

South Australia

Youth Court (Young Offenders) Rules 2016

under the *Youth Court Act 1993*

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1—Short title

These rules may be cited as the *Youth Court (Young Offenders) Rules 2016*.

2—Commencement

These rules will come into operation on 1 January 2017.

3—Interpretation

(1) In these rules—

bail application means an application relating to bail and includes—

- (a) an application for release on bail under sections 4 and 8 of the *Bail Act 1985*;
- (b) an application to revoke a bail agreement or issue a warrant under section 6(4), 18(1) or 19A of the *Bail Act 1985*;
- (c) an application to vary a condition of a bail agreement under section 6(4) of the *Bail Act 1985*;
- (d) an application to vary or revoke a guarantee in respect of a bail agreement under section 7(4) of the *Bail Act 1985*;
- (e) an application for estreatment under section 19 of the *Bail Act 1985*; or
- (f) any other application under the *Bail Act 1985*.

criminal jurisdiction of the Court means the jurisdiction of the Court under the *Young Offenders Act 1993*;

direction of the Court means a practice direction or specific direction or order of the Court; and ***direct*** has a corresponding meaning;

Magistrates Court means the Magistrates Court of South Australia;

Registrar means the Registrar of the Court;

youth has the same meaning as in the *Young Offenders Act 1993*.

4—Application of rules

These rules apply to the jurisdiction of the Court under the *Young Offenders Act 1993* and are to be read together with the *Youth Court (General) Rules 2016*.

5—Object of rules

The object of these rules is the fair, effective, expeditious and efficient conduct of the proceedings of the Court.

6—Power to give directions etc

The Court may, in any proceedings, if it considers it appropriate to do so in particular circumstances, do either or both of the following:

- (a) give directions as to the practice and procedure to be followed in the circumstances;
- (b) dispense with compliance with a provision of these rules (including a provision governing the exercise of a power of the Court).

7—Magistrates Court Rules 1992 to apply

- (1) Subject to any provision of the *Young Offenders Act 1993* or the *Youth Court Act 1993* to the contrary, the *Magistrates Court Rules 1992* will apply to the extent they are relevant to proceedings in the criminal jurisdiction of the Court under the *Young Offenders Act 1993* except as already provided for by these rules but with such adaptation and modification as necessary or as may be set out in the succeeding provisions.
- (2) However, in the event of conflict between a provision of the *Magistrates Court Rules 1992* and a provision of the *Young Offenders Act 1993* or the *Youth Court Act 1993*, the latter provision prevails to the extent of that conflict.

8—Forms

- (1) It is sufficient compliance with these rules, as to the form of any document, if the document is substantially in accordance with the form specified by these rules.
- (2) Forms not provided for by these rules may be prepared at the direction of the Court or by the Registrar on behalf of the Court.
- (3) As far as possible, the relevant forms of the Magistrates Court and those prescribed under the *Bail Act 1985* and the *Sentencing Act 2017* are adopted with such jurisdictional and other adaptation and modifications as necessary.
- (4) All Youth Court forms adopted from the Magistrates Court will bear the heading, signature clauses and any other identifier of the Court as required and will have the same number as the equivalent Magistrates Court form but with the letter ‘Y’ added

Example—

The Magistrates Court *Warrant of Apprehension* is Form 6 and is adapted as Form 6Y for use by the Court.

- (5) The forms set out in the Schedule, not being those adopted from the *Magistrates Court Rules 1992* or prescribed under the *Bail Act 1985* and the *Sentencing Act 2017*, must be used for the purposes specified in the Schedule or these rules and must have a numbering with the prefix *YO*.

Example—

The *Right to Legal Representation* is Form YO1

8A—Bail Act 1985

- (1) Subject to subrules (1) and (4) and (5), a bail application must not be made to the Court without the permission of a Judge or Magistrate of the Court if—

- District
- (a) the bail application relates to a charge in an information laid in the Magistrates Court;
 - (b) the bail application relates to a charge in an information laid in the Supreme Court or Court; or
 - (c) the bail application relates to a charge in an information laid in a court and the youth the subject of the charge has been committed for trial or sentence in the Supreme Court or District Court.
- (2) Subrule (1) does not apply if the charge is the subject of an order transferring the proceeding to the Court.
- (3) A bail application—
- (a) that relates to a charge in an information laid in the Court—must be made by Youth Court bail form 1, 6, 7 or 8 as applicable;
 - (b) otherwise— must be made by Youth Court Application for an Order of the Court Form G1.
- (4) A person who is required by subrule (1) to obtain permission before making a bail application—
- (a) may apply for permission by Youth Court Application for an Order of the Court Form G1; and
 - (b) must include the proposed application relating to bail in the originating application contingently on permission being granted.
- (5) If an application for permission is made under subrule (4), the application relating to bail is contingent on permission being granted and, if permission is refused, the application relating to bail lapses.

9—Election to be treated as an adult

- (1) The form of election pursuant to section 17(3)(b) of the *Young Offenders Act 1993* must comply with Form 8Y as adapted from the *Magistrates Court Rules 1992*.
- (2) The youth charged must be provided with a form of election:
- a) where the youth is served with a summons at the time of service of the summons; and
 - b) in any other case when the youth first appears before the Court.
- (3) An election is made by filing a duly completed form of election in the Court.

Schedule 1 – Forms

Young Offenders Forms:

- Form YO1 – Right to Legal Representation.....
- Form YO2 – Order to Attend Court
- Form YO3 – Order Imposing an Obligation.....
- Form YO5 – Undertakings by Youth and Guardian/s
- Form YO6 – Report Request Form
- Form YO7 – Application and Notice by Youth to Vary or Revoke an Order for Disqualification Made under Section 28(1)
- Form YO8 – Application for a Youth to be Discharged Absolutely from a Detention Order.....
- Form YO9 – Order that a Youth be Discharged Absolutely from a Detention Order.....
- Form YO10 – Application for a Youth of or Above the Age of 18 Years to be Held in Custody in a Prison
- Form YO11 – Application by the Chief Executive of the Department for Child Protection for a Youth or of Above the Age of 17 Years to be Held in Custody in a Prison.....
- Form YO12 – Application to Revoke an Order made under Section 63(4)
- Form YO13 – Order Directing that a Youth of or Above the Age of 17 Years be Held in Custody in a Prison
- Form YO14 – Order Directing that a Youth of or Above the Age of 18 Years be Held in Custody in a Prison
- Form YO15 – Mandate for Home Detention.....
- Form YO16 – Mandate for Detention followed by a Mandate for Home Detention
- Form YO17 – Order of Variation of Home Detention Order
- Form YO18 – Warrant of Apprehension (Breach of Home Detention Order).....
- Form YO19 – Mandate for Detention for a Breach of Home Detention
- Form YO21 – Application Alleging a Breach of a Home Detention Order
- Form YO22 – Application to Vary or Revoke a Condition of a Home Detention Order.....
- Form YO23 – Summons (Breach of Home Detention Order).....
- Form YO24 – Home Detention Order (on breach of an Obligation).....
- Form YO25 – Election Form.....

Bail Forms:

- Form 1 – Application for Release on Bail.....
- Form 2 – Reason for Refusal.....
- Form 3 – Grant of Bail
- Form 4 – Bail Agreement
- Form 5 – Guarantee of Bail
- Form 6 – Application of Review of Bail by Magistrate
- Form 7 – Application to Vary or Revoke Bail
- Form 8 – Application to Vary or Revoke Guarantee.....
- Form 9 – Notice of Withdrawal of Application for Review.....

- Form 10 – Written Record of Reasons s 11(1c)
- Form 11 – Written Record of Reasons s 11(2ad)
- Form 12 – Direction to Surrender Firearms and Ammunition

Dated this 21st day of December 2020.

JUDGE P. ELDRIDGE

MAGISTRATE O. KOEHN

MAGISTRATE D. WHITE

MAGISTRATE A. ADAIR

Please Note: The Schedule of Forms has been updated following Gazettal on 24 December 2020 pursuant to Rule 11(4) of the *Youth Court (General) Rules 2016 (SA)*.

For the most updated version of an individual form, please navigate to the ‘View the individual approved forms’ link via the Youth Court website.