

# Youth Justice and Another Regulation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 127

made under the

*Sustainable Planning Act 2009*  
*Youth Justice Act 1992*

## General Outline

### Short title

This regulation may be cited as the *Youth Justice and Another Regulation Amendment Regulation (No. 1) 2015*.

### Authorising law

Sections 232(2) and 763 of the *Sustainable Planning Act 2009* (the SP Act)  
Section 314 and schedule 2 of the *Youth Justice Act 1992* (the YJ Act)

### Policy objectives and the reasons for them

The Government committed at the 2015 election to conduct an independent evaluation of the trial youth boot camp program, introduced by the previous Government progressively from 2012. As part of this trial, the YJ Act was amended in 2012 to create the boot camp order, a sentence order which involves a young person being required to participate in a sentenced youth boot camp (SYBC) program. This program includes a one-month residential phase, during which the young person is placed at an SYBC centre. The scope of the trial was expanded in 2014 with the creation of the mandatory boot camp (vehicle offences) order, which similarly requires the young person to participate in the SYBC program.

To enable delivery of the required residential placement under the boot camp order (and, subsequently, the boot camp (vehicle offences) order), an SYBC centre operated by a private provider was established at Lincoln Springs, west of Ingham, in December 2013. The provider's service agreement for this centre expires on 27 October 2015.

KPMG's *Final Report for the Evaluation of Queensland Youth Boot Camps* (the Final Report), tabled in Parliament on 20 August 2015 in satisfaction of the Government's election commitment, identifies the boot camp program trial has blown out to more than eight times its budgeted cost and has failed in its core purpose of reducing recidivism. Having regard to its ineffectiveness in breaking the cycle of youth offending, the report also identifies the boot camp program trial does not reflect value for money.

Procurement of the youth boot camp program was also the subject of a Queensland Audit Office (QAO) investigation. The QAO's report on the outcomes of its investigation, tabled in Parliament on 9 April 2015, identified significant issues in the process used to procure a provider for the SYBC centre, meaning economy was not achieved in this process and a lack of transparency weakened program administration.

Having regard to the findings from KPMG's final report and with note of the QAO's concerns, the Government has determined to conclude the youth boot camp program trial on the expiry of existing service agreements.

## **Achievement of policy objectives**

Discontinuation of the boot camp program trial involves the following three sets of regulatory amendments:

### Omission of prescribed areas

Section 206A(1) of the YJ Act provides that a young person must ordinarily reside in a prescribed area to receive a boot camp (vehicle offences) order. To this end, part 3AA of the *Youth Justice Regulation 2003* (the YJ Regulation) prescribes the local government areas of Cairns, Tablelands (divisions 3 to 6) and Townsville.

Similarly, section 226C(2)(a) of the YJ Act provides that a young person must ordinarily reside in a prescribed area to be eligible to receive a boot camp order. Part 3A of the YJ Regulation prescribes the following local government areas for this purpose:

- Burdekin;
- Cairns;
- Cassowary Coast;
- Charters Towers;
- Flinders;
- Hinchinbrook;
- Mareeba;
- Palm Island;
- Tablelands (divisions 3 to 6);
- Townsville; and
- Yarrabah.

To discontinue sentencing to either category of sentence order, the amendment regulation omits from the YJ Regulation, the prescribed areas in which a child must usually reside to receive a boot camp (vehicle offences) order or to be eligible for a boot camp order. The intended effect is that no child sentenced after commencement of the amendment regulation will be either required to receive a boot camp (vehicle offences) order or eligible to receive a boot camp order. A court in these circumstances will be required to sentence the child under its remaining sentencing powers under the sentencing code under part 7 of the YJ Act.

### Detention centre employees at a boot camp centre

Section 282BA of the YJ Act permits the chief executive to enter into an arrangement with an SYBC provider for a detention centre employee to provide services to maintain good order and discipline at a SYBC centre. Subsection (2) limits these services to those prescribed under a regulation.

Part 3B of the YJ Regulation prescribes a range of services for the purpose of an arrangement entered into under section 282BA of the YJ Act. As these services will no longer be required after the SYBC program trial's conclusion, the amendment regulation omits part 3B from the Regulation. This omission will take effect on 28 October 2015, immediately following the trial's end on 27 October 2015.

### Exempt development

Section 232(2) of the SP Act provides that a regulation may prescribe certain types of development as being development that a planning scheme, temporary local planning instrument or preliminary approval cannot declare to be development of a particular type. Under this head of power, schedule 4, table 5, row 17 of the *Sustainable Planning Regulation 2009* (the SP Regulation) prescribes all aspects of development for a boot camp centre as development which cannot be declared to be development of a particular type.

As this exemption will no longer be required following the end of the program trial and the closure of the Lincoln Springs boot camp centre, the amendment regulation omits it from the SP Regulation. This omission will take effect on 18 December 2015, immediately following the conclusion on 17 December 2015 of the department's sublease over the Lincoln Springs property on which the SYBC centre is located.

## **Consistency with policy objectives of authorising law**

The objectives of the YJ Act, under which the boot camp program trial was established, require that young people who have committed offences are dealt with according to the principles of that Act. These principles include that young people should be dealt with in a way which promotes their rehabilitation and reintegration, strengthens their families and, in the case of Aboriginal and Torres Strait Islander young people, involves their communities.

As noted above, KPMG's Final Report found the SYBC program was ineffective in reducing recidivism. KPMG further found the SYBC centre's remote location has made it impossible to include families in the program's residential phase, while there was a significant lack of consultation with Aboriginal or Torres Strait Islander communities in the SYBC's catchment despite those communities' young people making up the majority of young people sentenced to participate in the program.

For these reasons, the amendment regulation's discontinuation of the sentencing of young people to participate in the program is highly consistent with the objectives of the YJ Act.

## **Inconsistency with policy objectives of other legislation**

The amendment regulation is consistent with the policy objectives of other legislation. It does not introduce new policy, but supports the discontinuation of a trial which has been shown by an independent evaluation to be ineffective and not value for money.

## **Benefits and costs of implementation**

KPMG's Final Report found the cost of the boot camp program trial had blown out to \$16.7 million, more than eight times the \$2 million cost announced by the previous Government in establishing the trial in November 2012. This includes significant one-off capital and set-up costs for the SYBC of \$4.3 million and \$4.8 million SYBC operating costs over a 15 month period.

Discontinuing a program which has been demonstrated to involve significant unanticipated capital and operating costs and to represent poor value for money will allow savings to be invested in alternative programs which are evidence-based and which reduce recidivism by addressing the causes of youth offending.

## **Consistency with fundamental legislative principles**

The amendment regulation is consistent with fundamental legislative principles.

In particular, the amendment regulation pays due regard to the rights and liberties of affected young people by preventing them from being sentenced to participate in a program which has been shown to be ineffective and inconsistent in a number of ways with the objectives of the YJ Act. Further, while the amendment regulation supports the discontinuation of the SYBC program in its current form, any decision to remove the boot camp (vehicle offences) order and boot camp order from the sentencing code under part 7 of the YJ Act will be subject to future consideration by Parliament.

## **Consultation**

In conducting its independent evaluation of the boot camp program, KPMG consulted with a range of government agencies, non-government service providers, staff of the SYBC provider, judicial officers, community sector stakeholders, Aboriginal and Torres Strait Islander elders and boot camp program participants and their families. The full list of stakeholders consulted is listed at Attachment A of the Final Report.

The results of this consultation are summarised at Attachment I of the Final Report. Findings of this consultation include that:

- the SYBC program's residential phase is not adequately linked to the subsequent community integration phase, does not deliver appropriate family support and is not achieving its educational, training or employment objectives;
- there is considerable discrepancy about whether the SYBC program is achieving its objectives or positive outcomes;
- the SYBC program has been significantly more costly than other program; and
- the SYBC program is not deterring reoffending.

These findings along with the significant concerns identified by the QAO have informed the Government's decision to not extend the trial of the youth boot camp program.

The Office of Best Practice Regulation (OBPR) in the Queensland Competition Authority has been consulted regarding the amendments' regulatory impact. OBPR has confirmed the amendments are excluded from the regulatory impact statement system.

The Department of Infrastructure, Local Government and Planning (DILGP) has been consulted regarding the proposed amendment to the SP Regulation. DILGP supports the proposed amendment to the SP Regulation.