

South Australia

# Road Traffic (Miscellaneous) (Use of Devices in Vehicles) Amendment Regulations 2024

under the *Road Traffic Act 1961*

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement

### Part 2—Amendment of *Road Traffic (Miscellaneous) Regulations 2014*

- 3 Amendment of regulation 3—Interpretation
  - 4 Amendment of regulation 29—Apparatus approved as photographic detection devices
  - 5 Amendment of regulation 30—Prescribed offences (section 79B of Act)
  - 6 Insertion of regulation 37A
    - 37A Operation and testing of device use detection cameras
  - 7 Insertion of Part 3 Division 4 Subdivision 6
    - Subdivision 6—Special provisions relating to device use detection cameras
      - 43A Device use offences (section 175B of Act)
      - 43B Prescribed photographic detection devices (section 175B of Act)
      - 43C Evidentiary provision
- 

## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Road Traffic (Miscellaneous) (Use of Devices in Vehicles) Amendment Regulations 2024*.

### 2—Commencement

These regulations come into operation on the day on which Part 3 of the *Statutes Amendment (Use of Devices in Vehicles) Act 2022* comes into operation.

## Part 2—Amendment of *Road Traffic (Miscellaneous) Regulations 2014*

### 3—Amendment of regulation 3—Interpretation

Regulation 3(1)—after the definition of *converter dolly* insert:

*device use detection camera* means a photographic detection device prescribed for the purposes of section 175B of the Act;

Note—

See also regulations 29(1)(f) and 43B.

*device use offence* has the same meaning as in section 175B of the Act;

Note—

See also regulation 43A.

### 4—Amendment of regulation 29—Apparatus approved as photographic detection devices

Regulation 29(1)—after paragraph (e) insert:

- (f) in relation to a device use offence, or device use offence and a registration offence arising out of the same incident—an Acusensus Heads-Up JR DD1 manufactured by Acusensus Australia Pty Ltd.

### 5—Amendment of regulation 30—Prescribed offences (section 79B of Act)

(1) Regulation 30(2)—after paragraph (j) insert:

- (ja) rule 300(1) of the *Australian Road Rules* (Use of mobile phones);

(2) Regulation 30(2)—after paragraph (1a) insert:

- (1b) regulation 44(1) of the *Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 2014* (Prohibition of use of mobile phone by holder of learner's permit, P1 licence etc);

### 6—Insertion of regulation 37A

After regulation 37 insert:

#### 37A—Operation and testing of device use detection cameras

- (1) Where a device use detection camera is used to provide evidence of a device use offence, the following provisions must be complied with:
  - (a) the camera forming part of the device must be positioned and aimed so that, when activated, the following electronic records are made:
    - (i) an electronic record of the number plate of the vehicle activating it;
    - (ii) an electronic record showing the cabin of the vehicle;

- (iii) an electronic record of the vehicle at the time it passes the camera;
  - (b) the date, time and location at which an electronic record of a vehicle is made must be recorded on the electronic record;
  - (c) when the camera is set up at a given location or temporarily moved or repaired, a check must be carried out to ensure that the camera is correctly positioned and aimed as referred to in paragraph (a) and correctly indicates on an electronic display the date, time and location where the electronic records are made by the camera;
  - (d) once in every 90 days the camera must be checked to ensure the proper operation of the camera in accordance with this regulation;
  - (e) if—
    - (i) a check; or
    - (ii) an electronic record made by the camera, indicates a fault that has affected the proper operation of the camera as required by these regulations, any electronic record affected by the fault must be rejected for evidentiary purposes.
- (2) Where a device use detection camera is used to provide evidence of a registration offence, the provisions of subregulation (1) must be complied with.

## **7—Insertion of Part 3 Division 4 Subdivision 6**

After regulation 43 insert:

### **Subdivision 6—Special provisions relating to device use detection cameras**

#### **43A—Device use offences (section 175B of Act)**

For the purposes of the definition of *device use offence* in section 175B(4) of the Act, the following offences are prescribed:

- (a) an offence against rule 300(1) of the *Australian Road Rules* (Use of mobile phones);
- (b) an offence against regulation 44(1) of the *Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 2014* (Prohibition of use of mobile phone by holder of learner's permit, P1 licence etc).

### **43B—Prescribed photographic detection devices (section 175B of Act)**

For the purposes of the definition of *prescribed photographic detection device* in section 175B(4) of the Act, a photographic detection device of a kind referred to in regulation 29(1)(f) is prescribed.

### **43C—Evidentiary provision**

- (1) Subject to this regulation, a vehicle in a photograph or series of photographs obtained from the operation of a device use detection camera and admitted in evidence in proceedings for a device use offence or a section 79B device use offence will be presumed to be moving, or stationary but not parked.
- (2) A presumption referred to in subregulation (1) may be rebutted by the defendant establishing on the balance of probabilities that the vehicle was parked.
- (3) In this regulation—

*park* has the same meaning as for the purposes of the *Australian Road Rules*;

*section 79B device use offence* means an offence against section 79B of the Act constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a device use offence.

#### **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 6 June 2024

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