



New South Wales

Children (Criminal Proceedings) Further Amendment (Youth Conduct Orders) Regulation 2009

under the

Children (Criminal Proceedings) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Criminal Proceedings) Act 1987*.

JOHN HATZISTERGOS, MLC
Attorney General

Explanatory note

The object of this Regulation is to amend the *Children (Criminal Proceedings) Regulation 2005*:

- (a) to provide for an expedited suitability assessment process if a Case Coordination Senior Officers' Group finds that a child who has been referred to it for assessment does not meet any of the eligibility criteria for participation in the youth conduct orders scheme or that the offences concerned were committed outside of the area of a participating Local Area Command for the scheme, and
- (b) to revise the nomination process for members of, and quorum requirements for, Case Coordination Senior Officers' Groups to reflect recent Departmental amalgamations in the Public Service, and
- (c) to provide for the Chairperson of a Case Coordination Senior Officers' Group to be selected from the nominated members of the Group, and
- (d) to provide for certain NSW government agencies to co-operate with the Director-General of the Department of Premier and Cabinet in monitoring and evaluating the operation and effect of the youth conduct orders scheme (including by providing information for that purpose).

This Regulation is made under the *Children (Criminal Proceedings) Act 1987*, including sections 48H, 48W and 51 (the general regulation-making power).

2009 No 613

Clause 1 Children (Criminal Proceedings) Further Amendment (Youth Conduct Orders) Regulation 2009

**Children (Criminal Proceedings) Further Amendment
(Youth Conduct Orders) Regulation 2009**

under the

Children (Criminal Proceedings) Act 1987

1 Name of Regulation

This Regulation is the *Children (Criminal Proceedings) Further Amendment (Youth Conduct Orders) Regulation 2009*.

2 Commencement

- (1) This Regulation commences on the day on which it is published on the NSW legislation website, except as provided by subclause (2).
- (2) Schedule 1 [3]–[5] and [7] commence on the day that is 14 days after the day on which this Regulation is published on the NSW legislation website.

Schedule 1 Amendment of Children (Criminal Proceedings) Regulation 2005

[1] Clause 10 Suitability assessment of referred child

Omit “The” from clause 10 (3). Insert instead “Subject to subclause (3A), the”.

[2] Clause 10 (3A)

Insert after clause 10 (3):

- (3A) Without limiting the grounds on which a Coordination Group may find that a referred child is not suitable to participate in the scheme:
- (a) a Coordination Group may determine that a referred child is not suitable to participate in the scheme because of any of the following:
 - (i) the child does not meet any of the eligibility criteria referred to in clause 5 (1),
 - (ii) the child is not eligible to participate in the scheme by reason of the operation of clause 5 (4), and
 - (b) if a Coordination Group makes such a determination, the Group may proceed immediately to report its determination as to the suitability of the child to the Children’s Court under subclause (4) without having to carry out any further processes in relation to the assessment of the child.

[3] Clause 21 Constitution of Coordination Groups

Omit clause 21 (1). Insert instead:

- (1) For the purposes of transacting any of its business, each Coordination Group is to be constituted by the following members:
 - (a) one police officer nominated in writing by the Commissioner of Police (or his or her delegate) to represent the NSW Police Force,
 - (b) at least 2 persons (but not more than 5 persons) nominated in writing by the Director-General of the Department of Human Services (or his or her delegate) to represent the Department,
 - (c) one person nominated in writing by the Director-General of the Department of Education and Training (or his or her delegate) to represent the Department,

2009 No 613

Children (Criminal Proceedings) Further Amendment (Youth Conduct Orders) Regulation 2009

Schedule 1 Amendment of Children (Criminal Proceedings) Regulation 2005

- (d) one person nominated in writing by the chief executive of an area health service (or his or her delegate), being an area health service that is designated by the Director-General as the appropriate area health service to make the nomination for the Group,
- (e) such other persons (if any) as may be nominated in writing by the following heads of government agencies (or their delegates) to represent the agency of which they are the head:
 - (i) the Director-General of Communities NSW,
 - (ii) the Director-General of the Department of Justice and Attorney General,
 - (iii) the Director-General of the Department of Premier and Cabinet,
 - (iv) the Director-General of the Department of Health,
 - (v) the Chief Executive of Justice Health,
 - (vi) the Managing Director of TAFE NSW.

[4] **Clause 22 Chairpersons of Coordination Groups**

Omit clause 22 (1). Insert instead:

- (1) The Director-General is to appoint one of the members of a Coordination Group as the Chairperson of the Group.

[5] **Clause 24 Procedure**

Omit section 24 (2). Insert instead:

- (2) The quorum for a meeting of a Coordination Group is at least the following 5 members of the Group:
 - (a) the 3 members who are nominated as referred to in clause 21 (1) (a), (c) and (d) respectively,
 - (b) 2 members who are nominated as referred to in clause 21 (1) (b).

[6] **Clause 28A**

Insert after clause 28:

28A Evaluation and monitoring of scheme

- (1) A participating State agency is to co-operate with the Director-General in the exercise of the Director-General's functions under this Part concerning the evaluation and monitoring of the operation and effect of the scheme, including

complying with any reasonable request of the Director-General for information for use in such monitoring and evaluation.

- (2) In this clause:
participating State agency means any of the following:
- (a) a Government Department referred to in clause 21 (1) (b), (c) or (e) (i), (ii) or (iv),
 - (b) the NSW Police Force,
 - (c) an area health service referred to in clause 21 (1) (d),
 - (d) Justice Health,
 - (e) TAFE NSW.

[7] Clause 38 Savings and transitional provisions

Insert at the end of the clause:

- (2) The following provisions apply in relation to amendments made to this Regulation by the *Children (Criminal Proceedings) Further Amendment (Youth Conduct Orders) Regulation 2009* (the ***amending Regulation***):
- (a) any person who held office as the Chairperson of a Coordination Group immediately before the commencement of Schedule 1 [4] to the amending Regulation continues to hold office as Chairperson until he or she vacates office as such under clause 22,
 - (b) any person who was a member of a particular Coordination Group as a nominee of a relevant government agency immediately before the substitution of clause 21 (1) by the amending Regulation continues to be a member of the Group nominated by the agency until such time as the person's nomination is revoked.
- (3) In this clause:
relevant government agency means a Department or other government agency referred to in clause 21 (1) (as substituted by the amending Regulation).