

# Queensland



## Subordinate Legislation 1993 No. 314

### *Juvenile Justice Act 1992*

# JUVENILE JUSTICE REGULATION 1993

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## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Juvenile Justice Regulation 1993*.

### Commencement

2. This regulation commences on 1 September 1993.

### Definitions

3. In this regulation—

“**child**” includes a person in relation to whom, under section 107 of the Act, an order made under the Act continues to have effect;

“**detention centre manager**” means the person holding office as manager of a detention centre;

“**property register**” means the register kept under section 12;

“**staff member**” means a person employed at a detention centre in a capacity that involves the supervision of children detained in the centre.

### Forms

- 4.(1) The chief executive<sup>1</sup> may approve forms for use under the Act.

(2) A person may request the chief executive to give the person a document setting out a form approved under subsection (1).

(3) The chief executive must promptly comply with a request made under subsection (2).

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<sup>1</sup> For all mentions of the chief executive, see section 227 of the Act (Delegation by chief executive).

## **PART 2—PROCEEDINGS AND ORDERS**

### **Contents of presentence report**

**5.** If a court orders the chief executive to give to the court a presentence report about a child, the report must include 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) the child's criminal history, including any previous sentencing orders;
- (f) if it is relevant to the commission of the offence—
  - (i) the child's family circumstances; and
  - (ii) the child's education and employment; and
  - (iii) the child's physical and mental health;
- (g) the child's attitude to the offence and the victim of the offence;
- (h) any mitigating circumstances;
- (i) a recommendation about sentencing.

### **Reporting requirements of probation and community service orders**

**6.(1)** This section applies to a child against whom a probation order or a community service order is made.

**(2)** The chief executive may direct the child—

- (a) in the case of a probation order—to report to the chief executive at a specified time, or to receive visits from the chief executive, during the probation period; or
- (b) in the case of a community service order—to attend at a specified place, at a specified time and for a specified period.

**(3)** The child must comply with the direction.

(4) If the child is unable to comply with the direction because of illness, injury or other circumstances beyond the child's control, the child must promptly notify the chief executive.

(5) The chief executive may request 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 inability to report or receive a visit.

(6) The child must comply with the request.

(7) A child who is injured while performing community service must report the circumstances of the injury to the chief executive as soon as practicable.

### **Limits on chief executive's directions about community service**

7.(1) The chief executive must not direct a child to perform community service that is dangerous, unsafe or likely to harm the child's health.

(2) For the purpose of subsection (1), the chief executive must have regard to the child's age, maturity, physical capacity and intellectual capacity.

(3) If the child is 15 or older, the chief executive must not direct the child to perform community service for more than 8 hours in a day or—

- (a) 30 hours in a week; or
- (b) if the child is attending school or another educational establishment on a full-time basis, the following hours in a week—
  - (i) during vacations of the school or educational establishment—30 hours;
  - (ii) at other times—10 hours; or
- (c) if the child is in full-time employment—10 hours in a week.

(4) If the child is under 15, the chief executive must not direct the child to perform community service for more than 4 hours in a day or the following

hours in a week—

- (a) during vacations of the school or educational establishment the child attends—20 hours;
- (b) at other times—10 hours.

## **PART 3—DETENTION CENTRES**

### ***Division 1—Establishment of detention centres***

#### **Detention centres established**

**8.(1)** A detention centre is established at each place specified in the Schedule.

**(2)** The purpose for which each detention centre is established is the detention of children who are or may be required to be held in custody under the Act or the *Young Offenders (Interstate Transfer) Act 1987*.

**(3)** Each detention centre has the name assigned to it in the Schedule.

### ***Division 2—Admission procedures***

#### **Medical examination of child before admission**

**9.** If a child who is about to be admitted to a detention centre is—

- (a) apparently ill, injured or intoxicated; and
- (b) appears to the chief executive to be in need of immediate medical treatment;

the chief executive must not admit the child to the detention centre until the child has been medically examined and provided with any immediate treatment that is required.

**Record must be made on admission**

**10.(1)** The chief executive must ensure that, at the time of a child's admission to a detention centre, a record of the following information is made—

- (a) the child's name;
- (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 detained while on remand for a charge of an offence—
  - (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;
- (f) 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;
- (g) 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;
- (h) a description of the child's physical appearance.

**(2)** The record may include any other particulars that the chief executive considers necessary.

**(3)** The chief executive may add to or alter the record to ensure that the record is accurate.

**Child must be informed of rights and responsibilities on admission**

**11.(1)** As soon as is practicable after a child's admission to a detention centre, the chief executive must give the child information about the child's rights and responsibilities as a resident of the detention centre.

**(2)** If the child has difficulty in understanding English, the chief executive must take reasonable steps to ensure that the child understands the child's rights and responsibilities as a resident of the detention centre.

**(3)** The steps may include, for example—

- (a)** having an interpreter or other person able to communicate with the child give the explanation; and
- (b)** supplying an explanatory note in English or another language.

**Child's property on admission**

**12.(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)** As soon as is practicable after a child's admission to a detention centre, the chief executive must make a record in the register 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 staff member (other than the staff member who made the record) may sign the record.

**(5)** The chief executive may, in relation to a child's property—

- (a)** keep a particular item in safe custody while the child is detained in the centre; or
- (b)** allow the child to keep property for the child's use; or
- (c)** if the chief executive considers the property to be perishable—destroy the property; or
- (d)** if the chief executive considers the property to be unhygienic or dangerous—destroy the property unless it would be reasonable to take steps to make the property hygienic or safe.

**(6)** If the chief executive destroys property, the chief executive must—



- (a) inform the child of the destruction and the reason for destruction; and
- (b) make a record of the destruction and the reason for destruction in the property register.

### ***Division 3—Management of behaviour***

#### **Child to obey lawful instructions**

**13.(1)** A child detained in a detention centre must obey a lawful instruction given by a staff member in the course of the staff member's official duties.

**(2)** The chief executive may discipline a child who does not obey a lawful instruction given under subsection (1).

#### **Management of misbehaviour**

**14.(1)** If a child detained in a detention centre misbehaves, the chief executive may discipline the child.

**(2)** The chief executive must ensure that the misbehaviour is managed in a way that has regard to—

- (a) the nature of the misbehaviour; and
- (b) the child's age and maturity.

**(3)** The chief executive must not use, as a way 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
- (d) deprivation of sleep, food or visitors; or
- (e) exclusion from educational or vocational programs; or
- (f) medication or deprivation of medication; or
- (g) isolation in a locked room.

(4) If it is necessary to use force to protect a child, or other persons or property in the centre, from the consequences of a child's misbehaviour, the chief executive must not use more force than is reasonably necessary.

## **Handcuffs**

**15.(1)** The chief executive may use handcuffs on a child in the chief executive's custody under the Act if—

- (a) the child is outside a detention centre, or about to leave a detention centre, under escort by an officer of the department; and
- (b) the chief executive considers, on reasonable grounds, that it is reasonably likely that the child will attempt to escape.

(2) The chief executive must keep a register and record in it the following particulars about the use of handcuffs—

- (a) the name of the child;
- (b) the day on which the handcuffs were used;
- (c) the circumstances in which the handcuffs were used.

## ***Division 4—Isolation for reasons other than discipline***

### **Isolation of child in a locked room for reasons other than discipline**

**16.(1)** A staff member may isolate a child in a locked room for reasons other than discipline.

(2) A staff member may only isolate the child under subsection (1)—

- (a) if the child is ill; or
- (b) at the child's request; or
- (c) for routine security purposes under guidelines issued by the chief executive; or
- (d) for the child's protection or the protection of other persons or property.

(3) A staff member must not isolate the child under subsection (1)—

- (a) at the child's request—without the chief executive's approval; or
- (b) for the child's protection or the protection of other persons or property—
  - (i) if the isolation is for more than 2 hours—without the detention centre manager's approval; or
  - (ii) if the isolation is for more than 12 hours—without informing the chief executive; or
  - (iii) if the isolation is for more than 24 hours—without the chief executive's approval; or
- (c) for more than 12 hours overnight.

(4) If a staff member isolates a child for the child's protection or the protection of other persons or property, a staff member must keep the child under continuous observation.

(5) The detention centre manager must keep a register that contains the following particulars of each child who is isolated for the child's protection or the protection of other persons or property—

- (a) the child's name;
- (b) the reason for the child's isolation;
- (c) the name of the staff member who supervised the child during the isolation;
- (d) the date and the length of time for which the child was isolated.

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

### ***Division 5—Searches***

#### **Searches not involving removal of clothes**

**17.(1)** The chief executive may authorise a staff member to conduct a search of a child detained in a detention centre that does not involve the removal of all or part of the child's clothes.

- (2) The search may take place—

- (a) on the child's admission to the centre; or
- (b) on the child's return to the centre after a period of absence; or
- (c) at any time that the chief executive reasonably considers that the child should be searched.

(3) If necessary, the staff member may use reasonable force to carry out the search.

### **Searches involving removal of clothes**

**18.(1)** If the chief executive considers it necessary on reasonable grounds, the chief executive may order a child who is to be searched to partly or completely undress.

(2) The chief executive must not order a child to undress in the presence of a person of the opposite sex who is not a medical practitioner or a nurse assisting the medical practitioner.

(3) The child must comply with an order made or direction given for the purpose of the search.

(4) If necessary, a staff member may use reasonable force to obtain compliance with the order.

(5) 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.

### **Body search**

**19.(1)** The chief executive may authorise a medical practitioner to search the person of a child detained in a detention centre.

(2) 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.

(3) If necessary, the medical practitioner, and a person acting at the

direction of the medical practitioner, may use reasonable force to carry out the search.

### **Register of searches**

**20.** The chief executive must keep a register of searches carried out at each detention centre under section 18 or 19.

### **Articles found during search**

**21.(1)** If a person conducting a search under section 17, 18 or 19, finds an article that—

- (a) the child is not permitted to have in the centre; or
- (b) the person considers threatens the security or good order of the centre;

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 the article to the other person; or
- (d) if the chief executive considers the article to be perishable—destroy the article; or
- (e) if the chief executive considers the article to be unhygienic or dangerous—destroy the article unless it would be reasonable to take steps to make the article hygienic or safe.

**(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 register and sign the record.

**(5)** The child must sign the record.

**(6)** If the child refuses to sign the record a staff member (other than the staff member who made the record) may sign the record.

(7) If the chief executive destroys property, the chief executive must—

- (a) inform the child of the destruction and the reason for destruction; and
- (b) make a record of the destruction in the property register and the reason for destruction.

### ***Division 6—Contact with children***

#### **Telephone calls**

**22.(1)** The chief executive must allow a child detained in a detention centre to make and receive telephone calls under guidelines issued by the chief executive.

(2) The child is entitled 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 that a staff member at the centre is to listen to the conversation.

(4) Before the conversation takes place, the chief executive must inform the child that a staff member will listen to the conversation.

(5) This section does not affect a right, power or obligation of a person under—

- (a) section 214 of the Act (Protection of legal practitioner representing child); or
- (b) section 218 of the Act (Powers of official visitors).

#### **Correspondence**

**23.(1)** A child detained in a detention centre is entitled to send and receive letters and other mail.

(2) Subject to sections 214 and 218 of the Act, the chief executive may examine letters and other mail (“**correspondence**”) between the child and

another person that the chief executive reasonably believes 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; or
- (c) destroy the correspondence.

### **Property brought into a detention centre**

**24.(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 the child in correspondence.

**(2)** The chief executive may—

- (a) examine the property; and
- (b) after examining the property—
  - (i) keep a particular item in safe custody while the child is detained in the centre; or
  - (ii) allow the child to keep property for the child's use; or
  - (iii) if the chief executive considers the property to be perishable—destroy the property; or
  - (iv) if the chief executive considers the property to be unhygienic or dangerous—destroy the property unless it would be reasonable to take steps to make the property hygienic or safe.

**(3)** The chief executive must make a record 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 staff member (other than the staff member who made the record) may sign the record.

(6) If the chief executive acts under subsection (2)(b)(iii) the chief executive must—

- (a) inform the child of the destruction and the reason for destruction; and
- (b) make a record in the property register of the destruction and the reason for destruction.

### ***Division 7—Medical services to child detained in detention centre***

#### **Child's right to medical treatment**

**25.(1)** A child detained in a detention centre has a right to medical treatment.

(2) If a child needs medical treatment that involves the removal of the child's underclothing, the child may ask that a medical practitioner of the same sex as the child examine the child.

(3) The chief executive must take reasonable steps to comply with the child's request.

#### **Reports of medical examination or treatment**

**26.(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 keep a record of medical examinations and treatment for each child.

(3) The chief executive must ensure that the records are kept confidential and separate from the centre's administrative records.

(4) The record may only be inspected by—

- (a) the child named in the record; or



- (b) the child's parent; or
- (c) the legal practitioner who represents the child; or
- (d) an officer of the department authorised in writing by the chief executive.

### ***Division 8—Miscellaneous***

#### **Death of child in centre**

**27.** If a child detained in a detention centre dies, the chief executive must immediately give notice of the child's death to—

- (a) a police officer at the nearest police establishment; and
- (b) the child's parents.

#### **Religious services**

**28.** The chief executive may approve the holding of a religious service at a detention centre.

#### **Visitors book**

**29.** The chief executive must ensure that the name and address of each ordinary visitor to a detention centre is recorded in a visitors book before the visitor is admitted to the centre.

## **PART 4—DISCLOSURE AND USE OF INFORMATION**

### **Authorised disclosure**

**30.(1)** The following disclosure of confidential information is authorised<sup>2</sup>—

- (a) disclosure to an officer of a department responsible for the administration or enforcement, in another State or a Territory, of laws relating to child offenders;
- (b) disclosure to the person to whom the information relates or the person's legal representative;
- (c) disclosure to a person who, in the chief executive's opinion, is authorised by the person to whom the information relates to receive the information;
- (d) disclosure to any other person if the chief executive is satisfied the disclosure of the information is essential to the wellbeing of the person to whom the information relates;
- (e) disclosure to a person engaged in a genuine research program that is approved by the chief executive.

**(2)** The disclosure mentioned in subsection (1)(e) is authorised only if the person gives a written undertaking to preserve the confidentiality of the information and the anonymity of the person to whom the information relates.

**(3)** In this section—

**“confidential information”** has the same meaning as it has in section 226 of the Act (Preservation of confidentiality).

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<sup>2</sup> For other authorisations, see section 226 of the Act.

## **SCHEDULE**

### **DETENTION CENTRES**

section 8

#### **Cleveland Youth Detention Centre**

Portion 513 on RP EP 1443, County of Elphinstone, Parish of Coonambelah, Old Common Road, Belgian Gardens, Townsville—area 7.381 hectares.

#### **John Oxley Youth Detention Centre**

Lot 399 on PR SI 10450, County of Stanley, Parish of Oxley, Station Road, Wacol— area 4.28 hectares.

#### **Westbrook Youth Detention Centre**

Lot 211 on Plan AG 804835, lot 212 on Plan AG 4111, lot 213 on Plan AG 3945, and lot 8 on RP 36582, County of Aubigny, Parish of Aubigny, Toowoomba-Millmerran Road, Westbrook—area 272.2985 hectares.

#### **Sir Leslie Wilson Youth Detention Centre**

Portion 1059 on RP S1503, County of Stanley, Parish of Enoggera, 10th Avenue, Windsor—area 9145 m<sup>2</sup>.

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#### **ENDNOTES**

1. Made by the Governor in Council on 12 August 1993.
2. Notified in the Gazette on 13 August 1993.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Family Services and Aboriginal and Islander Affairs.

