



New South Wales

Criminal Procedure Amendment (Circle Sentencing) Regulation 2009

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, MLC
Attorney General

Explanatory note

The object of this Regulation is to provide for an additional eligibility criterion for participation in the circle sentencing intervention program under the *Criminal Procedure Regulation 2005*. The additional criterion is that the court considers that the facts, as found by the court, or as pleaded to by the defendant, in connection with the relevant 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 (including by way of periodic detention or home detention) or be subject to a suspended sentence, community service order or good behaviour bond.

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

2009 No 455

Clause 1 Criminal Procedure Amendment (Circle Sentencing) Regulation 2009

Criminal Procedure Amendment (Circle Sentencing) Regulation 2009

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Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Circle Sentencing) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Criminal Procedure Regulation 2005

Schedule 4 Circle sentencing intervention program

Omit clause 8. Insert instead:

8 Eligibility to participate in program

- (1) A person is eligible to participate in the program only if:
 - (a) the person is an Aboriginal person, and
 - (b) the person is an offender, and
 - (c) the person has been assessed as suitable for participation in the program by the Aboriginal Community Justice Group for the declared place at a meeting convened in accordance with Part 3, and
 - (d) the person enters into an agreement to participate in the program, and
 - (e) 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, or be subject to, a relevant sentence.
- (2) In this clause, *relevant sentence* means:
 - (a) any sentence of imprisonment, including a suspended sentence and a sentence the subject of a periodic detention order or home detention order under the *Crimes (Sentencing Procedure) Act 1999*, or
 - (b) a community service order under the *Crimes (Sentencing Procedure) Act 1999*, or
 - (c) an order providing for an offender to enter into a good behaviour bond under the *Crimes (Sentencing Procedure) Act 1999*.