

JM301\*

Sentencing Act 1995

## **Sentencing Amendment Regulations 2000**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations may be cited as the *Sentencing Amendment Regulations 2000*.

## Part 2 — *Sentencing Regulations 1996*

### 2. Regulations amended

The amendments in this Part are to the *Sentencing Regulations 1996*\*.

[\* Published in Gazette 4 October 1996, pp. 5281-96.]

### 3. Regulations 5A and 5B inserted

After regulation 5 the following regulations are inserted —

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#### 5A. Re-sentencing of offender — courts of summary jurisdiction and Children’s Court (s 37A)

- (1) This regulation applies to an application (a “**lower court application**”) under section 37A(2) of the Act in relation to a sentence imposed by a court of summary jurisdiction or the Children’s Court.
- (2) A lower court application must be in an approved form and may be made at any time.
- (3) A lower court application must be lodged with the court that imposed the sentence concerned.
- (4) On receiving a lower court 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.
- (5) The summons must be served by the prosecutor on the offender.
- (6) If satisfied that all parties concerned have been served with a summons issued under this regulation, the court may, subject to section 14 of the Act, exercise the powers in section 37A(1) of the Act.
- (7) The court hearing a lower court application need not be constituted by the same judicial officer that constituted the court that imposed the sentence.

#### 5B. Re-sentencing of offender — superior courts (s 37A)

- (1) This regulation applies to an application (a “**superior court application**”) under section 37A(2) of the Act in relation to a sentence imposed by a superior court.
- (2) A superior court 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 superior court application, the court may, subject to section 14 of the Act, exercise the powers in section 37A(1) of the Act.

- (4) The court hearing a superior court application need not be constituted by the same judicial officer that constituted the court that imposed the sentence.

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**4. References to “court of petty sessions” amended**

- (1) The provisions mentioned in the Table to this regulation are amended by deleting “court of petty sessions” and inserting instead —

“ court of summary jurisdiction ”.

**Table**

regulation 3(1) (in paragraph (b) of the definition of “court officer”)  
regulation 6(1)

- (2) Schedule 1 is amended in Forms 1 and 2 by deleting “Court of Petty Session” and inserting instead —

“ Court of Summary Jurisdiction ”.

**Part 3 — Sentencing Act 1995**

**5. Section 59 of the *Sentencing Act 1995* amended**

Section 59(3)(a) of the *Sentencing Act 1995*\* is amended by deleting “\$50” and inserting instead —

“ \$150 ”.

[\* *Reprinted as at 16 April 1999.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 228, and Acts Nos. 53 of 1998 and 5 and 16 of 1999.]*

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.