

South Australia

## **Criminal Law (Sentencing) Variation Regulations 2017**

under the *Criminal Law (Sentencing) Act 1988*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Criminal Law (Sentencing) Variation Regulations 2017*.

#### **2—Commencement**

These regulations will come into operation on the day on which Schedule 2 Part 5 of the *Summary Procedure (Indictable Offences) Amendment Act 2017* comes into operation.

#### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *Criminal Law (Sentencing) Regulations 2014*

### 4—Insertion of regulation 4A

After regulation 4 insert:

#### 4A—Prescribed modifications (section 10C)

(1) Subject to subregulation (2), in accordance with section 10C(8) of the Act, the following modifications to section 10C of the Act are prescribed where a defendant pleads guilty to an offence or offences in proceedings instituted in a superior court by the Director of Public Prosecutions laying an information ex officio in accordance with section 103 of the *Criminal Procedure Act 1921*:

(a) Section 10C(3)(a) to (e) (inclusive)—delete paragraphs (a) to (e) and substitute:

(a) during the period commencing immediately after the defendant's arraignment appearance in the superior court in relation to the relevant offence or offences and ending not more than 4 weeks after that arraignment—the sentencing court may reduce the sentence that it would otherwise have imposed by up to 40%;

(b) more than 4 weeks after the defendant's arraignment appearance in the superior court in relation to the relevant offence or offences but on the day of, or before, the commencement of the defendant's trial for the relevant offence or offences—the sentencing court may reduce the sentence that it would otherwise have imposed by up to 30%.

(b) Section 10C—after subsection (3) insert:

(3a) In acting under subsection (3)(a) or (b), the sentencing court must take into account—

(a) when the defendant was provided with information, material or evidence by the prosecution in support of the relevant offence or offences charged (including the provision of a prosecution case statement that incorporates the relevant offence or offences); and

- (b) the time reasonably required for the defence to consider the information, material or evidence provided by the prosecution in support of the relevant offence or offences; and
  - (c) any other matter the court considers appropriate.
- (2) If, in proceedings referred to in subregulation (1), the ex officio information also includes an offence or offences that were committed to the superior court for trial, the modifications prescribed under subregulation (1) do not apply to the sentencing of the defendant for that offence or those offences.

**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 12 December 2017

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