



New South Wales

# **Children (Detention Centres) Amendment (Parole) Regulation 2000**

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*.

CARMEL TEBBUTT, M.L.C.,

Minister for Juvenile Justice

## **Explanatory note**

The object of this Regulation is to transfer to the *Children (Detention Centres) Regulation 1995* certain provisions of the repealed *Sentencing (Children) Regulation 1995* in relation to parole.

This Regulation is made under the *Children (Detention Centres) Act 1987*, including section 45 (the general power to make regulations) and section 29 (which applies the parole provisions of the *Crimes (Administration of Sentences) Act 1999* to detainees).

## **2000 No 131**

Clause 1              Children (Detention Centres) Amendment (Parole) Regulation 2000

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# **Children (Detention Centres) Amendment (Parole) Regulation 2000**

## **1 Name of Regulation**

This Regulation is the *Children (Detention Centres) Amendment (Parole) Regulation 2000*.

## **2 Commencement**

This Regulation commences on 3 April 2000.

## **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 Amendments

(Clause 3)

### [1] Clause 3 Definitions

Insert after clause 3 (3):

- (4) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 2.

### [2] Part 6A

Insert after Part 6:

## Part 6A Parole

### 52A Definitions

In this Part:

***applied Act*** means the *Crimes (Administration of Sentences) Act 1999*, as applied to a detainee by section 29 of the *Children (Detention Centres) Act 1987*.

***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.

***supervisor*** means:

- (a) a person employed in the Department of Juvenile Justice as a supervisor for the purposes of this Part (whether or not the person has other duties to perform in the Department), or
- (b) a probation and parole officer employed in the Department of Corrective Services.

### 52B Information to be given to detainees

- (1) When a detainee is received into a detention centre to serve a detention period, the centre manager of the detention centre must give to the detainee information in writing concerning the nature and effect of the sentence.

## 2000 No 131

Children (Detention Centres) Amendment (Parole) Regulation 2000

Schedule 1 Amendments

---

- (2) The information must, in every case, include such information as the Minister determines to be the minimum necessary information.

### **52C Material in support of parole orders (sentences of more than 3 years): section 135 of applied Act**

- (1) For the purposes of section 135 of the applied Act, the Director-General is to arrange for the preparation of material to assist the Children's Court in its consideration of whether a detainee should be released on parole.
- (2) The material must include:
  - (a) a pre-discharge report which describes:
    - (i) the detainee's overall behavioural response while in detention, and
    - (ii) the detainee's involvement in the various programs offered at the detention centre, and
    - (iii) any significant community support available to the detainee on discharge, and
    - (iv) the details of any proposed post-release supervision, and
    - (v) any additional information that the Children's Court considers necessary in its consideration of parole, and
  - (b) a psychological or psychiatric assessment, and
  - (c) a copy of any current court orders, and
  - (d) a copy of the sentencing court's comments at the time of sentencing.

### **52D Consultation required before conditions as to residence or treatment imposed on parole**

- (1) Before the Children's Court makes a parole order containing conditions relating to residence or treatment:
  - (a) it must consider a report from a supervisor as to the detainee's circumstances, and
  - (b) it must satisfy itself, having regard to the supervisor's report, that it is feasible to secure compliance with the conditions.

- (2) Before the Children's Court makes a parole order containing conditions requiring the co-operation of a person other than the detainee or a supervisor, it must obtain the consent of the person to the specification of those conditions in so far as they require the person's co-operation.

**52E Parole orders**

- (1) A parole order made under the applied Act must be reduced to writing in a form approved by the Minister.
- (2) A copy of the order is to 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 detainee is kept,
  - (b) the Director-General.
- (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.

**52F Detainee to be given explanation of parole order**

- (1) On the detainee's day of release from the detention centre, the centre manager must ensure that:
  - (a) the order is read to the detainee, and
  - (b) the effect of the order is explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (c) the detainee indicates that the detainee understands the conditions on which the detainee is to be released by signing a statement to that effect on a copy of the order, and
  - (d) all copies of the order are endorsed with the detainee's date of release, and
  - (e) a copy of the order is sent to the Director-General, and
  - (f) a copy of the order is given to the detainee, and

## 2000 No 131

### Children (Detention Centres) Amendment (Parole) Regulation 2000

#### Schedule 1 Amendments

---

- (g) the copy of the order containing the signed statement referred to in paragraph (c) is retained at the detention centre.

- (2) If a detainee is subject to more than one parole order, this clause does not require common provisions in the orders to be read to the detainee more than once.

#### **52G Standard conditions applying to parole: section 128 of applied Act**

For the purposes of section 128 (1) (a) of the applied Act, the following are standard conditions of parole:

- (a) the detainee must be of good behaviour and must not, during the term of the order, commit any offence,
- (b) the order may be revoked if the detainee contravenes any of the conditions of the order,
- (c) the order may be revoked if the Children's Court determines that it has sufficient reason to believe that the detainee, having been released from custody, has not adapted to normal lawful community life.

#### **52H Imposition and extension of supervision conditions: section 128 of applied Act**

- (1) A condition of a parole order may require the detainee to be subject to supervision for up to:
  - (a) 3 years, in the case of a classified person, or
  - (b) 2 years, in any other case,from the date on which the detainee is released in accordance with the order.
- (2) For the purposes of section 128 (3) of the applied Act, the prescribed supervision is supervision by a supervisor.
- (3) As soon as practicable after receiving a parole order that requires a detainee to be supervised, the Director-General must assign a supervisor to supervise the detainee.
- (4) The Director-General may from time to time assign another supervisor to supervise the detainee in place of the supervisor previously assigned and, in that event, must cause notice of that fact to be sent to the detainee.

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**52I Supervision conditions**

- (1) This clause applies to a detainee whose parole order includes a condition requiring that the detainee be subject to supervision.
- (2) While the detainee is subject to supervision by a supervisor under such a condition, the detainee has the following obligations:
  - (a) to obey all reasonable directions of the supervisor,
  - (b) to report to the supervisor (or to another person nominated by the supervisor) at such times and places as the supervisor may from time to time direct,
  - (c) to be available for interview at such times and places as the supervisor (or the supervisor's nominee) may from time to time direct,
  - (d) to reside at an address agreed on by the supervisor, and to receive visits at that address by the supervisor at such times as the supervisor considers necessary,
  - (e) not to travel outside the boundaries of New South Wales without the express approval of the Director-General,
  - (f) not to leave Australia without the permission of the Children's Court,
  - (g) to enter into employment arranged or agreed on by the supervisor, or to make himself or herself available for employment as instructed by the supervisor,
  - (h) to notify the supervisor of any intention to change his or her employment:
    - (i) if practicable, before the change occurs, or
    - (ii) otherwise, at his or her next interview with the supervisor,
  - (i) not to associate with any person or persons specified by the supervisor,
  - (j) not to frequent or visit any place or district designated by the supervisor.
- (3) A detainee's supervisor may, with the concurrence of the Director-General, direct that the conditions of the detainee's parole order in relation to supervision are suspended.

## 2000 No 131

Children (Detention Centres) Amendment (Parole) Regulation 2000

Schedule 1      Amendments

---

- (4) Such a direction takes effect when notice of the direction is given to the detainee.

### **52J Variation of conditions: section 128 of applied Act**

- (1) The Registrar of the Children's Court must send written advice to the Director-General that a notice has been served under section 128 (2) (b) of the applied Act on a detainee who is a child.
- (2) If the Children's Court varies the conditions of a parole order under section 128 (2) (b) of the applied Act so as to make the detainee subject to supervision under the order, or so as to affect the supervision of the detainee, the Registrar of the Children's Court must send notice of the variation to the Director-General.

### **52K Revocation of parole order before release: sec 130 of applied Act**

- (1) For the purposes of section 130 of the applied Act, the following circumstances are prescribed as circumstances in which the Children's Court may revoke a parole order:

Circumstances in which the Children's Court, after the making of the order and before the release of the detainee, decides that it has sufficient reason to believe that the detainee, if released from custody, would not be able to adapt to normal lawful community life.
- (2) The Children's Court must send copies of an order under section 130 of the applied Act to the centre manager of the detention centre in which the detainee is kept.
- (3) As soon as practicable after receiving the order, the centre manager must ensure that:
  - (a) the order is read to the detainee, and
  - (b) the effect of the order is explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (c) the detainee's rights to a review of the revocation are explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (d) a copy of the order is handed to the detainee.



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- (4) The Children's Court must send notice of the revocation of a parole order under section 130 of the applied Act to the Director-General.

**52L Review by the Children's Court of intention to refuse release on parole: section 138 of applied Act**

- (1) A notice under section 138 (b) of the applied Act must be sent to the centre manager of the detention centre in which the detainee is kept.
- (2) As soon as practicable after receiving the notice, the centre manager must ensure that:
- (a) the notice is read to the detainee, and
  - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (c) the notice is handed to the detainee.
- (3) Notice of a detainee's intention to make representations to the Children's Court concerning release on parole:
- (a) must be given by the detainee to the centre manager of the detention centre in which the detainee is kept, and
  - (b) must be sent by the centre manager to the Registrar of the Bidura Children's Court.
- (4) When the Children's Court reconsiders whether the detainee should be released on parole, the detainee is entitled to be represented by counsel or by a solicitor for the purpose of making representations in respect of which notification has been given to the Registrar of the Children's Court in accordance with section 139 of the applied Act.

**52M Decision on review of parole refusal: section 141 of applied Act**

- (1) A notice under section 141 (4) (b) of the applied Act must be sent to the centre manager of the detention centre in which the detainee is kept.
- (2) As soon as practicable after receiving the notice, the centre manager must ensure that:

## 2000 No 131

### Children (Detention Centres) Amendment (Parole) Regulation 2000

#### Schedule 1 Amendments

---

- (a) the notice is read to the detainee, and
  - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (c) the detainee's rights concerning the Children's Court's decision are explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (d) the notice is handed to the detainee.
- (3) The centre manager must keep a copy of the notice.
  - (4) The Registrar of the Bidura Children's Court must send a copy of the notice to the Director-General.

#### **52N Revocation of parole order and review of revocation: section 173 of applied Act**

- (1) For the purposes of section 173 (2) (a) of the applied Act, the prescribed form of revocation notice that is to be served on a detainee is Form 1.
- (2) The notice must be sent to the centre manager of the detention centre in which the detainee is kept.
- (3) As soon as practicable after receiving the notice, the centre manager must ensure that:
  - (a) the notice is read to the detainee, and
  - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (c) the notice is handed to the detainee.
- (4) Notice of a detainee's intention to make representations to the Children's Court concerning the revocation of a parole order:
  - (a) must be given by the detainee to the centre manager of the detention centre in which the detainee is kept, and
  - (b) must be sent by the centre manager to the Registrar of the Bidura Children's Court.

**52O Decision on review of revocation: section 175 of applied Act**

- (1) The Registrar of the Children's Court must send written notice of a decision of the Children's Court following a review under section 175 of the applied Act to the centre manager of the detention centre in which the detainee is kept.
- (2) As soon as practicable after receiving the notice, the centre manager must ensure that:
  - (a) the notice is read to the detainee, and
  - (b) the effect of the notice is explained to the detainee in language that is capable of being readily understood by the detainee, and
  - (c) the detainee's rights concerning the decision are explained to the detainee in language that is capable of being readily understood by the detainee.
- (3) The Registrar of the Children's Court must send a copy of the notice to the Director-General.

**52P Notice of revocation of parole order: section 179 of applied Act**

- (1) If the Children's Court revokes a parole order under section 179 (1) of the applied Act, the Registrar of the Children's Court must send written notice of that fact to the following persons:
  - (a) the Director-General,
  - (b) the court which made the order.
- (2) The notice must be in a form approved by the Minister and must specify any direction given by the Children's Court as to the day on which the order is to be treated as having been revoked.

**52Q Inquiry into suspected breach of a parole order: section 180 of applied Act**

- (1) A notice under section 180 (1) (a) of the applied Act calling on a detainee to appear before the Children's Court must be served on the detainee at least 7 days before the date set for the inquiry referred to in the notice.

## **2000 No 131**

Children (Detention Centres) Amendment (Parole) Regulation 2000

Schedule 1      Amendments

---

- (2) The Registrar of the Children's Court must send a copy of every such notice to the Director-General.

### **52R    Arrest warrants: section 180 of applied Act**

A warrant for the arrest of a person under section 180 of the applied Act must be in Form 2.

### **52S    Warrants of commitment: sec 181 of applied Act**

A warrant for the commitment of a detainee to a detention centre under section 181 of the applied Act must be in Form 3.

### **52T    Delegation of functions**

A function conferred or imposed by this Part on the Director-General, or on the centre manager of a detention centre, may be delegated to any officer of the Department of Juvenile Justice.

## **[3]    Schedule 2 Forms**

Insert after Schedule 1:

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## Schedule 2 Forms

(Clause 3)

### Form 1

(Clause 52N)

#### NOTICE OF REVOCATION OF PAROLE ORDER

(Children (Detention Centres) Act 1987, section 29,  
Crimes (Administration of Sentences) Act 1999, section 173)

TO .....

TAKE NOTICE that the Children's Court on ..... made an order for revocation of your parole order to date from ..... The Bidura Children's Court will reconvene on ..... at ..... in order to reconsider the revocation of the order.

- \* A copy of the revocation order is attached.
- \* Copies are attached of reports and other documents intended to be used by the Children's Court in reaching its decision.
- \* You may make submissions to the Children's Court with respect to \*the revocation of your parole order/\* the date of revocation of your parole order. If you wish to do so, you are required to notify the Registrar of the Children's Court not later than .....

.....  
Registrar of the Children's Court

\* Delete if not applicable

**2000 No 131**

Children (Detention Centres) Amendment (Parole) Regulation 2000

Schedule 1      Amendments

---

**Form 2**

(Clause 52R)

**ARREST WARRANT**

(Children (Detention Centres) Act 1987, section 29,  
Crimes (Administration of Sentences) Act 1999, section 180)

TO ALL POLICE OFFICERS in the State of New South Wales

WHEREAS ..... of ..... (***the offender***)  
has been released from custody on parole under a parole order within the  
meaning of the *Crimes (Administration of Sentences) Act 1999*,

AND WHEREAS the Children's Court has reason to suspect that the  
offender has failed to comply with the offender's obligations under the  
order, and proposes to conduct an inquiry into the matter,

YOU ARE HEREBY DIRECTED to arrest the offender, to remove the  
offender to ..... and to deliver the offender into the  
custody of the Children's Court.

.....

Children's Magistrate

**Form 3**

(Clause 52S)

**WARRANT OF COMMITMENT TO DETENTION CENTRE**

(Children (Detention Centres) Act 1987, section 29,  
Crimes (Administration of Sentences) Act 1999, section 181)

TO THE CENTRE MANAGER of the detention centre at .....  
in the State of New South Wales

WHEREAS ..... of ..... (*the offender*)  
has been found guilty by the ..... Court of the following  
offence or offences:

..... ,  
AND WHEREAS the Court has made a detention order, within the  
meaning of the *Children (Detention Centres) Act 1987*, requiring the  
offender to be detained in a detention centre for a term of ..... , to  
commence on .....,

AND WHEREAS the offender has been released from custody on parole  
under a parole order, within the meaning of the *Crimes (Administration  
of Sentences) Act 1999*, in respect of that term of detention,

AND WHEREAS the Children's Court has revoked the parole order,

YOU ARE HEREBY DIRECTED to receive the offender into your  
custody there and (subject to the *Children (Detention Centres) Act 1987*  
and to any order under that Act) to detain the offender there for the  
remainder of the term of the offender's sentence.

.....  
Children's Magistrate

Date: .....

**2000 No 131**

Children (Detention Centres) Amendment (Parole) Regulation 2000

Schedule 1      Amendments

---

TO ALL POLICE OFFICERS in the State of New South Wales

By virtue of section 181 of the *Crimes (Administration of Sentences) Act 1999*, as applied by section 29 of the *Children (Detention Centres) Act 1987*, this warrant is sufficient authority for you to arrest, or to have custody of, the offender named in this warrant, to convey the offender to the detention centre specified in this warrant and to deliver the offender into the custody of the centre manager of that detention centre.

BY AUTHORITY