

JU301\*

Sentencing Act 1995

## **Sentencing Amendment Regulations 2003**

Made by the Governor in Executive Council.

**1. Citation**

These regulations may be cited as the *Sentencing Amendment Regulations 2003*.

**2. Commencement**

These regulations come into operation on the day on which Part 2 Division 2 of the *Sentencing Legislation Amendment and Repeal Act 2003* comes into operation.

**3. The regulations amended**

The amendments in these regulations are to the *Sentencing Regulations 1996\**.

[\* Reprinted as at 3 September 2002.]

**4. Part 2A inserted**

After regulation 4 the following Part is inserted —

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**Part 2A — Pre-sentence order**

**4A. Specialty court**

For the purposes of the definition of “specialty court” in section 4(1) of the Act —

- (a) the court of petty sessions is prescribed;
- (b) the central law courts at Perth is prescribed; and
- (c) the class of offenders who abuse prohibited drugs or prohibited plants as defined in section 3(1) of the *Misuse of Drugs Act 1981* is prescribed.

**4B. Application to amend or cancel a PSO (s. 33M(2)(a) or (b))**

- (1) An application under section 33M(2)(a) or (b) of the Act is to be made in an approved form.
- (2) An application may only be made by a CCO with the prior approval of the CEO.
- (3) On receiving an application a court officer is to issue a summons (in an approved form) to all parties concerned to a hearing on a date and at a place fixed by the officer.
- (4) The hearing date fixed by the court officer is to be at least 7 days after the date of the application.
- (5) The summons must be served —
  - (a) in the case of an application by the offender — by a court officer on the CEO, and the prosecutor; or
  - (b) in the case of an application by a CCO — by a CCO on the offender.
- (6) If satisfied that all parties concerned have been served with a summons issued under this regulation, the court may deal with the application under section 33N of the Act.

- (7) The court hearing the application need not be constituted by the same judicial officer that constituted the court that imposed the PSO.
- (8) In this regulation —  
“**prosecutor**” means the DPP or a police prosecutor, as the case requires.

**4C. Application to amend or cancel a PSO (s. 33M(2)(c))**

- (1) This regulation applies to an application under section 33M(2)(c) of the Act.
- (2) An application must be made in accordance with rules of court to the court that imposed the sentence concerned.
- (3) If satisfied that all relevant rules of court have been complied with in relation to the application, the court may exercise the powers in section 33N of the Act.
- (4) The court hearing the application need not be constituted by the same judicial officer that constituted the court that imposed the PSO.

**4D. CEO to be notified when court deals with offender on PSO**

If under section 33N of the Act a court deals with an offender in relation to a PSO, a court officer is to notify the CEO of any orders made by the court.

**4E. Lower court procedure on recalling an order imposing a sentence (s. 33O(5)(b))**

- (1) When the Children’s Court or a court of petty sessions proposes to deal with an offender under section 33O(5)(b) of the Act, a court officer is to issue a summons (in an approved form) to all parties concerned to a hearing on a date and at a place fixed by the officer.
- (2) The summons must be served by the prosecutor on the offender.
- (3) The court may deal with the offender under section 33O(5)(b) if it is satisfied that all parties concerned have been served with a summons issued under this regulation.
- (4) The court dealing with the offender need not be constituted by the same judicial officer that constituted the court that imposed the PSO.

**4F. Superior court procedure on recalling an order imposing a sentence (s. 33O(5)(b))**

- (1) A superior court may deal with an offender under section 33O(5)(b) if it is satisfied that all relevant rules of court have been complied with in relation to the application.
- (2) The court dealing with the offender need not be constituted by the same judicial officer that constituted the court that imposed the PSO.

**5. Regulation 13 amended**

Regulation 13 is amended in the Table by inserting after the item beginning “36” the following item —

“

33J and 33P      Warrant of arrest                      1A

”.

**6. Schedule 1 amended**

- (1) Schedule 1 Form 1 is amended as follows:
- (a) by deleting “*Sentence Administration Act 1995.*” and inserting instead —  
“ *Sentence Administration Act 2003.* ”;
- (b) by deleting the box containing “Young adult detention direction       Yes    No”.
- (2) After Schedule 1 Form 1 the following Form is inserted —

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**1A. Warrant of arrest**

WESTERN AUSTRALIA  
*Sentencing Act 1995*, ss. 33J and 33P

**Arrest warrant**

CWI Warrant No.

<b>Command</b>	<b>To: All police officers.</b> <b>This warrant authorises and commands you to arrest this offender and to take the offender to [name of court] at [place] in Western Australia. And to all persons authorised to exercise a power set out in clause 2 of Schedule 2 to the <i>Court Security and Custodial Services Act 1999</i>. This warrant authorises and commands you to take the offender to [name of court] at [place] in Western Australia.</b>
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<b>Offender's details</b>	Name:	Date of birth:
	Address:	

Offences related to PSO	Charge/Indict No	Date of offence	Description of offence

<b>Date of PSO</b>	
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