

RULES OF COURT

YOUTH COURT OF SOUTH AUSTRALIA

Youth Court (Youth Treatment Orders) Rules 2021 made under the *Youth Court Act 1993*

By virtue and in pursuance of the *Youth Court Act 1993*, we the Judge of the Youth Court and the magistrates make the following *Youth Court (Youth Treatment Order) Rules 2021*.

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Part 1—Preliminary

1—Short title

These rules may be cited as the *Youth Court (Youth Treatment Orders) Rules 2021*.

2—Commencement

These rules will come into operation on the day on which part 7A of the *Controlled Substances (Youth Treatment Orders) Amendment Act 2019* comes into operation.

3—Interpretation

- (1) In these rules, unless the contrary intention appears—

assessment report means a report prepared for the purposes of section 54B(1)(a)(ii) of the relevant Act;

Court means the Youth Court;

ECMS means the *electronic court management system* under the *Uniform Civil Rules 2020*;

relevant Act means the *Controlled Substances Act 1984*;

relevant department means an administrative unit of the Public Service responsible for assisting a Minister in the administration of any of the following Acts:

- (a) the relevant Act;
- (b) the *Children and Young People (Safety) Act 2017*;
- (c) the *Youth Justice Administration Act 2016*;

treatment report means a report prepared for the purposes of section 54B(1)(b)(ii) of the relevant Act;

youth treatment order jurisdiction of the Court means the jurisdiction of the Court under Part 7A of the relevant Act.

- (2) A term used in these rules that is defined in the *Youth Court Act 1993*, the relevant Act or Part 7A of the relevant Act has the same meaning in these rules as it has in the particular Act or that Part, as the case may be (unless the contrary intention appears).

4—Application of rules

These rules apply to the youth treatment order jurisdiction of the Court.

5—Object of rules

The object of these rules is the fair, effective, expeditious and efficient conduct of the proceedings of the Court.

6—Proceedings to be initiated and conducted in Adelaide

Any proceedings in connection with the youth treatment order jurisdiction of the Court must be initiated and conducted at the Court in Adelaide.

7—Power to give directions

The Court may, in any proceedings, if it considers it appropriate to do so in particular circumstances, do either or both of the following:

- (a) give directions as to the practice and procedure to be followed in the circumstances;
- (b) dispense with compliance with a provision of these rules (including a provision governing the exercise of a power of the Court).

8—Forms

- (1) It is sufficient compliance with these rules, as to the form of any document, if the document is substantially in accordance with the form specified by these rules.
- (2) Forms not provided by these rules may be prepared at the direction of the Court or by the Registrar on behalf of the Court.
- (3) All forms for use specifically in the youth treatment order jurisdiction must use numbering with the prefix *YTO*.
- (4) The forms set out in Schedule 1 must be used for the purposes specified in these rules or in that Schedule.

Part 2—Initiation of proceedings, initial orders and reviews

9—Applications for orders

- (1) An application for an order under section 54B of the relevant Act must be in the prescribed form.

Prescribed form—

Form YTO1 Application for a Youth Treatment Order

- (2) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

Prescribed form—

Form G8 Affidavit

- (3) An application filed under this rule must, at the time of service on the child, be accompanied by a copy of the statement that is required for the purposes of section 54G(3) of the Act.

10—Procedures if Court initiates proposal for an order of its own motion

- (1) If the Court is considering whether to make an order of its own motion under section 54C of the relevant Act, the Court may:
 - (a) adjourn the proceedings before the Court; and
 - (b) direct the Registrar to notify any person who is not appearing or represented in the proceedings, and who may have an interest in the matter, that an order under Part 7A of the relevant Act is under consideration; and

- (c) take steps to have any necessary report, information or material prepared, or step taken, including by setting a time for a directions hearing; and
 - (d) take steps to have the proceedings reconvened at an appropriate time.
- (2) Subrule (1) does not apply to the extent that the Court can address or deal with any matter as part of the proceedings before the Court at the relevant time.

11—Notification of proceedings

For the purposes of section 54D(5) of the relevant Act—

- (a) notice of the proceedings may be given to the Chief Executive of the Department for Child Protection using ECMS, or in any other way determined to be appropriate by the Court or the Registrar; and
- (b) if that Chief Executive wishes to make submissions in the proceedings, the Chief Executive must inform the Court of the Chief Executive's intention to appear and be represented in the proceedings at least 2 business days before the date set for the proceedings (unless the Court allows or directs otherwise) by an email sent to an email address provided by the Registrar or in any other way determined or approved by the Court or by the Registrar.

12—Directions hearings

- (1) This rule applies in relation to the initiation of proceedings before the Court for an order under section 54B of the relevant Act (including where the proceedings have been initiated by the Court of its own motion under section 54C of the relevant Act).
- (2) The matter will be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give 1 or more of the following directions:
 - (a) limiting the issues to be determined at the hearing;
 - (b) requiring the preparation of a screening report by an appropriately qualified and experienced youth drug addiction health professional, nominated by the Court, to provide evidence as to the matters that the Court is required to be satisfied about for the purposes of section 54D of the relevant Act;
 - (c) a direction relating to legal representation of the child;
 - (d) arranging for the preparation, provision or production of any other assessment or report or the provision of any information;
 - (e) requiring or relating to the discovery, inspection and copying of evidentiary material;
 - (f) arranging for the attendance of the child;
 - (g) identifying the parties and other persons who may be heard on the matter;
 - (h) arranging for the calling of any witnesses;
 - (i) any other direction that may facilitate the hearing of the matter before the Court.

- (4) Nothing in this rule limits any direction that may, in any event, be given before or at the hearing of any proceedings.

13—Screening reports

- (1) A screening report must be in the prescribed form.

Prescribed form—

Form YTO8 Screening report

- (2) A screening report must be filed with the Court at least 2 business days prior to the next hearing date.
- (3) The Registry is to upload a screening report to the ECMS and provide a copy of the screening report to the parties.
- (4) A screening report cannot be published or disclosed beyond the proceeding.

14—Assessment reports

- (1) An assessment report must be in the prescribed form.

Prescribed form—

Form YTO9 Assessment report

- (2) An assessment report must be filed with the Court within 7 business days following the making of the assessment order.

15—Treatment reports

- (1) A treatment report must be in the prescribed form.

Prescribed form—

Form YTO10 Treatment report

- (2) A treatment report must be filed with the Court within 5 business days after the conclusion of the treatment.

16—Notification of detention order

For the purposes of section 54D(6) of the relevant Act, notification of the making of the detention order must be given to the Chief Executive of the Attorney-General's Department using ECMS, or in any other way determined to be appropriate by the Court or the Registrar.

17—Review of detention orders

- (1) For the purposes of section 54B(5) of the relevant Act, the Court will specify how often a review will be conducted when it makes the detention order and fix the date of the first review.
- (2) For the purposes of a review, the Court may require (from time to time) that 1 or more of the following occur:
 - (a) that a report from any assessment service or treatment service providing the assessment or treatment to the child be prepared and provided to the Court;

- (b) that the Chief Executive of a relevant department prepare and provide a report to the Court about any aspect of the health, wellbeing, care or treatment of the child;
 - (c) that a party to the proceedings in which the detention order was issued take any step, or provide any report or other information, specified by the Court;
 - (d) that any other action specified by the Court be taken.
- (3) Any report or other material to be provided for the purposes of a review must be filed in the Court, and served on the parties to the review, at least 5 business days before the next date set for the conduct of a review (unless the Court allows or directs otherwise).

Part 3—Variation or revocation of orders

18—Applications for variation or revocation of orders

- (1) An application for an order under section 54F of the relevant Act, other than an application by a child, must be in the prescribed form.

Prescribed form—

Form YTO2 Application to Vary or Revoke Order

- (2) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

Prescribed form—

Form G8 Affidavit

19—Application by child

- (1) An application for an order under section 54F of the relevant Act by a child must be in the prescribed form.

Prescribed form—

Form YTO2A Application to Vary or Revoke Order by a Child

- (2) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

Prescribed form—

Form G8 Affidavit

- (3) An application under this rule will not proceed until the permission of the Court has been granted under section 54F(2) of the relevant Act.

20—Procedures if Court initiates proposal for variation or revocation of order

- (1) If the Court considers that it should make an order of its own motion under section 54F of the relevant Act, the Court may:
 - (a) adjourn the proceedings before the Court; and
 - (b) direct the Registrar to notify any person who is not appearing or represented in the proceedings, and who may have an interest in the matter, that the variation or revocation of the relevant order is under consideration; and
 - (c) take steps to have any necessary report, assessment, information or material prepared, or step taken, including by setting a time for a directions hearing; and
 - (d) take steps to have the proceedings reconvened at an appropriate time.
- (2) Subrule (1) does not apply to the extent that the Court can address or deal with any matter as part of the proceedings before the Court at the relevant time.

21—Notice of proceedings

For the purposes of section 54F(3) of the relevant Act—

- (a) notice of the proceedings must be given to any person who was a party to the original proceedings; and
- (b) if a party who receives a notice under paragraph (a) wishes to be heard on the matter, the party must inform the Court of the party's intention to appear at least 2 business days before the date set for the hearing of the matter (unless the Court allows or directs otherwise) in a manner determined or approved by the Court or by the Registrar.

22—Directions hearings

- (1) This rule applies in relation to the initiation of proceedings before the Court for the variation or revocation of an order under section 54F of the relevant Act (including where the proceedings have been initiated by the Court of its own motion under section 54F of the relevant Act).
- (2) The matter will be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give 1 or more of the following directions:
 - (a) limiting the issues to be determined at the hearing;
 - (b) requiring the preparation of a report by an appropriately qualified and experienced addiction medicine professional, nominated by the Court, to provide evidence as to whether or not it would be appropriate to vary or revoke the order;
 - (c) arranging for the preparation, provision or production of any other report or the provision of any information;
 - (d) requiring or relating to the discovery, inspection and copying of evidentiary material;
 - (e) arranging for the attendance of the child;

- (f) identifying the parties and other persons who may be heard on the matter;
 - (g) arranging for the calling of any witnesses;
 - (h) any other direction that may facilitate the hearing of the application before the Court.
- (4) Nothing in this rule limits any direction that may, in any event, be given before or at the hearing of any proceedings.

Part 4—Miscellaneous

23—Reports must be current

- (1) This rule applies in relation to a report of a medical practitioner for the purposes of—
- (a) section 54D(2)(a) of the relevant Act; or
 - (b) a review under section 54B(5) of the relevant Act.
- (2) Unless otherwise allowed or directed by the Court, an assessment by an appropriately qualified and experienced addiction medicine professional must have been undertaken no more than 10 business days before the date of the relevant hearing or review proceedings.

24—Application for interlocutory orders

An application for an interlocutory order must be in the prescribed form.

Prescribed form—

Form YT03 Interlocutory Application

25—Material supporting applications—other requirements

- (1) This rule applies in addition to any requirement under these rules to provide an affidavit or affidavits in support of an application.
- (2) Leave to file relevant further material may be given at any stage of the proceedings and, unless the Court allows or directs otherwise, must be served on the other parties at least 3 business days before the next date for the hearing of the proceedings.

26—General rules about service

- (1) An order or other document to be served on a child who is subject to detention in a training centre may be served personally on the child at Court or by the Sheriff's Office.
- (2) In addition, service of an application, order or other document on a person under these rules may be undertaken by—
- (a) personal service; or
 - (b) posting it to the person at the person's last known place of residence or employment; or

- (c) sending it by fax or email to a fax number or an email address provided by the person (in which case the application will be taken to have been served at the time of sending); or
 - (d) in any other manner authorised by the Court.
- (3) The Court will not hear an application to vary or discharge an order under Part 7A of the relevant Act unless each party served with the application has had at least 5 business days' notice of the hearing.
- (4) Subject to the requirements of the relevant Act, the Court may dispense with service of an application, order or other document if the Court considers that there is a proper or sufficient reason to do so.

27—Proof of service

- (1) If an application or other document is required to be served on another party (including the child), the Court may decline to consider the application or document until proof of service of the application has been filed in, or produced to, the Court.
- (2) Proof of service of an application, order or other document may consist of an affidavit made by the person who served the application, order or other document setting out—
 - (a) the date and time of service; and
 - (b) how the person to be served was identified; and
 - (c) how service was effected.
- (3) The Court may, however, require or permit oral evidence of service.
- (4) The Registrar is not required to provide proof of service to the Court in relation to any application, order or other document served by the Registrar (but will cause a record of service to be noted on the file).

Part 5—Consequential amendments

28—Amendment of Youth Court (General) Rules 2016

The *Youth Court (General) Rules 2016* are amended—

- (a) by striking out from rule 4 “and the *Youth Court (Young Offenders) Rules 2016*” and substituting “, the *Youth Court (Young Offenders) Rules 2016* and the *Youth Court (Youth Treatment Orders) Rules 2021*”; and
- (b) by striking out from rule 8(4) “and the *Youth Court (Young Offenders) Rules 2016*” and substituting “, the *Youth Court (Young Offenders) Rules 2016* and the *Youth Court (Youth Treatment Orders) Rules 2021*”; and
- (c) by striking out from rule 9(5)(b) “and the *Youth Court (Young Offenders) Rules 2016*” and substituting “, the *Youth Court (Young Offenders) Rules 2016* and the *Youth Court (Youth Treatment Orders) Rules 2021*”; and

- (d) by striking out from rule 11(2)(a) “or the *Youth Court (Young Offenders) Rules 2016*” and substituting “, the *Youth Court (Young Offenders) Rules 2016* or the *Youth Court (Youth Treatment Orders) Rules 2021*”.

Schedule 1—Forms

Index to Schedule 1 - Forms

1 – Applications

Form YTO1 – Application for Youth Treatment Order

Form YTO2 – Application to Vary or Revoke Order

Form YTO2A – Application to Vary of Revoke Order by a Child

Form YTO3 – Interlocutory Application

2 – Outcomes

Form YTO4 – Record of Outcome (Application for Youth Treatment Order or Vary/Revoke Order)

Form YTO6 – Record of Outcome – Interim Order and Summons

3 – Orders

Form YTO5 – Order (Application for Youth Treatment Order or Vary/Revoke Order)

Form YTO7 Order – Interim Order and Summons

4 - Reports

Form YTO8 – Youth Treatment Order Screening Report

Form YTO9 – Youth Treatment Order Assessment Report

Form YTO10 – Youth Treatment Order Treatment Report

Form YTO11 – Detention Review Report