



New South Wales

Crimes (Sentencing Procedure) Amendment (Intensive Correction Orders) Regulation 2010

under the

Crimes (Sentencing Procedure) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Sentencing Procedure) Act 1999*.

JOHN HATZISTERGOS, MLC
Attorney General

Explanatory note

The object of this Regulation is to make provision with respect to sentencing procedures for intensive correction orders, which are established as a community-based sentencing option by the *Crimes (Sentencing Legislation) Amendment (Intensive Correction Orders) Act 2010*. The Regulation also repeals provisions relating to periodic detention, which is abolished by that Act.

This Regulation is made under the *Crimes (Sentencing Procedure) Act 1999*, including sections 70 (3) and 103 (the general regulation-making power).

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Clause 1 Regulation 2010

Crimes (Sentencing Procedure) Amendment (Intensive Correction Orders) Regulation 2010

under the

Crimes (Sentencing Procedure) Act 1999

1 Name of Regulation

This Regulation is the *Crimes (Sentencing Procedure) Amendment (Intensive Correction Orders) Regulation 2010*.

2 Commencement

This Regulation commences on:

- (a) 1 September 2010, or
- (b) the commencement of Schedule 1 [8] to the *Crimes (Sentencing Legislation) Amendment (Intensive Correction Orders) Act 2010*, whichever is the later, and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Crimes (Sentencing Procedure) Regulation 2010

Part 3

Omit the Part. Insert instead:

Part 3 Sentencing procedures for intensive correction orders

12 Intensive correction orders

- (1) An intensive correction order is to be in the approved form.
- (2) A copy of the order must be given to the offender, and a further copy is to be sent to the Commissioner of Corrective Services.

13 Undertaking to comply with intensive correction order

An undertaking referred to in section 67 (1) (d) of the Act is to be in the approved form.

14 Assessment reports

- (1) An offender's assessment report must take into account, and specifically address, the following matters:
 - (a) any criminal record of the offender, and the likelihood that the offender will re-offend,
 - (b) any risks associated with managing the offender in the community (taking into account the offender's response to supervision in the community on previous occasions),
 - (c) the likelihood that the offender will commit a domestic violence offence,
 - (d) whether the offender will have suitable residential accommodation for the duration of an intensive correction order,
 - (e) whether any circumstances of the offender's residence, employment, study or other activities would inhibit effective implementation of an intensive correction order,
 - (f) whether the persons with whom it is likely the offender would reside, or continue or resume a relationship, understand the requirements of an intensive correction order and are prepared to live in conformity with them, so far as may be necessary,

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- (g) whether the making of an intensive correction order would place at risk of harm any person who would be living with or in the vicinity of the offender,
 - (h) any dependency of the offender on alcohol or drugs, or other substance abuse, that would affect the offender's ability to comply with the offender's obligations under an intensive correction order,
 - (i) any physical or mental health conditions of the offender that would affect the offender's ability to comply with the offender's obligations under an intensive correction order,
 - (j) the existence and extent of any self-harm risk, including the likely impact of an intensive correction order on that risk, and the availability in the community of the support and treatment services necessary to manage the risk.
- (2) If a child under the age of 18 years would be living with an offender serving a sentence of imprisonment by way of intensive correction, the assessment report must take into account, and specifically address, the effect on the child of that fact.
- (3) If it appears to the officer preparing the assessment report that the offender is homeless:
- (a) all reasonable efforts must be made by the Commissioner of Corrective Services, in consultation with the offender, to find suitable accommodation for the offender, and
 - (b) the report is not to be finalised until those efforts have been made.
- (4) An offender's assessment report must also include an assessment of:
- (a) factors associated with his or her offending that would be able to be addressed by targeted interventions under an intensive correction order, and
 - (b) the availability of resources to address those factors by targeted interventions under an intensive correction order, and
 - (c) any issues relevant to the administration of an intensive correction order in respect of the offender that may be relevant to the court's determination of an appropriate date to be fixed for the commencement of the sentence.

15 Notice of intensive correction order

A notice referred to in section 73 (1) of the Act is to be in the approved form.