



Community Services (Complaints, Appeals and Monitoring) Amendment Regulation 2002

under the

Community Services (Complaints, Reviews and Monitoring) Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

CARMEL TEBBUTT, M.L.C.,
Minister for Community Services

Explanatory note

The object of this Regulation is to amend the *Community Services (Complaints, Appeals and Monitoring) Regulation 1996* as follows:

- (a) to update the name of the Regulation,
- (b) to make consequential amendments to the Regulation as a result of the commencement of the *Community Services Legislation Amendment Act 2002*,
- (c) to provide as a transitional measure for certain statutory reports, required to be made by the former Community Services Commission and the former Commissioner for Community Services, to be completed or made by the Ombudsman,
- (d) to make a transitional provision to enable the Child Death Review Team to report on certain deaths occurring on or before 31 December 2002.

This Regulation is made under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, including sections 28, 33, 45 and 52 (the general regulation-making power) and clause 1 of Schedule 1.

2002 No 874

Clause 1 Community Services (Complaints, Appeals and Monitoring) Amendment Regulation 2002

Community Services (Complaints, Appeals and Monitoring) Amendment Regulation 2002

under the

Community Services (Complaints, Reviews and Monitoring) Act 1993

1 Name of Regulation

This Regulation is the *Community Services (Complaints, Appeals and Monitoring) Amendment Regulation 2002*.

2 Commencement

This Regulation commences on the commencement of the *Community Services Legislation Amendment Act 2002*.

3 Amendment of Community Services (Complaints, Appeals and Monitoring) Regulation 1996

The *Community Services (Complaints, Appeals and Monitoring) Regulation 1996* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 1 Name of Regulation

Omit “*Appeals*”. Insert instead “*Reviews*”.

[2] Clause 3 Definitions

Insert in alphabetical order:

commencement day means the day on which the 2002 amending Act commences.

former Commission means the Community Services Commission constituted under Part 6 of the Act, as in force before the commencement of the 2002 amending Act.

former Commissioner means the Commissioner for Community Services appointed under the Act immediately before the commencement of the 2002 amending Act.

statutory report means a report required to be prepared and submitted under any Act and includes (but is not limited to) the following:

- (a) an annual report or other report under the Act, as in force before the commencement day,
- (b) financial statements under the *Public Finance and Audit Act 1983*,
- (c) a report under the *Freedom of Information Act 1989*.

the 2002 amending Act means the *Community Services Legislation Amendment Act 2002*.

[3] Clause 3, definition of “the Act”

Omit the definition. Insert instead:

the Act means the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

[4] Clause 4 Functions of Official Community Visitors

Omit “a Community Visitor”.

Insert instead “an Official Community Visitor”.

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Schedule 1 Amendments

[5] Clause 4 (a)

Omit “Commissioner”. Insert instead “Ombudsman”.

[6] Clause 5 Applicable service providers: sec 11

Omit the clause.

[7] Clause 6 Decisions that may be the subject of an appeal to the Tribunal: sec 28

Omit “section 40 (1) (d)” from clause 6 (1).

Insert instead “section 28 (1) (c)”.

[8] Clause 6 (1) (a)

Omit the paragraph. Insert instead:

- (a) a decision made by a service provider not to take action recommended by the Ombudsman under section 26 of the *Ombudsman Act 1974* as a result of an investigation of a complaint under Part 4 of the Act, or to take part only of the action so recommended,

[9] Clause 7 Right of appearance: sec 58

Omit the clause.

[10] Clause 8 Record of proceedings

Omit the clause.

[11] Clause 9 Substituted service: sec 76

Omit the clause.

[12] Clause 10 Reasons to be given for certain decisions: sec 45

Omit “section 114”. Insert instead “section 45”.

[13] Clause 10 (a) and (b)

Omit the paragraphs. Insert instead:

- (a) any decision against which there is a right to appeal to the Tribunal, other than a decision of a kind referred to in clause 6 (1),

[14] Clauses 11, 12, 13 and 14

Insert after clause 10:

11 Systemic review of deaths of children at risk of harm, children in care or other persons in care

For the purposes of section 36 (1) (c) of the Act, the prescribed date is the commencement day.

12 Reports not completed before commencement day

- (1) This clause applies to a statutory report required to be prepared for a period ending before the commencement day and not completed or prepared before the commencement day.
- (2) On and from the commencement of this clause, the Ombudsman is required to prepare and submit any statutory report to which this clause applies that the former Commission or former Commissioner would have been required to prepare and submit had the former Commission or former Commissioner still been in existence or still held office.

13 Reports for period commencing before but ending after commencement day

- (1) This clause applies to a statutory report required to be prepared, in respect of functions of the former Commission, the former Commissioner and the Ombudsman under any Act, for a period commencing before the commencement day and ending after the commencement day.
- (2) On and from the commencement of this clause:
 - (a) any affairs and accounts of the former Commission or the former Commissioner in respect of the period are, for the purposes of a statutory report to which this clause applies, taken to be affairs and accounts of the Ombudsman, and
 - (b) any statutory report to which this clause applies is to be prepared and submitted by the Ombudsman.

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Schedule 1 Amendments

14 Reports required to be prepared by Child Death Review Team

- (1) This clause applies to functions of the Child Death Review Team concerning reports and recommendations relating to deaths of children due to abuse or neglect or that occur in suspicious circumstances, being deaths registered in the period ending on 31 December 2002.
- (2) The Child Death Review Team is to exercise functions relating to any such reports and recommendations as if the amendments made in respect of those functions by the 2002 amending Act had not been made.
- (3) The Ombudsman is to include any appropriate recommendations relating to any deaths of children due to abuse or neglect or that occur in suspicious circumstances after 31 December 2002 as recommendations under section 36 (1) (b) of the Act in the Ombudsman's first report under section 43 of the Act.
- (4) In this clause:

Child Death Review Team means the Child Death Review Team established under the *Children (Care and Protection) Act 1987*.

BY AUTHORITY
