



New South Wales

# Crimes (Criminal Organisations Control) Regulation 2024

under the

Crimes (Criminal Organisations Control) Act 2012

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Crimes (Criminal Organisations Control) Act 2012*.

MICHAEL DALEY, MP  
Attorney General

## Explanatory note

The object of this regulation is to repeal and remake, with minor changes, the *Crimes (Criminal Organisations Control) Regulation 2019*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation—

- (a) provides for the designation of—
  - (i) the criminal intelligence monitor, who monitors applications made to the Supreme Court in relation to criminal intelligence, criminal organisations and their members, and
  - (ii) alternates if the criminal intelligence monitor is unavailable, and
- (b) prescribes certain notification and annual reporting requirements for the criminal intelligence monitor, and
- (c) prevents a lawyer who exercises the functions of the criminal intelligence monitor from representing certain persons and organisations.

This regulation is made under the *Crimes (Criminal Organisations Control) Act 2012*, including sections 28C(1) and (2) and 38, the general regulation-making power.

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 not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Crimes (Criminal Organisations Control) Regulation 2024

under the

Crimes (Criminal Organisations Control) Act 2012

### Part 1 Preliminary

#### 1 Name of regulation

This regulation is the *Crimes (Criminal Organisations Control) 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regulation repeals and replaces the *Crimes (Criminal Organisations Control) Regulation 2019*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

In this regulation—

**alternate** means a person designated as an alternate for the monitor under section 5.

**application** means—

- (a) an application to the Court under the Act, Part 2 or 3, or
- (b) a criminal intelligence application under the Act, Part 3B.

**monitor** means the criminal intelligence monitor within the meaning of the Act, Part 3B.

**the Act** means the *Crimes (Criminal Organisations Control) Act 2012*.

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

## **Part 2 Criminal intelligence monitor—the Act, s 28C**

### **4 Designation of criminal intelligence monitor**

- (1) The Minister may, by order published in the Gazette, designate a person of a kind referred to in the Act, section 28C(1) as the monitor.
- (2) The Minister must not designate a person specified in Schedule 1.

### **5 Alternate for monitor**

- (1) The Minister may designate a person as an alternate for the monitor in the same way as the Minister designates the monitor.
- (2) The Minister must not designate a person as an alternate unless the person is a person who may be designated as the monitor.
- (3) The Minister must not designate more than 3 alternates.
- (4) If the monitor is unavailable to exercise the functions of the monitor in relation to an application, an alternate—
  - (a) may exercise the functions, and
  - (b) in exercising the functions, is taken to be the monitor.
- (5) Without limiting subsection (4), the monitor is taken to be unavailable to exercise the functions of the monitor in relation to an application if the monitor has given written notice of the monitor's unavailability to the Commissioner.

### **6 Monitor or alternate must inform Commissioner of unavailability**

If the monitor or an alternate is unavailable to exercise the functions of the monitor in relation to an application, the monitor or alternate must, as soon as practicable—

- (a) give written notice of the monitor's or alternate's unavailability to the Commissioner, and
- (b) give the material provided under the Act, section 28E—
  - (i) to the Commissioner, or
  - (ii) with the Commissioner's consent—directly to a person who is to exercise the functions of the monitor in relation to the application.

### **7 Time within which material must be given to monitor or alternate**

The Commissioner must ensure all material in relation to an application that is required to be given to the monitor under the Act, section 28E is given—

- (a) to the monitor at least 28 days before the application is heard, or
- (b) if an alternate is to exercise the functions of the monitor in relation to the application—to the alternate at least 21 days before the application is heard.

### **8 Annual report by monitor and alternates**

- (1) This section applies to the monitor and any alternate who exercises the functions of the monitor in a calendar year.
- (2) The monitor or alternate must prepare an annual report in relation to the monitor's or alternate's exercise of the functions in the calendar year.
- (3) The report must—
  - (a) not contain criminal intelligence, and
  - (b) be prepared and presented to the Minister within 3 months after the end of the calendar year to which the report relates.

- (4) The Minister must, as soon as practicable after receiving a report under this section, table the report in both Houses of Parliament.

**9 Restriction on legal practice of monitors and alternates**

A lawyer who has exercised the functions of the monitor must not represent an organisation or a person if the lawyer—

- (a) knows, or should reasonably know, the organisation or person is or was a respondent to an application under the Act, or  
**Note—** All declared organisations and persons to whom control orders relate will have been respondents to an application under the Act.
- (b) knows, or should reasonably know, the person is or was a member of an organisation referred to in paragraph (a), or
- (c) obtained criminal intelligence about the organisation or person when exercising the functions of the monitor.

## **Part 3 Miscellaneous**

### **10 Repeal and savings**

- (1) The *Crimes (Criminal Organisations Control) Regulation 2019* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Crimes (Criminal Organisations Control) Regulation 2019*, had effect under that regulation continues to have effect under this regulation.

## **Schedule 1      Persons who cannot be designated monitor**

section 4(2)

- 1**            A person who is appointed as the Director of Public Prosecutions.
- 2**            A person who is a member of the NSW Police Force.
- 3**            A person employed in the following Public Service agencies—
  - (a)    Office of the Director of Public Prosecutions,
  - (b)    New South Wales Crime Commission Staff Agency.
- 4**            A person holding an office, or employed in a position, in another jurisdiction that is equivalent to an office or position referred to in items 1–3.