



New South Wales

Children (Criminal Proceedings) Regulation 2011

under the

Children (Criminal Proceedings) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Criminal Proceedings) Act 1987*.

GREG SMITH, MP
Attorney General

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Children (Criminal Proceedings) Regulation 2005*, which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the youth conduct orders scheme, including the eligibility criteria and suitability assessments for participation in the scheme, preparation of conduct plans, applications for interim and final youth conduct orders, and the procedures and functions of Case Coordination Senior Officers' Groups,
- (b) the contents of the background report to be prepared for the purposes of sentencing a child,
- (c) the conditions that may be imposed under good behaviour bonds and probation orders,
- (d) the explanatory material to be provided to children when they are sentenced,
- (e) the officers employed in Juvenile Justice and Corrective Services in the Department of Attorney General and Justice who are authorised officers for the purposes of certain provisions of the Act relating to good behaviour bonds and probation orders,
- (f) formal matters relating to parole orders and warrants of commitment,
- (g) other miscellaneous matters.

This Regulation is made under the *Children (Criminal Proceedings) Act 1987*, including sections 3 (1) (definition of *serious children's indictable offence*) and 25 (2) (a), Part 4A (including section 48W) and section 51 (the general regulation-making power).

2011 No 465

Children (Criminal Proceedings) Regulation 2011

Explanatory note

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature.

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	5
2 Commencement	5
3 Definition	5
Part 2 Youth conduct orders	
Division 1 Preliminary	
4 Definitions	6
5 Prescribed eligibility criteria	7
6 Authorised scheme officers	8
Division 2 Scheme participation approvals	
7 Granting of scheme participation approval	8
Division 3 Suitability assessments	
8 Application for suitability assessment order	9
9 Notification of suitability assessment order by Children's Court	10
10 Suitability assessment of referred child	10
Division 4 Conduct plans	
11 Preparation of interim conduct plan	10
12 Preparation of final conduct plan	11
Division 5 Applications relating to youth conduct orders	
13 Application for interim youth conduct order	12
14 Application for final youth conduct order	12
15 Application for review of final youth conduct order	13
16 Application relating to non-compliance with youth conduct order	13
17 Application relating to compliance with youth conduct order	13
Division 6 Reports	
18 Compliance reports	14
19 Scheme operation reports	14

2011 No 465

Children (Criminal Proceedings) Regulation 2011

Contents

	Page
Division 7 Case Coordination Senior Officers' Groups	
20 Director-General to establish Case Coordination Senior Officers' Groups	14
21 Constitution of Coordination Groups	14
22 Chairpersons of Coordination Groups	15
23 Functions of Coordination Groups	16
24 Substitutes	16
25 Procedure	16
Division 8 Scheme directions	
26 Director-General may issue scheme directions	17
Division 9 Miscellaneous	
27 Delegations by Director-General	18
28 Respondent in appeals under section 48O of Act	18
29 Disclosure and exchange of information	18
30 Evaluation and monitoring of scheme	19
Part 3 Miscellaneous	
31 Definitions	20
32 Serious children's indictable offence	20
33 Lists of adults willing to attend interviews	20
34 Background reports	20
35 Conditions that may be imposed under certain orders	21
36 Explanatory material for orders	21
37 Authorised officers	22
38 Consultation required before conditions as to residence or treatment imposed on parole	22
39 Parole orders	23
40 Warrants of commitment	23
41 Savings	23

Children (Criminal Proceedings) Regulation 2011

under the

Children (Criminal Proceedings) Act 1987

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Children (Criminal Proceedings) Regulation 2011*.

2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Children (Criminal Proceedings) Regulation 2005* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Children (Criminal Proceedings) Act 1987*.

(2) Notes included in this Regulation do not form part of this Regulation.

2011 No 465

Clause 4 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

Part 2 Youth conduct orders

Division 1 Preliminary

4 Definitions

In this Part:

appropriate Coordination Group for a child means:

- (a) in relation to the referral of a child for a suitability assessment by a suitability assessment order—the Coordination Group for the participating Local Area Command that the Children’s Court considers appropriate for the child, or
- (b) in relation to any application or report concerning a youth conduct order made with respect to the child—the Coordination Group for the participating Local Area Command that prepared the interim or final conduct plan for the child adopted by the Children’s Court in the order.

approved form means a form approved by the Director-General.

authorised police officer means any of the following:

- (a) a youth liaison officer (within the meaning of the *Young Offenders Act 1997*),
- (b) a Youth Case Manager for a Police Community Youth Club,
- (c) any other police officer (other than a senior police officer) who has completed a course of training in relation to youth conduct orders of a kind approved by the Director-General.

authorised scheme officer means any of the following:

- (a) the Director-General,
- (b) an authorised police officer,
- (c) any other person appointed (or belonging to a class of persons appointed) under clause 6 by the Director-General as an authorised scheme officer for the purposes of the provision in which the expression is used.

compliance report—see clause 18.

Coordination Group means a Case Coordination Senior Officers’ Group established under Division 7.

Director-General means the Director-General of the Department of Premier and Cabinet.

participating Local Area Command means any of the following areas designated by the Commissioner of Police as a Local Area Command for the NSW Police Force:

- (a) Blacktown Local Area Command,

-
- (b) Campbelltown Local Area Command,
 - (c) Liverpool Local Area Command,
 - (d) Macquarie Fields Local Area Command,
 - (e) Mount Druitt Local Area Command,
 - (f) New England Local Area Command,
 - (g) St Marys Local Area Command.

referred child means a child who has been referred to a Coordination Group for a suitability assessment.

scheme directions means directions given by the Director-General under Division 8.

senior police officer means a police officer of or above the rank of Superintendent.

5 Prescribed eligibility criteria

- (1) The following eligibility criteria (referred to in this Part as the **prescribed eligibility criteria**) are prescribed for the purposes of section 48E of the Act as the criteria that a person must meet to be eligible to participate in the scheme:
 - (a) the person concerned was 14 years old or older (but less than 18 years old) at the time that the offence was committed or alleged to have been committed,
 - (b) the person concerned is less than 19 years old at the time it is first proposed to make a youth conduct order with respect to the person concerning the offence or alleged offence,
 - (c) there is an appropriate connection with a participating Local Area Command,
 - (d) the Children's Court has not yet imposed a penalty on the person concerned for the offence or alleged offence.
- (2) There is an appropriate connection with a participating Local Area Command for the purposes of subclause (1) (c) if either or both of the following conditions are met:
 - (a) the person concerned permanently or temporarily resides in, or is an habitual visitor to, the area of the Command,
 - (b) the relevant offence (or, in the case where more than one relevant offence is sought to be dealt with, at least one of the offences) was committed, or alleged to have been committed, in the area of the Command.
- (3) A person who is 18 years old or older (but less than 21 years old) continues to be eligible to participate in the scheme in relation to a

2011 No 465

Clause 6 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

relevant offence if the person met the prescribed eligibility criteria when he or she entered the scheme.

Note. Section 48E (3) of the Act provides that if the regulations make provision for persons who are no longer children to continue to be eligible to participate in the scheme, the other provisions of that Part (and any provisions of the regulations made for the purposes of that Part) extend to such persons as if they were still children.

- (4) A person who ceases to meet the eligibility criteria referred to in subclause (1) (c) continues to be eligible to participate in the scheme in relation to a relevant offence if the person met the prescribed eligibility criteria when he or she entered the scheme.
- (5) Despite subclauses (1)–(4), a person is not eligible to participate in the scheme in relation to an offence if:
 - (a) the person is charged with the offence after 25 February 2012, or
 - (b) in the case where the person was charged with the offence on or before 25 February 2012—the person has not been referred to a Coordination Group for suitability assessment on or before that day.

6 Authorised scheme officers

- (1) The Director-General may, by order, appoint:
 - (a) a person (other than a police officer) as an authorised scheme officer for the purposes of any or all of the provisions of this Part, or
 - (b) persons (other than police officers) belonging to a class of persons as authorised scheme officers for the purposes of any or all of the provisions of this Part.
- (2) The Director-General may at any time and for any reason revoke any such appointment.

Division 2 Scheme participation approvals

7 Granting of scheme participation approval

- (1) An authorised police officer may grant a scheme participation approval for the potential participation of a child in the scheme in relation to a relevant offence committed (or alleged to have been committed) by the child if:
 - (a) the officer is satisfied that:
 - (i) the child meets the prescribed eligibility criteria, and
 - (ii) it would not be appropriate for the child to be dealt with under the *Young Offenders Act 1997*, and

-
- (b) the officer considers that it is appropriate for the child to be dealt with under the scheme having regard to:
 - (i) the seriousness of the relevant offence concerned, and
 - (ii) the degree of violence, if any, involved in the offence, and
 - (iii) any harm caused to any victim of the offence, and
 - (iv) the number and nature of any previous offences (whether or not relevant offences) committed by the child, and
 - (v) the number of times, if any, that the child has been dealt with under the *Young Offenders Act 1997*, and
 - (c) the officer has obtained the written concurrence of a senior police officer to the granting of the approval.
- (2) A scheme participation approval must:
 - (a) be in the approved form (if any), and
 - (b) state the reasons, in accordance with the scheme directions, why it is appropriate for the child to be considered for participation in the scheme.
 - (3) An authorised police officer who grants a scheme participation approval must provide the Children's Court with a copy of the approval (along with a copy of the written concurrence of a senior police officer) as soon as is reasonably practicable after granting the approval.

Division 3 Suitability assessments

8 Application for suitability assessment order

- (1) An authorised scheme officer is authorised for the purposes of section 48G (3) (c) of the Act to make applications to the Children's Court for a suitability assessment order with respect to a child.
- (2) An application may only be made if:
 - (a) a scheme participation approval for the child has been granted, and
 - (b) a notice of intention to make the application in the approved form (if any) has been filed with the Court, and
 - (c) the officer is satisfied that the application conforms with any relevant scheme directions.
- (3) An application may be made by an authorised scheme officer who is not an authorised police officer before a scheme participation approval for the child has been granted if the Children's Court is satisfied that it was not possible in the circumstances for the approval to be granted in time for the hearing of the application.

2011 No 465

Clause 9 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

9 Notification of suitability assessment order by Children's Court

If the Children's Court makes a suitability assessment order with respect to a child, the Court must, within 7 days after making the order, ensure that:

- (a) the appropriate Coordination Group for the child is notified in writing that the Court has made the order, and
- (b) a copy of the scheme participation approval (if any) for the child is provided to the Group.

10 Suitability assessment of referred child

- (1) A Coordination Group must carry out a suitability assessment of a referred child within 21 days (or such further period as the Children's Court may allow) after it is notified of the suitability assessment order.
- (2) The assessment must be carried out in accordance with the scheme directions, subject to subclause (3).
- (3) Without limiting the grounds on which a Coordination Group may find that a referred child is not suitable to participate in the scheme, a Coordination Group may determine that a referred child is not suitable to participate in the scheme because:
 - (a) the child does not meet any of the prescribed eligibility criteria, or
 - (b) the child is not eligible to participate in the scheme because of clause 5 (5).
- (4) If a Coordination Group makes such a determination, the Group may proceed immediately to report its determination as to the suitability of the child to the Children's Court without having to carry out any further processes in relation to the assessment of the child.
- (5) A Coordination Group must report to the Children's Court on the suitability of the referred child to participate in the scheme in the approved form (if any) at any time before the child's next appearance before the Court in relation to the matter.

Note. A youth conduct order cannot be made with respect to a child who has been found unsuitable to participate in the scheme following a suitability assessment. See section 48L (3) (b) of the Act.

Division 4 Conduct plans

11 Preparation of interim conduct plan

- (1) A Coordination Group is to prepare an interim conduct plan for a referred child only if it has found, following the carrying out of a

suitability assessment, that the child is suitable for participation in the scheme.

- (2) An interim conduct plan must be:
 - (a) prepared in accordance with the scheme directions and the requirements of section 48J (2) of the Act, and
 - (b) in the approved form (if any), and
 - (c) endorsed by the Coordination Group that prepared it.

Note. Section 48J (2) of the Act provides that an interim conduct plan may include conduct restriction provisions and positive conduct provisions only.
- (3) An interim conduct plan prepared by a Coordination Group must be provided to the Children's Court with the Coordination Group's report on the suitability assessment of the child.
- (4) A Coordination Group may revise the terms of an interim conduct plan it has prepared if requested to do so by the Children's Court.

12 Preparation of final conduct plan

- (1) If the Children's Court makes an interim youth conduct order with respect to a child that approves an interim conduct plan prepared by a Coordination Group, the Coordination Group is to arrange one or more meetings with the child in order to prepare a final conduct plan for the child.
- (2) The Coordination Group is to endeavour to ensure that a parent (or person responsible for the child) is present at all times during any such meetings unless:
 - (a) the child requests otherwise, or
 - (b) the Group considers that it would be inappropriate in the circumstances.
- (3) The Coordination Group must give a child an opportunity to review a proposed final conduct plan before the Group endorses the plan.
- (4) A final conduct plan must be:
 - (a) prepared in accordance with the scheme directions and the requirements of section 48K (2) of the Act, and
 - (b) in the approved form, and
 - (c) endorsed by the Coordination Group that prepared it.

Note. Section 48K (2) of the Act provides that a final conduct plan may include conduct restriction provisions and positive conduct provisions only.
- (5) The final conduct plan must be provided to the Children's Court before the date on which the child is next due to appear before the Children's Court in relation to the matter.

2011 No 465

Clause 13 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

- (6) A Coordination Group may revise the terms of a final conduct plan it has prepared if requested to do so by the Children's Court.

Division 5 Applications relating to youth conduct orders

13 Application for interim youth conduct order

- (1) An authorised scheme officer is authorised for the purposes of section 48L (2) (c) of the Act to make applications to the Children's Court for an interim youth conduct order with respect to a child.
- (2) An application may only be made if:
 - (a) a scheme participation approval for the child has been granted, and
 - (b) a notice of intention to make the application in the approved form (if any) has been filed with the Court, and
 - (c) the officer is satisfied that the application conforms with any relevant scheme directions.
- (3) An application may be made by an authorised scheme officer who is not an authorised police officer before a scheme participation approval for the child has been granted if the Children's Court is satisfied that it was not possible in the circumstances for the approval to be granted in time for the hearing of the application.
- (4) An application must be made on or before the date on which the child is next due to appear before the Children's Court in relation to the matter.
- (5) An application must be accompanied by a copy of:
 - (a) the report of the suitability assessment conducted by the appropriate Coordination Group for the child, and
 - (b) the interim conduct plan prepared by the appropriate Coordination Group for the child.

14 Application for final youth conduct order

- (1) An authorised scheme officer is authorised for the purposes of section 48L (2) (c) of the Act to make applications to the Children's Court for a final youth conduct order with respect to a child.
- (2) An application may only be made if:
 - (a) the appropriate Coordination Group for the child has endorsed a final conduct plan for the child to be submitted to the Court for its consideration and approval in framing the terms of such an order, and
 - (b) the officer is satisfied that the application conforms with any relevant scheme directions.

-
- (3) An application must be:
- (a) made on or before the date on which the child is next due to appear before the Children’s Court in relation to the matter, and
 - (b) accompanied by a copy of the final conduct plan prepared by the appropriate Coordination Group for the child.

15 Application for review of final youth conduct order

- (1) An authorised scheme officer is authorised for the purposes of section 48N (1) (c) of the Act to make applications to the Children’s Court for a review of a youth conduct order with respect to a child.
- (2) An application may only be made if the officer is satisfied that the application conforms with any relevant scheme directions.

16 Application relating to non-compliance with youth conduct order

- (1) An authorised scheme officer may make an application to the Children’s Court under section 48P (1) of the Act.
- (2) An application may only be made if:
 - (a) the appropriate Coordination Group for the child has prepared a compliance report in relation to the youth conduct order concerned, and
 - (b) the officer is satisfied that the application conforms with any relevant scheme directions.
- (3) An application must be accompanied by a copy of the compliance report.

17 Application relating to compliance with youth conduct order

- (1) An authorised scheme officer may make an application to the Children’s Court under section 48R (1) of the Act.
- (2) An application may be made only if:
 - (a) the appropriate Coordination Group for the child has prepared a compliance report in relation to the final youth conduct order concerned, and
 - (b) the officer is satisfied that the application conforms with any relevant scheme directions.
- (3) An application must be accompanied by a copy of the compliance report.

2011 No 465

Clause 18 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

Division 6 Reports

18 Compliance reports

- (1) The appropriate Coordination Group for a child may, in accordance with the scheme directions and at the request of a member of the Group or the Children's Court, prepare a report (a *compliance report*) for submission to the Court on the child's compliance with a youth conduct order made with respect to the child.
- (2) The report is to be in the approved form (if any).

19 Scheme operation reports

The Director-General may require a Coordination Group for a participating Local Area Command to report to the Director-General on the operation of the scheme in relation to that Command at the times and in the manner directed by the Director-General from time to time.

Division 7 Case Coordination Senior Officers' Groups

20 Director-General to establish Case Coordination Senior Officers' Groups

The Director-General is to establish a Case Coordination Senior Officers' Group (a *Coordination Group*) for each participating Local Area Command.

21 Constitution of Coordination Groups

- (1) For the purposes of transacting any of its business, each Coordination Group is to be constituted by the following members:
 - (a) 1 police officer nominated in writing by the Commissioner of Police (or his or her delegate) to represent the NSW Police Force,
 - (b) at least 1 person (but not more than 3 persons) nominated in writing by the Director-General of Department of Attorney General and Justice (or his or her delegate) to represent the Department, including at least one person from the Juvenile Justice Branch of that Department,
 - (c) at least 1 person (but not more than 3 persons) nominated in writing by the Director-General of the Department of Family and Community Services (or his or her delegate) to represent the Department,
 - (d) at least 1 person (but not more than 2 persons) nominated in writing by the Director-General of the Department of Education and Communities (or his or her delegate) to represent the Department,

-
- (e) 1 person nominated in writing by the chief executive of a local health district (or his or her delegate), being a local health district that is designated by the Director-General as the appropriate local health district to make the nomination for the Group.
- (2) In addition, each of the following heads of government agencies may nominate in writing 1 person to represent the agency in a Coordination Group:
- (a) the Director-General of the Department of Premier and Cabinet,
 - (b) the Director-General of the Department of Health,
 - (c) the Chief Executive of Justice Health,
 - (d) the Managing Director of the TAFE Commission.
- (3) Each member of a Coordination Group who is nominated by the Division Head of a Division of the Government Service (or by his or her delegate) must be a member of the Government Service.
- (4) A person who is authorised to nominate a person to be a member of a Coordination Group may nominate a person for a specified period or for a particular meeting or meetings, and may revoke any such nomination at any time and for any reason.
- (5) The Chairperson of a Coordination Group is:
- (a) to keep copies of the written nominations of persons to be members of the Group that are relevant for each meeting of the Group, and
 - (b) to cause the name of each person present at a meeting of the Group (along with the name of the government agency that he or she represents) to be included in the minutes of the meeting.
- (6) It is to be presumed (unless the contrary is established) that a person was duly nominated to represent a government agency at a meeting of a Coordination Group if the minutes of the meeting indicate that the person attended the meeting as the representative of the agency.

22 Chairpersons of Coordination Groups

- (1) The Director-General is to appoint one of the members of a Coordination Group as the Chairperson of the Group.
- (2) The Director-General may remove a person from office as the Chairperson at any time and for any reason.

2011 No 465

Clause 23 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

- (3) A person who is Chairperson vacates office as Chairperson if the person:
- (a) is removed from office by the Director-General, or
 - (b) resigns that office by instrument in writing addressed to the Director-General.

23 Functions of Coordination Groups

The functions of each Coordination Group include (but are not limited to) the following functions:

- (a) assessing and reporting on the suitability of a child that is referred to it for suitability assessment,
- (b) monitoring, evaluating and reporting on the scheme and compliance with youth conduct orders in connection with the participating Local Area Command for which the Group was established,
- (c) the preparation of interim and final conduct plans for the consideration and approval of the Children's Court,
- (d) such other functions as may be imposed or conferred on the Group by this Part or the scheme directions.

24 Substitutes

- (1) A member of a Coordination Group may appoint a person to be a substitute to act in the place of the member during any absence of the member from a meeting of the Group.
- (2) Subject to this Division, a substitute acting as a member has and may exercise all the functions of a member and is deemed to be a member.
- (3) A member may not appoint another member to be a substitute, and a substitute may not appoint another person to be a substitute under this clause.
- (4) A substitute appointed by the Chairperson does not have, by virtue of this clause, the function of presiding at a meeting of the Committee.
- (5) A person may not be appointed as a substitute unless the person is a member of the Government Service.

25 Procedure

- (1) The procedure for the calling of meetings of a Coordination Group and for the conduct of business at those meetings is, subject to the scheme directions and this Division, to be as determined by the Coordination Group.

-
- (2) The quorum for a meeting of a Coordination Group is the following members of the Group:
 - (a) the police officer representing the NSW Police Force,
 - (b) 1 person representing the Juvenile Justice Branch of the Department of Attorney General and Justice,
 - (c) 1 person representing the Department of Family and Community Services,
 - (d) 1 person representing the Education and Training Branch of the Department of Education and Communities,
 - (e) the person nominated by the chief executive of the appropriate local health district.
 - (3) A Coordination Group is taken to have made a decision if the decision is supported by a majority of the votes cast at a meeting of the Group at which a quorum is present.
 - (4) The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Coordination Group who are present at a meeting of the Group) is to preside at a meeting of the Group.
 - (5) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Division 8 Scheme directions

26 Director-General may issue scheme directions

- (1) The Director-General may, by order published in the Gazette, issue directions, not inconsistent with this Part or the Act, for or with respect to any or all of the following matters:
 - (a) the carrying out of suitability assessments,
 - (b) the provisions in conduct plans,
 - (c) the training to be undertaken by persons involved in the administration of the scheme (including authorised police officers),
 - (d) the granting of scheme participation approvals,
 - (e) the granting of approvals under clause 29,
 - (f) the making of applications to the Children's Court by authorised scheme officers,
 - (g) the procedure for meetings of Coordination Groups,

2011 No 465

Clause 27 Children (Criminal Proceedings) Regulation 2011

Part 2 Youth conduct orders

- (h) the functions of Coordination Groups and members of the Groups in connection with the scheme or the carrying out of suitability assessments,
 - (i) any other matter in respect of which scheme directions are permitted or required by this Part.
- (2) The Director-General may from time to time amend, revoke or replace the scheme directions by further order published in the Gazette.
- (3) Without limiting subclause (1), the scheme directions may include provisions that:
 - (a) apply generally, or
 - (b) apply only in relation to specified persons, courts, groups or other bodies, or
 - (c) apply only in specified circumstances, or
 - (d) do a combination of the things referred to in paragraphs (a), (b) and (c).

Division 9 Miscellaneous

27 Delegations by Director-General

The Director-General may delegate to a member of the Government Service the exercise of any of the Director-General's functions under this Part (other than this power of delegation) or section 48U of the Act.

28 Respondent in appeals under section 48O of Act

The Crown is designated as the respondent in any appeal by a child under section 48O of the Act.

29 Disclosure and exchange of information

- (1) Each of the following persons may, by an order in writing, approve a person or body (or a class of persons or bodies) for the purposes of section 48T (3) (f) or (g) of the Act or the definition of *relevant agency* in section 48U (5) of the Act:
 - (a) the Director-General,
 - (b) a Chairperson of a Coordination Group.
- (2) The Director-General and each Chairperson of a Coordination Group are prescribed for the purposes of the definition of *relevant administrator* in section 48U (5) of the Act.

-
- (3) The Director-General may, by order in writing, approve a person (or a class of persons) involved in the administration of the SCSF Program for the purposes of the definition of *relevant administrator* in section 48U (5) of the Act.
- (4) The Director-General or Chairperson may from time to time amend, revoke or replace any approval given under this clause by the Director-General or Chairperson by further order in writing.

30 Evaluation and monitoring of scheme

- (1) A participating State agency is to co-operate with the Director-General in the exercise of the Director-General's functions under this Part concerning the evaluation and monitoring of the operation and effect of the scheme, including complying with any reasonable request of the Director-General for information for use in such monitoring and evaluation.
- (2) In this clause:
- participating State agency* means any of the following:
- (a) the Department of Attorney General and Justice,
 - (b) the Department of Education and Communities,
 - (c) the Department of Family and Community Services,
 - (d) the Department of Health,
 - (e) the NSW Police Force,
 - (f) Justice Health,
 - (g) the TAFE Commission,
 - (h) a local health district referred to in clause 21 (1) (e).

2011 No 465

Clause 31 Children (Criminal Proceedings) Regulation 2011

Part 3 Miscellaneous

Part 3 Miscellaneous

31 Definitions

In this Part:

applied Act means the *Crimes (Sentencing Procedure) Act 1999*, as applied by section 33C of the *Children (Criminal Proceedings) Act 1987*.

approved form means a form approved by the Minister.

parole order means an order, whether made under the applied Act or otherwise, directing the release of a detainee from a detention centre on parole.

32 Serious children's indictable offence

An offence arising under section 80A of the *Crimes Act 1990* in which the victim of the offence was under the age of 10 years when the offence occurred is prescribed as a serious children's indictable offence.

33 Lists of adults willing to attend interviews

The Commissioner of Police may arrange for the preparation and maintenance of lists of adults who are willing to be called on to be present when a child is making or giving any statement, confession, admission or information as referred to in section 13 of the Act.

34 Background reports

For the purposes of section 25 (2) (a) of the Act, a background report must be in the approved form and must deal with such of the following matters as are relevant to the circumstances surrounding the commission of the offence concerned:

- (a) the person's family background,
- (b) the person's employment,
- (c) the person's education,
- (d) the person's friends and associates,
- (e) the nature and extent of the person's participation in the life of the community,
- (f) the person's disabilities (if any),
- (g) the person's antecedents,
- (h) such other matters as the Children's Court may require,
- (i) such other matters as the prosecutor considers appropriate to include in the report.

35 Conditions that may be imposed under certain orders

- (1) The kinds of conditions that may be imposed in relation to an order made in respect of a child under section 33 of the Act that provides for the child to enter into a good behaviour bond or releases the child on probation include the following:
 - (a) conditions requiring the child to attend school regularly,
 - (b) conditions relating to the child's employment,
 - (c) conditions aimed at preventing the child from committing further offences,
 - (d) conditions relating to the child's place of residence,
 - (e) conditions requiring the child to undergo counselling or medical treatment,
 - (f) conditions limiting or prohibiting the child from associating with specified persons,
 - (g) conditions limiting or prohibiting the child from frequenting specified premises,
 - (h) conditions requiring the child to comply with the directions of a specified person in relation to any matter referred to in paragraphs (a)–(g),
 - (i) conditions relating to such other matters as the court considers appropriate in relation to the child.
- (2) If the Children's Court makes an order releasing a person on probation under section 33 (1) (e) of the Act and also makes an order requiring the person to perform community service work under section 33 (1) (f) of the Act, the order releasing the person on probation may include a condition that requires the person to comply with the community service work order.

36 Explanatory material for orders

- (1) The Minister is to arrange for the preparation and maintenance of material to be given to children the subject of orders under section 33 (1) of the Act.
- (2) The material must be expressed in language readily capable of being understood by children and must include a description of the following, in relation to any particular order:
 - (a) the requirements imposed by the order,
 - (b) the consequences that may follow if those requirements are not observed,
 - (c) the rights of appeal that exist in relation to the order,

2011 No 465

Clause 37 Children (Criminal Proceedings) Regulation 2011

Part 3 Miscellaneous

- (d) the rights (if any) that exist in relation to the variation of the order,
 - (e) the grounds on which an application for such a variation may be made.
- (3) The person responsible for supplying the material to a particular child must make all reasonable efforts to explain the material orally to the child.

37 Authorised officers

- (1) The following officers employed in the Juvenile Justice Branch of the Department of Attorney General and Justice are declared to be authorised officers for the purposes of Division 5 of Part 3 of the Act:
- (a) Chief Executive,
 - (b) Deputy Chief Executive (Operations),
 - (c) Regional Directors,
 - (d) Assistant Regional Directors,
 - (e) Managers, Juvenile Justice Community Services,
 - (f) Assistant Managers, Juvenile Justice Community Services,
 - (g) Chief Psychologist,
 - (h) Juvenile Justice Officers,
 - (i) Juvenile Justice Counsellors,
 - (j) Juvenile Justice Professional Development Officers,
 - (k) Conference Administrators.
- (2) Officers employed as probation and parole officers in Corrective Services NSW, Department of Attorney General and Justice are declared to be authorised officers for the purposes of Division 5 of Part 3 of the Act.

38 Consultation required before conditions as to residence or treatment imposed on parole

- (1) Before the Children's Court makes a parole order containing terms or conditions relating to residence or treatment, the court:
- (a) must consider a report from a juvenile justice officer as to the offender's circumstances, and
 - (b) must satisfy itself, having regard to the juvenile justice officer's report, that it is feasible to secure compliance with the terms or conditions.
- (2) Before the Children's Court makes a parole order containing terms or conditions requiring the co-operation of a person other than the offender

or a juvenile justice officer, the consent of the person to the specification of those terms and conditions in so far as they require the person's co-operation must be obtained.

39 Parole orders

- (1) A parole order made by the Children's Court must be in the approved form.
- (2) A copy of the order must be given to the offender, and further copies are to be sent to the following persons:
 - (a) the centre manager of the detention centre in which the offender is to be kept,
 - (b) the Director-General of the Department of Attorney General and Justice.
- (3) Copies of the order sent to the centre manager of the detention centre are, if practicable, to be sent so as to arrive at the detention centre at or before the time the detainee arrives.

40 Warrants of commitment

A warrant of commitment referred to in section 62 of the applied Act must be in the approved form.

41 Savings

Any act, matter or thing that, immediately before the repeal of the *Children (Criminal Proceedings) Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.