



New South Wales

Children (Protection and Parental Responsibility) Regulation 2024

under the

Children (Protection and Parental Responsibility) Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Children (Protection and Parental Responsibility) Act 1997*.

MICHAEL DALEY, MP
Attorney General

Explanatory note

The object of this regulation is to repeal and remake, without substantial changes, the *Children (Protection and Parental Responsibility) Regulation 2019*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation provides for the following—

- (a) undertakings given under the *Children (Protection and Parental Responsibility) Act 1997*,
- (b) counselling services,
- (c) protocols relating to the way functions conferred on police officers and other persons under the Act, Part 3 must be exercised,
- (d) records that must be made by police officers who remove children from public places and escort them to other places.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters of a machinery nature, and
- (b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Children (Protection and Parental Responsibility) Regulation 2024

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Children (Protection and Parental Responsibility) Act 1997

Part 1 Preliminary

1 Name of regulation

This regulation is the *Children (Protection and Parental Responsibility) Regulation 2024*.

2 Commencement

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

Note— This regulation repeals and replaces the *Children (Protection and Parental Responsibility) Regulation 2019*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definition

In this regulation—

the Act means the *Children (Protection and Parental Responsibility) Act 1997*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 Parental responsibility—the Act, s 46(1)

4 Enforcement of undertakings

A court may use information available to the court that the court considers reliable to determine whether a parent or child must attend before the court for failing to comply with an undertaking under the Act, Part 2.

5 Forfeiture of security for undertakings

A court must not forfeit part of the security given by a parent under the Act, section 9 unless—

- (a) the parent is present before the court and has an opportunity to be heard, or
- (b) a notice to show cause why the security should not be forfeited is given personally or by post to the parent and the parent has had an opportunity to show cause.

6 Refund of security for undertakings

A person who gives security under the Act, Part 2 must be refunded the security at the end of the period of the undertaking unless it appears to the court, from information available to the court at the end of the period, that the person has failed to comply with the undertaking.

7 Counselling

- (1) Before a court requires a person to undergo counselling under the Act, Part 2, the court must—
 - (a) identify an appropriate professional counsellor or body with counselling facilities to provide the counselling, and
 - (b) ascertain from the counsellor or a person representing the body whether the counsellor or body—
 - (i) is able to provide the counselling, and
 - (ii) consents to being nominated by the court as the provider of the counselling, and
 - (c) determine whether—
 - (i) the person must pay a fee in relation to the counselling, and
 - (ii) if a fee is payable—the person has the financial capacity to pay the fee or is eligible for government assistance for the fee.
- (2) A court must not require a person to undergo counselling if, in the court's opinion, the person would suffer undue financial hardship as a result of undergoing the counselling.

Part 3 Welfare of children in public places

8 Departmental protocols—the Act, s 26(2)

- (1) The Commissioner of Police and the Secretary of the Department of Communities and Justice may enter into protocols in relation to the exercise of functions conferred on police officers and other persons under the Act, Part 3.
- (2) A protocol—
 - (a) is subject to the Act and this regulation, and
 - (b) may be amended, revoked or replaced from time to time.
- (3) A police officer or other person on whom a function is conferred under the Act, Part 3 must exercise the function in conformity with a protocol as far as practicable.
- (4) A failure to comply with a protocol does not invalidate an act or omission done by the police officer or person.

9 Records—the Act, s 46(2)(c)

- (1) A police officer who removes a person from a public place under the Act, Part 3, Division 2 must make a record of the following particulars—
 - (a) if known to the officer—the person’s name and age,
 - (b) if the person expresses wishes or feelings in relation to the place to which the person is to be escorted under the Act, section 22—the wishes or feelings expressed,
 - (c) the address of the public place from which the person was removed,
 - (d) the reason the person was removed from the public place,
 - (e) if the officer arranges for another police officer to escort the person under the Act, section 19(2) or 22(1) or (3)—the name of the other police officer.
- (2) A police officer who escorts a person (the *escorted person*) in accordance with the Act, section 22 must make a record of the following particulars—
 - (a) if the escorted person is left at the residence of the escorted person’s parent—the relevant information of the escorted person’s parent,
 - (b) if the escorted person is left at the escorted person’s care residence—the relevant information of the escorted person’s carer,
 - (c) if the escorted person is left at the residence of the escorted person’s close relative—
 - (i) the relevant information of the escorted person’s close relative, and
 - (ii) the relationship of the close relative to the escorted person,
 - (d) if the escorted person is left at the residence of the escorted person’s parent or close relative in the care of a person other than the parent or close relative—the relevant information of the person in whose care the escorted person is left,
 - (e) if the escorted person is placed in the care of the Secretary of the Department of Communities and Justice—the relevant information of the person in whose care the escorted person is left,
 - (f) if the escorted person is placed in the care of an approved person—the relevant information of the approved person.
- (3) If a police officer escorts a person in accordance with the Act, section 22 and subsection (2)(a)–(d) does not apply, the police officer must make a record of the reason the person was not escorted to the locations or left with persons referred to in subsection (2).

- (4) In this section—
- relevant information***, in relation to a person, means the following—
- (a) the name and telephone number of the person,
 - (b) the address of—
 - (i) for a carer—the care residence, or
 - (ii) otherwise—the residence of the person.

Part 4 Miscellaneous

10 Repeal and saving

- (1) The *Children (Protection and Parental Responsibility) Regulation 2019* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Children (Protection and Parental Responsibility) Regulation 2019*, had effect under that regulation continues to have effect under this regulation.