

South Australia

## **Summary Offences Regulations 2016**

under the *Summary Offences Act 1953*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Summary Offences Regulations 2016*.

### 2—Commencement

These regulations will come into operation on 1 July 2016.

### 3—Interpretation

In these regulations—

*Act* means the *Summary Offences Act 1953*.

## Part 2—Weapons

### 4—Interpretation

In this Part, unless the contrary intention appears—

*catapult* includes a shanghai and a slingshot;

*designed* includes adapted.

## 5—Dangerous articles

Each of the following is declared to be a dangerous article for the purposes of Part 3A of the Act:

- (a) ***anti-theft case***—a case, satchel or similar article designed to administer an electric shock to a person who handles or interferes with the case, satchel or article or its contents;
- (b) ***blow-gun***—a blow-pipe or similar device or instrument designed to propel an arrow, dart or similar projectile by air expelled from the mouth;
- (c) ***dart projector***—a device (for example, a Darchery Dart Slinger) designed to propel a dart by means of elastic material;
- (d) ***gas injector device***—a device (for example, a Farallon Shark Dart or a WASP Injector Knife) designed to kill or injure an animal by injecting a gas or other substance into the body of the animal;
- (e) ***plain catapult***—a catapult made for commercial distribution, other than a brace catapult as described in regulation 6(c);
- (f) ***self-protecting spray***—a device or instrument designed to temporarily or permanently immobilise, incapacitate or injure a person by the emission or discharge of an offensive, noxious or irritant liquid, powder, gas or chemical;
- (g) ***self-protection device***—a hand held device or instrument designed to temporarily or permanently immobilise, incapacitate or injure a person by the emission or discharge of an electric current, sound waves or electromagnetic energy.

## 6—Prohibited weapons

Each of the following is declared to be a prohibited weapon for the purposes of Part 3A of the Act:

- (a) ***ballistic knife***—a device or instrument (other than a dart projector) designed to fire or discharge a knife, dagger or similar instrument by mechanical, percussive or explosive means;
- (b) ***bayonet***—a stabbing weapon designed to be attached to or at the muzzle of a rifle;
- (c) ***brace catapult***—a catapult (for example, a Saunders Falcon Hunting Sling) that includes or is designed to be used with a brace fitted or resting on the forearm or another part of the body in order to support the forearm or wrist when the catapult is activated;
- (d) ***butterfly knife***—a knife comprised of a blade or spike and a handle, in respect of which—
  - (i) the handle is in 2 sections that fold so as to wholly or partially cover the blade or spike when the knife is not in use; and
  - (ii) the blade or spike can be exposed by gravity or centrifugal force;
- (e) ***chloroacetophenone***—chloroacetophenone (known as CN) in all its forms;
- (f) ***concealed weapon***—an article that appears to be harmless but that conceals a knife, spike or other weapon;

- (g) **cross-bow**—a cross-bow, other than a pistol cross-bow as described in paragraph (u);
- (h) **dagger**—a sharp, pointed stabbing weapon (other than a bayonet or sword), ordinarily capable of being concealed on the person and having—
  - (i) a flat blade with cutting edges on both sides; or
  - (ii) a needle-like blade that has a round or elliptical cross section or that has 3 or more sides;
- (i) **dirk** or **sgian dhu**—a ceremonial weapon associated with traditional Scottish culture;
- (j) **dypenylaminechloroarsone**—dypenylaminechloroarsone (known as DM or adamsite) in all its forms;
- (k) **extendable baton**—a baton designed for use as a weapon that can be extended in length by gravity or centrifugal force or by a release button or other device;
- (l) **fighting knife**—a knife (other than a bayonet or sword) designed for hand to hand fighting, for example, a butterfly knife, dagger, flick-knife, push knife or trench knife;
- (m) **flick-knife**—a knife in respect of which—
  - (i) the blade is concealed when folded or recessed into the handle and springs or is released into the extended position by the operation of a button or other device on the handle; or
  - (ii) the blade is wholly or partially concealed by a sheath that can be withdrawn into the handle of the knife by gravity, centrifugal force or by the operation of a button or other device;
- (n) **hand or foot claw**—an article designed as a weapon consisting of prongs or other projections worn on the hands or feet (for example, the martial arts weapons known as ninja hand claws, ninja foot claws or ninja claws);
- (o) **knife belt**—a belt or similar article (for example, a Bowen Knife Belt) designed to hold a knife, dagger or similar instrument so that the presence of the knife, dagger or instrument is concealed or disguised when the belt or article is worn;
- (p) **knuckle duster**—a device or instrument designed to be worn across the knuckles of a hand so as to—
  - (i) increase the force or impact of a punch or blow when striking another with the hand; or
  - (ii) protect the knuckles from injury,including a weighted or studded glove, but not including a boxing glove;
- (q) **laser pointer**—a hand held device, commonly known as a laser pointer, designed to emit a laser beam with an accessible emission level of greater than 1 milliwatt;

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- (r) **morning star**—an article designed as a weapon consisting of a weight (whether or not with spikes or blades) attached to a chain, rope or a length of other flexible material;
  - (s) **nunchakus**—a device comprised of 2 or more bars joined by a chain, rope or other flexible material so that the bars can swing independently of each other;
  - (t) **orthochlorobenzalmalononitrile**—orthochlorobenzalmalononitrile (known as CS) in all its forms;
  - (u) **pistol cross-bow**—a cross-bow designed for aiming and discharging an arrow, dart, bolt or similar projectile when held in one hand;
  - (v) **poniard**—a ceremonial weapon associated with the traditions of a prescribed masonic organisation;
  - (w) **push knife**—a knife (for example, an Urban Pal Knife) comprised of a blade or spike with a transverse handle that is designed—
    - (i) to be held between the fingers or the forefinger and thumb with the handle supported by the palm of the hand; and
    - (ii) to inflict injury by a punching or pushing movement;
  - (x) **star knife**—a device comprised of a number of points, blades or spikes pointing outwardly from a central axis and designed to spin around that axis, and capable of causing serious injury, when thrown;
  - (y) **throwing knife**—a knife that is designed to cause serious injury when thrown;
  - (z) **trench knife**—a knife comprised of a blade or spike attached to one end of a handle that is designed to be held in the closed fist with the fingers through the handle which serves as a knuckle duster;
  - (za) **undetectable knife**—a knife that—
    - (i) is made wholly or partly of a material that prevents the knife from being detected, or being detected as a knife, by either a metal detector or by a method using X-rays; and
    - (ii) is capable of causing serious injury or death.

### 7—Article presumed to be prohibited weapon

If an article could, but for this regulation, be declared by these regulations to be both a dangerous article and a prohibited weapon, it will be taken, unless the contrary intention appears, to be declared to be a prohibited weapon and not a dangerous article.

### 8—Unlawful selling or marketing of knives

- (1) Section 21D(1) of the Act does not apply to—
  - (a) a razor blade permanently enclosed in a cartridge; or
  - (b) a plastic or wooden knife used for, and intended to be disposed of after, eating.

- (2) For the purposes of section 21D(2)(a) of the Act, the following kinds of identification are prescribed:
- (a) a current photographic driver's licence issued under the *Motor Vehicles Act 1959* or under a corresponding law of another State or a Territory;
  - (b) a current photographic student identification card issued by an Australian education institution that shows the age of the person;
  - (c) a current photographic Proof of Age card issued by the Registrar of Motor Vehicles or by a corresponding public authority of the Commonwealth or another State or a Territory;
  - (d) a current passport issued by the Commonwealth or under the law of another country, bearing a photograph of the person and enabling the age of the person to be determined;
  - (e) a current photographic Keypass identification card issued by Alfa Omega Nominees Pty Ltd, trading as Commonwealth Key and Property Register.
- (3) Section 21D(4) of the Act does not apply to a knife marketed solely to the defence forces of Australia or the naval, military or air force of some other country.

### **9—Information relating to knife related injuries**

SA Police (within the meaning of the *Police Act 1998*) is a prescribed body for the purposes of section 21G(1) of the Act.

### **10—Effect of weapons prohibition order**

For the purposes of section 21I of the Act, a person must notify the Commissioner of the presence of a prohibited weapon on premises at which the person resides in the following manner:

- (a) by reporting the fact in person to a police officer on duty at a police station;
- (b) by describing to the police officer the circumstances of the presence of the prohibited weapon on the premises.

### **11—Evidentiary provisions**

For the purposes of section 21O(d) of the Act, in any proceedings under the Act, a document produced by the prosecution purporting to be signed by the Commissioner and purporting to certify—

- (a) that at a specified time, a specified person was or was not the subject of an approval under section 21B(1) of the Act and the conditions or limitations to which that approval was subject; or
- (b) that at a specified time, a specified person was or was not declared to be exempt from section 21F(1) of the Act in specified circumstances; or
- (c) that at a specified time, a weapons prohibition order applied to or did not apply to, or was or was not in force against, a specified person; or
- (d) that at a specified time, a specified laser pointer was tested and shown by the test to be capable of emitting a laser beam with an accessible emission level greater than 1 milliwatt,

constitutes, in the absence of proof to the contrary, proof of the matters so certified.

## 12—Prescribed weapons under Schedule 2 of Act

The following weapons are prescribed for the purposes of provisions of Schedule 2 of the Act as follows:

- (a) an extendable baton that can only be extended by means of gravity or centrifugal force is prescribed for the purposes of clause 19 of Schedule 2 of the Act;
- (b) a dirk or sgian dhu (also known as a "skean dhu") is prescribed for the purposes of clause 20 of Schedule 2 of the Act;
- (c) a dirk is prescribed for the purposes of clause 20(c)(ii) of Schedule 2 of the Act;
- (d) a poniard is prescribed for the purposes of clause 21 of Schedule 2 of the Act;
- (e) a laser pointer is prescribed for the purposes of clause 22 of Schedule 2 of the Act;
- (f) an undetectable knife is prescribed for the purposes of clause 23 of Schedule 2 of the Act.

## Part 3—Tattooing, body piercing and body modification

### 13—Interpretation

In this Part—

*customer*, in relation to a service provider, means a person on whom the service provider is to carry out a body piercing or body modification procedure;

*service provider* means a person who (or on whose behalf another person) is to perform a body piercing or body modification procedure on a third person.

### 14—Evidence of age of person

For the purposes of sections 21R(4)(a)(i) and 21T(2)(a) of the Act, the following kinds of evidence of a person's age may be produced to a service provider:

- (a) a current photographic driver's licence issued under the *Motor Vehicles Act 1959* or under a corresponding law of another State or a Territory;
- (b) a current photographic student identification card issued by an Australian education institution that shows the age of the person;
- (c) a current photographic Proof of Age card issued by the Registrar of Motor Vehicles or by a corresponding public authority of the Commonwealth or another State or a Territory;
- (d) a current passport issued by the Commonwealth or under the law of another country, bearing a photograph of the person and enabling the age of the person to be determined;
- (e) a current photographic Keypass identification card issued by Alfa Omega Nominees Pty Ltd, trading as Commonwealth Key and Property Register.

## 15—Pre-conditions to performing certain procedures

- (1) For the purposes of section 21S(1)(a) of the Act, the following prescribed information must be included in the written agreement entered into between the service provider and the customer:
  - (a) the name, address and phone number of the business where the procedure is to be performed;
  - (b) the name of the person who will perform the procedure;
  - (c) the name and address of the customer;
  - (d) a description of the nature of the procedure to be performed on the customer and the manner in which it is to be carried out;
  - (e) if more than 1 session will be required for the purpose of completing the procedure, an estimation of the number of such sessions required;
  - (f) if the procedure includes a body piercing—
    - (i) a detailed description of the type of jewellery that will be used in the piercing; and
    - (ii) a description of the precise part of the body on which the procedure is to be performed.
- (2) For the purposes of section 21S(1)(b)(ii) of the Act, the consent form for a customer who is less than 16 years of age on whom a body piercing is to be performed must include the following information:
  - (a) the name and address of the customer;
  - (b) the date of birth of the customer;
  - (c) the name, address and phone number of the customer's guardian;
  - (d) the name, address and phone number of the business where the procedure is to be performed;
  - (e) a detailed description of the body piercing to be performed on the customer.
- (3) The consent form must be—
  - (a) signed and dated by the customer's guardian; and
  - (b) verified by statutory declaration.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) For the purposes of paragraph (b) of the definition of *prescribed information* in section 21S(4) of the Act, information about the possible risks associated with body piercing or body modification is prescribed.

## 16—Prescribed information

- (1) For the purposes of section 21U of the Act, the following information is prescribed:
  - (a) that it is an offence to perform an intimate body piercing or body modification procedure on a person under the age of 18 years;



- (b) that the penalty for an offence referred to in paragraph (a) is a fine of \$5 000 or imprisonment for 12 months;
  - (c) that it is an offence to perform any other body piercing on a minor under the age of 16 years without first obtaining the consent of the minor's guardian—
    - (i) in person; or
    - (ii) in writing in the prescribed form and verified by statutory declaration;
  - (d) that the penalty for an offence referred to in paragraph (c) is a fine of \$5 000 or imprisonment for 12 months;
  - (e) that it is an offence to sell body modification equipment to a person under the age of 18 years;
  - (f) that the penalty for an offence referred to in paragraph (e) is a fine of \$2 500;
  - (g) that proof of age may be required—
    - (i) before a body piercing or body modification procedure may be performed; or
    - (ii) before body modification equipment may be purchased.
- (2) The prescribed information must be printed on a notice in any readily legible font no smaller than 12 points and displayed in a prominent place at the premises at which the procedures are offered.

### **17—Record keeping**

For the purposes of section 21V(1), a service provider must keep the following records:

- (a) a written agreement entered into with a customer under section 21S(1)(a) of the Act;
- (b) the written consent of a customer's guardian and the statutory declaration verifying the consent under section 21S(1)(b)(ii) of the Act;
- (c) evidence of a person's age produced to the service provider.

## **Part 4—Interviewing certain suspects and vulnerable witnesses**

### **18—Interpretation**

- (1) In this Part—

*intoxication* means a temporary disorder, abnormality or impairment of the mind that results from the consumption or administration of intoxicants and will pass on metabolism or elimination of intoxicants from the body;

*prescribed communication assistant*—see regulation 22(1);

*prescribed communication device*—see regulation 22(2);

*prescribed companion*—see regulation 21;

*prescribed interviewer*—see regulation 20;

*suspect* has the same meaning as in section 74D of the Act;

*vulnerable witness* means a witness to whom Part 17 Division 3 of the Act applies.

- (2) For the purposes of this Part, a person who is to be interviewed may be taken to have *complex communication needs* if the person has significant difficulty in communicating effectively with the interviewer, whether the communication difficulty is temporary or permanent and whether caused by disability, illness or injury, but not by intoxication.

### **19—Interviewing suspects with complex communication needs**

- (1) If an investigating officer proposes to interview a suspect whom the officer believes may have complex communication needs, the officer must, in addition to the requirements of section 74D of the Act, make the following arrangements as may be relevant:
- (a) arrangements for the suspect to be accompanied during the interview by a person who is a prescribed communication assistant;
  - (b) arrangements for the suspect to use, or be provided with, a prescribed communication device for the purposes of the interview.
- (2) Despite subregulation (1)(a), if the investigating officer is satisfied that—
- (a) it is not reasonably practicable in the circumstances to make arrangements for the suspect to be accompanied by a prescribed communication assistant (whether because no suitable prescribed communication assistant is available or for some other reason); and
  - (b) the circumstances do not warrant postponing the interview until such arrangements can be made,
- the interviewer may proceed with the interview without a prescribed communication assistant being present.
- (3) Despite subregulation (1)(b), if the investigating officer is satisfied that—
- (a) it is not reasonably practicable in the circumstances to make arrangements for the suspect to be provided with a prescribed communication device (whether because no suitable prescribed communication device is available or for some other reason); and
  - (b) the circumstances do not warrant postponing the interview until such arrangements can be made,
- the interviewer may proceed with the interview without the use of a prescribed communication device.
- (4) For the purposes of section 74D of the Act—
- (a) the following information must be included in a record of an interview:
    - (i) the date on which the record was made;
    - (ii) the identity of all persons who were present at any time during the interview;
    - (iii) details of any breaks in the interview, including the time the break commenced and concluded and (so far as is practicable) the reason for the break; and

- (b) if an audio visual record of an interview is made and the suspect—
  - (i) is accompanied during the interview by a prescribed communication assistant; or
  - (ii) is provided with a prescribed communication device for the purposes of the interview,the suspect, the communication assistant and the communication device (as the case may be) must be visible at all times in the recording.

## **20—Prescribed interviewers and prescribed persons**

- (1) For the purposes of section 74EB(b) of the Act, a prescribed interviewer is—
  - (a) a police officer or Public Service employee, or a police officer or Public Service employee of a class, authorised by the Commissioner or the Minister by written notice to conduct interviews with vulnerable witnesses; or
  - (b) a person, or a person of a class, authorised under a law of the Commonwealth or of another State or a Territory to conduct interviews with vulnerable witnesses; or
  - (c) a person who has successfully completed a training course in conducting interviews with vulnerable witnesses—
    - (i) approved by the Commissioner; or
    - (ii) approved by the Minister,

(and a prescribed interviewer is, for the purposes of section 74EC of the Act, a prescribed person).

- (2) In this regulation—

*Minister* means the Minister for Health.

## **21—Prescribed companions**

For the purposes of providing emotional support to a vulnerable witness while the witness is being interviewed, a person, or a person of any of the following classes, is prescribed:

- (a) a parent, guardian, spouse, domestic partner or any other relative of the witness;
- (b) a friend or carer of the witness;
- (c) any other person approved for the purposes of the interview with the witness by the prescribed interviewer who is to conduct the interview;
- (d) a person of a class approved by the Commissioner for the purposes of this regulation.

## **22—Prescribed communication assistants and communication devices**

- (1) The following persons are prescribed as communication assistants for the purposes of providing communication assistance to a suspect or vulnerable witness while the suspect or witness is being interviewed by an investigating officer or prescribed interviewer:
  - (a) a communication partner (within the meaning of section 4 of the *Evidence Act 1929*);
  - (b) any other person approved for the purposes of the interview with the suspect or witness by the investigating officer or prescribed interviewer who is to conduct the interview.
- (2) The following communication devices are prescribed for the purposes of providing communication assistance to a suspect or vulnerable witness while the suspect or witness is being interviewed:
  - (a) text, symbol or picture boards;
  - (b) speak-and-spell communication devices;
  - (c) voice output communication devices;
  - (d) tablets, laptops or other computers or devices equipped with software designed to assist persons with complex communication needs to communicate more readily;
  - (e) any other device, whether electronic or not, as may be approved for the purposes of the interview by the investigating officer or prescribed interviewer who is to conduct the interview.

## **23—Interviewing vulnerable witnesses**

- (1) For the purposes of section 74EB(a) of the Act—
  - (a) the following information must be included in an audio visual recording of an interview with a vulnerable witness:
    - (i) the date on which the recording was made;
    - (ii) the identity of all persons who were present at any time during the interview;
    - (iii) details of any breaks in the interview, including the time the break commenced and concluded and (so far as is practicable) the reason for the break; and
  - (b) if the vulnerable witness is accompanied during the interview by—
    - (i) a prescribed companion; or
    - (ii) a prescribed communication assistant,the witness, the companion and the communication assistant (as the case may be) must be visible at all times in the recording; and
  - (c) if the vulnerable witness is provided with a prescribed communication device for the purpose of providing communication assistance during the interview, the witness and the communication device must be visible at all times in the recording.

- (2) A prescribed interviewer who proposes to interview a vulnerable witness whom the interviewer believes may have complex communication needs must make the following arrangements as may be relevant:
- (a) arrangements for the witness to be accompanied during the interview by a person who is a prescribed communication assistant;
  - (b) arrangements for the witness to use, or be provided with, a prescribed communication device for the purposes of the interview.
- (3) Despite subregulation (2)(a), if the prescribed interviewer is satisfied that—
- (a) it is not reasonably practicable in the circumstances to make arrangements for the vulnerable witness to be accompanied by a prescribed communication assistant (whether because no suitable prescribed communication assistant is available or for some other reason); and
  - (b) the circumstances do not warrant postponing the interview until such arrangements can be made,
- the interviewer may proceed with the interview without a prescribed communication assistant being present and the interview will, for the purposes of Part 17 Division 3 of the Act, be taken to have met the prescribed requirements.
- (4) Despite subregulation (2)(b), if the prescribed interviewer is satisfied that—
- (a) it is not reasonably practicable in the circumstances to make arrangements for the vulnerable witness to be provided with a prescribed communication device (whether because no suitable prescribed communication device is available or for some other reason); and
  - (b) the circumstances do not warrant postponing the interview until such arrangements can be made,
- the interviewer may proceed with the interview without the use of a prescribed communication device and the interview will, for the purposes of Part 17 Division 3 of the Act, be taken to have met the prescribed requirements.
- (5) A prescribed interviewer who proposes to interview a vulnerable witness whom the interviewer believes should be provided with emotional or other support during the interview must, if the witness wishes to be accompanied by a person who is a prescribed companion, make arrangements for the witness to be so accompanied during the interview.
- (6) Despite subregulation (5), if the prescribed interviewer is satisfied that—
- (a) it is not reasonably practicable in the circumstances to make arrangements for the vulnerable witness to be accompanied by a prescribed companion (whether because no suitable prescribed companion is available or for some other reason); and
  - (b) the circumstances do not warrant postponing the interview until such arrangements can be made,
- the interviewer may proceed with the interview without a prescribed companion being present and the interview will, for the purposes of Part 17 Division 3 of the Act, be taken to have met the prescribed requirements.

- (7) For the purposes of section 74EB(c), the manner in which an interview with a vulnerable witness is conducted will meet the prescribed requirements if—
- (a) so far as is practicable, any statement made by the vulnerable witness is not elicited by the use of leading questions; and
  - (b) the vulnerable witness appears to understand that he or she must tell the truth; and
  - (c) the interview is conducted in accordance with this regulation.

#### **24—Access to audio visual record for training and assessment**

An audio visual record of an interview made under Part 17 of the Act, and any transcript or extract from a transcript of such an interview, may be accessed and used (in addition to its use for admission as evidence under section 74E or 74EC of the Act) for the purposes of reviewing, assessing and evaluating the conduct of interviews in order to—

- (a) provide training for interviewers; and
- (b) to make improvements to the conduct of interviews generally under that Part.

### **Part 5—Intimate search records**

#### **Division 1—Interpretation**

##### **25—Interpretation**

In this Part—

*intimate search record* means any videotape recording, or a written record of an intimate search, made under section 81 of the Act;

*register book* means the register book required to be kept at a police station by these regulations.

#### **Division 2—Register books**

##### **26—Obligation to keep register book**

- (1) The police officer in charge of a police station must maintain and keep at the station a register book in which the details relating to intimate search records must be entered legibly as required by these regulations, using the form in Schedule 1.
- (2) The officer must comply with any directions of the Commissioner as to the form in which the register book is to be kept.

##### **27—Initial entry in register book**

The police officer in charge of a police station at which an intimate search record is made must, as soon as practicable after the record is made, ensure that—

- (a) the details required by Part A of the form in Schedule 1 are entered in the register book; and
- (b) the record is clearly marked with a unique identifier enabling it to be linked with that entry in the register book.

**28—Signing of register book etc**

A person who enters details in the register book must comply with the requirements of the form set out in Schedule 1 as to the signing of the register book and the obtaining of signed receipts.

**29—Inspection of register book by Commissioner**

- (1) The police officer in charge of a police station must ensure that the register book kept at the station is available for inspection at any time by the Commissioner or by a police officer authorised by the Commissioner to inspect register books.
- (2) The Commissioner must cause all register books to be inspected regularly and at least twice yearly for the purposes of ascertaining—
  - (a) whether these regulations are being complied with; and
  - (b) whether any intimate search records should be destroyed.

**Division 3—Storage, movement and destruction of intimate search records****30—Storage of intimate search records**

The police officer in charge of a police station at which an intimate search record is made must ensure that at all times, except while it is being used in connection with a purpose authorised by the Act or these regulations, the record is stored in a secure place at the police station so as to prevent unauthorised access.

**31—Removal from storage and return of intimate search records**

- (1) Subject to subregulation (2), a person must not remove an intimate search record from storage.
- (2) The police officer in charge of the police station at which an intimate search record is stored may remove an intimate search record from storage only—
  - (a) if the officer requires the record for the purposes of these regulations or section 81(3c), (3d), (3e) or (3f) of the Act;
  - (b) if another person has requested access to the record and the officer reasonably believes that the person requires the record for a purpose referred to in paragraph (a).
- (3) As soon as practicable after removing the record from storage, the officer in charge must enter in the register book the details required by Part B of the form in Schedule 1, including, except where the purpose of removal is destruction of the record, the estimated date of return of the record.
- (4) As soon as practicable after the record is returned, the officer in charge must ensure that the details required by Part C of the form in Schedule 1 are entered in the register book.
- (5) If an intimate search record is not returned by the estimated date of return—
  - (a) the officer in charge must ask the person to whom the record was given to give an undertaking to return the record either immediately or on a reviewed estimated date of return; and

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- (b) the officer in charge must ensure that the details required by Part D of the form in Schedule 1 are entered in the register book.
- (6) If the record is not returned within the time specified in an undertaking given under subregulation (5), the officer in charge must notify the Commissioner of that fact in writing.

### 32—Copies of intimate search records

- (1) Subject to subregulation (2), a person (other than the detainee) must not make a copy of an intimate search record.
- (2) A police officer in charge of a police station at which an intimate search record is stored, or another person with the approval of that officer, may make a copy of the record—
  - (a) on request by the detainee; or
  - (b) as may be required for purposes related to the investigation of an offence or alleged misconduct or for the purposes of, or purposes related to, legal proceedings, or proposed legal proceedings, to which the record is relevant.
- (3) The officer in charge must ensure that—
  - (a) as soon as practicable after the copy is made—
    - (i) the details of the making of the copy required by Part E of the form in Schedule 1 are entered in the register book; and
    - (ii) the copy is clearly marked with a unique identifier enabling it to be linked with that entry in the register book; and
  - (b) the copy—
    - (i) is stored in a secure place at the police station so as to prevent unauthorised access; and
    - (ii) is not removed from storage except by the officer in charge for the purpose of providing the copy to the person on whose request the copy was made.
- (4) As soon as practicable after a copy of an intimate search record is lawfully removed from storage or is given to the detainee, the officer in charge must ensure that the details required by Part F of the form in Schedule 1 are entered in the register book, including, except where the purpose of removal is destruction of the copy, the estimated date of return of the copy.
- (5) As soon as practicable after a copy of an intimate search record is returned to the police station, the officer in charge must ensure that the details required by Part G of the form in Schedule 1 are entered in the register book.
- (6) If a copy of an intimate search record is not returned by the estimated date of return—
  - (a) the officer in charge must ask the person to whom the copy was given to give an undertaking to return the copy either immediately or on a reviewed estimated date of return; and
  - (b) the officer in charge must ensure that the details required by Part H of the form in Schedule 1 are entered in the register book.



- (7) If the copy is not returned within the time specified in an undertaking given under subregulation (6), the officer in charge must notify the Commissioner of that fact in writing.

### **33—Destruction of intimate search records and copies**

- (1) An intimate search record and any copy of such a record may only be destroyed—
- (a) by the police officer in charge of the police station at which the record is required to be kept; or
  - (b) by some other person with the approval of that officer.
- (2) If an intimate search record is lawfully destroyed, any copies of the record (other than a copy provided to the detainee) must also be destroyed.
- (3) If an intimate search record is to be destroyed but the record or any copies of the record are not at the police station at which they are required to be kept, the Commissioner must direct the immediate return of the record or copies to that station.
- (4) If a record or a copy of a record is not returned as required by a direction given under subregulation (3), the officer in charge must notify the Commissioner of that fact in writing.
- (5) The officer in charge responsible for the destruction of an intimate search record and any copies must, as soon as practicable after the destruction, ensure that the details required by Part I of the form in Schedule 1 are entered in the register book.
- (6) An intimate search record consisting of a videotape recording will be regarded as having been destroyed if all material recorded on the videotape has been erased.

## **Part 6—Miscellaneous**

### **34—Declaration of vehicle immobilisation device**

Pursuant to section 74BAA(2) of the Act, the Stinger Spike System Series 2000 is declared to be a vehicle immobilisation device.

### **35—Prescribed serious criminal offences**

For the purposes of the definition of *serious criminal offence* in section 74BA of the Act, offences against the following provisions are prescribed:

- (a) sections 21C(2)(a) and 21F(1)(a) of the Act;
- (b) section 25 of the *Controlled Substances Act 1984*;
- (c) sections 12, 23 and 48 of the *Explosives Act 1936*;
- (d) sections 75, 76 and 90 of the *Lottery and Gaming Act 1936*;
- (e) regulations 2.02, 4.02, 4.08, 4.10, 4.17, 4.25, 9.02 and 15.10 of the *Explosives Regulations 2011*;
- (f) regulation 5 of the *Explosives (Fireworks) Regulations 2001*.

### **36—Prescribed form of written record of telephone application**

The prescribed form for a written record of a telephone application for the purposes of section 78(4) of the Act is that set out in Form 1 of Schedule 2.

### **37—Prescribed form of warrant (section 83C)**

The prescribed form for a warrant for the purposes of section 83C of the Act is that set out in Form 2 of Schedule 2.

## **Schedule 1—Register form**

(Part 5)

### **Form 1—Register Form (Part 5)**

#### **Part A**

##### **Initial entry in register book**

(regulation 27)

Name and address of police station:

Name of detainee:

Address:

Age:

Sex:

Type of record (videotape of search, written record of search or videotape of read over of written record):

Unique identifier for the record:

Date of search:

Names of persons present at search, rank and station (if member of police force) and their role in the search:

Objects found (if any) as a result of search:

Date on which the written record (if any) was made:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

#### **Part B**

##### **Removal of intimate search record from storage**

(regulation 31)

Name and address of police station:

Date on which record removed from storage:

Name (and rank and station if member of the police force) of person requesting access to record:

Office hours telephone number of person requesting access:

Reason for access to the record:

Estimated date of return of record (unless record is to be destroyed):

Signature of person to whom record is supplied:

Date:

Name, rank and station of officer in charge of police station removing record from storage:

Signature of officer in charge of police station:

Date:

### **Part C**

#### **Return of intimate search record**

(regulation 31)

Name and address of police station:

Date of return of record:

Name (and rank and station if member of police force) of person returning record:

Signature of person returning the record:

Date:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

### **Part D**

#### **If intimate search record not returned by estimated date of return**

(regulation 31)

Name and address of police station:

Action taken by officer in charge of police station in respect of non-return of record by estimated date of return stated in Part B:

Undertakings given to officer in charge of police station as to return of record:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

### **Part E**

**Copies of intimate search records**  
(regulation 32)

Name and address of police station:

Unique identifier for the copy:

Date on which copy is made:

Reasons for making copy (request by detainee/required for legal proceedings):

Details of person copy supplied to:

Name:

Address:

Office hours telephone no:

Receipt signed & dated:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

**Part F**

**Removal of copies**  
(regulation 32)

Name and address of police station:

Date on which copy removed from storage:

Name (and rank and station if member of the police force) of person requesting access to copy:

Office hours telephone number of person requesting access:

Reason for access to the copy:

Estimated date of return of copy (unless copy is to be destroyed):

Signature of person to whom copy supplied:

Date:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station removing copy from storage:

Signature of officer in charge of police station:

Date:

**Part G**

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**Return of copies**

(regulation 32)

Name and address of police station:

Date of return of copy:

Name (and rank and station if member of police force) of person returning copy:

Signature of person returning copy:

Date:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

**Part H**

**If copy not returned by estimated date of return**

(regulation 32)

Name and address of police station:

Action taken by officer in charge of police station in respect of non-return by the estimated date of return stated in Part F:

Undertakings given to the officer as to the return of the record:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

**Part I**

**Destruction of intimate search record and any copies**

(regulation 33)

Name and address of police station:

Reason for destruction (tick whichever is applicable):

- (a) Commissioner satisfied that record not likely to be required for purposes referred to in section 81(3e)
- (b) order of court or tribunal

Date and time of destruction:

Method of destruction:

Have all copies (other than that supplied to detainee) been destroyed? YES/NO

Name, rank and station of officer carrying out the destruction:

Signature of officer carrying out the destruction:

Date:

Name (and rank and station if member of police force) of person completing this Part:

Signature of person completing this Part:

Date:

Name, rank and station of officer in charge of police station:

Signature of officer in charge of police station:

Date:

## **Schedule 2—Forms**

(Part 6)

### **Form 1—Application made by telephone for an authorisation pursuant to section 78**

*Summary Offences Act 1953*

Application made by [*insert applicant's name*] of [*insert applicant's address*] on [*insert date*] at [*insert time*].

Name of person apprehended:

Address:

Age:

Sex:

Details of offence under investigation:

Time and date of apprehension\*

or

Time and date delivered into custody at police station\*

Grounds on which application made:

Determination of application:

If the application is granted, details of terms and conditions:

Date:

Magistrate:

(\*Delete whichever is inapplicable)

cc Manager, Criminal Justice Section.

### **Form 2—Warrant to enter premises pursuant to section 83C(3)**

*Summary Offences Act 1953*

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Pursuant to section 83C(3) of the Summary Offences Act 1953, I authorise [*state name of officer*] to enter premises situated at [*insert address*] being the last place of residence of—

- \* a deceased person of unknown identity
- \* the following deceased person [*insert name of deceased*]
- \* a deceased \*male/female/adult/child

for the purpose of—

- \*(a) searching the premises for material that might identify or assist in identifying the deceased or relatives of the deceased;
- \*(b) taking property of the deceased into safe custody.

Date:

Commissioner of Police:

(*\*Delete if not known or inapplicable*)

## Schedule 3—Fees

### 1—Fees

Item	Fee description	Fee
1	For an application to the Minister for an exempt person declaration under section 21F(5)(b) of Act	\$48.00
2	For an audio tape of the soundtrack of an audio visual record of an interview with a suspect (section 74D of Act)	\$20.00
3	For a copy of an audio record of an interview with a suspect (section 74D of Act)	\$20.00
4	For a copy of an audio visual record of an intimate search of a detainee (section 81 of Act)	\$20.00

### 2—Refunds

The Minister may refund the whole or part of the fee prescribed by clause 1, item 1 if—

- (a) in his or her opinion, the weapon concerned is not a prohibited weapon; or
- (b) in his or her opinion, the applicant falls within a category of exempt person in Schedule 2 of the Act; or
- (c) the application is refused.

## Schedule 4—Revocation of regulations

### 1—Revocation of regulations

The following regulations are revoked:

- (a) the *Summary Offences (General) Regulations 2001*;
- (b) the *Summary Offences (Weapons) Regulations 2012*.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 30 June 2016

No 169 of 2016

AGO0078/16CS