



New South Wales

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

under the

Criminal Procedure Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Procedure Act 1986*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The objects of this Regulation are:

- (a) to declare a community conference intervention program (the **program**) to be an intervention program for the purposes of Part 4 of Chapter 7 of the *Criminal Procedure Act 1986*, and
- (b) to exclude certain personal violence offences and other specified offences from the offences in relation to which the program may be conducted, and
- (c) to regulate entry into, and the conduct of, the program.

The program is modelled, in part, on the scheme for youth justice conferences under the *Young Offenders Act 1997*. The program will enable young adult offenders who have pleaded guilty to, or been found guilty of, particular offences before certain Local Courts to be referred to participate in conferences for the purposes of developing intervention plans for the offenders. Referral to the program will be an additional option available to a participating Local Court for dealing with a young adult offender where the Court considers that it is likely that the offender will be required to serve a sentence of imprisonment.

Any victim of the offender or any such victim's chosen representative will be entitled to attend a conference, along with the informant for the offence and support persons for the offender or any victims. Other persons, such as a member of the offender's family and (if the offender is subject to a supervised good behaviour bond, a community service order or parole) the offender's supervising officer, may be invited to attend a conference.

This Regulation is made under the *Criminal Procedure Act 1986*, including section 4 (the general regulation-making power) and sections 347 and 348 (2) (g).

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Clause 1

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under the

Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005*.

2 Amendment of Criminal Procedure Regulation 2005

The *Criminal Procedure Regulation 2005* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 19A

Insert after clause 19:

19A Community conference intervention program

- (1) Schedule 5 has effect for the purposes of Part 4 of Chapter 7 of the Act.
- (2) For the purposes of section 347 of the Act, the program of measures described in Part 4 of Schedule 5 for dealing with offenders is declared to be an intervention program for the purposes of Part 4 of Chapter 7 of the Act.
- (3) An offence that is a domestic violence offence, within the meaning of the *Crimes Act 1900*, is prescribed for the purposes of section 348 (2) of the Act in relation to that intervention program.

[2] Schedule 5

Insert after Schedule 4:

Schedule 5 Community conference intervention program

(Clause 19A)

Part 1 Interpretation

1 Definitions

In this Schedule:

conference means a conference convened or proposed to be convened under Division 2 of Part 4.

conference facilitator means a person appointed as a conference facilitator under Part 5.

conference participation order means:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (b) (i) of the *Bail Act 1978*, or
- (b) an order referred to in section 11 (1) (b2) of the *Crimes (Sentencing Procedure) Act 1999*,

made in respect of an offender for the purpose of allowing the offender to participate in the program by attending a conference.

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draft intervention plan means a draft intervention plan prepared under clause 20.

guidelines means guidelines issued by the Minister under Part 6.

intervention plan means an intervention plan arising out of the program that is the subject of an intervention plan order.

intervention plan order means any of the following orders of a participating court for the purposes of allowing a person to participate in the program by completing an intervention plan:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (b) (i) of the *Bail Act 1978*,
- (b) an order referred to in section 10 (1) (c) of the *Crimes (Sentencing Procedure) Act 1999*,
- (c) an order referred to in section 11 (1) (b2) of the *Crimes (Sentencing Procedure) Act 1999*,
- (d) an order providing for an offender to enter into a good behaviour bond that contains a condition referred to in section 95A (1) of the *Crimes (Sentencing Procedure) Act 1999*.

offender means a person who has been found guilty of an offence before a participating court where that offence is an offence in respect of which an intervention program may be conducted as provided by section 348 of the Act.

participating court means any Local Court declared by the Minister to be a participating court for the program by order published in the Gazette.

program means the program of measures described in Part 4.

program administrator for a participating court means a person appointed as a program administrator for the court under Part 5.

referred offender means an offender who is the subject of a conference participation order or an intervention plan order.

suitability assessment order means:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (a) of the *Bail Act 1978*, or
- (b) an order referred to in section 11 (1) (b1) of the *Crimes (Sentencing Procedure) Act 1999*,

made in respect of an offender for the purpose of allowing an assessment of the offender's capacity and prospects for participation in the program to be made.

victim has the same meaning as ***victim of crime*** has for the purposes of the *Victims Rights Act 1996*.

Part 2 Overview of process

2 Summary of process involved in entry into and participation in program

- (1) The following is a summary of the process involved in referring an offender for participation in the program:

(a) **Suitability assessment order made**

A participating court makes a suitability assessment order and the offender enters into an agreement to be subjected to an assessment of the offender's capacity and prospects for participation in the program.

(b) **Program administrator ensures that assessment is carried out**

The program administrator ensures that an assessment is carried out of the offender's capacity and prospects for participation in the program.

(c) **Participating court determines whether conference participation order should be made**

If the offender has been assessed as not being suitable for participation in the program, the offender will not be eligible to participate in the program. However, if the offender has been assessed as being suitable for participation in the program, the participating court may make a conference participation order if it is satisfied that the offender is otherwise eligible for participation in the program, having regard to the matters set out in clause 7.

(d) **Offender enters into agreement to participate**

The offender enters into an agreement to participate in the program.

(e) **Conference held and draft intervention plan for offender prepared**

A conference is held. Participants are encouraged to agree to appropriate recommendations about the offender. A draft intervention plan is prepared that is based on any recommendations made, and agreed to, by participants in the conference.

(f) **Participating court considers draft intervention plan**

Any draft intervention plan arising from the conference is referred to the participating court together with a report on the conference that is prepared by the conference facilitator. If the court approves the draft intervention plan, it makes an intervention plan order.

(g) **Offender to comply with intervention plan**

An offender who is subject to any such order must comply with the intervention plan. The program administrator for the participating court supervises the implementation and completion of the intervention plan. The program administrator notifies the court as to whether the plan is satisfactorily completed.

(h) **Effect of failure to comply with intervention plan**

A failure to satisfactorily complete the intervention plan may result in the offender being returned to the court for the court to deal with the offender.

- (2) This clause does not affect the meaning or interpretation of any provision of this Schedule that it summarises.

Part 3 Assessment of offender's capacity and prospects for participation in the program

3 Notification of suitability assessment order

A participating court that makes a suitability assessment order in respect of an offender must, within 7 days after making the order, notify the program administrator for the court that it has done so.

4 Assessment to be carried out

- (1) As soon as practicable after being notified under clause 3, the program administrator must ensure that an assessment is carried out of the offender's capacity and prospects for participation in the program.
- (2) The assessment must be carried out in accordance with the guidelines.
- (3) The program administrator must report to the participating court that made the suitability assessment order in the form approved by the Minister at least 2 days before the date on which the court is due to continue the proceedings in respect of which the offender was referred.

Part 4 The community conference intervention program

Division 1 Preliminary

5 Objectives of the program

The objectives of the program are as follows:

- (a) to provide for the greater participation in the justice process of offenders and victims and the families and support persons of offenders and victims,
- (b) to increase offenders' awareness of the consequences of their offences for their victims and the community,
- (c) to promote the reintegration of offenders into the community,
- (d) to increase the satisfaction of victims with the justice process,
- (e) to increase the confidence of the community in the justice process,
- (f) to provide a participating court with an additional sentencing option.

6 Principles to guide the program (cf s 34 Young Offenders Act 1997)

The principles that are to guide the operation of the program, including persons exercising functions under the program, are as follows:

- (a) the program should enhance the rights and place of victims in the justice process and have due regard to their interests,
- (b) conferences should be conducted in a way that promotes the active participation and empowerment of referred offenders and their victims, and the families and support persons of those offenders and victims, in responding to and resolving crime,
- (c) conferences should be conducted in a way that respects and takes into account the rights, needs, capacities, gender, sexuality and cultural and linguistic diversity of all participants, including the Aboriginality of any participants and any disability that any participants have,
- (d) conferences should be conducted in a way that assists referred offenders to understand and take responsibility for the offences they have committed,

- (e) an intervention plan should recognise the harm done, as a consequence of the offending behaviour of the referred offender to whom the plan applies, to any victims of that offender and the community,
- (f) an intervention plan should take account of the rights, needs, capacities, gender, sexuality, culture of, and language spoken by, the referred offender to whom the plan applies, including (if applicable) the Aboriginality of that offender,
- (g) if a referred offender has a disability, an intervention plan that applies to that offender should take account of any needs arising from that disability, especially needs arising from any communication or cognitive difficulties that the offender has.

7 Eligibility to participate in program

- (1) A person is eligible to be referred by a participating court to participate in a conference only if:
 - (a) the person is at least 18 years, and under 25 years, of age at the time that the offence was committed, and
 - (b) the person is an offender, and
 - (c) the court considers that the facts, as found by the court, or as pleaded to by the defendant, in connection with the offence, together with the person's antecedents and any other information available to the court, indicate that it is likely that the person will be required to serve a sentence of imprisonment, and
 - (d) at the date on which the court proposes to make the referral, the person has not been convicted of any of the following offences:
 - (i) murder or manslaughter,
 - (ii) a category 1 personal violence offence,
 - (iii) two or more category 2 personal violence offences (whether or not the same offence),
 - (iv) a relevant drug offence,
 - (v) a serious firearms or weapons offence, and
 - (e) the person has been assessed as suitable for participation in the program in accordance with Part 3, and
 - (f) the court considers that, if it refers the person to participate in the program, it is likely that the person will enter into an agreement to participate in the program.

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- (2) A reference in subclause (1) (d) to a conviction for an offence does not include a reference to a conviction for:
- (a) the particular offence in respect of which a referral is proposed to be made, or
 - (b) an offence committed by the person when the person was under 18 years of age, other than an offence that is a serious children's indictable offence within the meaning of the *Children (Criminal Proceedings) Act 1987*.
- (3) In this clause:
- category 1 personal violence offence** means:
- (a) an offence under section 26, 27, 28, 29, 30, 31, 33, 61J, 61JA, 61K, 66A, 66B, 86, 95, 96, 97 or 98 of the *Crimes Act 1900*, or
 - (b) an offence committed before the commencement of this Regulation under a law of New South Wales that constituted an offence of a similar nature to an offence referred to in paragraph (a).
- category 2 personal violence offence** means any of the following offences:
- (a) an offence under section 33A, 35 (2), 37, 38, 39, 46, 47, 48, 61I, 61M, 66C, 66EA, 66F, 73, 80A, 87, 91, 103, 110, 195 (b), 196 (b) or 198 of the *Crimes Act 1900*,
 - (b) an offence under section 79, 106, 107, 109, 111, 112 or 113 of the *Crimes Act 1900* if the circumstances of the offence involve an act of actual or threatened violence against a person,
 - (c) an offence committed before the commencement of this Regulation under a law of New South Wales that constituted an offence of a similar nature to an offence referred to in paragraph (a) or (b).
- relevant drug offence** means any of the following offences:
- (a) an offence under section 23 (1), 24 (1) or 25 (1) of the *Drug Misuse and Trafficking Act 1985* (but only if the plant or drug concerned was found to be of a quantity that was at least twice the indictable quantity applicable under that Act at the date of the offence),
 - (b) an offence under section 23 (2), 24 (2), 25 (2) or 25A of that Act,
 - (c) an offence under section 26 of that Act of conspiring to commit an offence referred to in paragraph (a) or (b),
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- (d) an offence under section 27 of that Act of aiding, abetting, counselling, procuring, soliciting or inciting the commission of an offence referred to in paragraph (a) or (b).

sentence of imprisonment means any sentence of imprisonment, including a sentence the subject of a periodic detention order or home detention order under the *Crimes (Sentencing Procedure) Act 1999*.

serious firearms or weapons offence means any of the following offences:

- (a) an offence under section 93G, 93GA, 93H (2), 93I (2) or 154D of the *Crimes Act 1900*,
- (b) an offence under section 7, 36, 50, 50A (2), 51 (1A), 51 (2A), 51A or 51D (2) of the *Firearms Act 1996*, being an offence that relates to a prohibited firearm or pistol,
- (c) an offence under section 51B or 51BB of the *Firearms Act 1996*.

8 Measures that constitute the community conference intervention program

The program is constituted by the following measures:

- (a) **Offender enters into agreement to participate in the program**
A participating court refers an offender for participation in a conference by making a conference participation order and the offender enters into an agreement to participate in the program.
- (b) **Conference facilitator arranges conference**
A conference facilitator arranges a conference in respect of the offender.
- (c) **Conference held and draft intervention plan prepared**
A conference is held with the aim of determining an appropriate draft intervention plan for the offender. Any draft intervention plan arising from the conference is referred to the participating court.
- (d) **Offender to complete intervention plan**
If the participating court makes an intervention plan order, the offender completes the intervention plan to which the order applies.

9 Decision not to participate in intervention program

- (1) If a referred offender decides not to participate, or to continue to participate, in the program, the referred offender is to notify this decision to the program administrator of the participating court that made the conference participation order or intervention plan order applying to that offender.
- (2) The program administrator is to notify the court of the referred offender's decision within 7 days of being notified by the referred offender under subclause (1).

Division 2 Conferences

10 Notification of conference participation order

- (1) A participating court that makes a conference participation order must, within 7 days after making the order, notify the program administrator for the court that it has done so.
- (2) As soon as practicable after being notified under subclause (1), the program administrator must allocate a conference facilitator to arrange and facilitate a conference in respect of the offender to whom the order applies.

11 Time limit for holding conferences (cf s 43 Young Offenders Act 1997)

A conference is to be held in respect of a referred offender:

- (a) if practicable, within 28 days after the program administrator is notified by the participating court that it has made a conference participation order applying to that offender, or
- (b) as soon as practicable after that 28 days has elapsed.

12 Preparation for conferences (cf s 45 Young Offenders Act 1997)

- (1) A conference facilitator must determine:
 - (a) the date, time and location of any conference that the conference facilitator has been allocated to facilitate, and
 - (b) the persons who are to be invited to attend the conference.
- (2) The conference facilitator must, if practicable, before determining the matters referred to in subclause (1):
 - (a) consult with the program administrator for the court that made the conference participation order, the referred offender concerned and any victim of that offender, and

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- (b) advise any such victim:
 - (i) of the victim's right to attend and to be accompanied by one or more support persons, and
 - (ii) if the victim cannot or elects not to attend the conference—of the victim's right to be represented by a person chosen by the victim and to have the victim's views about the matter conveyed to conference participants, and
 - (c) consider the specific needs and expressed views or wishes of the referred offender and of any such victim.
- (3) Before the conference is held, the conference facilitator must notify the referred offender of the following information:
 - (a) the offence in respect of which the conference is to be held,
 - (b) the date, time and location of the conference,
 - (c) the name of the conference facilitator,
 - (d) any requirements to be met by the referred offender,
 - (e) the right of the referred offender to decide not to participate, or to continue to participate, in the program, the requirement for the referred offender to notify the program administrator of any such decision and the consequences of any such decision,
 - (f) the consequences of failure to attend the conference,
 - (g) the right of the referred offender to obtain legal advice and where that advice may be obtained,
 - (h) the right of the referred offender to have a legal practitioner attend the conference in an advisory, but not in a representative, capacity,
 - (i) the right of the referred offender to have one or more support persons attend the conference.
- (4) Before a conference is held, the conference facilitator must take all reasonable steps to notify any other persons who are entitled to attend, or who the conference facilitator determines are to be invited to attend, of the date, time and location of the conference.
- (5) Before a conference is held, the conference facilitator must take all reasonable steps to provide persons who are to attend the conference with information available to the conference facilitator that, in the conference facilitator's opinion, will assist the participants to formulate a draft intervention plan.

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- (6) Before a conference is held, the conference facilitator must ascertain, if practicable, the views about the matter of any persons who have been invited or are entitled to attend but have advised that they will not be attending.

13 Participants in conferences (cf s 47 Young Offenders Act 1997)

- (1) The following persons are entitled to attend a conference:
- (a) the referred offender in respect of whom the conference is to be held,
 - (b) the conference facilitator,
 - (c) any victim of the referred offender or a person chosen by any such victim as a representative of the victim,
 - (d) a police officer responsible for investigating the offence in respect of which the conference is proposed to be held or a person chosen by the police officer as a representative of the police officer,
 - (e) any persons chosen by the referred offender as support persons for the referred offender,
 - (f) a legal practitioner advising the referred offender,
 - (g) any persons chosen by any victim of the referred offender as support persons for any such victim.
- (2) The conference facilitator may, after consulting with the referred offender and any victim of that offender who proposes to participate in the conference, invite any of the following persons to attend a conference:
- (a) a member of the referred offender's family chosen by the referred offender,
 - (b) if the referred offender is subject to a supervised good behaviour bond, a community service order or parole—the referred offender's supervising officer,
 - (c) an interpreter,
 - (d) any other person of a class specified by the guidelines.
- (3) The following persons may be invited to attend, but not participate in, a conference, with the consent of the referred offender and any victim of that offender:
- (a) the program administrator for the court that made the conference participation order applying to the referred offender,

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- (b) a person wishing to observe the conference for a research or educational purpose, including a police officer, a magistrate and a legal practitioner,
- (c) a person wishing to observe the conference for the purpose of monitoring or evaluating the program,
- (d) a member of the news media,
- (e) any other person of a class specified by the guidelines.

14 Exclusion of persons from attending conference (cf s 48 (3) Young Offenders Act 1997)

If a conference facilitator forms the opinion that the presence of a person (other than a referred offender or any victim of that offender) may frustrate the purpose or conduct of a conference, the conference facilitator may exclude that person from attending, or continuing to attend, the conference.

15 Conference may deal with more than one offender and offence (cf s 48 (8) Young Offenders Act 1997)

A conference may be held in respect of more than one offender and more than one offence.

16 Views of persons invited but not in attendance (cf s 48 (5) Young Offenders Act 1997)

A conference facilitator must, at or before a conference, ensure that the participants are informed of the views of any person who is entitled or invited to attend, but is unable or declines to do so, if the conference facilitator is informed of those views.

17 Facilitation of conferences to be carried out in accordance with guidelines (cf s 49 Young Offenders Act 1997)

A conference facilitator is to facilitate a conference in accordance with any guidelines on the facilitation of conferences.

18 Representation at conferences (cf s 50 Young Offenders Act 1997)

- (1) A referred offender is entitled to be advised, but not represented, by a legal practitioner at a conference.
- (2) A conference may be adjourned at any time for the purpose of allowing the referred offender to obtain advice from a legal practitioner.

19 Non-attendance at conferences (cf s 51 Young Offenders Act 1997)

If a referred offender fails, without reasonable explanation, to attend a conference, the conference facilitator or program administrator must notify the court that made the conference participation order applying to the referred offender.

20 Draft intervention plans (cf s 52 Young Offenders Act 1997)

- (1) The participants at a conference may agree to make such recommendations as they think fit about the referred offender in respect of whom the conference is held.
- (2) Without limiting subclause (1), a draft intervention plan may provide for one or more of the following:
 - (a) that the referred offender apologise to any victim of that offender orally or in writing,
 - (b) that the referred offender make reparations to any such victim or the community,
 - (c) that the referred offender participate in a program aimed at improving that offender's prospects (for example, a counselling program, a drug or alcohol rehabilitation program or an education program),
 - (d) the taking of action directed towards the reintegration of the referred offender into the community,
 - (e) the times within which the plan is to be implemented.
- (3) The participants may not include in a draft intervention plan a requirement that the referred offender carry out work in the community for a period that exceeds the period applying to community service orders under section 8 of the *Crimes (Sentencing Procedure) Act 1999*.
- (4) A draft intervention plan is, if possible, to be determined by consensus of the participants in the conference and, subject to subclauses (5) and (6), may be agreed to by the conference even though it is not agreed to by all the participants.
- (5) The referred offender, and any victim of that offender who personally attends the conference, each have a right of veto with respect to the whole of a draft intervention plan, or with respect to any recommendation proposed to be contained in a draft intervention plan, regardless of the views of any other participant in the conference.
- (6) A victim's right of veto does not operate unless all victims who personally attend the conference agree to the veto.

- (7) The draft intervention plan is to be prepared in the form approved by the Minister.

21 Draft intervention plan and other matters to be reported to participating court

- (1) A program administrator must refer a draft intervention plan agreed to by conference participants to the court that made the conference participation order.
- (2) The program administrator must notify the court that made the conference participation order if a conference facilitator for a conference has informed the program administrator that:
 - (a) the participants at a conference are unable to agree to a draft intervention plan, or
 - (b) the referred offender or any victim of that offender who has personally attended the conference has vetoed the draft intervention plan.
- (3) The program administrator must also provide to the court a report (prepared by the conference facilitator in the form approved by the Minister) on the following matters:
 - (a) the name, address and date of birth of the referred offender,
 - (b) the nature of the offence in respect of which the conference has been held,
 - (c) the name of the conference facilitator,
 - (d) the names of the other persons who attended the conference and, if they participated, the capacity in which they participated,
 - (e) the dates on, and locations at, which the conference was held,
 - (f) any recommendation contained in the draft intervention plan that has been agreed to other than by consensus (including the name of any participant who did not agree with the recommendation and any reason given by the participant for not agreeing with the recommendation),
 - (g) any failure of the conference to agree to recommendations that could be included in a draft intervention plan,
 - (h) the major points of discussion in the course of the conference,
 - (i) any other matter that the conference facilitator considers relevant, such as anything noted at the conference that the facilitator considers could assist in explaining the context for particular recommendations.

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- (4) A referral, notification or report under this clause must be made or provided at least 2 days before the date on which the court is due to continue the proceedings in respect of which the referred offender was referred.

Division 3 Intervention plans

22 Draft intervention plan may be referred back for further consideration

- (1) If a court has concerns about a draft intervention plan referred to the court under clause 21, it may:
- (a) consult with the program administrator for the court in relation to its concerns, or
 - (b) notify the program administrator for the court of its concerns and refer the draft plan for consideration under this clause.
- (2) The program administrator:
- (a) must ascertain whether the referred offender to whom the draft intervention plan applies and all of the relevant victims (if any) agree to consider the court's concerns about the draft intervention plan, and
 - (b) if they do so, must arrange for the referred offender and those victims to consider the court's concerns.
- Note.** See definition of **relevant victim** appearing in subclause (11).
- (3) If the referred offender and all of the relevant victims (if any) agree to consider the court's concerns, they are to do so:
- (a) if practicable, within 7 days after the program administrator is notified by the court under subclause (1), or
 - (b) as soon as practicable after that 7 days has elapsed.
- (4) On considering the court's concerns, the referred offender and the relevant victims (if any) may decide to vary the draft intervention plan or decide not to vary the draft intervention plan.
- (5) Any such decision is, if possible, to be made by consensus of the referred offender and the relevant victims (if any).
- (6) The referred offender and any relevant victim each have a right of veto with respect to any proposed variation to the draft intervention plan. However, a victim's right of veto does not operate unless all such victims agree to the veto.

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- (7) A draft intervention plan cannot be varied under this clause to require that the referred offender carry out work in the community for a period that exceeds the period applying to community service orders under section 8 of the *Crimes (Sentencing Procedure) Act 1999*.
- (8) The program administrator must notify the court of:
 - (a) any failure of the referred offender and the relevant victims (if any) to agree to consider the court's concerns, or
 - (b) any decision made under subclause (4) to vary or not to vary the draft intervention plan, or
 - (c) any failure of the referred offender and the relevant victims (if any) to agree on a decision under subclause (4), or
 - (d) any veto of a proposed variation of the draft intervention plan.
- (9) A notice under subclause (8) must be given within 7 days (or such further period as the court may allow) of:
 - (a) the date on which the program administrator ascertains that the referred offender and the relevant victims (if any) do not agree to consider the court's concerns, or
 - (b) the final date on which a decision about the draft intervention plan is made under subclause (4), or
 - (c) if the referred offender and the relevant victims (if any) fail to agree on a decision about the draft intervention plan under subclause (4), the date on which the program administrator becomes aware that they have failed to do so.
- (10) The court may not refer concerns about a draft intervention plan on more than one occasion under this clause.
- (11) In this clause:
relevant victim means any victim of the referred offender who personally attended the conference at which the draft intervention plan was determined and is able to be contacted.

23 Notification of approval or refusal

- (1) Following its consideration of any draft intervention plan referred to a court under clause 21 (including any draft intervention plan varied under clause 22 (4)) the court is to notify the program administrator for the court of the following matters:
 - (a) if the court approves the draft intervention plan—the terms of any intervention plan order made in respect of the

referred offender to whom the plan applies, which may include the date by which the plan must be completed,

- (b) if the court does not approve the draft intervention plan:
 - (i) that it has not approved the draft intervention plan, and
 - (ii) its reasons for not doing so.
- (2) The court is to notify the program administrator within 7 days of making its decision to approve or not approve the intervention plan.
- (3) The program administrator is to notify the following persons of the court's decision to approve or not approve the draft intervention plan within 7 days of being notified by the court under subclause (2):
 - (a) the conference facilitator,
 - (b) any victim of the referred offender,
 - (c) any police officer responsible for investigating the offence in respect of which that offender was referred to the program.

24 Implementation of intervention plan (cf s 56 Young Offenders Act 1997)

- (1) If a participating court makes an intervention plan order, the program administrator for the court is to supervise the implementation and completion of the applicable intervention plan by the referred offender to whom that order applies.
- (2) The program administrator must notify the following as to whether or not the intervention plan is satisfactorily completed by the referred offender:
 - (a) the court,
 - (b) the conference facilitator,
 - (c) any victim of the referred offender,
 - (d) any police officer responsible for investigating the offence in respect of which that offender was referred to the program.
- (3) If the intervention plan has not been satisfactorily completed, the program administrator must notify the court of:
 - (a) any reasons of which the program administrator is aware for the referred offender's failure to complete the plan satisfactorily, and

- (b) if the plan has been partially completed, the extent to which it has been completed, and
- (c) any other matter that the program administrator considers relevant.

Part 5 Program administrators and conference facilitators

25 Program administrators

- (1) The Minister is to ensure that there is a program administrator for each participating court.
- (2) The functions of a program administrator are to carry out:
 - (a) administrative functions related to this Schedule, and
 - (b) any other functions conferred on program administrators by this Schedule or any guidelines.

26 Conference facilitators (cf section 60 (3) Young Offenders Act 1997)

- (1) The Director-General may appoint a person as a conference facilitator, including a police officer in the police officer's private capacity and a member of staff of a Department in the member of staff's private capacity.
- (2) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a conference facilitator.
- (3) Despite subclause (2), section 59 of the *Public Sector Employment and Management Act 2002* applies to a proposed conference facilitator who is a member of staff of a Department.
- (4) A conference facilitator has the following functions:
 - (a) to prepare for, and to hold, conferences referred to the conference facilitator by a program administrator,
 - (b) any other functions conferred or imposed on the conference facilitator by this Schedule or any guidelines.
- (5) Subject to clause 28, a conference facilitator holds office for such period (not exceeding 3 years) as is specified in the facilitator's instrument of appointment, but may be re-appointed.

27 Remuneration of conference facilitators (cf cl 2 of Sch 1 to Young Offenders Act 1997)

A conference facilitator is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the conference facilitator.

28 Vacancy in office of conference facilitators (cf cl 3 of Sch 1 to Young Offenders Act 1997)

- (1) A person's appointment as a conference facilitator is automatically terminated if the person:
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Director-General, or
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) becomes a mentally incapacitated person, or
 - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Director-General may remove a conference facilitator from office at any time.

Part 6 Guidelines

29 Minister may issue guidelines in respect of the conduct of the program

- (1) The Minister may from time to time issue guidelines, not inconsistent with this Schedule, for or with respect to any or all of the following matters:
- (a) the functions of program administrators or other persons in connection with assessment for participation in the program,
 - (b) the functions of program administrators or conference facilitators in connection with the program,
 - (c) the constitution of and procedure for conferences,

- (d) any other matter in respect of which guidelines are permitted or required by this Schedule.
- (2) Without limiting subclause (1), the guidelines 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).

Part 7 Disclosure of information in connection with the program

30 Evidence of statements generally inadmissible

- (1) Evidence of anything said, or any admission made or document produced, in a conference concerning a referred offender is not admissible in any criminal or civil proceedings.
- (2) Subclause (1) does not apply to the criminal proceedings in respect of which a referred offender was referred or any appeal made in respect of those proceedings.
- (3) Despite subclause (2), evidence of any admission made by a referred offender in a conference is not admissible in the criminal proceedings in respect of which the referred offender was referred or any appeal in respect of those proceedings.

31 Disclosure of information in connection with the program by certain persons prohibited

- (1) A relevant program participant must not disclose the name of, or any other identifying information about, a referred offender or a victim of a referred offender that is obtained in connection with:
 - (a) the assessment of the referred offender's suitability to participate in the program, or
 - (b) the conduct of the program or an intervention plan arising out of the program.

Maximum penalty: 20 penalty units.

- (2) Nothing in subclause (1) prevents a relevant program participant from disclosing the information referred to in that subclause:

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- (a) to any of the following persons:
- (i) the referred offender,
 - (ii) the conference facilitator,
 - (iii) any victim of the referred offender,
 - (iv) any police officer responsible for investigating the offence in respect of which the referred offender was referred to the program,
 - (v) if the referred officer is subject to a supervised good behaviour bond, a community service order or parole—the referred offender’s supervising officer, or
- (b) for the purposes of any legal proceedings, or
- (c) in accordance with a requirement of the *Ombudsman Act 1974* or with any request made by the Ombudsman, or
- (d) with other lawful excuse.
- (3) Nothing in subclause (1) prevents a program administrator for a participating court from disclosing the information referred to in that subclause to a person for the purpose of monitoring or evaluating the program.
- (4) In this clause:
- identifying information*** in relation to a person means any information that identifies the person or that is likely to lead to the identification of the person.
- relevant program participant*** means:
- (a) a program administrator for a participating court, or
 - (b) a person carrying out an assessment of a referred offender’s capacity and prospects for participation in the program, or
 - (c) a conference facilitator, or
 - (d) a person entitled or invited to participate in, or attend, a conference and a person attending any such conference, or
 - (e) a person entitled to consider a draft intervention plan under clause 22 and any person who does so.