



New South Wales

Children (Detention Centres) Amendment (Disclosure of Information) Regulation 2020

under the

Children (Detention Centres) Act 1987

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

GARETH WARD, MP
Minister for Families, Communities and Disability Services

Explanatory note

The object of this Regulation is to provide for the following matters under the *Children (Detention Centres) Act 1987*—

- (a) the purposes for which the Secretary of the Department of Communities and Justice may disclose information obtained in connection with the exercise of the Secretary's functions,
- (b) prescribing the National Disability Insurance Scheme Launch Transition Agency as an agency with whose head the Secretary may enter into an information sharing arrangement,
- (c) the information that the parties to the arrangement may request, receive and disclose.

This Regulation is made under the *Children (Detention Centres) Act 1987*, including sections 102A, 102B(5) (definitions of *prescribed information* and *relevant agency*) and 109 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Children (Detention Centres) Amendment (Disclosure of Information) Regulation 2020*.

2 Commencement

This Regulation commences on the commencement of Schedule 1.4[4] to the *Justice Legislation Amendment Act (No 3) 2018*.

Schedule 1 Amendment of Children (Detention Centres) Regulation 2015

Part 12A

Insert after clause 148—

Part 12A Disclosures and exchange of information

148AA Definitions

In this Part—

relevant person means a person who is or has been 1 or more of the following—

- (a) a detainee,
- (b) a juvenile inmate transferred to a detention centre under section 10 of the Act,
- (c) a juvenile offender released on parole under Part 4C of the Act,
- (d) the subject of a children's community service order within the meaning of the *Children (Community Service Orders) Act 1987*,
- (e) a child offender the subject of a community clean up order under Part 3A of the *Graffiti Control Act 2008*,
- (f) a person in relation to whom a matter is referred to a conference administrator under the *Young Offenders Act 1997*,
- (g) a person supervised by Youth Justice NSW as a condition of—
 - (i) bail under the *Bail Act 2013*, or
 - (ii) a community correction order or conditional release order under the *Crimes (Sentencing Procedure) Act 1999*, or
 - (iii) an order under section 33 of the *Children (Criminal Proceedings) Act 1987*.

Youth Justice NSW means that part of the Department comprising the group of staff principally involved in the administration of the Act.

148AB Purposes for which Secretary may disclose information

- (1) For the purposes of section 102A(1) of the Act, each of the following is prescribed as a purpose for which the Secretary may disclose information under that subsection, if the Secretary considers the disclosure to be reasonably necessary for the purpose—
 - (a) facilitating appropriate management and supervision of a relevant person who is in the custody, or under the supervision, of a government agency of the Commonwealth, another State or Territory or New Zealand that substantially corresponds with Corrective Services NSW or Youth Justice NSW,
 - (b) facilitating the exercise of the lawful functions of each of the following in relation to a relevant person—
 - (i) the Commonwealth Department of Home Affairs, or a successor of that Department,
 - (ii) the Commonwealth Attorney General's Department, or a successor of that Department,

- (c) facilitating the assessment of a relevant person's eligibility and suitability for the program, conducted by the Department, known as the Engagement and Support Program, or a successor of that program,
 - (d) facilitating data-matching by a government data-linkage centre to enable research into the provision of interventions and services by a NSW public sector agency (within the meaning of the *Privacy and Personal Information Protection Act 1998*) and the outcomes of those interventions and services.
- (2) For the purposes of section 102A(1) of the Act, the Secretary may disclose to another person or body (the **recipient**) information relating to the safety, welfare or well-being of a particular child or young person, or class of children or young persons, in another State or Territory or New Zealand if the Secretary reasonably believes that the disclosure of the information would assist the recipient—
- (a) to make any decision, assessment or plan or to initiate or conduct an investigation, or to provide a service, relating to the safety, welfare or well-being of the child or young person or class of children or young persons (including, where applicable, to provide prioritised access to a service to a child or young person or class of children or young persons at risk of significant harm), or
 - (b) to manage a risk to the child or young person, or class of children or young persons, that might arise in the recipient's capacity as an employer.

148AC Exchange of information with National Disability Insurance Scheme Launch Transition Agency

- (1) The National Disability Insurance Scheme Launch Transition Agency under the *National Disability Insurance Scheme Act 2013* of the Commonwealth is prescribed as a **relevant agency** for the purposes of the definition of that term in section 102B(5) of the Act.
- (2) For the purposes of the definition of **prescribed information** in section 102B(5) of the Act, the information referred to in subclause (3) is prescribed if it assists the National Disability Insurance Scheme Launch Transition Agency—
- (a) to identify a relevant person with disability, or
 - (b) to provide support and services to a relevant person with disability.
- (3) Under an information sharing arrangement between them, the National Disability Insurance Scheme Launch Transition Agency is authorised to request and receive, and the Secretary is authorised to disclose, the following information in relation to a relevant person—
- (a) name, and any known alias,
 - (b) date of birth,
 - (c) whether the Secretary considers the relevant person to be an Aboriginal person or a Torres Strait Islander,
 - (d) the date and time of the relevant person's entry into and exit from a detention centre,
 - (e) contact details for next of kin or carer,
 - (f) last known address when not in detention,
 - (g) details of the relevant person's case manager and community office in Youth Justice NSW,

(h) information about any disability or health risks.