



New South Wales

# Director of Public Prosecutions Regulation 2005

under the

Director of Public Prosecutions Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Director of Public Prosecutions Act 1986*.

BOB DEBUS, M.P.,  
Attorney General

## Explanatory note

The object of this Regulation is to remake, without any changes in substance, the provisions of the *Director of Public Prosecutions Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) prescribes certain summary offences as **prescribed summary offences** for the purposes of the *Director of Public Prosecutions Act 1986* (since under the Act, the Director of Public Prosecutions may institute proceedings for summary offences, take over the prosecution of proceedings for summary offences, issue certain guidelines for the prosecution of summary offences and require prosecutors to provide certain information with respect to the prosecution of summary offences if the offences are prescribed summary offences) (clause 4), and
- (b) prescribes the form in which police officers investigating alleged indictable offences must disclose to the Director of Public Prosecutions relevant information, documents and things obtained during the investigation (clause 5 and Schedule 1).

This Regulation is made under the *Director of Public Prosecutions Act 1986*, including section 3 (1) (the definition of **prescribed summary offence**), section 15A and section 37 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Director of Public Prosecutions Regulation 2005

under the

Director of Public Prosecutions Act 1986

### 1 Name of Regulation

This Regulation is the *Director of Public Prosecutions Regulation 2005*.

### 2 Commencement

This Regulation commences on 1 September 2005.

**Note.** This Regulation replaces the *Director of Public Prosecutions Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

- (1) In this Regulation:  
*consent* includes authorisation, sanction and any similar authority.  
*the Act* means the *Director of Public Prosecutions Act 1986*.
- (2) A reference in this Regulation to a form is a reference to a form in Schedule 1.
- (3) Notes included in this Regulation do not form part of this Regulation.

### 4 Prescribed summary offences: section 3 (1)

- (1) All summary offences are prescribed summary offences for the purposes of the Act, other than those that may not be prosecuted except with the consent of a Minister or a person authorised by a Minister to grant consent on behalf of the Minister.
- (2) A summary offence that would not otherwise be a prescribed summary offence (because of the fact that it may not be prosecuted except with the consent of a Minister or a person authorised by a Minister to grant consent on behalf of that Minister) is a prescribed summary offence for the purposes of the Act:
  - (a) if the Minister concerned makes an order under section 11 (2) of the Act in relation to offences of that kind, or

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- (b) in relation to proceedings for a particular offence, if the Minister concerned refers the offence to the Director for prosecution.

### 5 Prescribed form for police officer disclosure: section 15A

Disclosures by a police officer to the Director of Public Prosecutions for the purposes of section 15A of the Act must:

- (a) be in Form 1, and
- (b) be completed, signed and dated by the police officer in charge of the investigation, and
- (c) be signed and dated by the police officer who holds the position of Brief Manager in NSW Police.

### 6 Savings

Any act, matter or thing that, immediately before the repeal of the *Director of Public Prosecutions Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.

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## Schedule 1 Forms

(Clause 3 (2))

### Form 1 Disclosure certificate (for prosecutions and advisings)

(Clause 5)

(Director of Public Prosecutions Act 1986, section 15A)

Matter of:

Charge No(s): H

For indictable offence(s) of:

#### Acknowledgement

I am aware that as a police officer investigating an alleged indictable offence I have a duty, under section 15A of the *Director of Public Prosecutions Act 1986*, to disclose to the Director of Public Prosecutions (DPP) all relevant information, documents or other things obtained during the investigation that might reasonably be expected to assist the case for the prosecution or the case for the accused person. I am aware that this duty continues until the DPP decides that the accused person will not be prosecuted for the alleged offence(s), the accused person is found guilty or acquitted, or the prosecution is terminated.

I am aware that my duty to disclose as outlined above is subject to bona fide claims of privilege, public interest immunity or statutory immunity and I am aware that such claims are to be directed through my Commander to the General Manager, Court and Legal Services of NSW Police.

#### Certification

##### 1 Relevant sensitive material not contained in the brief to the DPP

There IS/IS NO [*cross out the word or words that do not apply*] sensitive material that is not contained in the brief of evidence provided to the DPP which might reasonably be expected to assist the case for the prosecution or the case for the accused person.

In this certificate, *sensitive material* means all relevant information, documents or other things obtained during the investigation that are subject to a bona fide claim of privilege, public interest immunity or statutory immunity.

##### 2 Relevant non-sensitive material not contained in the brief to the DPP

I am aware that relevant material that is not sensitive material that is not contained in the brief is to be listed in the manner indicated in the Schedule to this Form and, unless it is impracticable, I am required to provide a copy to the DPP with this certificate. If it is impracticable to provide any or all of such material with this certificate, I am aware that I must retain the material for as long as the duty to disclose it exists and facilitate access to the material by the DPP.

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Schedule 1      Forms

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There IS/IS NO [*cross out the word or words that do not apply*] relevant material that is not sensitive material that is not contained in the brief of evidence provided to the DPP which might reasonably be expected to assist the case for the prosecution or the case for the accused person.

**Undertaking**

I undertake to advise the DPP in writing, as soon as practicable, if I become aware of any additional information, documents or other things that might reasonably be expected to assist the case for the prosecution or the case for the accused person.

Signed (*OIC of case*):

Date:

Name:

Rank:

**Received and noted by Brief Manager**

Signed (*Brief Manager*):

Date:

Name:

Rank:

**Schedule**

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Matter of:

Charge No(s): H

**Schedule of relevant non-sensitive information, documents or other things**  
(*Not included in the brief of evidence*)

<b>Description of information, document or other things (Accurately list all relevant material briefly)</b>	<b>Is the material attached? (Mark "YES" or "NO" against each)</b>
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BY AUTHORITY