



New South Wales

Young Offenders Amendment (Miscellaneous) Regulation 2008

under the

Young Offenders Act 1997

The Administrator, with the advice of the Executive Council, has made the following Regulation under the *Young Offenders Act 1997*.

JOHN HATZISTERGOS, M.L.C.,
Attorney General

Explanatory note

The object of this Regulation is to amend the *Young Offenders Regulation 2004* as follows:

- (a) to require the referral of a matter to a conference administrator under section 38 (1) or 40 (1) of the *Young Offenders Act 1997* (**the Act**) to be accompanied by a notice in the form approved by the Director-General of the Department of Juvenile Justice,
- (b) to make provision for the form and content of a written victim statement given under section 24A of the Act,
- (c) to prescribe the Regional Director of the Department of Juvenile Justice as a person to whom the Director-General of that Department may delegate any of the Director-General's functions under the Act or regulations,
- (d) to require any request by an authorised officer of the Department of Juvenile Justice for the divulgence of records of, or relating to, cautions and conferences under the Act to be made in writing and to include specified information,
- (e) to prescribe certain members of staff of the Department of Juvenile Justice as authorised officers for the purposes of section 66 of the Act.

This Regulation is made under the *Young Offenders Act 1997* (as amended by the *Courts and Other Legislation Amendment Act 2007*), including section 73 (the general regulation-making power).

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Clause 1 Young Offenders Amendment (Miscellaneous) Regulation 2008

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1 Name of Regulation

This Regulation is the *Young Offenders Amendment (Miscellaneous) Regulation 2008*.

2 Commencement

This Regulation commences on 1 May 2008.

3 Amendment of Young Offenders Regulation 2004

The *Young Offenders Regulation 2004* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 17A

Insert after clause 17:

17A Notice of referrals to be given to conference administrators

- (1) The referral of a matter to a conference administrator under section 38 (1) or 40 (1) of the Act must be accompanied by a notice in accordance with this clause.
- (2) A notice must be in the form approved by the Director-General.
- (3) The Director-General may approve a form only after consultation with:
 - (a) in the case of a matter referred by a specialist youth officer—the Commissioner of Police, and
 - (b) in the case of a matter referred by the Director of Public Prosecutions (the *DPP*)—the DPP, and
 - (c) in the case of a matter referred by a court—the Chief Magistrate of the Local Courts.
- (4) A notice is to include the following, unless it is not reasonably practicable to do so:
 - (a) a summary of the criminal history of the child concerned,
 - (b) details of any warning or caution given, or conference held, under the Act in relation to the child concerned,
 - (c) in the case of a matter referred by a specialist youth officer—a copy of any record kept on the COPS (Computerised Operational Policing) computer system maintained by the NSW Police Force that relates to the matter or any equivalent record,
 - (d) in the case of a matter referred by the DPP or a court:
 - (i) a copy of the charge sheet, charge cover sheet and facts sheet that relate to the matter or any equivalent record, and
 - (ii) if the DPP or court has been provided with any record kept on the COPS (Computerised Operational Policing) computer system maintained by the NSW Police Force that relates to the matter or any equivalent record—a copy of such record,

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Schedule 1 Amendments

- (e) such other information that the person or body giving the notice considers relevant.

[2] Clauses 23A–23D

Insert after clause 23:

23A Form and content of written victim statements

A written statement given under section 24A (1) of the Act:

- (a) must be legible, and may be either typed or hand-written, and
- (b) must be no longer than two A4 sized pages, and
- (c) must identify the victim or victims to whom it relates, and
- (d) must include the full name of the person who prepared the statement, and must be signed and dated by that person, and
- (e) must include only the victim's description of the incident that is the subject of the caution and its impact on the victim, and
- (f) must not have any medical, psychological or similar report attached, and
- (g) must not contain anything that is offensive, threatening, intimidating or harassing, and
- (h) must not contain a request for an apology, compensation or reparation.

Note. Under section 29 (4) of the Act, a person who gives a caution to a child may request the child being cautioned to provide a written apology to any victim of the alleged offence.

23B Delegation of Director-General's functions

For the purposes of section 62A of the Act, a Regional Director of the Department of Juvenile Justice is prescribed as a person to whom the Director-General may delegate any of the Director-General's functions.

23C Disclosure of records relating to cautions and conferences

Records may be divulged in accordance with section 66 (2) (e) of the Act only if the request for any such records:

- (a) is in writing (on a Department of Juvenile Justice letterhead) and addressed to the Manager, Criminal Records Unit, NSW Police Force, and

- (b) includes the reason for the request and describes how the information will be used, and
- (c) includes the full name and work location of the authorised officer of the Department of Juvenile Justice to whom the records are to be divulged, and
- (d) contains a declaration, by the authorised officer, that:
 - (i) the request relates to a child who is subject to the supervision of the Department of Juvenile Justice pursuant to an order made under section 33 of the *Children (Criminal Proceedings) Act 1987*, and
 - (ii) the information will be used only in the manner set out in the request, and
- (e) includes the full name and date of birth (and, if known, the place of birth) of the person to whom the records relate, and
- (f) includes a description of any court order that relates to the request.

23D Authorised officers of the Department of Juvenile Justice

The following members of staff of the Department of Juvenile Justice are prescribed as authorised officers of the Department of Juvenile Justice for the purposes of section 66 of the Act:

- (a) an Executive Director,
- (b) a Regional Director,
- (c) an Area Manager,
- (d) an Assistant Manager,
- (e) any person who has direct responsibility for youth justice conferencing policy and procedures and who is authorised by the Director-General for the purposes of this paragraph.