

# Children (Criminal Proceedings) Regulation 2005

[2005-422]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 July 2011 to 31 August 2011 (accessed 18 November 2024 at 21:10)

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—

- **Repeal**

The Regulation was repealed by sec 10 (2) of the [Subordinate Legislation Act 1989 No 146](#) with effect from 1.9.2011.

### 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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# Children (Criminal Proceedings) Regulation 2005



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Children (Criminal Proceedings) Regulation 2005*.

### 2 Commencement

This Regulation commences on 1 September 2005.

**Note—**

This Regulation replaces the *Children (Criminal Proceedings) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**applied Act** means the *Crimes (Sentencing Procedure) Act 1999*, as applied by section 33C of the *Children (Criminal Proceedings) Act 1987*.

**approved form** means a form approved by the Minister.

**juvenile justice officer** means a juvenile justice officer employed within the Department of Juvenile Justice.

**parole order** means an order, whether made under the applied Act or otherwise, directing the release of a detainee from a detention centre on parole.

**the Act** means the *Children (Criminal Proceedings) Act 1987*.

(2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Youth conduct orders

### Division 1 Preliminary

#### 4 Definitions

(1) In this Part:

**appropriate Coordination Group** for a child means:

- (a) in relation to the referral of a child for a suitability assessment by a suitability assessment order—the Coordination Group for the participating Local Area Command that the Children’s Court considers appropriate for the child, or
- (b) in relation to any application or report concerning a youth conduct order made with respect to the child—the Coordination Group for the participating Local Area Command that prepared the interim or final conduct plan for the child adopted by the Children’s Court in the order.

**authorised police officer** means any of the following:

- (a) a youth liaison officer (within the meaning of the [Young Offenders Act 1997](#)),
- (b) a Youth Case Manager for a Police Community Youth Club,
- (c) any other police officer (other than a senior police officer) who has completed a course of training in relation to youth conduct orders of a kind approved by the Director-General.

**authorised scheme officer** means any of the following:

- (a) the Director-General,
- (b) an authorised police officer,
- (c) any other person appointed (or belonging to a class of persons appointed) under clause 6 by the Director-General as an authorised scheme officer (or authorised scheme officers) for the purposes of the provision in which the expression is used.

**compliance report**—see clause 18.

**Coordination Group** means a Case Coordination Senior Officers’ Group established under Division 7.

**Director-General** means the Director-General of the Department of Premier and Cabinet.

**participating Local Area Command** means any of the following areas designated by the Commissioner of Police as a Local Area Command for the NSW Police Force:

- (a) the Campbelltown Local Area Command,
- (b) the Mount Druitt Local Area Command,

- (c) the New England Local Area Command,
- (d) the Blacktown Local Area Command,
- (e) the St Marys Local Area Command,
- (f) the Liverpool Local Area Command,
- (g) the Macquarie Fields Local Area Command.

**referred child** means a child who has been referred to a Coordination Group for a suitability assessment.

**scheme directions** means directions given by the Director-General under Division 8.

**senior police officer** means a police officer of or above the rank of Superintendent.

- (2) Words and expressions used in this Part that are defined for the purposes of Part 4A of the Act have the same meanings as in Part 4A of the Act, except in so far as they are defined differently in this Part or the context or subject-matter otherwise indicates or requires.

## 5 Prescribed eligibility criteria

- (1) The following eligibility criteria are prescribed for the purposes of section 48E of the Act as the criteria that a person must meet to be eligible to participate in the scheme:
  - (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,
  - (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,
  - (c) there is an appropriate connection with a participating Local Area Command of a kind referred to in subclause (1A),
  - (d) the Children's Court has not yet imposed a penalty on the person concerned for the offence or alleged offence.
- (1A) There is an appropriate connection with a participating Local Area Command for the purposes of subclause (1) (c) if either or both of the following conditions are met:
  - (a) the person concerned permanently or temporarily resides in, or is an habitual visitor to, the area of the Command,
  - (b) the relevant offence (or, in the case where more than one relevant offence is sought to be dealt with, at least one of the offences) was committed, or alleged to have been committed, in the area of the Command.

- (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.

**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.

- (2A) A person who ceases to meet the eligibility criteria referred to in subclause (1) (c) 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.
- (3) Despite subclauses (1)–(2A), a person is not eligible to participate in the scheme in relation to an offence if:
- (a) the person is charged with the offence after 25 February 2012, or
  - (b) in the case where the person was charged with the offence on or before 25 February 2012—the person has not been referred to a Coordination Group for suitability assessment on or before that day.
- (4) (Repealed)

## **6 Authorised scheme officers**

- (1) The Director-General may, by order, appoint:
- (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
  - (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.
- (2) The Director-General may at any time and for any reason revoke any appointment under subclause (1).

## **Division 2 Scheme participation approvals**

### **7 Granting of scheme participation approvals**

- (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:
- (a) the officer is satisfied that:



- (i) the child meets the criteria referred to in clause 5 (1), and
  - (ii) it would not be appropriate for the child to be dealt with under the *Young Offenders Act 1997*, and
- (b) the officer considers that it is appropriate for the child to be dealt with under the scheme having regard to:
- (i) the seriousness of the relevant offence concerned, and
  - (ii) the degree of violence, if any, involved in the offence, and
  - (iii) any harm caused to any victim of the offence, and
  - (iv) the number and nature of any previous offences (whether or not relevant offences) committed by the child, and
  - (v) the number of times, if any, that the child has been dealt with under the *Young Offenders Act 1997*, and
- (c) the officer has obtained the written concurrence of a senior police officer to the granting of the approval.
- (2) A scheme participation approval must:
- (a) be in the form (if any) approved by the Director-General, and
  - (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.
- (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.

## **Division 3 Suitability assessments**

### **8 Applications for suitability assessment orders**

- (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.
- (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.

### **9 Notification of suitability assessment order by Children's Court**

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:

- (a) the appropriate Coordination Group for the child is notified in writing that the Court has made the order, and
- (b) a copy of the scheme participation approval (if any) by reference to which the order was made is provided to the Group.

### **10 Suitability assessment of referred child**

- (1) Each Coordination Group has the function of carrying out the suitability assessments for referred children.
- (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.
- (3) Subject to subclause (3A), the assessment must be carried out in accordance with the scheme directions.
- (3A) Without limiting the grounds on which a Coordination Group may find that a referred child is not suitable to participate in the scheme:
  - (a) a Coordination Group may determine that a referred child is not suitable to participate in the scheme because of any of the following:
    - (i) the child does not meet any of the eligibility criteria referred to in clause 5 (1),
    - (ii) the child is not eligible to participate in the scheme by reason of the operation of clause 5 (4), and
  - (b) if a Coordination Group makes such a determination, the Group may proceed immediately to report its determination as to the suitability of the child to the Children's Court under subclause (4) without having to carry out any further processes in relation to the assessment of the child.

- (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.

**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.

## **Division 4 Conduct plans**

### **11 Preparation of interim conduct plans**

- (1) Each Coordination Group has the function of preparing interim conduct plans with respect to referred children.
- (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.
- (3) An interim conduct plan must be:
  - (a) prepared in accordance with the scheme directions and the requirements of section 48J (2) of the Act, and
  - (b) in the form (if any) approved by the Director-General, and
  - (c) endorsed by the Coordination Group that prepared it.

**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.

- (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.

**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.

- (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.

### **12 Preparation of final conduct plans**

- (1) Each Coordination Group has the function of preparing final conduct plans under interim conduct orders with respect to children if the Group prepared the interim conduct plans for the orders.

- (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) 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:
  - (a) the child requests otherwise, or
  - (b) the Group considers that it would be inappropriate in the circumstances.
- (4) The Coordination Group must afford a child an opportunity to review a proposed final conduct plan before the Group endorses the plan.
- (5) A final conduct plan must be:
  - (a) prepared in accordance with the scheme directions and the requirements of section 48K (2) of the Act, and
  - (b) in the form approved by the Director-General, and
  - (c) endorsed by the Coordination Group that prepared it.

**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.

- (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.
- (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.

## **Division 5 Applications relating to youth conduct orders**

### **13 Applications for interim 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 an interim youth conduct order with respect to a child.
- (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:
- (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
  - (b) accompanied by a copy of the final conduct plan prepared by the appropriate Coordination Group for the child.

#### **15 Applications for review of final youth conduct orders**

- (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.

- (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.

#### **16 Applications relating to non-compliance with youth conduct orders**

- (1) An application to the Children's Court under section 48P (1) of the Act may be made only if:
  - (a) the application is made by an authorised scheme officer, and
  - (b) the appropriate Coordination Group for the child has prepared a compliance report in relation to the youth conduct order concerned, and
  - (c) the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.
- (2) Any such application must be accompanied by a copy of the compliance report.

#### **17 Applications relating to compliance with youth conduct orders**

- (1) An application to the Children's Court under section 48R (1) of the Act may be made only if:
  - (a) the application is made by an authorised scheme officer, and
  - (b) the appropriate Coordination Group for the child has prepared a compliance report in relation to the final youth conduct order concerned, and
  - (c) the officer is satisfied that the application conforms with the scheme directions in relation to the making of such an application.
- (2) Any such application must be accompanied by a copy of the compliance report.

### **Division 6 Reports**

#### **18 Compliance reports**

- (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 **compliance report**) 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.
- (2) A compliance report is to be in the form (if any) approved by the Director-General.

## **19 Scheme operation reports**

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.

## **Division 7 Case Coordination Senior Officers' Groups**

### **20 Director-General to establish Case Coordination Senior Officers' Groups**

The Director-General is to establish a Case Coordination Senior Officers' Group (a **Coordination Group**) for each participating Local Area Command.

### **21 Constitution of Coordination Groups**

- (1) For the purposes of transacting any of its business, each Coordination Group is to be constituted by the following members:
  - (a) one police officer nominated in writing by the Commissioner of Police (or his or her delegate) to represent the NSW Police Force,
  - (b) at least 2 persons (but not more than 5 persons) nominated in writing by the Director-General of the Department of Human Services (or his or her delegate) to represent the Department,
  - (c) 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,
  - (d) one person nominated in writing by the chief executive of a local health district (or his or her delegate), being a local health district that is designated by the Director-General as the appropriate local health district to make the nomination for the Group,
  - (e) 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:
    - (i) the Director-General of Communities NSW,
    - (ii) the Director-General of the Department of Justice and Attorney General,
    - (iii) the Director-General of the Department of Premier and Cabinet,
    - (iv) the Director-General of the Department of Health,
    - (v) the Chief Executive of Justice Health,
    - (vi) the Managing Director of TAFE NSW.

- (2) A person nominated under subclause (1) must be a member of the Government Service.
- (3) Only one person may be nominated for each government agency referred to in subclause (1) (g).
- (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.
- (5) The Chairperson of a Coordination Group is:
  - (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
  - (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.
- (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.

## **22 Chairpersons of Coordination Groups**

- (1) The Director-General is to appoint one of the members of a Coordination Group as the Chairperson of the Group.
- (2) The Director-General may remove a person from office as the Chairperson at any time and for any reason.
- (3) A person who is Chairperson vacates office as Chairperson if the person:
  - (a) is removed from office by the Director-General, or
  - (b) resigns that office by instrument in writing addressed to the Director-General.

## **23 Functions of Coordination Groups**

The functions of each Coordination Group include (but are not limited to) the following functions:

- (a) assessing and reporting on the suitability of a child that is referred to it for suitability assessment,
- (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,

- (c) the preparation of interim and final conduct plans for the consideration and approval of the Children's Court,
- (d) such other functions as may be imposed or conferred on the Group by this Part or the scheme directions.

### **23A Substitutes**

- (1) A member of a Coordination Group may appoint a person to be a substitute to act in the place of the member during any absence of the member from a meeting of the Group.
- (2) Subject to this Division, a substitute acting as a member under subclause (1) has and may exercise all the functions of a member and is deemed to be a member.
- (3) A member may not appoint another member to be a substitute, and a substitute may not appoint another person to be a substitute under this clause.
- (4) A substitute appointed by the Chairperson does not have, by virtue of this clause, the function of presiding at a meeting of the Committee.
- (5) A person may not be appointed as a substitute unless the person is a member of the Government Service.

### **24 Procedure**

- (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) The quorum for a meeting of a Coordination Group is at least the following 5 members of the Group:
  - (a) the 3 members who are nominated as referred to in clause 21 (1) (a), (c) and (d) respectively,
  - (b) 2 members who are nominated as referred to in clause 21 (1) (b).
- (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.
- (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.
- (5) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **Division 8 Scheme directions**

### **25 Director-General may issue scheme directions**

- (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:
  - (a) the carrying out of suitability assessments,
  - (b) the provisions in conduct plans,
  - (c) the training to be undertaken by persons involved in the administration of the scheme (including authorised police officers),
  - (d) the granting of scheme participation approvals,
  - (e) the granting of approvals for the purposes of clause 28,
  - (f) the making of applications to the Children's Court by authorised scheme officers under Part 4A of the Act,
  - (g) the procedure for meetings of Coordination Groups,
  - (h) the functions of Coordination Groups and of members of the Groups in connection with the scheme or the carrying out of suitability assessments,
  - (i) any other matter in respect of which scheme directions are permitted or required by this Part.
- (2) The Director-General may from time to time amend, revoke or replace the scheme directions by further order published in the Gazette.
- (3) Without limiting subclause (1), the scheme directions may include provisions that:
  - (a) apply generally, or
  - (b) apply only in relation to specified persons, courts, groups or other bodies, or
  - (c) apply only in specified circumstances, or
  - (d) do a combination of the things referred to in paragraphs (a), (b) and (c).

## **Division 9 Miscellaneous**

### **26 Delegations by Director-General**

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.

## **27 Respondent in appeals under section 48O of Act**

The Crown is designated as the respondent in any appeal by a child under section 48O of the Act.

## **28 Disclosure and exchange of information**

- (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 **relevant agency** in section 48U (5) of the Act:
  - (a) the Director-General,
  - (b) a Chairperson of a Coordination Group.
- (2) The Director-General and each Chairperson of a Coordination Group are prescribed for the purposes of the definition of **relevant administrator** in section 48U (5) of the Act.
- (3) The Director-General may, by order in writing, approve a person (or a class of persons) involved in the administration of the SCSF Program for the purposes of the definition of **relevant administrator** in section 48U (5) of the Act.
- (4) The Director-General or Chairperson may from time to time amend, revoke or replace any approval given under this clause by the Director-General or Chairperson by further order in writing.

## **28A Evaluation and monitoring of scheme**

- (1) A participating State agency is to co-operate with the Director-General in the exercise of the Director-General's functions under this Part concerning the evaluation and monitoring of the operation and effect of the scheme, including complying with any reasonable request of the Director-General for information for use in such monitoring and evaluation.
- (2) In this clause:

**participating State agency** means any of the following:

  - (a) a Government Department referred to in clause 21 (1) (b), (c) or (e) (i), (ii) or (iv),
  - (b) the NSW Police Force,
  - (c) a local health district referred to in clause 21 (1) (d),
  - (d) Justice Health,
  - (e) TAFE NSW.

## **Part 3 Miscellaneous**

### **29 Serious children's indictable offences**

The following offences are prescribed as serious children's indictable offences for the purposes of the Act, as referred to in the definition of **serious children's indictable offence** in section 3 (1) (e) of the Act:

- (a) an offence arising under section 78I of the *Crimes Act 1900*,
- (b) an offence arising under section 80A of that Act, but only if the victim of the offence was under the age of 10 years when the offence occurred.

### **30 Lists of adults willing to attend interviews**

The Commissioner of Police may arrange for the preparation and maintenance of lists of adults who are willing to be called on to be present when a child is making or giving any statement, confession, admission or information referred to in section 13 of the Act.

**Note—**

Section 13 of the Act requires that an adult be present when a child is making or giving any statement, confession or admission referred to in that section, except in certain specified circumstances. The adult must be a person responsible for the child, or some other person who is present with the consent of the person responsible for the child or (in the case of a child who is of or above the age of 16 years) with the consent of the child.

### **31 Background reports**

For the purposes of section 25 (2) (a) of the Act, a background report must be in such form as the Attorney General may from time to time approve and must deal with such of the following matters as are relevant to the circumstances surrounding the commission of the offence concerned:

- (a) the person's family background,
- (b) the person's employment,
- (c) the person's education,
- (d) the person's friends and associates,
- (e) the nature and extent of the person's participation in the life of the community,
- (f) the person's disabilities,
- (g) the person's antecedents,
- (h) such other matters as the Children's Court may require,
- (i) such other matters as the prosecutor considers appropriate to include in the report.

### **32 Conditions that may be imposed on certain orders**

- (1) The kinds of conditions that may be imposed in relation to an order made in respect of a child under section 33 of the Act that provides for the child to enter into a good behaviour bond or releases the child on probation include the following:
  - (a) conditions requiring the child to attend school regularly,
  - (b) conditions relating to the child's employment,
  - (c) conditions aimed at preventing the child from committing further offences,
  - (d) conditions relating to the child's place of residence,
  - (e) conditions requiring the child to undergo counselling or medical treatment,
  - (f) conditions limiting or prohibiting the child from associating with specified persons,
  - (g) conditions limiting or prohibiting the child from frequenting specified premises,
  - (h) conditions requiring the child to comply with the directions of a specified person in relation to any matter referred to in paragraph (a)-(g),
  - (i) conditions relating to such other matters as the court considers appropriate in relation to the child.
- (2) If the Children's Court makes an order releasing a person on probation under section 33 (1) (e) of the Act and also makes an order requiring the person to perform community service work under section 33 (1) (f) of the Act, the order releasing the person on probation may include a condition that requires the person to comply with the community service work order.

### **33 Attorney General to furnish explanatory material**

- (1) The Attorney General is to arrange for the preparation and maintenance of material to be given to children the subject of orders under section 33 (1) of the Act.
- (2) The material must be expressed in language readily capable of being understood by children and must include the following, in relation to any particular order:
  - (a) a description of the requirements imposed by the order,
  - (b) a description of the consequences that may follow if those requirements are not observed,
  - (c) a description of the rights of appeal that exist in relation to the order,
  - (d) a description of the rights (if any) that exist in relation to the variation of the order,

(e) a description of the grounds on which an application for such a variation may be made.

(3) The person responsible for supplying the material to a particular child must make all reasonable efforts to explain the material orally to the child.

#### **34 Authorised officers**

(1) The following officers of the Department of Juvenile Justice are declared to be authorised officers for the purposes of Division 5 of Part 3 of the Act:

- (a) the Director-General,
- (b) the Assistant Director, Operations,
- (c) the Regional Directors and Assistant Regional Directors,
- (d) Managers, Juvenile Justice Community Services,
- (e) Assistant Managers, Juvenile Justice Community Services,
- (f) Managers, Intensive Programs Units,
- (g) Director, Psychological and Specialist Programs,
- (h) Senior Counsellors, Intensive Programs Units,
- (i) Juvenile Justice Officers,
- (j) Juvenile Justice Counsellors,
- (k) Specialist Services Coordinators,
- (l) Conference Administrators,
- (m) the Assistant Director, Psychological and Specialist Services.

(2) Probation officers employed in the Department of Corrective Services are declared to be authorised officers for the purposes of Division 5 of Part 3 of the Act.

#### **35 Consultation required before conditions as to residence or treatment imposed on parole**

(1) Before the Children's Court makes a parole order containing terms or conditions relating to residence or treatment, the court:

- (a) must consider a report from a juvenile justice officer as to the offender's circumstances, and
- (b) must satisfy itself, having regard to the juvenile justice officer's report, that it is feasible to secure compliance with the terms or conditions.

- (2) Before the Children's Court makes a parole order containing terms or conditions requiring the co-operation of a person other than the offender or a juvenile justice 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.

### **36 Parole orders**

- (1) A parole order made by the Children's Court must be reduced to writing using the approved form.
- (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 centre manager of the detention centre in which the offender is to be kept,
  - (b) the Director-General of the Department of Juvenile Justice.
- (3) Copies of the order sent to the centre manager of the detention centre are, if practicable, to be sent so as to arrive at the detention centre at or before the time the detainee arrives.

### **37 Warrants of commitment**

A warrant of commitment referred to in section 62 of the applied Act is to be in the approved form.

### **38 Savings and transitional provisions**

- (1) Any act, matter or thing that, immediately before the repeal of the *Children (Criminal Proceedings) Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.
- (2) The following provisions apply in relation to amendments made to this Regulation by the *Children (Criminal Proceedings) Further Amendment (Youth Conduct Orders) Regulation 2009* (the **amending Regulation**):
  - (a) any person who held office as the Chairperson of a Coordination Group immediately before the commencement of Schedule 1 [4] to the amending Regulation continues to hold office as Chairperson until he or she vacates office as such under clause 22,
  - (b) any person who was a member of a particular Coordination Group as a nominee of a relevant government agency immediately before the substitution of clause 21 (1) by the amending Regulation continues to be a member of the Group nominated by the agency until such time as the person's nomination is revoked.
- (2A) The amendment made to clause 21 (1) by the *Health Services Amendment (Local Health Networks) Act 2010* does not affect the continued validity of any nomination

made by an area health service under clause 21 (1) (d) before the commencement of that amendment.

(2B) The amendment made to clause 21 (1) by the *Health Services Amendment (Local Health Districts and Boards) Act 2011* does not affect the continued validity of any nomination made for a local health network under clause 21 (1) (d) before the commencement of that amendment.

(3) In this clause:

**relevant government agency** means a Department or other government agency referred to in clause 21 (1) (as substituted by the amending Regulation).