

South Australia

## Young Offenders Regulations 2023

under the *Young Offenders Act 1993*

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### Contents

#### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation

#### Part 2—Practice and procedure of Training Centre Review Board

- 4 Training Centre Review Board meeting procedures
- 5 Obtaining information from Youth Court
- 6 Reviews etc and proceedings of Training Centre Review Board
- 7 Conditional release from detention

#### Part 3—Miscellaneous

- 8 Definition of terrorist offence
- 9 Detention of youths outside specified area
- 10 Written statement of youth's rights in respect of legal representation
- 11 Dealing with surrendered items

#### Schedule 1—Repeal of *Young Offenders Regulations 2008*

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### Part 1—Preliminary

#### 1—Short title

These regulations may be cited as the *Young Offenders Regulations 2023*.

#### 2—Commencement

These regulations come into operation on the day on which they are made.

#### 3—Interpretation

- (1) In these regulations—  
*Act* means the *Young Offenders Act 1993*.
- (2) In these regulations, a reference to the *Training Centre Review Board*, or the *Board*, if made in relation to a youth who is a recidivist young offender, will be taken to be a reference to the Training Centre Review Board sitting as the Youth Parole Board and constituted in accordance with section 39(2)(b) of the Act.

## **Part 2—Practice and procedure of Training Centre Review Board**

### **4—Training Centre Review Board meeting procedures**

- (1) The Training Centre Review Board—
  - (a) must meet at each training centre at least once in each calendar month; and
  - (b) may meet at such other times as the Chief Executive requests or as the Board considers appropriate.
- (2) A decision carried by the votes of a majority of the members of the Board present and voting at a meeting is a decision of the Board.
- (3) Each member present at a meeting of the Board has 1 vote on a question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (4) A telephone or video conference between members will, for the purposes of this regulation, be taken to be a meeting of the Board at which the participating members are present.
- (5) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
  - (a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and
  - (b) a majority of the members express their concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (6) The manager of the training centre at which a meeting of the Board is held, or a nominee of the manager, is entitled to attend the meeting.
- (7) However, the Board may exclude the manager of the training centre or nominee from a meeting while it deliberates any matter before it for decision.
- (8) The Board may inform itself on any matter before it in such manner as it thinks fit.

### **5—Obtaining information from Youth Court**

The Registrar of the Youth Court must, at the request of the Training Centre Review Board, provide the Board with a copy of any records, depositions, notes of evidence, exhibits or other things that relate to a matter heard in the Court which the Board considers relevant to a matter under consideration by the Board.

### **6—Reviews etc and proceedings of Training Centre Review Board**

- (1) If the Training Centre Review Board is to meet at a training centre—
  - (a) to conduct a review of the progress and circumstances of a youth while in the training centre; or
  - (b) to hear and determine any other matter relating to the youth,

the manager of the training centre must, not later than 7 days (or such lesser period as is approved by the Board) before the meeting, provide the Board and the youth with a copy of a report in respect of the youth.

- (2) The Board must give consideration to a report under this regulation and any explanation of the report given by the manager of a training centre at a meeting of the Board.
- (3) The following persons (and only the following persons) may attend a meeting of the Board during a review by the Board of the progress and circumstances of a youth while in a training centre:
  - (a) the manager of the training centre;
  - (b) the youth to whom the review relates;
  - (c) a guardian of the youth;
  - (d) the legal representative of the youth;
  - (e) if, in relation to an offence for which the youth was sentenced to detention or imprisonment, there is a registered victim and they have made prior arrangement with the Board to attend the meeting—the registered victim;
  - (f) any other person who has the permission of the Board to so attend.

## **7—Conditional release from detention**

- (1) The Training Centre Review Board must give consideration to the recommendations of the manager of a training centre as to—
  - (a) authorising the Chief Executive to grant a youth a period of unsupervised leave from the training centre under section 40A of the Act; or
  - (b) releasing a youth from detention in the training centre under Part 5 Division 3 Subdivision 3 of the Act.
- (2) If the Board makes an order under Part 5 Division 3 Subdivision 3 of the Act, the order must be signed on behalf of the Board by 2 members (1 of whom must be a Judge) and must be endorsed by the youth and—
  - (a) 1 copy retained by the manager of the training centre; and
  - (b) 1 copy given to the youth on their release; and
  - (c) 1 copy provided to the Commissioner of Police; and
  - (d) 1 copy retained by the Board.
- (3) The Board must give a youth who is conditionally released from a training centre under Part 5 Division 3 Subdivision 3 of the Act written notice of the youth's right to apply under section 42 of the Act for absolute discharge from the detention order.

## Part 3—Miscellaneous

### 8—Definition of terrorist offence

- (1) For the purposes of paragraph (e) of the definition of **terrorist offence** in section 4(1) of the Act, the following kinds of offences against the laws of South Australia are prescribed:
  - (a) an offence against section 83CA of the *Criminal Law Consolidation Act 1935*;
  - (b) any offence against Part 3D of the *Criminal Law Consolidation Act 1935*;
  - (c) an offence against section 37 of the *Summary Offences Act 1953*.
- (2) For the purposes of paragraph (e) of the definition of **terrorist offence** in section 4(1) of the Act, the following kinds of offences against the laws of other States and Territories of the Commonwealth are prescribed:
  - (a) an offence against section 310J of the *Crimes Act 1900* of New South Wales;
  - (b) the following offences against Schedule 1 of the *Criminal Code Act 1983* of the Northern Territory:
    - (i) an offence against section 51 where the unlawful organisation to which the offence relates is a terrorist organisation;
    - (ii) an offence against section 53 where the unlawful organisation to which the offence relates is a terrorist organisation;
    - (iii) an offence against section 54;
    - (iv) an offence against section 55;
  - (c) an offence against section 4B of the *Terrorism (Community Protection) Act 2003* of Victoria.
- (3) In this regulation—

**terrorist organisation** means an organisation referred to in paragraph (b) of the definition of **terrorist organisation** in Division 102 of the Commonwealth Criminal Code.

### 9—Detention of youths outside specified area

For the purposes of sections 15(2) and 59A(4) of the Act, the area within a 40 kilometre radius of the General Post Office at Adelaide is the specified area outside of which a youth may be detained in a police prison or approved police station, watch-house or lock-up in accordance with those sections.

### 10—Written statement of youth's rights in respect of legal representation

For the purposes of section 30(2)(b) of the Act, the written statement to be provided to the youth must contain the following information:

- (a) a statement (in bold type) to the effect that, before a person goes to the Youth Court, the person is entitled to obtain legal advice and be represented by a lawyer in court;

- (b) information about how to obtain the services of a lawyer;
- (c) information about how to contact the Legal Services Commission;
- (d) information about how to contact the Aboriginal Legal Rights Movement.

## 11—Dealing with surrendered items

- (1) For the purposes of section 42A(4) of the Act, the Commissioner of Police must deal with a surrendered item in accordance with this regulation.
- (2) A surrendered item that is a prohibited weapon (within the meaning of the *Summary Offences Act 1953*), or that is an item that cannot otherwise be lawfully possessed in this State, is, by force of this subregulation, forfeited to the Crown.
- (3) The Commissioner of Police must retain a surrendered item (other than a surrendered item forfeited under subregulation (2)) in a location determined by the Commissioner of Police until—
  - (a) the surrendered item is forfeited to the Crown under this or any other Act; or
  - (b) the surrendered item is returned in accordance with this regulation to the youth who surrendered it; or
  - (c) the surrendered item is seized or surrendered under the provisions of another Act,whichever occurs first.
- (4) If the condition imposed under section 41A(2)(c)(iia) or 41A(3)(c)(iia) on the conditional release from detention of the youth who surrendered the surrendered item is revoked, or the youth is discharged from detention absolutely, the youth may notify the Commissioner of Police of that fact.
- (5) Subject to this regulation, if the Commissioner of Police—
  - (a) is notified pursuant to subregulation (4); or
  - (b) otherwise becomes aware that the conditional release from detention of the youth is no longer subject to the condition imposed under section 41A(2)(c)(iia) or 41A(3)(c)(iia) (as the case requires), or the youth is discharged from detention absolutely,the Commissioner of Police must cause the surrendered item to be returned to the youth who surrendered the item.
- (6) If the Commissioner of Police is required to return a surrendered item under subregulation (5), the Commissioner of Police must give notice in writing to the youth who surrendered the item setting out—
  - (a) that the surrendered items specified in the notice are to be returned to the youth; and
  - (b) the location at which the surrendered items may be collected; and
  - (c) that the surrendered items must be collected from the specified location within 3 months of the date specified in the notice (or such longer time as may be specified by the Commissioner of Police); and

- (d) that the surrendered items will only be returned if the youth holds any necessary authorisation under the *Firearms Act 2015* or any other Act to possess the surrendered item; and
  - (e) the effect of subregulations (7) and (8).
- (7) However, the Commissioner of Police may refuse to return a surrendered item to a youth if—
  - (a) the youth is on conditional release that is subject to a condition prohibiting the youth from possessing a firearm, ammunition or part of a firearm; or
  - (b) the youth does not hold any necessary authorisation under the *Firearms Act 2015* or any other Act to possess the surrendered item, or is otherwise prohibited from possessing the surrendered item,and, if the Commissioner of Police does so refuse, they must give notice in writing to the youth who surrendered the surrendered item setting out—
  - (c) the reasons for the refusal; and
  - (d) in the case of a refusal contemplated by subregulation (7)(a)—the effect of subregulation (9).
- (8) If—
  - (a) a surrendered item is not collected within the period specified in subregulation (6)(c); or
  - (b) the youth does not, at the end of the period specified in subregulation (6)(c), hold the necessary authorisation under the *Firearms Act 2015* or any other Act to possess the surrendered item, or is otherwise prohibited from possessing the surrendered item,the surrendered item is, by force of this regulation, forfeited to the Crown.
- (9) If the Commissioner of Police refuses to return a surrendered item to a youth pursuant to subregulation (7)(a)—
  - (a) the surrendered item will be taken to have been surrendered pursuant to a direction under the provision of the Act under which the conditional release was granted (corresponding to section 42A(1) of the Act); and
  - (b) the surrendered item must be dealt with in accordance with that Act.
- (10) The Commissioner of Police may recover from the youth who surrendered the surrendered item the reasonable costs incurred in connection with the storage of the surrendered item.
- (11) This regulation is in addition to, and does not derogate from, the operation of any other Act or law.
- (12) No compensation is payable by the Crown in respect of the forfeiture of a surrendered item under this regulation.
- (13) A notice required to be given to a youth under this regulation may—
  - (a) be given to the youth personally; or
  - (b) be posted in an envelope addressed to the youth—
    - (i) at the youth's last known address; or

- (ii) at the youth's address for service; or
  - (c) be left for the youth at the youth's last known address or address for service with someone apparently over the age of 16 years.
- (14) In this regulation—

***conditional release*** means conditional release from detention under the Act or any of the following under another Act of the State where a condition is imposed requiring surrender of a firearm, ammunition or any part of a firearm:

- (a) a grant of bail;
- (b) a bond;
- (c) home detention;
- (d) parole;
- (e) release on licence;
- (f) a community based custodial sentence (within the meaning of the *Sentencing Act 2017*);

***surrendered item*** means a firearm, ammunition or any part of a firearm surrendered pursuant to a direction under section 42A(1) of the Act.

## **Schedule 1—Repeal of *Young Offenders Regulations 2008***

The *Young Offenders Regulations 2008* are repealed.

### **Editorial note—**

As required by section 10AA(2) of the *Legislative Instruments 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 3 August 2023

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