



New South Wales

# Director of Public Prosecutions Regulation 2010

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*.

JOHN HATZISTERGOS, MLC  
Attorney General

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Director of Public Prosecutions Regulation 2005*, which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to 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 police officers investigating alleged indictable offences must disclose to the Director of Public Prosecutions relevant information, documents and things obtained during the investigation,
- (c) savings and formal matters.

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

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, 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 2010

under the

Director of Public Prosecutions Act 1986

### 1 Name of Regulation

This Regulation is the *Director of Public Prosecutions Regulation 2010*.

### 2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Director of Public Prosecutions Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.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) Notes included in this Regulation do not form part of this Regulation.

### 4 Prescribed summary offences

- (1) For the purposes of the definition of *prescribed summary offence* in section 3 (1) of the Act, all summary offences are prescribed, 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
  - (b) in relation to proceedings for a particular offence, if the Minister concerned refers the offence to the Director for prosecution.

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### 5 Prescribed form for police officer disclosure

For the purposes of section 15A (4) of the Act, disclosures by a police officer to the Director must:

- (a) be in the form set out in Schedule 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 the NSW Police Force.

### 6 Savings

Any act, matter or thing that, immediately before the repeal of the *Director of Public Prosecutions Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

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## Schedule 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 the NSW Police Force.

### 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 certificate 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.

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.

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Schedule 1 Disclosure certificate (for prosecutions and advisings)

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**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**

Page        of

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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