

1995—No. 197

## SUMMARY OFFENCES ACT 1988—REGULATION

(Summary Offences (General) Regulation 1995)

NEW SOUTH WALES



*[Published in Gazette No. 63 of 26 May 1995]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Summary Offences Act 1988, has been pleased to make the Regulation set forth hereunder.

J. W. Shaw  
Attorney General.

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### PART 1—PRELIMINARY

#### **Citation**

1. This Regulation may be cited as the Summary Offences (General) Regulation 1995.

#### **Commencement**

2. This Regulation commences on 26 May 1995.

#### **Definitions**

3. (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.

**PART 2—CONFISCATED LIQUOR****Division 1—Procedure following confiscation****Reasons for confiscation**

**4. (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.

**Disposal of confiscated liquor**

**5. (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.

**Information as to custody of confiscated liquor**

**6. (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****Confiscated liquor to be kept at police station**

7. (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.

**Claim for confiscated liquor**

8. (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.

**Acknowledgment of return of confiscated liquor**

9. (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.

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

10. 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—MISCELLANEOUS**

**Notice of intention to hold a public assembly**

**11. (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.

**Repeal**

**12. (1)** The Summary Offences (Public Assemblies) Regulation 1988 and the Summary Offences (Juvenile Drinking) Regulation 1988 are repealed.

**(2)** Any act, matter or thing that, immediately before the repeal of a Regulation referred to in subclause (1), had effect under that Regulation continues to have effect under this Regulation.

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**SCHEDULE 1—FORMS**

**Form 1**

(Cl. 11)

**NOTICE OF INTENTION TO HOLD A PUBLIC ASSEMBLY**

(Summary Offences Act 1988)

To: The Commissioner of Police

1. I, .....  
*(name)*

of .....  
*(address)*

on behalf of .....  
*(organisation)*

notify the Commissioner of Police that on the .....  
*(day)*

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of ..... 19 , it is intended to hold  
(month)

\*(a) a public assembly, not being a procession, of approximately ..... persons,  
which will assemble (number)  
at .....  
(place)  
at approximately ..... a.m./p.m., and disperse at approximately  
..... a.m./p.m.

or

\*(b) a public assembly, being a procession of approximately.....  
(number)  
persons, which will assemble at .....  
(place)  
at approximately ..... a.m./p.m., and at approximately ..... a.m./p.m. the  
procession will commence and proceed

.....  
.....  
.....  
.....  
*(Specify route of proposed assembly, any stopping places, the approximate  
length of the stop and the approximate time of termination. A diagram may be  
attached if desired)*

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 ..... of vehicles and/or\* floats involved and the type  
(number)  
and dimensions are as follows:  
.....  
.....  
.....  
.....

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\*(b) There will be ..... bands, musicians, entertainers etc., which will  
(number)  
entertain 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:.....

Capacity/Title:.....

Date:.....

\* Strike out whichever does not apply.

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SCHEDULE 1—FORMS

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the Summary Offences (Public Assemblies) Regulation 1988 and the Summary Offences (Juvenile Drinking) Regulation 1988. 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 (Part 2);
- (b) the form in which notice of intention to hold a public assembly should be given, and the address of the Commissioner of Police to which such a notice should be sent (clause 11);
- (c) other formal matters (clauses 1, 2, 3 and 12).

This Regulation is made under the Summary Offences Act 1988, including section 35 (the general regulation making power) and sections 11 and 23.

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This Regulation comprises or relates to matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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