

1995—No. 87

**CHILDREN (PARENTAL RESPONSIBILITY) ACT 1994—
REGULATION**

(Children (Parental Responsibility) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Children (Parental Responsibility) Act 1994, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD
Attorney General.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Children (Parental Responsibility) Regulation 1995.

Commencement

2. This Regulation commences on 13 March 1995.

Definitions

3. In this Regulation:

“**prescribed place of refuge**” means place of refuge prescribed by clause 9;

“**the Act**” means the Children (Parental Responsibility) Act 1994.

Notes

4. Notes included in this Regulation are explanatory notes and do not form part of the Regulation.

PART 2—UNDERTAKINGS

Enforcement of undertakings

5. A court may use any information available to the court that it considers to be reliable to determine whether a parent or child should be required to attend before the court for failing to comply with an undertaking under Part 2 of the Act.

Forfeiture of security for undertakings

6. A court is not to forfeit any part of the security given by a parent under section 7 of the Act unless:

- (a) the parent is present before the court and has had an opportunity to be heard; or
- (b) a notice in a form approved by the Minister to show cause why the security should not be forfeited has first been given personally or by post to the parent.

Note. See section 5 of the Fines and Forfeited Recognizances Act 1954 for the procedure after forfeiture of security.

Refund of security for undertakings

7. Security given by a person under Part 2 of the Act is to be refunded to the person at the end of the period of the undertaking concerned unless it appears to the court, from any information available to the court at the end of the period, that the person has failed to comply with the undertaking.

Counselling

8. Before a court requires a person to undergo counselling under Part 2 of the Act, the court is to obtain advice on the availability of appropriate counselling services.

PART 3—PRESCRIBED PLACES OF REFUGE

Prescribed places of refuge

9. (1) For the purposes of section 12 (2) (b) of the Act, the following are prescribed as places of refuge:

- (a) for a person removed from a public place in or near the Gosford police patrol area—any intake place located in that area;
- (b) for a person removed from a public place in or near the Orange police patrol area—any intake place located in that area.

(2) In this clause:

“**intake place**” means a place designated by the Minister administering the Children (Care and Protection) Act 1987 by order published in the Gazette to be an intake place for the purposes of this definition.

Care of Aboriginal children

10. (1) At least one Aboriginal member of the staff of a prescribed place of refuge is to be on call to care for any Aboriginal person who is escorted to that place.

(2) In this clause:

“**Aboriginal**” has the same meaning as it has in the Aboriginal Land Rights Act 1983.

Release of persons

11. The officer in charge of a prescribed place of refuge to which a person is escorted under Part 3 of the Act may consent to the person leaving the place if the place cannot accommodate the person.

Records

12. (1) The police officer who removes a person from a public place under Part 3 of the Act is to make a record of the following particulars:

- (a) if known to the officer, the person’s name and age;
- (b) if the person is escorted to his or her parent’s residential address or the address of his or her care residence—the residential address or address of the care residence;
- (c) the address of the public place from which the person was removed;
- (d) the reason why the person was removed from the public place;
- (e) if the person is escorted to a prescribed place of refuge, the address of the place of refuge.

(2) The officer in charge of a prescribed place of refuge to which a person is taken under Part 3 of the Act is to make a record of the following particulars:

- (a) if known to the officer, the person’s name and age;
- (b) the date and time at which the person was brought to the place of refuge;
- (c) if the person could not be accommodated at the place of refuge—the reasons the person could not be accommodated;

- (d) the date and time at which the person was released from or otherwise left the place of refuge;
- (e) if the person was released to a parent—the name and address of the parent;
- (f) if the person was released to a carer—the name and address of the carer.

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EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to prescribe certain matters of a formal nature relating to undertakings as to future behaviour and family counselling that courts require under Part 2 of the Children (Parental Responsibility) Act 1994; and
- (b) to prescribe certain places of refuge to which children removed from public places under Part 3 of the Act may be escorted when the children cannot be escorted to their parent's residence or care residence; and
- (c) to provide for the care and release of children from those places.

On 8 February 1995, the Minister for Police announced that initially Part 3 of the Act would operate only in Orange and Gosford. Police officers exercise functions under the Act in conformity with any relevant directions issued by the Commissioner of Police. Directions have been issued to advise police officers to only remove children from public places if a place of refuge has been prescribed for the police officer's police patrol area.

The Regulation:

- provides for certain procedures to be followed relating to the enforcement of undertakings and the forfeiture and refund of security for undertakings given under the Act (clauses 5–7);
- requires a court to obtain advice as to the availability of appropriate counselling services before requiring a person to undergo family counselling (clause 8);
- prescribes the places of refuge to which children removed from police patrol areas in Orange and Gosford may be escorted (clause 9);
- ensures that Aboriginal children escorted to those places are cared for by Aboriginal persons (clause 10);
- enables the officer in charge of a prescribed place of refuge to consent to the release of children who cannot be accommodated at the place (clause 11);
- sets out the records to be made by police officers and the officers in charge of prescribed places of refuge (clause 12).

The Regulation is made under the Children (Parental Responsibility) Act 1994, in particular section 15 (the general regulation making power) and sections 12 (2) (b) and 13 (6).
