



# Summary Offences Amendment (Search Observation Staff Members) Regulation 2003

under the

Summary Offences Act 1988

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

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Attorney General

## Explanatory note

Section 27G of the *Summary Offences Act 1988* (as inserted by the *Summary Offences Amendment (Places of Detention) Act 2002*) provides that a search of a child or of a mentally incapacitated person under section 27F of that Act at a place of detention or in its immediate vicinity must be conducted in the presence of:

- (a) an adult who accompanied the child or the mentally incapacitated person to the place of detention (or its immediate vicinity), or
- (b) if there is no such adult—a search observation member of staff.

The object of this Regulation is to prescribe the following persons as search observation staff members:

- (a) if available at the place of detention (or its immediate vicinity) where the relevant search is to be conducted—a welfare officer, psychologist, clerk or alcohol and other drug worker (being a person who is a non-correctional member of staff of the Department of Corrective Services or managed correctional centre),
- (b) if a person referred to in paragraph (a) is not so available—any other non-correctional member of staff.

This Regulation is made under the *Summary Offences Act 1988*, including sections 27A (as amended by the *Summary Offences Amendment (Places of Detention) Act 2002*) and 35 (the general regulation-making power).

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### 1 Name of Regulation

This Regulation is the *Summary Offences Amendment (Search Observation Staff Members) Regulation 2003*.

### 2 Commencement

This Regulation commences on 21 February 2003.

### 3 Amendment of Summary Offences Regulation 2000

The *Summary Offences Regulation 2000* is amended by inserting the following after clause 14A:

#### 14B Search observation staff members

The following persons are prescribed for the purposes of the definition of *search observation staff member* in section 27A of the Act:

- (a) if available at the place of detention or its immediate vicinity where the relevant search is to be conducted—a welfare officer, psychologist, clerk or alcohol and other drug worker (being a person who is a non-correctional member of staff),
- (b) if a person referred to in paragraph (a) is not so available—any other non-correctional member of staff.