



New South Wales

# **Children (Detention Centres) Amendment (Day Leave and Overnight Leave) Regulation 1996**

under the

Children (Detention Centres) Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Detention Centres) Act 1987*.

RONALD DYER, M.L.C.,

Minister for Community Services

## **Explanatory note**

The object of this Regulation is to enable a detainee's entitlement to day leave and overnight leave to be calculated on the basis that consecutive detention periods are to be considered as if they were a single detention period. The current provisions of the *Children (Detention Centres) Regulation 1995* prevent a detainee who is subject to consecutive detention periods from being granted leave until his or her final detention period has begun to run and the fixed portion of that detention period has elapsed.

This Regulation is made under the *Children (Detention Centres) Act 1987*, including section 45 (the general regulation making power).

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## Children (Detention Centres) Amendment (Day Leave and Overnight Leave) Regulation 1996

### 1 Name of Regulation

This Regulation is the *Children (Detention Centres) Amendment (Day Leave and Overnight Leave) Regulation 1996*.

### 2 Commencement

This Regulation commences on 1 July 1996.

### 3 Amendment of Children (Detention Centres) Regulation 1995

The *Children (Detention Centres) Regulation 1995* is amended as set out in Schedule 1.

### 4 Notes

The explanatory note does not form part of this Regulation.

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## Schedule 1    Amendment of Children (Detention Centres) Regulation 1995

(Clause 3)

### [1]    Clause 32 Definitions

Insert after the definition of *day leave*:

*fixed term* has the same meaning as it has in the *Sentencing Act 1989*.

*minimum term* has the same meaning as it has in the *Sentencing Act 1989*.

*serious indictable offence* has the same meaning as it has in the *Children (Criminal Proceedings) Act 1987*.

### [2]    Clause 34 Day leave

Omit the clause. Insert instead:

#### **34 Day leave**

- (1) Day leave must not be granted to a person subject to control unless the prescribed portion of each detention period being served by the person has expired.
- (2) Subject to subclause (3):
  - (a) if 2 or more detention periods are ordered to be served consecutively, the prescribed portions of each of those periods are also taken to run consecutively, so that:
    - (i) the first portion begins on the date on which the first detention period begins, and
    - (ii) each of the subsequent portions begins on the date immediately following the date on which the preceding portion ends, and
  - (b) if 2 or more detention periods are ordered to be served concurrently, the prescribed portions of each of those periods are also taken to run concurrently.

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Schedule 1      Amendment of Children (Detention Centres) Regulation 1995

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(3) However, if 2 or more detention orders are imposed in different proceedings, the prescribed portion of a detention period arising from a detention order imposed in the second or subsequent proceedings is not taken to have begun before the date on which that order is imposed.

(4) In this clause:

*prescribed portion* of a detention period means:

- (a) one half of the fixed term or minimum term of the detention period, for a serious indictable offence committed by a classified person, and
- (b) one third of the fixed term or minimum term of the detention period, for any other indictable offence committed by a classified person, and
- (c) one quarter of the fixed term or minimum term of the detention period:
  - (i) for any other offence committed by a classified person, or
  - (ii) for any offence (whether indictable or otherwise) committed by a person who is not a classified person.

**[3] Clause 35 Overnight leave**

Omit the clause. Insert instead:

**35 Overnight leave**

- (1) Overnight leave must not be granted to a person subject to control unless the prescribed portion of each detention period being served by the person has expired.
- (2) Subject to subclause (3):
  - (a) if 2 or more detention periods are ordered to be served consecutively, the prescribed portions of each of those periods are also taken to run consecutively, so that:

- (i) the first portion begins on the date on which the first detention period begins, and
    - (ii) each of the subsequent portions begins on the date immediately following the date on which the preceding portion ends, and
  - (b) if 2 or more detention periods are ordered to be served concurrently, the prescribed portions of each of those periods are also taken to run concurrently.
- (3) However, if 2 or more detention orders are imposed in different proceedings, the prescribed portion of a detention period arising from a detention order imposed in the second or subsequent proceedings is not taken to have begun before the date on which that order is imposed.
- (4) In this clause:

***prescribed portion*** of a detention period means:

- (a) two thirds of the fixed term or minimum term of the detention period, for an indictable offence (whether or not a serious indictable offence) committed by a classified person, and
- (b) one half of the fixed term or minimum term of the detention period:
  - (i) for any other offence committed by a classified person, or
  - (ii) for any offence (whether indictable or otherwise) committed by a person who is not a classified person.