



Australian Capital Territory

Children and Young People (Consequential Amendments) Act 2008

A2008-20

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Australian Capital Territory

Children and Young People (Consequential Amendments) Act 2008

A2008-20

An Act to amend legislation because of the enactment of the *Children and Young People Act 2008*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Children and Young People (Consequential Amendments) Act 2008*.

2 Commencement

- (1) Section 3 and section 4 commence on the day after this Act's notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) Schedule 1, part 1.1 commences immediately after the commencement of the *Children and Young People Act 2008*, section 2.
- (3) Schedule 2 and schedule 5, part 5.1 commence on the commencement of the *Children and Young People Act 2008*, chapter 4.
- (4) Schedule 3 and schedule 5, part 5.2 commence on the commencement of the *Children and Young People Act 2008*, chapter 10.
- (5) Schedule 1, parts 1.2, 1.3, 1.4 and 1.5, schedule 4 and schedule 5, part 5.3 commence on the commencement of the *Children and Young People Act 2008*, chapter 20.

3 Legislation amended—schs 1–4

This Act amends the legislation mentioned in schedules 1 to 4.

4 Legislation repealed—sch 5

This Act repeals the legislation mentioned in schedule 5.

Schedule 1 Consequential amendments— transitional provisions

(see s 3)

Part 1.1 Children and Young People Act 2008

[1.1] New chapter 27

insert

Chapter 27 Transitional

Part 27.1 General

890 Meaning of *repealed Act*—pt 27.1

In this part:

repealed Act means the *Children and Young People Act 1999*.

891 Construction of outdated references

- (1) In any Act, instrument made under an Act or a document, a reference to the repealed Act is, in relation to anything to which this Act applies, a reference to this Act.
- (2) In any Act, instrument made under an Act or a document, a reference to a provision of the repealed Act is, in relation to anything to which this Act applies, a reference to the corresponding provision of this Act.

- (3) In any Act, instrument made under an Act or a document, a reference to anything that is no longer applicable because of the repeal or amendment of the repealed Act by this Act and for which there is a corresponding thing under this Act, is taken to be a reference to the corresponding thing under this Act, if the context allows and if otherwise appropriate.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

892 Procedural changes—applications under repealed Act

- (1) This section applies if an application made under the repealed Act (the *earlier application*) is, under this chapter, taken to be an application made under this Act.
- (2) If the earlier application is for an order that does not precisely correspond to an order for which an application may be made under this Act, the earlier application is taken to be for an order the terms of which most closely correspond to the order applied for in the earlier application.
- (3) If a procedural order has been made in relation to the earlier application, or a procedure has been followed in relation to the earlier application—
- (a) the order or procedure is taken to be in accordance with this Act; and
 - (b) when the application next comes before the court, the court may give the directions or make the orders in relation to the procedure that it could make in relation to an application under this Act.
- (4) If—
- (a) under this Act the earlier application would be required to be given to a person (the *relevant person*); and

- (b) under the repealed Act the relevant person was not required to be given a copy of the application, and the person was not given a copy;

when the proceeding comes before the court, the court—

- (c) must decide whether the relevant person should be given a copy of the application; and
- (d) may dispense with the requirement without affecting the validity of an order made on the application.

893 **References to orders in force immediately before commencement day**

- (1) A reference in this chapter to an order in force under the repealed Act immediately before the commencement day includes a reference to an order that—
- (a) was in force under the *Children's Services Act 1986* immediately before the commencement of the repealed Act; and
- (b) was taken to be an order under the repealed Act because of the operation of the repealed Act, chapter 17 (Transitional provisions); and
- (c) is in force immediately before the commencement day.
- (2) In this section:
- commencement day*** means the commencement day that applies to the provision in which the reference to the order appears.

894 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

895 Expiry—ch 27

- (1) This chapter expires 5 years after the day it commences.
- (2) This chapter, other than sections 894, 900, 924, part 27.3, part 27.5 and section 970, is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Part 27.2 Care and protection matters

896 Definitions—pt 27.2

In this part:

commencement day means the day the care and protection chapters commence.

repealed Act means the *Children and Young People Act 1999*, as in force immediately before the commencement day.

897 Parental responsibility generally

To remove any doubt, a person who, immediately before the commencement day, has parental responsibility for a child or young person under the repealed Act, section 18 (Who has parental responsibility?) because a court order is in force in relation to the child or young person in favour of the person, continues to have parental responsibility for the child or young person for the purposes of this Act, division 1.3.2 (Parental responsibility) while the court order is in force.

Note For parental responsibility following emergency action, see s 923 (Emergency action). For the exercise of parental responsibility on behalf of the chief executive, see s 898 and s 899.

898 Agreement for exercise of general parental responsibility—in force before commencement day

- (1) This section applies if—
 - (a) before the commencement day, the chief executive entered into an agreement with a carer under the repealed Act, section 30 (1) (Power to enter agreements for general exercise of parental responsibility) to exercise daily care responsibility or long-term care responsibility for any child or young person for whom the chief executive has the responsibility; and
 - (b) immediately before the commencement day, the agreement is in force.
- (2) On and after the commencement day—
 - (a) if the carer is an individual—the agreement is taken to be an authorisation by the chief executive to the carer to exercise the responsibility under this Act, section 519 (Authorisation of foster carer—general parental authority); and

- (b) if the carer is a body other than a foster care service—the agreement is taken to be an authorisation by the chief executive to the carer to exercise the responsibility under this Act, section 520 (Authorisation of residential care service—general parental authority); and
- (c) if the carer is a foster care service—the agreement is taken to be an authorisation by the chief executive of the carer as a foster care service under this Act, section 517 (Authorisation of foster care service).

899 Authority to exercise parental responsibility for particular child or young person—in force before commencement day

- (1) This section applies if—
 - (a) before the commencement day, the chief executive has authorised a carer, or a member of kin of a child or young person, under the repealed Act, section 31 (1) (Authorisation to exercise parental responsibility for particular child or young person) to exercise parental responsibility for a child or young person on behalf of the chief executive; and
 - (b) immediately before the commencement day, the authorisation is in force.
- (2) On and after the commencement day, the authorisation is taken to be—
 - (a) for an authorisation to a member of kin of a child or young person—an authorisation to exercise the responsibility for the chief executive under this Act, section 516 (Authorisation of kinship carer—specific parental authority); and

- (b) for an authorisation to a carer—an authorisation to exercise the responsibility for the chief executive under this Act, section 518 (Authorisation of foster carer—specific parental authority).

900 Official visitor—continued appointment

- (1) The appointment of a person as an official visitor under the repealed Act, section 41 (2) (Official visitor) that is in force immediately before the commencement day is taken to be an appointment under this Act, section 38 and continues in force for 6 months starting on the commencement day unless earlier ended.
- (2) This section expires 6 months after the day it commences.

901 Official visitor—unfinished complaints

- (1) This section applies if—
 - (a) before the commencement day, a child or young person has made a complaint to the official visitor under the repealed Act, section 43 (Making and hearing complaints); and
 - (b) immediately before the commencement day, the hearing of the complaint has not been finalised.
- (2) The complaint is taken to be a complaint made by the child or young person under this Act, section 44 (Complaints to official visitors).

902 Suitable entities

An entity that, immediately before the commencement day, is appointed, engaged, employed or authorised by the chief executive to provide services for a child or young person in accordance with the repealed Act, section 47 (Suitable entities) is taken to be approved as a suitable entity by the chief executive under this Act, section 63 (Chief executive may approve suitable entity for purpose) for the purpose for which the entity was appointed, engaged, employed or authorised.

903 Family group conference agreement—unfinished applications for registration

- (1) This section applies if—
 - (a) before the commencement day, the chief executive has applied to the Childrens Court for the registration of a family group conference agreement under the repealed Act, section 175 (Application for registration); and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application made by the chief executive under this Act, section 390 (2) (Registered family group conference agreement—application).

904 Family group conference agreement—in force before commencement day

- (1) This section applies if, immediately before the commencement day, an agreement about arrangements for securing the care and protection of a child or young person is in force under the repealed Act, section 172 (Agreements arising from conferences).

- (2) On and after the commencement day, the family group conference agreement is taken to be, in accordance with its terms, a family group conference agreement entered into under this Act, chapter 3 (Family group conferences).

905 Registered family group conference agreement—in force before commencement day

- (1) This section applies if—
- (a) before the commencement day, an agreement about arrangements for securing the care and protection of a child or young person under the repealed Act, section 172 has been registered by the Childrens Court under the repealed Act, section 176 (Registration of agreements); and
 - (b) immediately before the commencement day, the agreement is in force for the child or young person.
- (2) On and after the commencement day, the family group conference agreement is taken to be, in accordance with its terms, a family group conference agreement entered into under this Act, chapter 3 and registered in accordance with this Act, part 12.2 (Registration of family group conference agreements that transfer or share parental responsibility).

Example

the chief executive must implement the arrangements in the agreement in a way that complies with the family group conference standards (see s 90)

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

906 Voluntary care agreement—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a voluntary care agreement entered into under the repealed Act, section 182 (Voluntary care agreements) is in force for a child or young person.
- (2) On and after the commencement day, the voluntary care agreement is taken to be, in accordance with its terms, a voluntary care agreement entered into under this Act, part 12.3 (Voluntary agreement to share parental responsibility with chief executive).

907 Short care and protection order—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, the chief executive or another person has applied to the Childrens Court under the repealed Act, section 195 (Basis for orders) for a short care and protection order (other than a therapeutic protection order) in relation to a child or young person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.

Note **Short care and protection order** means an assessment order or a contact order, residence order, therapeutic protection order or specific issues order (see repealed Act, s 194).

- (2) The application is taken to be an application for a care and protection order—
 - (a) for an application by the chief executive—made by the chief executive under this Act, section 424 (Care and protection order—application by chief executive); and
 - (b) for an application by someone else—made by the person under this Act, section 425 (Care and protection order—application by others).

908 Final care and protection order—unfinished applications

- (1) This section applies if—
- (a) before the commencement day, the chief executive or another person has applied to the Childrens Court under the repealed Act, section 195 (Basis for orders) for a final care and protection order (other than a therapeutic protection order) in relation to a child or young person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.

Note **Final care and protection order** means an order under the repealed Act, div 7.3.7 (other than a protection order or interim order), or a contact order, residence order or therapeutic protection order made as a final care and protection order (see repealed Act, s 194).

- (2) The application is taken to be an application for a care and protection order—
- (a) for an application by the chief executive—made by the chief executive under this Act, section 424 (Care and protection order—application by chief executive); and
 - (b) for an application by someone else—made by the person under this Act, section 425 (Care and protection order—application by others).

909 Therapeutic protection order—unfinished applications

- (1) This section applies if—
- (a) before the commencement day, an application has been made to the Childrens Court under the repealed Act, section 195 (Basis for orders) for a therapeutic care and protection order in relation to a child or young person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.

- (2) The application is taken to be an application made by the chief executive under this Act, section 539 (2) (Therapeutic protection order—application by chief executive).
- (3) However, subsection (2) applies to the application only if the application under the repealed Act was made by the chief executive.

910 Short care and protection order—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a short care and protection order under the repealed Act, division 7.3.2 (Short care and protection orders) is in force for a child or young person.
- (2) On and after the commencement day, the order is taken to be, in accordance with its terms—
 - (a) for a short care and protection order that is a specific issues order under the repealed Act, section 194 (Definitions for ch 7)—
 - (i) if the order relates to a person’s drug use—a care and protection order with a drug use provision under this Act, section 464 (2) (b) (Care and protection order—criteria for making); and
 - (ii) otherwise—a care and protection order with a specific issues provision under section 464 (2) (h); and
 - (b) for a short care and protection order that is a contact order under the repealed Act, section 206 (2) (Contact orders)—a care and protection order with a contact provision; and
 - (c) for a short care and protection order that is a residence order under the repealed Act, section 207 (Residence orders)—a care and protection order with a residence provision; and

- (d) for a short care and protection order that is an assessment order under the repealed Act, section 217 (2) (Assessment orders)—an assessment order; and
 - (e) for a short care and protection order that is a therapeutic protection order under the repealed Act, section 235 (Therapeutic protection orders)—a therapeutic protection order.
- (3) A short care and protection order that is taken to be an order under this section ends when it would have ended if the repealed Act had not been repealed unless it is revoked sooner.

911 Care and protection orders—unfinished cross-applications

- (1) This section applies if—
- (a) before the commencement day, a party to a proceeding for a care and protection order has made a cross-application under the repealed Act, section 201 (Cross-applications for care and protection orders); and
 - (b) immediately before the commencement day, the Childrens Court has not decided the cross-application.
- (2) The application is taken to be an application by the party under this Act, section 428 (Care and protection order—cross-application for different provisions).

912 Interim care and protection orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, an interim care and protection order (other than an interim therapeutic protection order) under the repealed Act, section 203 (Interim care and protection orders) is in force for a child or young person.

- (2) On and after the commencement day, the interim care and protection order is taken to be, in accordance with its terms, an interim care and protection order under this Act, section 433 (2) (Interim matters—interim care and protection orders).

913 Interim therapeutic protection orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, an interim care and protection order that is a therapeutic protection order under the repealed Act, section 203 (Interim care and protection orders) is in force for a child or young person.
- (2) On and after the commencement day, the interim care and protection order is taken to be, in accordance with its terms, an interim therapeutic protection order under this Act, section 544 (Interim therapeutic protection order—criteria for making).

914 Interim protection orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, an interim protection order under the repealed Act, section 205 (When Childrens Court may make interim protection order) is in force for a child or young person.
- (2) On and after the commencement day, the interim protection order is taken to be, in accordance with its terms, a DVPO interim protection order under this Act, section 459 (DVPO interim protection orders).

915 Final protection orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a final protection order under the repealed Act, section 205A (When Childrens Court may make final protection order) is in force for a child or young person.

- (2) On and after the commencement day, the final protection order is taken to be, in accordance with its terms, a DVPO final protection order under this Act, section 460 (DVPO final protection orders).

916 Contact orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a contact order under the repealed Act, section 206 (Contact orders) is in force for a child or young person.
- (2) On and after the commencement day, the contact order is taken to be, in accordance with its terms, a care and protection order with a contact provision under this Act, section 464 (2) (Care and protection order—criteria for making).

917 Residence orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a residence order under the repealed Act, section 207 (Residence orders) is in force for a child or young person.
- (2) On and after the commencement day, the residence order is taken to be, in accordance with its terms, a care and protection order with a residence provision under this Act, section 464 (2) (Care and protection order—criteria for making).

918 Short care and protection order—unfinished applications for extension or variation

- (1) This section applies if—
- (a) before the commencement day, the chief executive or another person has applied to the Childrens Court under the repealed Act, section 214 (Extension, variation or revocation of orders) for an extension or variation of a short care and protection order (other than a therapeutic protection order) in relation to a child or young person; and

- (b) immediately before the commencement day, the Childrens Court has not decided the application.

Note **Short care and protection order** means an assessment order or a contact order, residence order, therapeutic protection order or specific issues order (see repealed Act, s 194).

- (2) The application is taken to be an application for an extension or amendment of a care and protection order made under this Act, section 466 (Care and protection order—extension and amendment applications).

919 Short care and protection order—unfinished applications for revocation

- (1) This section applies if—
- (a) before the commencement day, the chief executive or another person has applied to the Childrens Court under the repealed Act, section 214 (Extension, variation or revocation of orders) for the revocation of a short care and protection order (other than a therapeutic protection order) in relation to a child or young person; and
- (b) immediately before the commencement day, the Childrens Court has not decided the application.

Note **Short care and protection order** means an assessment order or a contact order, residence order, therapeutic protection order or specific issues order (see repealed Act, s 194).

- (2) The application is taken to be an application for the revocation of a care and protection order made under this Act, section 467 (Care and protection order—revocation applications).

920 Assessment orders—appraisals—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, the chief executive has applied to the Childrens Court under the repealed Act, section 215 (1) (Applications for assessment orders) for an assessment order in relation to a child or young person; and
 - (b) the assessment sought in the application was a child protection appraisal; and
 - (c) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application for an appraisal order made by the chief executive under this Act, section 376 (Appraisal orders—application by chief executive).

921 Assessment orders—special assessments—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, an application has been made to the Childrens Court for an assessment order in relation to a child or young person under the repealed Act, section 215 (Applications for assessment orders); and
 - (b) the assessment sought in the application was a special assessment; and
 - (c) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application for an assessment order under this Act, section 443 (Assessment orders—application by party).

- (3) However, subsection (2) applies to the application only if the application under the repealed Act was made by the chief executive or another person who is a party to a proceeding for a care and protection order for the child or young person.

922 Assessment orders—in force before commencement day

- (1) This section applies if immediately before the commencement day, an assessment order under the repealed Act, section 190 (Special assessment) or section 217 (Assessment orders) is in force for a person.
- (2) On and after the commencement day, the assessment order is taken to be, in accordance with its terms—
- (a) for an assessment order authorising the making of a child protection appraisal—an appraisal order under this Act, section 382 (Appraisal orders—criteria for making); and
 - (b) for an assessment order authorising a special assessment—an assessment order under this Act, section 448 (Assessment orders—criteria for making).

923 Emergency action

- (1) This section applies if—
- (a) before the commencement day, the chief executive or a police officer has taken action in relation to a child or young person under the repealed Act, section 222 (Taking emergency action); and
 - (b) immediately before the commencement day, the chief executive or police officer has parental responsibility for the child or young person because of the action.

- (2) On and after the commencement day, this Act, chapter 13 applies to the child or young person as if the action were emergency action taken in relation to the child or young person under this Act, part 13.1 (Emergency action).

Examples

- 1 a police officer who took action under the repealed Act continues to have parental responsibility until the police officer tells the chief executive about the emergency action under s 408
- 2 the chief executive makes arrangements for the child's or young person's care and protection under s 411

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

924 Release after emergency action—unfinished applications

- (1) This section applies if—
- (a) before the commencement day, a person has applied to the Childrens Court under the repealed Act, section 231 (Application for release of child or young person) for an order for the release of a child or young person into the care of the applicant or another named person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is to be heard and decided under the repealed Act as if it had not been repealed.
- (3) This section expires 30 days after the day it commences.

925 Variation or revocation of therapeutic protection order—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person has applied to the Childrens Court under the repealed Act, section 239 (Application for variation or revocation of therapeutic protection order) for variation or revocation of a therapeutic protection order in relation to a child or young person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application made by the person under this Act, section 564 (Therapeutic protection order—application for amendment or revocation).

926 Interim orders before application adjourned—in force before commencement day

- (1) This section applies if, immediately before the commencement day, an interim order under the repealed Act, section 251 (Before application adjourned) is in force for a child or young person.
- (2) On and after the commencement day, the interim order is taken to be, in accordance with its terms—
 - (a) for an order giving interim parental responsibility for the child or young person to the chief executive or someone else—an interim care and protection order with a parental responsibility provision under this Act, section 433 (2) (Interim matters—interim care and protection orders); and
 - (b) for a contact order—an interim care and protection order with a contact provision under this Act, section 433 (2); and

- (c) for a specific issues order—
 - (i) if the order relates to a person’s drug use—an interim care and protection order with a drug use provision under this Act, section 433 (2) (b) (Interim matters—interim care and protection orders); and
 - (ii) otherwise—an interim care and protection order with a specific issues provision under section 433 (2) (g); and
- (d) for an assessment order—an assessment order under this Act, section 442 (Assessment orders—on application or court’s own initiative).

927 Specific issues orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a specific issues order under the repealed Act, section 246 (3) (Specific issues order) is in force for a child or young person.
- (2) On and after the commencement day, the specific issues order is taken to be, in accordance with its terms—
 - (a) for an order mentioned in the repealed Act, section 246 (3) (a)—a care and protection order with a parental responsibility provision under this Act, section 464 (2) (f) or (g) (Care and protection order—criteria for making); and

Note Under s 246 (3) (a) a specific issues order may include an order relating to the day-to-day or long-term care, welfare or development of the child or young person.

- (b) for an order mentioned in the repealed Act, section 246 (3) (b)—a care and protection order with a specific issues provision under this Act, section 464 (2) (h); and

Note Under s 246 (3) (b) a specific issues order may include an order requiring an entity to give the chief executive information about the care, protection, welfare or development of the child or young person.

- (c) for an order mentioned in the repealed Act, section 246 (3) (c)—a care and protection order with a residence provision under this Act, section 464 (2) (e); and

Note Under s 246 (3) (c) a specific issues order may include an order directing not to live at the same premises as the child or young person.

- (d) for an order mentioned in the repealed Act, section 246 (3) (d)—a care and protection order with a contact provision under this Act, section 464 (2) (a); and

Note Under s 246 (3) (d) a specific issues order may include an order directing that someone have no contact with the child or young person.

- (e) for an order mentioned in the repealed Act, section 246 (3) (e)—a care and protection order with a mental health tribunal provision under this Act, section 464 (2) (d); and

Note Under s 246 (3) (e) a specific issues order may include an order that the child or young person submit to the jurisdiction of the mental health tribunal for a decision whether the child or young person has a mental impairment.

- (f) for an order mentioned in the repealed Act, section 246 (3) (f)—a care and protection order with a supervision provision under this Act, section 464 (2) (i); and

Note Under s 246 (3) (f) a specific issues order may include an order about supervision of the child or young person.

- (g) for an order mentioned in the repealed Act, section 246 (3) (g) or (h)—
- (i) if the order relates to a person’s drug use—a care and protection order with a drug use provision under this Act, section 464 (2) (b) (Care and protection order—criteria for making); and
 - (ii) otherwise—a care and protection order with a specific issues provision under section 464 (2) (h).

Note 1 Under s 246 (3) (g) a specific issues order may include an order requiring someone to do, or refraining from doing, a stated thing or observe a stated condition.

Note 2 Under s 246 (3) (h) a specific issues order may include any other order the Childrens Court considers appropriate.

- (3) For subsection (2) (a), despite anything else in this Act—
- (a) if the specific issues order does not state a period of effect or is expressed to remain in force until the child or young person is 18 years old, the order is taken to be a care and protection order with a long-term parental responsibility provision, in the same terms as the original order, under this Act, section 464 (2) (g); and
 - (b) in any other case, the order is taken to be a care and protection order with a short-term parental responsibility provision, in the same terms as the original order, under this Act, section 464 (2) (f).

Example

A specific issues order that is expressed to be effective for 3 years is taken to be a care and protection order with a short-term parental responsibility provision but will remain in force for the 3 years unless sooner varied.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

928 Variation or revocation of interim care and protection orders—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a party to a proceeding has applied to the Childrens Court under the repealed Act, section 253 (Variation of interim orders) for variation of an interim order in relation to a child or young person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application by the party for revocation or amendment of the interim order under this Act, section 435 (Interim care and protection orders—revocation or amendment).

929 Final care and protection orders—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a final care and protection order (other than a therapeutic protection order) under the repealed Act, section 255 is in force for a child or young person.
- (2) On and after the commencement day, the final care and protection order is taken to be, in accordance with its terms—
 - (a) for an order mentioned in the repealed Act, section 255 (4) (a) (Final care and protection orders)—a care and protection order with a supervision provision under this Act, section 464 (2) (i) (Care and protection order—criteria for making); and

Note Under s 255 (4) (a) a final care and protection order may include an order that the chief executive supervise the care and protection of the child or young person.

- (b) for an order mentioned in the repealed Act, section 255 (4) (b)—a care and protection order with a parental responsibility provision under this Act, section 464 (2) (f) or (g); and

Note Under s 255 (4) (b) a final care and protection order may include an order giving parental responsibility for the child or young person to the chief executive or someone else.

- (c) for an order mentioned in the repealed Act, section 255 (4) (c)—a care and protection order with an enduring parental responsibility provision under this Act, section 464 (2) (c); and

Note Under s 255 (4) (c) a final care and protection order may include an enduring parental responsibility order that has effect until the child or young person turns 18.

- (d) for an order mentioned in the repealed Act, section 255 (4) (d)—a care and protection order with a mental health tribunal provision under this Act, section 464 (2) (d); and

Note Under s 255 (4) (d) a final care and protection order may include an order that the child or young person submit to the jurisdiction of the mental health tribunal for a decision whether the child or young person has a mental impairment.

- (e) for an order mentioned in the repealed Act, section 255 (4) (e)—

- (i) if the order relates to a person's drug use—a care and protection order with a drug use provision under this Act, section 464 (2) (b) (Care and protection order—criteria for making); and
- (ii) otherwise—a care and protection order with a specific issues provision under section 464 (2) (h).

Note Under s 255 (4) (e) a final care and protection order may include any other order the Children's Court considers appropriate.

- (3) For subsection (2) (b), despite anything else in this Act—
- (a) if the final care and protection order does not state a period of effect or is expressed to remain in force until the child or young person is 18 years old, the order is taken to be a care and protection order with a long-term parental responsibility provision, in the same terms as the original order, under this Act, section 464 (2) (g); and
 - (b) in any other case, the order is taken to be a care and protection order with a short-term parental responsibility provision, in the same terms as the original order, under this Act, section 464 (2) (f).

Example

A final care and protection order that is expressed to be effective for 3 years is taken to be a care and protection order with a short-term parental responsibility provision but will remain in force for the 3 years unless sooner varied.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

930 Final care and protection orders (therapeutic protection)—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a therapeutic protection order made as a final care and protection order under the repealed Act, section 255 is in force for a child or young person.
- (2) On and after the commencement day, the final care and protection order is taken to be, in accordance with its terms, a therapeutic protection order under this Act, section 549 (Therapeutic protection order—criteria for making).

931 Variation or revocation of final care and protection orders—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person has applied to the Childrens Court under the repealed Act, section 264 (Application for variation and revocation of orders) for variation or revocation of a final care and protection order (other than a therapeutic protection order) in relation to a child or young person; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be—
 - (a) for an application for variation—an application for extension or amendment of the care and protection order, or a provision in the care and protection order under this Act, section 466 (Care and protection order—extension and amendment applications); and
 - (b) for an application for revocation—an application for revocation of the care and protection order, or a provision in the care and protection order under this Act, section 467 (Care and protection order—revocation applications).

932 Safe custody warrant—unfinished applications

- (1) This section applies if:
 - (a) before the commencement day, an application has been made for a warrant under the repealed Act, section 270 (2) (Circumstances in which child or young person may be taken into safe custody); and
 - (b) immediately before the commencement day, a magistrate has not issued the warrant or refused to issue the warrant.

- (2) The application is taken to be an application for the issue of a warrant under this Act, section 685 (Safe custody warrant—application).

933 Safe custody warrant—in force before commencement day

A warrant issued by a magistrate under the repealed Act, section 270 (1) (Circumstances in which child or young person may be taken into safe custody), and that has not lapsed or been executed before the commencement day, is taken to be a warrant issued by a magistrate under this Act, section 686 (Safe custody warrant—criteria).

934 Administrative transfer of orders—in force before commencement day

- (1) This section applies if—
- (a) before the commencement day, the chief executive has transferred a child care and protection order to a participating State under the repealed Act, section 300 (When chief executive may transfer order); and
 - (b) immediately before the commencement day, the order is in force.
- (2) On and after the commencement day, the order is taken to be, in accordance with its terms, a child welfare order transferred to the participating State under this Act, section 643 (Chief executive may transfer child welfare order).

935 Transfer of orders—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, the chief executive has applied to the Childrens Court under the repealed Act, section 304 (a) (When Childrens Court may make order under div 8.2.2) for transfer of a child care and protection order to a participating State; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application for transfer of the order under this Act, section 648 (Childrens Court transfer—application).

936 Childrens Court transfer of orders—in force before commencement day

- (1) This section applies if—
 - (a) before the commencement day, the Childrens Court has transferred a child care and protection order to a participating State under the repealed Act, section 304 (When Childrens Court may make order under div 8.2.2); and
 - (b) immediately before the commencement day, the order is in force.
- (2) On and after the commencement day, the order is taken to be, in accordance with its terms, a child welfare order transferred to the participating State under this Act, section 649 (Childrens Court transfer—criteria).

937 Order transferring proceeding—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, the chief executive has applied to the Childrens Court under the repealed Act, section 310 (1) (a) (When Childrens Court may make order under pt 8.3) for transfer of a child care and protection proceeding to a court of a participating State; and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application for transfer of the proceeding under this Act, section 658 (Transfer of ACT proceedings—applications).

938 Interim orders about transferred proceedings—in force before commencement day

- (1) This section applies if—
 - (a) before the commencement day, the Childrens Court has transferred a child care and protection proceeding to a participating State under the repealed Act, part 8.3 (Transfer of child care and protection proceedings); and
 - (b) the court has made an interim order under the repealed Act, section 313 (Interim order); and
 - (c) immediately before the commencement day, the interim order is in force.
- (2) On and after the commencement day, the interim order is taken to be, in accordance with its terms, an interim order under this Act, section 661 (Transfer of ACT proceedings—interim orders).

939 Revocation of registration—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person has applied to the Childrens Court under the repealed Act, section 318 (Revocation of registration) for revocation of the registration of a child care and protection order filed under the repealed Act, section 315 (Filing and registration of interstate documents); and
 - (b) immediately before the commencement day, the Childrens Court has not decided the application.
- (2) The application is taken to be an application for revocation of an order under this Act, section 669 (ACT registration of interstate orders—application for revocation).

940 Sensitive information and protected information

- (1) Information that is, immediately before the commencement day, sensitive information for the repealed Act, chapter 15 (Confidentiality and immunity) is sensitive information for this Act.
- (2) Information that is, immediately before the commencement day, protected information for the repealed Act, chapter 15 (Confidentiality and immunity) is protected information for this Act.
- (3) To remove any doubt, chapter 25 (Information secrecy and sharing) applies to the information mentioned in subsections (1) and (2).

941 AAT review of decisions

- (1) On application for review of a decision of the chief executive under the repealed Act, section 384 (Review of decisions), the Administrative Appeals Tribunal must—
 - (a) if it proposes to vary the decision under review—vary it in a way that as far as possible is consistent with a power exercisable under this Act; and
 - (b) if it proposes to make a decision in substitution for the decision under review—make a decision that could be made by the chief executive under this Act.
- (2) The Administrative Appeals Tribunal may make any decision it considers appropriate to facilitate the application of subsection (1).

Part 27.3 Care and protection matters— interim transitionals

942 Information secrecy and sharing

- (1) This Act, chapter 25 (Information secrecy and sharing) applies in relation to the giving or seeking of information under the *Children and Young People Act 1999* by a person mentioned in that Act, section 405 (a) (Who is an information holder?) in the interim transitional period.
- (2) In this section:
interim transitional period means the period—
 - (a) starting when the care and protection chapters commence; and
 - (b) ending when chapter 20 commences.

943 People with parental responsibility

- (1) In the interim transitional period, a reference in the *Children and Young People Act 1999* to a person who has parental responsibility for a child or young person includes a reference to a person who has parental responsibility for a child or young person under this Act, division 1.3.2.
- (2) In this section:
interim transitional period means the period—
 - (a) starting when the care and protection chapters commence; and
 - (b) ending when chapter 20 commences.

Part 27.4 Criminal matters—transfers

944 Definitions—pt 27.4

In this part:

commencement day means the day the criminal matters chapters commence.

repealed Act means the *Children and Young People Act 1999*, as in force immediately before the commencement day.

945 Interstate transfers—agreements and arrangements with other jurisdictions

- (1) This section applies to an agreement in force immediately before the commencement day under the repealed Act, section 133 (General agreements with other jurisdictions).
- (2) The agreement is taken, on and after the commencement day, to be an agreement under this Act, section 115 (General agreements with other jurisdictions).

- (3) Any arrangements in force under the repealed Act, division 6.3.1 (Interstate transfer generally) in relation to the agreement are taken to be arrangements in force under this Act, division 5.2.1 (Interstate transfer generally) in relation to the agreement.

946 Interstate transfers—application for transfer of young offender

- (1) This section applies if, before the commencement day—
- (a) an application for the transfer of a young offender has been made to the chief executive under the repealed Act, section 135 (1) (Power to arrange for transfers); and
 - (b) the application has not been finally decided.
- (2) The application is taken to have been made under this Act, section 117 (1) (a) (Power to arrange for transfers).

947 Interstate transfers—order for transfer of young offender

An order made by the chief executive under the repealed Act, section 139 (Transfer order), and in force immediately before the commencement day, is taken to be a transfer order made by the chief executive under this Act, section 120 (Custody of person on transfer order).

948 Interstate transfers—escape during transit through ACT

- (1) A warrant issued by a magistrate under the repealed Act, section 146 (3) (Escape from temporary control), and that has not lapsed or been executed before the commencement day, is taken to be a warrant issued by a magistrate under this Act, section 130 (Escapees to be brought before magistrate).

- (2) An order made by the Magistrates Court or Childrens Court under the repealed Act, section 146 (6) (Escape from temporary control), and in force immediately before the commencement day, is taken to be an order made by the Magistrates Court or Childrens Court under this Act, section 131 (2) (Court may order transfer of apprehended escapees).

949 Interstate transfers—search warrant for escapee

A search warrant issued by a magistrate under the repealed Act, section 147 (Search warrants), and that has not lapsed or been executed before the commencement day, is taken to be a warrant issued by a magistrate under this Act, section 132 (Search warrants for escapees).

950 Interstate transfers—revocation of transfer order

- (1) This section applies if, before the commencement day—
- (a) an application for revocation of a transfer order in relation to a young offender has been made to the Childrens Court under the repealed Act, section 148 (1) (Revocation of transfer order on escape from temporary control); and
 - (b) the application has not been finally decided.
- (2) The application is taken to have been made under this Act, section 133 (1) (Revocation of transfer order—offence during transfer).

951 Interstate transfers—arrangements after revocation of transfer order

An arrangement made by the chief executive under the repealed Act, section 149 (Revocation of transfer order by chief executive), and in force on the commencement day, is taken to be an arrangement made under this Act, section 134 (2) (Revocation of transfer order by chief executive).

952 Special purpose leave

Leave of absence granted to a young person under the repealed Act, section 128 (Special purpose leave), and in force on the commencement day, is taken to be a local leave permit given under this Act, section 241 (2) (Local leave permits).

Part 27.5 Criminal matters—interim transitionals

953 Official visitor

- (1) In the interim transitional period—
 - (a) a reference in the criminal matters chapters to an official visitor is a reference to the official visitor under the *Children and Young People Act 1999*; and
 - (b) that Act, sections 41 to 44 applies for the purposes of the criminal matters chapters as if a reference in that Act, section 42 (1) (a) and (c) to an institution were a reference to a detention place.
- (2) In this section:

interim transitional period means the period—

 - (a) starting when the criminal matters chapters commence; and
 - (b) ending when the care and protection chapters commence.

954 Person remanded in a shelter or committed to an institution

- (1) This section applies if a person is remanded in a shelter, or committed to an institution, under the *Children and Young People Act 1999* in the interim transitional period.

- (2) The person is taken, for the purposes of the criminal matters chapters, to be remanded in, or committed to, a detention place.
- (3) In this section:
 - interim transitional period* means the period—
 - (a) starting when the criminal matters chapters commence; and
 - (b) ending when chapter 20 commences.

955 Application of youth justice principles etc

- (1) The following provisions of this Act apply for the purposes of decisions made under the *Children and Young People Act 1999*, part 6.2 (Dealing with young offenders in the ACT) in the interim transitional period:
 - (a) section 8 (Best interests of children and young people paramount consideration);
 - (b) section 9 (Principles applying to Act);
 - (c) section 94 (Youth justice principles).
- (2) In this section:
 - interim transitional period* means the period—
 - (a) starting when the criminal matters chapters commence; and
 - (b) ending when chapter 20 commences.

956 Application of certain provisions relating to administration

- (1) The following provisions of the *Children and Young People Act 1999* apply for the purposes of this Act in the interim transitional period:
 - (a) section 28 (Who can the chief executive get help from?);

(b) section 29 (Power to give and receive information).

(2) In this section:

interim transitional period means the period—

- (a) starting when the criminal matters chapters commence; and
- (b) ending when the care and protection chapters commence.

957 **Meaning of *daily care responsibility* and *long-term care responsibility***

(1) In the interim transitional period, a reference in this Act to daily care responsibility or long-term care responsibility is a reference to parental responsibility within the meaning of the *Children and Young People Act 1999*.

(2) In this section:

interim transitional period means the period—

- (a) starting when the criminal matters chapters commence; and
- (b) ending when the care and protection chapters commence.

Part 27.6 **Childcare services**

958 **Definitions—pt 27.6**

In this part:

commencement day means the day the *Children and Young People Act 2008*, chapter 20 (Childcare services) commences.

repealed Act means the *Children and Young People Act 1999*, as in force immediately before the commencement day.

959 In-principle approval—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person has applied to the chief executive under the repealed Act, section 336 (Application) for approval in principle to operate a childrens service; and
 - (b) immediately before the commencement day, the chief executive has not decided the application.
- (2) The application is taken to be an application for a childcare service licence under this Act, section 743 (Childcare service licence—proposed proprietor may apply).

960 In-principle approval—in force before commencement day

- (1) This section applies if, immediately before the commencement day, an approval in principle for a childrens service under the repealed Act, section 338 (Grant or refusal of approval in principle) is in force.
- (2) On and after the commencement day—
 - (a) the approval in principle is taken to be a childcare service licence under this Act, section 747 (Childcare service licence—decision on application); and
 - (b) the approval is not subject to any condition to which it was subject under the repealed Act.

Note The licence will be subject to the childcare service standards under s 887 (see s 772 (Offence—operate childcare service in contravention of standards)).

- (3) An approval in principle that is taken to be a childcare service licence under this section ends when it would have ended if the repealed Act had not been repealed unless it is cancelled sooner.

961 Licence—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person has applied to the chief executive under the repealed Act, section 343 (Application) for a licence to operate a childrens service; and
 - (b) immediately before the commencement day, the chief executive has not decided the application.
- (2) The application is taken to be an application for a childcare service licence under this Act, section 743 (Childcare service licence—proposed proprietor may apply).

962 Licence to operate childrens service—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a licence to operate a childrens service under the repealed Act, section 345 (Grant or refusal of licence) is in force.
- (2) On and after the commencement day—
 - (a) the licence is taken to be a childcare service licence under this Act, section 747 (Childcare service licence—decision on application); and
 - (b) the licence is not subject to any condition to which it was subject under the repealed Act.

Note The licence will be subject to the childcare service standards under s 887 (see s 772 (Offence—operate childcare service in contravention of standards)).

963 Licence renewal—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, a person has applied to the chief executive under the repealed Act, section 346 (Application for renewal) for renewal of a licence to operate a childrens service; and
 - (b) immediately before the commencement day, the chief executive has not decided the application.
- (2) The application is taken to be an application for renewal of a childcare service licence under this Act, section 754 (Childcare service licence renewal—licensed proprietor may apply).

964 Search warrant—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, an application has been made for a warrant to enter premises under the repealed Act, section 357 (1) (Entry to premises of unlicensed service—search warrant); and
 - (b) immediately before the commencement day, a magistrate has not issued the warrant or refused to issue the warrant.
- (2) The application is taken to be an application for the issue of a warrant under this Act, section 824 (1) (Warrants generally).

965 Search warrant—in force before commencement day

A warrant to enter premises issued by a magistrate under the repealed Act, section 357 (2) (Entry to premises of unlicensed service—search warrant), and that has not lapsed or been executed before the commencement day, is taken to be a warrant to enter the premises issued by a magistrate under this Act, section 824 (4) (Warrants generally).

966 Notice to enforce requirements—in force before commencement day

- (1) This section applies if, immediately before the commencement day, a notice in relation to a childrens service is in force under the repealed Act, section 358 (1) (Notice to enforce requirements) and has not been complied with.
- (2) On and after the commencement day, the notice is taken to be a compliance notice under this Act, section 760 (Childcare service licence—compliance notices).

967 Suspension for non-compliance—order in force before commencement day

- (1) This section applies if immediately before the commencement day, either of the following is in force in relation to a childrens service:
 - (a) for a childrens service provided under an approval in principle or a licence—a notice suspending the approval or licence under the repealed Act, section 358 (2) (a) (Notice to enforce requirements);
 - (b) a direction to the proprietor of the childrens service to stop operating the childrens service and suspend the care of children by the service under the repealed Act, section 358 (2) (b).
- (2) On and after the commencement day, the order is taken to be a compliance suspension notice to the licensed proprietor of the service under this Act, section 761 (Childcare service licence—suspension for noncompliance).

968 Suspension of operation for safety—order in force before commencement day

- (1) This section applies if, immediately before the commencement day, an order that a childrens service stop operating is in force under the repealed Act, section 359 (Power to suspend operation if service unsafe).
- (2) On and after the commencement day, the order is taken to be a safety suspension notice to the licensed proprietor of the service under this Act, section 763 (Childcare service licence—suspension if children unsafe).

Part 27.7 Employment of children and young people

969 Definitions—pt 27.7

In this part:

commencement day means the day the *Children and Young People Act 2008*, chapter 21 (Employment of children and young people) commences.

repealed Act means the *Children and Young People Act 1999*, as in force immediately before the commencement day.

970 Work experience—continued exemption

- (1) This section applies if, immediately before the commencement day, a child or young person is taken not to be employed by a person because of the operation of the repealed Act, section 368A (Work experience not employment).

Note Under s 368A, a child or young person is taken not to be employed by a person if—

- (a) the engagement of the child or young person by the person is arranged by an educational institution where the child or young person is enrolled; and
 - (b) the engagement is part of a work experience program (however described) conducted by the educational institution.
- (2) For a period of 6 months beginning on the commencement day, the educational institution where the child or young person is enrolled is taken to have been granted an exemption under this Act, section 784 (Work experience program—decision on application) in relation to the work experience program conducted by the educational institution.
- (3) This section expires 6 months after the day it commences.

971 Light work—continued application of exception

- (1) This section applies if—
- (a) immediately before the commencement day a young child is employed for a purpose mentioned in the repealed Act, section 371 (1) (Light work excepted) for longer than 10 hours in 1 week; and
 - (b) the employer has given the chief executive a notice in accordance with the repealed Act, section 371 (2) in relation to the employment.
- (2) The employer is taken to have told the chief executive in writing about the employment for this Act, section 796 (2) (Exception to s 795—employment in light work).

972 Notice regulating employment—in force before commencement day

A notice given to an employer by the chief executive under the repealed Act, section 375 (Regulation of employment of children and young people), and in force immediately before the commencement day, is taken to be, in accordance with its terms—

- (a) for a notice under section 375 (1) (a)—an employment prohibition notice under this Act, section 788; and
- (b) for a notice under section 375 (1) (b)—an employment conditions notice under this Act, section 790.

Part 27.8 Enforcement

973 Definitions—pt 27.8

In this part:

commencement day means the day chapter 20 commences.

repealed Act means the *Children and Young People Act 1999*, as in force immediately before the commencement day.

974 Search warrant—unfinished applications

- (1) This section applies if—
 - (a) before the commencement day, an application has been made for a warrant to enter premises under the repealed Act, section 396 (Search warrants); and
 - (b) immediately before the commencement day, a magistrate has not issued the warrant or refused to issue the warrant.
- (2) The application is taken to be an application for the issue of a warrant under this Act, section 824 (1) (Warrants generally).

975 Search warrant—in force before commencement day

A search warrant issued by a magistrate under the repealed Act, section 396 (Search warrants), and that has not lapsed or been executed before the commencement day, is taken to be a warrant to enter the premises issued by a magistrate under this Act, section 824 (4).

Part 1.2 Court Procedures Act 2004

[1.2] New part 13

insert

Part 13 Transitional—Children and Young People Act 2008

510 Meaning of *commencement day*—pt 13

In this part:

commencement day means the day the *Children and Young People Act 2008*, schedule 1, part 1.2 commences.

511 Notices to attend court proceeding

- (1) A notice served on a parent under the *Children and Young People Act 1999*, section 60 (Attendance of parents at court), and that has not lapsed or been complied with before the commencement day, is taken to be a notice given to the parent under this Act, section 71 (When parents must attend court proceedings).
- (2) A warrant issued by the Childrens Court under the *Children and Young People Act 1999*, section 60, and that has not lapsed or been executed before the commencement day, is taken to be a warrant issued by the court under this Act, section 71 (When parents must attend court proceedings).

512 Existing proceedings

- (1) The amendments of this Act made by the *Children and Young People Act 2008*, schedule 1, part 1.2 apply to an existing proceeding.
- (2) If a difficulty arises in the application of subsection (1) to a particular proceeding, the court may make any order it considers appropriate to resolve the difficulty.
- (3) In this section:

existing proceeding means a proceeding started in a court, but not completed, before the commencement of the *Children and Young People Act 2008*, schedule 1, part 1.2.

513 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Children and Young People Act 2008*, schedule 1, part 1.2 or the *Children and Young People (Consequential Amendments) Act 2008*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

514 Expiry—pt 13

- (1) This part expires 2 years after the day it commences.
- (2) This part, other than section 513, is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Part 1.3 Crimes (Sentence Administration) Act 2005

[1.3] New chapter 18

insert

Chapter 18 Transitional—Children and Young People Act 2008

700 Meaning of *commencement day*—ch 18

In this chapter:

commencement day means the day the *Children and Young People Act 2008*, schedule 1, part 1.4 commences.

701 Application of amendments—general

- (1) The amendments of this Act made by the *Children and Young People Act 2008*, schedule 1, part 1.4 apply in relation to a sentenced young offender and his or her sentence, whether the young offender was sentenced before or after the amendments commenced.
- (2) The amendments of this Act made by the *Children and Young People Act 2008*, schedule 1, part 1.4 apply in relation to a young offender remanded in custody, whether the young offender was remanded before or after the amendments commenced.

702 Conditional discharge orders

- (1) This section applies if—
 - (a) a conditional discharge order is made under the *Children and Young People Act 1999*, part 6.2 in relation to a young person; and

- (b) immediately before the commencement day, the order is in force.
- (2) The order is taken to be, in accordance with its terms, a good behaviour order made under the *Crimes (Sentencing) Act 2005*.

703 Fines

- (1) This section applies if—
 - (a) an order imposing a fine is made under the *Children and Young People Act 1999*, part 6.2 in relation to a young person; and
 - (b) immediately before the commencement day, the fine has not been paid in full.
- (2) The order is taken to be, in accordance with its terms, a fine order made under the *Crimes (Sentencing) Act 2005*.

704 Reparation or compensation orders

- (1) This section applies if—
 - (a) an order is made under the *Children and Young People Act 1999*, part 6.2 requiring a young person to make reparation or pay compensation; and
 - (b) immediately before the commencement day, the reparation has not been made, or the compensation has not been paid, in full.
- (2) The order is taken to be, in accordance with its terms, a reparation order made under the *Crimes (Sentencing) Act 2005*.

705 Probation orders

- (1) This section applies if—
 - (a) a probation order is made under the *Children and Young People Act 1999*, part 6.2 in relation to a young person; and

(b) immediately before the commencement day, the order is in force.

- (2) The order is taken to be, in accordance with its terms, a good behaviour order with supervision conditions made under the *Crimes (Sentencing) Act 2005*.

706 Community service orders

- (1) This section applies if—

(a) a community service order is made under the *Children and Young People Act 1999*, part 6.2 in relation to a young person; and

(b) immediately before the commencement day, the order is in force.

- (2) The order is taken to be, in accordance with its terms, a good behaviour order with community service conditions made under the *Crimes (Sentencing) Act 2005*.

707 Attendance centre orders

- (1) This section applies if—

(a) an attendance centre order is made under the *Children and Young People Act 1999*, part 6.2 in relation to a young person; and

(b) immediately before the commencement day, the order is in force.

- (2) The order is taken to be, in accordance with its terms, a good behaviour order with supervision conditions made under the *Crimes (Sentencing) Act 2005*.

708 Residential orders

- (1) This section applies if—
 - (a) a residential order is made under the *Children and Young People Act 1999*, part 6.2 in relation to a young person; and
 - (b) immediately before the commencement day, the order is in force.
- (2) The order is taken to be, in accordance with its terms, an accommodation order made under the *Crimes (Sentencing) Act 2005*.

709 Applications for revocation etc

- (1) This section applies if—
 - (a) before the commencement day, an application has been made under the *Children and Young People Act 1999*, section 100 (Variation or revocation of conditional discharge order) or section 117 (1) (Revocation and variation of certain orders) in relation to an order mentioned in that Act, section 117 (1) (a) to (e); and
 - (b) immediately before the commencement day, the application has not been finally decided.
- (2) The application is taken to be an application under this Act, section 112 (Court powers—amendment or discharge of good behaviour order).

710 Committal orders

- (1) This section applies if—
 - (a) an order is made under the *Children and Young People Act 1999*, part 6.2 committing a young person to an institution; and

- (b) immediately before the commencement day, the term of the committal had not ended.
- (2) The order is taken to be, in accordance with its terms, an order for imprisonment made under the *Crimes (Sentencing) Act 2005*.
- (3) However, the *Children and Young People Act 1999*, section 127 (Remission of time to be spent in institution) continues to apply in relation to the committal of the young person.
- (4) In making a decision under that section in relation to the young person, the chief executive must also have regard to the youth justice principles.
- (5) The chief executive must give the young person prompt written notice of a decision under that section, including that a person aggrieved by the decision may apply for a review of the decision under the *Administrative Decisions (Judicial Review) Act 1989*.
- (6) In this section:
youth justice principles—see the *Children and Young People Act 2008*, section 94.

711 Orders referring to mental health tribunal following conviction

- (1) This section applies if—
 - (a) an order is made in accordance with the *Children and Young People Act 1999*, section 118 (Referral to mental health tribunal following conviction) in relation to a young person; and
 - (b) immediately before the commencement day, the order is in force.
- (2) The order is taken to be, in accordance with its terms, an order made under the *Crimes Act 1900*, section 331 (Referral to tribunal).

712 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Children and Young People Act 2008*, schedule 1, part 1.4 or the *Children and Young People (Consequential Amendments) Act 2008*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

713 Expiry—ch 18

- (1) This chapter expires 5 years after the day it commences.
- (2) This chapter, other than section 712, is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Part 1.4 Crimes (Sentencing) Act 2005

[1.4] New chapter 11

insert

Chapter 11 Transitional—Children and Young People Act 2008

200 Meaning of *commencement day*—ch 11

In this chapter:

commencement day means the day the *Children and Young People Act 2008*, schedule 1, part 1.5 commences.

201 Application of amendments

- (1) The amendments of this Act made by the *Children and Young People Act 2008*, schedule 1, part 1.5 apply in relation to—
 - (a) the sentencing of a young offender after the commencement day; and
 - (b) any action taken, or to be taken, under this Act after the commencement day in relation to a sentence imposed on a young offender before the commencement day;
- (2) Subsection (1) applies whether the offence for which the sentence is or was imposed was committed before or after the commencement day.
- (3) If a difficulty arises in the application of subsection (1) to a particular proceeding that has commenced before the commencement day, the court may make any order it considers appropriate to resolve the difficulty.

202 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Children and Young People Act 2008*, schedule 1, part 1.5 or the *Children and Young People (Consequential Amendments) Act 2008*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.
- (4) This section expires 2 years after the day it commences.

203 Expiry—ch 11

- (1) This chapter expires 5 years after the day it commences.
- (2) This chapter, other than section 202, is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Part 1.5 Magistrates Court Act 1930

[1.5] New part 17

insert

Part 17 Transitional—Children and Young People Act 2008

400 Childrens Court Magistrate

- (1) A declaration made under the *Children and Young People Act 1999*, section 50 (Childrens Court Magistrate), and in force immediately before the commencement of this Act, chapter 4A (The Childrens Court), is taken to be a declaration under this Act, section 291A (Childrens Court Magistrate).
- (2) However, the declaration is not taken to be a notifiable instrument.
- (3) An assignment made under the *Children and Young People Act 1999*, section 51 (Restriction on assignment to act as Childrens Court Magistrate), and in force immediately before the commencement of this Act, chapter 4A, is taken to be an assignment under this Act, section 291B (Acting Childrens Court Magistrate).
- (4) An assignment made under the *Children and Young People Act 1999*, section 53A (Assignment of other magistrates to deal with Childrens Court matters), and in force immediately before the commencement of this Act, chapter 4A, is taken to be an assignment under this Act, section 291C (Assignment of other Magistrates for Childrens Court matters).

401 Existing proceedings in Childrens Court

- (1) The amendments of this Act made by the *Children and Young People Act 2008*, part 1.8 apply to an existing proceeding.

(2) If a difficulty arises in the application of subsection (1) to a particular proceeding, the court may make any order it considers appropriate to resolve the difficulty.

(3) In this section:

existing proceeding means a proceeding started in the Childrens Court, but not completed, before the commencement of the *Children and Young People Act 2008*, schedule 1, part 1.8.

402 Completion of part-heard matters if magistrate no longer Childrens Court magistrate etc

(1) This section applies if—

- (a) before the commencement day, a magistrate was dealing with a matter under the *Children and Young People Act 1999*, section 53B (Completion of part-heard matters); and
- (b) immediately before the commencement day, the matter is not finally decided.

(2) The magistrate may continue to deal with the matter under this Act, until it is finally decided.

403 Transitional regulations

(1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Children and Young People Act 2008*, schedule 1, part 1.8 or the *Children and Young People (Consequential Amendments) Act 2008*.

(2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.

(3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

404 Expiry—pt 17

- (1) This chapter expires 2 years after the day it commences.
- (2) This chapter, other than section 403, is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Schedule 2 Consequential amendments— criminal matters chapters

(see s 3)

Part 2.1 Bail Act 1992

[2.1] Section 23 (1) (b)

omit

Children and Young People Act 1999, section 68

substitute

Children and Young People Act 2008, section 94 (Youth justice principles)

[2.2] Section 26 (1) (b) (i)

omit

Children and Young People Act 1999, section 68

substitute

Children and Young People Act 2008, section 94

[2.3] Section 26 (4) (a) (ii)

omit

*Children and Young People Act 1999, section 68 (the **relevant principles**)*

substitute

Children and Young People Act 2008, section 94 (Youth justice principles)

Part 2.2 Children and Young People Act 1999

[2.4] Section 68

omit

[2.5] Sections 85A to 87

omit

[2.6] Division 6.2.4

omit

[2.7] Sections 126, 128 and 129

omit

[2.8] Part 6.3

omit

[2.9] Chapter 13A

omit

[2.10] Section 401A and sections 403 to 403B

omit

Part 2.3 Coroners Act 1997

[2.11] Section 3C (1) (a)

substitute

(a) at a correction centre, lockup or detention place; or

[2.12] Section 3C (1) (g)

substitute

- (g) while subject to a transfer arrangement under the *Children and Young People Act 2008*, division 5.2.1 (Interstate transfer generally) or, while in custody under that Act, section 128 (Lawful custody for transit through ACT); or

[2.13] Section 3D (f)

substitute

- (f) the chief executive responsible for the *Children and Young People Act 2008* or an authorised person under that Act;

Part 2.4 Corrections Management Act 2007

[2.14] Section 77 (8), definition of *relevant chief executive*, paragraph (a)

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008

Part 2.5 Court Procedures Act 2004

[2.15] Section 15 (2) (c) (iv) (B)

after

Children and Young People Act 1999

insert

or the *Children and Young People Act 2008*

[2.16] Section 15 (2) (c) (v) (A)

after

Children and Young People Act 1999

insert

or the *Children and Young People Act 2008*

Part 2.6 Crimes (Child Sex Offenders) Act 2005

[2.17] Section 124 (1) (e)

substitute

(e) detention places under the *Children and Young People Act 2008*;

Part 2.7 **Evidence (Miscellaneous Provisions) Act 1991**

[2.18] Section 16, definition of *territory court*, new paragraph (h)

insert

- (h) a review officer under the *Children and Young People Act 2008*, chapter 9 (Conduct of disciplinary review—general).

Part 2.8 **Food Act 2001**

[2.19] Section 9 (1) (o) (i)

after

lockup,

insert

a detention place under the *Children and Young People Act 2008*,

Part 2.9 **Human Rights Commission Act 2005**

[2.20] Section 8A, example 3

substitute

- 3 a service provided in relation to a shelter under the *Children and Young People Act 1999* or a detention place under the *Children and Young People Act 2008*

Part 2.10 Juries Act 1967

[2.21] Schedule 2, part 2.1, item 23

substitute

- 23 an employee at a place declared to be a detention place under the *Children and Young People Act 2008*, section 142

Part 2.11 Legislation Act 2001

[2.22] Dictionary, part 1, new definition of *detention place*

insert

detention place—see the *Children and Young People Act 2008*, section 142.

Part 2.12 Listening Devices Act 1992

[2.23] New section 3C

in part 1, insert

3C Application of Act to detention places

- (1) This section applies in relation to an electronic communication, other than a protected electronic communication, between a young detainee in a detention place and someone else.
- (2) This Act does not apply to any of the following under the *Children and Young People Act 2008*:
 - (a) the listening to or recording of the communication;
 - (b) the communication or publication of the communication.

(3) In this section:

electronic communication—see the *Children and Young People Act 2008*, section 200 (Monitoring telephone calls etc).

protected electronic communication—see the *Children and Young People Act 2008*, section 200 (Monitoring telephone calls etc).

young detainee—see the *Children and Young People Act 2008*, section 95.

Part 2.13 Public Advocate Act 2005

[2.24] Section 10 (j)

after

Children and Young People Act 1999,

insert

the *Children and Young People Act 2008*,

Part 2.14 Security Industry Regulation 2003

[2.25] Section 6 (3), definition of *custodial officer*, paragraphs (b) and (c)

substitute

(b) a youth detention officer under the *Children and Young People Act 2008*, section 96; or

(c) a transfer escort (other than a police officer) under the *Children and Young People Act 2008*, division 5.2.1; or

Schedule 3 Consequential amendments— care and protection chapters

(see s 3)

Part 3.1 Adoption Act 1993

[3.1] Section 17 (2) (a)

substitute

- (a) the person is not an authorised person under the *Children and Young People Act 2008*; and

[3.2] Section 36 (4)

substitute

- (4) This section does not apply in relation to a child for whom the chief executive has long-term care responsibility under the *Children and Young People Act 2008*.

Part 3.2 Bail Act 1992

[3.3] Dictionary, definition of *parental responsibility*

substitute

parental responsibility—a person has ***parental responsibility*** for a child or young person if the person has parental responsibility for the child or young person under the *Children and Young People Act 2008*.

Note Parental responsibility is dealt with in the *Children and Young People Act 2008*, div 1.3.2.

Part 3.3 **Charitable Collections Regulation 2003**

[3.4] Dictionary, definition of *parental responsibility*

substitute

parental responsibility—a person has parental responsibility for a child if the person has parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2.

Part 3.4 **Children and Young People Act 1999**

[3.5] Section 15

omit

[3.6] Part 2.3

omit

[3.7] Sections 29 to 33

omit

[3.8] Sections 41 to 44

omit

[3.9] Chapters 7 and 8

omit

[3.10] Sections 389 and 390

omit

[3.11] Sections 399 to 401

omit

[3.12] Section 402 and sections 404 to 406

omit

Part 3.5 Civil Law (Property) Act 2006

[3.13] Section 257 (2) (a)

substitute

- (a) the chief executive responsible for administering the *Children and Young People Act 2008*, when the chief executive has long-term care responsibility for a child because of that Act; or

Part 3.6 Court Procedures Rules 2006

[3.14] Rule 3150, definition of *chief executive*

omit

Children and Young People Act 1999, chapter 2 (General objects, principles and parental responsibility)

substitute

Children and Young People Act 2008

[3.15] Rule 6435 (2) (c) (i)

omit

Children and Young People Act 1999, section 18

substitute

Children and Young People Act 2008

Part 3.7 **Crimes (Child Sex Offenders) Act 2005**

[3.16] Dictionary, definition of *person with parental responsibility*

omit

Children and Young People Act 1999, section 18

substitute

Children and Young People Act 2008, division 1.3.2

Part 3.8 **Crimes (Restorative Justice) Act 2004**

[3.17] Section 11, definition of *parent*

omit

*Children and Young People Act 1999, part 2.3 (Parental
responsibility)*

substitute

*Children and Young People Act 2008, division 1.3.2 (Parental
responsibility)*

Part 3.9 Crimes (Sentence Administration) Act 2005

[3.18] Section 123 (5), definition of *relevant person*

omit

Children and Young People Act 1999, section 18

substitute

Children and Young People Act 2008, division 1.3.2

[3.19] Section 133 (6), definition of *relevant person*

omit

Children and Young People Act 1999, section 18

substitute

Children and Young People Act 2008

[3.20] Section 292 (4) (a)

omit

Children and Young People Act 1999, section 18

substitute

Children and Young People Act 2008, division 1.3.2

[3.21] Section 298 (6)

omit

Children and Young People Act 1999, section 18

substitute

Children and Young People Act 2008, division 1.3.2

Part 3.10 Crimes (Sentencing) Act 2005

[3.22] Section 49 (2), definition of *person who has parental responsibility*

substitute

parental responsibility—see the *Children and Young People Act 2008*, division 1.3.2.

Part 3.11 Domestic Violence and Protection Orders Act 2001

[3.23] Section 32 (1) (a)

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008

[3.24] Section 32 (1) (b)

substitute

(b) at least 1 of the grounds mentioned in that Act, section 460 (1) (b) (DVPO final protection orders) is satisfied;
and

[3.25] Section 42A, definition of *child facility*, paragraph (c) and note

substitute

- (c) a place of care, a therapeutic protection place, an office or other facility used by or for the Territory for children or young people who are, under the *Children and Young People Act 2008*, care and protection chapters, in need of care and protection or in therapeutic protection.

Note The *Children and Young People Act 2008*, s 345 defines a child or young person in need of care and protection.

Part 3.12 Education Act 2004

[3.26] Section 6 (2)

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008, division 1.3.2

Part 3.13 Evidence (Miscellaneous Provisions) Act 1991

[3.27] Section 7 (d)

substitute

- (d) a proceeding under the care and protection chapters of the *Children and Young People Act 2008*; or

Part 3.14 Food Act 2001

[3.28] Section 9 (1) (o) (i)

substitute

- (i) a correctional centre or lockup, or a detention place or therapeutic protection place under the *Children and Young People Act 2008*; or

Part 3.15 Health Records (Privacy and Access) Act 1997

[3.29] Section 14A (a)

substitute

- (a) the record or part of a record relates to—
 - (i) a child concern report under the *Children and Young People Act 2008* (see section 353); or
 - (ii) a prenatal report under the *Children and Young People Act 2008*, section 362; or
 - (iii) information that is care and protection report information within the meaning of the *Children and Young People Act 2008*, section 845 (2) (b); or
 - (iv) a report under the *Children and Young People Act 1999*, section 158 or section 159; or
 - (v) a notification under the *Children's Services Act 1986*, section 103; and

[3.30] Dictionary, definition of *guardian*, paragraph (a)

substitute

- (a) for a young person—a parent, a legally appointed guardian of the young person or someone else with parental responsibility for the young person under the *Children and Young People Act 2008*, division 1.3.2; or

Part 3.16 Human Rights Commission Act 2005

[3.31] Section 8A, example 3

substitute

- 3 a service provided in relation to a detention place, therapeutic protection place or place of care under the *Children and Young People Act 2008*

[3.32] Section 14 (1) (g)

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008

[3.33] Section 51A (1) (b)

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008

Part 3.17 **Juries Act 1967**

[3.34] Schedule 2, part 2.1, item 19

substitute

- 19 an employee at any of the following places:
- (a) a place declared to be a detention place under the *Children and Young People Act 2008*, section 142;
 - (b) a place approved as a place of care under the *Children and Young People Act 2008*, section 525;
 - (c) a place declared to be a therapeutic protection place under the *Children and Young People Act 2008*, section 625

Part 3.18 **Mental Health (Treatment and Care) Act 1994**

[3.35] Section 16 (1) (c)

substitute

- (c) required to submit to the jurisdiction of the tribunal by—
 - (i) a mental health tribunal provision in a care and protection order or interim care and protection order; or
 - (ii) an interim therapeutic protection order; or

[3.36] Section 25 (1) (a)

substitute

- (a) if the person is a child—the people with parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2; and

[3.37] Section 70

substitute

70 Recommendations about people with mental impairment

- (1) This section applies if—
 - (a) the Supreme Court makes an order under the Crimes Act, division 13.3 requiring a person to submit to the jurisdiction of the tribunal to enable the tribunal to make recommendations to the court about how the person should be dealt with; or
 - (b) a court makes an order under the Crimes Act, division 13.5 (Referral of mentally impaired people to tribunal after conviction) or division 13.6 (Summary proceedings against mentally impaired people), or under the *Children and Young People Act 1999*, part 6.2 (which is about dealing with young offenders in the ACT), requiring a person to submit to the jurisdiction of the tribunal to enable the tribunal—
 - (i) to determine whether the person has a mental impairment; and
 - (ii) if the tribunal determines that the person has a mental impairment—to make recommendations to the court about how the person should be dealt with.
- (2) After an inquiry, and as the tribunal thinks appropriate in relation to the person—
 - (a) the tribunal must determine on the balance of probabilities, whether or not the person has a mental impairment; and
 - (b) if the tribunal determines that the person has a mental impairment, the tribunal must make recommendations to the court about how the person should be dealt with.

70A Recommendations about people with mental illness or mental dysfunction

- (1) This section applies if the Childrens Court makes a care and protection order, interim care and protection order with a mental health tribunal provision or interim therapeutic protection order, under the *Children and Young People Act 2008* requiring a person to submit to the jurisdiction of the tribunal to enable the tribunal—
 - (a) to determine whether the person has a mental illness or mental dysfunction; and
 - (b) if the tribunal determines that the person has a mental illness or mental dysfunction—to make recommendations to the court about how the person should be dealt with.
- (2) After an inquiry, and as the tribunal thinks appropriate in relation to the person—
 - (a) the tribunal must determine on the balance of probabilities, whether or not the person has a mental illness or mental dysfunction; and
 - (b) if the tribunal determines that the person has a mental illness or mental dysfunction, the tribunal must make recommendations to the court about how the person should be dealt with.

[3.38] Section 71

omit

section 68 or section 70

substitute

section 68, section 70 or section 70A

[3.39] Section 83A (2) (f)

substitute

- (f) making a recommendation under section 70 or section 70A about a person who has a mental impairment, mental illness or mental dysfunction;

[3.40] Dictionary, definition of *C&YP chief executive*

substitute

C&YP chief executive means the chief executive responsible for the *Children and Young People Act 2008*.

[3.41] Dictionary, new definition of *care and protection order*

insert

care and protection order—see the *Children and Young People Act 2008*, section 422.

[3.42] Dictionary, new definitions

insert

interim care and protection order—see the *Children and Young People Act 2008*, section 433.

interim therapeutic protection order—see the *Children and Young People Act 2008*, section 543.

mental health tribunal provision—see the *Children and Young People Act 2008*, section 491.

Part 3.19 **Testamentary Guardianship Act 1984**

[3.43] Section 5 (2) (a)

substitute

- (a) the chief executive responsible for the *Children and Young People Act 2008*; or

Part 3.20 **Tobacco Act 1927**

[3.44] Section 42E (2)

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008, division 1.3.2

[3.45] Section 42E (2), note

substitute

Note If 2 or more people share parental responsibility for a child or young person, any of them may discharge the responsibility (see *Children and Young People Act 2008*, s 18 (2)).

Part 3.21 **Victims of Crime (Financial Assistance) Act 1983**

[3.46] Dictionary, definition of *guardian*

omit

Children and Young People Act 1999, chapter 2 (General objects, principles and parental responsibility)

substitute

Children and Young People Act 2008

Schedule 4 Consequential amendments— remainder

(see s 3)

Part 4.1 Bail Act 1992

**[4.1] Section 9D (6), definition of *outstanding*, note, 3rd dot
point**

omit

[4.2] Section 23 (1) (c)

omit

Children and Young People Act 1999, section 73 (Powers of court in relation to reports)

substitute

Court Procedures Act 2004, section 74D (Court may order report about young person)

[4.3] New section 25A

insert

**25A Supervision condition when offence committed as young
person**

- (1) This section applies if—
- (a) a condition is imposed on the grant of bail to an accused person under section 25 (4) (e); and
 - (b) the accused person is at least 18 years old but less than 21 years old; and

- (c) the accused person was under 18 years old when the offence to which the grant of bail relates was committed.
- (2) The chief executive responsible for this Act and the chief executive responsible for the *Children and Young People Act 2008* must decide which of them is to be the responsible chief executive for matters relating to the supervision of the accused person.

[4.4] Section 26 (2) (a)

omit

Children and Young People Act 1999, chapter 6 (Young Offenders)

substitute

Children and Young People Act 2008

Part 4.2 Charitable Collections Regulation 2003

[4.5] Section 10, note

substitute

Note For provisions about the employment of children, see the *Children and Young People Act 2008*, ch 21.

Part 4.3 Confiscation of Criminal Assets Act 2003

[4.6] Section 15 (1) (c), note 1, 3rd dot point

omit

[4.7] Section 15 (1) (c), note 2

omit

Part 4.4 Coroners Act 1997

[4.8] Section 3C (1) (b), new note 2

insert

Note 2 A community service order under the *Children and Young People Act 1999* (repealed) is taken to be a community service condition of a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 702).

[4.9] Section 3C (1) (c)

omit

[4.10] Section 3C (1) (f)

substitute

(f) while subject to an accommodation order under the *Crimes (Sentencing) Act 2005*, section 133Z (Accommodation orders—convicted young offenders only); or

[4.11] Section 3C (4)

omit

note

substitute

notes

Part 4.5 Court Procedures Act 2004

[4.12] Section 15 (2) (c) (iv) (B)

omit

the *Children and Young People Act 1999* or

[4.13] Section 15 (2) (c) (v) (A)

omit

the *Children and Young People Act 1999* or

[4.14] Section 41 (2) (a)

omit

Children and Young People Act 1999, section 61 (Proceedings not open to public)

substitute

Court Procedures Act 2004, section 72 (Court proceedings involving children or young people not open to public)

Part 4.6 Court Procedures Rules 2006

[4.15] Rule 22 (1), note 2

omit

(see *Children and Young People Act 1999*, s 53)

substitute

(see *Magistrates Court Act 1930*, s 287)

[4.16] Rule 275 (1), example

substitute

Example—territory law otherwise providing

The *Court Procedures Act 2004*, s 74E provides that in a proceeding in a court in relation to a child or young person, the child or young person may be represented by a lawyer or litigation guardian, or both.

[4.17] Rule 6000 (1), note 2

omit

(see *Children and Young People Act 1999*, s 53)

substitute

(see *Magistrates Court Act 1930*, s 287)

Part 4.7 Crimes Act 1900

[4.18] Section 39 (4)

omit 1st mention of

child officer

substitute

chief executive responsible for the *Children and Young People Act 2008*

[4.19] Section 39 (4)

omit last mention of

child officer

substitute

chief executive

[4.20] Section 39 (6), definition of *child officer*

omit

Part 4.8 Crimes (Child Sex Offenders) Act 2005

[4.21] Section 7 (1) (d) (ii)

omit

[4.22] Section 7 (1) (d) (iii)

omit

or (ii)

[4.23] Section 9 (1) (a) (ii)

omit

[4.24] Section 9 (1) (a) (iii)

omit

or (ii)

[4.25] Section 17 (2), definition of *sentence*

substitute

sentence, for an offence, does not include an order against a young offender under the *Crimes (Sentencing) Act 2005*, section 13, 17, 18, 19, or 27.

[4.26] Section 124 (2), definition of *family day care scheme*

substitute

family day care scheme—see the *Children and Young People Act 2008*, section 734.

[4.27] Dictionary, definition of *community service order*

substitute

community service order means a community service order within the meaning of the *Crimes (Sentencing) Act 2005*, section 13 (6) (Good behaviour orders).

Note An order under the *Crimes Act 1900*, s 408 (Directions to perform work) (repealed) is taken to be a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 339).

Part 4.9 Crimes (Child Sex Offenders) Regulation 2005

[4.28] Section 12 (1) (d) (i)

omit

Children and Young People Act 1999, chapter 1

substitute

Children and Young People Act 2008

[4.29] Section 20 (2)

omit

Children and Young People Act 1999, chapter 1

substitute

Children and Young People Act 2008

Part 4.10 Crimes (Restorative Justice) Act 2004

[4.30] Section 13, definition of *sentence-related order*

substitute

sentence-related order, for an offender who is found guilty of an offence, means any of the following orders of the court:

- (a) an order sentencing the offender;
- (b) an order under the *Crimes (Sentencing) Act 2005*, section 12 (Suspended sentences) or section 17 (Non-conviction orders—general).

Examples—par (a)

- 1 an order for a sentence of imprisonment
- 2 an order for periodic detention under the *Crimes (Sentencing) Act 2005*
- 3 a good behaviour order under the *Crimes (Sentencing) Act 2005*, including an order subject to a community service condition

Note 1 Orders under the *Crimes Act 1900*, s 402 (Conditional release of offenders without proceeding to conviction) (repealed) and s 403 (Conditional release of offenders) (repealed) are taken to be orders under the *Crimes (Sentencing) Act 2005*, s 12 or s 17 (see *Crimes (Sentence Administration) Act 2005*, s 336 to s 338).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

[4.31] Section 22 (2), definition of *chief executive (children and young people)*

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008

[4.32] Section 22 (2), definition of *chief executive (restorative justice)*, example

omit

Children and Young People Act 1999

substitute

Children and Young People Act 2008

Part 4.11 Crimes (Sentence Administration) Act 2005

[4.33] Section 217, definition of *ACT sentence of imprisonment*

omit everything after paragraph (c)

Part 4.12 Crimes (Sentencing) Act 2005

[4.34] Section 38

substitute

38 Sentences of imprisonment and uncompleted young offender orders

- (1) This section applies in relation to an adult offender if, at the time of sentencing—
 - (a) the adult offender is serving a sentence that was imposed on the person as a young offender (the *previous sentence*); and
 - (b) the court is imposing a sentence that would be likely to bring the offender into contact with other adult offenders.

- (2) The court—
- (a) must, in deciding the term of the sentence, consider any remaining period during which the previous sentence would remain in force if not discharged under paragraph (b); and
 - (b) may, if appropriate, discharge the previous sentence.

[4.35] Section 70 (2), definition of *sentence of imprisonment*

substitute

sentence of imprisonment does not include any nonparole period that has been set for the primary sentence.

Part 4.13 Drugs of Dependence Act 1989

[4.36] Section 121, definition of *responsible officer*, paragraph (a)

omit

Children and Young People Act 1999, chapter 2 (General objects, principles and parental responsibility)

substitute

Children and Young People Act 2008

Part 4.14 Education Act 2004

[4.37] Section 6 (3)

substitute

- (3) In this Act, a *carer* is a person who is an out-of-home carer under the *Children and Young People Act 2008*, section 508 (Who is an *out-of-home carer*?).

[4.38] Section 13, new note

insert

Note The *Children and Young People Act 2008*, ch 21 deals with the employment of children and young people. Chapter 21 is subject to this section.

Part 4.15 Evidence (Miscellaneous Provisions) Act 1991

[4.39] Section 74 (2) (b)

substitute

- (b) an offence against any of the following provisions of the *Children and Young People Act 2008*:
- (i) section 789 (Offence—contravene employment prohibition notice);
 - (ii) section 791 (Offence—contravene employment conditions notice);
 - (iii) section 803 (Offence—employment of child or young person under school-leaving age in high risk employment);
 - (iv) section 804 (Offence—contravene condition of permit);

Part 4.16 Hawkers Act 2003

[4.40] Section 4 (d)

substitute

- (d) the sale, delivery or distribution of newspapers by a child or young person that is light work under the *Children and Young People Act 2008*, section 793 (What is *light work*?);

Part 4.17 Juries Act 1967

[4.41] Schedule 2, part 2.1, item 20

omit

Part 4.18 Legislation Act 2001

[4.42] Dictionary, part 1, definition of *Childrens Court*

substitute

Childrens Court means the Childrens Court under the *Magistrates Court Act 1930*, section 287.

[4.43] Dictionary, part 1, definition of *found guilty*, paragraph (c)

omit

Part 4.19 Mental Health (Treatment and Care) Act 1994

[4.44] Section 16 (1) (d)

omit

or the C&YP Act, chapter 6 (Young offenders)

[4.45] Section 70 (1) (b)

omit

, or under the *Children and Young People Act 1999*, part 6.2 (which is about dealing with young offenders in the ACT),

[4.46] Section 90 (5) (e) (except the note)

substitute

(e) be accompanied by a copy of any relevant order under the Crimes Act, part 13 (Unfitness to plead and mental impairment) or under the *Children and Young People Act 2008*.

[4.47] Dictionary, definition of C&YP Act

omit

[4.48] Dictionary, definition of *offender with a mental impairment*

omit

or the C&YP Act, part 6.2 (which is about dealing with young offenders)

[4.49] Dictionary, definition of *referring officer*, paragraph (b)

omit

[4.50] Dictionary, definition of *referring officer*, paragraph (d), note

omit

Children and Young People Act 1999, ch 6 (Young Offenders)

substitute

Children and Young People Act 2008

Part 4.20 Public Advocate Act 2005

[4.51] Section 10 (j)

omit

the *Children and Young People Act 1999*,

Part 4.21 Public Health Regulation 2000

[4.52] Section 2, note 1

substitute

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation or in other legislation.

For example, the signpost definition ‘*childcare centre*—see the *Children and Young People Act 2008*, section 733.’ means that the term ‘childcare centre’ is defined in that section and the definition applies to this regulation.

[4.53] Dictionary, definition of *child-care centre*

substitute

childcare centre—see the *Children and Young People Act 2008*, section 733.

[4.54] Further amendments, mentions of *child-care*

omit

child-care

substitute

childcare

in

section 8 (2)

schedule 1, item 29, column 4
dictionary, definition of *pre-secondary school*
dictionary, definition of *school*, paragraph (a)

Part 4.22 **Victims of Crime (Financial Assistance) Act 1983**

[4.55] Section 66 (2) (a) (ii)

omit

Schedule 5 Legislation repealed

(see s 4)

Part 5.1 Repeals—criminal matters

[5.1] Legislation repealed

- (1) The *Children and Young People Regulation 2000* (SL2000-41) is repealed.
- (2) All legislative instruments under the *Children and Young People Act 1999* (A1999-63) (except the instruments mentioned in this schedule, part 5.2 and part 5.3) are repealed.

Part 5.2 Repeals—care and protection matters

[5.2] Legislation repealed

The following instruments under the *Children and Young People Act 1999* (A1999-63) are repealed:

- *Children and Young People Official Visitor Appointment 2007 (No 1)* (DI2007-244);
- *Children and Young People Official Visitor Appointment 2005 (No 3)* (DI2005-219);
- *Children and Young People (Family Group Conference Facilitator) Appointment 2006 (No 1)* (NI2006-371);
- *Children and Young People (Family Group Conferences Facilitator) Appointment 2004 (No 1)* (NI2004-140);
- any other instrument under the *Children and Young People Act 1999*, section 41 (Official Visitors).

Part 5.3 **Repeals—remainder**

[5.3] Legislation repealed

- (1) The *Children and Young People Act 1999* (A1999-63) is repealed.
- (2) The following instruments under the *Children and Young People Act 1999* (A1999-63) are repealed:
 - *Children and Young People (Community Youth Justice Centre) Attendance Centre Declaration 2005 (No 1)* (NI2005-179);
 - *Children and Young People (Marlow Cottage) Shelter Declaration 2005 (No 1)* (NI2005-222);
 - *Children and Young People—Care and Protection Services Delegations 2006* (NI2006-254);
 - *Children and Young People (Community Youth Justice Centre) Attendance Centre Declaration 2005 (No 2)* (NI2005-299);
 - any other instrument under the *Children and Young People Act 1999*, section 36 (Member of the Council) or section 37 (Chairperson).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 May 2008.

2 Notification

Notified under the Legislation Act on 17 July 2008.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Children and Young People (Consequential Amendments) Bill 2008, which was passed by the Legislative Assembly on 1 July 2008.

Acting Clerk of the Legislative Assembly

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