



Criminal Code Amendment (Control Orders— Legal Representation for Young People) Regulations 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 27 June 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

George Brandis QC
Attorney-General

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1 Name

This instrument is the *Criminal Code Amendment (Control Orders—Legal Representation for Young People) Regulations 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	1 July 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Criminal Code Act 1995*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Criminal Code Regulations 2002

1 Regulation 3

Insert:

AFP member has the same meaning as in Part 5.3 of the Code.

chief executive officer of a legal aid commission of a State or Territory means the person holding, or performing the duties of, the following position:

- (a) for New South Wales, Queensland and the Australian Capital Territory—Chief Executive Officer of the legal aid commission of that State or Territory;
- (b) for Victoria—managing director of the board of directors of Victoria Legal Aid under the *Legal Aid Act 1978* (Vic);
- (c) for Western Australia—Director of Legal Aid under the *Legal Aid Commission Act 1976* (WA);
- (d) for South Australia—Director of Legal Services under the *Legal Services Commission Act 1977* (SA);
- (e) for Tasmania—Director of the Commission under the *Legal Aid Commission Act 1990* (Tas.);
- (f) for the Northern Territory—Director of Legal Aid under the *Legal Aid Act* (NT).

control order has the same meaning as in Part 5.3 of the Code.

issuing court has the same meaning as in Part 5.3 of the Code.

lawyer has the same meaning as in Part 5.3 of the Code.

legal aid commission means an authority established by or under a law of a State or Territory for the purpose of providing legal assistance.

mental impairment has a meaning affected by subsections 7.3(8) and (9) of the Code.

parent has a meaning affected by the Dictionary at the end of the Code.

2 Before regulation 4

Insert:

Division 1—Control orders

3A Legal representation for young people

For the purposes of subsection 104.28(6) of the Code, this Division provides in relation to the appointing of a lawyer for a person who is at least 14 but under 18 (the *young person*) to act for the young person in relation to proceedings relating to a control order.

3B Court may request legal aid commission to arrange representation

An issuing court may request a legal aid commission (the *relevant legal aid commission*) to arrange the legal representation of the young person.

3C AFP to inform relevant persons of request and contact details

- (1) This regulation applies if the issuing court decides to make a request under regulation 3B.

Informing the legal aid commission

- (2) An AFP member, or a legal representative of the Australian Federal Police, must:
- (a) in writing, inform the chief executive officer of the relevant legal aid commission of the request; and
 - (b) give the relevant legal aid commission the following information (if any) that the AFP member or legal representative has:
 - (i) the young person's name;
 - (ii) the young person's residential address;
 - (iii) the young person's contact details, including a telephone number and an email address;
 - (iv) the young person's date of birth;
 - (v) the name, residential address and contact details of at least one parent or guardian of the young person;
 - (vi) if the young person requires assistance with communication—information about the assistance required.

Note: For subparagraph (b)(vi), a person may need assistance with communication because, for example, the young person is deaf or hearing impaired, is unable to read, has a mental impairment, or requires an interpreter.

Informing the young person

- (3) An AFP member must:
- (a) inform the young person of the request; and
 - (b) give the young person sufficient information about the relevant legal aid commission to enable the young person to contact and, if necessary, attend the legal aid commission, including the following information (if any) that the AFP member has:
 - (i) the name of the legal aid commission;
 - (ii) the legal aid commission's business address (not being a post box);
 - (iii) the legal aid commission's contact details, including a telephone number and an email address;
 - (iv) any other information about the legal aid commission provided by the issuing court; and
 - (c) ensure that the young person understands the information provided to them under paragraphs (a) and (b) (taking into account the person's age, language skills, mental capacity and any other relevant factor).
- (4) Subregulation (3) does not apply if the actions of the young person make it impracticable for the AFP member to comply with that subregulation.

Informing a parent or guardian of the young person

- (5) An AFP member must take reasonable steps to:
 - (a) inform at least one parent or guardian of the young person of the request; and
 - (b) give the parent or guardian the relevant legal aid commission's contact details (including the details mentioned in paragraph (3)(b)).
- (6) The AFP member or legal representative complying with subregulation (2), (3) or (5) must do so as soon as practicable after the issuing court decides to make the request and at least 48 hours before the next day when the court will conduct proceedings relating to the control order.

Division 2—Preventative detention orders

3 Division 3.1 (heading)

Repeal the heading, substitute:

Division 1—Cross-border firearms trafficking

4 Division 3.2 (heading)

Repeal the heading, substitute:

Division 2—Serious drugs and precursors

5 Division 3.3 (heading)

Repeal the heading, substitute:

Division 3—Psychoactive substances

6 After Part 4

Insert:

Part 5—Application and transitional provisions

7 Application of the *Criminal Code Amendment (Control Orders—Legal Representation for Young People) Regulations 2017*

- (1) The amendments made by items 1 and 2 of Schedule 1 to the *Criminal Code Amendment (Control Orders—Legal Representation for Young People) Regulations 2017* apply in relation to the parts of a proceeding that occur after the commencement of that instrument if:
 - (a) the proceeding commenced before or after the commencement of that instrument; and
 - (b) the proceeding relates to a control order made on or after 30 November 2016; and
 - (c) the control order was, or is, requested (however described) on or after 30 November 2016.

- (2) To avoid doubt, those amendments apply in accordance with subregulation (1) regardless of when the conduct to which that request relates occurred or occurs.

Note: The conduct may have occurred before or after 30 November 2016.