



Queensland

*Juvenile Justice Act 1992*

# Juvenile Justice Regulation 2003

Reprinted as in force on 1 July 2003

Reprint No. 1\*

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This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**

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## Queensland

# Juvenile Justice Regulation 2003

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# Juvenile Justice Regulation 2003

[reprinted as in force on 1 July 2003]

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Juvenile Justice Regulation 2003*.

### 2 Commencement

This regulation commences on 1 July 2003.

### 3 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

## Part 2 Youth justice conferences

### 4 Convenor to inform child about obtaining legal advice

- (1) This section applies to a convenor of a conference.
- (2) To ensure a child has reasonable information about obtaining legal advice for section 35(2)<sup>1</sup> of the Act, the convenor must give the child—
  - (a) details of at least 1 entity, other than an entity mentioned in paragraph (b), that provides free legal services to children; and

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<sup>1</sup> Section 35 (Convening of a conference) of the Act

*Example—*

Legal Aid Queensland.

- (b) for an Aboriginal or Torres Strait Islander child—details of an Aboriginal or Torres Strait Islander legal service that represents the area in which the conference is held.
- (3) Subsection (2) does not limit the information about obtaining legal advice the convenor may give to the child.

## **5 Child to be told about contravention of conference agreement**

- (1) This section applies to a coordinator for a conference if a conference agreement is made at the conference.
- (2) The coordinator must ensure that, as soon as practicable after the agreement is made, the child the subject of the agreement is told about the effects for the child under the Act if he or she contravenes the agreement.<sup>2</sup>

# **Part 3 Proceedings and community based orders**

## **Division 1 Pre-sentence reports**

### **6 Contents of pre-sentence report**

- (1) If, under section 151(1)<sup>3</sup> of the Act, a court orders the chief executive to give to the court a pre-sentence report concerning

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<sup>2</sup> See sections 24 (Powers of police officer if referral is unsuccessful or if child contravenes conference agreement), 164 (Powers of proper officer if indefinite referral is unsuccessful or if child contravenes agreement made on court's indefinite referral), 165 (If an agreement is made on a referral by a court to a conference before sentence) and 166 (Court may take no further action if agreement is made) of the Act.

<sup>3</sup> Section 151 (Pre-sentence report) of the Act



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a child, the report must include all of the following information—

- (a) the child's full name, address, date of birth and occupation;
- (b) the source of the information on which the report is based;
- (c) the circumstances of the offence to which the report relates;
- (d) the child's placement between the start of the proceeding and the date of the report;
- (e) details of all community based orders or detention orders made against or for the child;
- (f) if the chief executive is aware of a corresponding order made against or for the child—details of the corresponding order;
- (g) an assessment of factors the chief executive considers may have contributed to the child committing the offence;
- (h) the child's attitude to the offence and to the victim of the offence;
- (i) if the chief executive is aware of any consequences that have happened to the child as a result of the act or omission that constitutes the offence—details of the consequences;

*Example—*

The child may have been disciplined by his or her parents or by a member of the child's community.

- (j) information about sentencing options.
- (2) In this section—

***corresponding order*** means an order made by a court in another State that is substantially similar in nature to a community based order or a detention order.

**7 Contents of further material for pre-sentence report**

- (1) This section applies if, under section 151(9) of the Act, the chief executive gives a court further material to be considered with another report prepared for another sentencing of a child that happens on the same day.
- (2) The further material must, for the offence for which it is given, include the information mentioned in section 6 that is relevant to the offence and not included in the other report.

**Division 2 Community based orders****8 Reporting requirements for community based order**

- (1) This section applies to a child against or for whom a community based order is made.
- (2) If the child can not comply with a reasonable direction of the chief executive given in relation to the order because of illness, injury or other circumstance beyond the child's control, the child must as soon as practicable inform the chief executive of the illness, injury or other circumstance.
- (3) The chief executive may ask the child to give the chief executive—
  - (a) a medical certificate that states the nature of the illness or injury; or
  - (b) documentary or other evidence of the reason for the child's noncompliance with the reasonable direction.
- (4) The child must comply with the request.
- (5) If the child is injured while performing community service or another activity under the community based order the child must report the circumstances of the injury to the chief executive as soon as practicable.
- (6) Also, if the person who is supervising the child's community service or other activity is aware of the circumstances of the injury, the person must report the circumstances to the chief executive as soon as practicable.

- (7) The chief executive must, as soon as practicable after the community based order is made, inform the child about the child's obligations under this section.

**9 Limits on chief executive's directions about community based order**

- (1) The chief executive must not direct a child to perform community service, or another activity under a community based order, that is dangerous, unsafe or likely to harm the child's health.
- (2) Also, in giving directions to a child in relation to the child's performance of another activity under a community based order, the chief executive must avoid, if practicable, conflicts with the religious and cultural beliefs and practices of the child or the child's parent.<sup>4</sup>
- (3) For subsection (1), the chief executive must have regard to the child's age, maturity, physical capacity and intellectual capacity.
- (4) If the child is 15 years or older, the chief executive must not direct the child to perform community service for more than—
- (a) if the child is attending school or another educational institution on a full-time basis, the following hours in a week—
    - (i) during vacations of the school or educational institution—30 hours;
    - (ii) at other times—8 hours; or
  - (b) if the child is in full-time employment—8 hours a week; or
  - (c) otherwise—30 hours a week.
- (5) If the child is under 15 years, the chief executive must not direct the child to perform community service for more than the following hours in a week—

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<sup>4</sup> For directions about community service, see section 197 (Obligation of chief executive) of the Act.

- (a) during vacations of the school or educational institution the child attends—20 hours;
  - (b) at other times—6 hours.
- (6) Also, the chief executive must not direct the child to perform community service for more than—
- (a) if the child is 15 years or older—8 hours a day; or
  - (b) if the child is under 15 years—4 hours a day.
- (7) In performing the community service or other activity, the child must be allowed reasonable rest and meal breaks.
- (8) Time spent in rest and meal breaks mentioned in subsection (7) is to be included in the time spent in performing the community service or other activity.

## **Part 4                      Detention centres**

### **Division 1                      Establishment of detention centres**

#### **10                      Establishment—Act, s 262**

- (1) A detention centre is established at each place stated in schedule 1.
- (2) Each detention centre has the name stated in schedule 1 for the place.

### **Division 2                      Admission procedures**

#### **11                      Prescribed document—Act, s 266**

For section 266(2)(e) of the Act, the prescribed document is a document in the approved form under the *Police Powers and*

*Responsibilities Act 2000* advising of the exercise of power in relation to a child under section 200(3)<sup>5</sup> of that Act.

## **12 Medical examination of child before admission**

- (1) This section applies if the chief executive considers that a child who is about to be admitted to a detention centre—
  - (a) is ill, injured or intoxicated; and
  - (b) needs immediate medical treatment.
- (2) The chief executive must not admit the child to the detention centre unless—
  - (a) the child has been examined by a medical practitioner and given the immediate treatment that is required; and
  - (b) the medical practitioner has given the chief executive a medical certificate stating the child is medically fit to be admitted to the detention centre.

## **13 Record to be made on admission**

- (1) The chief executive must, at the time a child is admitted to a detention centre, record all the following information about the child—
  - (a) the child's name, including any known aliases of the child;
  - (b) the child's date and place of birth;
  - (c) the child's usual place of residence;
  - (d) if the child's usual place of residence is not the residence of the child's parent—the parent's address;
  - (e) if the child is an Aboriginal or Torres Strait Islander child—that fact;
  - (f) if, while on remand for a charge of an offence or after arrest by a police officer under the *Police Powers and*

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<sup>5</sup> *Police Powers and Responsibilities Act 2000*, section 200 (Arrest of person granted bail)

*Responsibilities Act 2000*, section 200(3), the child is detained—

- (i) to appear before a specified court on a specified day—the day and place of the child’s next appearance before the court; or
  - (ii) to appear before a specified court at the next sittings of the court—the day the next sittings start and the place where the child is to appear;
- (g) if the child is detained under the sentence of a court—
- (i) the nature of the offence; and
  - (ii) the day of the sentence; and
  - (iii) the period of the sentence;
- (h) if, when the child is being admitted, the child makes a complaint about the child’s treatment while detained as mentioned in paragraph (f) or (g)—details of the complaint;
- (i) information about the apparent state of the child’s health, including, for example, information about any medical condition affecting the child that is available to the chief executive at the time of the child’s admission;
  - (j) a description of the child’s physical appearance.
- (2) The record may include other particulars the chief executive considers necessary.
- (3) The record must be kept at the detention centre.
- (4) The chief executive may change the record to ensure it is accurate.

## **14 Informing child of particular information on admission**

To ensure the information in the document mentioned in section 267(1)<sup>6</sup> of the Act is explained to a child who is admitted to a detention centre, the chief executive must, if reasonably practicable—

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<sup>6</sup> Section 267 (Child must be given information on entry to detention centre) of the Act

- (a) for an Aboriginal or Torres Strait Islander child—have an Aboriginal or Torres Strait Islander detention centre employee orally explain the information to the child; and
- (b) for a child who has difficulty understanding English—have an interpreter or other person able to communicate with the child orally explain the information to the child.

## **15 Child's property on admission**

- (1) The chief executive must keep a register of property that is in the possession of a child who is admitted to a detention centre.
- (2) The chief executive must, as soon as practicable after a child's admission to a detention centre, record in the register details of property in the child's possession on admission.
- (3) The child must sign the record.
- (4) If the child refuses to sign the record, a detention centre employee, other than the detention centre employee who made the record, may sign it.
- (5) The chief executive may—
  - (a) keep the property in safe custody while the child is detained in the centre; or
  - (b) allow the child to keep it for the child's use; or
  - (c) if the chief executive considers the property is perishable—destroy it; or
  - (d) if the chief executive considers the property is unhygienic or dangerous and poses an immediate risk to the health or safety of a person in the detention centre—destroy it; or
  - (e) if the chief executive considers the property is unhygienic or dangerous but does not pose an immediate risk to the health or safety of a person in the detention centre—destroy the property unless it would

be reasonable to take steps to make the property hygienic or safe.<sup>7</sup>

## **Division 3                      Management of behaviour**

### **16            Informing child about behaviour**

- (1) The chief executive must, as soon as practicable after a child is admitted to a detention centre, give the child written notice of the types of behaviour for which the chief executive is likely to discipline the child under section 17(2).
- (2) The chief executive must ensure the information in the notice is orally explained to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand.

### **17            Management of misbehaviour**

- (1) A child detained in a detention centre must obey a reasonable instruction lawfully given to the child by a detention centre employee.
- (2) If a child detained in a detention centre does not obey an instruction mentioned in subsection (1), or otherwise misbehaves, the chief executive may discipline the child.
- (3) The chief executive must ensure the misbehaviour is managed in a way that—
  - (a) respects the child's dignity; and
  - (b) has regard to—
    - (i) the nature of the misbehaviour; and
    - (ii) the child's age and maturity; and
    - (iii) the child's cultural background or beliefs.
- (4) The chief executive must not use, as a way of disciplining a child—

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<sup>7</sup> See sections 38 and 39 for the procedure for the destruction of property under section 15(5)(c), (d) or (e).



- (a) corporal punishment; or
  - (b) physical contact; or
  - (c) an act that involves humiliation, physical abuse, emotional abuse or sustained verbal abuse; or
  - (d) deprivation of sleep, food or visitors; or
  - (e) withholding letters or other mail sent to or from the child; or
  - (f) withholding access to a telephone or other means of communication; or
  - (g) exclusion from cultural, educational or vocational programs; or
  - (h) medication or deprivation of medication.
- (5) A detention centre employee may use reasonable force to protect a child, or other persons or property in the centre, from the consequences of a child's misbehaviour.
- (6) However, a detention centre employee may use the force only if the employee reasonably believes the child, person or property can not be protected in another way.
- (7) If a detention centre employee uses force under subsection (5)—
- (a) the detention centre employee must not use more force than is reasonably necessary; and
  - (b) the chief executive must ensure details about the use of the force are recorded in a document kept at the detention centre.

## **18 Information to be given to court**

- (1) This section applies if a child is convicted of an offence arising out of the child's misbehaviour in a detention centre.
- (2) The chief executive must ensure information about anything done by the chief executive to discipline the child for the misbehaviour is given to the court before the court sentences the child for the offence.
- (3) In this section—

*convicted*, for an offence, includes a plea of guilty or a finding of guilty by a court even though a conviction is not recorded.

## **Division 4                      Restraints**

### **19            Chief executive may approve restraints**

The chief executive may approve types of restraints (*approved restraints*) a staff member may use to restrain a child in the chief executive's custody.

### **20            Use of approved restraints**

- (1) The chief executive may authorise a staff member to use approved restraints to restrain a child in the chief executive's custody.
- (2) The staff member may use approved restraints to restrain the child only if—
  - (a) the child is outside a detention centre, or about to leave a detention centre, under escort by a staff member; or
  - (b) the child is in a detention centre and the chief executive considers, on reasonable grounds, that—
    - (i) it is reasonably likely that the child will attempt to escape; or
    - (ii) the child could seriously harm himself, herself or someone else; or
    - (iii) the child could seriously disrupt order and security at the detention centre.
- (3) However, a staff member must not use approved restraints under subsection (2)(b) unless the chief executive considers on reasonable grounds there is no other way to stop the child—
  - (a) attempting to escape; or
  - (b) seriously harming himself, herself or someone else; or
  - (c) seriously disrupting order and security at the detention centre.

- (4) If approved restraints are used on a child, the chief executive must ensure—
- (a) all reasonable steps are taken to use the restraints in a way that respects the child’s dignity; and
  - (b) the restraints are used for no longer than is reasonably necessary in the circumstances.
- (5) Subsection (2)(a) does not require the use of restraints on a child if the chief executive considers that, in all the circumstances, the child is not likely to—
- (a) attempt to escape; or
  - (b) seriously harm himself, herself or someone else; or
  - (c) seriously disrupt order and security at the centre.

*Example—*

Restraints may not be used on a child who is attending a funeral, or otherwise on leave of absence, because the chief executive considers the child is not likely to attempt to escape.

**21 Register about approved restraints**

The chief executive must keep a register containing the following information—

- (a) particulars of approved restraints;
- (b) the following particulars about the use of approved restraints on a child—
  - (i) the child’s name;
  - (ii) the day on which the restraints were used;
  - (iii) the circumstances in which the restraints were used.

**Division 5 Separation****22 Separation of child in locked room**

- (1) A detention centre employee may separate a child in a locked room at a detention centre only—

- (a) if the child is ill; or
  - (b) at the child's request; or
  - (c) for routine security purposes under directions issued by the chief executive; or
  - (d) for the child's protection or the protection of other persons or property; or
  - (e) to restore order in the detention centre.
- (2) A detention centre employee must not separate a child for a purpose mentioned in subsection (1)(d) or (e) (a ***prescribed purpose***)—
- (a) if the separation is for more than 2 hours, including for more than 2 hours longer than the centre's normal hours of overnight confinement—without the detention centre manager's approval; or
  - (b) if the separation is for more than 12 hours—without informing the chief executive; or
  - (c) if the separation is for more than 24 hours—without the chief executive's approval.
- (3) If a detention centre employee separates a child in a locked room in a detention centre, a detention centre employee must keep the child under observation in a way complying with directions issued by the chief executive.
- (4) If a child who is separated in a locked room in a detention centre under subsection (1)(b) asks to leave the locked room, a detention centre employee must promptly allow the child to leave it.
- (5) Subsection (3) does not limit the circumstances in which a child may be kept under continuous observation.

## **23 Register of separation**

The chief executive must keep a register that contains the following particulars of each child who is separated in a locked room at a detention centre for a prescribed purpose—

- (a) the child's name;
- (b) the reason for the child's separation;

- (c) the name of the detention centre employee who supervised the child during the separation;
- (d) the date and the length of time for which the child was separated.

## **Division 6                      Searches**

### **Subdivision 1                Searches by detention centre employees**

#### **24            Power to search**

- (1) The chief executive may authorise a detention centre employee to search a child detained in a detention centre.
- (2) The search may take place at any time the chief executive considers, on reasonable grounds, that the child should be searched.

#### **25            Search not involving removal of clothes**

- (1) Subject to section 26, a search of a child under this subdivision must not involve the removal of all or part of the child's clothes.
- (2) Also, if the search involves touching the child, the search must be conducted by a detention centre employee of the same sex as the child.
- (3) Before conducting the search, the detention centre employee must—
  - (a) inform the child that a search is to be conducted; and
  - (b) ask for the child's cooperation.
- (4) The detention centre employee may use reasonable force to carry out the search.
- (5) However, the detention centre employee may use the force only if the employee reasonably believes the search can not be carried out in another way.

**26 Search involving removal of clothes**

- (1) If the chief executive considers, on reasonable grounds, that it is necessary for the security of detention centre employees or children in the detention centre, the chief executive may order the child who is to be, or is being, searched to partly or completely undress.
- (2) The chief executive must not order a child to partly or completely undress in the presence of a person of the opposite sex to the child.
- (3) If reasonably practicable—
  - (a) a detention centre employee conducting the search must—
    - (i) tell the child he or she will be required to remove clothing during the search; and
    - (ii) tell the child why it is necessary to remove the clothing; and
    - (iii) ask for the child's cooperation; and
  - (b) the child must be given the opportunity to remain partly clothed during the search, for example, by allowing the child to dress his or her upper body before being required to remove items of clothing from the lower part of the body.
- (4) The search must be conducted in a way providing reasonable privacy for the child.

*Example—*

Reasonable privacy may be provided by conducting the search in a way that ensures, as far as reasonably practicable, the child being searched can not be seen by anyone of the opposite sex and by anyone who does not need to be present.

- (5) Also, the search must be conducted as quickly as reasonably practicable and the child searched must be allowed to dress as soon as the search is finished.
- (6) The child must comply with an order made or direction given for the purpose of the search.
- (7) A detention centre employee may use reasonable force to obtain compliance with the order.

- (8) However, the detention centre employee may use the force only if the employee reasonably believes the search can not be carried out in another way.
- (9) A person must not touch a child who is ordered to partly or completely undress other than to the extent reasonably necessary to obtain compliance with the order.

## **Subdivision 2      Body searches**

### **27      Body search**

- (1) The chief executive may authorise a medical practitioner to conduct a body search of a child detained in a detention centre.
- (2) If reasonably practicable, the medical practitioner must be of the same sex as the child.
- (3) The chief executive may authorise the search only if the chief executive considers, on reasonable grounds, that the child is in possession of a thing that may—
  - (a) threaten the security or good order of the centre; or
  - (b) endanger, or be used to endanger, the child or another person.
- (4) If reasonably practicable—
  - (a) the medical practitioner conducting the search must, before conducting the search—
    - (i) tell the child he or she will be required to remove clothing during the search; and
    - (ii) tell the child why it is necessary to remove the clothing; and
    - (iii) ask for the child's cooperation; and
  - (b) the child must be given the opportunity to remain partly clothed during the search, for example, by allowing the child to dress his or her upper body before being required to remove items of clothing from the lower part of the body.

- (5) The search must be conducted in a way providing reasonable privacy for the child.

*Example—*

Reasonable privacy may be provided by conducting the search in a way that ensures, as far as reasonably practicable, the child being searched can not be seen by anyone of the opposite sex and by anyone who does not need to be present.

- (6) Also, the search must be conducted as quickly as reasonably practicable and the child searched must be allowed to dress as soon as the search is finished.
- (7) If the medical practitioner needs help to carry out the search, the medical practitioner may ask a detention centre employee of the same sex as the child to give reasonably necessary help.
- (8) The child must comply with an order made or direction given for the purpose of the search.
- (9) The medical practitioner, or a detention centre employee mentioned in subsection (7), may use reasonable force to carry out the search.
- (10) However, the medical practitioner or detention centre employee may use the force only if the medical practitioner or employee reasonably believes the search can not be carried out in another way.

### **Subdivision 3      Register of searches, and dealing with articles found during search**

#### **28      Register of searches**

- (1) This section applies to the following searches—
- (a) a search under section 25 not involving the removal of all or part of a child's clothes if a detention centre employee uses reasonable force to carry out the search;
  - (b) a search under section 26 involving the removal of all or part of a child's clothes;
  - (c) a body search under section 27.
- (2) The chief executive must keep a register of the searches.



- (3) The register must contain all the following information about each search—
  - (a) the name of the child searched;
  - (b) the reason for the search;
  - (c) the name of the person who carried out the search and the name of each person who helped to carry out the search;
  - (d) for a search mentioned in subsection (1)(a)—the reason for the use of force and details of the force used;
  - (e) for another search—whether force was used to carry out the search and, if force was used, the reason for its use and details of the force used.

## **29 Articles found during search**

- (1) If a person conducting a search under section 25, 26 or 27 finds an article that—
  - (a) is declared by the chief executive by written notice to be a restricted or prohibited article; or
  - (b) the person considers—
    - (i) threatens the security or good order of the detention centre; or
    - (ii) endangers, or may be used to endanger, the child or someone else;

the person may take possession of the article.
- (2) The person must give the article to the chief executive.
- (3) The chief executive may—
  - (a) return the article to the child; or
  - (b) keep the article until the child is discharged; or
  - (c) if the article belongs to another person—return it to the other person; or
  - (d) if the chief executive considers the article is perishable—destroy it; or

- (e) if the chief executive considers the article is unhygienic or dangerous and poses an immediate risk to the health or safety of a person in the detention centre—destroy it; or
  - (f) if the chief executive considers the article is unhygienic or dangerous but does not pose an immediate risk to the health or safety of a person in the detention centre—destroy the article unless it would be reasonable to take steps to make the article hygienic or safe.<sup>8</sup>
- (4) If the article is property that is not recorded in the property register, the chief executive must record particulars of the property in the property register and sign the record.
  - (5) The child must sign the record.
  - (6) If the child refuses to sign the record a detention centre employee, other than the detention centre employee who made the record, may sign the record.

## **Division 7                      Contact with children**

### **30            Telephone calls**

- (1) A child detained in a detention centre has the right to make and receive telephone calls at all reasonable times.
- (2) The child has the right to speak to another person during a telephone call outside the hearing of any other person.
- (3) However, if the chief executive considers, on reasonable grounds, that the telephone conversation may disclose information that is, or is likely to be, detrimental to the good order and management of the centre, the chief executive may require a detention centre employee at the centre to listen to the conversation and terminate it on reasonable grounds.
- (4) Before the conversation takes place, the chief executive must inform the child and the other party to the conversation that a

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<sup>8</sup> See sections 38 and 39 for the procedure for the destruction of property under section 29(3)(d), (e) or (f).

detention centre employee will listen to the conversation and may terminate it on reasonable grounds.

- (5) The chief executive must keep a record of each requirement made under subsection (3) and the reasons for making it.
- (6) Subsection (3) does not apply to a telephone conversation between a child and the following persons—
  - (a) the commissioner;
  - (b) a community visitor;
  - (c) a legal practitioner representing the child.<sup>9</sup>

### **31 Correspondence**

- (1) A child detained in a detention centre has the right to send and receive letters and other mail (*correspondence*).
- (2) The chief executive may examine correspondence between the child and another person if the chief executive reasonably believes the correspondence may disclose information, or contain property, that is, or is likely to be, detrimental to the good order and management of the centre.
- (3) If the chief executive is satisfied that correspondence examined under subsection (2) discloses information that is, or is likely to be, detrimental to the good order and management of the centre, the chief executive may—
  - (a) withhold the correspondence; or
  - (b) delete the information; or
  - (c) return the correspondence to the sender.
- (4) If the chief executive takes action under subsection (3) in relation to correspondence, the chief executive must keep a register containing the following particulars—
  - (a) the name of the child to whom the correspondence was sent;
  - (b) the name of the sender;

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<sup>9</sup> For other matters about a legal practitioner's access to a child, see section 276 (Protection of legal practitioner representing child) of the Act.

- (c) the action taken and the reason for taking it.
- (5) Subsection (2) does not apply to correspondence between a child and the following persons—
  - (a) the commissioner;
  - (b) a community visitor;
  - (c) a legal practitioner representing the child.<sup>10</sup>

## **Division 8                      Property in a detention centre**

### **32            Property in a detention centre**

- (1) This section applies to property that is—
  - (a) brought into a detention centre—
    - (i) by a child after the child is admitted to the centre; or
    - (ii) by a person who is visiting a child in a detention centre; or
  - (b) sent to a child in a letter or other mail; or
  - (c) made in a detention centre by a child.
- (2) The chief executive may—
  - (a) examine the property; and
  - (b) after examining the property—
    - (i) keep it in safe custody while the child is detained in the centre; or
    - (ii) allow the child to keep it for the child's use; or
    - (iii) if the chief executive considers the property is perishable—destroy it; or

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<sup>10</sup> For other matters about dealing with correspondence of a child, see section 276 (Protection of legal practitioner representing child) of the Act, and the *Commission for Children and Young People Act 2000*, section 88 (Privacy of correspondence between community visitor and residents).

- (iv) if the chief executive considers the property is unhygienic or dangerous and poses an immediate risk to the health or safety of a person in the detention centre—destroy it; or
  - (v) if the chief executive considers the property is unhygienic or dangerous but does not pose an immediate risk to the health or safety of a person in the detention centre—destroy the property unless it would be reasonable to take steps to make the property hygienic or safe.<sup>11</sup>
- (3) The chief executive must record particulars of the property in the property register and sign the record.
  - (4) The child must sign the record.
  - (5) If the child refuses to sign the record, a detention centre employee, other than the detention centre employee who made the record, may sign the record.

## **Division 9                      Health and medical services**

### **33                      Child's right to health services and medical treatment**

- (1) A child detained in a detention centre has the right to health services and medical treatment.
- (2) The chief executive must ensure that, if a child needs medical treatment or other health services, the child is asked whether he or she wants to be examined by a medical practitioner of the same sex as the child.
- (3) A child may ask that a medical practitioner of the same sex as the child examine the child.
- (4) The chief executive must take reasonable steps to comply with a child's request under subsection (3).
- (5) Before a medical practitioner examines a child, the chief executive must, if practicable, inform the child—

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11 See sections 38 and 39 for the procedure for the destruction of property under section 32(2)(b)(iii), (iv) or (v).

- (a) that a record of the child's medical examination and treatment are to be kept at the detention centre; and
- (b) who has the right, under section 34(4), to inspect the record.

### **34 Reports of medical examination or treatment**

- (1) The chief executive may ask a medical practitioner who examines or treats a child detained in a detention centre to give the chief executive a report of the examination or treatment.
- (2) The chief executive must ensure a record of medical examinations and treatment for each child are kept at the detention centre.
- (3) The chief executive must ensure the records are kept confidential and separate from the centre's administrative records.
- (4) The record may be inspected only—
  - (a) by the child named in the record; or
  - (b) with the child's written consent—by the child's parent; or
  - (c) on production of a subpoena or court order, or with the child's written consent—by a legal practitioner representing the child; or
  - (d) with the child's written consent—by the commissioner or a community visitor; or
  - (e) by the chief executive or another person authorised in writing by the chief executive.

## **Division 10                      Reporting and record keeping**

### **35            Reporting harm to a child—Act, s 268**

For section 268(3)<sup>12</sup> of the Act, the report must include all the following particulars—

- (a) the child's name, age and sex;
- (b) details of the basis for the detention centre employee becoming aware, or reasonably suspecting, that harm has been caused to the child;
- (c) details of the harm or suspected harm;
- (d) particulars of the identity of anyone who the detention centre employee knows, or reasonably suspects, caused the harm or suspected harm or is able to give information about the harm or suspected harm.

### **36            Keeping information—Act, s 303**

(1) For section 303(1)(a)<sup>13</sup> of the Act, the information must include—

- (a) details of any report given to the chief executive about—
  - (i) harm caused, or suspected of being caused, to a child detained in a detention centre; or
  - (ii) a breach, or claimed breach, of principle 3, 15, 19 or 20 of the juvenile justice principles;<sup>14</sup> and
- (b) the results of an investigation of a matter mentioned in paragraph (a).

(2) The information must be kept in a way that enables the chief executive to—

- (a) gain access to, or collect, information about a particular detention centre, detention centre employee or child; or
- (b) analyse trends across all the recorded information.

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12 Section 268 (Obligation to report harm to children in detention centres) of the Act

13 Section 303 (Chief executive must collect and keep information) of the Act

14 See schedule 1 (Charter of juvenile justice principles) of the Act.

- (3) The chief executive must keep the information for 70 years after the date of birth of the child to whom the information relates.

### **37 Information to be given to commissioner**

- (1) The chief executive must, on a regular basis, give the commissioner a written report about the information mentioned in section 36(1).
- (2) If requested in writing by the commissioner, the chief executive must give the commissioner details of particular information mentioned in section 36(1).

## **Division 11 Other matters**

### **Subdivision 1 Provisions about destruction of property**

#### **38 Destruction of particular property**

- (1) This section applies if the chief executive destroys a child's property under section 15(5)(c) or (d), 29(3)(d) or (e) or 32(2)(b)(iii) or (iv).<sup>15</sup>
- (2) The chief executive must as soon as practicable—
  - (a) inform the child of the destruction and the reason for it; and
  - (b) make a record of the destruction and the reason for it in the property register.

#### **39 Procedure for destruction of other property**

- (1) This section applies if the chief executive decides to destroy a child's property under section 15(5)(e), 29(3)(f) or 32(2)(b)(v).

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<sup>15</sup> Section 15 (Child's property on admission), 29 (Articles found during search) or 32 (Property in a detention centre)



- (2) The chief executive must give the child a written notice stating the following—
  - (a) the chief executive proposes to destroy the property;
  - (b) the facts and circumstances that are the basis for the decision;
  - (c) that the child may make, within 7 days after the day the notice is given (the *prescribed period*), representations to show why the property should not be destroyed;
  - (d) that the child may consult a lawyer or community visitor about the proposed destruction before making the representations.
- (3) The chief executive must ensure the information in the notice is orally explained to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand.
- (4) If, after considering all representations made within the prescribed period, the chief executive still believes the property should be destroyed, the chief executive may destroy the property.
- (5) If the chief executive destroys property under subsection (4), the chief executive must as soon as practicable—
  - (a) inform the child of the destruction and the reason for it; and
  - (b) make a record of the destruction and the reason for it in the property register.

## **Subdivision 2      Miscellaneous**

### **40      Death of child in detention centre**

If a child detained in a detention centre dies, the chief executive must immediately give notice of the child's death to each of the following—

- (a) a police officer;
- (b) the child's parents;

- (c) a coroner;
- (d) the commissioner;
- (e) a community visitor;
- (f) for an Aboriginal or Torres Strait Islander child—an Aboriginal or Torres Strait Islander legal service in the area in which the detention centre is located.

#### **41 Religious services**

The chief executive may approve the holding of a religious service at a detention centre.

#### **42 Visitors book**

The chief executive must ensure the name and address of each visitor to a detention centre is recorded in a visitors book before the visitor is admitted to the centre.

## **Part 5 Confidential information**

#### **43 Dealing with confidential information—Act, s 289(h)**

- (1) A person may disclose confidential information relating to a child if the disclosure is to another person and the chief executive is satisfied the disclosure of the information is essential to the wellbeing of the child to whom the information relates.
- (2) Also, a judicial officer, a registrar or clerk of a court, or other court officer, may record, use or disclose confidential information relating to a child if the recording, use or disclosure is for the administration of justice or a court.<sup>16</sup>

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<sup>16</sup> For other authorisations to record, use or disclose confidential information relating to a child, see part 9 (Confidentiality), divisions 2 (Preservation of confidentiality generally) and 3 (Confidentiality in relation to proceedings) of the Act.

*Example—*

A court officer may disclose a transcript of reasons for judgment for use as a precedent.

(3) In this section—

*confidential information* see section 284<sup>17</sup> of the Act.

*judicial officer* means a judge of, or other person holding judicial office in, a court.

## **Part 6                      Repeal**

### **44      Repeal**

The Juvenile Justice Regulation 1993 SL No. 314 is repealed.

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17 Section 284 (Definitions for pt 9) of the Act

## **Schedule 1      Detention centres**

section 10

### **Brisbane Youth Detention Centre**

Lot 395 on SP118987, County of Stanley, Parish of Oxley,  
Corner of Aveyron and Wolston Park Roads, Wacol.

### **Cleveland Youth Detention Centre**

Lot 513 on Crown Plan EP1443, County of Elphinstone,  
Parish of Coonambelah, Old Common Road, Belgian  
Gardens, Townsville.

### **John Oxley Youth Detention Centre**

Lot 399 on Crown Plan SL10450, lot 7 on RP68538 and lot 2  
on RP75627, County of Stanley, Parish of Oxley, Station  
Road, Wacol.

## Schedule 2      Dictionary

### section 3

***approved restraints*** see section 19.

***body search*** of a child—

- (a) means a search of the child's body; and
- (b) includes an examination of an orifice or cavity of the child's body.

***child*** includes a person in relation to whom, under section 142<sup>18</sup> of the Act, an order made under the Act continues to have effect.

***commissioner*** means the Commissioner for Children and Young People under the *Commission for Children and Young People Act 2000*.

***detention centre manager***, in relation to a detention centre, means the person holding office as manager of the detention centre.

***prescribed purpose*** see section 22(2).

***property register*** means the register kept under section 15(1).

***security*** includes safety.

***separate***, in relation to a child, means to separate the child from all other children in a detention centre.

***staff member*** means—

- (a) a detention centre employee; or
- (b) another person employed by the department in a capacity that involves supervising children in the chief executive's custody.

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18 Section 142 (Continuing effect on offender of orders made when child) of the Act

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Juvenile Justice Regulation 2003 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 July 2003	

## 5 List of legislation

### **Juvenile Justice Regulation 2003 SL No. 140**

made by the Governor in Council on 26 June 2003

notfd gaz 27 June 2003 pp 749–56

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2003 (see s 2)

exp 1 September 2013 (see SIA s 54)

Note— (1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) An explanatory note was prepared