



New South Wales

Criminal Procedure Amendment (Forum Sentencing Program) Regulation 2008

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*.

JOHN HATZISTERGOS, M.L.C.,
Attorney General

Explanatory note

The object of this Regulation is to amend the *Criminal Procedure Regulation 2005* as follows:

- (a) to change the name of the community conference intervention program to the forum sentencing program,
- (b) to exclude certain offences relating to motor vehicles from the ambit of that program,
- (c) to provide that an additional object of the program is to reduce re-offending,
- (d) to remove the requirement that a person may only participate in the program if the person was at least 18 years, and under 25 years, of age at the time that the relevant offence was committed,
- (e) to provide that a person is not eligible to participate in the program if the person has previously been sentenced to a term of imprisonment (including a suspended sentence of imprisonment),
- (f) to provide that domestic violence offences committed by an offender against another person with whom the offender does not or did not have an intimate domestic relationship are not excluded from that intervention program. (Currently all domestic violence offences are excluded).

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

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Clause 1 Criminal Procedure Amendment (Forum Sentencing Program) Regulation
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**Criminal Procedure Amendment (Forum Sentencing
Program) Regulation 2008**

under the

Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Forum Sentencing Program) Regulation 2008*.

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 Forum sentencing program

Insert “, but only in relation to an offence committed by an offender against another person with whom the offender has or has had an intimate domestic relationship” after “*Crimes (Domestic and Personal Violence) Act 2007*” in clause 19A (3) (a).

[2] Clause 19A (3) (e)–(h)

Insert after clause 19A (3) (d):

- (e) an offence under section 25 (2) of the *Road Transport (Driver Licensing) Act 1998*,
- (f) an offence under section 25A (1) of the *Road Transport (Driver Licensing) Act 1998*,
- (g) an offence under section 25A (2) of the *Road Transport (Driver Licensing) Act 1998*,
- (h) an offence under section 21A of the *Road Transport (Vehicle Registration) Act 1997* (Offences relating to identification numbers of engines and other parts of motor vehicles or trailers).

[3] Clause 19A (4)

Insert after clause 19A (3):

- (4) For the purposes of this clause, a person has or has had an ***intimate domestic relationship*** with another person if the person:
 - (a) is or has been married to the other person, or
 - (b) has or has had a de facto relationship, within the meaning of the *Property (Relationships) Act 1984*, with the other person, or
 - (c) has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person, or
 - (d) otherwise has or has had an intimate personal relationship with the other person, whether or not the intimate relationship involves or has involved a relationship of a sexual nature,but not if the person merely:
 - (e) is living or has lived in the same household as the other person, or

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Schedule 1 Amendments

- (f) is living or has lived as a long-term resident in the same residential facility as the other person (not being a facility that is a correctional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999* or a detention centre within the meaning of the *Children (Detention Centres) Act 1987*), or
- (g) is or has been a relative, within the meaning of section 6 of the *Crimes (Domestic and Personal Violence) Act 2007*, of the other person, or
- (h) in the case of an Aboriginal person or a Torres Strait Islander, is or has been part of the extended family or kin of the other person according to the Indigenous kinship system of the person's culture.

[4] Schedule 5

Omit the heading to Schedule 5. Insert instead:

Schedule 5 Forum sentencing program

[5] Schedule 5, clause 1

Omit the definitions of *conference*, *conference facilitator* and *conference participation order*.

Insert in alphabetical order:

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

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

forum 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 forum.

[6] Schedule 5, clause 1, definition of "referred offender"

Omit "conference". Insert instead "forum".

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- [7] Schedule 5, Parts 2–7 (other than the headings to Part 4 and clause 8)**
Omit “conference”, “Conference”, “Conferences” and “conferences” wherever occurring (including in headings).
Insert instead “forum”, “Forum”, “Forums” and “forums” respectively.
- [8] Schedule 5, headings to Part 4 and clause 8**
Omit “community conference intervention” wherever occurring.
Insert instead “forum sentencing”.
- [9] Schedule 5, clause 5**
Insert after clause 5 (f):
 (g) to reduce re-offending.
- [10] Schedule 5, clause 7 (1) (a)**
Omit the paragraph.
- [11] Schedule 5, clause 7 (1) (g)**
Insert at the end of clause 7 (1) (f):
 , and
 (g) the person has not previously been sentenced to a term of imprisonment (including a suspended sentence of imprisonment).