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**JUSTICE**

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JU301\*

Criminal Procedure Act 2004

**Criminal Procedure Amendment  
Regulations 2007**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Criminal Procedure Amendment Regulations 2007*.

**2. Commencement**

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette* (“**Gazettal day**”);
- (b) the rest of the regulations — on the day after Gazettal day.

**3. The regulations amended**

The amendments in these regulations are to the *Criminal Procedure Regulations 2005*.

**4. Regulation 7A inserted**

After regulation 7 the following regulation is inserted in Part 4 —

“

**7A. Public authority prescribed (CPA s. 18)**

For the purposes of paragraph (c) of the definition of “authorised investigator” in the CPA section 18, the Department as defined in the *Child Care Services Act 2007* section 3 is a prescribed public authority.

”.

**5. Regulation 13 replaced by Subdivision heading and new regulation 13**

Regulation 13 is repealed and the following Subdivision heading and regulation are inserted instead —

“

**Subdivision 1 — Applications in or after a prosecution**

**13. Application of this Subdivision**

- (1) This Subdivision applies to and in respect of any application that may be made to a court of summary jurisdiction —
  - (a) in a prosecution; or
  - (b) after a prosecution —
    - (i) if the application could have been, but was not, made in the prosecution; or
    - (ii) under the CPA section 72.
- (2) This Subdivision does not apply to or in respect of an application that may be made to a superior court.

”.

**6. Part 4 Division 2 Subdivision 2 inserted**

After regulation 20 the following Subdivision is inserted —

“

**Subdivision 2 — Applications not in or after a prosecution**

**20A. Applications under the *Crimes Act 1914* (Cwlth) section 9**

- (1) An application under the *Crimes Act 1914* of the Commonwealth section 9 must be made by lodging a Form 6A.
- (2) The application and any affidavit in support of it must be lodged at least 3 clear working days before the date on which it is to be heard, unless the court orders otherwise.
- (3) The application may be heard in chambers.

”.

**7. Regulation 28A inserted**

After regulation 28 the following regulation is inserted in Part 6 —

“

**28A. Destruction or disposal of unclaimed exhibits**

If an exhibit tendered in evidence to a court remains in the possession of the court after reasonable steps have been taken to identify a person who is entitled to

possession of it and to require the person to collect it from the court, a magistrate may order a registrar to destroy it or dispose of it in some other way.

”.

## 8. Schedule 1 amended

- (1) Schedule 1 Form 6 is amended by deleting “Application in a prosecution” in both places where it occurs and inserting instead —

“ **Application in or after a prosecution** ”.

- (2) After Schedule 1 Form 6 the following form is inserted —

“

### 6A. Application under the *Crimes Act 1914* (Cwlth) section 9 (r. 20A)

<i>Criminal Procedure Act 2004</i>		<b>Application under the <i>Crimes Act 1914</i> (Cwlth) section 9</b>	
[Name of court] at No:			
Case	[Names of all parties]		
Applicant	[Name of the party applying]		
Application details	The applicant applies for an order that the following forfeited articles be condemned:		
Signature of applicant or lawyer	Applicant/Applicant's lawyer	Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

”.

## 9. Schedule 3 amended

Schedule 3 item 4 is amended by deleting “grievous”.

## 10. Schedule 4 replaced

Schedule 4 is repealed and the following Schedule is inserted instead —

“

### Schedule 4 — Listed simple offences

[r. 12]

#### 1. *Criminal Code* offence

The offence under *The Criminal Code* section 338E (Stalking).

#### 2. *Environmental Protection Act 1986* offences

Any simple offence under the *Environmental Protection Act 1986*.

3. ***Fish Resources Management Act 1994 offences***  
Any simple offence under the *Fish Resources Management Act 1994*.
  4. ***Liquor Control Act 1988 offences***  
Any simple offence under the *Liquor Control Act 1988*.
  5. ***Mines Safety and Inspection Act 1994 offences***  
Any simple offence under the *Mines Safety and Inspection Act 1994*.
  6. ***Occupational Safety and Health Act 1984 offences***  
Any simple offence under the *Occupational Safety and Health Act 1984*.
  7. ***Prostitution Act 2000 offence***  
The offence under the *Prostitution Act 2000* section 7 (Seeking to induce person to act as prostitute).
  8. ***Restraining Orders Act 1997 offences***  
The offences under the following sections of the *Restraining Orders Act 1997* —
    - (a) section 61(1) (Breaching a violence restraining order);
    - (b) section 61(2a) (Breaching a police order).
  9. ***Road Traffic Act 1974 offence***  
The offence under the *Road Traffic Act 1974* section 59A (Dangerous driving causing bodily harm).
- ”.

By Command of the Governor,

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

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