



Crimes (Forensic Procedures) Amendment (Informed Consent) Regulation 2002

under the

Crimes (Forensic Procedures) Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Forensic Procedures) Act 2000*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

Section 76 of the *Crimes (Forensic Procedures) Act 2000* authorises the carrying out of forensic procedures on a person who volunteers to a police officer to undergo a forensic procedure (a *volunteer*) with the informed consent of the volunteer under section 77. Section 77 of that Act provides that a volunteer gives informed consent if the volunteer consents in the presence of an independent person after a police officer informs the volunteer of certain specified matters. Section 77 (2) (e) provides that the specified matters include matters prescribed by the regulations. Pursuant to section 78 of the Act the consent of a volunteer to the carrying out of a forensic procedure is not effective unless, amongst other things, the consent is in writing and in a form containing the particulars prescribed by the regulations.

The object of this Regulation is to amend the *Crimes (Forensic Procedures) Regulation 2000*:

- (a) to prescribe, for the purposes of section 77 (2) (e) of the Act, additional information that must be given to a volunteer before informed consent may be given, and
- (b) to prescribe, for the purposes of section 78 (a) of the Act, additional particulars that must be included in the form providing a volunteer's consent to the carrying out of a forensic procedure.

This Regulation is made under the *Crimes (Forensic Procedures) Act 2000*, including sections 77 (2) (e), 78 (a) and 118 (the general regulation-making power).

2002 No 772

Clause 1 Crimes (Forensic Procedures) Amendment (Informed Consent) Regulation 2002

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under the

Crimes (Forensic Procedures) Act 2000

1 Name of Regulation

This Regulation is the *Crimes (Forensic Procedures) Amendment (Informed Consent) Regulation 2002*.

2 Amendment of Crimes (Forensic Procedures) Regulation 2000

This Regulation amends the *Crimes (Forensic Procedures) Regulation 2000* as set out in Schedule 1.

Schedule 1 Amendments

(clause 2)

[1] Clause 2 Commencement

Omit “Clause 8 commences” from clause 2 (2).

Insert instead “Clauses 7A and 8 commence”.

[2] Clause 7A

Insert after clause 7:

7A Informed consent—volunteer or volunteer’s parent or guardian

For the purposes of section 77 (2) (e) of the Act, the following are prescribed matters:

- (a) that the DNA database system includes 2 indexes relevant to volunteers, a volunteers (limited purposes) index and a volunteers (unlimited purposes) index, and the differences in the use that may be made of information on each of the indexes,
- (b) that the volunteer, or parent or guardian of the volunteer, may give consent subject to the condition that information obtained from the analysis of forensic material taken in accordance with the consent will only be placed on a specified index of that system, or will not be placed on either index.

[3] Clause 8 Form of consent—volunteer or volunteer’s parent or guardian

Insert after clause 8 (e):

- (f) a statement indicating whether the consent is given subject to a condition about on which index, if any, information obtained from the analysis of forensic material taken in accordance with the consent may be placed.