



New South Wales

Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Children (Criminal Proceedings) Act 1987* and the *Children (Criminal Proceedings) Regulation 2005* to provide for the establishment of a youth conduct order scheme for dealing with children who have been charged with (or pleaded guilty to or been found guilty of) offences covered by the *Young Offenders Act 1997*, but for whom the diversionary scheme created by the *Young Offenders Act 1997* is not appropriate.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Children (Criminal Proceedings) Act 1987* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Children (Criminal Proceedings) Regulation 2005* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced, the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Children (Criminal Proceedings) Act 1987

Establishment of the youth conduct order scheme

Schedule 1 [1] inserts a Part 4A in the *Children (Criminal Proceedings) Act 1987* (the *Principal Act*) to establish the youth conduct order scheme (*the scheme*). The new Part contains the following provisions:

Division 1 Interpretation

The proposed Division includes the following provisions relating to the interpretation of the new Part:

- (a) a provision setting out the objects of the new Part (proposed section 48A),
- (b) provisions defining terms and expressions used in the new Part (proposed sections 48B–48D).

Proposed section 48B, among other things, defines the term *ASB pilot project* to mean the multi-agency intervention strategy known as the Anti-Social Behaviour Pilot Project that was established by the Government in September 2006. This pilot project is intended to continue to operate when the scheme commences operation.

The scheme operates in relation to relevant offences committed, or alleged to have been committed, by children. Proposed section 48D defines the term *relevant offence* to cover the same kinds of offences by children as are covered by the *Young Offenders Act 1997*.

Proposed section 48E enables the Governor to make regulations concerning eligibility criteria for participation in the scheme. The proposed section also enables the regulations to provide for the continued participation in the scheme of persons who committed relevant offences while they were children, but who have now become adults who are less than 21 years old.

Division 2 Overview of scheme

The proposed Division contains a summary of the operation of the scheme. The scheme will operate as follows:

- (a) **Child commits, or is alleged to have committed, a relevant offence**
A child is charged with (or has pleaded guilty to or been found guilty of) a relevant offence.

(b) **Referral of child for suitability assessment**

The Children's Court may make a suitability assessment order under proposed section 48G in relation to such a child if satisfied of certain matters, including that it would not be appropriate for the child to be dealt with instead under the *Young Offenders Act 1997*. The consent of the child will be required if the child has not yet pleaded guilty to or been found guilty of the relevant offence.

The order operates to adjourn the criminal proceedings so that a suitability assessment can be carried out in relation to the child in accordance with the regulations.

(c) **Children's Court makes youth conduct order**

The Children's Court may make an interim youth conduct order or a final youth conduct order in respect of the child under proposed section 48L if satisfied of certain matters, including that the child has been assessed as being suitable for participation in the scheme following a suitability assessment.

An *interim youth conduct order* requires the child to participate in the preparation of a final conduct plan to be approved by the Children's Court when it makes a final youth conduct order. Such an order may have effect for a period not exceeding 2 months. While the order is in effect, the child will be required to comply with an interim conduct plan prepared in accordance with the regulations.

A *final youth conduct order*, on the other hand, requires the child to comply with the final conduct plan that the child has participated in preparing. Such an order may have effect for a period not exceeding 12 months.

A *conduct plan* is a plan that provides for the kinds of conduct that a child must, or must not, engage in while a youth conduct order is in effect with respect to the child.

While a youth conduct order (whether interim or final) is in effect, the Children's Court will not be required to make a finding as to a child's guilt (if there has not yet been a finding or a guilty plea) or to consider penalties for the offence (if there has been a finding of guilt or a guilty plea). Also, the Children's Court is taken to have dispensed with the requirement for bail for the relevant offence while the order is in effect.

(d) **Child to comply with youth conduct order**

A child who is subject to a youth conduct order (whether interim or final) must comply with the order. Proposed Division 6 makes provision for the enforcement of youth conduct orders.

A failure to comply with a youth conduct order may result in the child being returned to the Children's Court for the Court to deal with the child.

If a child complies with a final youth conduct order, the child's compliance will be taken into account when dealing with the child for the relevant offence concerned.

Division 3 Suitability assessments

The proposed Division provides for the referral of a child for an assessment as to the child's capacity and prospects to participate in the scheme (a *suitability assessment*). Proposed section 48G provides that a child may be referred for a suitability assessment by an order made by the Children's Court (a *suitability assessment order*). The Court may make such an order in respect of a child if:

- (a) the child has:
 - (i) pleaded guilty to, or been found guilty of, the relevant offence, or
 - (ii) in any other case—consented to the making of the order, and
- (b) the Court is satisfied that the child has been afforded an opportunity to seek advice on the proposed order from an Australian legal practitioner, and
- (c) in the case where the child has not pleaded guilty to, or has not yet been found guilty of, the relevant offence—the Court is satisfied that the child had sufficient information by the time of the hearing to enable the child to make an informed choice about whether to consent to the making of the order, and
- (d) the child has been granted an approval (a *scheme participation approval*) in accordance with the regulations for the potential participation of the child in the scheme unless the Court considers that it was not possible in the circumstances for the approval to be granted in time for the hearing.

Proposed section 48H provides that a suitability assessment is to be conducted in accordance with the regulations.

Proposed section 48I provides that bail may be granted to a child in relation to a relevant offence on condition that the child submit to a suitability assessment.

Division 4 Preparation of conduct plans

Proposed sections 48J and 48K provide for the preparation of interim and final conduct plans in accordance with the regulations for submission to the Children's Court for its consideration and approval when framing the terms of interim and final youth conduct orders. A conduct plan may contain only the kinds of provisions specified by proposed section 48C.

A youth conduct order cannot be made by the Children's Court unless an appropriate conduct plan has been submitted for the consideration and approval of the Court. An interim conduct plan needs to be submitted for an interim youth conduct order while a final conduct plan needs to be submitted for a final youth conduct order.

Division 5 Making of youth conduct orders

The proposed Division contains provisions relating to the making of, and reviews of and appeals against, youth conduct orders.

Proposed section 48L enables the Children's Court to make interim and final youth conduct orders, subject to certain preconditions.

Proposed section 48M requires the Children's Court to explain to a child the child's obligations under a youth conduct order and the consequences of failing to comply with the obligations.

Proposed section 48N enables the Children's Court to review a youth conduct order.

Proposed section 48O enables a child to appeal to the District Court, with the leave of the Court, against a youth conduct order made in respect of the child or against the variation or revocation of such an order.

Division 6 Enforcement of youth conduct orders

The proposed Division provides for the consequences of the revocation of youth conduct orders and of complying (or failing to comply) with such orders.

Proposed section 48P enables the Children's Court to require a child to appear before it if the child fails to comply with a youth conduct order. If satisfied that the child has failed to comply with an order, the Court may:

- (a) administer a warning to the child, or
- (b) decide to take no action with respect to the failure to comply, or
- (c) vary the order, or
- (d) revoke the order.

Proposed section 48Q provides for the consequences of the revocation of a youth conduct order. If the child concerned did not plead guilty to (or had not yet been found guilty of) a relevant offence before the order was made, the Court may proceed to determine whether the child is guilty and, if so, deal with the child under Division 4 of Part 3 of the Principal Act (which provides for the imposition of penalties for offences). If the child pleaded guilty to (or was found guilty of) a relevant offence before the order was made, the Court may deal with the child under Division 4 of Part 3 of the Principal Act. In determining penalties, the Court will have to take into account the extent to which a child complied, or failed to comply, with a revoked youth conduct order.

Proposed section 48R deals with the consequences of a child successfully complying with a final youth conduct order for a relevant offence. If the child did not plead guilty to (or had not yet been found guilty of) a relevant offence before the order was made, the Court may dismiss the charge for the offence. If the child pleaded guilty to (or was found guilty of) a relevant offence before the order was made, the Court may deal with the child under Division 4 of Part 3 of the Principal Act having regard to the child's compliance with the order.

Division 7 Miscellaneous

The proposed Division contains the following provisions:

- (a) a provision that limits the use of certain evidence obtained as a consequence of participation in or assessment for the scheme or the ASB pilot project (proposed section 48S),

- (b) a provision that limits the disclosure of information obtained in connection with the scheme or the ASB pilot project (proposed section 48T),
- (c) a provision that enables information to be shared and exchanged between scheme administrators and other relevant agencies (proposed section 48U),
- (d) a provision that requires the destruction of photographs, finger-prints, palm-prints and other records relating to a child charged with a relevant offence where that charge is dismissed following the child's successful participation in the scheme (proposed section 48V),
- (e) a provision conferring a general regulation-making power in relation to the scheme (proposed section 48W),
- (f) a provision setting out the relationship between the new Part and other legislation and matters (proposed section 48X),
- (g) a provision that provides for the new Part to cease to have effect after the scheme has been in operation for 26 months or by such later day as may be prescribed by the regulations (proposed section 48Y).

Consequential amendment

Schedule 1 [2] makes a consequential amendment to section 50 of the Principal Act.

Savings and transitional provisions

Schedule 1 [3] amends clause 1 of Schedule 2 to the Principal Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [4] inserts a Part 15 in Schedule 2 to the Principal Act to provide that Part 4A (as inserted by the proposed Act) extends to relevant offences committed, or alleged to have been committed, by a child before the commencement of the Part, but only if the child is charged with the offence after that commencement.

Schedule 2 Amendment of Children (Criminal Proceedings) Regulation 2005

Schedule 2 [2] inserts a Part 2 in the *Children (Criminal Proceedings) Regulation 2005* (the **Principal Regulation**). The new Part contains the following provisions relating to the administration of the scheme:

- (a) interpretative provisions (clause 4),
- (b) prescribed eligibility criteria for participation in the scheme (clause 5),
- (c) the appointment of authorised scheme officers (clause 6),
- (d) provisions relating to the granting of scheme participation approvals (clause 7),
- (e) provisions relating to the referral of children for, and the conduct of, suitability assessments (clauses 8–10),

- (f) provisions relating to the preparation of interim and final conduct plans (clauses 11 and 12),
- (g) provisions relating to the making of applications in connection with youth conduct orders (clauses 13–17),
- (h) provisions relating to the preparation of compliance reports and scheme operation reports (clauses 18 and 19),
- (i) provisions for the establishment and functions of Case Coordination Senior Officers' Groups to conduct suitability assessments and administer the scheme (clauses 20–24),
- (j) a provision for the issue of scheme directions by the Director-General of the Department of Premier and Cabinet (clause 25),
- (k) a provision for the delegation of functions by the Director-General (clause 26),
- (l) provisions prescribing matters for the purposes of proposed sections 48O, 48T and 48U to be inserted in the *Children (Criminal Proceedings) Act 1987* by Schedule 1 [1] to the proposed Act (clauses 27 and 28).

The areas of operation of the scheme will be limited, at least initially, to the Campbelltown, Mount Druitt and New England Local Area Commands for the NSW Police Force. The eligibility criteria to be prescribed by clause 5 provide that one of the criteria is that a child permanently or temporarily resides in, or is an habitual visitor to, the area of one of these Commands. A police officer of or above the rank of Superintendent will be required to consent before a child can be granted a scheme participation approval.

The eligibility criteria prescribed by clause 5 also provide that a child must be aged 14 years or over but less than 18 years old at the time that the offence or alleged offence occurred, but less than 19 years old when it is first proposed to make a youth conduct order with respect to the child. Clause 5 also provides for the continued participation in the scheme of persons who are 18 years old or older (but less than 21 years old) in relation to relevant offences committed (or alleged to have been committed) by such persons while they were aged 14 years old or older (but less than 18 years old).

A child will not be able to be admitted to the scheme after the scheme has been in operation for 12 months.

Schedule 2 [1] and [3] insert Part headings in the Principal Regulation consequent on the insertion of the new Part. **Schedule 2 [4]** renumbers certain existing clauses of the Principal Regulation consequent on the insertion of the new Part.



New South Wales

Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Bill 2008

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New South Wales

Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Bill 2008

No. , 2008

A Bill for

An Act to amend the *Children (Criminal Proceedings) Act 1987* and the *Children (Criminal Proceedings) Regulation 2005* to provide for the establishment of a youth conduct order scheme.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Act 2008</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Children (Criminal Proceedings) Act 1987 No 55	7
The <i>Children (Criminal Proceedings) Act 1987</i> is amended as set out in Schedule 1.	8 9
4 Amendment of Children (Criminal Proceedings) Regulation 2005	10
The <i>Children (Criminal Proceedings) Regulation 2005</i> is amended as set out in Schedule 2.	11 12
5 Repeal of Act	13
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

Schedule 1	Amendment of Children (Criminal Proceedings) Act 1987	1
		2
	(Section 3)	3
[1] Part 4A		4
Insert after Part 4:		5
	Part 4A Youth conduct orders	6
	Division 1 Interpretation	7
48A Objects of Part		8
The objects of this Part are as follows:		9
(a) to establish a scheme for dealing with children who have been charged with (or pleaded guilty to or been found guilty of) offences covered by the <i>Young Offenders Act 1997</i> , but for whom the diversionary scheme created by that Act is not appropriate,		10 11 12 13 14
(b) to address the underlying causes of anti-social behaviour by such children by means of youth conduct orders that operate to prohibit or restrict negative behaviours and to promote socially acceptable behaviours through participation in anti-social behaviour programs,		15 16 17 18 19
(c) to provide for a coordinated multi-agency approach to the administration of the scheme.		20 21
48B Definitions		22
In this Part:		23
<i>ASB pilot project</i> means the multi-agency intervention strategy known as the Anti-Social Behaviour Pilot Project that was established by the Government in September 2006.		24 25 26
<i>associate with</i> means:		27
(a) to be in company with, or		28
(b) to communicate with by any means (including post, facsimile, telephone, email or any other form of electronic communication).		29 30 31
<i>body</i> includes an agency, authority or any other organisation (whether or not incorporated).		32 33
<i>charged with a relevant offence</i> means a court attendance notice has been issued to a person for the offence.		34 35

<i>conduct plan</i> means a plan that provides for the kinds of conduct that a child must, or must not, engage in while a youth conduct order is in effect with respect to the child.	1 2 3
<i>conduct restriction provisions</i> —see section 48C (2).	4
<i>final conduct plan</i> —see section 48K.	5
<i>final youth conduct order</i> —see section 48L (1) (b).	6
<i>interim conduct plan</i> —see section 48J.	7
<i>interim youth conduct order</i> —see section 48L (1) (a).	8
<i>positive conduct provisions</i> —see section 48C (1).	9
<i>prescribed eligibility criteria</i> means the eligibility criteria for participation in the scheme that are prescribed by the regulations for the purposes of section 48E.	10 11 12
<i>relevant offence</i> —see section 48D.	13
<i>scheme participation approval</i> for a child means an approval that has been granted in accordance with the regulations for the potential participation of the child in the scheme in the event that the child is found suitable to participate in the scheme following a suitability assessment.	14 15 16 17 18
<i>suitability assessment</i> means an assessment as to a child’s capacity and prospects to participate in the scheme.	19 20
<i>suitability assessment order</i> —see section 48G.	21
<i>the scheme</i> means the scheme established by this Part.	22
<i>victim</i> has the same meaning as <i>victim of crime</i> has for the purposes of the <i>Victims Rights Act 1996</i> .	23 24
<i>youth conduct order</i> means an interim youth conduct order or a final youth conduct order.	25 26
48C Meanings of “positive conduct provisions” and “conduct restriction provisions”	27 28
(1) For the purposes of this Part, <i>positive conduct provisions</i> are any of the following kinds of provisions:	29 30
(a) provisions requiring a child to engage in kinds of conduct aimed at addressing the underlying causes of the child’s anti-social behaviour, including (without limitation) any of the following:	31 32 33 34
(i) attending or completing a course of study or training,	35 36
(ii) meeting with health professionals or other persons with backgrounds or experience that may assist the child,	37 38 39
(iii) participating in sporting or recreational activities,	40

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- (b) such other kinds of provisions as may be prescribed by the regulations. 1
2
- (2) For the purposes of this Part, **conduct restriction provisions** are 3
any of the following kinds of provisions: 4
- (a) provisions prohibiting or restricting a child from 5
associating with specified persons or kinds of persons, 6
- (b) provisions prohibiting or restricting a child from 7
frequenting or visiting specified places or kinds of places, 8
- (c) provisions imposing curfews on a child, 9
- (d) provisions requiring a child to reside at a specified place or 10
places, 11
- (e) provisions requiring a child to report to a specified person, 12
court or other body, 13
- (f) provisions requiring a child to be of good behaviour, 14
- (g) such other kinds of provisions as may be prescribed by the 15
regulations. 16
- 48D Meaning of “relevant offence”** 17
- (1) For the purposes of this Part (and except as provided by this 18
section), a **relevant offence** is: 19
- (a) a summary offence, or 20
- (b) an indictable offence that may be dealt with summarily 21
under Chapter 5 of the *Criminal Procedure Act 1986*. 22
- (2) Despite subsection (1), an offence is not a relevant offence for the 23
purposes of this Part if: 24
- (a) the offence is a traffic offence committed by a child who 25
was, when the alleged offence occurred, old enough to 26
obtain a learner licence under the *Road Transport (Driver 27
Licensing) Act 1998* to drive the motor vehicle to which the 28
offence relates, or 29
- (b) the offence results in the death of any person, or 30
- (c) the offence is an offence under section 61E, 61L, 61M, 31
61N, 61O (1), (1A) or (2), 66C, 66D, 80, 81A or 81B of the 32
Crimes Act 1900, or 33
- (d) the offence is an offence under the *Crimes (Domestic and 34
Personal Violence) Act 2007*, or 35
- (e) the offence is an offence under Division 1 of Part 2 of the 36
Drug Misuse and Trafficking Act 1985 other than an 37
offence to which subsection (3) applies, or 38

- (f) the offence is an offence under Division 2 of Part 2 of the *Drug Misuse and Trafficking Act 1985* other than:
 - (i) an offence under section 23 (1) (a) or (c) of that Act to which subsection (4) applies, or
 - (ii) an offence under section 27 or 28 of that Act of aiding, abetting, counselling, procuring, soliciting or inciting the commission of an offence under section 23 (1) (a) or (c) of that Act to which subsection (4) applies, or
 - (g) the offence is prescribed by the regulations for the purposes of this section.
- (3) An offence under Division 1 of Part 2 of the *Drug Misuse and Trafficking Act 1985* is a relevant offence if in the opinion of the eligibility assessor:
- (a) in relation to an offence relating to a prohibited drug other than cannabis leaf within the meaning of the *Drug Misuse and Trafficking Act 1985*—the offence involves not more than the small quantity applicable to that drug under that Act, or
 - (b) in relation to an offence relating to cannabis leaf:
 - (i) the offence involves not more than half the small quantity of cannabis leaf within the meaning of the *Drug Misuse and Trafficking Act 1985*, or
 - (ii) there are exceptional circumstances in that:
 - (A) the offence involves more than half, but not more than the total, small quantity of cannabis leaf within the meaning of that Act, and
 - (B) it would be in the interests of rehabilitation, and appropriate in all the circumstances, to deal with the matter under the scheme.
- (4) An offence under section 23 (1) (a) or (c) of the *Drug Misuse and Trafficking Act 1985* is a relevant offence if in the opinion of the eligibility assessor:
- (a) the offence involves not more than half the small quantity applicable to the prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*, or
 - (b) there are exceptional circumstances in that:
 - (i) the offence involves more than half, but not more than the total, small quantity applicable to the

	prohibited plant within the meaning of the <i>Drug Misuse and Trafficking Act 1985</i> , and	1
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	(ii) it would be in the interests of rehabilitation, and appropriate in all the circumstances, to deal with the matter under the scheme.	3
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(5)	In this section, <i>eligibility assessor</i> means the body or person that is required, authorised or permitted to determine whether an offence is a relevant offence for the purposes of a provision of this Act or the regulations.	6
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48E	Prescribed eligibility criteria	10
(1)	The regulations may make provision for or with respect to the criteria (<i>prescribed eligibility criteria</i>) that a person must meet to be eligible to participate in the scheme in relation to relevant offences committed (or alleged to have been committed) while the person was a child.	11
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(2)	Without limiting subsection (1), the regulations may provide for persons who are 18 years old or older (but less than 21 years old) to continue to be eligible to participate in the scheme in relation to any relevant offences committed (or alleged to have been committed) by such persons while they were children.	16
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(3)	If the regulations make provision for persons who are no longer children to continue to be eligible to participate in the scheme, the other provisions of this Part (and any provisions of the regulations made for the purposes of this Part) extend to such persons as if they were still children.	21
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Division 2	Overview of scheme	26
48F	Summary of operation of scheme	27
(1)	The following is a summary of the operation of the scheme:	28
(a)	Child commits, or is alleged to have committed, a relevant offence	29
		30
	The child is charged with (or has pleaded guilty to or been found guilty of) a relevant offence. Section 48D defines the term <i>relevant offence</i> to cover the same kinds of offences as are covered by the <i>Young Offenders Act 1997</i> .	31
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(b)	Referral of child for suitability assessment	35
	The Children's Court may make a suitability assessment order under section 48G in relation to such a child if satisfied of certain matters, including that it would not be appropriate for the child to be dealt with instead under the	36
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Young Offenders Act 1997. The consent of the child will be required if the child has not yet pleaded guilty to or been found guilty of the relevant offence.

The order operates to adjourn the criminal proceedings so that a suitability assessment can be carried out in relation to the child in accordance with the regulations.

(c) **Children’s Court makes youth conduct order**

The Children’s Court may make an interim youth conduct order or a final youth conduct order in respect of the child under section 48L if satisfied of certain matters, including that the child has been assessed as being suitable for participation in the scheme following a suitability assessment.

An interim youth conduct order requires the child to participate in the preparation of a final conduct plan to be approved by the Children’s Court when it makes a final youth conduct order. Such an order may have effect for a period not exceeding 2 months. While the order is in effect, the child will be required to comply with an interim conduct plan prepared in accordance with the regulations.

A final youth conduct order, on the other hand, requires the child to comply with the final conduct plan that the child has participated in preparing. Such an order may have effect for a period not exceeding 12 months.

A conduct plan is a plan that provides for the kinds of conduct that a child must, or must not, engage in while a youth conduct order is in effect with respect to the child.

While a youth conduct order (whether interim or final) is in effect, the Children’s Court will not be required to make a finding as to a child’s guilt (if there has not yet been a finding or a guilty plea) or to consider penalties for the offence (if there has been a finding of guilt or a guilty plea). Also, the Children’s Court is taken to have dispensed with the requirement for bail for the relevant offence while the order is in effect.

(d) **Child to comply with youth conduct order**

A child who is subject to a youth conduct order (whether interim or final) must comply with the order. Division 6 makes provision for the enforcement of youth conduct orders.

A failure to comply with a youth conduct order may result in the child being returned to the Children's Court for the Court to deal with the child.

If a child complies with a final youth conduct order, the child's compliance will be taken into account when dealing with the child for the relevant offence concerned.

- (2) This section does not affect the meaning or interpretation of any provision of this Part that it summarises.

Division 3 Suitability assessments

48G Children's Court may make suitability assessment orders

- (1) The Children's Court may, of its own motion or on the application of an authorised applicant, make an order (a *suitability assessment order*) adjourning criminal proceedings against a child for a relevant offence for the purpose of enabling a suitability assessment to be carried out in relation to the child if:
- (a) the child has:
 - (i) pleaded guilty to, or been found guilty of, the relevant offence, or
 - (ii) in any other case—consented to the making of the order in circumstances where the child is capable in law of giving such consent, and
 - (b) the Court is satisfied that the child has been afforded an opportunity to seek advice on the proposed order from an Australian legal practitioner, and
 - (c) in the case where the child has not pleaded guilty to, or has not yet been found guilty of, the relevant offence—the Court is satisfied that the child had sufficient information by the time of the hearing to enable the child to make an informed choice about whether to consent to the making of the order, and
 - (d) the child has been granted a scheme participation approval unless the Court is satisfied that it was not possible in the circumstances for the approval to be granted in time for the hearing.
- (2) In determining whether a child has sufficient information to make an informed choice for the purposes of subsection (1) (c), the Children's Court is to have regard to the following:
- (a) if a brief of evidence relating to the relevant offence was required to be served on the child—whether a brief was served within a reasonable time before the hearing of the

	application and contained sufficient information to enable the child to make an informed choice,	1 2
(b)	if a brief of evidence was not served because it was not required—whether the child was nonetheless provided with sufficient information within a reasonable time before the hearing of the application to enable the child to make an informed choice.	3 4 5 6 7
	Note. Section 183 of the <i>Criminal Procedure Act 1986</i> makes provision for the service of briefs of evidence for offences. A brief of evidence must contain certain documents, subject to the regulations, regarding the evidence. Also, section 187 (5) of that Act provides that a prosecutor is not required to serve a brief of evidence in proceedings for an offence of a kind, or proceedings of a kind, prescribed by the regulations under that Act.	8 9 10 11 12 13 14
(3)	Each of the following persons is an authorised applicant for the purposes of the making of an application under subsection (1):	15 16
(a)	the child against whom the criminal proceedings have been brought,	17 18
(b)	any person making the application on behalf of the child,	19
(c)	any other person who is authorised to make such an application by the regulations.	20 21
(4)	The Children’s Court is not to make a suitability assessment order unless it is satisfied that it would not be appropriate for the child to be dealt with instead under the <i>Young Offenders Act 1997</i> .	22 23 24 25
(5)	The Children’s Court is not required to be satisfied that a child meets the prescribed eligibility criteria before it makes a suitability assessment order.	26 27 28
(6)	This section does not limit any power that the Children’s Court has, apart from this section, to adjourn proceedings.	29 30
48H	Conduct of suitability assessments	31
	A suitability assessment is to be carried out in accordance with the regulations.	32 33
48I	Granting of bail for suitability assessments and charging procedure	34 35
(1)	Without limiting section 36, 36A or 36B of the <i>Bail Act 1978</i> , bail may be granted under that Act subject to the condition that a child submit to a suitability assessment.	36 37 38

(2) Nothing in this Division:	1
(a) authorises any person to detain a child for the purposes of a suitability assessment, or	2 3
(b) limits the provisions of Division 2 of Part 2 in their application to the commencement of criminal proceedings against children.	4 5 6
Division 4 Preparation of conduct plans	7
48J Interim conduct plans	8
(1) An <i>interim conduct plan</i> is a conduct plan that is prepared in accordance with the regulations for submission to the Children's Court for its consideration and approval when framing the terms of an interim youth conduct order.	9 10 11 12
(2) An interim conduct plan may include only conduct restriction provisions and positive conduct provisions.	13 14
48K Final conduct plans	15
(1) A <i>final conduct plan</i> is a conduct plan that is prepared in accordance with the regulations for submission to the Children's Court for its consideration and approval when framing the terms of a final youth conduct order.	16 17 18 19
(2) A final conduct plan may include only conduct restriction provisions and positive conduct provisions.	20 21
Division 5 Making of youth conduct orders	22
48L Youth conduct orders	23
(1) Power to make youth conduct orders	24
Subject to this section, the Children's Court may make any of the following orders of its own motion or on the application of an authorised applicant:	25 26 27
(a) an order having effect for a period not exceeding 2 months (an <i>interim youth conduct order</i>) requiring a child in criminal proceedings before the Court:	28 29 30
(i) to participate in the preparation of a final conduct plan as provided by the scheme, and	31 32
(ii) to comply with the requirements of an interim conduct plan approved by the Court in the order,	33 34
(b) an order having effect for a period not exceeding 12 months (a <i>final youth conduct order</i>) requiring a child in	35 36

criminal proceedings before the Court to comply with the requirements of a final conduct plan approved by the Court in the order.	1 2 3
(2) Each of the following persons is an <i>authorised applicant</i> for the purposes of the making of an application under subsection (1):	4 5
(a) the child against whom the criminal proceedings have been brought,	6 7
(b) any person making the application on behalf of the child,	8
(c) any other person who is authorised to make such an application by the regulations.	9 10
(3) General preconditions for making of orders	11
The Children’s Court may not make a youth conduct order with respect to a child unless:	12 13
(a) the child has been charged with, or has pleaded guilty to or been found guilty of, a relevant offence in the criminal proceedings, and	14 15 16
(b) a suitability assessment of the child has been carried out and the child has, following such an assessment, been found to be suitable to participate in the scheme, and	17 18 19
(c) the Court is satisfied that the child meets the prescribed eligibility criteria, and	20 21
(d) in the case where the child pleaded not guilty to the relevant offence on or before the day on which a suitability assessment order was made in respect of the child but subsequently changed his or her plea to guilty—the Court is satisfied that the time taken to change the plea was not unreasonable in the circumstances, and	22 23 24 25 26 27
(e) in the case where the proposed order is to be an interim youth conduct order—an interim conduct plan has been prepared and submitted to the Court for its consideration and approval, and	28 29 30 31
(f) in the case where the proposed order is to be a final youth conduct order—a final conduct plan has been prepared and submitted to the Court for its consideration and approval.	32 33 34
(4) Consent of child required unless child pleads guilty or found guilty	35 36
Without limiting subsection (3), the consent of a child who is capable in law of giving consent to the making of a youth conduct order is required before such an order is made with respect to the	37 38 39

child in relation to a relevant offence unless the child has pleaded guilty to, or been found guilty of, the offence.	1 2
(5) Court to take into account child's submissions	3
Before making a youth conduct order, the Children's Court is to take into account any submissions and evidence put forward by or on behalf of the child as to the appropriateness of the order.	4 5 6
(6) Court may request that conduct plan be revised	7
The Children's Court may request the person or body that prepared an interim conduct plan or final conduct plan for the Court's consideration and approval to consider making changes to the plan before its approval by the Court in a youth conduct order.	8 9 10 11 12
(7) Effect of youth conduct order on criminal proceedings	13
While a youth conduct order remains in effect with respect to a child for a relevant offence:	14 15
(a) if the Children's Court did not make a finding as to the guilt of the child for the offence before making the order—the Court is not required to make a finding as to the child's guilt for the offence, and	16 17 18 19
(b) if the child pleaded guilty to, or was found guilty by the Children's Court of, the offence before making the order—the Court is not required to determine what penalty, if any, should be imposed on the child for the offence, and	20 21 22 23
(c) the Children's Court is taken to have dispensed with any requirement for bail in connection with the offence for the purposes of the <i>Bail Act 1978</i> .	24 25 26
(8) Subsection (7) has effect despite anything to the contrary in any Act or other law.	27 28
(9) Section does not limit power to grant adjournments	29
This section does not limit any power that the Children's Court has to adjourn proceedings.	30 31
48M Explanation of youth conduct order	32
(1) If the Children's Court makes a youth conduct order with respect to a child, the Court must ensure that all reasonable steps are taken to explain to the child (in language that the child can readily understand):	33 34 35 36
(a) the child's obligations under the order, and	37

(b)	the consequences that may follow if the child fails to comply with those obligations.	1 2
(2)	A youth conduct order is not invalidated by a failure to comply with this section.	3 4
(3)	Nothing in this section limits the operation of section 12 (Proceedings to be explained to children).	5 6
48N	Review of youth conduct order by Children’s Court	7
(1)	The Children’s Court may review a youth conduct order:	8
(a)	of its own motion, or	9
(b)	on an application made to the Court by or on behalf of the child to whom the order applies, or	10 11
(c)	on an application made to the Court by any other person authorised by the regulations, or	12 13
(d)	if the District Court in an appeal under section 48O remits a matter concerning the order to the Children’s Court to be dealt with under this section.	14 15 16
(2)	On any such review of a youth conduct order, the Court may:	17
(a)	confirm the order, or	18
(b)	vary the order, or	19
(c)	revoke the order.	20
48O	Appeals to District Court against youth conduct orders	21
(1)	A child in respect of whom a youth conduct order is made may, with the leave of the District Court, appeal to the Court against the order or the variation or revocation of the order.	22 23 24
(2)	An appeal must be made within the period of:	25
(a)	28 days after the order is made, or	26
(b)	if the order has been varied or revoked—28 days after the order is varied or revoked.	27 28
(3)	On any such appeal, the District Court may:	29
(a)	confirm the order, or	30
(b)	vary the order, or	31
(c)	revoke the order, or	32
(d)	remit the matter to the Children’s Court to be dealt with under section 48N.	33 34

(4)	The regulations may make provision for or with respect to:	1
(a)	the designation of a respondent or other persons to assist the District Court in an appeal under this section (including, but not limited to, the designation of the Crown for any such purpose), and	2 3 4 5
(b)	the service of court processes and other documents in connection with an appeal under this section on any such designated respondent or other person.	6 7 8
Division 6 Enforcement of youth conduct orders		9
48P	Proceedings for non-compliance with youth conduct orders	10
(1)	On an application made in accordance with the regulations, the Children's Court may call on a child in respect of whom a youth conduct order has been made to appear before it if the Court suspects that the child may have failed to comply with the order.	11 12 13 14
(2)	If the child fails to appear, the Children's Court may take any action referred to in section 98 (1A) of the <i>Crimes (Sentencing Procedure) Act 1999</i> as if the child were an offender for the purposes of that subsection who had failed to appear.	15 16 17 18
(3)	If the Children's Court is satisfied that a child appearing before it has failed to comply with a youth conduct order, the Court may:	19 20
(a)	administer a warning to the child, or	21
(b)	decide to take no action with respect to the failure to comply, or	22 23
(c)	vary the order, or	24
(d)	revoke the order.	25
48Q	Consequences of revocation of youth conduct orders	26
(1)	This section applies if the Children's Court revokes a youth conduct order under this Part.	27 28
(2)	If a child did not plead guilty to (or had not yet been found guilty of) a relevant offence before the Children's Court made a youth conduct order in relation to the offence, the Court may on the revocation of the order:	29 30 31 32
(a)	proceed to make a finding as to the guilt of the child for the offence, and	33 34
(b)	if the child is found guilty of the offence—deal with the child for the offence in accordance with Division 4 of Part 3.	35 36 37

(3)	If a child pleaded guilty to (or was found guilty of) a relevant offence before the Children's Court made a youth conduct order in relation to the offence, the Court may, on the revocation of the order, deal with the child for the offence in accordance with Division 4 of Part 3.	1 2 3 4 5
(4)	In determining the penalty to be imposed on a child who has pleaded guilty to (or was found guilty of) a relevant offence to which a revoked youth conduct order related, the Children's Court is to have regard to:	6 7 8 9
(a)	the fact of, and the circumstances surrounding, the child's failure to comply with the order (including the extent to which the child did comply with the order), and	10 11 12
(b)	any report on the child's failure to comply with the youth conduct order prepared in accordance with the regulations for submission to the Court.	13 14 15
48R	Consequences of compliance with final youth conduct orders	16
(1)	On an application made in accordance with the regulations, the Children's Court may deal with a child under this section if the Court is satisfied that the child has substantially complied with the terms of a final youth conduct order during the period the order was in effect.	17 18 19 20 21
(2)	If a child did not plead guilty to (or had not yet been found guilty of) a relevant offence before the Children's Court made a final youth conduct order in relation to the offence, the Court may make an order directing that the charge for the offence be dismissed.	22 23 24 25 26
(3)	If a child pleaded guilty to (or was found guilty of) a relevant offence before the Children's Court made a final youth conduct order in relation to the offence, the Court may deal with the child for the offence in accordance with Division 4 of Part 3 having regard to the fact that the child has substantially complied with the order.	27 28 29 30 31 32
	Note. Section 33 provides for the things that the Children's Court may do if it finds a child guilty of an offence. That section provides for the imposition of penalties for offences, as well as conferring a power on the Court to direct that charges for offences be dismissed.	33 34 35 36
	Division 7 Miscellaneous	37
48S	Evidence of certain matters not admissible	38
(1)	Evidence of the following is not admissible in criminal proceedings:	39 40

(a)	any admission made by a child in the course of being assessed for participation, or while participating, in the ASB pilot project or the scheme,	1 2 3
(b)	any document produced for the purposes of a child's assessment for, or participation in, the project or the scheme.	4 5 6
(2)	Subsection (1) does not apply to:	7
(a)	the criminal proceedings in respect of which the child was referred for assessment for, or participation in, the project or the scheme, or	8 9 10
(b)	any other criminal proceedings of a kind prescribed by the regulations.	11 12
48T	Disclosure of certain information prohibited	13
(1)	A person must not disclose:	14
(a)	the name of, or any other identifying information about, a child or a victim (or alleged victim) of a child that the person has obtained in connection with the exercise of a relevant function, or	15 16 17 18
(b)	any other information about a child that the person has obtained in connection with the exercise of a relevant function.	19 20 21
	Maximum penalty: 20 penalty units.	22
(2)	A <i>relevant function</i> means any of the following functions:	23
(a)	the assessment of a child's suitability to participate in the ASB pilot project or the scheme,	24 25
(b)	the conduct of the ASB pilot project,	26
(c)	the conduct of the scheme (including the exercise of any functions conferred or imposed by regulations made for the purposes of this Part),	27 28 29
(d)	any other function prescribed by the regulations.	30
(3)	Nothing in subsection (1) prevents a person from disclosing the information referred to in that subsection:	31 32
(a)	to any of the following persons:	33
(i)	the child,	34
(ii)	any person having parental responsibility (within the meaning of the <i>Children and Young Persons (Care and Protection) Act 1998</i>) for the child (but	35 36 37

only with the consent of the child if he or she is capable in law of giving such consent),	1 2
(iii) another person exercising a relevant function,	3
(iv) any police officer responsible for investigating the offence in respect of which the child was referred to the scheme, or	4 5 6
(b) in connection with the conduct of an assessment of a child's suitability to participate in the ASB pilot project or the scheme, or	7 8 9
(c) to a person or body for the purpose of monitoring or evaluating the ASB pilot project or the scheme, or	10 11
(d) for the purposes of any legal proceedings, or	12
(e) in accordance with a requirement of the <i>Ombudsman Act 1974</i> or with any request made by the Ombudsman, or	13 14
(f) to a body of the Commonwealth or another State or Territory (or to a body of the Commonwealth or another State or Territory belonging to a class) that is prescribed by, or approved in accordance with, the regulations, or	15 16 17 18
(g) to any other person or body (or to a person or body belonging to a class) that is prescribed by, or approved in accordance with, the regulations, or	19 20 21
(h) with other lawful excuse.	22
(4) In this section:	23
<i>identifying information</i> , in relation to a child, means any information that identifies the child or that is likely to lead to the identification of the child.	24 25 26
48U Exchange of information	27
(1) A scheme administrator may (but need not) enter into an arrangement (<i>an information sharing arrangement</i>) with a relevant agency for the purposes of sharing or exchanging any information that is held by persons involved in the administration of the scheme or by the agency.	28 29 30 31 32
Note. The disclosure of information by a scheme administrator to a relevant agency may also be permissible under section 48T (3) even in the absence of an information sharing arrangement.	33 34 35
(2) The information to which an information sharing arrangement may relate is limited to the following:	36 37
(a) information concerning the needs of a child who is being assessed for participation, or who is participating, in the scheme,	38 39 40

(b)	information that assists in the exercise of functions under this Part (or under regulations made for the purposes of this Part) or of the relevant agency concerned,	1 2 3
(c)	any other information that may be prescribed by the regulations.	4 5
(3)	Under an information sharing arrangement, a scheme administrator and the relevant agency are, despite any other Act or law of the State, authorised:	6 7 8
(a)	to request and receive information that is held by the other party to the arrangement, and	9 10
(b)	to disclose that information to the other party, but only to the extent that the information is reasonably necessary to assist in the exercise of functions under this Part (or under regulations made for the purposes of this Part) or the functions of the relevant agency concerned.	11 12 13 14 15
(4)	This section does not limit the operation of any Act under which a scheme administrator or a relevant agency is authorised or required to disclose information to another person or body.	16 17 18
(5)	In this section:	19
	<i>relevant agency</i> means any of the following:	20
(a)	a body of the Commonwealth or another State or Territory (or a body of the Commonwealth or another State or Territory belonging to a class) that is prescribed by, or approved in accordance with, the regulations,	21 22 23 24
(b)	any other person or body (or a person or body belonging to a class) that is prescribed by, or approved in accordance with, the regulations.	25 26 27
	<i>scheme administrator</i> means any person involved in the administration of the scheme who is prescribed by, or approved in accordance with, the regulations.	28 29 30
48V	Destruction of photographs, finger-prints, palm-prints and other records	31 32
(1)	Section 38 extends to an order of the Children’s Court under section 48R (2) directing that a charge for an offence be dismissed in the same way as it extends to an order dismissing a charge for an offence made under section 33 (1) (a).	33 34 35 36
(2)	Nothing in subsection (1) limits the application of section 38 to any finding by the Children’s Court that a child is not guilty of a relevant offence in proceedings that have been determined following the revocation of a youth conduct order.	37 38 39 40

48W Regulations

Without limiting any other provision of this Part, the regulations may make provision for or with respect to any of the following matters:	1 2 3 4
(a) eligibility to participate in the scheme,	5
(b) the granting and revocation of scheme participation approvals,	6 7
(c) the places at which, or the areas within which, the scheme is to operate,	8 9
(d) the referral for the assessment, and the assessment, of the suitability of a child to participate in the scheme (or of a child's capacity or prospects for participation in the scheme),	10 11 12 13
(e) the carrying out of investigations, and the preparation and provision of reports, as to a child's suitability, capacity or prospects for participation in the scheme,	14 15 16
(f) the provision of reports to the Children's Court and other persons or bodies as to a child's compliance with a youth conduct order (including compliance with the conduct plan to which the order gives effect),	17 18 19 20
(g) the persons or bodies who may participate in the scheme (in addition to the child),	21 22
(h) the role of particular persons or bodies in the carrying out or implementation of the scheme (including the constitution of, and procedure for, bodies to carry out functions in relation to the scheme),	23 24 25 26
(i) rebuttable presumptions concerning the constitution and decisions of bodies that are constituted by the regulations for the purposes of the scheme,	27 28 29
(j) the preparation and implementation of conduct plans (whether interim or final), including the adoption, revision, variation or revocation of such plans,	30 31 32
(k) the making of applications to the Children's Court under this Part by persons who are permitted or authorised to make such applications,	33 34 35
(l) procedures for notification of courts or other persons or bodies of a decision of a child not to participate in, or not to continue to participate in, the scheme,	36 37 38
(m) procedures for notification of orders and other decisions of the Children's Court in connection with the scheme,	39 40

(n)	the content and keeping of records in connection with the scheme,	1 2
(o)	the monitoring and evaluation of, or research into, the operation and effect of the scheme,	3 4
(p)	the issuing of guidelines and directions with respect to suitability assessments and the implementation or operation of the scheme,	5 6 7
(q)	the delegation of functions conferred or imposed on a person or body by a provision of this Part or a provision of the regulations made for the purposes of this Part,	8 9 10
(r)	any other matter relating to the implementation or operation of the scheme.	11 12
48X	Relationship with other legislation, projects and measures	13
(1)	This Part:	14
(a)	does not affect any jurisdiction conferred on any court under this or any other Act or law, or	15 16
(b)	does not, except to the extent that this Part expressly provides otherwise, derogate from the functions of any person or court dealing with an offence or alleged offence to take any other action in relation to an offence or alleged offence, under this or any other Act or law, or	17 18 19 20 21
(c)	does not prevent or limit the development, conduct or operation of programs or measures apart from the scheme for the treatment or rehabilitation of offenders or accused persons who are children.	22 23 24 25
(2)	Without limiting subsection (1), nothing in this Part is intended to limit the rights and protections provided to persons by the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> to the extent that the provisions of that Act can operate in circumstances covered by this Part.	26 27 28 29 30
48Y	Part to cease to have effect	31
(1)	The provisions of this Part (other than this section) cease to have effect on the day that is 26 months after the day on which section 48L commences or on such later day as may be prescribed by the regulations.	32 33 34 35
	Note. Any portion of an Act that ceases to have effect on a specified day ceases to have effect at the end of the specified day. See sections 5 (3) and 71 of the <i>Interpretation Act 1987</i> .	36 37 38

(2)	A regulation made for the purposes of subsection (1) must be made before the day on which the provisions of this Part (other than this section) cease to have effect under that subsection.	1 2 3
(3)	Regulations containing provisions of a savings or transitional nature may be made consequent on the operation of subsection (1).	4 5 6
[2]	Section 50 Act is generally subject to Bail Act 1978	7
	Omit “The”. Insert instead “Subject to Part 4A, the”.	8
[3]	Schedule 2 Savings and transitional provisions	9
	Insert at the end of clause 1 (1):	10
	<i>Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Act 2008</i>	11 12
[4]	Schedule 2, Part 15	13
	Insert at the end of the Schedule:	14
	Part 15 Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Act 2008	15 16 17
23	Definition	18
	In this Part:	19
	<i>amending Act</i> means the <i>Children (Criminal Proceedings) Amendment (Youth Conduct Orders) Act 2008</i> .	20 21
24	Application of Part 4A to pre-commencement offences	22
	Part 4A, as inserted by the amending Act, extends to a relevant offence (within the meaning of that Part) committed, or alleged to have been committed, by a child before the commencement of that Part, but only if the child is charged with the offence (within the meaning of that Part) after that commencement.	23 24 25 26 27
25	Exercise of certain powers between enactment and commencement of amending Act	28 29
	The provisions of section 26 of the <i>Interpretation Act 1987</i> apply in relation to a power to make an instrument that is to be conferred by an uncommenced amendment to the <i>Children (Criminal Proceedings) Regulation 2005</i> made by the amending	30 31 32 33

Act in the same way as they apply to powers to make instruments
conferred by uncommenced amendments to Acts.

Note. Section 26 of the *Interpretation Act 1987* enables a power to make
instruments of a legislative or administrative character that is to be
conferred by an enacted but uncommenced amendment to an Act to be
exercised before the amendment commences. Any such instrument will
have effect on the commencement of the amendment.

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Schedule 2	Amendment of Children (Criminal Proceedings) Regulation 2005	1
		2
	(Section 4)	3
[1]	Part 1, heading	4
	Insert before clause 1:	5
	Part 1 Preliminary	6
[2]	Part 2	7
	Insert after clause 3:	8
	Part 2 Youth conduct orders	9
	Division 1 Preliminary	10
	4 Definitions	11
	(1) In this Part:	12
	<i>appropriate Coordination Group</i> for a child means:	13
	(a) in relation to the referral of a child for a suitability	14
	assessment by a suitability assessment order—the	15
	Coordination Group for the participating Local Area	16
	Command that the Children’s Court considers appropriate	17
	for the child, or	18
	(b) in relation to any application or report concerning a youth	19
	conduct order made with respect to the child—the	20
	Coordination Group for the participating Local Area	21
	Command that prepared the interim or final conduct plan	22
	for the child adopted by the Children’s Court in the order.	23
	<i>authorised police officer</i> means any of the following:	24
	(a) a youth liaison officer (within the meaning of the <i>Young</i>	25
	<i>Offenders Act 1997</i>),	26
	(b) a Youth Case Manager for a Police Community Youth	27
	Club,	28
	(c) any other police officer (other than a senior police officer)	29
	who has completed a course of training in relation to youth	30
	conduct orders of a kind approved by the	31
	Director-General.	32

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- authorised scheme officer*** means any of the following: 1
- (a) the Director-General, 2
 - (b) an authorised police officer, 3
 - (c) any other person appointed (or belonging to a class of 4
persons appointed) under clause 6 by the Director-General 5
as an authorised scheme officer (or authorised scheme 6
officers) for the purposes of the provision in which the 7
expression is used. 8
- compliance report***—see clause 18. 9
- Coordination Group*** means a Case Coordination Senior 10
Officers' Group established under Division 7. 11
- Director-General*** means the Director-General of the Department 12
of Premier and Cabinet. 13
- first scheme anniversary day*** means the day that is the first 14
anniversary of the day on which section 48L of the Act 15
commenced. 16
- participating Local Area Command*** means any of the following 17
areas designated by the Commissioner of Police as a Local Area 18
Command for the NSW Police Force: 19
- (a) the Campbelltown Local Area Command, 20
 - (b) the Mount Druitt Local Area Command, 21
 - (c) the New England Local Area Command. 22
- referred child*** means a child who has been referred to a 23
Coordination Group for a suitability assessment. 24
- scheme directions*** means directions given by the 25
Director-General under Division 8. 26
- senior police officer*** means a police officer of or above the rank 27
of Superintendent. 28
- (2) Words and expressions used in this Part that are defined for the 29
purposes of Part 4A of the Act have the same meanings as in 30
Part 4A of the Act, except in so far as they are defined differently 31
in this Part or the context or subject-matter otherwise indicates or 32
requires. 33
- 5 Prescribed eligibility criteria** 34
- (1) The following eligibility criteria are prescribed for the purposes 35
of section 48E of the Act as the criteria that a person must meet 36
to be eligible to participate in the scheme: 37

- (a) the person concerned was 14 years old or older (but less than 18 years old) at the time that the offence was committed or alleged to have been committed, 1
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3
 - (b) the person concerned is less than 19 years old at the time it is first proposed to make a youth conduct order with respect to the person concerning the offence or alleged offence, 4
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7
 - (c) the person concerned permanently or temporarily resides in, or is an habitual visitor to, the area of a participating Local Area Command, 8
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10
 - (d) the Children’s Court has not yet imposed a penalty on the person concerned for the offence or alleged offence. 11
12
- (2) A person who is 18 years old or older (but less than 21 years old) continues to be eligible to participate in the scheme in relation to a relevant offence if the person met the criteria referred to in subclause (1) when he or she entered the scheme. 13
14
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- Note.** Section 48E (3) of the Act provides that if the regulations make provision for persons who are no longer children to continue to be eligible to participate in the scheme, the other provisions of that Part (and any provisions of the regulations made for the purposes of that Part) extend to such persons as if they were still children. 17
18
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- (3) Despite subclauses (1) and (2), a person is not eligible to participate in the scheme in relation to an offence if: 22
23
- (a) the person is charged with the offence after the first scheme anniversary day, or 24
25
 - (b) in the case where the person was charged with the offence on or before the first scheme anniversary day—the person has not been referred to a Coordination Group for suitability assessment on or before that day. 26
27
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29
- 6 Authorised scheme officers** 30
- (1) The Director-General may, by order, appoint: 31
 - (a) a person (other than a police officer) specified in the order as an authorised scheme officer for the purposes of any or all of the provisions of this Part, or 32
33
34
 - (b) persons (other than police officers) belonging to a class of persons specified in the order as authorised scheme officers for the purposes of any or all of the provisions of this Part. 35
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38
 - (2) The Director-General may at any time and for any reason revoke any appointment under subclause (1). 39
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Division 2	Scheme participation approvals	1
7	Granting of scheme participation approvals	2
(1)	An authorised police officer may grant a scheme participation approval for the potential participation of a child in the scheme in relation to a relevant offence committed (or alleged to have been committed) by the child if:	3
		4
		5
		6
(a)	the officer is satisfied that:	7
(i)	the child meets the criteria referred to in clause 5 (1), and	8
		9
(ii)	it would not be appropriate for the child to be dealt with under the <i>Young Offenders Act 1997</i> , and	10
		11
(b)	the officer considers that it is appropriate for the child to be dealt with under the scheme having regard to:	12
		13
(i)	the seriousness of the relevant offence concerned, and	14
		15
(ii)	the degree of violence, if any, involved in the offence, and	16
		17
(iii)	any harm caused to any victim of the offence, and	18
(iv)	the number and nature of any previous offences (whether or not relevant offences) committed by the child, and	19
		20
		21
(v)	the number of times, if any, that the child has been dealt with under the <i>Young Offenders Act 1997</i> , and	22
		23
(c)	the officer has obtained the written concurrence of a senior police officer to the granting of the approval.	24
		25
(2)	A scheme participation approval must:	26
(a)	be in the form (if any) approved by the Director-General, and	27
		28
(b)	state the reasons, in accordance with the scheme directions, why the authorised police officer granting the approval considers it appropriate for the child to be considered for participation in the scheme.	29
		30
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(3)	An authorised police officer who grants a scheme participation approval must provide the Children’s Court with a copy of the approval (along with a copy of the written concurrence of a senior police officer referred to in subclause (1) (c)) as soon as is reasonably practicable after granting the approval.	33
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Division 3	Suitability assessments	1
8	Applications for suitability assessment orders	2
(1)	An authorised scheme officer is authorised for the purposes of section 48G (3) (c) of the Act to make applications to the Children’s Court for a suitability assessment order with respect to a child.	3 4 5 6
(2)	An authorised scheme officer may make such an application only if:	7 8
(a)	in the case where the officer is an authorised police officer—a scheme participation approval for the child has been granted, and	9 10 11
(b)	in the case where the officer is not an authorised police officer—a scheme participation approval for the child has been granted unless the Children’s Court is satisfied that it was not possible in the circumstances for the approval to be granted in time for the hearing of the application, and	12 13 14 15 16
(c)	a notice of intention to make the application in the form (if any) approved by the Director-General has been filed with the Court, and	17 18 19
(d)	the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.	20 21 22
9	Notification of suitability assessment order by Children’s Court	23
	If the Children’s Court makes a suitability assessment order with respect to a child, the Court must, within 7 days after making the order, ensure that:	24 25 26
(a)	the appropriate Coordination Group for the child is notified in writing that the Court has made the order, and	27 28
(b)	a copy of the scheme participation approval (if any) by reference to which the order was made is provided to the Group.	29 30 31
10	Suitability assessment of referred child	32
(1)	Each Coordination Group has the function of carrying out the suitability assessments for referred children.	33 34
(2)	A Coordination Group must ensure that a suitability assessment of a referred child is carried out within 7 days (or such further period as the Children’s Court may allow) after it is notified of the suitability assessment order under clause 9.	35 36 37 38

(3)	The assessment must be carried out in accordance with the scheme directions.	1 2
(4)	A Coordination Group must report to the Children’s Court on the suitability of the referred child to participate in the scheme in the form (if any) approved by the Director-General at any time before the child’s next appearance before the Court in relation to the matter.	3 4 5 6 7
	Note. A youth conduct order cannot be made with respect to a child who has been found unsuitable to participate in the scheme following a suitability assessment. See section 48L (3) (b) of the Act.	8 9 10
Division 4	Conduct plans	11
11	Preparation of interim conduct plans	12
(1)	Each Coordination Group has the function of preparing interim conduct plans with respect to referred children.	13 14
(2)	A Coordination Group is to prepare an interim conduct plan for a referred child only if it has found, following the carrying out of a suitability assessment, that the child is suitable for participation in the scheme.	15 16 17 18
(3)	An interim conduct plan must be:	19
(a)	prepared in accordance with the scheme directions and the requirements of section 48J (2) of the Act, and	20 21
(b)	in the form (if any) approved by the Director-General, and	22
(c)	endorsed by the Coordination Group that prepared it.	23
	Note. Section 48J (2) of the Act provides that an interim conduct plan may include only conduct restriction provisions and positive conduct provisions of the kind specified by section 48C of the Act.	24 25 26
(4)	An interim conduct plan prepared by a Coordination Group must be provided to the Children’s Court with the report on the suitability of the child provided under clause 10.	27 28 29
	Note. Clause 10 provides that a report on the suitability of the child must be provided to the Children’s Court at any time before the child’s next appearance before the Court.	30 31 32
(5)	A Coordination Group may revise the terms of an interim conduct plan it has prepared if the Children’s Court has requested that it do so.	33 34 35
12	Preparation of final conduct plans	36
(1)	Each Coordination Group has the function of preparing final conduct plans under interim conduct orders with respect to	37 38

- children if the Group prepared the interim conduct plans for the orders. 1
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- (2) If the Children’s Court makes an interim youth conduct order with respect to a child that approves an interim conduct plan prepared by a Coordination Group, the Coordination Group is to arrange one or more meetings with the child in order to prepare a final conduct plan for the child. 3
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- (3) The Coordination Group is to endeavour to ensure that a parent of the child (within the meaning of the *Children (Protection and Parental Responsibility) Act 1997*) is present at all times during any such meetings unless: 8
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- (a) the child requests otherwise, or 12
- (b) the Group considers that it would be inappropriate in the circumstances. 13
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- (4) The Coordination Group must afford a child an opportunity to review a proposed final conduct plan before the Group endorses the plan. 15
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- (5) A final conduct plan must be: 18
- (a) prepared in accordance with the scheme directions and the requirements of section 48K (2) of the Act, and 19
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- (b) in the form approved by the Director-General, and 21
- (c) endorsed by the Coordination Group that prepared it. 22
- Note.** Section 48K (2) of the Act provides that a final conduct plan may include only conduct restriction provisions and positive conduct provisions of the kind specified by section 48C of the Act. 23
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- (6) The final conduct plan must be provided to the Children’s Court before the date on which the child is next due to appear before the Children’s Court in relation to the matter. 26
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- (7) A Coordination Group may revise the terms of a final conduct plan it has prepared if the Children’s Court has requested that it do so. 29
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Division 5 Applications relating to youth conduct orders 32
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13 Applications for interim youth conduct orders 34

- (1) An authorised scheme officer is authorised for the purposes of section 48L (2) (c) of the Act to make applications to the Children’s Court for an interim youth conduct order with respect to a child. 35
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- (2) An authorised scheme officer may make such an application only if:
- (a) in the case where the officer is an authorised police officer—a scheme participation approval for the child has been granted, and
 - (b) in the case where the officer is not an authorised police officer—a scheme participation approval for the child has been granted unless the Children’s Court is satisfied that it was not possible in the circumstances for the approval to be granted in time for the hearing of the application, and
 - (c) a notice of intention to make the application in the form (if any) approved by the Director-General has been filed with the Court, and
 - (d) the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.
- (3) Any such application must be made on or before the date on which the child is next due to appear before the Children’s Court in relation to the matter.
- (4) Any such application must be accompanied by a copy of each of the following documents:
- (a) the report of the suitability assessment conducted by the appropriate Coordination Group for the child,
 - (b) the interim conduct plan prepared by the appropriate Coordination Group for the child.
- 14 Applications for final youth conduct orders**
- (1) An authorised scheme officer is authorised for the purposes of section 48L (2) (c) of the Act to make applications to the Children’s Court for a final youth conduct order with respect to a child.
- (2) An authorised scheme officer may make such an application only if:
- (a) the appropriate Coordination Group for the child has endorsed a final conduct plan for the child to be submitted to the Court for its consideration and approval in framing the terms of such an order, and
 - (b) the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.

(3)	Any such application must be:	1
(a)	made on or before the date on which the child is next due to appear before the Children’s Court in relation to the matter, and	2 3 4
(b)	accompanied by a copy of the final conduct plan prepared by the appropriate Coordination Group for the child.	5 6
15	Applications for review of final youth conduct orders	7
(1)	For the purposes of section 48N (1) (c) of the Act, an authorised scheme officer is authorised to make applications for a review of a youth conduct order under that section.	8 9 10
(2)	Any such authorised scheme officer may apply to the Children’s Court for the review of a youth conduct order under section 48N of the Act with respect to a child only if the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.	11 12 13 14 15
16	Applications relating to non-compliance with youth conduct orders	16 17
(1)	An application to the Children’s Court under section 48P (1) of the Act may be made only if:	18 19
(a)	the application is made by an authorised scheme officer, and	20 21
(b)	the appropriate Coordination Group for the child has prepared a compliance report in relation to the youth conduct order concerned, and	22 23 24
(c)	the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.	25 26 27
(2)	Any such application must be accompanied by a copy of the compliance report.	28 29
17	Applications relating to compliance with youth conduct orders	30
(1)	An application to the Children’s Court under section 48R (1) of the Act may be made only if:	31 32
(a)	the application is made by an authorised scheme officer, and	33 34
(b)	the appropriate Coordination Group for the child has prepared a compliance report in relation to the final youth conduct order concerned, and	35 36 37

(c)	the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.	1 2 3
(2)	Any such application must be accompanied by a copy of the compliance report.	4 5
Division 6	Reports	6
18	Compliance reports	7
(1)	The appropriate Coordination Group for a child may, in accordance with the scheme directions and at the request of a member of the Group or the Children’s Court, prepare a report (a <i>compliance report</i>) for submission to the Court on the child’s compliance (or failure to comply) with a youth conduct order made with respect to the child.	8 9 10 11 12 13
(2)	A compliance report is to be in the form (if any) approved by the Director-General.	14 15
19	Scheme operation reports	16
	The Director-General may require a Coordination Group for a participating Local Area Command to report to the Director-General on the operation of the scheme in relation to that Command at the times and in the manner directed by the Director-General from time to time.	17 18 19 20 21
Division 7	Case Coordination Senior Officers’ Groups	22
20	Director-General to establish Case Coordination Senior Officers’ Groups	23 24
	The Director-General is to establish a Case Coordination Senior Officers’ Group (a <i>Coordination Group</i>) for each participating Local Area Command.	25 26 27
21	Constitution of Coordination Groups	28
(1)	For the purposes of transacting any of its business, each Coordination Group is to be constituted by the following members:	29 30 31
(a)	a Chairperson appointed by the Director-General under clause 22,	32 33
(b)	one police officer nominated in writing by the Commissioner of Police (or his or her delegate) to represent the NSW Police Force,	34 35 36

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- (c) one person nominated in writing by the Director-General of the Department of Juvenile Justice (or his or her delegate) to represent the Department, 1
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- (d) one person nominated in writing by the Director-General of the Department of Community Services (or his or her delegate) to represent the Department, 4
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- (e) one person nominated in writing by the Director-General of the Department of Education and Training (or his or her delegate) to represent the Department, 7
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- (f) one person nominated in writing by the chief executive of an area health service (or his or her delegate), being an area health service that is designated by the Director-General as the appropriate area health service to make the nomination for the Group, 10
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- (g) such other persons (if any) as may be nominated in writing by the following heads of government agencies (or their delegates) to represent the agency of which they are the head: 15
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 - (i) the Director-General of Housing NSW, 19
 - (ii) the Director-General of the Department of Aboriginal Affairs, 20
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 - (iii) the Director-General of the Department of Ageing, Disability and Home Care, 22
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 - (iv) the Director-General of the Department of the Arts, Sport and Recreation, 24
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 - (v) the Commissioner of Corrective Services for the Department of Corrective Services, 26
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 - (vi) the Director-General of the Department of Premier and Cabinet, 28
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 - (vii) the Director-General of the Department of Health, 30
 - (viii) the Chief Executive of Justice Health. 31
- (2) A person nominated under subclause (1) must be a member of the Government Service. 32
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- (3) Only one person may be nominated for each government agency referred to in subclause (1) (g). 34
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- (4) A person who is authorised by subclause (1) to nominate a person to be a member of a Coordination Group may nominate a person for a specified period or for a particular meeting or meetings, and may revoke any such nomination at any time and for any reason. 36
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(5)	The Chairperson of a Coordination Group is:	1
(a)	to keep copies of the written nominations of persons to be members of the Group that are relevant for each meeting of the Group, and	2 3 4
(b)	to cause the name of each person present at a meeting of the Group (along with the name of the government agency that he or she represents) to be included in the minutes of the meeting.	5 6 7 8
(6)	It is to be presumed (unless the contrary is established) that a person was duly nominated under subclause (1) to represent a government agency at a meeting of a Coordination Group if the minutes of the meeting indicate that the person attended the meeting as the representative of the agency.	9 10 11 12 13
22	Chairpersons of Coordination Groups	14
(1)	The Director-General is to appoint a Chairperson for each Coordination Group.	15 16
(2)	The Director-General may remove a person from office as the Chairperson at any time and for any reason.	17 18
(3)	A person who is Chairperson vacates office as Chairperson if the person:	19 20
(a)	is removed from office by the Director-General, or	21
(b)	resigns that office by instrument in writing addressed to the Director-General.	22 23
23	Functions of Coordination Groups	24
	The functions of each Coordination Group include (but are not limited to) the following functions:	25 26
(a)	assessing and reporting on the suitability of a child that is referred to it for suitability assessment,	27 28
(b)	monitoring, evaluating and reporting on the scheme and compliance with youth conduct orders in connection with the participating Local Area Command for which the Group was established,	29 30 31 32
(c)	the preparation of interim and final conduct plans for the consideration and approval of the Children's Court,	33 34
(d)	such other functions as may be imposed or conferred on the Group by this Part or the scheme directions.	35 36

24	Procedure	1
(1)	The procedure for the calling of meetings of a Coordination Group and for the conduct of business at those meetings is, subject to the scheme directions and this Division, to be as determined by the Coordination Group.	2 3 4 5
(2)	The quorum for a meeting of a Coordination Group is at least the 6 members of the Group who are nominated as referred to in clause 21 (1) (a), (b), (c), (d), (e) and (f).	6 7 8
(3)	A Coordination Group is taken to have made a decision if the decision is supported by a majority of the votes cast at a meeting of the Group at which a quorum is present.	9 10 11
(4)	The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Coordination Group who are present at a meeting of the Group) is to preside at a meeting of the Group.	12 13 14 15
(5)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	16 17
Division 8	Scheme directions	18
25	Director-General may issue scheme directions	19
(1)	The Director-General may, by order published in the Gazette, issue directions, not inconsistent with this Part or the Act, for or with respect to any or all of the following matters:	20 21 22
(a)	the carrying out of suitability assessments,	23
(b)	the provisions in conduct plans,	24
(c)	the training to be undertaken by persons involved in the administration of the scheme (including authorised police officers),	25 26 27
(d)	the granting of scheme participation approvals,	28
(e)	the granting of approvals for the purposes of clause 28,	29
(f)	the making of applications to the Children's Court by authorised scheme officers under Part 4A of the Act,	30 31
(g)	the procedure for meetings of Coordination Groups,	32
(h)	the functions of Coordination Groups and of members of the Groups in connection with the scheme or the carrying out of suitability assessments,	33 34 35
(i)	any other matter in respect of which scheme directions are permitted or required by this Part.	36 37

(2)	The Director-General may from time to time amend, revoke or replace the scheme directions by further order published in the Gazette.	1 2 3
(3)	Without limiting subclause (1), the scheme directions may include provisions that:	4 5
(a)	apply generally, or	6
(b)	apply only in relation to specified persons, courts, groups or other bodies, or	7 8
(c)	apply only in specified circumstances, or	9
(d)	do a combination of the things referred to in paragraphs (a), (b) and (c).	10 11
Division 9	Miscellaneous	12
26	Delegations by Director-General	13
	The Director-General may delegate to a member of the Government Service the exercise of any of the Director-General's functions under this Part (other than this power of delegation) or section 48U of the Act.	14 15 16 17
27	Respondent in appeals under section 48O of Act	18
	The Crown is designated as the respondent in any appeal by a child under section 48O of the Act.	19 20
28	Disclosure and exchange of information	21
(1)	Each of the following persons may, by an order in writing, approve a person or body (or a class of persons or bodies) for the purposes of section 48T (3) (f) or (g) of the Act or the definition of <i>relevant agency</i> in section 48U (5) of the Act:	22 23 24 25
(a)	the Director-General,	26
(b)	a Chairperson of a Coordination Group.	27
(2)	The Director-General or Chairperson may from time to time amend, revoke or replace any such approval given by the Director-General or Chairperson by further order in writing.	28 29 30
(3)	The Director-General and each Chairperson of a Coordination Group are prescribed for the purposes of the definition of <i>scheme administrator</i> in section 48U (5) of the Act.	31 32 33

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[3] Part 3, heading	1
Insert before existing clause 4:	2
Part 3 Miscellaneous	3
[4] Clauses 29–38	4
Renumber existing clauses 4–13 as clauses 29–38.	5