport or prescribed premises, or in an area adjacent to prescribed premises; or
  - (c) on any other reasonable ground.
- (2) A police officer may only issue a transit barring order under subregulation (1) on the authorisation of a senior police officer (which may be granted orally or in writing).
- (3) A transit barring order remains in force—
  - (a) in the case of an order issued by the Minister or an approved person, or authorised by a senior police officer of or above the rank of Inspector—
    - (i) on the grounds that the person it is issued to is suspected of having committed a relevant offence—for an indefinite period or the period specified in the order, whether or not the person has previously been barred under these regulations or the repealed regulations; or
    - (ii) on any other ground—

- (A) if the person has not previously been barred under these regulations or the repealed regulations—for the period specified in the order (which may not exceed 6 months); or
    - (B) if the person has on 1 previous occasion been barred under these regulations or the repealed regulations—for the period specified in the order (which may not exceed 12 months); or
    - (C) if the person has on at least 2 previous occasions been barred under these regulations or the repealed regulations—for an indefinite period or the period specified in the order; or
  - (b) in the case of an order authorised by a senior police officer of or above the rank of Sergeant or in charge for the time being of a police station (not being a police officer of or above the rank of Inspector)—for a period specified in the order (which may not exceed 72 hours).
- (4) A transit barring order issued under this regulation must contain the following information:
  - (a) the name of the person barred under the order;
  - (b) the public transport or prescribed premises from which the person has been barred under the order;
  - (c) the grounds on which the order is issued;
  - (d) the period for which the order remains in force;
  - (e) if the order is for a period of more than 3 months—details of the person's right to apply to have the order lifted in accordance with regulation 137E.
- (5) When issuing a transit barring order, the person issuing the order must keep a written record of the following:
  - (a) if the transit barring order is issued by a police officer—
    - (i) their name, rank and identification number; and
    - (ii) details of the conduct giving rise to the request for authorisation; and
    - (iii) the name, rank and identification number of the senior police officer giving the authorisation under subregulation (2);
  - (b) if the transit barring order is issued by an approved person—
    - (i) their name; and
    - (ii) details of their authorisation by the Minister;

- (c) the information required under subregulation (4).
- (6) The Minister, an approved person or a police officer may provide a regular passenger service operator with information about a person (including photographic and other information that may identify the person) for the purpose of identifying a person who has been barred from public transport or prescribed premises under this regulation.
- (7) The Minister or an approved person may vary or revoke a transit barring order issued by the Minister or an approved person under this regulation by subsequent order served on the person.
- (8) A police officer, on the authorisation of a senior police officer, may vary or revoke a transit barring order issued by a police officer under this regulation by subsequent order served on the person.
- (9) For the purposes of subregulation (7) and (8), a condition or limitation under this regulation in relation to the making of a particular transit barring order extends to a variation or revocation of the order under that subregulation.
- (10) If a person who has been issued a transit barring order under this regulation is subsequently issued an order under regulation 137C in relation to the same conduct, the order issued under this regulation will be taken to have been lifted at the time at which the subsequent order is issued (and the order issued under this regulation will not count as a previous order for the purposes of subregulation (3)).
- (11) A person who contravenes a transit barring order issued under this regulation is guilty of an offence.  
Maximum penalty: \$7 000.  
Expiation fee: \$500.
- (12) In proceedings for an offence against this regulation, a certificate apparently signed by the Minister, an approved person or a police officer of or above the rank of Inspector stating that a person was barred from public transport or prescribed premises under this Division for the period specified in the certificate will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.
- (13) In proceedings for an offence against this regulation in relation to a transit barring order issued on the authorisation of a senior police officer, a certificate apparently signed by a police officer of or above the rank of Inspector stating—
- (a) that the authorisation was given; and
  - (b) that the authorisation authorised the making of a transit barring under this regulation; and
  - (c) the grounds on which the authorisation was given,
- will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

### **137C—Transit barring order to be imposed for certain offences**

- (1) A person charged with a relevant offence must be issued a transit barring order—
  - (a) by the Commissioner of Police; or
  - (b) if, after 14 days of the charge being laid, the Commissioner of Police has been unable to issue an order to the person—by the Minister.
- (2) Subject to this regulation, a transit barring order issued under subregulation (1) remains in force for an indefinite period or for the period specified in the order.
- (3) If a person is acquitted of the offence in relation to which the transit barring order was issued, or the charge of the offence is withdrawn, the Commissioner of Police or the Minister must lift the transit barring order and notify the person to whom the order was given in writing that the order has been lifted.
- (4) Nothing in subregulation (3) prevents a transit barring order being issued under regulation 137B to a person in respect of whom a transit barring order has been lifted.
- (5) A transit barring order issued under this regulation must contain the following information:
  - (a) the name of the person barred under the order;
  - (b) details of the charge giving rise to the order;
  - (c) the period for which the order remains in force;
  - (d) the public transport or prescribed premises from which the person has been barred under the order;
  - (e) details of the person's right to apply to have the order lifted in accordance with regulation 137E.
- (6) The Commissioner of Police may vary a transit barring order issued by the Commissioner under this regulation by subsequent order served on the person.
- (7) The Minister may vary a transit barring order issued by the Minister under this regulation by subsequent order served on the person.
- (8) If the Commissioner of Police or the Minister is satisfied that a transit barring order should not have been issued under this regulation because—
  - (a) the order has been given to a particular person in error; or
  - (b) the order is defective; or
  - (c) there is other proper cause for which the order should not have been given,

the Commissioner or the Minister may withdraw the order.

- (9) A withdrawal referred to in subregulation (8) is effected by giving notice of the withdrawal to the person to whom the transit barring order was issued.
- (10) A notice of withdrawal given under subregulation (9) must specify the reasons for the withdrawal.
- (11) If a transit barring order issued to a person under this regulation is withdrawn, the Commissioner of Police or the Minister may, if satisfied that there are proper grounds for doing so, issue a fresh transit barring order to the person.
- (12) The Commissioner of Police or the Minister may provide a regular passenger service operator with information about a person (including photographic and other information that may identify the person) for the purpose of identifying a person who has been barred from public transport or prescribed premises under this regulation.
- (13) A person who contravenes a transit barring order issued under this regulation is guilty of an offence.  
Maximum penalty: \$7 000.
- (14) In proceedings for an offence against this regulation, a certificate apparently signed by the Commissioner of Police or the Minister stating that a person was barred from public transport or prescribed premises under this regulation for the period specified in the certificate will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

### **137D—Service of transit barring orders**

- (1) A transit barring order or an order varying a transit barring order issued under regulation 137B or 137C must be served on the person personally and is not binding on the person until it has been so served.
- (2) For the purposes of subregulation (1), an order will be taken to have been personally served on a person if—
  - (a) the order is given to and accepted by the person; or
  - (b) each of the following apply:
    - (i) the order is offered to the person;
    - (ii) the person is unwilling to accept the order;
    - (iii) the person is informed of the nature of the order;
    - (iv) the order is put down in the presence of the person.
- (3) If it is not possible to serve a transit barring order or an order varying a transit barring order in accordance with subregulation (2), the Magistrates Court may, on application without notice, make an order substituting another method of service.

- (4) It is not necessary for an applicant under subregulation (3) to establish that the proposed method of service will bring the order to the notice of the person to be served.

**137E—Application to have transit barring order lifted**

- (1) A person who has been issued a transit barring order under regulation 137B or 137C may apply to the relevant court to have the transit barring order lifted.
- (2) The court may, on an application made under subregulation (1), if the court is satisfied on the basis of evidence given on oath by or on behalf of the applicant that—
- (a) exceptional circumstances exist such that it is, in all the circumstances, appropriate that an order be made under this subregulation; and
  - (b) the person does not pose a substantial risk to members of the public if an order is made under this subregulation,
- order that the transit barring order be lifted on the date specified by the court.
- (3) An application under subregulation (1) may not be made unless at least 3 months have elapsed since the applicant was first served with a transit barring order in accordance with regulation 137D in relation to the relevant conduct.
- (4) The Minister and the Commissioner of Police are entitled to be heard on an application under subregulation (1).
- (5) The relevant court must ensure that the Minister and the Commissioner of Police are notified—
- (a) when an application is made under subregulation (1); and
  - (b) if an order is made to lift a transit barring order under subregulation (2).
- (6) In this regulation—

***relevant conduct*** means the conduct in relation to which the order that is the subject of the application under this regulation was issued;

***relevant court*** means—

- (a) in the case of an application made by a person who is under the age of 18 years—the Youth Court; or
- (b) in any other case—the Magistrates Court.

### **137F—Information sharing**

- (1) The Minister must ensure that the following information in relation to a transit barring order is forwarded to the Commissioner of Police as soon as is reasonably practicable:
  - (a) in relation to an order issued by the Minister or an approved person under regulation 137B—the information required to be recorded under regulation 137B(5);
  - (b) in relation to an order varied or revoked by the Minister or an approved person under regulation 137B(7)—details of that variation or revocation;
  - (c) in relation to an order issued by the Minister under regulation 137C—the information required under regulation 137C(5);
  - (d) in relation to an order varied by the Minister under regulation 137C(7)—details of that variation;
  - (e) in relation to an order lifted or withdrawn by the Minister under regulation 137C(3) or (8)—details of that lifting or withdrawal.
- (2) The Commissioner of Police must ensure that the following information in relation to a transit barring order is forwarded to the Minister as soon as is reasonably practicable:
  - (a) in relation to an order issued by a police officer under regulation 137B—the information required to be recorded under regulation 137B(5);
  - (b) in relation to an order varied or revoked by the Commissioner under regulation 137B(8)—details of that variation or revocation;
  - (c) in relation to an order issued by the Commissioner under regulation 137C—the information required under regulation 137C(5);
  - (d) in relation to an order varied by the Commissioner under regulation 137C(6)—details of that variation;
  - (e) in relation to an order lifted or withdrawn by the Commissioner under regulation 137C(3) or (8)—details of that lifting or withdrawal.

### **5—Repeal of regulation 139**

Regulation 139—delete the regulation

## Schedule 1—Transitional provision

### 1—Transitional provision

- (1) A transit barring order issued to a person under regulation 139 of the principal regulations prior to the repeal of that regulation and in force immediately prior to the commencement of these regulations continues in force as a transit barring order issued under regulation 137B of the principal regulations (as amended by these regulations).
- (2) However, a person subject to a transit barring order continued in force by force of subclause (1) may not apply to have that order lifted in accordance with regulation 137E of the principal regulations (as inserted by these regulations).
- (3) In this clause—  
*principal regulations* means the *Passenger Transport Regulations 2024*.

#### 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 8 May 2025

No 18 of 2025