



Youth Justice Act 1992

Youth Justice Regulation 2003

Current as at 5 September 2014

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Queensland

Youth Justice Regulation 2003

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Youth Justice Regulation 2003

[as amended by all amendments that commenced on or before 5 September 2014]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Youth 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) of the Act, the convenor must give the child—

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- (a) details of at least 1 entity, other than an entity mentioned in paragraph (b), that provides free legal services to children; and

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 if a conference agreement is made at a conference.
- (2) The chief executive must, as soon as practicable after the agreement is made, ensure that the child the subject of the agreement is told about the outcomes for the child under section 24 of the Act if the child contravenes the agreement.

Part 3 Proceedings and community based orders

Division 1 Pre-sentence reports

6 Contents of pre-sentence report

- (1) If, under section 151(1) of the Act, a court orders the chief executive to give to the court a pre-sentence report concerning 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.

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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.

Note—

For directions about community service, see section 197 (Obligation of chief executive) of the Act.

- (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

[s 9AA]

- (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—
 - (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 3AA Prescribed areas for boot camp (vehicle offences) orders

9AA Prescribed area—Act, s 206A(1)(d)

For section 206A(1)(d) of the Act, the local government area of the Townsville City Council is prescribed.

Notes—

- 1 The *Local Government Regulation 2012*, section 6(6), provides that each local government must ensure that a copy of its area map can be inspected by the public at the local government's public office.
- 2 Local government electorate maps are also available on the Electoral Commission Queensland's website <www.ecq.qld.gov.au>.

Part 3A Prescribed areas for boot camp orders

9A Prescribed areas—Act, s 226C(2)(a)

For section 226C(2)(a) of the Act, the local government areas of the following local governments are prescribed—

- (a) the Burdekin Shire Council;
- (b) the Cairns Regional Council;
- (c) the Cassowary Coast Regional Council;
- (d) the Charters Towers Regional Council;
- (e) the Flinders Shire Council;
- (f) the Hinchinbrook Shire Council;
- (g) the Mareeba Shire Council;
- (h) the Palm Island Aboriginal Shire Council;
- (i) divisions 3 to 6 of the area of Tablelands Regional Council;
- (j) the Townsville City Council;
- (k) the Yarrabah Aboriginal Shire Council.

Notes—

- 1 The *Local Government Regulation 2012*, section 6(6), provides that each local government must ensure that a copy of its area map can be inspected by the public at the local government's public office.
- 2 Local government electorate maps are also available on the Electoral Commission Queensland's website <www.ecq.qld.gov.au>.

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Part 3B Detention centre employee at boot camp centre

Division 1 Preliminary

9B Application of pt 3B

This part applies if the chief executive enters into an arrangement with a boot camp centre provider for a detention centre employee to provide services at a boot camp centre.

9C Services to be provided by detention centre employees—Act, s 282BA(2)

For section 282BA(2) of the Act the following services are prescribed—

- (a) use of reasonable force;
- (b) use of approved boot camp restraints;
- (c) separation of a child;
- (d) search of a child.

Division 2 Detention centre employee may use reasonable force

9D Use of reasonable force

- (1) A detention centre employee may use reasonable force at a boot camp centre to protect a child, other persons or property.
- (2) However, a detention centre employee may use the force only if the detention centre employee reasonably believes the child, person or property can not be protected in another way.

9E Record of use of force

If a detention centre employee uses force under this part, the chief executive must keep a record containing the following information—

- (a) if a child was involved—the child’s name;
- (b) the day on which the force was used;
- (c) the circumstances in which the force was used;
- (d) the name of the detention centre employee who used the force;
- (e) the reason the detention centre employee believed the use of force was necessary.

Division 3 Restraints

9F Chief executive may approve restraints

The chief executive may approve types of restraints (*approved boot camp restraints*) a detention centre employee may use to restrain a child participating in the residential phase of the boot camp program at a boot camp centre.

9G Use of approved boot camp restraints

- (1) The chief executive may authorise a detention centre employee to use approved boot camp restraints to restrain a child at a boot camp centre.
- (2) The detention centre employee may use approved boot camp restraints to restrain the child only if the employee believes, on reasonable grounds, that—
 - (a) it is reasonably likely that the child will attempt to leave the boot camp centre without the written consent of the chief executive; or
 - (b) the child could seriously harm himself, herself or someone else; or

[s 9G]

- (c) the child could seriously disrupt good order and security at the boot camp centre.
- (3) However, a detention centre employee must not use approved boot camp restraints under subsection (2) unless the employee believes, on reasonable grounds, there is no other way to stop the child—
- (a) attempting to leave the boot camp centre without the written consent of the chief executive; or
 - (b) seriously harming himself, herself or someone else; or
 - (c) seriously disrupting good order and security at the boot camp centre.
- (4) If approved boot camp 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) does not require the use of approved boot camp restraints on a child if the detention centre employee considers that, in all the circumstances, the child is not likely to—
- (a) attempt to leave the boot camp centre without the written consent of the chief executive; or
 - (b) seriously harm himself, herself or someone else; or
 - (c) seriously disrupt good 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 leave the boot camp centre without the written consent of the chief executive.

9H Record of use of approved boot camp restraints

If a detention centre employee uses approved boot camp restraints under section 9G, the chief executive must keep a record containing the following information—

- (a) particulars of the approved boot camp restraints;
- (b) the child's name;
- (c) the date and length of time the restraints were used;
- (d) the circumstances in which the restraints were used.

Division 4 Separation of a child

9I Separation of child in locked room

- (1) A detention centre employee may separate a child participating in the residential phase of the boot camp program in a locked room at a boot camp centre only—
 - (a) for routine security purposes under directions issued by the chief executive; or
 - (b) for the child's protection or the protection of other persons or property; or
 - (c) to restore good order in the boot camp centre.
- (2) A detention centre employee must not separate a child for a purpose mentioned in subsection (1)(b) or (c) —
 - (a) if the separation is for more than 2 hours, including for more than 2 hours longer than the boot camp centre's normal hours of overnight confinement—without the boot camp centre provider'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 boot camp centre, a detention centre employee must

[s 9J]

keep the child under observation in a way complying with directions issued by the chief executive.

- (4) Subsection (3) does not limit the circumstances in which a child may be kept under continuous observation.

9J Record of separation of a child

If a detention centre employee separates a child under section 9I the chief executive must keep a record containing the following information—

- (a) the child's name;
- (b) the reason for the child's separation;
- (c) the name of the detention centre employee who kept the child under observation during the separation;
- (d) the date and the length of time for which the child was separated;
- (e) the details of any approval given under section 9I(2)(a) or (c);
- (f) if the separation was for more than 12 hours—when the detention centre employee informed the chief executive under section 9I(2)(b).

Division 5 Search of a child

9K Power to search

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

9L Search must not involve removal of clothes

- (1) A search of a child under this division must not involve the removal of any 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 reasonable force only if the employee reasonably believes the search can not be carried out in another way.

9M Articles found during search

- (1) This section applies if a detention centre employee conducting a search under this division finds an article (the *article*) that—
 - (a) the boot camp centre provider by written direction has identified to be a restricted or prohibited article; or
 - (b) the employee considers—
 - (i) threatens the security or good order of the boot camp centre; or
 - (ii) endangers, or may be used to endanger, the child or someone else.
- (2) The detention centre employee may take possession of the article.
- (3) The detention centre employee must give the article to the boot camp centre provider.
- (4) The boot camp centre provider may—
 - (a) return the article to the child; or

[s 9N]

- (b) keep the article until the earliest of the following—
 - (i) the child has completed the 1 month placement at the boot camp centre;
 - (ii) the boot camp program is suspended;
 - (iii) the boot camp order is revoked; or
- (c) if the article belongs to another person—return it to the other person; or
- (d) if the boot camp centre provider considers the article is perishable—destroy it; or
- (e) if the boot camp centre provider considers the article is unhygienic or dangerous and poses an immediate risk to the health or safety of a person in the boot camp centre—destroy it; or
- (f) if the boot camp centre provider considers the article is unhygienic or dangerous but does not pose an immediate risk to the health or safety of a person in the boot camp centre—destroy the article unless it would be reasonable to take steps to make the article hygienic or safe.

9N Record of search of a child

If a detention centre employee searches a child under this division, the chief executive must keep a record containing the following information—

- (a) the name of the child searched;
- (b) the reason for the search;
- (c) the name of the detention centre employee who carried out the search;
- (d) the name of any person who was present when the search was carried out;
- (e) if the detention centre employee took possession of an article—particulars of the article;

- (f) if the detention centre employee used reasonable force in carrying out the search—
 - (i) the day on which the force was used; and
 - (ii) the circumstances in which the force was used; and
 - (iii) the name of the detention centre employee who used the force; and
 - (iv) the reason the detention centre employee believed the use of force was necessary.

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) of that Act.

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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 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) of the Act is explained to a child who is admitted to a detention centre, the chief executive must, if reasonably practicable—

- (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

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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.

Note—

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

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—
 - (a) corporal punishment; or
 - (b) physical contact; or
 - (c) an act that involves humiliation, physical abuse, emotional abuse or sustained verbal abuse; or

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- (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.

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 guilt 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.

[s 21]

- (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 Record about approved restraints

The chief executive must keep a record 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.

[s 23]

23 Record of separation

The chief executive must keep a record 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.

[s 27]

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.

[s 28]

Subdivision 3 Record of searches, and dealing with articles found during search

28 Record 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 record of the searches.
- (3) The record 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.

Note—

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

- (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 (the **property register record**).
- (5) The child must sign the property register record.
- (6) If the child refuses to sign the property register record a detention centre employee, other than the detention centre employee who made the property register record, may sign the

property register 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 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 public guardian;
 - (b) a community visitor (child);
 - (c) a child advocacy officer;
 - (d) a legal practitioner representing the child.

Note—

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

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;
 - (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 public guardian;
 - (b) a community visitor (child);
 - (c) a child advocacy officer;
 - (d) a legal practitioner representing the child.

Note for subsection (5)—

For other matters about dealing with correspondence of a child, see—

- (a) section 276 of the Act; and
- (b) the *Public Guardian Act 2014*, section 72.

[s 32]

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
 - (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.

Note—

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

- (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—
 - (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.

[s 34]

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 following persons—
 - (i) the public guardian;
 - (ii) a community visitor (child);
 - (iii) a child advocacy officer; 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) 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) 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 youth justice principles; and

Note—
See schedule 1 (Charter of youth justice principles) of the Act.

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

[s 37]

37 Information to be given to public guardian

- (1) The chief executive must, on a regular basis, give the public guardian a written report about the information mentioned in section 36(1).
- (2) If requested in writing by the public guardian, the chief executive must give the public guardian 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).
- (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).
- (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, community visitor (child) or child advocacy officer 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 chief executive (child safety);
- (e) a community visitor (child);

[s 41]

- (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.

Example—

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

Note—

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.

(3) In this section—

confidential information see section 284 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.

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 SP239019, County of Elphinstone, Parish of
Coonambelah, Old Common Road, Belgian Gardens,
Townsville.

Schedule 2 Dictionary

section 3

approved boot camp restraints see section 9F.

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 of the Act, an order made under the Act continues to have effect.

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).

public guardian means the public guardian under the *Public Guardian Act 2014*.

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.

Endnotes

1 Index to endnotes

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2 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 version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory

requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1	none	1 July 2003	
1A	2008 SL No. 332	3 October 2008	
2	2009 Act No. 34	29 March 2010	
2A	2010 SL No. 54	1 April 2010	
2B	2011 SL No. 57	13 May 2011	
2C	2012 SL No. 247	1 January 2013	

Current as at	Amendments included	Notes
31 January 2013	2012 SL No. 247	
30 September 2013	2013 SL No. 186	
4 April 2014	2014 SL No. 37	
1 July 2014	2014 SL No. 105	RA s 44A
5 September 2014	2014 SL No. 202	

4 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Youth Justice Regulation 2003 SL No. 140 (prev Juvenile Justice Regulation 2003)

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 31 August 2015 (see SIA s 56A(2) and SIR s 3 sch 2 pt 2)

Notes—(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.

amending legislation—

Juvenile Justice Amendment Regulation (No. 1) 2008 SL No. 332

notfd gaz 3 October 2008 pp 690–3
commenced on date of notification

Juvenile Justice and Other Acts Amendment Act 2009 No. 34 ss 1, 2(2), 45(3)–(4) sch pt 3 amdt 39

date of assent 17 September 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 29 March 2010 (2010 SL No. 37)

Criminal History Screening Legislation Amendment Regulation (No. 1) 2010 SL No. 54 s 2(1) pt 4

notfd gaz 26 March 2010 pp 722–4
ss 1–2 commenced on date of notification
remaining provisions commenced 1 April 2010 (see s 2(1))

Youth Justice Amendment Regulation (No. 1) 2011 SL No. 57

notfd gaz 13 May 2011 pp 77–8
commenced on date of notification

Youth Justice Amendment Regulation (No. 1) 2012 SL No. 247

notfd gaz 21 December 2012 pp 599–602
ss 1–2 commenced on date of notification
s 4 commenced 1 January 2013 (see s 2(1))
s 5 commenced 31 January 2013 (see s 2(2))
remaining provision commenced on date of notification

Youth Justice Amendment Regulation (No. 1) 2013 SL No. 186

notfd <www.legislation.qld.gov.au> 27 September 2013
ss 1–2 commenced on date of notification
remaining provisions commenced 30 September 2013 (see s 2)

Youth Justice Amendment Regulation (No. 1) 2014 SL No. 37

notfd <www.legislation.qld.gov.au> 4 April 2014
commenced on date of notification

Public Guardian Regulation 2014 SL No. 105 pts 1, 11

notfd <www.legislation.qld.gov.au> 20 June 2014
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2014 (see s 2(1))

Youth Justice Amendment Regulation (No. 2) 2014 SL No. 202

notfd <www.legislation.qld.gov.au> 5 September 2014
commenced on date of notification

5 List of annotations

Short title

s 1 amd 2009 Act No. 34 s 45(4)

Child to be told about contravention of conference agreement

s 5 sub 2012 SL No. 247 s 4

PART 3AA—PRESCRIBED AREAS FOR BOOT CAMP (VEHICLE OFFENCES) ORDERS

pt 3AA (s 9AA) ins 2014 SL No. 37 s 3

PART 3A—PRESCRIBED AREAS FOR BOOT CAMP ORDERS

pt hdg ins 2012 SL No. 247 s 5

Prescribed areas—Act, s 226C(2)(a)s 9A ins 2012 SL No. 247 s 5
sub 2013 SL No. 186 s 4
amd 2014 SL No. 37 s 4**PART 3B—DETENTION CENTRE EMPLOYEE AT BOOT CAMP CENTRE**

pt hdg ins 2014 SL No. 202 s 3

Division 1—Preliminary

div 1 (ss 9B–9C) ins 2014 SL No. 202 s 3

Division 2—Detention centre employee may use reasonable force

div 2 (ss 9D–9E) ins 2014 SL No. 202 s 3

Division 3—Restraints

div 3 (ss 9F–9H) ins 2014 SL No. 202 s 3

Division 4—Separation of a child

div 4 (ss 9I–9J) ins 2014 SL No. 202 s 3

Division 5—Search of a child

div 5 (ss 9K–9N) ins 2014 SL No. 202 s 3

PART 4—DETENTION CENTRES**Management of misbehaviour**

s 17 amd 2014 SL No. 202 s 4

Record about approved restraints

s 21 amd 2014 SL No. 202 s 5

Record of separation

s 23 amd 2014 SL No. 202 s 6

Division 6—Searches**Subdivision 3—Record of searches, and dealing with articles found during search**

sdiv hdg amd 2014 SL No. 202 s 7

Record of searches

s 28 amd 2014 SL No. 202 s 8

Articles found during search

s 29 amd 2014 SL No. 202 s 9

Telephone calls

s 30 amd 2014 SL No. 105 s 28

Correspondence

s 31 amd 2010 SL No. 54 s 14; 2014 SL No. 105 s 29

Reports of medical examination or treatment

s 34 amd 2014 SL No. 105 s 30

Keeping information—Act, s 303

s 36 amd 2009 Act No. 34 s 45(3) sch pt 3 amdt 39

Information to be given to public guardian

s 37 amd 2014 SL No. 105 s 31

Procedure for destruction of other property

s 39 amd 2014 SL No. 105 s 32

Death of child in detention centre

s 40 amd 2014 SL No. 105 s 33

SCHEDULE 1—DETENTION CENTRES

amd 2008 SL No. 332 s 3; 2011 SL No. 57 s 3

SCHEDULE 2—DICTIONARY

def *approved boot camp restraints* ins 2014 SL No. 202 s 10

def *commissioner* om 2014 SL No. 105 s 34(1)

def *public guardian* ins 2014 SL No. 105 s 34(2)

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