



New South Wales

# Director of Public Prosecutions Regulation 2025

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*.

MICHAEL DALEY, MP  
Attorney General

## Explanatory note

The object of this regulation is to repeal and remake, with minor amendments, the *Director of Public Prosecutions Regulation 2020*, which would otherwise be repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation provides for the following—

- (a) the summary offences that are prescribed summary offences for the purposes of the *Director of Public Prosecutions Act 1986*,
- (b) the form in which law enforcement or investigating officers must disclose certain information, documents and things obtained during an investigation to the Director of Public Prosecutions.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely 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 2025

under the

Director of Public Prosecutions Act 1986

### 1 Name of regulation

This regulation is the *Director of Public Prosecutions Regulation 2025*.

### 2 Commencement

This regulation commences on the day on which this regulation is published on the NSW legislation website.

**Note—** This regulation repeals and replaces the *Director of Public Prosecutions Regulation 2020*, which would otherwise be repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

### 3 Definition

In this regulation—

**the Act** means the *Director of Public Prosecutions Act 1986*.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

### 4 Prescribed summary offences

- (1) For the Act, section 3(1), definition of **prescribed summary offence**, a summary offence is prescribed unless—
  - (a) the offence 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, and
  - (b) that Minister or the person has not made an order under the Act, section 11(2) in relation to offences of that kind.
- (2) In this section—  
**consent** includes authorisation, sanction and any similar authority.

### 5 Prescribed form for disclosures by law enforcement or investigating officers—the Act, s 15A(4)

- (1) Disclosures by a law enforcement or investigating officer to the Director under the Act, section 15A must—
  - (a) be in the form set out in Schedule 1, and
  - (b) be completed, signed and dated by the law enforcement or investigating officer, and
  - (c) if the law enforcement or investigating officer is a law enforcement officer—be signed and dated by the law enforcement officer's relevant superior officer, being—
    - (i) for a disclosure by a police officer—another police officer who holds a rank in the NSW Police Force senior to that police officer, or

- (ii) for a disclosure by an officer of the New South Wales Crime Commission—the Commissioner or an Assistant Commissioner of the Commission, or
  - (iii) for a disclosure by an officer of the Law Enforcement Conduct Commission—the Chief Commissioner, a Commissioner or an Assistant Commissioner of the Commission, or
  - (iv) for a disclosure by an officer of the Independent Commission Against Corruption—the Commissioner or an Assistant Commissioner of the Commission.
- (2) In this section—  
***law enforcement officer*** means a law enforcement or investigating officer who is—
  - (a) a police officer, or
  - (b) an officer of the New South Wales Crime Commission, or
  - (c) an officer of the Law Enforcement Conduct Commission, or
  - (d) an officer of the Independent Commission Against Corruption.

## **6 Repeal and savings**

- (1) The *Director of Public Prosecutions Regulation 2020* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Director of Public Prosecutions Regulation 2020*, had effect under that regulation continues to have effect under this regulation.

## Schedule 1 Disclosure certificate—prosecutions and advisings

section 5(1)(a)

(Director of Public Prosecutions Act 1986, section 15A(4))

Matter of—

Charge No(s) [*if applicable*]—

For indictable or summary offence(s) of—

### Acknowledgement

I am aware that, as a law enforcement or investigating officer investigating an alleged indictable or summary offence, I have a duty, under the *Director of Public Prosecutions Act 1986 (the Act)*, section 15A, to disclose to the Director of Public Prosecutions (the **DPP**) all relevant material if the DPP exercises a function referred to in the Act, section 15A(1A).

I understand **relevant material** to be 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 my duty to disclose 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 claims of privilege, public interest immunity or statutory immunity. I am aware that if I am a police officer, or an officer of the NSW Crime Commission, the Law Enforcement Conduct Commission or the Independent Commission Against Corruption, these kinds of claims are to be directed as follows—

- (a) for police officers—through my Commander to the Office of the General Counsel of the NSW Police Force,
- (b) for other law enforcement officers—through my manager to the Commissioner or an Assistant Commissioner of the agency of which I am an officer.

I am aware that the duty to disclose is also subject to any statutory publication restriction. A **statutory publication restriction** is a prohibition or restriction on publication imposed by or under the *Law Enforcement Conduct Commission Act 2016*, section 176 or 177, the *Crime Commission Act 2012*, section 45 or 45A or the *Independent Commission Against Corruption Act 1988*, section 112.

### Certification

I certify that the information I have given in Schedules 1, 2 and 3 is true, to the best of my knowledge and belief.

Schedule 1 relates to relevant protected material, being relevant material not contained in the brief of evidence, that is the subject of a claim of privilege, public interest immunity or statutory immunity. I am aware that I am required to disclose to the DPP the existence and nature of all such material. I am aware that I must retain the material for as long as my duty to disclose exists and provide the material to the DPP on request. I acknowledge that if I object to the disclosure of relevant protected material to the DPP, I can request a conference with the responsible solicitor in the Office of the Director of Public Prosecutions to discuss reasons for the objection.

Schedule 2 relates to relevant material, not contained in the brief of evidence, that is the subject of a statutory publication restriction. I am aware that I am required to disclose to the DPP the existence of any such material, and the nature of the material, but only to the extent not prohibited by the statutory publication restriction. I am aware that I must retain the material for as long as my duty to disclose exists.

Schedule 3 relates to relevant unprotected material, being relevant material not contained in the brief of evidence, that is not the subject of a privilege or an immunity claim or a statutory publication restriction. Unless impracticable to do so, I have attached a copy of all such material to this certificate. If a copy of any such material has not been provided, I am aware that I must retain the material for as long as my duty to disclose exists and facilitate access to the material by the DPP.

**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 [*officer responsible for investigation of case*]—

Date—

Name—

Rank [*if applicable*]—

**Received and noted by superior officer\***

Signed [*superior officer*]—

Date—

Name—

Rank [*if applicable*]—

\*This form needs to be signed by a superior officer only if the disclosing law enforcement or investigating officer is a police officer or an officer of the NSW Crime Commission, the Law Enforcement Conduct Commission or the Independent Commission Against Corruption. For a police officer, it must be signed by a police officer who holds a rank in the NSW Police Force senior to the law enforcement officer. For other officers, it must be signed by the Commissioner or an Assistant Commissioner of the agency.

**Schedule 1: relevant protected material that is subject of claim of privilege or immunity**

Certification*	Yes	No
There is relevant protected material, not contained in the brief of evidence, that is the subject of a claim of privilege, public interest immunity or statutory immunity. The material is described in this schedule below.		
Description of item	Privilege/immunity sought**	

**Schedule 2: relevant material that is subject of statutory publication restriction**

Certification*	Yes	No
There is relevant material, not contained in the brief of evidence, that is the subject of a statutory publication restriction and the existence of which I can disclose without contravening the statutory publication restriction. The material is described in this schedule below. [ <i>Describe the material only to the extent not prohibited by the statutory publication restriction</i> ]		
Description of item		

**Schedule 3: relevant unprotected material that is not subject to claim of privilege or immunity or statutory publication restriction**

### Certification\*

**Yes**

**No**

There is relevant unprotected material, not contained in the brief of evidence, that is not the subject of a claim of privilege or immunity or a statutory publication restriction. The material is described in this schedule below.

**Copy attached?\*\*\***

### Description of item

**Yes**

**No**

*\*Tick either yes or no in relation to the statement*

*\*\*Describe the nature of the privilege or immunity claim in relation to each item*

\*\*\*Tick either yes or no in relation to each item

Request for meeting with ODPP solicitor\*

**Yes**

**No**

I object to the disclosure of relevant protected material and request a conference with the responsible solicitor in the Office of the Director of Public Prosecutions.

*\*Tick either yes or no in relation to the statement*