Crimes (Sentencing Procedure) Regulation 2000

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Crimes (Sentencing Procedure) Regulation 2000



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Crimes (Sentencing Procedure) Regulation 2000



Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Crimes (Sentencing Procedure) Regulation 2000*.

2 Commencement

This Regulation commences on 3 April 2000.

3 Definitions

(1) In this Regulation:

the Act means the Crimes (Sentencing Procedure) Act 1999.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Sentencing procedures generally

Division 1 General

5 List of additional charges: section 32

- (1) For the purposes of section 32 (4) (a) of the Act, the prescribed form for a list of additional charges is Form 1.
- (2) For the purposes of section 32 (5) (b) of the Act, the following persons are prescribed:
 - (a) police officers,
 - (b) the Director-General of the Department of Fair Trading.

6 Consultation required before conditions as to residence or treatment imposed on parole

- (1) Before a court makes a parole order containing terms or conditions relating to residence or treatment, the court:
 - (a) must consider a report from a probation and parole officer as to the offender's circumstances, and
 - (b) must satisfy itself, having regard to the probation and parole officer's report, that it is feasible to secure compliance with the terms or conditions.
- (2) Before a court makes a parole order containing terms or conditions requiring the cooperation of a person other than the offender or a probation and parole officer, it must obtain the consent of the person to the specification of those terms and conditions in so far as they require the person's co-operation.

7 Parole orders: section 50

- (1) A parole order made by a court must be reduced to writing using Form 2 or 3, whichever is appropriate.
- (2) A copy of the order must be given to the offender, and further copies are to be sent to the following persons:
 - (a) the Commissioner of Corrective Services, and
 - (b) if the sentence to which the order relates is to be served by way of full-time imprisonment, the governor of the correctional centre to which the offender is committed to serve the sentence.

8 Warrants of commitment: section 62

For the purposes of section 62 (2) of the Act, the prescribed form for a warrant of commitment to imprisonment in a correctional centre (where imprisonment is to be served by way of full-time detention) is Form 4.

Division 2 Victim impact statements

9 Persons who may prepare statements

- (1) A victim impact statement may be prepared by any qualified person designated by:
 - (a) the victim or victims to whom the statement relates, or any such victim's representative, or
 - (b) the prosecutor in the proceedings to which the statement relates.
- (2) The statement may also be prepared by the victim or any of the victims to whom it relates, or any such victim's representative.

- (3) In this clause, *qualified person* means:
 - (a) a counsellor who is authorised to provide approved counselling services for the purposes of section 21 of the *Victims Compensation Act 1996*, or
 - (b) any other person who is qualified by training, study or experience to provide the particulars required for inclusion in a victim impact statement.

10 Form of victim impact statement

A victim impact statement:

- (a) must be legible, and may be either typed or hand-written, and
- (b) must be on A4 size paper, and (except with the leave of the court) must be no longer than 20 pages in length (including medical reports or other annexures), and
- (c) may (but need not) be in Form 5 or 6, whichever is appropriate.

11 Content of victim impact statement

- (1) A victim impact statement must identify the victim or victims to whom it relates.
- (2) The statement must include the full name of the person who prepared the statement, and must be signed and dated by that person.
- (3) If the person who prepared the statement is not a victim to whom it relates (or any such victim's representative):
 - (a) the statement must indicate that the victim or victims do not object to the statement being given to the court, and
 - (b) the victim or victims (or any such victim's representative) must sign the statement to verify that they do not object.
- (4) If a victim to whom the statement relates is a family victim, the statement must identify the primary victim and state the nature and (unless a relative by blood or marriage) the duration of that victim's relationship to the primary victim.
- (5) If a victim's representative acts on behalf of a primary victim for the purpose of providing information for the statement, the statement must indicate the name of that person and the nature and (unless a relative by blood or marriage) the duration of that person's relationship to the primary victim.
- (6) A victim impact statement must not contain anything that is offensive, threatening, intimidating or harassing.

12 Tendering of victim impact statement

(1) A victim impact statement may be tendered to the court only by the prosecutor in the

proceedings before the court.

(2) Only one victim impact statement may be tendered in respect of each victim.

Part 3 Sentencing procedures for periodic detention orders

13 Availability of accommodation: section 66

- (1) For the purpose of satisfying itself that accommodation is available at a periodic detention centre for an offender to serve a sentence by way of periodic detention, a court must address its inquiries to the officer in charge of administration of periodic detention orders within the Department of Corrective Services.
- (2) As soon as practicable after a court has made a periodic detention order, the court must ensure that the officer in charge is informed of that fact, by telephone or otherwise.

14 Undertakings to comply with periodic detention order: section 66

For the purposes of section 66 (1) (f) of the Act, the prescribed form of undertaking is Form 7.

15 Assessment reports: section 69

An offender's assessment report must assess the offender's suitability to serve a sentence by way of periodic detention by reference to the following factors:

- (a) the degree, if any, to which the person is dependent on alcohol or drugs (a major alcohol or drug problem being an indicator of unsuitability),
- (b) the offender's psychiatric or psychological condition (a major psychiatric or psychological disorder being an indicator of unsuitability),
- (c) the person's medical condition (a medical condition that may render the offender unfit to report for periodic detention being an indicator of unsuitability),
- (d) the offender's criminal record, if any (a serious criminal record being an indicator of unsuitability),
- (e) the offender's employment and other personal circumstances (circumstances that may render the offender's regular attendance at a periodic detention centre impracticable being an indicator of unsuitability).

16 Periodic detention orders

- (1) A periodic detention order must be reduced to writing using Form 8.
- (2) A copy of the order must be given to the offender, and further copies are to be sent to the following persons:

- (a) the Commissioner of Corrective Services, and
- (b) the governor for the periodic detention centre to which the offender is committed to serve the sentence.

17 Notice of periodic detention order: section 72

- (1) A notice referred to in section 72 (1) of the Act must be in Form 9.
- (2) The offender must sign 3 copies of the notice in the presence of the person by whom it was given to the offender.
- (3) Of the 3 copies:
 - (a) one is to be kept by the offender, and
 - (b) one is to be kept by the court by which the relevant periodic detention order was made, and
 - (c) one is to be sent to the Commissioner of Corrective Services.

18 Warrants of commitment: section 73

For the purposes of section 73 (2) of the Act, the prescribed form for a warrant of commitment to imprisonment in a periodic detention centre (where imprisonment is to be served by way of periodic detention) is Form 10.

Part 4 Sentencing procedures for home detention orders

19 Drug offences for which home detention not available: section 76

For the purposes of section 76 (i) of the Act, offences under sections 23 (2), 24 (2), 25 (2), 26, 27 and 28 of the *Drug Misuse and Trafficking Act 1985* (where the number or amount of prohibited drug or prohibited plant concerned is a commercial quantity within the meaning of that Act) are prescribed offences.

20 Undertakings to comply with home detention order: section 78

- (1) For the purposes of section 78 (1) (c) of the Act, the prescribed form of consent is as set out in Form 11.
- (2) The consent of a child under the age of 18 years, or of a mentally incapacitated person, may be given by the Commissioner of Corrective Services.
- (3) For the purposes of section 78 (1) (d) of the Act, the prescribed form of undertaking is Form 12.

21 Assessment of effect of order on children: section 81

(1) If a child under the age of 18 years would be living with an offender serving home

- detention, an assessment report must take into account, and specifically address, the effect on the child of that fact.
- (2) The investigation of the matter referred to in subclause (1) must be carried out jointly by an officer within the Probation and Parole Service and an officer within the Department of Community Services, and must be carried out in accordance with child protection risk assessment procedures approved by the Director-General of that Department.

22 Home detention orders

- (1) A home detention order must be reduced to writing using Form 13.
- (2) A copy of the order must be given to the offender, and a further copy must be sent to the Commissioner of Corrective Services.

Part 5 Sentencing procedures for community service orders

23 Maximum hours' community service work: section 8

For the purposes of section 8 (2) of the Act, the prescribed number of hours is:

- (a) 100, for offences for which the maximum term of imprisonment provided by law does not exceed 6 months, or
- (b) 200, for offences for which the maximum term of imprisonment provided by law exceeds 6 months but does not exceed 1 year, or
- (c) 500, for offences for which the maximum term of imprisonment provided by law exceeds 1 year.

24 Undertakings to comply with community service order: section 86

For the purposes of section 86 (1) (e) of the Act, the prescribed form of undertaking is Form 14.

25 Community service orders

- (1) A community service order must be reduced to writing using Form 15.
- (2) A copy of the order must be given to the offender, and a further copy must be sent to the Commissioner of Corrective Services.

26 Notice of community service order: section 93

- (1) A notice referred to in section 93 (1) of the Act must be in Form 16.
- (2) The offender must sign 3 copies of the notice in the presence of the person by whom it was given to the offender.

- (3) Of the 3 copies:
 - (a) one is to be kept by the offender, and
 - (b) one is to be kept by the court by which the relevant community service order was made, and
 - (c) one is to be sent to the Commissioner of Corrective Services.

Schedule 1 Forms

(Clause 3)

Form 1

(Clause 5)

LIST OF ADDITIONAL CHARGES

(Crimes (Sentencing Procedure) Act 1999, section 32)

Information for defendant

- **1.** The list on the back of this document gives particulars of other offences with which you have been charged but not convicted.
- 2. If you are found guilty of the offence mentioned above, you may, before being dealt with by the Court (if the prosecutor consents and the Court thinks fit):
 - (a) admit all or any of the offences listed on the back of this document, and
 - (b) ask that any of those admitted offences be taken into account by the Court in dealing with you for the offence mentioned above.
- **3.** If you are found guilty and the Court takes any of the offences that you have admitted into account, the maximum penalty that may be imposed on you for the offence of which you have been convicted will not exceed the maximum penalty that the Court would have been empowered to impose on you for the offence if no other offence had been taken into account.
- **4.** If the Court takes an offence that you have admitted into account, the Court may make such orders or give such directions with respect to restitution, compensation, costs, forfeiture, disqualification and loss or suspension of a licence or privilege as it would have been empowered to make or give if you had been convicted before the Court of the offence, but will not otherwise impose any separate punishment for the offence.
- **5.** No proceedings may be taken or continued against you in respect of an offence taken into account unless the decision of the Court in respect of which the offence has been taken into account has been quashed or set aside.
- **6.** Your admission cannot be used as evidence against you in any proceedings relating to the offence in respect of which the admission was made or in respect of any other offence specified in the list on the back of this document if:
 - (a) the circumstances mentioned in paragraph 5, proceedings are taken or continued against you in respect of an offence that you have admitted, or

	(b) the court doe	es not for any reason take any o	ne or more of the offences that	you have admitted into account.	
7.	You are entitled authorised to s		cument when it has been sig	ned by you and by the official who i	S
Da	ite:		(Signature of person au the Crimes (Sentencing	uthorised under section 32 (5) of Procedure) Act 1999)	
Da	te:		(Signature of defendan	<i>t)</i>	
			Certificate		
fou	-	ourt has taken into account t		of which the person has been person numbered in the list on	he
Da	ite:		(Darimation of lands	Manistrata simple and difference	
			(BACK OF FORM)	or Magistrate signing certificate)	
Νι	umber	Place where alleged offence was committed	Date of alleged offence	Alleged offence (brief description)	
_					
_			Farm 2		
			Form 2	(Clause	7 \
		PARO	LE ORDER MADE BY COURT	(Clause	<i>'</i>)
			INSUPERVISED PAROLE)	. 50)	
1	Sentence deta		encing Procedure) Act 1999, section	1 30/	
•					
	The Court at:				

	Offender:		
	Date of Birth:		
	Offence:		
	Particulars of imprisonment imposed by Court		
	Term of:		
	to commence on:		
	*Non-parole period of:		
	*The above term of imprisonment is to be served cumulatively on the sentence of: that commenced on:		
2	Release details		
	Pursuant to the provisions of the <i>Crimes (Sentencing Procedure) Act 1999</i> , the Court directs that the offender be released on parole at the expiration of the non-parole period of the sentence. Unless sooner revoked, this order remains in force until the end of the above term of imprisonment.		
3	Standard conditions		
	This order is subject to the conditions prescribed by regulations under the Crimes (Administration of Sentences) Act 1999.		
	Note: a copy of the standard conditions must be attached to this order.		
4	Additional conditions		
	The order is also subject to the following conditions:		
[lh	rule]		
Da	ate of order:		
Si	gned Date:		
(Ju	ustice of the Peace)		
ſlh	urule]		
	acknowledge that I understand the conditions on which I am released on parole.		
Si	gned:		
(C	Offender)		
Wi	itness:		
Na	ame:		
Ad	ldress:		
Th	e offender was released from custody on:		
Si	gned:		
(G	Sovernor of correctional centre)		
[lh	urule]		
	delete if not applicable		
	Form 3		
	· viiii v		

.

(Clause 7)

PAROLE ORDER MADE BY COURT

(SUPERVISED PAROLE)

(Crimes (Sentencing Procedure) Act 1999, section 50)

1	Sentence details
	Case No:
	Conviction Date:
	The Court at:
	Offender:
	Date of Birth:
	Offence:
	Particulars of imprisonment imposed by Court
	Term of:to commence on:
	*Non-parole period of:
	*The above term of imprisonment is to be served cumulatively on the sentence of: that commenced on:
2	Release details
	Pursuant to the provisions of the <i>Crimes (Sentencing Procedure) Act 1999</i> , the Court directs that the offender be released on parole at the expiration of the non-parole period of the sentence. Unless sooner revoked, this order remains in force until the end of the above term of imprisonment.
3	Supervision
	The offender must, *until/*until the order ceases to have effect, submit to the supervision and guidance of:
4	Standard conditions
	This order is subject to the conditions (including the conditions relating to supervision) prescribed by the regulations under the <i>Crimes (Administration of Sentences) Act 1999</i> .
	Note: a copy of the standard conditions must be attached to this order.
5	Additional conditions
	The order is also subject to the following conditions:
[lh	rrule]
Da	ate of order:
Si	gned: Date:
(Ju	ustice of the Peace)
[lh	rrule]
-	acknowledge that I understand the conditions on which I am released on parole.
Si	gned:

(Offender)
Witness:
Name:
Address:
The offender was released from custody on:
Signed: Date:
(Governor of correctional centre)
[lhrule]
* delete if not applicable
Form 4
(Clause 8)
WARRANT OF COMMITMENT TO CORRECTIONAL CENTRE
(Crimes (Sentencing Procedure) Act 1999, section 62)
TO THE COVERNOR of the commentional contract
TO THE GOVERNOR of the correctional centre at
WHEREAS of (<i>the offender</i>) has been found guilty by the Court of the following offence or offences:
AND WHEREAS the Court has sentenced the offender to imprisonment for a period of
Justice of the Peace
Date:
[lhrule]
TO ALL POLICE OFFICERS in the State of New South Wales
By virtue of section 62 of the <i>Crimes (Sentencing Procedure) Act 1999</i> , this warrant is sufficient authority for you to convey the offender named in this warrant to the correctional centre specified in this warrant and to deliver the offender into the custody of the governor of that correctional centre.
Form 5
(Clause 10)
VICTIM IMPACT STATEMENT FOR PRIMARY VICTIMS
(Crimes (Sentencing Procedure) Act 1999, section 30)
(1) Name of victim(s):
Name of offender:
Charges to which this statement relates:
Sentencing court:

Sentencing date:

(2) Details of personal harm suffered as a direct result of the offence(s)

Physical bodily harm:

Mental illness or nervous shock:

- (3) Attached to this statement are the following medical or other specialist reports:
- (4) (To be completed if statement prepared by victim's representative)

Nature of relationship to primary victim:

Duration of relationship to primary victim (unless a relative by blood or marriage):

Nature of primary victim's incapacity:

(5) (To be completed if statement prepared by victim himself or herself, or by victim's representative)

(6) (To be completed if statement prepared by a qualified person on behalf of the victim(s))

Form 6

(Clause 10)

VICTIM IMPACT STATEMENT FOR FAMILY VICTIMS

(Crimes (Sentencing Procedure) Act 1999, section 30)

(1) Name of family victim(s):

Name of primary victim(s):

Name of offender:

Charges to which this statement relates:

Sentencing court:

Sentencing date:

- (2) Details of impact of the death of the primary victim on the family victim(s), being the member(s) of the immediate family of the primary victim(s)
- (3) Attached to this statement are the following medical or other specialist reports:
- (4) (To be completed if statement prepared by the family victim himself or herself)

This statement is true to the best of my knowledge and belief* or (if the family victim is less than 12 years old)
I have not told any lies in this statement.*

Signed (victim(s))		
Dated		
(* Delete whichever does not apply)		
(5) (To be completed if statement prepared by	by a qualified person on behalf of the victim(s))	
This statement is true to the best of my knowle	edge and belief.	
Signed (deponent)		
Dated		
I do not object to this statement being given to		
Signed (victim(s))		
Dated		
	Form 7	
	(Clause 14)	
PERIO	DIC DETENTION UNDERTAKING	
(Crimes (Sen	tencing Procedure) Act 1999, section 66)	
I,, understand that if a periodic d periodic detention, I will be required:	etention order is made directing me to serve my sentence by way of	
	of the <i>Crimes (Administration of Sentences) Act 1999</i> and the Part, and	
(b) to comply with the requirements of any di Sentences) Act 1999, and	rections given to me under Part 3 of the Crimes (Administration of	
(c) to inform the governor responsible for the change in my residential address.	periodic detention centre to which I am required to report of any	
My obligation to comply with the above require	ements has been explained to me, and I agree to comply with them.	
Signature:	Date:	
Probation and parole officer:	Date:	
Note: a copy of the above requirements, signe attached to this undertaking.	ed by the accused and the probation and parole officer, must be	
	Form 8	
	(Clause 16)	
PE	ERIODIC DETENTION ORDER	
(Crimes (Ser	ntencing Procedure) Act 1999, section 6)	
1 Sentence details		
Case No:		
Conviction Date:		
The Court at:		
Offender:		
Date of Birth:		
Offence:	a of impulses mont imposed by Court	

Term of: to commence on: to commence on:
*Non-parole period of:
*The above term of imprisonment is to be served cumulatively on the sentence of: that commenced on:
It is hereby ordered that the above term of imprisonment is to be served by way of periodic detention in accordance with the <i>Crimes (Administration of Sentences) Act 1999</i> .
[Ihrule]
Date of order:
Signed: Date:
(Justice of the Peace)
[Ihrule]
* delete if not applicable
Form 9
(Clause 17)
NOTICE OF PERIODIC DETENTION ORDER
(Crimes (Sentencing Procedure) Act 1999, section 72)
то
of
WHEREAS you were, on, convicted in the Court at of the following offence: being an offence punishable by imprisonment,
AND WHEREAS on that conviction you were sentenced to be imprisoned for a term of
AND WHEREAS it was ordered by that Court that you serve that term of imprisonment by way of periodic detention,
YOU ARE HEREBY GIVEN NOTICE that you have been ordered to report in person to the officer in charge of the periodic detention centre at
Justice of the Peace
Signature of offender:
Date:
Form 10
(Clause 18)
WARRANT OF COMMITMENT TO PERIODIC DETENTION CENTRE
(Crimes (Sentencing Procedure) Act 1999, section 73)
TO the governor responsible for the periodic detention centre at in the State of New South Wales
WHEREAS of (<i>the offender</i>) has been found guilty by the Court of the following offence or offences:
AND WHEREAS the Court has sentenced the offender to imprisonment for a period of, to commence

on	
AND WHEREAS the Court has ordered that the term of imprison YOU ARE HEREBY DIRECTED to receive the offender into your constant (Administration of Sentences) Act 1999 and to any order under periodic detention for the term of the offender's sentence.	ustody there and (subject to the <i>Crimes</i>
	Justice of the Peace
Date: Form 11	
10111121	(Clause 20)
CONSENT OF CO-RESIDENT TO MAKING O	F HOME DETENTION ORDER
(Crimes (Sentencing Procedure) A	ct 1999, section 78)
I, is directed to se he/she* will be required:	rve his/her* sentence by way of home detention,
(a) to comply with the requirements of Part 4 of the <i>Crimes (Acregulations made for the purposes of that Part, and</i>	Iministration of Sentences) Act 1999 and the
(b) to comply with the requirements of any additional condition subject.	ns to which the home detention order may be
The accused's obligation to comply with the above requirement making of a home detention order.	s has been explained to me, and I consent to the
Signature:	Date:
Probation and parole officer:	Date:
Note: a copy of the above requirements, signed by the co-reside attached to this undertaking. [Ihrule]	ent and the probation and parole officer, must be
* delete if not applicable.	
Form 12	
	(Clause 20)
HOME DETENTION UND	ERTAKING
(Crimes (Sentencing Procedure) A	ct 1999, section 78)
 I,, understand that if a home detention order is many home detention, I will be required: (a) to comply with the requirements of Part 4 of the <i>Crimes (Ad regulations made for the purposes of that Part, and</i> 	
(b) to comply with the requirements of any additional condition subject.	ns to which the home detention order may be
My obligation to comply with the above requirements has been	explained to me, and I agree to comply with them.
Signature:	Date:
Probation and parole officer:	Date:

Note: a copy of the above requirements, signed by the accused and the probation and parole officer, must be attached to this undertaking.

Form 13

(Clause 22)

HOME DETENTION ORDER

(Crimes (Sentencing Procedure) Act 1999, section 7)

1	Sentence details
	Case No:
	Conviction Date:
	The Court at:
	Offender:
	Date of Birth:
	Offence:
	Particulars of imprisonment imposed by Court
	Term of:
	to commence on:* *Non-parole period of:*
	*The above term of imprisonment is to be served cumulatively on the sentence of:
	that commenced on:
	It is hereby ordered that the above term of imprisonment is to be served by way of home detention in accordance with the Crimes (Administration of Sentences) Act 1999.
2	Standard conditions
	This order is subject to the conditions prescribed by regulations under the <i>Crimes (Administration of Sentences) Act 1999</i> .
	Note: a copy of the standard conditions must be attached to this order.
3	Additional conditions
	The order is also subject to the following conditions:
[lh	rule]
Da	te of order:
Si	gned:
Sig	gried
(Ju	stice of the Peace)
ſlh	rule]
	lelete if not applicable
	Form 14
	roini 14
	(Clause 24)
	COMMUNITY SERVICE WORK UNDERTAKING
	(Crimes (Sentencing Procedure) Act 1999, section 86)
	, understand that if a community service order is made directing me to perform community service ork, I will be required:

- (a) to comply with the requirements of Part 5 of the *Crimes (Administration of Sentences) Act 1999* and the regulations made for the purposes of that Part, and
- (b) to comply with the requirements of any additional conditions to which the community service order may be subject, and

(c) to comply with the requirements of any direction Sentences) Act 1999, and	ons given to me under Part 5 of the <i>Crimes (Administration of</i>
(d) to inform my assigned officer of any change in	my residential address.
My obligation to comply with the above requiremen	its has been explained to me, and I agree to comply with them.
Signature:	Date:
Probation and parole officer:	Date:
Note: a copy of the above requirements, signed by attached to this undertaking.	the accused and the probation and parole officer, must be
	Form 15
	(Clause 25)
сомми	NITY SERVICE ORDER
(Crimes (Sentencin	ng Procedure) Act 1999, section 8)
1 Sentence details	
Case No:	
Conviction Date:	
The Court at:	
Offender:	
Date of Birth:	
Offence:	
	nmunity service imposed by Court
Number of hours' community service work: (to include hours' participation in a personal devo	
* The above sentence is to be served cumulatively o	n the sentence of hours' community service work that commenced
on:	
2 Standard conditions	
This order is subject to the conditions prescribed by	regulations under the Crimes (Administration of Sentences) Act 1999.
Note: a copy of the standard conditions must be atta	
3 Additional conditions	
The order is also subject to the following conditions:	
[lhrule]	
Date of order:	
Signed:	Date:

(Justice of the Peace)

[lhrule]

* delete if not applicable

Form 16

(Clause 26)

NOTICE OF COMMUNITY SERVICE ORDER

(Crimes (Sentencing Procedure) Act 1999, section 93)

(Chinies (Sentencing Procedure) Act 1999, Section 95)
TO
WHEREAS you were, on convicted in the Court at of the following offence:
being an offence punishable by imprisonment,
AND WHEREAS on that conviction you were directed to perform hours' community service work (to include hours' participation in a personal development, educational or other program)*,
YOU ARE HEREBY GIVEN NOTICE that you have been ordered to report in person to
Justice of the Peace
Signature of offender:
Date:
[lhrule]
* delete if not applicable.