



Queensland

# Youth Justice (Transitional) Amendment Regulation 2018

## Subordinate Legislation 2018 No. 7

made under the

*Youth Justice Act 1992*

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**1 Short title**

This regulation may be cited as the *Youth Justice (Transitional) Amendment Regulation 2018*.

**2 Regulation amended**

This regulation amends the *Youth Justice (Transitional) Regulation 2018*.

**3 Amendment of s 17 (Bail and custody)**

Section 17(2) and (3)—

*omit, insert—*

*Note—*

See also part 7A for provisions about custody.

**4 Amendment of s 18 (Withdrawal of charge and ending of proceeding for offence against Bail Act 1980)**

Section 18—

*insert—*

*Note—*

See also part 7A for provisions about custody.

**5 Amendment of s 19 (Withdrawal of charge and continuation of proceeding under the Act, s 238 for offence against Penalties and Sentences Act 1992)**

Section 19—

*insert—*

*Note—*

See also part 7A for provisions about custody.

**6 Amendment of s 24 (Particular provision for applying the Act to date for parole under Penalties and Sentences Act 1992)**

Section 24(2)—

*insert—*

*Note—*

See also part 7A for what applies if, after release, the person is returned to custody.

**7 Amendment of s 28 (Application of the Act to suspended imprisonment)**

(1) Section 28(b)—

*omit.*

(2) Section 28(d), ‘for a person mentioned in paragraph (b)(i),’—

*omit.*

(3) Section 28(c) and (d)—

*renumber* as section 28(b) and (c).

**8 Amendment of s 47 (Meaning of *eligible person*)**

Section 47(1)(b)(i)—

*omit, insert—*

- (i) there is a current proceeding for the offence;
- or

**9 Amendment of s 48 (Chief executive to decide whether to transfer eligible person to detention centre)**

Section 48(1), ‘after the commencement’—

*omit.*

**10 Amendment of pt 5 (Persons subject to other uncompleted sentences or orders)**

Part 5, after heading—

*insert—*

*Note—*

See also part 7A for provisions about custody.

**11 Amendment of s 64 (Application of the Act to particular new sentences imposed after commencement)**

(1) Section 64(4)(b)—

*omit.*

(2) Section 64(4)(d), ‘for a person mentioned in paragraph (b)(i),’—

*omit.*

(3) Section 64(c) and (d)—

*renumber* as section 64(b) and (c).

**12 Amendment of s 72 (Application of the Act if term of imprisonment imposed)**

(1) Section 72(2)(b)—

*omit.*

(2) Section 72(2)(d), ‘for a person mentioned in paragraph (b)(i),’—

*omit.*

(3) Section 72(c) and (d)—

*renumber* as section 72(b) and (c).

**13 Insertion of new part 7A**

After part 7—

*insert—*

## **Part 7A                      Other provisions about detention**

### **77A Application of part**

This section applies to a person if, on the commencement, section 389 or 390 of the Act applies to the person in relation to an offence.

### **77B Particular provision about detention of persons**

- (1) If a court remands the person in custody in relation to the offence, the person must be held—
  - (a) if, at the time the court remands the person, the person is held in a detention centre—in a detention centre; or
  - (b) otherwise—in a corrective services facility.
- (2) If a court orders, or the person is otherwise required to serve, a period of detention in relation to the offence, the person's period of detention must be served—
  - (a) if the person is held in a detention centre at the time the order is made or the requirement takes effect—in a detention centre; or
  - (b) otherwise—in a corrective services facility.
- (3) If a court orders the person, or the person is otherwise required, to serve a term of imprisonment in relation to the offence, the person's term of imprisonment must be served—
  - (a) if the person is held in a detention centre at the time the order is made or the requirement takes effect—in a detention centre; or
  - (b) otherwise—in a corrective services facility.

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- (4) For subsection (1)(b) and (2)(b), any rights, liberties or immunities of the person as a detainee are not preserved, transferred or otherwise applicable for the person as a prisoner.
- (5) Also, for subsection (2)(b)—
- (a) the person is liable to serve a term of imprisonment equal to the period of detention to which the person is sentenced; and
  - (b) the person is taken to be a prisoner subject to the *Corrective Services Act 2006*.
- (6) For subsection (3)(a)—
- (a) the Act and other Acts apply to the person's term of imprisonment as if it were a period of detention; and
  - (b) any rights, liberties or immunities of the person as a prisoner under the *Corrective Services Act 2006* end and are not preserved, transferred or otherwise applicable for the person as a detainee.

*Note—*

This section does not prevent the person being an eligible person under part 4—see section 47.

### **77C Particular provision about release**

- (1) If section 77B(2)(b) or (3)(b) applies to the person, on the day the person would otherwise have been released from the period of detention under section 227 of the Act, the person is to be released—
- (a) if the person is 18 years or more—on parole under the *Corrective Services Act 2006*; or
  - (b) otherwise—on a supervised release order.
- (2) However, if the person is to be released on parole under the *Corrective Services Act 2006*—

- (a) the release is subject to that Act as if granted under a court ordered parole order (the *statutory parole order*); and
- (b) the provisions of that Act applying to parole orders also apply to the statutory parole order.

### **77D Relationship with pt 4**

If section 77B(2)(b) or (3)(b) applies to the person and the person is not a person mentioned in section 28, 64 or 72, part 4 applies to the person—

- (a) as if the person were an eligible person under section 47(1); and
- (b) as if the reference in section 47(2) to the commencement were a reference to the making of the order or requirement.



ENDNOTES

- 1 Made by the Governor in Council on 12 February 2018.
- 2 Notified on the Queensland legislation website on 12 February 2018.
- 3 The administering agency is the Department of Child Safety, Youth and Women.

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