

Young Offenders Regulation 1997

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New South Wales

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The provisions displayed in this version of the legislation have all commenced.

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Young Offenders Regulation 1997



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Young Offenders Regulation 1997*.

2 Commencement

This Regulation commences on 28 November 1997.

3 Definitions

In this Regulation:

appointed member means a member appointed by the Minister.

Committee means the Youth Justice Advisory Committee constituted under section 70 of the Act.

member means a member of the Committee.

nominated member means a member referred to in section 70 (1) (b) or (c) of the Act or referred to in clause 5 (b) of this Regulation.

the Act means the *Young Offenders Act 1997*.

4 Notes

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

Part 2 Youth Justice Advisory Committee

5 Appointment of members

For the purposes of section 70 (1) (j) of the Act, the additional members of the Youth Justice Advisory Committee are as follows:

(a) the Director-General of the Department of Aboriginal Affairs or a nominee of the

Director-General,

- (b) a representative nominated by the Aboriginal Justice Advisory Council,
- (c) a person who has qualifications or experience in the field of youth conferencing, appointed by the Minister,
- (d) the Managing Director of the Legal Aid Commission or a nominee of the Managing Director,
- (e) a Magistrate nominated by the Chief Magistrate of the Local Courts.

6 Terms of office

Subject to this Part:

- (a) an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, and
- (b) a nominated member holds office for such period (not exceeding 3 years) as is specified in the instrument nominating the member,

but the member is eligible (if otherwise qualified) for re-appointment or to be re-nominated.

7 Remuneration

An appointed member or a nominated member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

7A Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed member.
- (2) The body that nominated a nominated member may, from time to time, nominate a person to be the deputy of the nominated member. The nomination must be in writing addressed to the Minister and delivered to the Minister's official address.
- (3) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (4) While acting in the place of a member, a person:
 - (a) has all the functions of the member and is taken to be a member, and
 - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

- (5) For the purposes of this clause, the absence of a member includes a vacancy in the office of a member.
- (6) Clauses 6 and 8 (other than 8 (1) (f)) apply to the deputy of a member in the same way as they apply to the member.
- (7) This clause does not operate to confer on a deputy of the member who is the Chairperson of the Committee or Deputy Chairperson of the Committee the member's functions as Chairperson or Deputy Chairperson.

8 Vacancy in office of members

- (1) The office of an appointed member or a nominated member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed or re-nominated, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) in the case of an appointed member, is removed from office by the Minister under this clause, or
 - (e) in the case of a nominated member, is removed from office under this clause by the body that nominated the member, or
 - (f) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or by post, except on leave granted by the Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Committee for having been absent from those meetings, or
 - (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office for any reason.
- (3) The body that nominated a nominated member may remove the member from office for any reason.

9 Nomination of person as member

A nomination of a person to be a nominated member must be in writing addressed to the

Minister and delivered to the Minister's official address.

10 General procedure

The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to the Act and this Regulation, to be as determined by the Committee.

11 Quorum

The quorum for a meeting of the Committee is a majority of its members for the time being.

12 Presiding member

(1) A meeting of the Committee is to be presided over by:

- (a) the Chairperson of the Committee, or
- (b) in the absence of the Chairperson, the Deputy Chairperson of the Committee, or
- (c) in the absence of both the Chairperson and the Deputy Chairperson of the Committee, another member elected to chair the meeting by the members present.

(2) The person presiding at any meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

14 First meeting

The Chairperson of the Committee is to call the first meeting of the Committee in such manner as the Chairperson thinks fit.

Part 3 Warnings and cautions

15 Records of warnings

(1) A record of a warning given to a child that is made for the purposes of section 17 of the Act must contain the following particulars:

- (a) the time the offence occurred,
- (b) the place where the offence occurred,
- (c) the nature of the offence,

(c1) the name of the child,

(d) the gender of the child.

(2) The record is to be kept on the COPS (Computerised Operational Policing) computer system maintained by the Police Service.

16 Records of cautions

(1) A record of a caution given to a child that is made for the purposes of section 33 of the Act must contain the following particulars:

(a) the name and address of the child,

(b) the date of birth of the child,

(c) the gender of the child,

(d) the cultural or ethnic background of the child,

(e) the name and rank (if any) of the person who gave the caution,

(f) the nature of the offence,

(g) the place, date and time of the caution,

(h) the persons present when the caution was given.

(2) The record is to be kept on the COPS (Computerised Operational Policing) computer system maintained by the Police Service.

Part 4 Youth justice conferences

17 Notification of referrals

(1) The Director of Public Prosecutions or a court must notify the Area Commander of the local police area in which an offence occurred in writing of any referral of the offence to an administrator for a conference by the Director or court.

(2) A notification is to include the reasons why the referral is being made.

18 Times for outcome plans

For the purposes of section 52 (6) of the Act, the maximum time for the implementation of any outcome plan is 6 months, or such further time as the Director-General may approve in any particular case.

19 Maximum period of community service work

For the purposes of section 52 of the Act, the period of community service work imposed by an outcome plan must not exceed the maximum amount that may be imposed in

respect of the same offence under the *Children (Community Service Orders) Act 1987*.

19A Outcome plans for bush fire/arson juvenile offenders

- (1) This clause applies to a child who admits to an offence covered by the Act that consists of:
 - (a) the lighting of a bush fire, or
 - (b) the destruction or damage of property by means of fire.
- (2) For the purposes of section 52 (6) (e) of the Act, an outcome plan for a child to whom this clause applies must provide for the following:
 - (a) attendance by the child at a burns unit or ward of a hospital that agrees to participate in the youth justice conference scheme,
 - (b) a meeting between the child and any victim of the offence who is willing to meet the child,
 - (c) the making of reparation for the offence, such as:
 - (i) assistance in clean-up operations and in treatment of injured animals, and
 - (ii) the payment of compensation (not exceeding the amount that a court may impose on conviction for the offence).
- (3) This clause does not limit any other matter for which an outcome plan may provide.
- (4) This clause does not affect the requirements of the Act relating to the agreement of the child and victims of the offence to the outcome plan.
- (5) This clause does not apply to an outcome plan that is agreed to as a result of a conference convened before the commencement of this clause.

20 Records of conferences

For the purposes of section 59 of the Act, a record is to contain the following matters:

- (a) the name and address of the child,
- (b) the date of birth of the child,
- (c) the gender of the child,
- (d) the cultural or ethnic background of the child,
- (e) the nature of the offence,
- (f) the date the referral for a conference was received,

- (g) the name of the conference convenor,
- (h) the name of the conference administrator concerned,
- (i) the date when, and place where, the conference was held,
- (j) the persons who attended the conference and the capacity in which they attended,
- (k) particulars of the outcome plan of the conference,
- (l) the person responsible for the outcome plan,
- (m) whether the outcome plan was completed,
- (n) any other matters the conference administrator thinks relevant.

Part 5 Miscellaneous

21 Penalty notice offences subject to young offenders scheme

For the purposes of section 9 (2A) of the Act, the following offences are prescribed as offences in respect of which an investigating official must consider the matters referred to in section 9 (2) (a) and (b) of the Act before issuing a penalty notice:

- (a) offences under section 11C of the *Summary Offences Act 1988*,
- (b) offences under section 28F of the *Summary Offences Act 1988*.

22 Provision consequent on commencement of *Young Offenders Amendment Act 2002*

A caution given before 15 November 2002 (being the date of commencement of the *Young Offenders Amendment Act 2002*) is to be disregarded for the purposes of sections 20 (7), 23 (5), 31 (5), 37 (6), 38 (5), 41 (9) and 44 (5) of the Act.

Schedule 1 (Repealed)