



New South Wales

Children and Young Persons (Care and Protection) Amendment Regulation 2005

under the

Children and Young Persons (Care and Protection) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children and Young Persons (Care and Protection) Act 1998*.

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

Explanatory note

The objects of this Regulation are:

- (a) to add the Commonwealth Department of Immigration and Multicultural and Indigenous Affairs to the list of bodies with which the Director-General of the Department of Community Services may share information concerning the safety, welfare and well-being of children and young persons, and
- (b) to prescribe manner and form in relation to consents given by a child or young person with respect to the making, variation or rescission by the Children's Court of an order awarding sole parental responsibility for the child or young person, and
- (c) to prescribe manner and form in relation to the report given by a designated agency with respect to the variation or rescission by the Children's Court of an order awarding sole parental responsibility for the child or young person, and
- (d) to limit to 12 months the time within which an applicant for accreditation as a designated agency must furnish information concerning such an application, and
- (e) to limit the activities that can be carried out under interim accreditation as a designated agency to those activities that were being carried out by that agency on 15 July 2003 when interim accreditation first came into effect.

This Regulation is made under the *Children and Young Persons (Care and Protection) Act 1998*, including section 264 (the general power to make regulations), sections 149, 149A and 248 and clause 1 of Schedule 3 (the power to make regulations of a savings or transitional nature).

2005 No 13

Clause 1

Children and Young Persons (Care and Protection) Amendment Regulation
2005

**Children and Young Persons (Care and Protection)
Amendment Regulation 2005**

under the

Children and Young Persons (Care and Protection) Act 1998

1 Name of Regulation

This Regulation is the *Children and Young Persons (Care and Protection) Amendment Regulation 2005*.

2 Commencement

This Regulation commences on 1 February 2005.

**3 Amendment of Children and Young Persons (Care and Protection)
Regulation 2000**

The *Children and Young Persons (Care and Protection) Regulation 2000* is amended as set out in Schedule 1.

**4 Amendment of Children and Young Persons (Savings and Transitional)
Regulation 2000**

The *Children and Young Persons (Savings and Transitional) Regulation 2000* is amended as set out in Schedule 2.

Schedule 1 Amendment of Children and Young Persons (Care and Protection) Regulation 2000

(Clause 3)

[1] Clause 7 Prescribed bodies: sec 248

Insert after clause 7 (e):

- (e1) the Commonwealth Department of Immigration and Multicultural and Indigenous Affairs,

[2] Clauses 7A, 7B and 7C

Insert after clause 7:

7A Form of child's or young person's consent to order awarding sole parental responsibility to child's or young person's authorised carer: sec 149

- (1) A consent referred to in section 149 (5) of the Act:
 - (a) must be in writing, and
 - (b) must be signed by the child or young person concerned in the presence of a witness, and
 - (c) must bear a statement from the witness to the effect that he or she informed the child or young person, before the consent was signed and in a language and manner that the child or young person could understand:
 - (i) that the authorised carer making the application concerned will gain sole parental responsibility for the child or young person if the Children's Court makes the order sought by the application, and
 - (ii) that any such order that is made by the Children's Court may be varied or rescinded in accordance with section 149A of the Act, and
 - (iii) that the child or young person is entitled to obtain independent legal advice before signing the consent.
- (2) The witness referred to in subclause (1) (b) may be any person over the age of 18 years, other than the principal officer of the relevant designated agency and other than an employee of that agency who has been directly involved in the supervision of the child's or young person's placement.

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Schedule 1

Amendment of Children and Young Persons (Care and Protection) Regulation 2000

7B Form of principal officer's consent to variation or rescission of order for sole parental responsibility: sec 149A

A consent referred to in section 149A (1) (b) of the Act is to be given in a form approved by the Director-General.

7C Principal officer's report as to placement of child or young person subject to order for sole parental responsibility: sec 149A

- (1) A report under section 149A (2) of the Act with respect to the placement of a child or young person for whom an authorised carer has sole parental responsibility must be in writing and must include the following information:
 - (a) the name, date of birth and residential address of the child or young person,
 - (b) the name, residential address and telephone number of the authorised carer,
 - (c) the length of time for which the child or young person has been in the care of the authorised carer, whether under the authorised carer's sole parental responsibility or otherwise,
 - (d) the date of the order awarding the authorised carer sole parental responsibility for the child or young person,
 - (e) the address and telephone number of the designated agency whose principal officer is providing the report,
 - (f) the name and contact details of each person or body whose relationship with the child or young person would be affected by the variation or rescission of the sole parental responsibility order to which the report relates, and the nature of each such relationship.
- (2) The following information, as relevant, must also be included in the report:
 - (a) details of the relationship between:
 - (i) the child or young person, and
 - (ii) the authorised carer and the authorised carer's family,together with an assessment of the degree of attachment that the child or young person has to the authorised carer and the authorised carer's family,
 - (b) details of the support given by the designated agency to the placement of the child or young person with the authorised carer,

- (c) any views expressed by the child or young person with respect to the proposed variation or rescission of the sole parental responsibility order to which the report relates, together with an indication of when and how any such views have been ascertained,
- (d) an assessment as to how the proposed variation or rescission of the sole parental responsibility order to which the report relates is likely to affect the safety, welfare and well-being of the child or young person, having particular regard to its impact on the needs of the child or young person for permanency,
- (e) an assessment of the arrangements that should be made (including any proposed contact orders) to preserve contact between the child or young person and his or her parents, relatives, friends and other persons connected with the child or young person.

[3] Clause 35 Application for accreditation

Insert after clause 35 (3):

- (3A) Any information that is required of an applicant under subclause (3) must be furnished to the Children's Guardian within 12 months after the date on which the application was made or within such further period as the Children's Guardian may allow.

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Schedule 2 Amendment of Children and Young Persons (Savings and Transitional) Regulation 2000

Schedule 2 Amendment of Children and Young Persons (Savings and Transitional) Regulation 2000

(Clause 4)

Clause 22A Interim accreditation as designated agency

Insert “, but only in respect of the kind of out-of-home care it was providing immediately before 15 July 2003,” after “under the new Act” in clause 22A (2).

BY AUTHORITY
