

# Community Services (Complaints, Reviews and Monitoring) Regulation 1996

[1996-116]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 December 2002 to 31 August 2004 (accessed 18 July 2024 at 5:50)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Previously named**  
Community Services (Complaints, Appeals and Monitoring) Regulation 1996
- **Repeal**  
The Regulation was repealed by the [Subordinate Legislation Act 1989 No 146](#), sec 10 (2) with effect from 1.9.2004.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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# Community Services (Complaints, Reviews and Monitoring) Regulation 1996



New South Wales

## 1 Name of Regulation

This Regulation may be cited as the *Community Services (Complaints, Reviews and Monitoring) Regulation 1996*.

## 2 Commencement

- (1) This Regulation (clause 10 (c) excepted) commences on 3 April 1996.
- (2) Clause 10 (c) commences on 3 October 1996.

## 3 Definitions

In this Regulation:

**commencement day** means the day on which the 2002 amending Act commences.

**Editorial note—**

The 2002 amending Act commenced on 1.12.2002. See Gazette No 237 of 29.11.2002, p 10061.

**former Commission** means the Community Services Commission constituted under Part 6 of the Act, as in force before the commencement of the 2002 amending Act.

**former Commissioner** means the Commissioner for Community Services appointed under the Act immediately before the commencement of the 2002 amending Act.

**statutory report** means a report required to be prepared and submitted under any Act and includes (but is not limited to) the following:

- (a) an annual report or other report under the Act, as in force before the commencement day,
- (b) financial statements under the *Public Finance and Audit Act 1983*,
- (c) a report under the *Freedom of Information Act 1989*.

**the Act** means the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

**the 2002 amending Act** means the [Community Services Legislation Amendment Act 2002](#).

#### **4 Functions of Official Community Visitors**

For the purposes of section 8 of the Act, the following are prescribed as functions that an Official Community Visitor may exercise:

- (a) to inform the Minister and the Ombudsman on matters affecting the welfare, interests and conditions of persons using visitable services,
- (b) to encourage the promotion of legal and human rights of persons using visitable services, including the right to privacy, confidentiality, adequate information and consultation in relation to those services and the right to complain,
- (c) to consider matters raised by persons using visitable services, staff of providers of visitable services and people having a genuine concern for the welfare, interests and conditions of persons using visitable services,
- (d) to provide information to persons using visitable services as to the advocacy services available to help them in the presentation of any grievance or matter of concern and, in appropriate cases, to assist such persons to obtain such services,
- (e) to facilitate, wherever it is reasonable and practicable to do so, the early and speedy resolution of grievances or matters of concern affecting persons using visitable services by referring those grievances or matters to the providers of the relevant services or to other appropriate bodies.

#### **5 (Repealed)**

#### **6 Decisions that may be the subject of an appeal to the Tribunal: sec 28**

- (1) Decisions of the following kind are prescribed classes of decisions for the purposes of section 28 (1) (c) of the Act:
  - (a) a decision made by a service provider not to take action recommended by the Ombudsman under section 26 of the [Ombudsman Act 1974](#) as a result of an investigation of a complaint under Part 4 of the Act, or to take part only of the action so recommended,
  - (b) a decision made by the Minister or the Director-General to provide, or to continue to provide, a designated service within the meaning of the [Disability Services Act 1993](#), where the provision of the service in accordance with the decision does not conform with the objects of that Act or the principles or applications of principles set out in Schedule 1 to that Act,
  - (c) a decision made by the Minister to adopt or amend a transition plan, or to refuse to adopt or amend a transition plan, within the meaning of section 7 of the

*Disability Services Act 1993.*

- (2) A decision of the kind referred to in subclause (1) (a) belongs to a prescribed class of decisions in relation only to the person from whose complaint the recommendation referred to in that paragraph arose. Accordingly, only that person may make an appeal to the Tribunal from that decision.
- (3) A decision of the kind referred to in subclause (1) (b) belongs to a prescribed class of decisions in relation only to designated services that are provided directly or indirectly as referred to in section 8 (2) (a) of the *Disability Services Act 1993*. Accordingly, an appeal to the Tribunal may not be made under this clause with respect to a decision concerning the provision of financial assistance referred to in section 8 (2) (b) of that Act. This does not affect any right of appeal that exists under section 20 of that Act.

**7-9 (Repealed)**

**10 Reasons to be given for certain decisions: sec 45**

The following classes of decisions are prescribed for the purposes of section 45 of the Act:

- (a) any decision against which there is a right to appeal to the Tribunal, other than a decision of a kind referred to in clause 6 (1),
- (b) (Repealed)
- (c) any decision by a service provider that is likely to have a significant impact on the quality or availability of a community service, and that directly affects one or more persons using the service, being a decision in respect of which a request for reasons is made to the service provider by or on behalf of a person so affected within 28 days after the decision is notified to that person.

**11 Systemic review of deaths of children at risk of harm, children in care or other persons in care**

For the purposes of section 36 (1) (c) of the Act, the prescribed date is the commencement day.

**12 Reports not completed before commencement day**

- (1) This clause applies to a statutory report required to be prepared for a period ending before the commencement day and not completed or prepared before the commencement day.
- (2) On and from the commencement of this clause, the Ombudsman is required to prepare and submit any statutory report to which this clause applies that the former Commission or former Commissioner would have been required to prepare and submit had the former Commission or former Commissioner still been in existence or still held office.

### **13 Reports for period commencing before but ending after commencement day**

- (1) This clause applies to a statutory report required to be prepared, in respect of functions of the former Commission, the former Commissioner and the Ombudsman under any Act, for a period commencing before the commencement day and ending after the commencement day.
- (2) On and from the commencement of this clause:
  - (a) any affairs and accounts of the former Commission or the former Commissioner in respect of the period are, for the purposes of a statutory report to which this clause applies, taken to be affairs and accounts of the Ombudsman, and
  - (b) any statutory report to which this clause applies is to be prepared and submitted by the Ombudsman.

### **14 Reports required to be prepared by Child Death Review Team**

- (1) This clause applies to functions of the Child Death Review Team concerning reports and recommendations relating to deaths of children due to abuse or neglect or that occur in suspicious circumstances, being deaths registered in the period ending on 31 December 2002.
- (2) The Child Death Review Team is to exercise functions relating to any such reports and recommendations as if the amendments made in respect of those functions by the 2002 amending Act had not been made.
- (3) The Ombudsman is to include any appropriate recommendations relating to any deaths of children due to abuse or neglect or that occur in suspicious circumstances after 31 December 2002 as recommendations under section 36 (1) (b) of the Act in the Ombudsman's first report under section 43 of the Act.
- (4) In this clause:

**Child Death Review Team** means the Child Death Review Team established under the *Children (Care and Protection) Act 1987*.