

Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023

Explanatory notes for SL 2023 No 52

made under the

Youth Justice Act 1992

General Outline

Short Title

Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023

Authorising law

Sections 52AA and 314 of the *Youth Justice Act 1992*.

Policy objectives and the reasons for them

Section 52AA of the *Youth Justice Act 1992* (YJ Act) commenced on 30 April 2021 and provides that courts in prescribed areas have the option, subject to certain prerequisites being met, to order that a child must wear an electronic monitoring device as a condition of bail. One of the prerequisites is that the child must live in a prescribed area.

The *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2021* commenced on 17 May 2021, prescribing courts and residential areas in and around Townsville, north Brisbane, Moreton, Logan and Gold Coast. Electronic monitoring devices have been trialled in those areas since that time.

An evaluation of the trial, completed in November 2022, found that while there were some benefits associated with electronic monitoring, a larger sample size was needed to determine its effectiveness in deterring offending behaviour.¹

¹ <https://www.cyjma.qld.gov.au/about-us/performance-evaluations/electronic-monitoring-trial-evaluation> p.28

The policy objective is to amend the *Youth Justice Regulation 2016* to prescribe additional geographical areas – Cairns, Mount Isa and Toowoomba.

The expansion, coupled with the recent *Strengthening Community Safety Act 2023* which lowered the minimum age for electronic monitoring to include 15-year-olds, will provide a larger sample size to support the assessment of the efficacy of electronic monitoring and decisions on its future use in relation to children.

Achievement of the Objectives

The *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023* (the Amendment Regulation) amends the *Youth Justice Regulation 2016* (the YJ Regulation) to prescribe three new geographical areas in which a child must live in order to have an electronic monitoring device imposed as a condition of bail. The new areas are in and around Cairns, Mount Isa and Toowoomba

These sites will be covered by a range of relevant services provided, or funded, by Department of Youth Justice, Employment, Small Business and Training (DYJESBT) and the Queensland Police Service – in particular, Youth Co-responder Teams, which the evaluation found were associated with very high rates of compliance.

The geographical areas prescribed for courts include courts in the prescribed residential areas that are adjacent to a 24 hour a day, 7 day a week watch house.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the *Youth Justice Act 1992*.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Benefits and costs of implementation

The benefit of implementation is the expansion of the electronic monitoring trial, to provide a larger sample size for a more accurate evaluation of the effectiveness of electronic monitoring in securing compliance with bail conditions and deterring offending behaviour.

The costs associated with electronic monitoring devices will be met from within the existing resources of relevant agencies. An appropriate range of support services already existed in each

of the new locations, with the exception that Co-Responder only operated in Cairns. The Government recently allocated funds to establish Co-Responder teams in Mount Isa and Toowoomba, and those teams are now operational.

Queensland Corrective Services is responsible for real-time monitoring of alerts from electronic monitoring devices fitted to young people, as contemplated by section 52AA(7) to (9) of the YJ Act, including initial contact with young people by telephone to make attempts to resolve alerts generated by the devices.

QPS and DYJESBT are responsible for field responses, fitment and removal of devices, and management of electronic monitoring assets across the State.

The use of electronic monitoring devices will be further reviewed in the lead up to the expiry of section 52AA (April 2025, per section 52AA(10)).

Consistency with Fundamental Legislative Principles

The Amendment Regulation is consistent with fundamental legislative principles in the *Legislative Standards Act 1992*.

Rights and liberties of individuals

The Amendment Regulation is limited to prescribing additional geographical locations where courts may, in certain circumstances, impose electronic monitoring devices as a condition of bail.

The Explanatory Notes tabled with the Strengthening Community Safety Bill 2023 include a detailed assessment of the impact on the rights and liberties of children due to the imposition of a monitoring device condition.

Unambiguous and drafted in a sufficiently clear and precise way

Section 4(3)(k) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to the rights and liberties of individuals depends on the whether the legislation is unambiguous and drafted in a sufficiently clear and precise way.

The way in which the Amendment Regulation prescribes the new geographical areas differs from the approach adopted for the areas already prescribed in the *Youth Justice Regulation 2016*. This is because the use of postcodes alone to identify the new trial sites was not practicable due to the geographical size of certain postcodes around Cairns, Mount Isa and Toowoomba. Instead, postcodes together with localities or suburbs have been used.

It is not considered that the differing approaches in the YJ Regulation impacts on the clarity of the provisions or creates any ambiguity about the geographical areas prescribed.

Consultation

The three new sites were announced by the Government in the context of the Strengthening

Community Safety Bill 2023. There was extensive engagement with key stakeholders, peak bodies, and members of the public during the inquiry into the Bill conducted by Parliament's Economics and Governance Committee. Individuals and organisations who made submissions or appeared at hearings in the course of the inquiry expressed a broad cross-section of views, but none raised any concerns about the trial sites.

In accordance with the *Queensland Government Guide to Better Regulation*, the Office of Best Practice Relegation was not consulted in relation to the Amendment Regulation. DYJESBT applied a self-assessed exclusion from further regulatory impact analysis as the Amendment Regulation relates to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services (self-assessed exclusion category j).