

# Youth Justice (Monitoring Device Conditions) Amendment Regulation 2024

Explanatory notes for SL 2024 No 165

made under the

*Youth Justice Act 1992*

## General Outline

### Short Title

*Youth Justice (Monitoring Device Conditions) Amendment Regulation 2024*

### 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. Cairns, Toowoomba, and Mount Isa were added in 2023, after an evaluation of the trial completed in November 2022 found that there were some benefits associated with electronic monitoring, but that a larger sample size was needed to determine its effectiveness in deterring offending behaviour<sup>1</sup>.

The policy objective is to amend the *Youth Justice Regulation 2016* to prescribe additional

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

geographical areas – Fraser Coast, Ipswich, Mackay, Rockhampton, and South Brisbane.

The expansion 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 2024* (the Amendment Regulation) amends the *Youth Justice Regulation 2016* (the YJ Regulation) to prescribe five 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 Fraser Coast, Ipswich, Mackay, Rockhampton, and South Brisbane.

These sites will be covered by a range of relevant services provided, or funded, by Department of Youth Justice (DYJ) and the Queensland Police Service (QPS) – 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.

Key support services that will assist children subject to electronic monitoring to comply with

their bail conditions include Youth Co-Responder Teams (Co-Responder), jointly staffed by DYJ and QPS, and intensive bail support services funded by DYJ. The Government recently allocated funds to ensure these services are available in all five locations, and they 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 DYJ 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 statement of compatibility tabled with the Queensland Community Safety Bill 2024 includes 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 whether the legislation is unambiguous and drafted in a sufficiently clear and precise way.

The Amendment Regulation prescribes the new geographical areas by adding to the areas already prescribed in the YJ Regulation.

## **Consultation**

The intention to add new electronic monitoring trial locations was made public by the Government in the context of the Queensland Community Safety Bill 2024. There was extensive engagement with key stakeholders, peak bodies, and members of the public during the inquiry into the Bill conducted by Parliament's Community Safety and Legal Affairs Committee, where 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 Better Regulation Policy*, an Impact Analysis Statement (IAS) has been prepared and approved by the Director-General of the Department of Youth Justice and the Minister for Education and the Minister of Youth Justice, and will be published on the Department's website. The IAS indicates that no further regulatory impact analysis is required as the proposal relates to police powers and administration, general criminal laws, the administration of the courts and tribunals and corrective services.

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