

South Australia

Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2022

under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Forfeiture offences
- 5 Prescribed offences
- 6 Prescribed circumstances
- 7 Prescribed forms
- 8 Sale or disposal of motor vehicles
- 9 Service of notices

Schedule 1—Prescribed forms

Schedule 2—Repeal of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2007*

1—Short title

These regulations may be cited as the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2022*.

2—Commencement

These regulations come into operation on 1 September 2022.

3—Interpretation

In these regulations—

Act means the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*.

4—Forfeiture offences

For the purposes of the definition of *forfeiture offence* in section 3(1) of the Act, indictable offences against Part 3 Division 6 of the *Criminal Law Consolidation Act 1935* are prescribed.

5—Prescribed offences

For the purposes of the definition of *prescribed offence* in section 3(1) of the Act, the following offences are prescribed:

- (a) an aggravated offence against section 45 of the *Road Traffic Act 1961*;

- (b) an offence against section 44B, 45A, 46, 47, 47B, 47BA, 47E(3), 47E(3a), 47EAA(9), 47EAA(9a) or 47I of the *Road Traffic Act 1961*;
- (c) an offence against section 17AA or 54 of the *Summary Offences Act 1953*;
- (d) an offence against section 9 of the *Graffiti Control Act 2001*;
- (e) an offence against section 85 of the *Criminal Law Consolidation Act 1935* if the offence involves the marking of graffiti;
- (f) an offence against section 9 or 102 of the *Motor Vehicles Act 1959* (other than a first offence against either of those sections);
- (g) an offence against section 74(2), 74(2a), 74(2ab), 74(2ac) or 91(5) of the *Motor Vehicles Act 1959*.

6—Prescribed circumstances

The following circumstances in which a motor vehicle is used by a person are prescribed for the purposes of sections 8(2)(a) and 11(c)(i) of the Act:

- (a) the motor vehicle is being used by the person (not being the owner of the motor vehicle) in accordance with a contractual arrangement with the owner of the motor vehicle, other than a contractual arrangement that confers on the person an express or implied right or option to purchase the motor vehicle; and
- (b) the owner of the motor vehicle is a person who carries on a business that consists of, or involves, hiring or otherwise supplying motor vehicles to others for business or personal use.

Examples—

A person visiting South Australia on holiday hires a car from a car hire company to use while in the State. While that person is driving the car in accordance with the hire contract, the car is being used in circumstances prescribed by this regulation.

A taxi driver drives a taxi that is owned, not by the driver, but by the taxi company for whom the driver works. While the taxi driver is using the taxi in accordance with their employment contract, the taxi is being used in circumstances prescribed by this regulation.

7—Prescribed forms

- (1) For the purposes of section 14(1) of the Act, the notice set out in Schedule 1 Form 1 is prescribed.
- (2) For the purposes of section 14(2) of the Act, the notice set out in Schedule 1 Form 1 is prescribed.
- (3) For the purposes of section 15(1) of the Act—
 - (a) if the relevant authority giving the notice is a police officer—the notice set out in Schedule 1 Form 1 is prescribed; or
 - (b) if the relevant authority giving the notice is the Sheriff or a person authorised by the Sheriff to exercise the powers of a relevant authority—the notice set out in Schedule 1 Form 2 is prescribed.

8—Sale or disposal of motor vehicles

For the purposes of exercising a power to sell a motor vehicle under section 20 of the Act, the Sheriff or the Commissioner may—

- (a) set a reserve price for the motor vehicle; and
- (b) move the motor vehicle to another location within the State.

9—Service of notices

In accordance with section 23(1)(d) of the Act, a notice required or authorised to be given to, or served on, a person for the purposes of the Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be given to or served on the person in accordance with that Act.

Schedule 1—Prescribed forms

Form 1

To the owner of the following motor vehicle:

Registration No:

Description:

It is alleged that a relevant prescribed offence occurred as follows:

Date:

Time:

Location:

Notice under section 14 of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

You are prohibited from—

- selling or disposing of the motor vehicle
- intentionally damaging or altering the motor vehicle or causing or permitting another person to damage or alter the motor vehicle

The prohibition continues until—

- the power under Part 2 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* to clamp or impound has been exercised in relation to the relevant prescribed offence
- proceedings relating to the relevant prescribed offence have been finalised

It is an offence to contravene the prohibitions specified in this notice.

Notice under section 15 of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

You are required to produce the motor vehicle—

Between the hours of:

On:

At:

If you are unable to do so, you must contact SAPOL during business hours before that day on the following number to arrange another time:

The motor vehicle is to be produced for the purpose of a relevant authority exercising a power under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* in relation to the motor vehicle.

It is an offence to refuse or fail to comply with this notice without reasonable excuse.

Issuing police officer's ID number:

Form 2

Notice under section 15 of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

To the owner of the following motor vehicle:

Registration No:

Description:

An order for impounding or forfeiture of the motor vehicle has been made as follows:

Court:

Name and number of proceedings:

Date:

You are required to produce the motor vehicle—

Between the hours of:

On:

At:

If you are unable to do so, you must contact the Sheriff's office during business hours before that day on the following number to arrange another time:

The motor vehicle is to be produced for the purpose of a relevant authority exercising a power under the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* in relation to the motor vehicle.

It is an offence to refuse or fail to comply with this notice without reasonable excuse.

Schedule 2—Repeal of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2007*

The *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Regulations 2007* 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 28 July 2022

No 58 of 2022