



New South Wales

# Children's Court Regulation 2014

under the

Children's Court Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children's Court Act 1987*.

BRAD HAZZARD, MP  
Attorney General

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Children's Court Regulation 2009* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) an appeal under certain Acts in relation to a decision of the Children's Court is, if the decision concerned is made by the President of that court, to be an appeal to the Supreme Court instead of to the District Court,
- (b) savings and formal matters.

This Regulation is made under the *Children's Court Act 1987*, including sections 22A (5) and clause 1 of Schedule 2.

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

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## Children's Court Regulation 2014

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### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Children's Court Regulation 2014*.

#### 2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Children's Court Regulation 2009*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definition

(1) In this Regulation:

*the Act* means the *Children's Court Act 1987*.

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

## Part 2 Appeals in relation to decisions of Presidential Children's Court

### 4 Definitions

In this Part, *appeal*, *decision* and *Presidential Children's Court* have the same meanings as in section 22A of the Act.

### 5 Appeals etc under Children and Young Persons (Care and Protection) Act 1998

- (1) An appeal or review under any of the following sections of the *Children and Young Persons (Care and Protection) Act 1998* is, if the appeal or review relates to a decision of the Presidential Children's Court, taken to be an appeal to (or a review by) the Supreme Court and is subject to any relevant rules of court applying to appeals to (or reviews by) the Supreme Court:
  - (a) section 91 (Appeals),
  - (b) section 91I (Right of appeal) (as inserted by the *Child Protection Legislation Amendment Act 2014*),
  - (c) section 109V (Powers of District Court and Children's Court to hear fresh bail application),
  - (d) section 231K (Appeals),
  - (e) section 231O (Appeals).
- (2) For the purposes of subclause (1), a reference to the District Court in section 91, 91I, 109V, 231C (1) (b), 231G (b), 231K or 231O of the *Children and Young Persons (Care and Protection) Act 1998* is to be construed as including a reference to the Supreme Court.

### 6 Appeals under Crimes (Appeal and Review) Act 2001

- (1) An appeal under Part 3 of the *Crimes (Appeal and Review) Act 2001* is, if the appeal relates to a decision of the Presidential Children's Court, taken to be an appeal to the Supreme Court and is subject to any relevant rules of court applying to appeals to the Supreme Court.
- (2) For the purposes of subclause (1):
  - (a) a reference in Part 3 of the *Crimes (Appeal and Review) Act 2001* to the District Court is to be construed as including a reference to the Supreme Court, and
  - (b) a reference in that Part to the proclaimed place in relation to any such appeal is to be disregarded.

### 7 Appeals relating to apprehended violence orders

- (1) An appeal under section 84 (2) of the *Crimes (Domestic and Personal Violence) Act 2007* is, if the appeal relates to a decision of the Presidential Children's Court, taken to be an appeal to the Supreme Court and is subject to any relevant rules of court applying to appeals to the Supreme Court.
- (2) For the purposes of subclause (1), a reference to the District Court in section 39 (3), 40 (4), 45 (7), 75 (2), 84, 85 (3) or 93 of the *Crimes (Domestic and Personal Violence) Act 2007* is to be construed as including a reference to the Supreme Court.

### 8 Appeals relating to forfeiture orders under Schedule 2 to Bail Act 2013

- (1) An appeal under clause 17 of Schedule 2 to the *Bail Act 2013* is, if the appeal relates to a decision of the Presidential Children's Court, taken to be an appeal to the

Supreme Court and is subject to any relevant rules of court applying to appeals to the Supreme Court.

- (2) For the purposes of subclause (1), a reference to the District Court in clause 17 of Schedule 2 to the *Bail Act 2013* is to be construed as including a reference to the Supreme Court.
- (3) For the avoidance of doubt, clause 6 extends to appeals under Part 3 of the *Crimes (Appeal and Review) Act 2001* as applied to decisions of the Presidential Children's Court by clause 17 of Schedule 2 to the *Bail Act 2013* (as modified by this clause).

#### **9 Appeals relating to youth conduct orders**

- (1) An appeal under section 48O of the *Children (Criminal Proceedings) Act 1987* is, if the appeal relates to a decision of the Presidential Children's Court, taken to be an appeal to the Supreme Court and is subject to any relevant rules of court applying to appeals to the Supreme Court.
- (2) For the purposes of subclause (1), a reference to the District Court in section 48N or 48O of the *Children (Criminal Proceedings) Act 1987* is to be construed as including a reference to the Supreme Court.

## **Part 3 Miscellaneous**

### **10 Savings**

- (1) Any act, matter or thing that, immediately before the repeal of the *Children's Court Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Without limiting subclause (1) or section 30 of the *Interpretation Act 1987*, the repeal of clauses 10 and 11 of the *Children's Court Regulation 2009* does not affect the continued operation of those clauses.