I certify that this is a copy of the authorised version of this Act as at 2 October 2019, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 2 October 2019.

Robyn Webb
Chief Parliamentary Counsel
Dated 7 October 2019

TASMANIA

CHILDREN, YOUNG PERSONS AND THEIR FAMILIES ACT 1997

No. 28 of 1997

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CHILDREN, YOUNG PERSONS AND THEIR FAMILIES ACT 1997

No. 28 of 1997

An Act to provide for the care and protection of children and for related purposes

[Royal Assent 5 November 1997]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Children, Young Persons and Their Families Act 1997*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act, unless the contrary intention appears –

Aboriginal child means a child who is an Aboriginal person within the meaning of the *Aboriginal Lands Act 1995*;

abuse or neglect means –

(a) sexual abuse; or

(b) physical or emotional injury or other abuse, or neglect, to the extent that –

(i) the injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the person's wellbeing; or

(ii) the injured, abused or neglected person's physical or psychological development is in jeopardy –

and "**abused or neglected**" has a corresponding meaning;

amend means –

(a) omit matter; and

(b) insert matter; and

(c) omit matter and substitute other matter;

another State includes a Territory;

assessment order means an order made under section 22(2);

at risk has the meaning given by section 4;

authorised officer means –

(a) a police officer assisting the Secretary in an assessment of a child’s circumstances; and

(b) an employee of the Department authorised by the Secretary to take action under section 20 as an authorised officer;

authorised police officer means a police officer –

(a) who is of or above a rank as specified by the Commissioner of Police for the purpose of this Act; or

(b) who is designated as an authorised police officer by the Commissioner of Police for the purpose of this Act;

care agreement means an agreement entered into under section 11;

care and protection order means an order made under section 42;

child means a person under 18 years of age;

child care means the provision of care or accommodation to a child by a person other than the child's parent or a member of the child's extended family;

child care service means operations concerned with child care, including a person or agency that is involved with organising or arranging placements for children in child care or placements of child carers with children;

Children and Young Persons Advisory Council means the committee established under section 81(1)(b);

Children and Young Persons Consultative Council means the committee established under section 81(1)(a);

committee means –

(a) the Children and Young Persons Advisory Council; or

(b) the Children and Young Persons Consultative Council; or

(c) any other committee established under section 81;

Community-Based Intake Service means an organisation that has entered into an

agreement with the Secretary under section 53D;

comply with includes not contravene;

contravene includes fail to comply with;

contribution order means an order under section 74;

Court means the Magistrates Court (Children's Division);

district registrar means a district registrar appointed under section 16A of the *Magistrates Court Act 1987*;

employee of the Department means a State Service officer or State Service employee employed in the Department;

enactment means an Act, order or other instrument of a legislative character of Tasmania, another State, the Commonwealth, another country or any other place;

extended family means –

(a) all persons, other than the child's immediate family, to whom the child is or has been related by blood, adoption or marriage; and

(b) if a child is an Aboriginal child who has traditional Aboriginal kinship ties, those persons held to

be related to the child according to Aboriginal kinship rules; and

(c) if the child is a member of a community that accepts relationships other than those referred to in paragraph (a) or (b) as kinship ties, those persons held to be related to the child by that community;

facilitator means a person approved as a facilitator under section 86;

family means a child's immediate family and extended family;

family group conference means a family group conference convened under section 30, 39 or 53;

function includes duty;

Fund means the Tasmanian Guardianship Fund established and maintained under section 72;

Government Agency means –

(a) a Government department within the meaning of the *State Service Act 2000*; and

(b) an incorporated or unincorporated body that –

(i) is established, constituted or continued by or under

an Act or under the royal prerogative; and

(ii) is, or has a governing authority that is, wholly or partly comprised of a person or persons appointed by the Governor, a Minister of the Crown or another such body;

Government authority of another State means a Minister of the Crown, or a person appointed by the Crown, in right of another State;

guardian means –

(a) a parent of a child; and

(b) a person (other than the Secretary) who is the legal guardian of a child; and

(c) a person (other than the Secretary) who has the legal custody of a child; and

(d) any other person (other than the Secretary) who generally acts in the place of a parent of a child and has done so for a significant length of time;

immediate family, in relation to a child, includes all of a child's guardians;

interim assessment order means an order made under section 26(1);

interim care and protection order means an order made under section 46(1);

information-sharing entity means –

(a) a prescribed person within the meaning of section 14(1); or

(b) a State Service officer or State Service employee employed in or for the purposes of the Department or another department, within the meaning of the *Administrative Arrangements Act 1990*; or

(c) a person conducting an establishment, within the meaning of the *Health Service Establishments Act 2006*; or

(d) a controlling authority of an approved hospital, approved assessment centre or secure mental health unit, all within the meaning of the *Mental Health Act 2013*; or

(e) the person in charge of an organisation that –

(i) is a disability services provider within the

meaning of the *Disability Services Act 2011*; and

(ii) receives funding under a funding agreement, within the meaning of that Act, to provide specialist disability services to a child; or

(f) the person in charge of an organisation that receives funding from the Secretary under a funding agreement to provide drug or alcohol treatment services; or

(g) the person in charge of an organisation that receives a referral from the Secretary or a Community-Based Intake Service; or

(h) any other person or organisation prescribed in the regulations;

parent includes a stepmother or stepfather of the child;

recognised Aboriginal organisation means an organisation declared to be a recognised Aboriginal organisation under section 106;

regulations means regulations made and in force under section 112;

risk notification means –

(a) information voluntarily provided to the Secretary or a Community-Based Intake Service under section 13(2), or any similar voluntary notification to the Secretary or a Community-Based Intake Service; or

(b) information provided to the Secretary or a Community-Based Intake Service under section 14(2); or

(c) a report provided to the Secretary under section 18(3) or (5);

Secretary means the Secretary of the Department;

significant person means a person who is considered significant in the life of a child by –

(a) the Secretary or his or her nominee; or

(b) the guardian of the child;

State includes a Territory;

supervision order has the meaning given by section 42A;

working day means any day other than –

(a) a Saturday; or

(b) a Sunday; or

(c) a statutory holiday as defined in the *Statutory Holidays Act 2000*;

young person means a child who is 16 or 17 years old.

(2) For the purposes of this Act, a person is married to another person if –

(a) he or she is legally married; or

(b) he or she is in a significant relationship, within the meaning of the *Relationships Act 2003*, with the other person.

4. Meaning of "at risk"

(1) For the purposes of this Act, a child is at risk if –

(a) the child has been, is being, or is likely to be, abused or neglected; or

(b) any person with whom the child resides or who has frequent contact with the child (whether the person is or is not a guardian of the child) –

(i) has threatened to kill or abuse or neglect the child and there is a reasonable likelihood of the threat being carried out; or

(ii) has killed or abused or neglected some other child or an adult and there is a reasonable likelihood of

the child in question being killed, abused or neglected by that person; or

(ba) the child is an affected child within the meaning of the *Family Violence Act 2004*; or

(c) the guardians of the child are –

(i) unable to maintain the child; or

(ii) unable to exercise adequate supervision and control over the child; or

(iii) unwilling to maintain the child; or

(iv) unwilling to exercise adequate supervision and control over the child; or

(v) dead, have abandoned the child or cannot be found after reasonable inquiry; or

(vi) are unwilling or unable to prevent the child from suffering abuse or neglect; or

(d) the child is under 16 years of age and does not, without lawful excuse, attend a school, or other educational or training institution, regularly.

(2) For the purposes of subsection (1), it does not matter whether the conduct that puts a child at

risk occurred or, as the case requires, is likely to occur wholly or partly outside Tasmania.

5. Responsibilities and powers of guardian

A person (including the Secretary) who has guardianship, or has been granted guardianship, of a child under this Act –

(a) is the guardian of the child and administrator of the estate of the child to the exclusion of any person who does not have guardianship, or has not been granted guardianship, under this Act; and

(b) has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have.

6. Responsibilities and powers of person who has custody

A person (including the Secretary) who has custody, or has been granted custody, of a child under this Act –

(a) has the right to have, and the responsibility for, the daily care and control of the child; and

(b) has the right to make, and the responsibility for making, decisions concerning the daily care and control of the child.

7. Object

(1) The object of this Act is to provide for the care and protection of children in a manner that –

(a) maximises a child's best interests; and

(b) recognises that a child's family is the preferred environment for his or her care and upbringing; and

(c) recognises that the responsibility for the protection of a child rests primarily with the child's parents and family.

(2) The Minister is to seek to further the object of this Act in partnership with Government Agencies, councils, non-government organisations (whether incorporated or unincorporated), families and communities.

8. International conventions

For the purposes of, and without limiting, section 8B of the *Acts Interpretation Act 1931*, any international convention relating to children to which Australia is a signatory and which is in force is extrinsic material in relation to the interpretation of a provision of this Act.

Note Examples of conventions are the UN Convention of the Rights of the Child (1990) and the International Declaration on the Rights of Indigenous Peoples (2007).

9. . . . .

10. Determining age

(1) In determining the age of a person, the Court, the Secretary or any other person involved in the administration of this Act –

(a) must act on the best evidence or information that is reasonably available; but

(b) in the absence of any such evidence or information, may estimate the age of the person and act on that estimate.

(2) For the purposes of subsection (1), a statement in an application under this Act that a person is of a particular age is evidence that the person is that age.

PART 1A – PRINCIPLES TO BE OBSERVED IN DEALING WITH CHILDREN

10A. Principles

In performing or exercising a function or power under this Act, a person is to –

(a) uphold the principles set out in sections 10B, 10C, 10D, 10E, 10F and 10G as far as practicable; and

(b) have regard to any national standards or charters relating to the rights or treatment of children published by the Commonwealth Government that are relevant.

10B. Responsibility of Government

The Tasmanian Government has responsibility for promoting and safeguarding the wellbeing of children and, if required, assisting families in fulfilling their responsibilities for the care, upbringing and development of their children.

10C. Role of child's family

(1) The family of a child –

(a) has the primary responsibility for the care, upbringing and development of the child; and

(b) is entitled to be treated with respect at all times.

(2) In fulfilling its responsibilities, the family of a child is entitled to –

(a) bring up the child in any language or tradition that is otherwise legal; and

(b) foster in the child any cultural, ethnic or religious values that are otherwise legal.

(3) A child should only be removed from his or her family if there is no other reasonable way to safeguard his or her wellbeing.

(4) Should a child need to be removed from his or her family, regard should be had to the following principles as far as is consistent with the best interests of the child and as far as is practicable:

(a) contact between the child and his or her family and community should be encouraged and supported so as to preserve and strengthen the relationships between the child and the members of his or her family, whether or not the child resides within his or her family;

(b) eventually the child should be returned to reside within the family.

10D. Treating child with respect

(1) A child is a valued member of society and is entitled to be treated in a manner that respects the child's dignity and privacy.

(2) All children are entitled to have their rights respected and ensured without discrimination.

(3) Any decision under this Act relating to a child should be made –

(a) promptly having regard to the child's circumstances; and

(b) in a manner that is consistent with the cultural, ethnic and religious values and traditions relevant to the child; and

(c) with, as far as practicable, the informed participation of the child, the child's family and other persons who are significant in the child's life.

10E. Best interests of child

(1) In performing functions or exercising powers under this Act, the best interests of the child must be the paramount consideration.

(2) Without limiting the matters that may be taken into account in determining the best interests of a child, the following matters are to be taken into account for that purpose:

(a) the need to protect the child from physical, psychological and other harm and from exploitation;

(b) the views of the child, having regard to the maturity and understanding of the child;

(c) the capacity and willingness of the child's parents or other family members to care for the child;

(d) the nature of the child's relationships with his or her parents, other family members and other persons who are significant in the child's life, including siblings;

(e) the child's need for stable and nurturing relationships with his or her parents, other family members, other persons who are significant in the child's life and the community;

(f) the child's need for stability in living arrangements;

(g) the child's physical, emotional, intellectual, spiritual, developmental and educational needs;

(h) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's guardians;

(i) the need to provide opportunities for the child to achieve his or her full potential;

(j) the child's age, maturity, sex, sexuality and cultural, ethnic and religious backgrounds;

(k) any other special characteristics of the child;

(l) the likely effect on the child of any changes in the child's circumstances;

(m) the least intrusive intervention possible in all the circumstances;

(n) the opportunities available for assisting the child to recover from any trauma experienced –

(i) in relation to being separated from his or her parents, family and community; or

(ii) as a result of abuse or neglect;

(o) any persuasive reports of the child being harmed or at risk of harm and the cumulative effects of such harm or risk.

10F. Child participation

If a decision is, or is to be, made under this Act in relation to a child –

(a) the child –

(i) should be provided with adequate information and explanation about the decision in a manner that the child can understand; and

(ii) if appropriate having regard to the child's maturity and understanding, should be provided with the opportunity to

respond to the proposed decision; and

(iii) if appropriate having regard to the child's maturity and understanding, should be provided with the opportunity to express his or her views freely; and

(iv) should be provided with assistance in expressing those views; and

(b) the views of the child should be taken into account, having regard to the child's maturity and understanding.

10G. Aboriginal children

(1) Aboriginal families, kinship groups, Aboriginal communities and organisations representing the Aboriginal people have a major, self-determining role in promoting the wellbeing of Aboriginal children.

(2) A kinship group, Aboriginal community or organisation representing the Aboriginal people nominated by an Aboriginal child's family should be allowed to contribute to the making of a decision under this Act in relation to the child.

(3) An Aboriginal child, as far as is practicable, should be placed with a person in the following order of priority:

(a) a member of the child's family;

(b) an Aboriginal person in the child's community in accordance with local community practice;

(c) another Aboriginal person;

(d) a person who –

(i) is not an Aboriginal person; but

(ii) in the Secretary's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community and, if possible, the child's ongoing contact with his or her family.

(4) As far as is practicable, an Aboriginal child removed from his or her family and community, should be placed in close proximity to them.

PART 2 – CARE AGREEMENTS

11. Voluntary care agreement

(1) The guardians of a child, acting together, and the Secretary –

(a) may enter into an agreement under which the Secretary will have the care and custody of the child for the period not exceeding 3 months specified in the agreement; and

(b) before the termination of a care agreement, may extend the agreement.

(2) Despite subsection (1) –

(a) if the whereabouts of a guardian of a child cannot be ascertained after reasonable enquiries; or

(b) if a guardian of a child has failed to respond within a reasonable period of time to a request that he or she enter into a care agreement; or

(c) if a guardian of a child does not have ongoing contact with the child; or

(d) if it is not, in all the circumstances of the case, reasonably practicable to request a particular guardian of a child to enter into a care agreement –

the remaining guardians may enter into a care agreement in respect of the child.

(3) Despite subsection (1)(a), the Secretary may not enter into a care agreement if he or she has reasonable grounds for suspecting or believing, or knows, that the child is at risk for any reason other than that the guardian is or will be temporarily unable to maintain the child or exercise adequate supervision and control over the child.

(4) Despite subsection (1)(b), a care agreement may not be extended so that it will operate for a total period of more than 3 months.

(5) A care agreement relating to a child who is a young person must not be entered into or extended unless the young person consents to the agreement or the extension of the agreement.

(6) Subsection (5) does not apply if the Secretary is of the opinion that the young person is unable to understand, or give informed consent to, the care agreement.

(7) If a child under the age of 16 years appears to have a sufficient understanding of the consequences of a care agreement, the child must be consulted by the Secretary before a care agreement relating to the child can be entered into or extended.

(8) A care agreement and any extension of a care agreement must be –

(a) in writing; and

(b) signed by –

(i) the Secretary; and

(ii) the guardians of the child; and

(iii) if the child is a young person, the young person.

12. Termination of care agreement

(1) A care agreement may be terminated at any time by the agreement of –

(a) the Secretary; and

(b) the guardians who signed the agreement; and

(c) if the child is a young person, the young person.

(2) The Secretary must not agree to terminate a care agreement unless the Secretary is satisfied that proper arrangements exist for the care of the child.

(3) A care agreement will be taken to have been terminated on any order being made under this Act or any other enactment for the guardianship or custody of the child.

(4) The Secretary must terminate a care agreement that relates to a young person if –

(a) the young person requests it in writing; and

(b) the Secretary is satisfied that proper arrangements exist for the care of the young person.

(5) Unless the agreement is earlier terminated under this section, a care agreement has effect for the period specified in the agreement or an extension of the agreement.

PART 3 – INFORMING OF CONCERN ABOUT ABUSE OR NEGLECT

13. Responsibility to prevent abuse or neglect or certain behaviour

(1) An adult who knows, or believes or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect.

(1A) If, while a woman is pregnant, an adult knows, or believes or suspects on reasonable grounds, that the child of that pregnancy once born –

(a) is reasonably likely to suffer abuse or neglect; or

(b) is reasonably likely to require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child –

that adult has a responsibility to take steps to prevent the occurrence of that abuse or neglect or that behaviour.

(2) One step the adult may take to prevent the occurrence of abuse or neglect of a child, or behaviour referred to in subsection (1A)(b), is to inform the Secretary or a Community-Based Intake Service of –

(a) his or her knowledge, belief or suspicion; and

(b) the basis of that knowledge, belief or suspicion.

14. Informing of concern about abuse or neglect or certain behaviour

(1) In this section,

prescribed person means –

(a) a medical practitioner; and

(b) a registered nurse or enrolled nurse; and

(ba) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the midwifery profession; and

(c) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the dental profession as a dentist, dental therapist, dental hygienist or oral health therapist; and

(d) a person registered under the Health Practitioner Regulation National Law (Tasmania) in the psychology profession; and

(e) a police officer; and

(f) . . . .

(g) a probation officer appointed or employed under section 5 of the *Corrections Act 1997*; and

(h) a principal and a teacher in any educational institution (including a kindergarten); and

(i) a person who provides child care, or a child care service, for fee or reward; and

(j) a person concerned in the management of an approved education and care service, within the meaning of the Education and Care Services National Law (Tasmania), or a child care service licensed under the *Child Care Act 2001*; and

(ja) a member of the clergy of any church or religious denomination; and

(jb) a member of the Parliament of this State; and

(k) any other person who is employed or engaged as an employee for, of or in, or who is a volunteer in –

(i) a Government Agency that provides health,

welfare, education, child care or residential services wholly or partly for children; and

(ii) an organisation that receives any funding from the Crown for the provision of such services; and

(l) any other person of a class determined by the Minister by notice in the *Gazette* to be prescribed persons;

religious confession has the same meaning as in section 127 of the *Evidence Act 2001*.

(2) If a prescribed person, in carrying out official duties or in the course of his or her work (whether paid or voluntary), believes, or suspects, on reasonable grounds, or knows –

(a) that a child has been or is being abused or neglected or is an affected child within the meaning of the *Family Violence Act 2004*; or

(b) that there is a reasonable likelihood of a child being killed or abused or neglected by a person with whom the child resides; or

(c) while a woman is pregnant, that there is a reasonable likelihood that after the birth of the child –

(i) the child will suffer abuse or neglect, or may be killed by a person with whom the child is likely to reside; or

(ii) the child will require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child –

the prescribed person must inform the Secretary or a Community-Based Intake Service of that belief, suspicion or knowledge as soon as practicable after he or she forms the belief or suspicion or gains the knowledge.

Penalty: Fine not exceeding 20 penalty units.

(3) Whether a person informs the Secretary or a Community-Based Intake Service under subsection (2) verbally or in writing, the person must include in the information a statement of the observations, information, opinions and other grounds upon which the belief, suspicion or knowledge is based.

(4) For the purposes of this section, the Secretary may issue or approve guidelines relating to the manner in which a person may inform the Secretary or a Community-Based Intake Service under subsection (2).

(5) Without limiting the matters and procedures that may be included in the guidelines, the guidelines

may provide that a person may inform the Secretary or a Community-Based Intake Service under subsection (2) by following the procedure set out in the guidelines or by informing another person for or with whom the person works.

(6) It is a defence to a charge for an offence against subsection (2) –

(a) if the person charged can prove that he or she honestly and reasonably believed that the Secretary or a Community-Based Intake Service had been informed of all the reasonable grounds on which his or her belief, suspicion or knowledge was based by another person; or

(b) if the person charged has complied with guidelines issued under subsection (4) that apply to him or her in respect of the organisation, body or other person for whom or in which the person works.

(7) Despite section 127 of the *Evidence Act 2001*, a member of the clergy of any church or religious denomination is not entitled to refuse to comply with subsection (2) on the grounds that he or she formed the belief or suspicion or gained the knowledge as a consequence of information communicated to that member of the clergy during a religious confession.

15. . . . .

16. Confidentiality of person informing of knowledge, belief or suspicion of abuse or neglect or certain behaviour

(1) In this section –

law enforcement agency means –

(a) the Police Service or the police force of another State or a Territory or of an overseas jurisdiction; or

(b) any other authority or person responsible for the investigation or prosecution of offences against the laws of the State or of the Commonwealth, another State or a Territory or an overseas jurisdiction;

notifier means a person who provides the Secretary or a Community-Based Intake Service with a risk notification.

(2) Subject to this section, a person who receives a risk notification from a notifier, or who otherwise becomes aware of the identity of a notifier because he or she is engaged in the administration of this Act, must not disclose the identity of the notifier to any other person unless the disclosure –

(a) is made in the course of official duties under this Act to another person acting in the course of official duties; or

(b) is made with the consent of the notifier; or

(c) is made by way of evidence adduced with leave granted by a court under subsection (3); or

(d) is made to a law enforcement agency.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 12 months, or both.

(3) Evidence as to the identity of a notifier, or from which the identity of the notifier could be deduced, must not be adduced in proceedings before any court without leave of that court.

(4) Unless a court grants leave under subsection (3), a party or witness in the proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity of, or leading to the identification of, the notifier.

(5) A court cannot grant leave under subsection (3) unless –

(a) that court is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice; or

(b) the notifier consents to the admission of the evidence in the proceedings.

(6) An application to a court for leave to adduce evidence under subsection (3) –

(a) must not, except as authorised by that court, be heard and determined in public; and

(b) must be conducted in a manner which protects, as far as may be practicable, the identity of the notifier pending the determination of the application.

(7) The *Right to Information Act 2009* does not apply to the identity of a notifier or any information contained in or relating to a risk notification that may lead to the identification of the notifier.

17. Secretary not obliged to take action in certain circumstances

(1) . . . .

(2) Nothing in this Act requires the Secretary or a Community-Based Intake Service to take or initiate any action under this Act in respect of a risk notification if the Secretary or a Community-Based Intake Service is satisfied –

(a) that the information or observations on which the notification was based were not sufficient to constitute reasonable grounds for the belief or suspicion contained in the notification; or

(b) that, while there are reasonable grounds for the notification, proper arrangements exist for the care and protection of the child, and the matter of the apparent abuse or neglect or the likelihood of the child being killed or abused or neglected has been or is being adequately dealt with; or

(c) that no further action is required in respect of the notification.

17A. Secretary may refer risk notification

The Secretary may refer a risk notification received by the Secretary to a Community-Based Intake Service if satisfied that the Community-Based Intake Service is an appropriate organisation to take action in respect of the notification.

PART 4 – ASSESSMENTS

Division 1 – Assessments by Secretary

18. Assessment by Secretary

(1) If the Secretary believes, or suspects, on reasonable grounds that a child is at risk, the Secretary may carry out an assessment of the circumstances of the child.

(2) For the purposes of an assessment, the Secretary may require, by written notice –

(a) any person who has previously examined, assessed, carried out tests on or treated the child; or

(b) the employer of that person –

to provide the Secretary with a written report on the examination, assessment, tests or treatment.

(3) For the purposes of an assessment, the Secretary may require, by written notice, any person the Secretary considers may have information relevant to the safety, welfare or wellbeing of the child to provide the Secretary with a report on one or more of the following:

(a) the child;

(b) the child's guardian;

(c) a significant person in the child's life;

(d) another person with whom the child resides.

(4) For the purposes of subsection (3), information relevant to the safety, welfare or wellbeing of the child may include, but is not limited to –

(a) medical information on the child, the child's guardian, a significant person in the child's life or another person with whom the child resides; or

(b) information relating to the family circumstances of the child in the past or present, or as proposed or anticipated for the future.

(5) If a person provides an oral report to the Secretary under subsection (3), the Secretary may require the person to provide the Secretary with a written version of the report as soon as practicable after the oral report is provided.

(6) . . . .

19. Assistance by police officer

(1) If the Secretary considers it necessary or appropriate, the Secretary may obtain the assistance of the Commissioner of Police in carrying out the assessment of the circumstances of a child.

(2) The Commissioner of Police may give assistance to the Secretary by assigning police officers to assist the Secretary as allowed by this section.

(3) For the purposes of an assessment, a police officer assisting the Secretary may, after obtaining a warrant, do one or more of the following:

(a) enter or break into, remain in and search any premises or place;

(b) seize and remove any item that the officer believes on reasonable grounds may afford evidence relevant to the assessment;

(c) take photographs, films or videos;

(d) require a person who may be in a position to provide information relevant to the assessment to answer any question to the best of that person's knowledge, information or belief.

(3A) A magistrate may issue a warrant for the purposes of subsection (3) if the magistrate is satisfied that –

(a) reasonable steps have been taken to obtain the consent of the occupier of the premises or place to the exercise of the powers referred to in that subsection and those steps have been unsuccessful; or

(b) there are reasonable grounds for concern for the safety of the child.

(4) A police officer assisting the Secretary may, even if he or she has not obtained a warrant,

exercise the powers specified in subsection (3) if –

(a) entry to the premises or place has been refused or cannot be gained; and

(b) the police officer believes on reasonable grounds that the delay that would ensue as a result of applying for a warrant would prejudice the assessment or the safety of the child whose circumstances are being assessed.

(5) A police officer assisting the Secretary may be accompanied by such other police officers or employees of the Department while exercising powers under this section as may be necessary or desirable.

(6) A person must not refuse or fail to comply with a requirement made under subsection (3)(d).

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

(7) Despite subsection (6), a person is not required to answer a question if –

(a) the answer would provide information that is privileged on the ground of legal professional privilege; or

(b) the answer would incriminate the person of an offence.

(8) A person who is required to answer a question under this section does not incur any liability in doing so if the person acts in good faith.

(9) If an item is seized under subsection (3), the Commissioner of Police or the Secretary may retain the item until the assessment is complete and any proceedings arising out of the assessment are finalised.

20. Power to require child to be taken for assessment

(1) For the purposes of an assessment, an authorised officer may require a guardian of a child or a person with whom a child is residing to cause the child to attend the place or person specified in the requirement.

(2) An authorised officer may take a child to the place or person specified in a requirement, or that likely would have been specified in a requirement –

(a) on the request, or with the agreement, of the person who received the requirement or who could receive a requirement were one to be made; or

(b) if an authorised officer has obtained a warrant in respect of the child.

(3) An authorised officer may apply for a warrant if –

(a) a person fails or refuses to comply with a requirement; or

(b) the officer has reasonable grounds for believing that a person would fail or refuse to comply with a requirement were one made.

(4) When acting under a warrant, an authorised officer –

(a) may be accompanied by such police officers or employees of the Department as may be necessary or desirable; and

(b) may use such force as is reasonable.

21. Power of Secretary to have short-term custody

(1) The Secretary may retain in his or her custody a child who has been taken to attend a place or person under section 20 or a requirement made under that section if the Secretary considers –

(a) that there is a reasonable likelihood that the child is at risk; and

(b) that further assessment of the matter is warranted; and

(c) that –

(i) the assessment cannot properly proceed unless the child remains in the Secretary's custody; or

(ii) it is desirable that the child be protected while the matter is being assessed.

(2) The Secretary's custody of a child under subsection (1) ends 120 hours after the time at which the child arrives at a place or person under section 20 or a requirement made under that section unless, before the end of that period, custody of the child has been granted to the Secretary under an assessment order.

Division 2 – Assessment orders

22. Assessment order

(1) The Secretary may apply to the Court for an assessment order.

(2) On the application of the Secretary, the Court may make an assessment order in respect of a child if the Court is satisfied –

(a) that there is a reasonable likelihood that a child is at risk; and

(b) that further assessment of the matter is warranted or a family group conference should be held; and

(c) that –

(i) the assessment cannot properly proceed unless an assessment order is made; or

(ii) it is desirable that the child be protected while the matter is being assessed or a family group conference is being convened and held; and

(d) that it would be in the best interests of the child to make the order.

(3) An assessment order may contain one or more of the following orders:

(a) an order authorising examination and assessment of the child;

(b) an order authorising the Secretary to require –

(i) any person to answer, to the best of his or her knowledge, information or belief, questions put by an employee of the Department authorised by the Secretary, either generally or in the particular case, to exercise the power to question; or

(ii) any person who has examined, assessed or treated a party to the proceedings, or the employer of that person, to provide the Secretary with a written report of that examination, assessment or treatment;

(c) an order granting custody of the child to the Secretary;

(d) any other order the Court considers appropriate.

(4) An assessment order has effect for the period not exceeding 4 weeks that is specified in the order.

(5) An assessment order may, on application by the Secretary, be extended (once only) for the period not exceeding 8 weeks specified in the order if the Court is satisfied that –

(a) the grounds on which the application is based are reasonable in the circumstances; and

(b) the extension would be in the best interests of the child.

(6) If the hearing of an application under subsection (5) is adjourned, or the application is determined after the date on which the assessment order would cease to have effect if this subsection were not in force, the assessment order continues to have effect until the application is determined.

(7) Where an application under subsection (5) is determined after the date on which the assessment order would cease to have effect if subsection (6) were not in force, the period specified in subsection (5) is to be reckoned from that date.

(8) A party to an application for an assessment order who has been served personally with an order or was present in the Court when the order was made must not contravene the order.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 12 months, or both.

23. Restraint order

(1) On receipt of the application of the Secretary for an assessment order, the Court may make, in addition to or instead of making an assessment order –

(a) a restraint order against a person under Part XA of the *Justices Act 1959* if the Court is satisfied that the person has been served with a copy of the application; or

(b) an interim restraint order against a person under Part XA of the *Justices Act 1959* and such ancillary orders as the Court considers appropriate.

(2) An application for an assessment order is taken to be an application for a restraint order under Part XA of the *Justices Act 1959* made by a person granted leave to apply by the justices –

(a) for the purposes of subsection (1); and

(b) for the purposes of the application of the *Justices Act 1959* in relation to a restraint order or an interim restraint order made under that subsection.

24. Variation or discharge of assessment order

(1) The Secretary may apply to the Court for an order to vary or discharge an assessment order.

(2) On the application of the Secretary under subsection (1), the Court may –

(a) vary the terms of the assessment order; or

(b) discharge the assessment order; or

(c) dismiss the application.

25. Limited adjournment only

(1) The Court must not, unless it is satisfied that there are exceptional circumstances, adjourn the hearing of an application made under this Division for a period exceeding 14 days.

(2) The Court may not adjourn the hearing of an application made under this Division more than once.

26. Interim assessment order on adjournment

(1) If the Court adjourns the hearing of an application for an assessment order, the Court may also make an interim assessment order.

(2) An interim assessment order may contain one or more of the following orders:

(a) an order granting custody of the child to the Secretary;

(b) an order directing a guardian of the child to take the steps specified in the order to secure the proper care and protection of the child;

(c) an order directing that the person specified in the order be allowed, or not be allowed, access to the child or to reside with the child;

(d) an order authorising the examination and assessment of the child;

(e) an order authorising the Secretary to require –

(i) any person to answer, to the best of his or her knowledge, information or belief, questions put by an employee of the Department authorised by the Secretary, either generally or in the particular case, to exercise the power to question; or

(ii) any person who has examined, assessed or treated a party to the proceedings (other than the child), or the agency for whom the person works, to provide the Secretary with a written report of that examination, assessment or treatment;

(f) any other order the Court considers appropriate.

(3) An interim assessment order has effect only during the period of the adjournment.

(4) A party to the application for an assessment order who has been served personally with the

interim assessment order or was present in the Court when the interim assessment order was made must not contravene the order.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 12 months, or both.

27. Restraint order on adjournment

(1) If the Court adjourns the hearing of an application for an assessment order, the Court may make, in addition to or instead of making an interim assessment order –

(a) a restraint order against a person under Part XA of the *Justices Act 1959* if the Court is satisfied that the person has been served with a copy of the application; or

(b) an interim restraint order against a person under Part XA of the *Justices Act 1959* and such ancillary orders as the Court considers appropriate.

(2) An application for an assessment order is taken to be an application for a restraint order under Part XA of the *Justices Act 1959* made by a person granted leave to apply by the justices –

(a) for the purposes of subsection (1); and

(b) for the purposes of the application of the *Justices Act 1959* in relation to a restraint order or interim restraint order made under that subsection.

28. Effect of appeal against assessment order or interim assessment order

If an appeal is brought against an assessment order or an interim assessment order, the order continues to have effect unless otherwise ordered by a judge.

Division 3 – Examination and assessment of children

29. Examination and assessment of child

(1) An employee of the Department may take a child to a person or place (including admitting the child to hospital) for the purpose of having the child medically or otherwise professionally treated or professionally examined, tested or assessed if –

(a) the child is in the Secretary's custody under section 21; or

(b) an assessment order, or an interim assessment order, authorising examination and assessment of the child is in force.

(2) If a child is taken to a person or place under subsection (1), the person who is to treat, examine, test or assess the child may do so even though the child's guardians have not consented.

(3) A person who treats, examines, tests or assesses a child as allowed under subsection (2), or the employer of that person, must provide the Secretary with a written report on the treatment,

examination, test or assessment of the child as soon as practicable after the treatment, examination, test or assessment is completed.

(4) A person who in good faith provides a report as required by subsection (3) does not incur any civil liability in respect of the provision of the report.

PART 5 – CHILDREN IN NEED OF CARE AND PROTECTION

Division 1 – Family group conferences

30. Family group conference held in certain circumstances

(1) The Secretary may cause a family group conference to be convened in respect of a child if the Secretary is of the opinion –

(a) that the child is at risk; and

(b) that arrangements should be made to secure the child's care and protection; and

(c) that a family group conference is a suitable means of determining what those arrangements should be.

(2) The Secretary must cause a family group conference to be convened if –

(a) the Court has adjourned proceedings and referred a matter to a family group conference for consideration and report; or

(b) the Secretary is required under section 53 to convene a family group conference.

(3) . . . .

31. Purpose of family group conference

(1) The purpose of a family group conference convened under section 30(1) is to provide an opportunity for a child's family and other persons attending the conference –

(a) to make informed recommendations as to the arrangements for best securing the care and protection of the child; or

(b) to review those arrangements and make further recommendations in respect of those arrangements from time to time.

(2) The purposes of a family group conference convened under section 30(2)(a) are –

(a) to consider the matter referred to it by the Court; and

(b) to make recommendations to the Court in respect of that matter.

(3) The purpose of a family group conference convened under section 30(2)(b) is to provide an opportunity for a child's family and other persons attending the meeting to review the arrangements for care and protection of the child implemented under a care and protection order.

32. Convening family group conference

(1) If a family group conference is to be held, the Secretary must consult with the child and the child's immediate family in relation to the assignment of a facilitator.

(2) After consulting with the child and the child's immediate family, the Secretary must assign a facilitator to convene and facilitate the family group conference.

(3) Except where the facilitator is satisfied that the child is mature enough to make, and has made, an independent decision to waive his or her right to be represented by a suitable person at the family group conference, the facilitator must ensure that a person whom the facilitator considers suitable is representing the child as his or her advocate.

(4) The facilitator –

(a) must consult with the child, the child's guardians and, in the case of an Aboriginal child, with an appropriate recognised Aboriginal organisation as to who should be invited to attend the family group conference and the time and place of the meeting; and

(b) must fix a time and place for the family group conference; and

(c) must issue a notice specifying the time and place of the family group conference.

(5) If reasonably practicable, the time fixed for a family group conference must be within 3 weeks after the Secretary has determined that the conference is to be held.

(6) The facilitator must invite the following persons to attend the family group conference and

provide each of them with a copy of the notice issued under subsection (4)(c):

(a) the child;

(b) the guardians of the child;

(c) the child's advocate, if one has been appointed;

(d) an employee of the Department authorised by the Secretary, either generally or in respect of that child, to present a report into the child's circumstances to the conference;

(e) if the conference is convened as a result of an order of the Court, any person whom the order specifies is to be invited.

(7) Despite subsection (6), the facilitator is not required to invite any person specified in that subsection to the family group conference if the attendance of that person at the conference could result in the contravention of a restraint order made under the *Justices Act 1959* or any other order of a court.

(8) Despite subsection (6)(a) and (b), the facilitator is not required to invite the child or any guardian of the child to the family group conference if the facilitator is of the opinion that it would not be in the best interests of the child for the child or that other person to attend.

(9) Despite subsection (6)(a), the facilitator is not required to invite the child to the family group

conference if the facilitator is of the opinion that the child is unable to understand or participate in the proceedings of the conference by reason of his or her age or for any other reason.

(10) The facilitator may invite one or more of the following persons to attend the family group conference and provide them with a copy of the notice issued under subsection (4)(c):

(a) members of the child's immediate family whom the facilitator considers should attend;

(b) members of the child's extended family whom the child or the child's guardians have requested the facilitator to invite;

(c) other members of the child's extended family whom the facilitator considers should attend;

(d) any other person who has had a close association with the child and whom the facilitator considers should attend;

(e) any person who has been counselling, advising or aiding the child or the child's guardians and whom the facilitator considers should attend;

(f) if the child is an Aboriginal child, a person nominated by a recognised Aboriginal organisation;

(g) any person who has examined, assessed, counselled or treated the child in the

course of the assessment of the child's circumstances and whom the facilitator considers should attend;

(h) if there are concerns about the child's education and the child attends a State school, a person nominated by the Secretary of the responsible Department in relation to the *Education Act 2016*;

(ha) if there are concerns about the child's education and the child receives home education, within the meaning of the *Education Act 2016*, a person nominated by the Minister administering that Act;

(i) if there are concerns about the child's education and the child attends a registered school within the meaning of the *Education Act 2016*, a person nominated by the principal of the school;

(j) . . . .

(k) if there are concerns about the child's education and the child attends TasTAFE created by the *Training and Workforce Development Act 2013*, a person nominated by TasTAFE;

(l) any other person the facilitator considers should attend.

(11) In determining whether a person is to be invited or not to be invited to a family group conference under subsection (10), the facilitator must take into account any relevant restraint order made

under the *Justices Act 1959* or any other relevant order of a court.

33. Constitution of and attendance at family group conference

(1) A family group conference consists of –

(a) the facilitator; and

(b) those persons who attend the conference in response to the invitation of the facilitator.

(2) The child and each guardian of the child is entitled to be accompanied by one or more persons of his or her choice, being persons who are also approved by the facilitator, to provide support and assistance to the child or guardian.

(3) A person may, with the permission of the facilitator, attend a family group conference for the purpose of providing expert advice or information on matters relevant to the conference.

34. Procedure at family group conference

(1) The facilitator must take reasonable steps to ascertain and provide to the family group conference the views of the following persons in relation to the steps that should be taken to ensure the care and protection of the child or in relation to the matter referred by the Court:

(a) the child (so far as his or her views are ascertainable) if he or she has not been invited, or refuses, to attend;

(b) those persons invited to attend the conference but who are unable to attend;

(c) any guardian or other family member who has not been invited to attend the conference but whose views the facilitator considers appropriate to provide to the conference.

(2) At a family group conference convened under section 30(1), the facilitator must ensure that sufficient information as to the child's circumstances and the grounds for believing the child to be at risk is presented to the family group conference.

(3) The facilitator must allow the child and the child's guardians and other family members present at a family group conference an opportunity to hold discussions in private for the purpose of formulating the family's recommendations in relation to the arrangements for securing the care and protection of the child or in relation to the matter referred by the Court if the facilitator thinks it appropriate to do so.

(4) A family group conference should reach a decision by the consensus of the child and the child's guardians and other family members.

(5) A family group conference fails to reach a decision unless all of the following persons agree:

(a) the child, if present and, in the opinion of the facilitator, capable of making an independent, rational and informed decision as to his or her own care and protection;

(b) the child's advocate, if one is appointed;

(c) the child's representative, if one is appointed under an order made under section 59;

(d) all the child's guardians that are present;

(e) the facilitator.

(6) If the facilitator considers it appropriate, the facilitator may adjourn the family group conference from time to time and from place to place.

(7) If the child does not have an advocate or a representative and the facilitator considers that it is in the best interests of the child to have the advice and representation of an advocate, the facilitator must adjourn the family group conference to allow for the appointment of such an advocate.

35. Power of facilitator to appoint child's advocate

(1) At any time the facilitator may appoint a person whom the facilitator considers suitable to represent the child and be the child's advocate at a family group conference if the facilitator considers it in the best interests of the child to do

so and a representative has not been appointed under an order made under section 59.

(2) If the child is capable of participating in making a decision as to representation in an independent, rational and informed manner, the facilitator may not appoint a person as advocate for the child without the agreement of the child.

36. Finalising family group conference

(1) Before the facilitator declares the family group conference ended, a decision of the conference in relation to the arrangements for securing the care and protection of the child or in relation to the recommendations to be made to the Court must be put in writing and signed by –

(a) the facilitator; and

(b) each of the following persons who are attending the conference and concur in the decision:

(i) the child, if present and not excused by the facilitator from the obligation and, in the opinion of the facilitator, capable of participating in making the decision in an independent, rational and informed manner;

(ii) the child's advocate, if one is appointed;

(iii) the child's guardians, and other family members, if present.

(2) The decision of the family group conference must include the following information:

(a) the names of the persons who attended the family group conference;

(b) details of the time and place at which the conference was held;

(c) if the conference was convened under section 30(1), recommendations for the review of the arrangements for securing the care and protection of the child;

(d) if the conference was convened under section 30(2), the recommendations to be made to the Court in respect of the matter referred to the conference.

(3) As soon as practicable after a family group conference ends, the facilitator must do the following:

(a) if the family group conference failed to reach a decision, prepare a written report stating that fact and containing a summary of any proposals for recommendations discussed at the conference and the reasons, in the facilitator's opinion, for that failure;

(b) if the conference was convened under section 30(1), provide a copy of the decision of the family group conference

or the report referred to in paragraph (a) to –

(i) the Secretary; and

(ii) the child; and

(iii) any advocate or representative who represented the child at the conference; and

(iv) each guardian of the child; and

(v) any other person involved in implementing the arrangements for securing the care and protection of the child recommended in the decision; and

(vi) any other person the facilitator considers appropriate;

(c) if the conference was convened under section 30(3), provide a copy of the decision of the family group conference or the report referred to in paragraph (a) to –

(i) the Court; and

(ii) the child; and

(iii) any advocate or representative who represented the child at the conference; and

(iv) each party to the proceedings.

37. Action by Secretary after family group conference

(1) On receipt of the decision of a family group conference convened under section 30(1), the Secretary may –

(a) if the Secretary considers the arrangements for securing the care and protection of the child recommended in that decision to be suitable, approve those arrangements; or

(b) if the Secretary does not consider those arrangements suitable –

(i) reconvene the family group conference for the purpose of reconsidering those arrangements and recommending other or further arrangements; or

(ii) take action under Division 2 in relation to the child.

(2) On receipt of the report as to the failure of a family group conference to reach a decision, the Secretary may –

(a) reconvene the family group conference for the purpose of reaching a decision recommending arrangements for securing the care and protection of the child; or

(b) take action under Division 2 in relation to the child.

(3) The Secretary must provide notice, in writing, of his or her decision under subsection (1) or (2) to the facilitator and –

(a) to –

(i) the child; and

(ii) any advocate or representative who represented the child at the family group conference; and

(iii) each guardian of the child; and

(iv) any other person involved in implementing the arrangements for securing the care and protection of the child which were recommended in the decision of the family group conference if the Secretary approves those arrangements; or

(b) each person who was invited to attend a family group conference if the Secretary does not consider the arrangements for securing the care and protection of the child recommended by the conference suitable and decides to reconvene the family group conference or take action under Division 2 in relation to the child; or

(c) each person who was invited to attend a family group conference that failed to reach a decision if the Secretary decides

to reconvene the family group conference.

38. Effect of approving recommended arrangements

If the Secretary approves the arrangements for securing the care and protection of a child recommended in a decision of a family group conference convened under section 30(1) or reconvened under section 37(1) or (2), the Secretary must take such action as is necessary to implement and maintain those arrangements.

39. Review of arrangements for care and protection of child

A family group conference must be convened for the purpose of reviewing the arrangements for the care and protection of a child implemented following the approval of those arrangements by the Secretary under section 37 in any of the following circumstances:

(a) if the Secretary is required to convene such a conference under those arrangements;

(b) if the Secretary –

(i) has been requested by the child or any 2 or more members of the child's family to convene such a conference; or

(ii) considers it necessary or desirable to convene such a conference.

40. Publication of discussion at, and reports on, family group conference

(1) Except as allowed by this Act, a person must not publish in any manner –

(a) a decision of a family group conference; or

(b) any report relating to a family group conference; or

(c) anything said or done at a family group conference.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 18 months, or both.

(2) Evidence of anything said at a family group conference is not admissible in any proceedings.

(3) Despite subsection (2), the written record of the decision made by a family group conference, or the written report of the facilitator made following the failure of a family group conference to reach a decision, is admissible in proceedings under Division 2 for the purpose of establishing that a decision was or was not made.

(4) The *Right to Information Act 2009* does not apply in relation to –

(a) any report on a family group conference; or

(b) the written record of the decision of a family group conference; or

(c) the written report of a facilitator following the failure of a family group conference to reach a decision.

41. Members of immediate family whose whereabouts are unknown

This Division does not apply in relation to a member of a child's immediate family whose whereabouts cannot, after reasonable inquiry, be ascertained.

Division 2 – Care and protection orders

42. Care and protection order

(1) In this section,

specified means specified in a care and protection order.

(2) The Secretary may apply to the Court for a care and protection order.

(3) On the application of the Secretary and subject to subsection (6), the Court may make a care and protection order if –

(a) the Court is satisfied –

(i) that a child is at risk; and

(ii) that a care and protection order should be made to secure the care and protection of the child; or

(b) the Court is satisfied that –

(i) proper arrangements exist for the care and protection of a child (whether pursuant to the Secretary approving the arrangements recommended in a decision of a family group conference or otherwise); and

(ii) the child would be likely to suffer significant psychological harm if the arrangements were to be disturbed; and

(iii) it would be in the best interests of the child for the arrangements to be incorporated in a care and protection order.

(4) A care and protection order may contain one or more of the following orders:

(a) a supervision order;

(b) an order granting custody of the child, for a specified period, to one of the following persons:

(i) a guardian of the child;

(ii) a member of the child's family;

(iii) the chief executive officer of a non-Government organisation that provides facilities for the residential care of children, or a person who holds a position similar in nature to that of chief executive officer in such an organisation;

(iv) the Secretary;

(v) any other person that the Court considers appropriate in the circumstances;

(c) an order placing the child, for a specified period, under the guardianship of –

(i) the Secretary; or

(ii) one or 2 other persons; or

(iii) the Secretary and one or 2 other persons;

(d) . . . .

(e) an order providing for access to the child;

(f) an order providing for the way in which a person who has custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection, health, welfare or education of the child;

(g) any other order the Court considers appropriate.

(4A) Without limiting the orders the Court may make under subsection (4)(g) and the matters to which the Court may have regard to in determining whether to make such an order, the Court may have regard to any relevant prescribed matter in making such a determination.

(5) A care and protection order may include conditions to be observed by one or more of the following persons:

(a) the child;

(b) a guardian of the child;

(c) a person with whom the child is residing;

(d) the Secretary;

(e) a person who is to supervise the child;

(f) a person who is granted custody of the child;

(g) any other person who is involved with the care and protection of the child.

(6) The Court may not make a care and protection order unless satisfied that –

(a) the views of the child have been duly considered, having regard to the age, understanding and maturity of the child; and

(b) the views of the parents or other existing guardians have been duly considered; and

(c) if the order places a child under the guardianship of a person who is not an existing guardian (whether in addition to, or in substitution for, the guardianship of an existing guardian) –

(i) all reasonable steps have been taken to provide the services required to enable the child's protection and care needs to be met within the home of a parent or other existing guardian of the child; and

(ii) the person proposed as guardian is suitable to have guardianship of the child, having regard to any prescribed matters, and is willing and able to assume guardianship; and

(d) either –

(i) a family meeting or family group conference has been held in relation to the child; or

(ii) it is in the best interests of the child for the order to be made without further delay; and

(e) no other order, apart from the order considered, would be in the best interests of the child.

42A. Supervision order

(1) In this section –

specified means specified in a supervision order.

(2) A ***supervision order*** is an order of the Court that, although not affecting the guardianship or custody of a child, provides –

(a) that the Secretary is responsible for supervising a child; and

(b) for the child to be placed in the day-to-day care of one or more of the child's guardians.

(3) A supervision order –

(a) must require the guardians of the child to permit the Secretary to visit the child at his or her residence and to carry out any duties of the Secretary under the order; and

(b) must require the child and the guardians of the child to comply with any reasonable and lawful direction that the Secretary provides to the child or the guardians; and

(c) may require the child or a guardian of the child to do, or refrain from doing, any specified thing; and

(d) must not include a requirement as to where the child may or may not reside, other than a requirement –

(i) that the child reside with the specified guardian or guardians; or

(ii) if the order specifies that the child is to reside with more than one guardian and those guardians do not reside together, that the child is to reside with each of those guardians for the specified times or for the times agreed by those guardians.

(4) For the purposes of subsection (3)(b) –

(a) the Secretary may only give a direction if he or she considers the direction to be in the best interests of the child; and

(b) the direction must be in a form approved by the Secretary.

(5) A supervision order has effect –

(a) if the Court is satisfied that there are special circumstances that warrant the order having effect for a period exceeding 12 months, for the period not exceeding 24 months specified in the order; or

(b) in any other case, for the period not exceeding 12 months specified in the order.

(6) If a supervision order has effect for a period exceeding 12 months, the Secretary, within 12 months after the making of the order must –

(a) review the operation of the order; and

(b) in writing, notify the Court, the child and the guardians of the child as to whether he or she considers –

(i) that it is in the best interests of the child for the order to continue to have effect for the specified period; or

(ii) that it would not be detrimental to the best interests of the child for the order to cease to have effect 12 months after its making.

(7) If the Secretary –

(a) fails to notify the Court, the child and the guardians as required under subsection (6)(b); or

(b) notifies the Court, the child and the guardians as required under subsection (6)(b) that he or she considers that it would not be detrimental to the best interests of the child for the supervision order to cease to have effect 12 months after its making –

the supervision order so ceases to have effect 12 months after its making.

43. Restraint order

(1) On the application of the Secretary for a care and protection order, the Court may make in addition to or instead of making the care and protection order –

(a) a restraint order against a person under Part XA of the *Justices Act 1959* if the Court is satisfied that the person has been served with a copy of the application; or

(b) an interim restraint order against a person under Part XA of the *Justices Act 1959* and such ancillary orders as the Court considers appropriate.

(2) An application for a care and protection order is taken to be an application for a restraint order under Part XA of the *Justices Act 1959* made by a person granted leave to apply by the justices –

(a) for the purposes of subsection (1); and

(b) for the purposes of the application of the *Justices Act 1959* in relation to a restraint order or interim restraint order made under that subsection.

44. Extension of care and protection order

(1) On the application of the Secretary made before a care and protection order under

section 42(4)(a), (b) or (c) ceases to have effect, the Court may extend that order if –

(a) a family group conference has been held to review the arrangements for securing the care and protection of the child implemented under that order; and

(b) the Court is satisfied –

(i) that the child would be at risk if the order were to cease to have effect; or

(ii) that it is in the best interests of the child for those arrangements to continue to be the subject of a care and protection order.

(2) A care and protection order may be extended for the period the Court considers appropriate in the best interests of the child.

(3) If an application is made for the extension of a care and protection order before the day on which the order is due to cease to have effect but is not determined before that day, the order continues in force until the application is determined.

45. Limited adjournment only

The Court must not, unless it is satisfied that there are reasonable grounds to do so, grant adjournments in relation to an application for a care and protection order or the variation or

revocation of a care and protection order so that the period between the lodging of the application and the commencement of the hearing exceeds 10 weeks.

46. Interim care and protection order on adjournment

(1) If the Court adjourns the hearing of an application for a care and protection order, the Court may also make an interim care and protection order.

(2) An interim care and protection order may contain one or more of the following orders:

(a) an order requiring the child or a guardian of the child to do any specified thing or refrain from doing any specified thing;

(b) an order granting custody of the child to one or more of the following persons:

(i) a guardian of the child;

(ii) a member of the child's family;

(iii) the chief executive officer of a non-Government organisation that provides facilities for the residential care of children, or a person who holds a position similar in nature to that of chief executive officer in such an organisation;

(iv) the Secretary;

(v) any other person that the Court considers appropriate in the circumstances;

(c) an order placing the child under the guardianship of the Secretary or one or 2 other persons as the Court considers appropriate in the circumstances;

(d) an order providing for access to the child;

(e) an order providing for the way in which a person who has custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection, health, welfare or education of the child;

(f) any other order the Court considers appropriate.

(3) An interim care and protection order may include conditions to be observed by one or more of the following persons:

(a) the child;

(b) a guardian of the child;

(c) a person with whom the child is residing;

(d) the Secretary;

(e) a person who is to supervise the child;

(f) a person who is granted custody of the child;

(g) any other person who is involved with the care and protection of the child.

(4) An interim care and protection order has effect for the period of the adjournment and any subsequent adjournment.

(5) This section does not prevent the Court from varying or revoking an interim care and protection order or from making a further interim care and protection order on any subsequent adjournment.

47. Restraint order on adjournment

(1) If the Court adjourns the hearing of an application for a care and protection order, the Court may make, in addition to or instead of making an interim care and protection order –

(a) a restraint order against a person under Part XA of the *Justices Act 1959* if the Court is satisfied that the person has been served with a copy of the application; or

(b) an interim restraint order against a person under Part XA of the *Justices Act 1959* and such ancillary orders as the Court considers appropriate.

(2) An application for a care and protection order is taken to be an application for a restraint order under Part XA of the *Justices Act 1959* made by a person granted leave to apply by the justices –

(a) for the purposes of subsection (1); and

(b) for the purposes of the application of the *Justices Act 1959* in relation to a restraint order or interim restraint order made under that subsection.

48. Variation, revocation, suspension and end of care and protection order or interim care and protection order

(1) A care and protection order or an interim care and protection order –

(a) may be varied or revoked by the Court at any time on the application of the child, the Secretary or a person granted guardianship or custody by the order; and

(ab) may be varied or revoked by the Court on the application of a former guardian of the child or a person who was party to the application for the order, other than a person referred to in paragraph (a), if –

(i) circumstances have changed since the order was made; and

(ii) the application is made with the leave of the Court; and

(b) ceases to have effect when the child attains 18 years of age.

(2) A care and protection order under section 42(4)(c) granting guardianship of a child to a person until the child attains 18 years of age ceases to have effect on the making of a

parenting order under Part VII of the *Family Law Act 1975* of the Commonwealth in respect of the child.

(3) A care and protection order that has ceased to have effect under subsection (2) is revived if –

(a) the application for the parenting order or registration of a parenting plan is withdrawn; or

(b) the order sought or registration is refused; or

(c) the parenting order made or the parenting plan registered is not in the terms to which the Secretary and parties to the proceedings agreed.

49. Effect of and limitations on care and protection order or interim care and protection order

(1) If a care and protection order or interim care and protection order grants custody of a child to a person –

(a) that grant does not affect the guardianship of the child; and

(b) that person has the sole right to the custody of the child.

(2) If a care and protection order or interim care and protection order grants guardianship of a child to a person –

(a) that grant is a grant of both custody and guardianship of the child to that person; and

(b) that person is the guardian of the child and his or her estate to the exclusion of all other persons; and

(c) that person has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have.

(3) If, when considering an application for a care and protection order, the Court finds that a child is at risk because a person other than a guardian with whom the child resides has abused or neglected or threatened the child, or is likely to do so, the Court must not make an order removing the child from the guardianship or custody of the guardians with whom the child resides unless satisfied that –

(a) they knew, or ought to have known, of the abuse or neglect or threats; or

(b) once they are informed of the abuse or neglect or threats, they would be unlikely or unable to prevent further abuse or neglect or threats.

(4) . . . .

(5) If custody or guardianship, or custody and then guardianship, of a child has been granted to a person under one or more care and protection orders and interim care and protection orders for a continuous period of 2 or more years and an

application for another such order or an extension of that order is before the Court, the Court must, in the interests of securing a stable living arrangement for the child and despite section 42(6), consider making a care and protection order under section 42(4)(c) granting guardianship of the child until the child attains 18 years of age.

50. Non-compliance with order

A person who has been personally served with a care and protection order or an interim care and protection order or was present in the Court when the care and protection order or interim care and protection order was made must not contravene the order.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 12 months, or both.

51. Right of other interested persons to be heard

In any proceedings under this Division, on the application of –

(a) a member of a child's family; or

(b) a person who has at any time had care of a child; or

(c) a person who has counselled, advised or aided a child; or

(d) if the child is an Aboriginal child, a recognised Aboriginal organisation or a representative of such an organisation; or

(e) any other person who appears to the Court to have a proper interest in the matter –

the Court may hear submissions and take evidence from the applicant in respect of the child, even though the applicant is not a party to the proceedings.

52. Conference of parties

(1) If the Court considers it desirable to do so, the Court may, before or during the hearing of proceedings under this Division, convene a conference between the parties to the proceedings for the purpose of determining what matters are in dispute or resolving any matters in dispute.

(2) A magistrate or an officer of the Court nominated by the magistrate is to preside over the conference.

(3) Legal representatives for parties to the proceedings are to be admitted to the conference.

(4) Evidence of anything said or done at the conference is inadmissible in the proceedings except where all parties to the proceedings agree to the evidence being admitted.

53. Review of arrangements for care and protection of child

A family group conference must be convened for the purpose of reviewing the arrangements for the care and protection of a child implemented under a care and protection order in any of the following circumstances:

(a) if the order requires the Secretary to convene such a conference;

(b) if the Secretary has been requested by the child or any 2 or more members of the child's family to convene such a conference;

(c) if the Secretary considers it necessary or desirable to convene such a conference.

PART 5A – INFORMATION SHARING

53A. Interpretation

In this Part –

relevant person means a person in respect of whom –

(a) the Secretary or a Community-Based Intake Service has received information under this Act; or

(b) an assessment order is in force; or

(c) a care and protection order is in force.

53B. Secretary and information-sharing entities may provide information

(1) The Secretary may do either or both of the following:

(a) provide an information-sharing entity with information relating to the safety, welfare or wellbeing of a relevant person;

(b) require an information-sharing entity to provide, to the Secretary, information relating to the safety, welfare or wellbeing of a relevant person.

(2) An information-sharing entity required to provide information to the Secretary under subsection (1)(b) must, within the period specified by the Secretary –

(a) provide the information; or

(b) if the information-sharing entity does not have the information, provide the Secretary with written notice that it cannot provide the information for that reason.

Penalty: Fine not exceeding 5 penalty units.

(3) An information-sharing entity may do either or both of the following if satisfied that information in its possession relates to the safety, welfare or wellbeing of a relevant person:

(a) provide the Secretary with the information, whether or not the Secretary has required the information to be provided;

(b) provide another information-sharing entity with the information if that entity is involved with, or is likely to be involved with, the relevant person or a significant person to the relevant person.

(4) A person providing information under this section –

(a) cannot, by virtue of providing the information, be held to have breached any code of professional etiquette or

ethics, to have departed from any accepted standards of professional conduct or to have contravened any Act; and

(b) to the extent that he or she has acted in good faith, incurs no civil or criminal liability in respect of providing the information.

PART 5B – COMMUNITY-BASED INTAKE SERVICE

53C. Interpretation

In this Part –

CBIS guidelines means guidelines issued by the Secretary under section 53F.

53D. Community-Based Intake Service

(1) The Secretary may enter into an agreement with an organisation for the carrying out of the functions of a Community-Based Intake Service.

(2) The agreement is to specify –

(a) the terms of the agreement; and

(b) any functions to be provided by the organisation under the agreement that are in addition to the functions set out in section 53E(1); and

(c) that the Community-Based Intake Service must comply with the CBIS guidelines; and

(d) any other matter considered by the Secretary to be appropriate.

(3) The Secretary may revoke the agreement if satisfied that the Community-Based Intake Service is not –

(a) complying with the agreement; or

(b) adequately performing the functions of a Community-Based Intake Service set out in section 53E(1); or

(c) complying with the CBIS guidelines.

(4) Except as otherwise specified in the agreement, the agreement does not limit –

(a) the services that may be provided by the Community-Based Intake Service; or

(b) other functions and powers that the Community-Based Intake Service may perform and exercise.

53E. Functions of a Community-Based Intake Service

(1) A Community-Based Intake Service has the following functions:

(a) providing a referral service for children and their families that –

(i) is readily accessible; and

(ii) enables early intervention in support of families;

(b) receiving referrals from the Secretary under section 17A;

(c) undertaking preliminary inquiries, in accordance with the CBIS guidelines, to determine –

(i) whether a child is at risk or in need; and

(ii) whether a child, once born, is likely to be at risk or in need; and

(iii) the most appropriate person or organisation to receive a referral from the Community-Based Intake Service;

(d) making referrals to other persons and organisations who provide services relevant to children and their families;

(e) providing the Secretary, in accordance with the CBIS guidelines, with a record of each determination of risk or need made under paragraph (c)(i) or (ii) and each referral made under paragraph (d);

(f) cooperating with other persons and organisations providing services to a child;

(g) any other prescribed function.

(2) A Community-Based Intake Service may have any other additional function specified in the agreement referred to in section 53D.

53F. CBIS guidelines

(1) The Secretary may issue guidelines in respect of the administration, procedures and practices of a Community-Based Intake Service.

(2) The guidelines may –

(a) authorise any matter to be from time to time determined, applied or regulated by any person specified in the guidelines; and

(b) adopt, apply or incorporate, either wholly or in part and with or without modification, and either specifically or by reference, any document as in force from time to time, whether or not the document is published or issued before or after the guidelines take effect.

(3) The Secretary may amend or revoke any guidelines issued under this section and is to notify the Community-Based Intake Service of the amendment or revocation within 10 days after the amendment or revocation is made.

(4) An amendment or revocation of guidelines under subsection (3) is to take effect –

(a) on the date specified by the Secretary in the amendment or revocation; or

(b) if no date is so specified, 10 days after the amendment or revocation is made.

(5) The Secretary must ensure that the guidelines are made available to a Community-Based Intake Service on its request.

(6) Guidelines issued under this section –

(a) are not statutory rules for the purposes of the *Rules Publication Act 1953*; and

(b) are not subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.

(7) The *Acts Interpretation Act 1931* applies to the interpretation of the guidelines as if the guidelines were by-laws.

PART 6 – PROCEDURAL MATTERS

54. Matters Court must consider

In any proceedings under this Act, the Court must –

(a) consider the best interests of the child to be the paramount consideration; and

(b) observe the principles set out in Part 1A.

55. . . . .

56. Allowing opportunity for child to express views

Whether or not the child is represented by an Australian legal practitioner in any proceedings under this Act, the Court must allow the child a reasonable opportunity to give his or her own views personally to the Court as to his or her ongoing care and protection unless the Court is satisfied that the child is not capable of doing so.

57. How views of child are expressed

The Court may inform itself of views expressed by a child –

(a) by having regard to anything said by the child personally to the Court on being allowed an opportunity under section 56; and

(b) by having regard to anything contained in a report given to the Court; and

(c) by any other means the Court considers appropriate.

58. Children not required to express views

Nothing in this Act permits the Court or any person to require the child to express his or her views in relation to any matter.

59. Court orders for separate representation of child

(1) The Court must not proceed to hear an application under this Act unless –

(a) the child is represented in the proceedings by an Australian legal practitioner; or

(b) the Court is satisfied that the child has made an informed and independent decision not to be so represented.

(2) Subsection (1) does not apply if the Court is of the opinion that it is in the best interests of the child to proceed with the hearing in the absence of the child's representative.

(3) In proceedings in respect of an application under this Act, if –

(a) the child is not represented by an Australian legal practitioner; and

(b) the Court is not satisfied that the child has made an informed and independent decision not to be so represented –

the Court may make such orders as it considers necessary or appropriate to secure legal representation for the child and any orders it could make on adjournment of those proceedings were the child represented by an Australian legal practitioner.

(4) In any proceedings under this Act, whether or not the child is represented by an Australian legal practitioner, if it appears to the Court that the child ought to be separately represented, the Court may –

(a) order that the child is to be separately represented; and

(b) make such other orders as it considers necessary or appropriate to secure that separate representation.

(5) The Court may make an order under this section –

(a) on its own initiative; or

(b) on the application of –

(i) the child; or

(ii) the Secretary; or

(iii) a guardian of the child; or

(iv) any other person.

60. Order that child be made available for examination

If a child is separately represented in any proceedings, the Court on the application of that representative may order the child's guardian or a person with whom the child is residing to make the child available, as specified in the order, for a medical, psychiatric or psychological examination to be made for the purpose of preparing a report about the child for use by the child's representative in connection with the proceedings.

61. Order that report be made

(1) In any proceedings under this Act, the Court may –

(a) order the Secretary or another person to report on a matter relevant to the proceedings which is specified in the order; and

(b) adjourn the proceedings to enable the making of the report; and

(c) make such other orders as the Court considers appropriate for the purpose of facilitating the preparation of the report.

(2) A report prepared under an order made under subsection (1) may, in addition to the matter required to be included in it, include other matters that relate to the care, protection and development of the child.

(3) If a person contravenes an order under subsection (1)(c), the Secretary or other person required to prepare the report must notify the Court of that contravention.

(4) On receiving notification of a contravention of an order, the Court may make such further orders in relation to the preparation of the report as it considers appropriate.

62. Court may refer a matter to a family group conference

(1) In any proceedings under this Act, the Court may –

(a) order that a family group conference be convened to consider and report to the Court on a matter relevant to the proceedings which is specified in the order; and

(b) adjourn the proceedings to enable a family group conference to consider and report to the Court on that matter.

(2) An order may specify persons who are to be invited to attend the family group conference.

(3) The district registrar is to provide the Secretary with a copy of the order.

63. Evidence

In any proceedings under this Act, the Court –

(a) is to conduct proceedings before it in an informal manner; and

(b) is not bound by the rules of evidence; and

(c) is to consider evidence on the balance of probabilities; and

(d) may inform itself in any way it considers appropriate.

64. Parties to application

(1) The following persons are parties to an application for an assessment order or a care and protection order:

(a) the Secretary;

(b) the child the subject of the application;

(c) each guardian of the child.

(2) If an application to vary, extend or revoke an assessment order, a care and protection order or an interim care and protection order is made, all persons who were parties to that order and all persons who are bound by that order are parties to the application.

65. Service of applications on parties

(1) After filing with the Court an application for an assessment order, a care and protection order or the variation, extension or revocation of an

assessment order, a care and protection order or an interim care and protection order, a copy of that application and notice of the time and place of the hearing of the application must be served –

(a) on the child the subject of the application or order, if the child is 10 or more years old; and

(b) on the child's advocate or representative, if one has been appointed; and

(c) on each other party to the application; and

(d) if the Secretary is the applicant, on any person whom the Secretary considers has an interest in the welfare of the child; and

(e) if the Secretary is the applicant, on any person whom the Secretary considers may be affected by the order or the variation, extension or revocation of the order.

(2) If a copy of the application and a notice of the time and place of the hearing is to be served on the child who is the subject of the application or the order to which the application relates, they must be served personally.

(3) The copy of the application and a notice of the time and place of the hearing to be served on a party, other than the child who is the subject of the application or the order to which the application relates, must be served –

(a) personally; or

(b) by post addressed to the party at his or her last known place of residence or employment; or

(c) in any other manner authorised by the Court if –

(i) it is not practicable to serve the copy and notice personally; or

(ii) the whereabouts of the party cannot, after reasonable enquiries, be ascertained.

66. Hearings in absence of a party

The Court may hear and determine an application for an assessment order, a care and protection order or the variation, extension or revocation of an assessment order, care and protection order or interim care and protection order –

(a) in the absence of a party to the application; and

(b) whether or not all parties to the application have been served with a copy of the application and the notice of the time and place of the hearing of the application.

67. Joinder of parties

In any proceedings on an application for an assessment order or a care and protection order, if the Court is of the opinion that it should make an order binding upon a person who is not a party to the proceedings, the Court –

(a) may join that person as a party to the proceedings; and

(b) must allow that person a reasonable opportunity to make representations to the Court as to why such an order should not be made.

68. Orders for costs

If the Court dismisses an application under this Act by the Secretary, the Court may make such order for costs against the Crown in favour of any other party to the proceedings as the Court considers appropriate.

PART 7 – CHILDREN UNDER GUARDIANSHIP OR IN CUSTODY OF SECRETARY

69. Powers and duties of Secretary in relation to children under guardianship or in custody of Secretary generally

(1) Subject to this Act, the Secretary may provide for the care of a child who is under the guardianship, or in the custody, of the Secretary under this Act or any other enactment in any one or more of the following ways:

(a) by placing the child, or permitting the child to remain, in the care of a guardian of the child or a member of the child's family;

(b) by placing the child in the care of any person or any body of persons, corporate or unincorporate, the Secretary considers suitable;

(c) by giving such directions as to the care of the child in the place in which the child resides as the Secretary considers appropriate;

(d) by making arrangements for the education of the child;

(e) by making arrangements (including admission to hospital) for the medical or dental examination or treatment of the child or for such other professional

examination or treatment as may be necessary or desirable;

(f) by making such other provision for the care of the child (including financial assistance) as the Secretary considers appropriate.

(2) In making provision for the care of a child, the Secretary must –

(a) consider the best interests of the child to be the paramount consideration; and

(b) have regard to the principles set out in Part 1A; and

(c) make provision for the physical, intellectual, psychological and emotional development of the child; and

(d) have regard to the desirability of securing stable living arrangements for the child.

(3) Unless the Secretary considers that it would not be in the best interests of a child to do so, the Secretary must –

(a) notify the guardians of the child about where the child is placed and the circumstances of the child as soon as reasonably practicable after the child is placed in the custody of the Secretary; and

(b) keep the guardians of the child informed about where the child is placed and how the child is being cared for.

70. Power of Secretary to consent to adoption of child

(1) The Secretary may consent to the adoption of a child under the *Adoption Act 1988* if the child is under the guardianship of the Secretary until the child reaches 18 years of age by reason of –

(a) a care and protection order under section 42(4)(c);; or

(b) a similar order made under an enactment; or

(c) an assumption of guardianship by the Secretary under Part 8 of this Act; or

(d) an enactment.

(2) In deciding whether to consent to the adoption of a child, the Secretary must –

(a) consider the best interests of the child to be the paramount consideration; and

(b) have regard to the principles set out in Part 1A; and

(c) have regard to the desirability of securing stable living arrangements for the child.

71. Review of circumstances of child under long-term guardianship of Secretary

(1) Where a child is subject to a care and protection order under section 42(4)(c) that places the child, for a period exceeding 12 months, under the guardianship of a person who is not an existing guardian (whether in addition to, or substitution for, the guardianship of an existing guardian), the Secretary –

(a) must review the circumstances of the child in the first year of that guardianship; and

(b) on his or her own motion or on the application of the child or a person made guardian by the order, may review the circumstances of the child at any time or times after the expiration of that first year.

(2) On finalising a review, the Secretary must determine whether or not the existing arrangements for the care and protection of the child continue to be in the best interests of the child.

(3) The Secretary must provide a copy of his or her determination to –

(a) the child; and

(b) the child's guardians; and

(c) each person who was a guardian of the child immediately before the order to

which the determination relates was made; and

(d) any person who has the daily care of the child and with whom the child resides; and

(da) any person the Secretary considers appropriate; and

(e) if the child is an Aboriginal child, the appropriate recognised Aboriginal organisation.

(4) Despite subsection (3), the Secretary is not obliged to give a copy of his or her determination to a particular person if –

(a) the Secretary considers that it would not be in the best interests of the child to do so; or

(b) the whereabouts of the person cannot be ascertained after reasonable enquiries.

72. Dealing with child's estate as guardian

(1) All money received by the Secretary as guardian of the estate of a child must be paid to the credit of an account established and maintained in a bank, building society or credit union by the Secretary under the name of the "Tasmanian Guardianship Fund".

(2) The Secretary must keep an account showing the current amount at credit in the Fund on account of each child.

(3) Money standing to the credit of a child in the Fund which is not immediately required for use by the child may be invested in any manner in which trust money may be invested by a trustee under the *Trustee Act 1898*.

(4) Interest earned by the use of money invested under subsection (3) must be credited to the account of the child at least once each year.

(5) The Secretary may, with the approval of the Auditor-General, transfer to the Public Account from money standing to the credit of a child in the Fund an amount representing the reasonable cost of administering the Fund in respect of that child.

(6) Except as provided by subsection (5), money standing to the credit of a child in the Fund may be used only for the benefit of the child.

(7) On a child ceasing to be under the guardianship of the Secretary –

(a) all money standing to the credit of the child in the Fund must be paid to the child if the child is 18 or more years of age; and

(b) in any other case, if the Secretary considers it in the best interests of the child to do so, all or any money standing to the credit of the child in the Fund –

(i) may be paid to the child or a person who has custody of the child; or

(ii) may be retained in the Fund until the child is 18 years of age.

(8) On a child ceasing to be under the guardianship of the Secretary, the Secretary must notify the child of the amount standing to his or her credit in the Fund.

73. Maintenance of child

The following persons have a duty to maintain, financially, a child who is under the guardianship or in the custody of the Secretary under this Act or any other enactment:

(a) the child's parents;

(b) the child's guardians;

(c) the persons who were the child's guardians immediately before –

(i) the child was placed under the guardianship of the Secretary; or

(ii) the child was placed under the guardianship of a Government authority of another State under laws dealing with the care and protection of children, if the child was placed under the guardianship of the Secretary by notice filed with the Court under section 76.

74. Contribution order

(1) On the application of the Secretary, the Court may order one or more persons specified in section 73 to pay to the Secretary in respect of the maintenance of a child who is under the guardianship or in the custody of the Secretary the contributions specified in the order in the manner specified in the order.

(2) In determining whether to make a contribution order or the amount of the contributions to be specified in the order, the Court must have regard to –

(a) any contributions paid or being paid in respect of the maintenance of the child by any person; and

(b) the relationship to the child of the person against whom the order will be or is made and his or her ability to make contributions.

(3) A contribution order may be made in respect of any period during which the child is under the guardianship or in the custody of the Secretary whether or not the child is under the guardianship or in the custody of the Secretary when the application or order is made.

(4) On the application of a party to a contribution order, the Court may vary or revoke the contribution order.

(5) A statement in an application by the Secretary under this section that –

(a) a particular person is able to make contributions towards the maintenance of a child; or

(b) an amount is being or has been expended, or is owing, for or in respect of the maintenance of a child –

is evidence of that fact.

(6) A contribution order is taken to be a judgment of the Magistrates Court (Civil Division) and is enforceable under the *Magistrates Court (Civil Division) Act 1992*.

(7) The Secretary may determine in which Magistrates Court (Civil Division) the contribution order is to be enforced.

75. Contribution agreement

(1) A person specified in section 73 may agree, in writing, to pay to the Secretary in the manner specified in the agreement contributions towards the maintenance of a child who is or has been under the guardianship or in the custody of the Secretary.

(2) The Secretary may file a contribution agreement with the Court.

(3) A contribution agreement filed with the Court is taken to be a contribution order.

(4) A contribution agreement may be varied or revoked, in writing, by the agreement of the persons who made the contribution agreement.

(5) A variation or revocation of a contribution agreement filed with the Court may be filed with the Court and, after being so filed, is taken to be an order of the Court.

PART 8 – INTERSTATE TRANSFERS OF CHILD PROTECTION ORDER, &C.

Division 1 – Preliminary

76. Interpretation of Part 8

(1) In this Part, unless the contrary intention appears –

child protection order means a final order made under a child welfare law that gives responsibility in relation to the guardianship, custody or supervision of a child (however that responsibility is described) to –

(a) a government department or statutory authority; or

(b) a person who is the head or chief executive of a government department or statutory authority or otherwise holds an office or position in, or is employed in, a government department or statutory authority; or

(c) an organisation or the chief executive, however described, of an organisation;

child protection proceeding means any proceeding brought in a court under a child welfare law for –

(a) the making of a finding that a child is in need of protection or any other finding, however described, the making of which is under the child welfare law a prerequisite to the exercise by the court of a power to make a child protection order; or

(b) the making of a child protection order or an interim order or for the variation or revocation, or the extension of the period, of such an order;

child welfare law means –

(a) Part 5 of this Act; and

(b) a law of another State that, under a notice made under subsection (2) and in force, is a child welfare law for the purposes of this Part; and

(c) a law of another State that substantially corresponds to Part 5;

Children's Court in relation to –

(a) Tasmania means the Court; and

(b) a State other than Tasmania, means the court with jurisdiction to hear and determine a child

protection proceeding at first instance;

home order means a child protection order made, or taken to have been made, under Part 5;

interim order means –

(a) an order made under section 77Q; and

(b) an equivalent order made under an interstate law;

interstate law means –

(a) a law of another State that, under a notice made under subsection (3) and in force, is an interstate law for the purposes of this Part; and

(b) a law of another State that substantially corresponds to this Part;

interstate officer, in relation to a State other than Tasmania, means –

(a) the holder of an office or position that, under a notice made under subsection (4) and in force, is an office or position the holder of which is the interstate officer in relation to that State for the purposes of this Part; and

(b) the person holding the office or position to which there is given by or under the child welfare law of that State principal responsibility for the protection of children in that State;

participating State means a State in which an interstate law is in force;

sending State means the State from which a child protection order or proceeding is transferred under this Part or an interstate law;

State includes a Territory and New Zealand.

(2) The Minister, by notice published in the *Gazette*, may declare a law of another State to be a child welfare law for the purposes of this Part if satisfied that the law substantially corresponds to Part 5 of this Act.

(3) The Minister, by notice published in the *Gazette*, may declare a law of another State to be an interstate law for the purposes of this Part if satisfied that the law substantially corresponds to this Part.

(4) The Minister, by notice published in the *Gazette*, may declare an office or position in another State to be an office or position the holder of which is the interstate officer in relation to that State for the purposes of this Part.

Division 2 – Transfer of child protection orders

Subdivision 1 – Types of transfer

77. Types of transfer

A child protection order may be transferred by –

(a) the Secretary under Subdivision 2; or

(b) the Court under Subdivision 3.

Subdivision 2 – Transfer by Secretary

77A. When Secretary may transfer order

(1) The Secretary may transfer a home order to a participating State if –

(a) in his or her opinion a child protection order to the same or a similar effect as the home order could be made under the child welfare law of that State; and

(b) the home order is not subject to an appeal; and

(c) the relevant interstate officer has consented in writing to the transfer and to the terms of the home order to be transferred (the "proposed interstate order"), including terms to be included in that order by the Secretary under this section; and

(d) any person whose consent to the transfer is required under section 77B has so consented.

(2) The Secretary may include in the proposed interstate order any conditions that could be included in a child protection order of that type made in the relevant participating State.

(3) In determining whether a child protection order to the same or a similar effect as the home order could be made under the child welfare law of the participating State, the Secretary must not take into account the period for which it is possible to make such an order in that State.

(4) The Secretary must determine, and specify in the proposed interstate order –

(a) the type of order under the child welfare law of the participating State that the proposed interstate order is to be; and

(b) the period for which it is to remain in force.

(5) The period must be –

(a) if the same period as that of the home order is possible for the proposed interstate order under the child welfare law of the participating State commencing from the date of the registration of the interstate order in that State, that period; or

(b) in any other case, as similar a period as is possible under that law but in no case longer than the period of the home order.

77B. Persons whose consent is required to transfer order

(1) For the purposes of section 77A(1)(d) –

(a) if the home order gives custody of the child to the Secretary, consent to a transfer under this Subdivision is required from the child's parents and any other person who is granted access to the child under the order; and

(b) if the home order provides for supervision of the child or for supervised custody of the child, consent to a transfer under this Subdivision is required from the child's parents; and

(c) if the child is 15 or more years old, consent to a transfer under this Subdivision is required from the child.

(2) Despite subsection (1)(b), if a parent of the child is residing in, or is intending to reside in, the relevant participating State, consent to the transfer is not required from that parent or from any other parent who consents to the child residing in that State.

77C. Secretary to have regard to certain matters

In determining whether to transfer a child protection order to a participating State under

this Subdivision, the Secretary must have regard to –

(a) whether the Secretary or an interstate officer is in the better position to exercise powers and responsibilities under a child protection order relating to the child; and

(b) the desirability of a child protection order being an order under the child welfare law of the State where the child resides.

77D. Notification to child and his or her parents

(1) If the Secretary has decided to transfer a home order to a participating State under this Subdivision, the Secretary must serve –

(a) the parents of the child who is the subject of the order; and

(b) if the child is of or above the age of 12 years, the child –

with a notice of the decision as soon as practicable but in any event no later than 3 working days after making it.

(2) A notice under subsection (1) must also include the information that the child or a parent of the child may apply for a review of the decision on its merits by the Court by lodging the application with the Court and serving a copy of it on the Secretary within 13 working days after the date of the decision.

(3) Service of a notice on a person is not required under subsection (1) if it cannot be effected after making all reasonable efforts.

77E. Review of decision

(1) A proceeding for review of a decision of the Secretary to transfer a home order to a participating State must be commenced by lodging the application for review with the Court, and serving the Secretary with a copy of it, within 13 working days after the date of the decision.

(2) The lodging with the Court and service on the Secretary of an application stays the operation of the decision pending the determination of the proceeding.

(3) Subject to this Act, a review of a decision of the Secretary to transfer a home order is to be instituted, heard and determined as prescribed in rules of court made under the *Magistrates Court (Children's Division) Act 1998*.

77F. Decision of Court on review

(1) On receipt of an application under section 77E, the Court may review the decision of the Secretary to transfer a home order to a participating State and may –

(a) affirm the decision of the Secretary; or

(b) quash the decision of the Secretary; or

(c) quash the decision of the Secretary and make an order under Subdivision 3 as if the application under section 77E were an application under section 77G.

(2) Section 20 of the *Magistrates Court (Children's Division) Act 1998* does not apply in respect of an order made under subsection (1).

Subdivision 3 – Transfer by Court

77G. Secretary may apply to Court to transfer order

The Secretary may apply to the Court for an order transferring a home order to a participating State –

(a) if a person whose consent to a transfer of a home order is required under section 77B does not so consent; or

(b) if the Secretary considers that the terms of a proposed interstate order, if made under section 77A, would be significantly different to the terms of the home order; or

(c) for any other reason the Secretary considers appropriate.

77H. When Court may make order

The Court may make an order transferring a home order to a participating State if –

(a) the Secretary applies for the making of the order; and

(b) the home order is not subject to an appeal; and

(c) the relevant interstate officer has consented to the transfer and to the terms of the home order to be transferred, including terms to be included in that order by the Court under this Subdivision.

77I. Service of application

The Secretary must serve, as soon as possible, a copy of an application for an order transferring a home order to a participating State on each person who would be a party if the application were an application to vary a care and protection order under section 48.

77J. Type of order

(1) If the Court determines to transfer a home order to a participating State, the terms of the child protection order to be transferred (the "proposed interstate order") must be terms –

(a) that could be the terms of a child protection order made under the child welfare law of that State; and

(b) that the Court believes to be –

(i) to the same or a similar effect as the terms of the home order; or

(ii) otherwise in the best interests of the child.

(2) The Court may include in the proposed interstate order any conditions that could be included in a child protection order of that type made in the relevant participating State.

(3) In determining whether an order to the same or a similar effect as the home order could be made under the child welfare law of a participating State, the Court must not take into account the period for which it is possible to make such an order in that State.

(4) The Court must determine, and specify in the proposed interstate order –

(a) the type of order under the child welfare law of the participating State that the proposed interstate order is to be; and

(b) the period for which it is to remain in force.

(5) The period must be a period –

(a) for which a child protection order of the type of the proposed interstate order may be made under the child welfare law of the participating State commencing from the date of the registration of the proposed interstate order in that State; and

(b) that the Court considers to be appropriate.

77K. Court to have regard to certain matters

In determining what order to make on an application under this Subdivision, the Court must have regard to –

(a) whether the Secretary or an interstate officer is in the better position to exercise powers and responsibilities under a child protection order relating to the child; and

(b) the desirability of a child protection order being an order under the child welfare law of the State where the child resides; and

(c) any information given to the Court by the Secretary under section 77L.

77L. Duty of Secretary to inform Court of certain matters

If the Secretary is aware that –

(a) an order under section 47(1) or (2) of the *Youth Justice Act 1997*, or an order imposing a sentence under the *Sentencing Act 1997*, other than an order that only imposes a fine, is in force in respect of the child who is the subject of an application under this Subdivision; or

(b) a criminal proceeding is pending against that child in any court –

the Secretary must, as soon as possible, inform the Court of that fact and of the details of the order or pending criminal proceeding.

77M. Appeals

(1) An appeal from an order made under this Subdivision –

(a) must be instituted, and written notice of it must be served on the Secretary, within 13 working days after the day on which the order complained of was made; and

(b) operates as a stay of the order.

(2) The Supreme Court cannot extend the time limit fixed by subsection (1)(a).

(3) The Supreme Court may make any interim order pending the hearing of the appeal that the Court has jurisdiction to make.

Division 3 – Transfer of child protection proceedings

77N. When Court may make order under this Division

(1) The Court may make an order under this Division transferring a child protection proceeding pending in the Court to the Children's Court in a participating State if –

(a) the Secretary applies for the making of the order; and

(b) the relevant interstate officer has consented in writing to the transfer.

(2) The proceeding is discontinued in the Court on the registration in the Children's Court in the participating State in accordance with the interstate law of an order referred to in subsection (1).

77O. Service of application

The Secretary must, as soon as possible, cause a copy of an application for an order transferring a child protection proceeding to the Children's Court in a participating State to be served on –

(a) the child's parents; and

(b) any other person with whom the child is residing; and

(c) if the child is of or above the age of 12 years, the child.

77P. Court to have regard to certain matters

(1) In determining whether to make an order transferring a proceeding under this Division, the Court must have regard to –

(a) whether any other proceedings relating to the child are pending, or have previously been heard and determined, under the

child welfare law in the participating State; and

(b) the place where any of the matters giving rise to the proceeding in the Court arose; and

(c) the place of residence, or likely place of residence, of the child, his or her parents and any other people who are significant to the child; and

(d) whether the Secretary or an interstate officer is in the better position to exercise powers and responsibilities under a child protection order relating to the child; and

(e) the desirability of a child protection order being an order under the child welfare law of the State where the child resides; and

(f) any information given to the Court by the Secretary under subsection (2).

(2) If the Secretary is aware that –

(a) an order under section 47(1) or (2) of the *Youth Justice Act 1997*, or an order imposing a sentence under the *Sentencing Act 1997*, other than an order that only imposes a fine, is in force in respect of the child who is the subject of the proceeding to which an application under this Division relates; or

(b) a criminal proceeding is pending against that child in any court –

the Secretary must, as soon as possible, inform the Court of that fact and of the details of the order or pending criminal proceeding.

77Q. Interim order

(1) If the Court makes an order transferring a proceeding under this Division, the Court may also make an interim order.

(2) An interim order –

(a) may release the child or place the child into the custody of any person, subject to any conditions that the Court considers to be appropriate; and

(b) may give responsibility for the supervision of the child to the interstate officer in the participating State or any other person in that State to whom responsibility for the supervision of a child could be given under the child welfare law of that State; and

(c) remains in force for the period, not exceeding 30 days, specified in the order.

(3) The Children's Court in the participating State may vary or revoke, or extend the period of, an interim order.

77R. Appeals

(1) An appeal from an order under this Division –

(a) must be instituted, and written notice of it must be served on the Secretary, within 3 working days after the day on which the order complained of was made; and

(b) operates as a stay of the order but not of any interim order made at the same time as the order.

(2) The Supreme Court cannot extend the time limit fixed by subsection (1)(a).

(3) In addition to any other order it may make on an appeal under this section, the Supreme Court may –

(a) make an order staying the operation of any interim order made at the same time as the order that is the subject of the appeal or may, by order, vary or revoke, or extend the period of, that interim order; and

(b) make any interim order pending the hearing of the appeal that the Children's Court has jurisdiction to make.

Division 4 – Registration

77S. Filing and registration of interstate documents

(1) The Secretary must, as soon as possible, file in the Court for registration a copy of a child

protection order transferred to Tasmania under an interstate law.

(2) The Secretary must, as soon as possible, file in the Court for registration a copy of an order under an interstate law to transfer a child protection proceeding to Tasmania, together with a copy of any interim order made at the same time.

(3) Despite subsections (1) and (2), the Secretary must not file in the Court a copy of a child protection order or an order to transfer a child protection proceeding if, under the interstate law –

(a) the decision or order to transfer the child protection order or the order to transfer the child protection proceeding is subject to appeal or review or to a stay; or

(b) the time for instituting an appeal or seeking a review has not expired.

77T. Notification by appropriate registrar

The appropriate district registrar must immediately notify the appropriate officer of the Children's Court in the sending State and the interstate officer in that State of –

(a) the registration of any document filed under section 77S; or

(b) the revocation under section 77V of the registration of any document so filed.

77U. Effect of registration

(1) A child protection order registered in the Court under this Division –

(a) is taken to be a care and protection order of the relevant type made under section 42 by the Court on the day on which it is registered; and

(b) may be varied or revoked, or the period of the order extended, or a contravention of it dealt with, under this Act.

(2) An interim order registered in the Court under this Division –

(a) is taken to be an interim care and protection order made by the Court under section 46(1) on the day on which it is registered; and

(b) may be varied or revoked, or the period of the order extended, or a breach of it dealt with, under this Act.

(3) If an order under an interstate law to transfer a child protection proceeding to Tasmania is registered under this Part, the proceeding is taken to have been commenced in the Court on the day on which the order is registered.

77V. Revocation of registration

(1) An application for the revocation of the registration of any document filed under section 77S may be made to the Court by –

(a) the Secretary; or

(b) the child concerned; or

(c) a parent of the child concerned; or

(d) a party to the proceeding in the Children's Court in the sending State in which the decision to transfer the order or proceeding was made.

(2) The district registrar must cause a copy of an application to be served, as soon as possible, on –

(a) the relevant interstate officer; and

(b) any person by whom such an application could have been made.

(3) The Court may only revoke the registration of a document filed under section 77S if satisfied that it was inappropriately registered because, under the interstate law –

(a) the decision or order to transfer the child protection order or the order to transfer the child protection proceeding was at the time of registration subject to appeal or review or to a stay; or

(b) the time for instituting an appeal or seeking a review had not expired.

(4) The district registrar must send each document filed in the Court under section 77S to be sent to the Children's Court in the sending State if the registration of the document is revoked.

(5) The revocation of the registration of a document does not prevent the later re-registration of that document.

Division 5 – Miscellaneous

77W. Effect of registration of transferred home order

(1) On an order being registered in a participating State under an interstate law, the home order ceases to have effect.

(2) A home order that has ceased to have effect under subsection (1) is revived if the registration of the child protection order transferred from Tasmania is revoked in the participating State under the interstate law.

(3) The period for which a home order is revived is the balance of the period for which it would have remained in force but for the registration of the transferred order.

77X. Transfer of Court file

The district registrar must cause all documents filed in the Court in connection with a child protection proceeding, and an extract from any part of a register that relates to a child protection proceeding, to be sent to the Children's Court in a participating State if, under this Part –

(a) the child protection order or proceeding is transferred to the participating State; and

(b) the decision or order to transfer the child protection order or the order to transfer the child protection proceeding is not subject to appeal or review or a stay; and

(c) the time for instituting an appeal or seeking a review has expired.

77Y. Hearing and determination of transferred proceeding

In hearing and determining a child protection proceeding transferred to the Court under an interstate law, the Court –

(a) is not bound by any finding of fact made in the proceeding in the Children's Court in the sending State before its transfer; and

(b) may have regard to the transcript of, or any evidence adduced in, the proceeding referred to in paragraph (a).

77Z. Disclosure of information

Despite anything to the contrary in this Act, the Secretary may disclose to an interstate officer any information that has come to his or her notice in the performance of duties or exercise of powers under this Act if the Secretary considers that it is necessary to do so to enable the interstate officer to perform duties or exercise powers under a child welfare law or an interstate law.

77ZA. Discretion of Secretary to consent to transfer

(1) Where, under an interstate law, there is a proposal to transfer a child protection order to Tasmania, the Secretary may consent or refuse to consent to the transfer and the proposed terms of the child protection order to be transferred.

(2) Where, under an interstate law, there is a proposal to transfer a child protection proceeding to the Court, the Secretary may consent or refuse to consent to the transfer.

77ZB. Evidence of consent of relevant interstate officer

A document, or a copy of a document, purporting –

(a) to be the written consent of the relevant interstate officer to –

(i) the transfer of a child protection order to a participating State and to the proposed terms of the child protection order to be transferred; or

(ii) the transfer of a child protection proceeding pending in the Court to the Children's Court in a participating State; and

(b) to be signed by the relevant interstate officer or his or her delegate –

is admissible in evidence in any proceeding under this Part and, in the absence of evidence to

the contrary, is proof that consent in the terms appearing in the document was duly given by the relevant interstate officer.

PART 9 – FACILITATORS

Division 1 – . . . .

78 - 83. . . . .

Division 2 – . . . .

84 - 85. . . . .

Division 3 – Facilitators

86. Facilitators

(1) The Secretary may approve persons as facilitators for the purposes of this Act.

(2) A facilitator who is not a State Service officer or State Service employee is entitled to be paid such remuneration and allowances as the Secretary determines.

(3) The Secretary may withdraw approval of a person as a facilitator for any just cause or excuse.

87. Functions of facilitator

A facilitator has the following functions:

(a) to convene and facilitate a family group conference when assigned to do so by the Secretary;

(b) to consult with any person having knowledge of or experience in a particular culture if the facilitator considers it appropriate to do so;

(c) any other function imposed on facilitators by this or any other Act.

88. Guidelines for facilitator

(1) The Secretary may issue guidelines in respect of the responsibilities, functions and powers of facilitators when convening, facilitating or reporting on a family group conference and all related matters.

(2) A facilitator must comply with the guidelines.

89. Powers of facilitator

A facilitator has power to do any act necessary or convenient to be done in connection with the performance and exercise of his or her functions and powers.

90. Register of facilitators

(1) The Secretary must establish and maintain an accurate register of persons approved as facilitators.

(2) For the purposes of maintaining the register, the Secretary may –

(a) amend the register; or

(b) destroy or move to the archives the register and substitute a new register.

PART 10 – MISCELLANEOUS

Division 1 – Offences

91. Offence to fail to protect child from harm

(1) A person who has a duty of care in respect of a child must not intentionally take, or fail to take, action that could reasonably be expected to result in –

(a) the child suffering significant harm as a result of physical injury or sexual abuse; or

(b) the child suffering emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged; or

(c) the child's physical development or health being significantly harmed.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) Proceedings for an offence under subsection (1) may only be brought after consultation with the Secretary.

(3) A person may be guilty of an offence under subsection (1) even though the child was protected from harm by the action of another person.

92. Offence to leave child unattended

(1) A person who has the control or charge of a child must not leave the child without making reasonable provision for the child's supervision and care for a time which is unreasonable.

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months, or both.

(2) Proceedings for an offence under subsection (1) –

(a) must not be brought against a person who is under 16 years of age and is not the parent of the child; and

(b) may only be brought after consultation with the Secretary.

93. Public entertainment by children

(1) In this section –

entertainment includes any performance, exhibition, display, match or contest;

public entertainment means –

(a) any entertainment to which persons are admitted on payment; and

(b) any entertainment which is open to the public, whether admission to the entertainment is or is not

procured by the payment of money or on any other condition; and

(c) any entertainment or other activity, the whole or any part of which is, or is intended to be, seen or heard by the general public (whether in this State or elsewhere and whether at the time the entertainment or activity takes place or at some later time) on broadcast receivers or television receivers or by the projection of a film or video;

restricted public entertainment, in relation to a child, means a public entertainment which, or which is of a class which, the Minister has declared to be restricted public entertainment in respect of children the same age as the child.

(2) The Minister may, by order, declare any public entertainment or class of public entertainment to be restricted public entertainment in respect of children who have not attained the age, not exceeding 14 years, specified in that order in relation to that public entertainment or class of public entertainment.

(3) Without limiting subsection (1), a class of public entertainment may be determined by reference to –

(a) the nature of the entertainment; and

(b) the purpose of the entertainment; and

(c) the persons who carry on the entertainment; and

(d) the place in which, and the days or times at or during which, the entertainment is carried on.

(4) A person must not procure, induce, permit, counsel or assist a child to take part in a public entertainment which, in relation to that child, is a restricted public entertainment, except where the Secretary has given written permission for the child to take part in the public entertainment.

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months.

(5) This section does not apply in relation to a public entertainment –

(a) the net proceeds of which are devoted to the benefit of a school or to a charitable purpose; or

(b) that takes place on any premises wholly or mainly used for the purpose of conducting religious services.

(6) An order under this section is a statutory rule within the meaning of the *Rules Publication Act 1953*.

94. Trading by children in public places

(1) A person must not procure or induce a child who has not attained the age of 11 years –

(a) to offer any thing for sale in a public place; or

(b) to be in a public place with any thing for the purpose of offering that thing for sale, either in a public place or elsewhere.

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months.

(2) A person must not procure or induce a child who has not attained the age of 14 years to be in a public place between the hours of 9 p.m. of any day and 5 a.m. of the following day for the purpose of offering any thing for sale (either in that place or elsewhere).

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months.

(3) Nothing in this section prohibits the taking part by a child in any sale the net proceeds of which are devoted to the benefit of a school or a charitable purpose.

95. Offence to harbour or conceal child, &c.

Knowing that a child is absent without lawful authority or excuse from the place in which the

child has been placed or the person in whose custody the child has been placed by or under the authority of an assessment order, interim assessment order, care and protection order or interim care and protection order, a person must not –

(a) harbour or conceal, or assist in harbouring or concealing, the child; or

(b) prevent, or assist in preventing, the child from returning to that place or custody.

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months, or both.

96. Offence to remove, counsel or induce child to be absent without lawful authority, &c.

If a child has been placed in a place or in the custody of a person by or under the authority of an assessment order, interim assessment order, care and protection order or interim care and protection order, a person must not directly or indirectly –

(a) without lawful authority or excuse, withdraw the child from that place or custody; or

(b) counsel, induce or assist a child to absent himself or herself from that place or custody.

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months, or both.

97. Circumstances in which child may be taken into safe custody

(1) A magistrate may issue a warrant for the purpose of having a child taken into safe custody if the magistrate is satisfied by evidence on oath or by the affidavit of the Secretary, an employee of the Department or a police officer that –

(a) a child is absent without lawful authority or excuse from –

(i) the place in which the child has been placed; or

(ii) the person in whose custody the child has been placed –

by or under the authority of an assessment order, interim assessment order, care and protection order or interim care and protection order; and

(b) either –

(i) reasonable steps have been taken to return the child to the place in which, or the person with whom, the child was so placed and those steps have been unsuccessful; or

(ii) there are reasonable grounds for concern for the safety of the child.

(2) An application for a warrant may be made by an employee of the Department or a police officer.

(3) When acting under a warrant, the employee of the Department or police officer –

(a) may be accompanied by such police officers and employees of the Department as may be necessary or desirable; and

(b) may use such force as is reasonable.

(4) A child taken into safe custody under a warrant issued under subsection (1) must be brought before the Court as soon as practicable and, in any event, within one working day after the child was taken into safe custody.

(5) A child taken into safe custody under this section must, until the child can be brought before the Court, be placed by the person who executed the warrant –

(a) in the place specified in the warrant; or

(b) if no place is so specified, in a place determined by the Secretary.

98. Court's powers in respect of child taken into safe custody

If a child is brought before the Court under section 97, the Court may –

(a) make or vary an assessment order or interim assessment order if the child was absent from –

(i) the place in which the child was placed; or

(ii) the person in whose custody the child was placed –

by or under the authority of an assessment order or interim assessment order; and

(b) make or vary a care and protection order or an interim care and protection order if the child was absent from –

(i) the place in which the child was placed; or

(ii) the person in whose custody the child was placed –

by or under the authority of a care and protection order or interim care and protection order; and

(c) make such other orders as it considers necessary or appropriate.

99. Offences in relation to visiting child, &c.

If a child has been placed in a place or in the custody of a person by or under the authority of an assessment order, interim assessment order, care and protection order or interim care and protection order, a person must not without lawful authority or excuse –

(a) enter the place in which the child has been placed or is being accommodated; or

(b) convey to or cause to be conveyed to the child any article or thing in contravention of the regulations; or

(c) lurk or loiter about the place in which the child has been placed or is being accommodated for a purpose specified in paragraph (a) or (b).

Penalty: Fine not exceeding 15 penalty units or imprisonment for a term not exceeding 3 months, or both.

100. Hindering a person in execution of duty

(1) A person must not hinder or obstruct the Secretary, a police officer or any other person in the performance or exercise of a function or power under this Act.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A police officer may arrest without warrant a person who he or she has reasonable grounds for believing is hindering or obstructing the Secretary, a police officer or another person in the performance or exercise of a function or power under this Act.

101. Failure to answer question or provide report or information

(1) A person must not fail to answer a question or provide a report or information if so required –

(a) by an assessment order; or

(b) by an interim assessment order; or

(c) by the Secretary under the authority of an assessment order or interim assessment order; or

(d) otherwise under this Act.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months, or both.

(2) Despite subsection (1), a person is not required to answer a question or provide a report or information if to do so would –

(a) provide information that is privileged on the ground of legal professional privilege; or

(b) incriminate the person of an offence.

(3) . . . .

101A. Legal and professional immunity for disclosures, &c., made in good faith

(1) This section applies if a person –

(a) answers a question or provides a report or information as required –

(i) by an assessment order; or

(ii) by an interim assessment order; or

(iii) by the Secretary under the authority of an assessment order or interim assessment order; or

(iv) otherwise under this Act; or

(b) provides a voluntary risk notification.

(2) In so far as the person answers the question or provides the report, information or voluntary risk notification in good faith –

(a) the person does not thereby incur any civil or criminal liability; and

(b) the person cannot be held to have thereby breached any code of professional etiquette or ethics, or to have departed from any accepted standard of professional conduct or to have contravened any Act.

(3) In this section –

voluntary risk notification means a notification referred to in paragraph (a) of the definition of *risk notification* in section 3(1).

102. False or misleading statement

When answering a question or providing information under an order made under this Act, when required to do so by the Secretary under the authority of an order made under this Act or otherwise under this Act, a person must not make a statement or provide information that the person knows or has reasonable grounds for believing is false or misleading in a material particular except where the person also states to the questioner or the person to whom the information is provided that the person knows or believes the answer or information to be false or misleading.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

103. Duty to maintain confidentiality

(1) A person engaged in the administration of this Act who, in the course of that administration, obtains personal information relating to –

(a) a child; or

(b) a guardian of a child; or

(c) a family member of a child; or

(d) any person alleged to have abused, neglected or threatened a child –

must not divulge that information.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person who attends a family group conference must not divulge any personal information obtained at the conference relating to the child, his or her guardian or a member of the child's family.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) This section does not prevent a person –

(a) from divulging information if authorised or required to do so by law; or

(b) from divulging statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates; or

(c) engaged in the administration of this Act from divulging information if it is necessary or appropriate to do so for the proper administration of this Act.

Division 2 – General provisions

104. Power of police officer to enforce order by removing child

(1) For the purposes of enforcing any order of the Court, an authorised police officer may, after obtaining a warrant, remove from any place a child who is under the guardianship, or in the custody, of any person (including the Secretary) using such force (including breaking into premises) as is reasonably necessary for that purpose.

(2) A magistrate may issue a warrant for the purposes of subsection (1) if the magistrate is satisfied that –

(a) reasonable steps have been taken to remove the child without a warrant and without using force and those steps have been unsuccessful; or

(b) there are reasonable grounds for concern for the safety of the child.

105. Officers must produce evidence of authority

An employee of the Department authorised to exercise powers under this Act must, before exercising those powers in relation to a person, produce evidence of that authority to the person.

Penalty: Fine not exceeding 10 penalty units.

106. Declaration of recognised Aboriginal organisation

(1) After consulting with the Aboriginal community or a section of the Aboriginal community, the Minister may declare an organisation to be a recognised Aboriginal organisation or may vary or revoke such a declaration.

(2) A declaration, or the variation or revocation of a declaration, is to be made by notice published in the *Gazette*.

107. Warrants

Schedule 4 has effect with respect to warrants under this Act.

108. Evidentiary matters

A statement in an application to the Court by the Secretary, or a report provided to the Court, under this Act to the effect that –

(a) a child is the child of the person specified in the application or report; or

(b) the person specified in the application or report is the parent or guardian of a child; or

(c) the person specified in the application or report is an employee of the Department, a facilitator or the Secretary –

is evidence of that fact.

109. Limit on prosecuting

Proceedings for an offence against this Act may be commenced within 2 years after the occurrence of the act or omission which constitutes the subject of the offence.

110. Delegation by Minister and Secretary

(1) The Minister may delegate any of his or her functions and powers under this Act, other than this power of delegation.

(2) The Secretary may delegate any of his or her functions and powers under this Act, other than this power of delegation.

(3) . . . .

110A. Department may provide support

The Department may offer, arrange, promote or facilitate education programs, support services and referrals that are in the interests and welfare of children whether born or unborn.

111. Protection from liability

(1) A person engaged in the administration of this Act does not incur any personal liability in respect of any act done, or omitted, in good faith in the performance or exercise, or purported performance or exercise, of a function or power under this Act.

(2) A liability that would, but for subsection (1), attach to a person attaches to the Crown.

111A. Access to information under *Right to Information Act 2009*

(1) The Secretary or Community-Based Intake Service must not provide information under the *Right to Information Act 2009* if the information has been provided under this Act to the Secretary or Community-Based Intake Service by an information-sharing entity.

(2) Nothing in this section prevents a person from requesting, under the *Right to Information Act 2009*, an information-sharing entity that has provided information to the Secretary or a Community-Based Intake Service to provide that information to the person.

111B. Application of *Personal Information Protection Act 2004*

(1) The *Personal Information Protection Act 2004* applies to information received and provided under this Act to the extent that it is not inconsistent with the provisions of this Act.

(2) A Community-Based Intake Service is a personal information custodian for the purposes of the *Personal Information Protection Act 2004*.

112. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide for fees payable under this Act.

(3) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

(4) The regulations may –

(a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 1 penalty unit for each day during which the offence continues.

(5) The regulations may exempt a person from compliance with or the effect of all or any of the regulations.

(6) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.

(7) The regulations may adopt –

(a) wholly or in part; and

(b) with or without modification; and

(c) specifically or by reference –

any standards, rules, codes and specifications, whether those standards, rules, codes or specifications are published or issued before or after the commencement of this Act.

(8) A reference in subsection (7) to standards, rules, codes or specifications includes a reference to an amendment of those standards, rules, codes or specifications whether the amendment is published or issued before or after the commencement of this Act.

113. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Minister for Community and Health Services; and

(b) the Department responsible to the Minister for Community and Health Services in relation to the administration of this Act is the Department of Community and Health Services.

SCHEDULE 1 – . . . .

SCHEDULE 2 – . . . .

SCHEDULE 3 – . . . .

SCHEDULE 4 – WARRANTS

Section 107

1. Application for warrant

(1) An application for a warrant under section 19, 20, 97 or 104 may be made in person or by telephone.

(2) An application for a warrant must not be made by telephone unless the applicant is of the opinion that the warrant is urgently required and there is insufficient time to make the application in person.

(3) The following provisions apply in relation to an application made by telephone:

(a) the applicant must inform the magistrate of his or her name and rank or position in the Department and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant has the authority to make the application;

(b) the applicant must inform the magistrate of the grounds on which the issue of the warrant is sought.

2. Issue of warrant on personal application

If a police officer or authorised officer applies in person for a warrant, the magistrate may issue a warrant for the purposes of section 19, 20, 97 or

104 if satisfied on information given on oath, personally or by affidavit that there are reasonable grounds for the issue of the warrant.

3. Issue of warrant on application by telephone

(1) If a police officer or authorised officer applies by telephone for a warrant, the magistrate may issue a warrant for the purposes of section 19, 20, 97 or 104 if it appears to the magistrate from the information provided by the applicant that there are proper grounds for the issue of the warrant.

(2) When issuing a warrant under subclause (1), the magistrate –

(a) must inform the applicant of the facts that, in the opinion of the magistrate, justify the issue of the warrant; and

(b) must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and

(c) must record in writing –

(i) the name and rank or position in the Department of the applicant; and

(ii) the address or description of the premises or place to which the warrant relates; and

(iii) the facts that justify, in his or her opinion, the issue of the warrant; and

(iv) the date and time the warrant was issued; and

(d) must sign that record or a copy of the record and file it, or that copy, and any supporting affidavit with the Court.

(3) The warrant is issued when its terms are communicated by the magistrate to the applicant.

(4) The applicant for the warrant must –

(a) record in writing the name of the magistrate who issued the warrant and the information specified in subclause (2)(c); and

(b) as soon as reasonably practicable after the issue of the warrant, provide the magistrate with an affidavit in accordance with his or her undertaking made under subclause (2)(b).

(5) The record made by an applicant under subclause (4)(a) is taken to be a warrant.

3A. Revocation of warrant before execution

(1) At any time before a warrant issued under section 97 or 104 is executed, the Secretary, an employee of the Department, a police officer or a guardian of a child in respect of which the warrant is issued may apply to a magistrate, whether or not the warrant was issued by that magistrate or another magistrate, for the revocation of the warrant.

(2) A magistrate may revoke a warrant issued under section 97 or 104 if satisfied that –

(a) the warrant has not been executed; and

(b) the grounds on which the warrant was issued no longer exist.

(3) An application may be made in person or, if made by the Secretary, an employee of the Department or a police officer, by telephone.

(4) A magistrate may only revoke a warrant if satisfied of the matters specified in subclause (2) –

(a) if the application is made in person, on information given on oath personally or by affidavit; or

(b) if the application is made by telephone, on information given by telephone.

(5) When revoking a warrant on an application by telephone, the magistrate –

(a) must inform the applicant of the facts that, in the opinion of the magistrate, justify the revocation of the warrant; and

(b) must not proceed to revoke the warrant unless the applicant undertakes to make an affidavit verifying those facts; and

(c) must record in writing –

(i) the name and rank or position in the Department of the applicant; and

(ii) the address or description of the premises or place to which the warrant relates; and

(iii) the facts that justify, in his or her opinion, the issue of the warrant; and

(iv) the date and time the warrant is revoked; and

(d) must sign that record or a copy of that record and file the signed record or copy, and any supporting affidavit, with the Court.

(6) If the applicant for the revocation of a warrant applies by telephone –

(a) the applicant must –

(i) record in writing the name of the magistrate who revoked the warrant and the information specified in subclause (5)(c); and

(ii) as soon as reasonably practicable after the magistrate revokes the warrant, provide the magistrate with an affidavit in accordance with his or her undertaking made under subclause (5)(b); and

(b) the record made by the applicant under paragraph (a)(i) is taken to be a revocation of the warrant issued by the magistrate.

(7) A warrant is revoked –

(a) in the case of an application made in person, when the magistrate issues the revocation of the warrant; or

(b) in the case of an application made by telephone, when the magistrate communicates the terms of the revocation of the warrant to the applicant.

(8) An application for the revocation of a warrant does not stay the warrant.

(9) If, before the application for the revocation of a warrant is determined, the warrant is executed, the application is taken to have been withdrawn.

4. Protection from liability

A person who provides an affidavit for the purposes of clause 2 or 3 does not incur any civil liability in doing so if he or she acts in good faith.

NOTES

The foregoing text of the *Children, Young Persons and Their Families Act 1997* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 2 October 2019 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
Children, Young Persons and Their Families Act 1997	No. 28 of 1997	1.7.2000
Children, Young Persons and Their Families Amendment (Interstate Registration of Care and Protection Order) Act 1999	No. 78 of 1999	1.7.2000
Statutory Holidays (Consequential Amendments) Act 2000	No. 82 of 2000	13.12.2000
Superannuation (Miscellaneous and Consequential Amendments) Act 2000	No. 103 of 2000	13.12.2000
State Service (Consequential and Miscellaneous Amendments) Act 2000	No. 86 of 2000	1.5.2001
Dental Practitioners Registration Act 2001	No. 20 of 2001	3.10.2001
Statute Law Revision Act 2003	No. 9 of 2003	16.4.2003
Child Care Act 2001	No. 62 of 2001	1.9.2003
Relationships (Consequential Amendments) Act 2003	No. 45 of 2003	1.1.2004
Police Service (Consequential Amendments) Act 2003	No. 76 of 2003	1.1.2004
Family Violence Act 2004	No. 67 of 2004	30.3.2005
Aboriginal Lands Amendment Act (No. 2) 2005	No. 25 of 2005	21.7.2005
Public Sector Superannuation (Miscellaneous Amendments) Act 2005	No. 65 of 2005	15.12.2005
Legal Profession (Miscellaneous and Consequential Amendments) Act 2007	No. 66 of 2007	31.12.2008

Act	Number and year	Date of commencement
Education and Training (Further Consequential Amendments) Act 2008	No. 45 of 2008	1.1.2009
Children, Young Persons and Their Families Amendment Act 2009	No. 22 of 2009	1.8.2009
Right to Information (Consequential and Transitional) Act 2009	No. 54 of 2009	1.7.2010
Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Act 2010	No. 3 of 2010	1.7.2010
Children, Young Persons and Their Families Amendment Act 2011	No. 15 of 2011	28.6.2011
Disability Services Act 2011	No. 27 of 2011	1.1.2012
Education and Care Services National Law (Application) (Consequential Amendments) Act 2011	No. 39 of 2011	1.1.2012
Training and Workforce Development (Repeals and Consequential Amendments) Act 2013	No. 11 of 2013	1.7.2013
Children, Young Persons and Their Families Amendment Act 2013	No. 64 of 2013	18.12.2013
Mental Health (Transitional and Consequential Provisions) Act 2013	No. 69 of 2013	17.2.2014
Children, Young Persons and Their Families Amendment Act 2013	No. 64 of 2013	1.7.2016
Commissioner for Children and Young People Act 2016	No. 2 of 2016	1.7.2016
Children, Young Persons and Their Families Amendment Act 2013	No. 64 of 2013	1.10.2016
Education (Consequential Amendments) Act 2016	No. 47 of 2016	10.7.2017
Children, Young Persons and Their Families Amendment Act 2013	No. 64 of 2013	28.2.2018
Financial Management (Consequential and Transitional Provisions) Act 2017	No. 4 of 2017	1.7.2019
Criminal Code and Related Legislation Amendment (Child Abuse) Act 2019	No. 29 of 2019	2.10.2019
Children, Young Persons and Their Families Amendment Act 2013	No. 64 of 2013	not commenced (ss. 4(c), 7, 11, 17(a) & (c), 19(a), 24, 36, 37, 39)

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 82 of 2000, Sched. 1, No. 86 of 2000, Sched. 1, No. 45 of 2003, Sched. 1, No. 76 of 2003, Sched. 1, No. 25 of 2005, s. 20, No. 22 of 2009, s. 4, No. 15 of 2011, s. 4, No. 27 of 2011, s. 57, No. 64 of 2013, s. 4, No. 69 of 2013, Sched. 1 and No. 2 of 2016, Sched. 4
Section 4	Substituted by No. 78 of 1999, s. 4
	Amended by No. 67 of 2004, Sched. 1 and No. 45 of 2008, Sched. 1
Section 7	Substituted by No. 64 of 2013, s. 5
Section 8	Substituted by No. 64 of 2013, s. 5
Section 9	Repealed by No. 64 of 2013, s. 5
Section 10A	Inserted by No. 64 of 2013, s. 6
Section 10B	Inserted by No. 64 of 2013, s. 6
Section 10C	Inserted by No. 64 of 2013, s. 6
Section 10D	Inserted by No. 64 of 2013, s. 6
Section 10E	Inserted by No. 64 of 2013, s. 6
Section 10F	Inserted by No. 64 of 2013, s. 6
Section 10G	Inserted by No. 64 of 2013, s. 6
Section 12	Amended by No. 64 of 2013, s. 8
Section 13	Amended by No. 22 of 2009, s. 5
Section 14	Amended by No. 20 of 2001, Sched. 6, No. 62 of 2001, Sched. 2, No. 9 of 2003, Sched. 1, No. 76 of 2003, Sched. 1, No. 67 of 2004, Sched. 1, No. 22 of 2009, s. 6, No. 3 of 2010, Sched. 1, No. 39 of 2011, s. 13 and No. 29 of 2019, s. 4
Section 15	Substituted by No. 22 of 2009, s. 7
	Repealed by No. 15 of 2011, s. 5
Section 16	Amended by No. 22 of 2009, s. 8, No. 54 of 2009, Sched. 1, No. 15 of 2011, s. 6 and No. 29 of 2019, s. 5
Section 17	Substituted by No. 22 of 2009, s. 9
	Amended by No. 15 of 2011, s. 7
Section 17A	Inserted by No. 22 of 2009, s. 9
	Amended by No. 15 of 2011, s. 8
Section 18	Amended by No. 22 of 2009, s. 11 and No. 15 of 2011, s. 9
Section 19	Amended by No. 64 of 2013, s. 9
Section 22	Amended by No. 64 of 2013, s. 10
Section 30	Amended by No. 64 of 2013, s. 12
Section 31	Amended by No. 64 of 2013, s. 13
Section 32	Amended by No. 45 of 2008, Sched. 1, No. 11 of 2013, Sched. 1, No. 64 of 2013, s. 14 and No. 47 of 2016, s. 7
Section 36	Amended by No. 64 of 2013, s. 15
Section 40	Amended by No. 54 of 2009, Sched. 1
Section 41	Amended by No. 64 of 2013, s. 16
Section 42	Amended by No. 22 of 2009, s. 12 and No. 64 of 2013, s.

Provision affected	How affected
	17
Section 42A	Inserted by No. 64 of 2013, s. 18
Section 44	Amended by No. 64 of 2013, s. 19
Section 45	Amended by No. 64 of 2013, s. 20
Section 46	Amended by No. 64 of 2013, s. 21
Section 48	Amended by No. 22 of 2009, s. 13 and No. 64 of 2013, s. 22
Section 49	Amended by No. 22 of 2009, s. 14 and No. 64 of 2013, s. 23
Section 53A	Inserted by No. 22 of 2009, s. 15
Section 53B	Inserted by No. 22 of 2009, s. 15
Section 53C	Inserted by No. 22 of 2009, s. 15
Section 53D	Inserted by No. 22 of 2009, s. 15
Section 53E	Inserted by No. 22 of 2009, s. 15
Section 53F	Inserted by No. 22 of 2009, s. 15
Section 54	Amended by No. 64 of 2013, s. 25
Section 55	Repealed by No. 64 of 2013, s. 26
Section 56	Amended by No. 66 of 2007, Sched. 1
Section 57	Amended by No. 64 of 2013, s. 27
Section 58	Amended by No. 64 of 2013, s. 28
Section 59	Amended by No. 66 of 2007, Sched. 1
Section 63	Substituted by No. 64 of 2013, s. 29
Section 69	Amended by No. 15 of 2011, s. 10 and No. 64 of 2013, s. 30
Section 70	Amended by No. 64 of 2013, s. 31
Section 71	Amended by No. 22 of 2009, s. 16 and No. 64 of 2013, s. 32
Section 72	Amended by No. 4 of 2017, Sched. 1
Section 74	Amended by No. 9 of 2003, Sched. 1
Part 8	Substituted by No. 78 of 1999, s. 5
Division 1 of Part 8	Inserted by No. 78 of 1999, s. 5
Section 76	Substituted by No. 78 of 1999, s. 5
Division 2 of Part 8	Inserted by No. 78 of 1999, s. 5
Subdivision 1 of Division 2 of Part 8	Amended by No. 78 of 1999, s. 5
Section 77	Substituted by No. 78 of 1999, s. 5
Subdivision 2 of Division 2 of Part 8	Amended by No. 78 of 1999, s. 5
Section 77A	Inserted by No. 78 of 1999, s. 5
Section 77B	Inserted by No. 78 of 1999, s. 5
Section 77C	Inserted by No. 78 of 1999, s. 5
Section 77D	Inserted by No. 78 of 1999, s. 5
Section 77E	Inserted by No. 78 of 1999, s. 5
Section 77F	Inserted by No. 78 of 1999, s. 5

Provision affected	How affected
Subdivision 3 of Division 2 of Part 8	Amended by No. 78 of 1999, s. 5
Section 77G	Inserted by No. 78 of 1999, s. 5
Section 77H	Inserted by No. 78 of 1999, s. 5
Section 77I	Inserted by No. 78 of 1999, s. 5
Section 77J	Inserted by No. 78 of 1999, s. 5
Section 77K	Inserted by No. 78 of 1999, s. 5
Section 77L	Inserted by No. 78 of 1999, s. 5
Section 77M	Inserted by No. 78 of 1999, s. 5
Division 3 of Part 8	Inserted by No. 78 of 1999, s. 5
Section 77N	Inserted by No. 78 of 1999, s. 5
Section 77O	Inserted by No. 78 of 1999, s. 5 Amended by No. 64 of 2013, s. 33
Section 77P	Inserted by No. 78 of 1999, s. 5
Section 77Q	Inserted by No. 78 of 1999, s. 5
Section 77R	Inserted by No. 78 of 1999, s. 5
Division 4 of Part 8	Inserted by No. 78 of 1999, s. 5
Section 77S	Inserted by No. 78 of 1999, s. 5
Section 77T	Inserted by No. 78 of 1999, s. 5
Section 77U	Inserted by No. 78 of 1999, s. 5
Section 77V	Inserted by No. 78 of 1999, s. 5
Division 5 of Part 8	Inserted by No. 78 of 1999, s. 5
Section 77W	Inserted by No. 78 of 1999, s. 5
Section 77X	Inserted by No. 78 of 1999, s. 5
Section 77Y	Inserted by No. 78 of 1999, s. 5
Section 77Z	Inserted by No. 78 of 1999, s. 5
Section 77ZA	Inserted by No. 78 of 1999, s. 5
Section 77ZB	Inserted by No. 78 of 1999, s. 5
Division 1 of Part 9	Repealed by No. 2 of 2016, Sched. 4
Section 78	Subsection (1A) inserted by No. 86 of 2000, Sched. 1 Repealed by No. 2 of 2016, Sched. 4
Section 79	Amended by No. 22 of 2009, s. 17 Repealed by No. 2 of 2016, Sched. 4
Section 80	Repealed by No. 2 of 2016, Sched. 4
Section 81	Repealed by No. 2 of 2016, Sched. 4
Section 82	Repealed by No. 2 of 2016, Sched. 4
Section 83	Repealed by No. 2 of 2016, Sched. 4
Division 2 of Part 9	Repealed by No. 64 of 2013, s. 35
Section 84	Repealed by No. 64 of 2013, s. 35
Section 85	Repealed by No. 64 of 2013, s. 35
Section 86	Amended by No. 86 of 2000, Sched. 1
Section 97	Amended by No. 64 of 2013, s. 38

Provision affected	How affected
Section 101	Amended by No. 15 of 2011, s. 11
Section 101A	Inserted by No. 15 of 2011, s. 12
Section 104	Substituted by No. 64 of 2013, s. 40
Section 110	Amended by No. 2 of 2016, Sched. 4
Section 110A	Inserted by No. 22 of 2009, s. 18
Section 111A	Inserted by No. 22 of 2009, s. 19
	Amended by No. 64 of 2013, s. 41
Section 111B	Inserted by No. 22 of 2009, s. 19
Schedule 1	Amended by No. 86 of 2000, Sched. 1, No. 103 of 2000, Sched. 1, No. 65 of 2005, Sched. 1, No. 64 of 2013, s. 42
	Repealed by No. 2 of 2016, Sched. 4
Schedule 2	Amended by No. 86 of 2000, Sched. 1
	Repealed by No. 2 of 2016, Sched. 4
Schedule 3	Repealed by No. 64 of 2013, s. 43
Part 1 of Schedule 3	Amended by No. 64 of 2013, s. 43
Part 2 of Schedule 3	Amended by No. 86 of 2000, Sched. 1 and No. 64 of 2013, s. 43
Part 3 of Schedule 3	Amended by No. 9 of 2003, Sched. 1 and No. 64 of 2013, s. 43
Schedule 4	Amended by No. 64 of 2013, s. 44