



Summary Offences Regulation 2000

under the

Summary Offences Act 1988

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Summary Offences Act 1988*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

This Regulation replaces, without any changes in substance, the *Summary Offences (General) Regulation 1995* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) the procedures to be followed after liquor is confiscated under section 11 of the *Summary Offences Act 1988*, including procedures for its custody and disposal,
- (b) the penalties for certain offences under the Act (namely custody of knives in a public place or school and failure to comply with police directions) when dealt with by way of penalty notice,
- (c) the exemption of certain knives from the operation of section 11F of the Act which creates an offence of selling knives to children.

This Regulation is made under the *Summary Offences Act 1988*, including sections 11, 29A and 35 (the general regulation-making power).

This Regulation relates to matters of a machinery nature.

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Summary Offences Regulation 2000

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Summary Offences Regulation 2000*.

2 Commencement

This Regulation commences on 1 September 2000.

Note. This Regulation replaces the *Summary Offences (General) Regulation 1995* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation:

confiscated liquor means liquor seized by a police officer under section 11 of the Act.

the Act means the *Summary Offences Act 1988*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

(3) The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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Clause 4 Summary Offences Regulation 2000

Part 2 Confiscated liquor

Division 1 Procedure following confiscation

Part 2 Confiscated liquor

Division 1 Procedure following confiscation

4 Reasons for confiscation

- (1) When seizing liquor under section 11 of the Act, a police officer must give reasons for the seizure.
- (2) For that purpose the police officer must tell the person from whom the liquor is seized that the police officer suspects that the person:
 - (a) is under the age of 18 years, and
 - (b) is not under the supervision of a responsible adult, and
 - (c) does not have a reasonable excuse for possessing the liquor.

5 Disposal of confiscated liquor

- (1) Confiscated liquor may be disposed of when seized if:
 - (a) at the time of seizure it is in a container which is unsealed or from which part of the contents have been removed, or
 - (b) it is, or is likely soon to become, unfit for human consumption.
- (2) Confiscated liquor must not be disposed of at the time of seizure if the quantity or value of the liquor, or any other circumstance of the case, makes disposal unreasonable or undesirable.
- (3) Disposal must be by a method which ensures that the liquor disposed of does not remain or become available for consumption by any person.

6 Information as to custody of confiscated liquor

- (1) This clause applies only if confiscated liquor is not to be disposed of at the time of seizure.
- (2) At the time of seizure, the police officer concerned must inform the person from whom confiscated liquor is seized:
 - (a) that the liquor will be taken to a specified police station and kept there for at least 24 hours, and
 - (b) that a claim for return of the liquor may be made at that police station.

- (3) A receipt specifying details of the confiscated liquor must be issued to that person:
 - (a) at the time of seizure, by the police officer concerned, or
 - (b) at the time the liquor is taken to a police station, by any police officer there.

Division 2 Custody and return of confiscated liquor

7 Confiscated liquor to be kept at police station

- (1) Confiscated liquor which is not disposed of at the time of seizure must be taken to the appropriate police station and kept there for at least 24 hours.
- (2) The appropriate police station is the one to which the person from whom the liquor was seized was informed the liquor would be taken.

8 Claim for confiscated liquor

- (1) Confiscated liquor held at a police station may be claimed by, and if claimed must be returned to, the person from whom it was seized if:
 - (a) the person establishes that the person was at least 18 years of age, or
 - (b) the person establishes that the person had a reasonable excuse for possessing the liquor, or
 - (c) the police officer to whom the claim is made is satisfied that in all the circumstances of the case return of the liquor is justified.
- (2) Return of confiscated liquor to a person under the age of 18 years may in any case be refused if the person is not accompanied by a responsible adult.
- (3) Before confiscated liquor is returned, satisfactory proof of entitlement to the liquor may be required, including production of the receipt issued for the confiscated liquor.

9 Acknowledgment of return of confiscated liquor

- (1) A person to whom confiscated liquor is to be returned may be required to sign an acknowledgment that the liquor has been returned.
- (2) Return of confiscated liquor may be withheld if the acknowledgment is not signed.

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Clause 10	Summary Offences Regulation 2000
Part 2	Confiscated liquor
Division 2	Custody and return of confiscated liquor

10 Disposal of confiscated liquor in accordance with Commissioner's instructions

When it is no longer intended to keep confiscated liquor at a police station, it must be dealt with in accordance with the instructions of the Commissioner of Police concerning liquor forfeited to the Crown.

Part 3 Short descriptions of offences and penalty notices

11 Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 is:
 - (a) the expression specified opposite it in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

12 Penalty notices: custody of knives in public place or school and failure to comply with police directions

For the purposes of section 29A (1) of the Act, the amount prescribed is:

- (a) 5 penalty units in respect of an offence under section 11C of the Act, and
- (b) 2 penalty units in respect of an offence under section 28F of the Act.

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Clause 13 Summary Offences Regulation 2000

Part 4 Miscellaneous

Part 4 Miscellaneous

13 Notice of intention to hold a public assembly

- (1) Form 1 is the prescribed form of notice to be served on the Commissioner of Police for the purposes of section 23 (1) of the Act.
- (2) The following address is prescribed as the address of the office of the Commissioner of Police for the purposes of section 23 (2) of the Act:

Police Headquarters,
14–24 College Street,
Sydney NSW 2000.

14 Exempt knives

Section 11F of the Act does not apply to:

- (a) plastic knives that are designed for eating purposes, or
- (b) any blades, other than knife blades or blades forming part of any of the following:
 - (i) machetes,
 - (ii) cleavers,
 - (iii) swords.

15 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Summary Offences (General) Regulation 1995* had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1

Forms

- 2 The purpose of the proposed assembly is:
.
.
.
.
- 3 The following special characteristics associated with the assembly would be useful for the Commissioner of Police to be aware of in regulating the flow of traffic or in regulating the assembly:
- *(a) There will be vehicles and/or* floats involved and their
(number)
type and dimensions are as follows:
.
.
.
- *(b) There will be bands, musicians, entertainers etc, which will entertain
(number)
or address the assembly.
- *(c) The following number and type of animals will be involved in the assembly:
.
.
.
- *(d) Other special characteristics of the proposed assembly are as follows:
.
.
.
- 4 I take responsibility for organising and conducting the proposed public assembly.
- 5 Notices for the purposes of the *Summary Offences Act 1988* may be served on me at the following address:
.
. Postcode
Telephone:
- Signed: Date:
Capacity/Title:
- * *Strike out whichever does not apply.*

Schedule 2 Prescribed expressions

(Clause 11)

Column 1	Column 2
Offence under the Act	Prescribed expression
Section 4 (1)	behave in offensive manner in/near/within view from/within hearing from public place/school
Section 4A (1)	use offensive language in/near/within hearing from public place/school
Section 5	expose oneself in/within view from public place/school
Section 6	obstruct person/vehicle/vessel in public place
Section 7 (a)	damage/deface fountain in public place
Section 7 (b)	enter on fountain in public place
Section 7 (c)	cause foreign material/substance to enter fountain in public place
Section 8	damage/deface shrine/monument/statue in public place
Section 8A (1) (a)	risk other's safety by abseiling/jumping/parachuting from building/structure
Section 8A (1) (b)	risk other's safety by climbing down/up/on/ascending/descending building/structure
Section 9 (a)	affix placard/paper on premises (visible from public place)
Section 9 (b)	mark premises with material (visible from public place)
Section 10A (1)	damage/deface premises/property by spray paint
Section 10B (1)	carry spray paint with intent to damage/deface premises/property
Section 11 (1)	possession/consumption of liquor by minor in public place
Section 11A	use/threaten violence causing fear for personal safety
Section 11B (1)	carry offensive implement in public place
Section 11C (1)	have custody of knife in public place/school
Section 15 (1)	live wholly/partly on earnings of prostitution of another
Section 15A (1)	cause/induce prostitution by coercive conduct/undue influence

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Schedule 2 Prescribed expressions

Section 16 (a)	use premises providing facilities for prostitution/ soliciting
Section 16 (b)	use premises for photos/photo-like services for prostitution/ soliciting
Section 16 (c)	use studio/studio-like premises for prostitution/ soliciting
Section 17 (1) (a)	owner/occupier/manager/assistant suffer/permit prostitution/soliciting in massage/sauna/steam/ exercise/service premises
Section 17 (1) (b)	owner/occupier/manager/assistant suffer/permit prostitution/soliciting in photo/photo-like service premises
Section 17 (1) (c)	owner/occupier/manager/assistant suffer/permit prostitution/soliciting in studio/studio-like premises
Section 18 (a)	advertise/cause to be advertised premises used/available/person available for prostitution
Section 18 (b)	erect sign/cause erection of sign premises used/available/person available for prostitution
Section 18A (1)	publish/cause to be published advertisement for prostitute
Section 19 (1)	solicit near/within view from dwelling/school/ church/hospital
Section 19 (2)	solicit in school/church/hospital
Section 19 (3)	solicit in harassing/distressing manner in/near/within view from dwelling/school/church/hospital/public place
Section 20 (1) (a)	act of prostitution in/within view from school/church/hospital/public place
Section 20 (1) (b)	act of prostitution within view from dwelling
Section 20 (2) (a)	act of prostitution in vehicle in/within view from school/church/hospital/public place
Section 20 (2) (b)	act of prostitution in vehicle within view from dwelling
Section 28F (6)	fail/refuse to comply with police direction

BY AUTHORITY