



New South Wales

Children and Young Persons Amendment (Wood Inquiry Recommendations) Regulation 2010

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*.

LINDA BURNEY, MP
Minister for Community Services

Explanatory note

The object of this Regulation is to make savings and transitional provisions consequent on the enactment of some of the amendments made to the *Children and Young Persons (Care and Protection) Act 1998* by the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009*.

This Regulation is made under the *Children and Young Persons (Care and Protection) Act 1998* (as amended by the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009*), including clause 1 (1) of Schedule 3 (which empowers the Governor to make savings and transitional regulations consequent on the enactment of the latter Act) and section 264 (the general regulation-making power).

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Clause 1

Children and Young Persons Amendment (Wood Inquiry
Recommendations) Regulation 2010

**Children and Young Persons Amendment (Wood
Inquiry Recommendations) Regulation 2010**

under the

Children and Young Persons (Care and Protection) Act 1998

1 Name of Regulation

This Regulation is the *Children and Young Persons Amendment (Wood
Inquiry Recommendations) Regulation 2010*.

2 Commencement

This Regulation commences on 24 January 2010 and is required to be
published on the NSW legislation website.

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

Schedule 6

Insert at the end of the Regulation:

Schedule 6 Savings and transitional provisions

Part 1 Provisions consequent on enactment of Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009

Division 1 Preliminary

1 Definitions

In this Part:

amending Act means the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009*.

relevant day means 24 January 2010.

Note. 24 January 2010 is the date of commencement of the amendments made to the *Children and Young Persons (Care and Protection) Act 1998* by the amending Act that give rise to the savings and transitional provisions in this Part.

Division 2 Requests for assistance and reports

2 Director-General's response to existing requests for assistance

- (1) Section 22 (1) of the Act, as inserted by the amending Act, does not apply to any request for assistance made by a non-government agency before the relevant day.
- (2) Section 22 (2) of the Act, as inserted by the amending Act, does not apply to any request for assistance made before the relevant day.

3 Director-General's investigation and assessment of existing reports is to be on basis of amended Act

A report made under section 24, 25 or 27 of the Act before the relevant day is to be investigated and assessed, or otherwise dealt with, under and in accordance with Chapter 3 of the Act as

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amended by the amending Act, as if those amendments had been in force when the report was made.

4 Disclosure of identity of persons who made earlier reports or earlier provided certain information

Section 29 (4A)–(4C) of the Act, as inserted by the amending Act, extend to or in respect of the disclosure of matters relating to reports made before the relevant day.

Division 3 Care applications

5 New time limit for applications to Children’s Court for care orders to be applied to existing applications

The 72-hour time limit imposed by section 45 (1) of the Act, as amended by the amending Act, extends to any removal or assumption of care responsibility that occurred before the relevant day if a care application has not been made in relation to the matter before the relevant day.

6 Existing and certain other applications for care orders are not required to be accompanied by written report

- (1) Section 61 (2) (b) of the Act, as substituted by the amending Act, does not apply in relation to a care application made before the relevant day.
- (2) Section 61 (2) (b) of the Act, as substituted by the amending Act, is taken to have been complied with in relation to a care application made on or after the relevant day but before 25 July 2010 if the application is accompanied by an affidavit that complies with the requirements of clause 21 of the *Children’s Court Rule 2000* (as in force immediately before the relevant day).

7 Role of Children’s Court Clinic in relation to existing assessment orders

- (1) Section 58 (1) and (2) of the Act, as in force immediately before the relevant day, continue to apply in relation to an assessment order made before the relevant day.
- (2) Section 58 (3) of the Act, as inserted by the amending Act, extends to apply in relation to an assessment order made before the relevant day.

8 Existing care applications before the Court may be referred to alternative dispute resolution

Section 65A of the Act, as inserted by the amending Act, extends to a care application that was made but not finally determined before the commencement of the section.

9 Further grounds for care orders do not extend to existing care applications

The amendments made to section 71 of the Act by the amending Act do not apply to a care application that was made but not finally determined before the relevant day.

10 Permanency planning for existing care applications

Section 78A (2A) of the Act, as inserted by the amending Act, extends to a care application that was filed but not finally determined before the relevant day.

11 Orders allocating parental responsibility in relation to existing care applications unaffected

- (1) Section 79 (5) of the Act, as inserted by the amending Act, does not apply to an order made in relation to a care application that was made but not finally determined before the relevant day.
- (2) Section 79 (5) of the Act, as inserted by the amending Act, does not affect the validity of an order allocating parental responsibility that was made before the relevant day.

12 Requirement to prepare report on suitability of arrangements concerning parental responsibility unaffected

Any care proceedings that were commenced but not finally determined before the relevant day are to be determined as if section 82 of the Act had not been substituted by the amending Act.

13 Permanency plans for existing applications

Section 83 (7A) of the Act extends to a permanency plan made in respect of a care application that was made but not finally determined before the relevant day.

14 Contact orders in respect of existing care applications not affected

Section 86 (1A) of the Act, as inserted by the amending Act, does not apply to a care application filed before the commencement of the subsection.

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15 Additional matters to be considered before grant of an existing application for rescission or variation of care order

Section 90 (2A) (f) of the Act, as inserted by the amending Act, extends to the consideration of an application for leave to apply for the rescission or variation of a care order, that was made but not finally determined before the relevant day.

Division 4 Out-of-home care under order of Children's Court

16 Existing placements of Aboriginal and Torres Strait Islander children and young persons unaffected

The amendment made to section 13 (1) of the Act by the amending Act does not affect the placement of any child or young person in out-of-home care before the relevant day.

17 Existing out-of-home care arrangements unaffected

- (1) The substitution of section 135 of the Act by the amending Act does not apply in relation to any out-of-home care arrangements in force immediately before the relevant day.
- (2) Sections 135A–135C of the Act, as inserted by the amending Act, do not apply in relation to any out-of-home care arrangements in force immediately before the relevant day.
- (3) The substitution of section 136 of the Act by the amending Act does not apply in relation to any out-of-home care arrangements in force immediately before the relevant day.

18 Application of amendment relating to authorised carers

- (1) Section 137 (1A) of the Act, as inserted by the amending Act, extends to apply in relation to a care order made before the relevant day except as provided by subclause (2).
- (2) Section 137 (1A) of the Act, as inserted by the amending Act, does not apply in relation to a care order made before the relevant day while the child or young person the subject of the care order is placed with a parent pursuant to a placement arrangement made by the Department under the Act before the relevant day.

Division 5 Supported out-of-home care

19 Duration, renewal and review of existing temporary care arrangements unaffected

Section 152 of the Act, as in force immediately before the relevant day, continues to apply to a temporary care arrangement in force immediately before the relevant day.

20 Existing out-of-home care arrangements unaffected

The substitution of sections 153 and 154 of the Act by the amending Act does not apply in relation to any out-of-home care arrangement in force immediately before the relevant day.

21 Application of requirement for review of supported out-of-home care arrangements

Section 155 of the Act, as substituted by the amending Act, extends to out-of-home care arrangements of the kind referred to in that section that were in force immediately before the relevant day.

Division 6 Arrangements during statutory or supported out-of-home care

22 Existing out-of-home care arrangements unaffected

- (1) Section 159A of the Act, as inserted by the amending Act, does not apply in relation to any out-of-home care arrangements in force immediately before the relevant day.
- (2) The repeal of section 161 (2) of the Act by the amending Act does not apply in relation to out-of-home care arrangements in force immediately before the relevant day.
- (3) Section 165A of the Act, as inserted by the amending Act, does not apply in relation to out-of-home care arrangements in force immediately before the relevant day.