



Youth Justice Act 1992

Youth Justice Regulation 2016

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Queensland

Youth Justice Regulation 2016

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Youth Justice Regulation 2016

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Youth Justice Regulation 2016*.

2 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

Part 2 Restorative justice processes

3 Convenor to inform child about obtaining legal advice

- (1) This section applies to a convenor of a conference.
- (2) To ensure a child has reasonable information about how to obtain legal advice for section 35(4)(b) of the Act, the convenor must give the child—
 - (a) details of at least 1 entity, other than an entity mentioned in paragraph (b), that provides free legal services to children; and
Example—
Legal Aid Queensland
 - (b) for an Aboriginal or Torres Strait Islander child—details of an Aboriginal or Torres Strait Islander legal service that represents the area in which the conference is being held.
- (3) Subsection (2) does not limit the information about obtaining legal advice the convenor may give to the child.

4 Child to be told about contravention of restorative justice agreement

- (1) This section applies if one of the following events happens—
 - (a) a restorative justice agreement is reached;
 - (b) a conference agreement is amended under section 37 of the Act.
- (2) The chief executive must ensure that, as soon as practicable after the event happens, the child the subject of the agreement is told about the consequences for the child under the Act if the child contravenes the agreement.

Part 3 Proceedings and community based orders

Division 1 Pre-sentence reports

5 Contents of pre-sentence report

- (1) If, under section 151(1) of the Act, a court orders the chief executive to give to the court a pre-sentence report concerning a child, the report must include all of 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 offence to which the report relates;
 - (d) the child's placement between the start of the proceeding and the date of the report;
 - (e) details of all community based orders or detention orders made against or for the child;

- (f) if the chief executive is aware of a corresponding order made against or for the child—details of the corresponding order;
- (g) an assessment of factors the chief executive believes may have contributed to the child committing the offence;
- (h) the child’s attitude to the offence and to the victim of the offence;
- (i) if the chief executive is aware of any consequences that have happened to the child as a result of the act or omission that constitutes the offence—details of the consequences;

Example—

The child may have been disciplined by the child’s parents or by a member of the child’s community.

- (j) information about sentencing options suitable for the child.
- (2) In this section—

corresponding order means an order made by a court in another State that is substantially similar in nature to a community based order or a detention order.

5A Likely complexity of pre-sentence report

- (1) This section applies if a court orders the chief executive to give to the court a pre-sentence report under section 151(1) of the Act.
- (2) In having regard, under section 151(6) of the Act, to the likely complexity of the pre-sentence report, the matters the court may consider include the following—
 - (a) the number of offences to which the report relates;
 - (b) the nature and seriousness of the offence to which the report relates and the circumstances in which the offence was committed;

- (c) any other matter the court considers relevant to the likely complexity of the report.

6 Contents of further material for pre-sentence report

- (1) This section applies if, under section 151(10)(b) of the Act, the chief executive gives a court further material to be considered with another pre-sentence report.
- (2) The further material must, for the offence for which it is given, include the information mentioned in section 5(1) that is relevant to the offence and not included in the other report.

Division 2 Community based orders

7 Reporting requirements for community based order

- (1) This section applies to a child against or for whom a community based order is made.
- (2) If the child can not comply with a reasonable direction of the chief executive given in relation to the order because of illness, injury or other circumstance beyond the child's control, the child must—
 - (a) inform the chief executive of the illness, injury or other circumstance as soon as practicable; and
 - (b) comply with a request by the chief executive for the child to give the chief executive—
 - (i) a medical certificate that states the nature of the illness or injury; or
 - (ii) documentary or other evidence of the reason for the child's noncompliance with the reasonable direction.
- (3) If the child is injured while performing an activity under the community based order the child must report the circumstances of the injury to the chief executive as soon as practicable.

- (4) Also, if the person who is supervising the child's activity is aware of the circumstances of the injury, the person must report the circumstances to the chief executive as soon as practicable.
- (5) The chief executive must, as soon as practicable after the community based order is made, inform the child about the child's obligations under this section.

8 Limits on chief executive's directions relating to community based order

- (1) This section applies in relation to an activity that a child must perform under a community based order.
- (2) The chief executive must not direct the child to perform an activity that is dangerous, unsafe or likely to harm the child's health, having regard to—
 - (a) the child's age, maturity, physical capacity and intellectual capacity; and
 - (b) any trauma experienced by the child that the chief executive knows about.
- (3) Also, in giving directions to the child in relation to the child's performance of an activity (other than community service), the chief executive must avoid, if practicable, conflicts with the religious and cultural beliefs and practices of the child or the child's parent.

Note—

For directions about community service, see the Act, section 197.

- (4) If the child is 15 years or older, the chief executive must not direct the child to perform an activity for more than—
 - (a) for a child attending school or another educational institution on a full-time basis—the following hours in a week—
 - (i) during vacations of the school or educational institution—30 hours;
 - (ii) at other times—8 hours; or

[s 9]

- (b) for a child in full-time employment—8 hours a week; or
 - (c) otherwise—30 hours a week.
- (5) If the child is under 15 years, the chief executive must not direct the child to perform an activity for more than the following hours in a week—
 - (a) during vacations of the school or educational institution the child attends—20 hours;
 - (b) at other times—6 hours.
- (6) Also, the chief executive must not direct the child to perform an activity for more than—
 - (a) if the child is 15 years or older—8 hours a day; or
 - (b) if the child is under 15 years—4 hours a day.
- (7) The chief executive must ensure the child is allowed reasonable rest and meal breaks while performing an activity.
- (8) For calculating the maximum number of hours a child can be directed to perform an activity under subsections (4), (5) and (6), the time required to be spent in rest and meal breaks under subsection (7) must be taken to be time spent performing the activity.

Part 4 Detention centres

Division 1 Establishment of detention centres

9 Establishment—Act, s 262

- (1) A detention centre is established at each place stated in schedule 1.
- (2) Each detention centre has the name stated for it in schedule 1.

Division 2 Admission procedures

10 Prescribed document—Act, s 266

A document in the approved form under the *Police Powers and Responsibilities Act 2000* advising of the exercise of power in relation to a child under section 367(3) of that Act is prescribed for section 266(2)(e) of the Act.

11 Medical examination of child before admission

- (1) This section applies if the chief executive believes a child who is about to be admitted to a detention centre—
 - (a) is physically or mentally ill, injured or intoxicated; and
 - (b) needs immediate medical treatment.
- (2) The chief executive must not admit the child to the detention centre unless—
 - (a) the child has been examined by a doctor and given any immediate medical treatment required; and
 - (b) the doctor has given the chief executive a medical certificate stating the child is medically fit to be admitted to the detention centre.

11A Making nominations for searches

- (1) A child admitted to a detention centre may, in relation to any of the following searches, (each a ***relevant search***) nominate—
 - (a) for a search of the child under section 24 if the search involves touching the child and the chief executive is aware that the child identifies as transgender, intersex or otherwise not male or female—the sex of the person who is to conduct the search;
 - (b) for an imaging search of the child under section 24A—the sex of the person who is to view an image of the child produced by the imaging search;

- (c) for a search of the child under section 25—the sex of the person who is to conduct the search;
 - (d) for a search of the child under section 26—the sex of the doctor who is to conduct the search and the detention centre employee who is to assist with the search.
- (2) The child must be given an opportunity to make the nomination before the end of the next business day after the child is admitted to the detention centre.
- (3) The nomination may state—
 - (a) different sexes for each relevant search; and
 - (b) more than 1 sex for each relevant search in an order of preference; and
 - (c) for a relevant search that may be conducted or provided in more than 1 way—different sexes for each way the search is conducted.
- (4) If the chief executive reasonably believes it is not likely to be reasonably practicable to comply with the nomination for a relevant search, the chief executive must—
 - (a) tell the child about the belief; and
 - (b) give the child an opportunity to make another nomination.
- (5) Also, if the nomination for a relevant search does not state male or female as a nominated sex, the chief executive must give the child an opportunity to make another nomination for the search.
- (6) The child may change the nomination at any reasonable time.

11B Deciding nominations for searches

- (1) This section applies if a child makes or changes a nomination under section 11A.
- (2) The chief executive must decide whether to accept or refuse the nomination as soon as practicable after the nomination is made.

- (3) The chief executive may refuse the nomination if the chief executive reasonably believes the nomination—
 - (a) is not associated with the genuine needs of the child; or
 - (b) is made for an improper purpose.
- (4) However, the chief executive must not refuse the nomination only because the chief executive reasonably believes it is not likely to be reasonably practicable to comply with the nomination.

11C Nominations in particular circumstances

- (1) This section applies if—
 - (a) a child is admitted to a detention centre; and
 - (b) the chief executive is aware that the child identifies as transgender, intersex or otherwise not male or female; and
 - (c) the chief executive has not, after the child's admission to the detention centre, accepted under section 11B a nomination made by the child; and
 - (d) a search of the child under section 24, 24A, 25 or 26 is to be conducted.
- (2) Before the search is conducted, the child must be given an opportunity—
 - (a) to nominate the sex of the person for the search; or
 - (b) for a child who has previously been a detainee—to affirm an earlier accepted nomination.
- (3) If, in the circumstances, it is not reasonably practicable to comply with the nomination, the chief executive must give the child an opportunity to make another nomination.

12 Record to be made on admission

- (1) The chief executive must, at the time a child is admitted to a detention centre, record the following information about the child—
 - (a) the child's name, including any known aliases of the child;
 - (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 an Aboriginal or Torres Strait Islander child—that fact;
 - (f) if, while on remand for a charge of an offence or after arrest by a police officer under the *Police Powers and Responsibilities Act 2000*, section 367(3), the child is detained—
 - (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;
 - (g) 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;
 - (h) if, when the child is being admitted, the child makes a complaint about the child's treatment while detained as mentioned in paragraph (f) or (g)—details of the complaint;
 - (i) 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;

- (j) a description of the child's physical appearance.
- (2) The chief executive may include other particulars in the record the chief executive considers necessary.
- (3) The chief executive must ensure the record is kept at the detention centre.
- (4) The chief executive may change the record to ensure it is accurate.

13 Informing child of particular information on admission

For section 267(1) of the Act, the chief executive must, if reasonably practicable—

- (a) for an Aboriginal or Torres Strait Islander child—have an Aboriginal or Torres Strait Islander detention centre employee explain the information in the document to the child; and
- (b) for a child who has difficulty understanding English—have an interpreter or other person able to communicate with the child explain the information in the document to the child.

14 Record of child's property on admission

- (1) As soon as practicable after a child's admission to a detention centre, the chief executive must ensure a detention centre employee—
 - (a) makes a record in the property register of the particulars of the property in the child's possession on admission; and
 - (b) signs the record; and
 - (c) asks the child to sign the record.

- (2) If the child refuses to sign the record, a detention centre employee, other than the employee who made the record, may sign the record.

Division 3 Management of behaviour

15 Informing child about behaviour

- (1) The chief executive must, as soon as practicable after a child is admitted to a detention centre, give the child written notice of the types of behaviour for which the chief executive is likely to discipline the child under section 16(2).
- (2) The chief executive must ensure the information in the notice is explained to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand.

16 Managing child's behaviour

- (1) A child detained in a detention centre must comply with a reasonable instruction given to the child by a detention centre employee for maintaining the security or good order of the centre or ensuring the safety of a child in the centre.
- (2) If a child detained in a detention centre does not comply with an instruction mentioned in subsection (1), or otherwise misbehaves, the chief executive may discipline the child.
- (3) The chief executive must ensure the misbehaviour is disciplined in a way that—
 - (a) respects the child's dignity; and
 - (b) has regard to—
 - (i) the nature of the misbehaviour; and
 - (ii) the reason, if any, given by the child for the misbehaviour; and
 - (iii) the child's age and maturity; and

- (iv) the child's cultural background or beliefs; and
 - (v) any trauma experienced by the child that the chief executive knows about and believes may have contributed to the misbehaviour; and
 - (vi) any vulnerability of the child that the chief executive knows about.
- (4) The chief executive must not use, as a way of disciplining the 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) withholding letters or other mail sent to or from the child; or
 - (f) withholding access to a telephone or other means of communication; or
 - (g) exclusion from cultural, educational or vocational programs; or
 - (h) medication or deprivation of medication.
- (5) A detention centre employee may use reasonable force to protect a child, or other persons or property in the centre, from the consequences of a child's misbehaviour if—
 - (a) the employee has successfully completed physical intervention training approved by the chief executive; and
 - (b) the employee reasonably believes the child, person or property can not be protected in another way.
- (6) If a detention centre employee uses force as mentioned in subsection (5) the chief executive must ensure a record is made of the use of the force.

17 Information to be given to court

- (1) This section applies if a child is convicted of an offence arising out of the child's misbehaviour in a detention centre.
- (2) The chief executive must ensure information about anything done by the chief executive to discipline the child for the misbehaviour is given to the court before the court sentences the child for the offence.
- (3) In this section—
convicted, for an offence, includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

Division 4 Restraints

18 Chief executive may approve restraints and authorise staff members to use restraints

- (1) The chief executive may, by written notice, approve types of restraints (*approved restraints*) a staff member may use to restrain a child in the chief executive's custody.
- (2) The chief executive may authorise a staff member to use approved restraints to restrain a child in the chief executive's custody if the staff member has successfully completed physical intervention training approved by the chief executive.

19 Use of approved restraints

- (1) A staff member authorised under section 18(2) may use restraints to restrain a child in the chief executive's custody only if—
 - (a) the restraints are approved restraints; and
 - (b) the child is—
 - (i) outside a detention centre, or about to leave a detention centre, under escort by the staff member; or

- (ii) in a detention centre; and
 - (c) the staff member reasonably believes the child is likely to—
 - (i) attempt to escape; or
 - (ii) seriously harm himself, herself or someone else; or
 - (iii) seriously disrupt order and security at the centre; and
 - (d) for a child in a detention centre—the staff member reasonably believes there is no other way to stop the child from engaging in the behaviour mentioned in paragraph (c).
- (2) If approved restraints are used to restrain a child in the chief executive's custody, the chief executive must ensure—
- (a) all reasonable steps are taken to use the restraints in a way that respects the child's dignity; and
 - (b) the restraints are used for no longer than is reasonably necessary in the circumstances.

20 Record about approved restraints

The chief executive must make a record containing the following information—

- (a) particulars of approved restraints;
- (b) the following particulars about the use of approved restraints to restrain a child—
 - (i) the child's name;
 - (ii) the day on which the restraints were used;
 - (iii) the circumstances in which the restraints were used.

Division 5 Separation

21 Separation of child in locked room

- (1) A detention centre employee may separate a child in a locked room in a detention centre only—
 - (a) if the child is ill; or
 - (b) at the child's request; or
 - (c) for routine security purposes under a direction issued by the chief executive; or
 - (d) for the child's protection or the protection of another person or property; or
 - (e) to restore order in the detention centre.
- (2) A detention centre employee must not separate a child under subsection (1)(d) or (e) (a *prescribed purpose*)—
 - (a) if the separation is for more than 2 hours, including for more than 2 hours longer than the centre's normal hours of overnight confinement—without the approval of the executive director for the detention centre; or
 - (b) if the separation is for more than 12 hours—without informing the chief executive; or
 - (c) if the separation is for more than 24 hours—without the chief executive's approval.
- (3) Also, if the separation for a prescribed purpose is for more than 24 hours, additional approval from the chief executive must be obtained for each 24 hour period of separation after the first 24 hours of separation.
- (4) If a detention centre employee separates a child in a locked room in a detention centre, a detention centre employee must keep the child under observation in a way that complies with a direction issued by the chief executive.
- (5) If a child who is separated in a locked room in a detention centre under subsection (1)(b) asks to leave the locked room,

a detention centre employee must immediately allow the child to leave it.

- (6) Subsection (4) does not limit the circumstances in which a child may be kept under continuous observation.
- (7) An executive director for a detention centre may delegate the executive director's function under subsection (2)(a) to an appropriately qualified public service employee.

22 Record of separation

- (1) The chief executive must make a record that contains the following particulars for each child who is separated in a locked room in a detention centre for a prescribed purpose—
 - (a) the child's name;
 - (b) the reason for the child's separation;
 - (c) the name of the detention centre employee who supervised the child during the separation;
 - (d) the date and the length of time for which the child was separated.
- (2) In this section—
prescribed purpose see section 21(2).

Division 6 Searches

Subdivision 1 Searches by detention centre employees

23 Power to search

- (1) The chief executive may authorise a detention centre employee to search a child detained in a detention centre.
- (2) The search may take place at any time the chief executive reasonably believes the child should be searched.

24 Search not involving removal of clothes

- (1) Unless authorised by the chief executive under section 25, a search of a child detained in a detention centre must not involve the removal of any of the child's clothes.
- (2) If the search involves touching the child, the chief executive must ensure the search is conducted by—
 - (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination in accordance with the child's order of preference (if any); or
 - (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination; or
 - (ii) otherwise—a detention centre employee who the chief executive considers appropriate to conduct the search; or
 - (c) otherwise—a detention centre employee of the same sex as the child.
- (3) Before conducting the search, the detention centre employee must—
 - (a) inform the child that a search is to be conducted; and
 - (b) ask the child to cooperate with the search.
- (4) The detention centre employee may use reasonable force to carry out the search if—
 - (a) the employee has successfully completed physical intervention training approved by the chief executive; and
 - (b) the employee reasonably believes the search can not be carried out in another way.

24A Imaging search

- (1) If the chief executive reasonably believes it is necessary for the security of detention centre employees or children in the detention centre, the chief executive may direct a child to submit to an imaging search.
- (2) Before conducting the imaging search, a detention centre employee must—
 - (a) explain to the child, in a way that is reasonable in the circumstances, the procedure for the search; and
 - (b) ask the child to cooperate with the search.
- (3) The chief executive must ensure that any image of the child produced by the imaging search is viewed only by—
 - (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination in accordance with the child's order of preference (if any); or
 - (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination; or
 - (ii) otherwise—a detention centre employee who the chief executive considers appropriate to conduct the search; or
 - (c) otherwise—a detention centre employee of the same sex as the child.
- (4) The chief executive must ensure that any image of the child produced by the imaging search—
 - (a) is viewed only by a person for the purposes of conducting the search; and
 - (b) is not copied; and

- (c) is destroyed as soon as practicable after the search has been completed.

25 Search involving removal of clothes

- (1) If the chief executive reasonably believes it is necessary for the security of detention centre employees or children in the detention centre, the chief executive may direct a child who is to be, or is being, searched to partly undress.
- (2) The chief executive must direct the child to undress only in the presence of—
 - (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—a person of the sex stated in the nomination in accordance with the child's order of preference (if any); or
 - (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—a person of the sex stated in the nomination; or
 - (ii) otherwise—a person who the chief executive considers appropriate to conduct the search; or
 - (c) otherwise—a person of the same sex as the child.
- (3) If reasonably practicable—
 - (a) the detention centre employee conducting the search must—
 - (i) tell the child the child will be required to remove clothing during the search; and
 - (ii) tell the child why it is necessary to remove the clothing; and
 - (iii) ask the child to cooperate with the search; and
 - (b) the child must be given the opportunity to remain partly clothed during the search, for example, by allowing the

child to dress the child's upper body before being required to remove items of clothing from the lower part of the body.

- (4) The search must be conducted—
- (a) in a way providing reasonable privacy for the child; and

Example—

Reasonable privacy may be provided by conducting the search in a way that ensures, as far as reasonably practicable, the child being searched can not be seen by anyone who does not need to be present.

- (b) as quickly as reasonably practicable.
- (5) The child must be allowed to dress as soon as the search is finished.
- (6) A detention centre employee may use reasonable force to carry out the search if—
- (a) the child does not comply with a direction given for the purpose of the search; and
- (b) the employee has successfully completed physical intervention training approved by the chief executive; and
- (c) the employee reasonably believes the search can not be carried out in another way.
- (7) A person must not touch a child who is directed to undress other than to the extent reasonably necessary to obtain compliance with the direction.

Subdivision 2 Body searches

26 Body search

- (1) The chief executive may authorise a doctor to conduct a body search of a child detained in a detention centre if the chief executive reasonably believes 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.
- (2) If reasonably practicable—
 - (a) the doctor must be—
 - (i) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination in accordance with the child's order of preference (if any); or
 - (ii) for a child to whom section 11C applies—
 - (A) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination; or
 - (B) otherwise—a doctor who the chief executive considers appropriate to conduct the search; or
 - (iii) otherwise—of the same sex as the child; and
 - (b) before conducting the search, the doctor must—
 - (i) tell the child the child will be required to remove some clothing during the search; and
 - (ii) tell the child why it is necessary to remove some clothing; and
 - (iii) ask the child to cooperate with the search; and
 - (c) the child must be given the opportunity to remain partly clothed during the search, for example, by allowing the child to dress the child's upper body before being required to remove items of clothing from the lower part of the body.
- (3) The search must be conducted—
 - (a) in a way providing reasonable privacy for the child; and

Example—

Reasonable privacy may be provided by conducting the search in a way that ensures, as far as reasonably practicable, the child being searched can not be seen by anyone who does not need to be present.

- (b) as quickly as reasonably practicable.
- (4) The child must be allowed to dress as soon as the search is finished.
- (5) The child must comply with a direction given for the purpose of the search.
- (6) If the doctor needs help to carry out the search, including, for example, because the child has refused to cooperate with the search, the doctor may ask a detention centre employee to assist with the search.
- (7) If reasonably practicable, the assisting detention centre employee must be—
 - (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination in accordance with the child’s order of preference (if any); or
 - (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination; or
 - (ii) otherwise—a detention centre employee who the chief executive considers appropriate to conduct the search; or
 - (c) otherwise—of the same sex as the child.
- (8) The assisting detention centre employee may use reasonable force to assist with the search if—

[s 27]

- (a) the employee has successfully completed physical intervention training approved by the chief executive; and
- (b) the employee reasonably believes the search can not be carried out in another way.

Subdivision 3 Record of searches, and dealing with property found during search

27 Record of searches

- (1) This section applies to the following searches—
 - (a) a search of a child under section 24 for which a detention centre employee used reasonable force to carry out the search;
 - (b) an imaging search of a child under section 24A;
 - (c) a search of a child under section 25;
 - (d) a body search of a child under section 26.
- (2) The chief executive must make a record of the search containing the following information—
 - (a) the name of the child;
 - (b) the reason for the search;
 - (c) the name of the person who carried out the search and the name of each person who helped to carry out the search;
 - (d) for a search mentioned in subsection (1)(a)—the reason for the use of force and details of the force used;
 - (e) for another search—whether force was used to carry out the search and, if force was used, the reason for its use and details of the force used.

28 Property found during search

- (1) This section applies if a person conducting a search of a child under section 24, 24A, 25 or 26 finds property that—
 - (a) is a thing declared by the chief executive by written notice to be a restricted article, prohibited article or illegal article; or
 - (b) the person reasonably believes—
 - (i) threatens the security or good order of the detention centre; or
 - (ii) endangers, or may be used to endanger, the child or someone else.
- (2) The person must take possession of the property and give it to the chief executive.
- (3) The chief executive must make a record of the find.
- (4) If the property belongs to the child, the chief executive must ensure a detention centre employee—
 - (a) makes a record in the property register of the particulars of the property; and
 - (b) signs the record; and
 - (c) asks the child to sign the record.
- (5) If the child refuses to sign the record, a detention centre employee, other than the employee who made the record, may sign the record.

Division 7 Contact with children

29 Telephone calls

- (1) A child detained in a detention centre has the right to make and receive telephone calls at all reasonable times.
- (2) The child has the right to speak to another person during a telephone call out of the hearing of any other person.

- (3) However, if the chief executive reasonably believes 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 a detention centre employee at the centre to listen to the conversation and terminate it on reasonable grounds.
 - (4) Before the conversation takes place, the chief executive must inform the child and the other party to the conversation that a detention centre employee will listen to the conversation and may terminate it on reasonable grounds.
 - (5) The chief executive must make a record of each requirement made under subsection (3) and the reasons for making it.
 - (6) Subsection (3) does not apply to a telephone conversation between a child and the following persons—
 - (a) the public guardian;
 - (b) a community visitor (child);
 - (c) a child advocacy officer;
 - (d) a legal practitioner representing the child;
- Note—*
- For other matters about a legal practitioner’s access to a child, see the Act, section 276.
- (e) the inspector of detention services;
 - (f) the ombudsman.

30 Correspondence

- (1) A child detained in a detention centre has the right to send and receive letters and other mail (***correspondence***).
- (2) The chief executive may examine correspondence between the child and another person if the chief executive reasonably believes the correspondence 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 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.
- (4) If the chief executive takes action under subsection (3) in relation to correspondence, the chief executive must make a record of—
 - (a) the name of the addressee; and
 - (b) the name of the sender; and
 - (c) the action taken and the reason for taking it.
- (5) Subsection (2) does not apply to correspondence between a child and the following persons—
 - (a) the public guardian;
 - (b) a community visitor (child);
 - (c) a child advocacy officer;
 - (d) a legal practitioner representing the child;
 - (e) the inspector of detention services;
 - (f) the ombudsman.

Note for subsection (5)—

For other matters about dealing with correspondence of a child, see—

- (a) the Act, section 276; and
- (b) the *Public Guardian Act 2014*, section 72.

Division 8 Property in a detention centre

31 Property register

The chief executive must keep a record (the *property register*) of property belonging to children detained in a detention centre.

32 Property in a detention centre

- (1) This section applies to property that is—
 - (a) brought into a detention centre by a child after the child is admitted to the centre; or
 - (b) brought into a detention centre for a child in the centre by a visitor to the centre; or
 - (c) sent to a child in a detention centre in a letter or other mail; or
 - (d) made in a detention centre by a child.
- (2) The chief executive must ensure a detention centre employee—
 - (a) makes a record in the property register of the particulars of the property; and
 - (b) signs the record; and
 - (c) asks the child to sign the record.
- (3) If the child refuses to sign the record, a detention centre employee, other than the employee who made the record, may sign the record.

33 Chief executive's power to deal with property in detention centre

- (1) This section applies to property that is—
 - (a) brought into a detention centre by a child after the child is admitted to the centre; or

- (b) brought into a detention centre for a child in the centre by a visitor to the centre; or
 - (c) sent to a child in a detention centre in a letter or other mail; or
 - (d) made in a detention centre by a child; or
 - (e) found after conducting a search of a child under section 24, 24A, 25 or 26.
- (2) The chief executive may examine the property and, after examining the property—
 - (a) keep the property in safe custody while the child is detained in the centre; or
 - (b) return the property to a person to whom it belongs; or
 - (c) allow the child to keep the property for the child's use; or
 - (d) dispose of the property if the chief executive believes it is—
 - (i) perishable; or
 - (ii) unhygienic or dangerous and poses an immediate risk to the health or safety of a person in the detention centre; or
 - (e) transfer the property to another person for the purpose of an investigation or legal proceeding; or
 - (f) impose restrictions on the use or possession of the property if it is a thing declared by the chief executive by written notice to be a restricted article.
- (3) Subsections (4) to (6) apply in relation to the property if the chief executive—
 - (a) believes the property is unhygienic or dangerous but does not pose an immediate risk to the health or safety of a person in the detention centre; and
 - (b) believes it would not be reasonable to take steps to make the property hygienic or safe; and

- (c) proposes to dispose of the property.
- (4) The chief executive must give the child a written notice stating the following—
 - (a) the chief executive proposes to dispose of the property;
 - (b) the facts and circumstances that are the basis for the decision;
 - (c) that the child may make, within 7 days after the day the notice is given (the ***submission period***), submissions to show why the property should not be disposed of;
 - (d) that the child may consult a lawyer, community visitor (child) or child advocacy officer about the proposed disposal before making the submissions.
- (5) The chief executive must ensure the information in the notice is explained to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand.
- (6) If, after considering all submissions made within the submission period, the chief executive still believes the property should be disposed of, the chief executive may dispose of the property.

34 Notice and record of disposal of property

If the chief executive disposes of a child's property under section 33(2)(d) or (6), the chief executive must, as soon as practicable—

- (a) inform the child of the disposal and the reason for it; and
- (b) make a record of the disposal and the reason for it; and
- (c) if the disposal affects the accuracy of the property register—update the register.

Division 9 Medical treatment and other services

35 Child's right to medical treatment and other health services

- (1) A child detained in a detention centre has a right to medical treatment and other health services.
- (2) The chief executive must ensure that, before medical treatment or another health service is provided to the child, the child is given an opportunity to nominate the sex of the person who will provide the treatment or service.
- (3) If, in the circumstances, it is not reasonably practicable to comply with the nomination, the chief executive must give the child an opportunity to make another nomination.
- (4) Subsection (5) applies if—
 - (a) the child does not make a nomination under subsection (2); or
 - (b) the child makes another nomination under subsection (3) and it is not reasonably practicable to comply with the other nomination.
- (5) A person that the chief executive considers appropriate may provide the medical treatment or other health service to the child.
- (6) Before a health practitioner examines and treats the child, the chief executive must, if practicable, inform the child—
 - (a) that a record of the child's medical examination and treatment is to be kept at the detention centre; and
 - (b) who has the right to inspect the record under section 36(3).

36 Reports of medical examination or treatment

- (1) The chief executive may ask a health 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 ensure a record of medical examinations and treatment for each child detained in a detention centre is—
 - (a) kept at the centre; and
 - (b) kept confidential and separate from the centre's administrative records.
- (3) The record of medical examinations and treatment of a child detained in a detention centre may be inspected only by—
 - (a) the child named in the record; or
 - (b) any of the following persons with the child's written consent—
 - (i) the child's parent or guardian;
 - (ii) a legal practitioner representing the child;
 - (iii) the public guardian;
 - (iv) a community visitor (child);
 - (v) a child advocacy officer; or
 - (c) a legal practitioner representing the child on production of a subpoena or court order; or
 - (d) the chief executive or another person authorised in writing by the chief executive.

Division 10 Reporting and record keeping

37 Reporting harm to a child—Act, s 268

For section 268(3) of the Act, the report must include the following particulars—

- (a) the child's name, age and sex;

- (b) details of the basis for the detention centre employee becoming aware, or reasonably suspecting, harm has been caused to the child;
- (c) details of the harm or suspected harm;
- (d) particulars of the identity of anyone who the detention centre employee knows, or reasonably suspects, caused the harm or suspected harm or is able to give information about the harm or suspected harm.

38 Keeping information—Act, s 303

- (1) For section 303(1)(a) of the Act, the information to be collected is—
 - (a) the details of any report given to the chief executive about—
 - (i) harm caused, or suspected of being caused, to a child detained in a detention centre; or
 - (ii) a contravention, or claimed contravention, of principle 4, 17, 20 or 21 of the youth justice principles in relation to a child detained in a detention centre; and

Note—

See the Act, schedule 1.

- (b) the results of an investigation of a matter mentioned in paragraph (a).
- (2) The information must be kept in a way that enables the chief executive to—
 - (a) gain access to, or collect, information about a particular detention centre, detention centre employee or child; or
 - (b) analyse trends across all the information.
- (3) The chief executive must keep the information for 70 years after the date of birth of the child to whom the information relates.

39 Information to be given to public guardian

- (1) The chief executive must, as soon as practicable after the end of each quarter, give the public guardian a written report about the information mentioned in section 38(1).
- (2) If requested in writing by the public guardian, the chief executive must give the public guardian details of information mentioned in section 38(1) in relation to a particular child.
- (3) In this section—

quarter means a period of 3 months—

- (a) beginning on 1 July and ending on 30 September; or
- (b) beginning on 1 October and ending on 31 December; or
- (c) beginning on 1 January and ending on 31 March; or
- (d) beginning on 1 April and ending on 30 June.

Division 11 Other matters

40 Death of child in detention centre

If a child detained in a detention centre dies, the chief executive must immediately inform each of the following of the child's death—

- (a) a police officer;
- (b) the child's parents or guardian;
- (c) a coroner;
- (d) the chief executive (child safety);
- (e) a community visitor (child);
- (f) for an Aboriginal or Torres Strait Islander child—an Aboriginal or Torres Strait Islander legal service in the area in which the detention centre is located.

40A No power conferred for particular directions

Nothing in this part confers on the chief executive a power, for the conduct of a search or the provision of medical treatment or other health services—

- (a) to direct a person to disclose the person's sex; or
- (b) to direct a person to conduct the search or provide the medical treatment or health services in circumstances that would reveal the person's sex.

41 Religious services

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

42 Visitors record

The chief executive must ensure a record is made of the name and address of each visitor to a detention centre before the visitor is admitted to the centre.

43 Approved physical intervention training

The chief executive may approve physical intervention training for staff members.

Part 4A Children who are prisoners of a court

Division 1 General matters about helping proper officer of a court

43A Places where youth justice staff member may help proper officer of a court—Act, s 59E

For section 59E(2) of the Act, the following places are prescribed—

- (a) the Brisbane Magistrates Court building;
- (b) QEII Courts of Law.

43B Powers for helping proper officer of a court—Act s 59F

For section 59F of the Act—

- (a) the following powers are prescribed—
 - (i) the power of a detention centre employee to give an instruction under section 16(1) or use reasonable force under section 16(5);
 - (ii) the power of a staff member to use approved restraints under section 19;
 - (iii) the power of a detention centre employee to conduct a search under part 4, division 6, subdivision 1;
 - (iv) the power of a detention centre employee to help a doctor to conduct a search under part 4, division 6, subdivision 2; and
- (b) the powers may be exercised only as provided under division 2.

Division 2 **Exercise of powers by persons helping proper officer of a court**

43C Application of division

This division prescribes matters about a youth justice staff member, corrective services officer or watch-house officer (each a ***relevant officer***) exercising a power under section 59F of the Act.

43D Definitions for division

In this division—

condition includes a limitation or restriction.

proper officer of a court, in relation to the exercise of a relevant power by a relevant officer, means the proper officer of a court for whom the relevant power is exercised under part 5A of the Act.

relevant officer see section 43C.

relevant power means a power mentioned in section 43B(a).

43E General conditions and requirements

(1) A relevant officer may exercise a relevant power only if—

- (a) any condition under this regulation about the circumstances in which the power may be exercised is satisfied; and

Example—

A relevant officer may use reasonable force under section 16(5) only if the conditions mentioned in section 16(5)(a) and (b) are satisfied.

- (b) the relevant officer complies with any requirements under this regulation about the way the power may be exercised.

Example—

A relevant officer conducting a search of a child under section 24 must comply with section 24(3).

- (2) Also, a relevant officer may help a doctor to conduct a search under part 4, division 6, subdivision 2 only if the proper officer of a court has authorised the doctor to conduct the search.

Note—

See section 59D of the Act in relation to the proper officer exercising powers of the chief executive under the Act.

43F Authorisation of exercise of power

- (1) This section applies if a relevant power may be exercised only if the chief executive has authorised the exercise of the power.
- (2) A relevant officer may exercise the power only if the proper officer of a court has authorised the relevant officer to exercise the power.
- (3) Any condition under this regulation on the chief executive giving the authorisation applies in relation to the proper officer of a court authorising the relevant officer to exercise the power.

Example—

A relevant officer may be authorised to use approved restraints to restrain a child under section 19 only if the condition mentioned in section 18(2) is satisfied.

43G Supervision of exercise of power

- (1) This section applies if, under this regulation, the chief executive must ensure a thing in relation to the exercise of a relevant power.
- (2) The proper officer of a court must ensure the thing in relation to a relevant officer exercising the relevant power.

Example—

If a relevant officer is using approved restraints to restrain a child under section 19, the proper officer of a court must ensure the things mentioned in section 19(2).

Division 3 Other matters about exercise of powers

43H Information and record keeping requirements

- (1) This section applies to the proper officer of a court who exercises a power, or for whom a power is exercised, under part 5A of the Act.
- (2) The proper officer of the court must comply with each information or record keeping provision applying to the exercise of the power—
 - (a) as if—
 - (i) a reference in the provision to the chief executive were a reference to the proper officer of the court; and
 - (ii) a reference in the provision to a detention centre employee or staff member were a reference to a person exercising a power under section 59F of the Act; and
 - (iii) a reference in the provision to a detention centre were a reference to the place at which the child is detained or otherwise in custody under part 5A of the Act; and
 - (b) with any other necessary changes.
- (3) In this section—

information or record keeping provision means the following—

 - (a) section 16(6);
 - (b) section 17;

- (c) section 20;
- (d) section 27.

43I Property found during search

Section 28 applies in relation to a search of a child by a person under part 5A of the Act as if—

- (a) a reference in the section to a detention centre were a reference to the place at which the child is detained or otherwise in custody under part 5A of the Act; and
- (b) a reference in the section to the chief executive were a reference to the proper officer of a court conducting the search or for whom the search is conducted.

Part 5 Provisions about disclosure of information

Division 1 Preservation of confidentiality generally

43J Definitions for division

In this division—

accredited media entity means an entity listed as an accredited media entity in the media accreditation policy in effect and made under or appended to a practice direction of the Supreme Court.

Childrens Court hearing means a hearing of a criminal proceeding that is being, or will be, held before the Childrens Court.

44 Dealing with confidential information—Act, s 289

- (1) A person may disclose confidential information relating to a child if the disclosure is to another person and the chief executive is satisfied the disclosure of the information is important to the wellbeing of the child to whom the information relates.
- (2) A judicial officer, a registrar or clerk of a court, or other court officer, may record, use or disclose confidential information relating to a child if the recording, use or disclosure is for the administration of justice or a court.

Example—

A court officer may disclose a transcript of reasons for judgment for use as a precedent.

Note—

For other authorisations to record, use or disclose confidential information relating to a child, see part 9, divisions 2, 2A and 3 of the Act.

- (3) Subsection (4) applies in relation to each of the following persons—
 - (a) a registrar or clerk of a court, or other court officer;
 - (b) a public service employee who—
 - (i) is employed by the department that is mainly responsible for court services; and
 - (ii) is authorised, by a registrar of a court, to disclose confidential information under subsection (4).
- (4) The person may disclose the following confidential information, relating to a child, to an accredited media entity—
 - (a) confidential information that is necessary to notify the accredited media entity of the time and place of a Childrens Court hearing;
 - (b) other confidential information if—

[s 44AA]

- (i) the other confidential information accompanies the confidential information mentioned in paragraph (a); and
- (ii) the disclosure of the other confidential information can not reasonably be avoided.

(5) In this section—

judicial officer means a judge of, or other person holding judicial office in, a court.

44AA Prohibition of disclosure of confidential information relating to a child—accredited media entities

- (1) This section applies in relation to a person who has gained, gains, or has access to—
 - (a) confidential information relating to a child that was disclosed to an accredited media entity under section 44(4); or
 - (b) other confidential information relating to a child that is directly or indirectly derived from the use of the information mentioned in paragraph (a).
- (2) The person must not—
 - (a) intentionally disclose the confidential information to anyone, other than under this section; or
 - (b) recklessly disclose the confidential information to anyone.

Maximum penalty—20 penalty units.

- (3) The person may disclose the confidential information mentioned in subsection (1)(a) to another person (the ***recipient***) if—
 - (a) the recipient is an employee, contractor or agent of the accredited media entity; and
 - (b) the disclosure is necessary to enable the recipient, or another employee, contractor or agent of the accredited media entity, to attend a Childrens Court hearing.

- (4) The person may disclose the confidential information mentioned in subsection (1)(a) or (b)—
- (a) if the information is, or has been, lawfully accessible to the public; or
 - (b) when authorised by a court under section 234 of the Act; or
 - (c) in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal; or
 - (d) to the extent the disclosure is otherwise required under the Act or another law.

Division 2 Information sharing and services coordination for children charged with offences

44A Arrangements must be given to chief executive and published

- (1) A person who establishes an arrangement under section 297F of the Act must, as soon as practicable after the arrangement is established, give a copy of the arrangement to the chief executive.
- (2) The chief executive must publish a copy of the arrangement on the department's website.

44B Limitations on disclosing confidential information—Act, s 297G

- (1) For section 297G(4) of the Act, this section prescribes limitations about how, or the circumstances in which, a holder of confidential information relating to a child charged with an offence may, under section 297G(2) of the Act, disclose the information.

- (2) The holder must not, under an arrangement established under section 297F of the Act (an **arrangement**), disclose the confidential information to a recipient unless the holder gives the recipient a written notice stating—
 - (a) the purpose, mentioned in section 297G(2)(a) to (f) of the Act, that the holder reasonably believes the information may help the recipient to do; and
 - (b) that the recipient must not disclose the information to another entity under another arrangement unless the holder consents, in writing, to the disclosure.
- (3) The notice—
 - (a) must be given to the recipient before, or at the same time as, the confidential information is disclosed to the recipient; and
 - (b) stops having effect 6 months after the notice is given or on an earlier day stated in the notice.
- (4) Subsection (5) applies if the confidential information was disclosed to the holder by another entity under an arrangement.
- (5) The holder must not, under another arrangement, disclose the confidential information to a recipient unless—
 - (a) the holder requests the other entity's consent to the disclosure; and
 - (b) the other entity consents, in writing, to the disclosure; and
 - (c) the holder complies with any conditions of the consent.
- (6) The request under subsection (5)(a) must—
 - (a) be in writing; and
 - (b) state the purpose, mentioned in section 297G(2)(a) to (f) of the Act, that the holder reasonably believes the information may help the recipient to do.

44C Disclosing confidential information about a child without the child's consent

- (1) This section applies if a prescribed entity or service provider discloses, under section 297G(2) of the Act, confidential information relating to a child to another entity without the child's consent.
- (2) The prescribed entity or service provider must make all reasonable attempts to advise the child of—
 - (a) the disclosure; and
 - (b) the purpose, mentioned in section 297G(2)(a) to (f) of the Act, that the prescribed entity or service provider reasonably believes the information may help the recipient of the information to do.
- (3) However, the prescribed entity or service provider may delay advising the child under subsection (2) if the prescribed entity or service provider reasonably believes the delay is appropriate in all the circumstances.
- (4) The prescribed entity or service provider must make a record of an attempt made by the prescribed entity or service provider—
 - (a) to obtain the child's consent to the disclosure; and
 - (b) to advise the child under subsection (2).
- (5) In this section—
prescribed entity see section 297D of the Act.
service provider see section 297D of the Act.

Part 6 Transitional provisions

45 Definitions for pt 6

In this part—

official means the chief executive or a staff member.

repealed, in relation to a section, means that section of the *Youth Justice Regulation 2003* as in force immediately before its repeal.

repealed regulation means the *Youth Justice Regulation 2003* as in force immediately before its repeal.

46 Exercise of powers by officials

- (1) This section applies if—
 - (a) under the repealed regulation, an official may exercise a power only if a particular event (a ***precondition***) happens; and
 - (b) under this regulation, the official may exercise a similar power if the precondition happens; and
 - (c) the precondition happened before the commencement; and
 - (d) the official had not started to exercise the power in relation to the precondition before the commencement.
- (2) The official may exercise the power but only as provided for under this regulation.

47 Compliance with obligations by officials

- (1) This section applies if—
 - (a) under the repealed regulation, an official must comply with an obligation only if a particular event (a ***precondition***) happens; and
 - (b) under this regulation, the official must comply with a similar obligation if the precondition happens; and
 - (c) the precondition happened before the commencement; and
 - (d) the official had not started to comply with the obligation in relation to the precondition before the commencement.

- (2) The official must comply with the obligation but only as provided for under this regulation.

48 Approved restraints

The types of restraints approved by the chief executive under repealed section 19 are taken to be approved restraints under this regulation until the chief executive decides otherwise.

49 Declaration of restricted articles and prohibited articles

A declaration by the chief executive of a thing to be a restricted article or prohibited article under repealed section 29(1)(a) continues to be a declaration of the same matter under this regulation.

Part 7 Repeal

50 Repeal

The Youth Justice Regulation 2003, SL No. 140 is repealed.

Schedule 1 Detention centres

section 9

- 1 Brisbane Youth Detention Centre**
99 Wolston Park Road, Wacol
- 2 Cleveland Youth Detention Centre**
27-79 Old Common Road, Belgian Gardens, Townsville
- 3 Wacol Youth Remand Centre**
24 Orford Drive, Wacol
- 4 West Moreton Youth Detention Centre**
99 Wolston Park Road, Wacol

Schedule 2 Dictionary

section 2

accepted nomination, for a child, means a nomination made by the child under section 11A and accepted by the chief executive under section 11B.

accredited media entity, for part 5, division 1, see section 43J.

approved restraints see section 18(1).

body search, of a child—

- (a) means a search of the child's body; and
- (b) includes an examination of an orifice or cavity of the child's body.

child includes a person in relation to whom, under section 142 of the Act, an order made under the Act continues to have effect.

Childrens Court hearing, for part 5, division 1, see section 43J.

condition, for part 4A, division 2, see section 43D.

confidential information see section 284 of the Act.

dispose includes destroy.

health practitioner means—

- (a) a person registered under the Health Practitioner Regulation National Law to practise a health profession, other than as a student; or
- (b) a counsellor; or
- (c) a dietician; or
- (d) a social worker.

imaging search, of a child, means a search of the child using electronic imaging produced by a method of scanning the

child, including, for example, using ionising or non-ionising radiation.

proper officer of a court, for part 4A, division 2, see section 43D.

property register see section 31.

public guardian means the public guardian under the *Public Guardian Act 2014*.

relevant officer, for part 4A, division 2, see section 43C.

relevant power, for part 4A, division 2, see section 43D.

security includes safety.

separate, in relation to a child, means to separate the child from all other persons in a detention centre.

staff member means—

- (a) a detention centre employee; or
- (b) another person employed by the department in a capacity that involves supervising children in the chief executive's custody.