



Australian Capital Territory

Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023

A2023-45

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J2021-1269

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Australian Capital Territory

Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023

A2023-45

An Act to amend legislation about the age of criminal responsibility, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.

2 Commencement

- (1) This Act (other than the provisions mentioned in subsections (2) and (3)) commences on the 7th day after its notification day.

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

- (2) Parts 2, 4, 10 (other than sections 140 and 141) and schedule 1 commence on—

(a) 27 March 2024; or

(b) if, before 27 March 2024, the Minister fixes another day by written notice—the day fixed.

Note A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (3) The following provisions commence on 1 July 2025:

- section 58
- section 60
- section 94
- section 99
- section 101
- section 103
- section 105
- section 107
- section 109

- section 111
- section 113
- section 115
- section 117
- section 119
- section 121
- section 125
- section 127
- section 129
- section 140
- section 141.

3 Legislation amended

This Act amends the legislation mentioned in parts 2 to 11 and schedule 1.

4 Legislation repealed

The *Crimes (Restorative Justice) Phase 3 Declaration 2018* (NI2018-601) is repealed.

Part 2 Children and Young People Act 2008

5 Director-general's functions New section 22 (1) (ea) and (eb)

insert

- (ea) providing, or assisting in providing, services for the safety and wellbeing of children and young people;
- (eb) providing, or assisting in providing, services for the safety and wellbeing of children and young people who carry out, or are at risk of carrying out, harmful conduct;

6 New section 22 (1) (ga) to (gc)

insert

- (ga) providing, or assisting in providing, services for—
 - (i) children and young people being dealt with by a police officer or held in police custody, whether or not charges can be or have been laid against them; and
 - (ii) young people being dealt with under the criminal law system;
- (gb) providing, or assisting in providing, services for—
 - (i) adults under 21 years old (***young adults***) being dealt with by a police officer or held in police custody for an offence committed or allegedly committed by them when under 18 years old (a ***youth offence***), whether or not charges can be or have been laid against them for the youth offence; and
 - (ii) young adults being dealt with under the criminal law system for youth offences;

- (gc) providing, or assisting in providing—
- (i) supervision or reasonable direction of a person who is required, under a condition of the person's bail, to accept supervision or reasonable direction by the director-general; or
 - (ii) support or assistance that the director-general is required to provide in relation to a condition of a person's bail;

7 Definitions—pt 5.2
Section 114, definition of *young offender*, paragraph (b)

substitute

- (b) was under 18 years old when the offence was committed but not under the age of criminal responsibility for the offence; and

8 New section 114 (2)

insert

- (2) In this section:

under the age of criminal responsibility—a person is ***under the age of criminal responsibility*** for an offence if the person is not criminally responsible under the [Criminal Code](#), section 25 for the offence.

9 Age—care and protection chapters stop applying if person discovered to be adult
Section 339 (4) (b)

substitute

- (b) is being confined at an intensive therapy place under an intensive therapy order—the person must be released.

**10 Care and protection chapters stop applying when young person becomes adult
Section 340 (3)**

substitute

- (3) A young person confined at an intensive therapy place under an intensive therapy order must be released immediately the young person becomes an adult.

**11 When are children and young people *in need of emergency therapeutic protection*?
Section 404**

omit

12 New chapter 14A

insert

Chapter 14A Care and protection— therapeutic support panel for children and young people

Part 14A.1 Preliminary

501A Definitions—ch 14A

- (1) In this chapter:

referral, of a child or young person by a referring entity, means a request for the therapeutic support panel to evaluate the therapeutic needs of the child or young person.

referring entity, for referrals of a child or young person, means any of the following:

- (a) the chief police officer;
- (b) a territory entity;
- (c) an ACT education provider;
- (d) a health facility;
- (e) a health practitioner;
- (f) a judge or magistrate;
- (g) an ACAT member;
- (h) a registrar or deputy registrar of the Supreme Court, the Magistrates Court, the Childrens Court or the ACAT;
- (i) the Chief Executive Officer of ACT Courts and Tribunals;
- (j) the human rights commission;
- (k) the public advocate;
- (l) the legal aid commission;
- (m) a person who has daily care responsibility or long-term care responsibility for the child or young person;
- (n) an entity prescribed by regulation.

(2) In this section:

ACAT member—see the [ACT Civil and Administrative Tribunal Act 2008](#), dictionary, definition of **tribunal member**.

ACT education provider—see section 25 (3).

Chief Executive Officer of ACT Courts and Tribunals—see the [Court Procedures Act 2004](#), section 11A (1).

territory entity—see section 25 (3).

Part 14A.2 Therapeutic Support Panel for Children and Young People

501B Establishment of panel

The Therapeutic Support Panel for Children and Young People is established.

501C Functions of panel

- (1) The therapeutic support panel has the following functions:
 - (a) receiving referrals of children and young people from a referring entity;
 - (b) assessing the therapeutic needs of referred children and young people;
 - (c) giving advice on appropriate therapeutic treatment and support for referred children and young people;
 - (d) coordinating therapeutic services for referred children and young people;
 - (e) recommending whether applications for an intensive therapy order should be made;
 - (f) assisting to develop therapy plans for referred children and young people;
 - (g) providing advice and assistance to the director-general in relation to—
 - (i) family group conference agreements; and
 - (ii) access to services for the care and support of children and young people; and
 - (iii) therapy transition plans; and

- (iv) any other matter the panel considers necessary or appropriate;
- (h) any other function—
 - (i) given to the panel under this Act or another territory law; or
 - (ii) prescribed by regulation.

Note A provision of a law that gives an entity a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196).

- (2) The panel is not subject to direction from anyone in relation to the exercise of its functions.
- (3) However, the panel must comply with any guidelines made by the Minister under subsection (4).
- (4) The Minister may, after consulting the chair of the panel, make guidelines about the principles and procedures to be followed by the panel when exercising its functions.
- (5) A guideline is a notifiable instrument.

501D Panel members

The therapeutic support panel is made up of—

- (a) the chair appointed under section 501F; and
- (b) the other members appointed under section 501E.

501E Appointment of panel members

- (1) The Minister must appoint at least 10, but not more than 12, members to the therapeutic support panel.

Note For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) The Minister may appoint a person as a member of the panel only if satisfied that the person—
- (a) has qualifications, experience or expertise in 1 or more of the following:
 - (i) psychology;
 - (ii) paediatrics;
 - (iii) criminology;
 - (iv) education;
 - (v) working with Aboriginal and Torres Strait Islander children and young people;
 - (vi) working with culturally and linguistically diverse children and young people;
 - (vii) social work;
 - (viii) mental health;
 - (ix) child protection;
 - (x) disability; or
 - (b) has other qualifications, experience or expertise, or membership of an organisation, relevant to exercising the functions of a panel member; or
 - (c) is a police officer nominated by the chief police officer as an officer experienced in working with children and young people and families.
- (3) The Minister must ensure that the panel membership represents a diversity of experience and expertise from the different areas mentioned in subsection (2).

- (4) The Minister must appoint—
 - (a) at least 1 person to the panel to represent Aboriginal and Torres Strait Islander people; and
 - (b) at least 1 person to the panel who is an Aboriginal or Torres Strait Islander person.
- (5) The Minister must not appoint someone to the panel unless satisfied that the person is suitable to be a member of the panel.
- (6) In considering whether someone is suitable to be a member of the panel, the Minister—
 - (a) must consider relevant information of the kind mentioned in section 65 (1), definition of *suitability information*, paragraphs (a), (b) and (c) about the person; and
 - (b) may consider other suitability information about the person.
- (7) The appointment of a member is for not longer than 4 years.
- (8) The conditions of appointment of a member are the conditions stated in the appointment, subject to any determination under the [Remuneration Tribunal Act 1995](#).

501F Appointment of chair of panel

- (1) The Minister must appoint a chair of the therapeutic support panel.
- (2) The appointment of the chair is in addition to the appointments made under section 501E.
- (3) The Minister must not appoint someone unless satisfied that the person—
 - (a) has the expertise or experience to be the chair of the panel; and
 - (b) is otherwise suitable to be the chair.

- (4) In considering whether someone is suitable to be a chair of the panel, the Minister—
 - (a) must consider relevant information of the kind mentioned in section 65 (1), definition of *suitability information*, paragraphs (a), (b) and (c) about the person; and
 - (b) may consider other suitability information about the person.
- (5) The appointment of the chair is for not longer than 5 years.
- (6) The conditions of appointment of the chair are the conditions stated in the appointment, subject to any determination under the [Remuneration Tribunal Act 1995](#).

501G Functions of chair of panel

- (1) The chair of the therapeutic support panel has the following functions:
 - (a) managing the matters before the panel;
 - (b) presiding at meetings of the panel;
 - (c) preparing therapy plans;
 - (d) informing the director-general about the operation of the panel;
 - (e) informing a territory entity about systemic issues that affect children and young people the subject of referrals.
- (2) The chair of the panel must decide which members of the panel, based on expertise or experience, are required to deal with a matter that comes before the panel.
- (3) In this section:
territory entity—see section 25 (3).

501H Appointment of deputy chair of panel

The Minister must appoint a deputy chair of the therapeutic support panel from the members appointed under section 501E.

501I Functions of deputy chair of panel

If the chair of the therapeutic support panel is absent or cannot for any reason exercise the functions of the chair, the deputy chair of the panel must act as the chair.

501J Conduct of panel meetings

- (1) The therapeutic support panel may conduct its meetings as it considers appropriate.
- (2) A meeting may be held using a method of communication, or a combination of methods of communication, that allows a member taking part to hear what each other member taking part says without the members being in each other's presence.

Examples

a phone link, a satellite link, an internet or intranet link

- (3) A member who takes part in a meeting conducted under subsection (2) is taken to be present at the meeting.
- (4) The panel must keep a record of its meetings.

501K Conflict of interest

A member of the therapeutic support panel must take all reasonable steps to avoid being placed in a position where a conflict of interest arises during the exercise of the panel's functions.

501L Ending member appointments

The Minister may end the appointment of the chair, deputy chair or another member of the therapeutic support panel appointed under section 501E—

- (a) for misbehaviour; or
- (b) if the member is convicted, or found guilty, in Australia of an indictable offence; or
- (c) if the member is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be an indictable offence; or
- (d) if the member is absent, otherwise than on approved leave, from 3 consecutive meetings of the panel about a matter required to be dealt with by the member; or
- (e) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

501M Appointment of advisers

- (1) The Minister may, on the request of the therapeutic support panel, appoint a person as an adviser to the panel.

Note For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) However, the Minister must not appoint someone unless satisfied that the person has the experience or expertise to exercise the functions of an adviser.
- (3) An appointment may be subject to conditions stated in the appointment.
- (4) An adviser must, on request of the therapeutic support panel, provide advice to the panel in relation to the panel's functions and otherwise in accordance with any conditions of appointment.

- (5) The Minister may end the appointment of an adviser if the adviser breaches a condition of appointment.

501N Director-general to give support to panel

The director-general must provide administrative support and facilities for the therapeutic support panel.

501O Arrangements for panel staff and facilities

The therapeutic support panel may arrange with the head of service to use—

- (a) the services of a public servant; or
- (b) territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

501P Power to obtain information from information sharing entity

- (1) The chair of the therapeutic support panel may, for the purpose of preparing a therapy plan for a child or young person, by written notice request an information sharing entity to give the chair safety and wellbeing information, produce a document or something else (the *requested information*) about the child or young person.
- (2) An information sharing entity that receives a request under subsection (1) must not fail to comply with the request unless the entity does not have the requested information, or has a reasonable excuse for failing to comply.

Example—reasonable excuse for failing to comply with request

- 1 risk of compromising a criminal investigation
- 2 risk to the safety or wellbeing of a person
- 3 protecting the identity of a person disclosing confidential information

- (3) On receipt of a request under subsection (1) an information sharing entity must promptly—
- (a) comply with the request; or
 - (b) tell the chair, in writing, the reason for failing to comply with the request.

- (4) In this section:

information means information in any form.

Examples

- 1 a written document
- 2 an electronic record

information sharing entity means an entity—

- (a) mentioned in section 859 (1); or
- (b) prescribed by regulation.

safety and wellbeing information, in relation to a child or young person, means information that is relevant to the health, safety or wellbeing of the child or young person.

Part 14A.3 Referrals to therapeutic support panel

501Q Referrals to therapeutic support panel

- (1) A referring entity may make a referral to the therapeutic support panel if the entity believes on reasonable grounds that a child or young person—
- (a) has a genuine need for therapeutic support services; and
 - (b) is at risk of engaging in or has engaged in—
 - (i) harm to themselves or someone else; or

- (ii) serious damage to property or the environment or cruelty to an animal; or
 - (iii) any other serious or destructive behaviour.
- (2) A referral must—
 - (a) be in writing; and
 - (b) include—
 - (i) the name and contact details of the person making the referral on behalf of the referring entity; and
 - (ii) the name and address of the referring entity; and
 - (iii) the name and whereabouts (if known) of the child or young person the subject of the referral; and
 - (iv) any other particulars prescribed by regulation; and
 - (c) be given to the parent or person with daily care responsibility for the child or young person, but only if practicable and in the best interests of the child or young person; and
 - (d) comply with any other requirements prescribed by regulation.
- (3) However, a referral may be made orally if the chair of the panel is satisfied on reasonable grounds that exceptional circumstances justify action without a written referral.

Examples—exceptional circumstances

- 1 Waiting until the referral is put in writing would make action in response to the referral impossible or impractical.
 - 2 Waiting until the referral is put in writing poses a risk to the life or health of a child or young person.
- (4) If a referral is made orally under subsection (3), the chair of the panel must make a written record of the referral as soon as practicable.

501R Panel to act on referrals

- (1) This section applies if the therapeutic support panel receives a referral.
- (2) The chair of the panel—
 - (a) must consider the referral promptly; and
 - (b) must carry out an initial assessment of the matters raised in the referral to decide whether the child or young person may be in need of intensive therapy; and
 - (c) must take all reasonable steps to consult the child or young person, and any parent or person with daily care responsibility for the child or young person; and
 - (d) must take into account the views of a person consulted under paragraph (c) unless it is not in the best interests of the child or young person; and
 - (e) may take the action that the chair considers appropriate in relation to the initial assessment or take no action.
- (3) The chair of the panel may, at any stage after receiving a referral—
 - (a) take reasonable steps to obtain further information about the matters raised in the referral including seeking information from an information sharing entity; and
Example—reasonable steps
a home visit to interview family members
 - (b) ask a territory entity or an ACT education provider to provide assistance, facilities or services relevant to the physical or emotional wellbeing of the child or young person.
- (4) A territory entity or a government school or school-related institution that receives a request under subsection (3) (b) must—
 - (a) comply with the request promptly; and

- (b) take reasonable steps to prioritise services needed to support the physical or emotional wellbeing of the child or young person.
- (5) In this section:
- ACT education provider*—see section 25 (3).
- information sharing entity* means an entity—
- (a) mentioned in section 859 (1); or
 - (b) prescribed by regulation.
- territory entity*—see section 25 (3).

501S Panel must take into account harm statement

- (1) The therapeutic support panel must take into account a harm statement about the behaviour of a child or young person the subject of a referral if the statement is available to the panel.
- (2) In this section:

harm statement—see the *Victims of Crimes Act 1994*, section 15CA (1).

Part 14A.4 Reporting by therapeutic support panel

501T Report to Minister

- (1) The therapeutic support panel may at any time, but must at least once each calendar year, prepare a report for the Minister on any matter arising in connection with the exercise of the panel's functions.
- (2) The panel must give the report to the Minister and may also give the report to any other Minister who is responsible for a matter dealt with in the report.

- (3) The panel must not include in the report any information that would—
 - (a) disclose the identity of a child or young person; or
 - (b) allow the identity of a child or young person to be worked out.
- (4) The Minister must present the report to the Legislative Assembly within 6 sitting days after the report is given to the Minister.
- (5) Each Minister who receives a report under subsection (2) must, within 3 months after receiving it, give information to the therapeutic support panel about any action the Minister has taken, or will take, in relation to the matters raised in the report.

**13 Pt 15.3 applies to care and protection chapters
Section 506 (2) and note**

substitute

- (2) However, this part does not apply if daily care responsibility for a child or young person is transferred to the director-general—
 - (a) under an intensive therapy order or an interim intensive therapy order; or
 - (b) because the child or young person has been confined at an intensive therapy place under section 531 (c) (Confinement only under intensive therapy order).

Note Intensive therapy orders are dealt with in pt 16.2. Interim intensive therapy orders are dealt with in div 16.2.3.

14 Chapter 16*substitute***Chapter 16 Care and protection—intensive therapy for children and young people****Part 16.1 Preliminary****530 Definitions—Act and ch 16**

(1) In this Act:

harmful conduct, engaged in by a child or young person—see section 533.

intensive therapy history, for a child or young person—see section 537.

intensive therapy order, for a child or young person—see section 532.

intensive therapy place—see section 535.

interim intensive therapy order, for a child or young person—see section 543.

mental disorder—see the [Mental Health Act 2015](#), section 9.

Note The [Mental Health Act 2015](#), s 9 defines *mental disorder* as a disturbance or defect, to a substantially disabling degree, of perceptual interpretation, comprehension, reasoning, learning, judgment, memory, motivation or emotion, other than a mental illness.

mental illness—see the *Mental Health Act 2015*, section 10.

Note The *Mental Health Act 2015*, s 10 defines **mental illness** as a condition that seriously impairs (either temporarily or permanently) the mental functioning of a person in 1 or more areas of thought, mood, volition, perception, orientation or memory, and is characterised by—

- (a) the presence of at least 1 of the following symptoms:
 - (i) delusions;
 - (ii) hallucinations;
 - (iii) serious disorders of streams of thought;
 - (iv) serious disorders of thought form;
 - (v) serious disturbance of mood; or
- (b) sustained or repeated irrational behaviour that may be taken to indicate the presence of at least 1 of the symptoms mentioned in par (a).

(2) In this chapter:

intensive therapy person means—

- (a) for an intensive therapy place for which the director-general is the operating entity—an authorised person to whom the director-general has delegated functions of an intensive therapy person under this chapter; and
- (b) for any other intensive therapy place—a person that the operating entity has authorised to exercise the functions of an intensive therapy person under this chapter for the intensive therapy place.

intensive therapy register—see section 596 (1).

therapy transition plan—see section 538.

risk assessment, for a child or young person—see section 534 (1).

therapy plan, for a child or young person for whom the director-general has applied for an intensive therapy order—see section 536.

531 Confinement only under intensive therapy order

The director-general may confine a child or young person at an intensive therapy place only—

- (a) under an intensive therapy order; or
- (b) under an interim intensive therapy order.

Part 16.2 Intensive therapy orders

Note Legal representation of young people is dealt with in the [Court Procedures Act 2004](#), pt 7A (Procedural provisions—proceedings involving children or young people).

Division 16.2.1 Definitions—Act and ch 16**532 What is an *intensive therapy order*?**

In this Act:

intensive therapy order, for a child or young person, means an order of the Childrens Court that—

- (a) directs the child or young person to undergo either or both of the following:
 - (i) assessment of the child or young person’s behaviour and needs;
 - (ii) treatment in accordance with a therapy plan; and
- (b) may authorise the director-general to issue a direction (a *confinement direction*) that the child or young person be confined from time to time while the order is in force as the director-general considers reasonably necessary as a last resort for the purpose of the assessment or treatment; and

- (c) if the order authorises the issue of a confinement direction— transfers daily care responsibility for the child or young person to the director-general for any period of confinement; and

Note Pt 15.3 (Director-general has daily care responsibility) does not apply if daily care responsibility for a child or young person is transferred to the director-general under an intensive therapy order (see s 506).

- (d) includes any other conditions the court considers necessary to—
- (i) prevent the child or young person from engaging in harmful conduct; and
 - (ii) ensure the child or young person undergoes any necessary treatment in accordance with a therapy plan.

Note 1 The director-general or a police officer may apply to a magistrate for a safe custody warrant if an intensive therapy order or interim intensive therapy order is in force for a child or young person and the director-general or police officer believes on reasonable grounds that—

- (a) someone has contravened the order and, because of the contravention, the child or young person is in danger; or
- (b) the child or young person is absent without lawful authority or excuse from the intensive therapy place where the child or young person has been directed to be confined under the intensive therapy order (see s 685).

Note 2 Parental responsibility may be transferred to someone else (see s 17) or shared between 2 or more people (see s 18) under a court order made under this Act or another law in force in the Territory.

533 **What is *harmful conduct*?**

In this Act:

harmful conduct, engaged in by a child or young person, means conduct that leads to a significant risk of significant harm to the child or young person or someone else.

534 What is a *risk assessment*?

(1) In this chapter:

risk assessment, for a child or young person, means an assessment by the director-general about whether—

- (a) there will be a significant risk of significant harm to—
 - (i) the child or young person; or
 - (ii) someone else; and
- (b) the risk of harm arises from the child or young person’s conduct; and
- (c) the risk of harm will be imminent.

(2) The director-general may make risk assessment guidelines.

(3) A risk assessment guideline is a notifiable instrument.

(4) A risk assessment must be carried out in accordance with the risk assessment guidelines.

535 What is an *intensive therapy place*?

In this Act:

intensive therapy place means a place declared by the director-general under section 589 to be an intensive therapy place.

Note Intensive therapy places are further dealt with in div 16.4.1.

536 What is a *therapy plan*?

In this Act:

therapy plan, for a child or young person—

- (a) means a plan to reduce the likelihood of the child or young person engaging in harmful conduct in the future arranged by the director-general in consultation, as far as is practicable, with—
 - (i) the child or young person; and
 - (ii) the parents of the child or young person; and
 - (iii) each other person (if any) who has daily care responsibility for the child or young person; and
 - (iv) the chair of the therapeutic support panel; and
 - (v) anyone else who is proposed to be involved in implementing the plan; and
- (b) if the director-general has applied for an intensive therapy order that allows the director-general to issue a confinement direction in relation to the child or young person—includes written details of the following for any proposed period of confinement:
 - (i) the place of the proposed confinement;
 - (ii) when the period of confinement is to start and end;
 - (iii) the therapy, counselling or other service that is proposed for the child or young person;
 - (iv) the expected results of the therapy, counselling or other service;
 - (v) the education that is proposed for the child or young person;

- (vi) the supervision that is proposed for the child or young person;
- (vii) the proposed arrangements for the child or young person's contact with—
 - (A) family members; and
 - (B) significant people for the child or young person; and
 - (C) any other people;
- (viii) for an Aboriginal or Torres Strait Islander child or young person—the proposed arrangements for the preservation and enhancement of the identity of the child or young person as an Aboriginal or Torres Strait Islander person.

Note 1 If the public advocate or an official visitor asks the director-general for a therapy plan for a child or young person, the director-general must provide a copy promptly (see s 595).

Note 2 If the child or young person is an Aboriginal or Torres Strait Islander person, the director-general must also, if asked by the Aboriginal and Torres Strait Islander children and young people commissioner, give a copy promptly to the commissioner (see s 595 (2)).

537 What is *intensive therapy history*?

In this Act:

intensive therapy history, for a child or young person means written details of—

- (a) each intensive therapy order made for the child or young person; and
- (b) if the child or young person has been confined under an intensive therapy order—the following particulars relating to each period of confinement:
 - (i) the director-general's decision to confine the child or young person, and the reasons for the decision;

- (ii) when the period of confinement started and ended;
- (iii) where the child or young person was confined;
- (iv) the therapy, counselling or other service that was provided to the child or young person;
- (v) the review of the progress of the therapy, counselling or other service;
- (vi) the education that was provided to the child or young person;
- (vii) the supervision that was provided to the child or young person;
- (viii) the arrangements for the child or young person's contact with, and the child or young person's contact with—
 - (A) family members; and
 - (B) significant people for the child or young person; and
 - (C) any other people; and
- (c) any other matter prescribed by regulation.

538 **What is a *therapy transition plan*?**

In this chapter:

therapy transition plan, for a child or young person—

- (a) means a plan developed by the director-general for when the child or young person is no longer subject to an intensive therapy order; and
- (b) may include proposals for ongoing therapy, counselling or other services to assist the child or young person's transition from being in intensive therapy.

Division 16.2.2 Applications for intensive therapy orders

539 Intensive therapy order—application by director-general

- (1) Only the director-general may apply for an intensive therapy order.
- (2) The director-general may apply to the Childrens Court for an intensive therapy order for a child or young person if satisfied that the criteria for making the order are met.

Note 1 Criteria for making an intensive therapy order are in s 549.

Note 2 Oral applications may also be made (see s 698).

- (3) For subsection (2), the director-general may be satisfied that the criteria are met on the advice of the therapeutic support panel.

540 Intensive therapy order—application to state grounds etc

An application for an intensive therapy order for a child or young person must—

- (a) state the grounds on which the order is sought; and
- (b) include—
 - (i) a risk assessment for the child or young person; and
 - (ii) a copy of previous intensive therapy orders for the child or young person (if any); and
 - (iii) the intensive therapy history (if any) for the child or young person; and

- (c) state any less restrictive ways that the director-general, the therapeutic support panel and any members of the child or young person's family have—
 - (i) tried to prevent the child or young person from engaging in harmful conduct and how the less restrictive ways were not successful (if any); and
 - (ii) considered to prevent the child or young person from engaging in harmful conduct and how the less restrictive ways were not appropriate (if any); and
- (d) include—
 - (i) a therapy plan for the child or young person; and
 - (ii) information about how the intensive therapy order is part of the overall care plan for the child or young person; and
 - (iii) information about any consultation with, and advice received, from the therapeutic support panel in relation to the child or young person;
 - (v) information about whether the child or young person is charged with an offence.

Note Statements, documents and reports must be included in the application (see s 696).

541 Intensive therapy orders—who must be given application

The director-general must give a copy of the application for the intensive therapy order for the child or young person to the following people at least 1 working day before the application is to be heard by the Childrens Court:

- (a) the child or young person;
- (b) each parent of the child or young person;

- (c) any person who has daily care responsibility, or long-term care responsibility, for the child or young person;
- (d) the chair of the therapeutic support panel;
- (e) the public advocate;
- (f) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

542 Intensive therapy order—Childrens Court to consider application promptly

- (1) The Childrens Court must give initial consideration to an application for an intensive therapy order not later than 2 working days after the day the application is filed.
- (2) The Childrens Court must give directions about the conduct of the proceeding (including the hearing of the application) at the time the application is initially considered.
- (3) This section does not apply if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1 (Emergency action).

Note For s (3), the Childrens Court must give initial consideration to the application on the day it is filed (see s 413).

Division 16.2.3 Interim intensive therapy orders

543 What is an *interim intensive therapy order*?

In this Act:

interim intensive therapy order, for a child or young person, means an order of the Childrens Court—

- (a) made in a proceeding for an application for an intensive therapy order for the child or young person before the intensive therapy order has been finally decided; and
- (b) that may direct the child or young person to be confined as a last resort—
 - (i) for a total period of not more than 2 weeks (the *period of confinement*) starting on a stated day; and
 - (ii) at a stated place or a place the director-general directs; and
- (c) if the order directs the child or young person to be confined— that transfers daily care responsibility for the child or young person to the director-general for the period of confinement; and

Note Pt 15.3 (Director-general has daily care responsibility) does not apply if daily care responsibility for a child or young person is transferred to the director-general under an intensive therapy order (see s 506).

- (d) includes any other conditions the court considers necessary to—
 - (i) prevent the child or young person from engaging in harmful conduct; and
 - (ii) ensure the child or young person undergoes any necessary treatment in accordance with a therapy plan.

Note Parental responsibility may be transferred to someone else (see s 17) or shared between 2 or more people (see s 18) under a court order made under this Act or another law in force in the Territory.

544 Interim intensive therapy order—criteria for making

The Childrens Court may, on application by the director-general, make an interim intensive therapy order for a child who is at least 10 years old or a young person if—

- (a) an application for an intensive therapy order for the child or young person has been made but not finally decided; and
- (b) the court is satisfied that—
 - (i) there is a significant risk of significant harm to the child or young person, or someone else, arising from the child or young person’s conduct; and
 - (ii) an interim order before the application is finally decided is necessary to prevent the harmful conduct; and
 - (iii) if the order directs the child or young person to be confined—the confinement is necessary as a last resort to—
 - (A) prevent the child or young person from engaging in harmful conduct; and
 - (B) ensure the child or young person undergoes any necessary treatment in accordance with a therapy plan.

Note Criteria for making an intensive therapy order are in s 549.

545 Interim intensive therapy order—confinement direction

If the Childrens Court decides that a child or young person must be confined for a period of time under an interim intensive therapy order, the court must include the following directions in the order:

- (a) that the child or young person must be confined;
- (b) the period of confinement, including the day on which the confinement starts and ends;

- (c) the place of confinement;
- (d) the purpose of the confinement.

546 Interim intensive therapy order—length

- (1) The length of an interim intensive therapy order—
 - (a) must be stated in the order; and
 - (b) must not be longer than 2 weeks.
- (2) An interim intensive therapy order ends on the earlier of the following:
 - (a) the day the order is stated to end;
 - (b) the day the application for the intensive therapy order is finally decided.

547 Interim intensive therapy order—further order

- (1) Section 546 does not prevent an application for a further interim intensive therapy order to commence immediately after the end of a previous interim intensive therapy order.
- (2) However, the court must not make a further interim intensive therapy order directing the confinement of a child or young person if the total period of confinement to which the child or young person has been subject under previous interim intensive therapy orders is 12 weeks.

548 Offence—interim intensive therapy order

- (1) A person commits an offence if—
 - (a) an interim intensive therapy order is in force for a child or young person; and
 - (b) the person has been given a copy of the order; and

- (c) the person is not the child or young person who is the subject of the interim intensive therapy order; and
- (d) the person engages in conduct that contravenes a provision of the order.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) This section does not apply if the person has a reasonable excuse for contravening the order.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

Division 16.2.4 Making an intensive therapy order

549 Intensive therapy order—criteria for making

The Childrens Court may, on the application of the director-general, make an intensive therapy order for a child who is at least 10 years old or young person only if satisfied that—

- (a) if the order is not made—
 - (i) there will be a significant risk of significant harm to—
 - (A) the child or young person; or
 - (B) someone else; and
 - (ii) the risk of harm arises from the child or young person’s conduct; and
- (b) the court is satisfied that—
 - (i) less restrictive ways to prevent the child or young person from engaging in harmful conduct have been tried but the less restrictive ways have not been successful; or

- (ii) less restrictive ways to prevent the child or young person from engaging in harmful conduct have been considered but the less restrictive ways were not appropriate; and
- (c) there are no less restrictive ways to prevent the child or young person from engaging in harmful conduct; and
- (d) if the order authorises the director-general to issue a confinement direction in relation to a child or young person—confinement of the child or young person may be necessary as a last resort to enable either or both of the following:
 - (i) assessment of the child or young person’s behaviour and needs;
 - (ii) treatment in accordance with a therapy plan; and
- (e) the director-general—
 - (i) if the order relates to the assessment of the child or young person’s behaviour and needs—undertakes to provide the court with a therapy plan for the child or young person within the period required by the court; and
 - (b) if the order relates to the treatment of the child or young person—has provided the court with a therapy plan for the child or young person; and
- (f) if the director general has provided a therapy plan to the court—the plan is more likely than not to reduce the likelihood of the child or young person engaging in harmful conduct in the future; and

- (g) making the order is in the best interests of the child or young person.

Examples—less restrictive ways to prevent young person from engaging in harmful conduct—pars (b) and (c)

- 1 The director-general provided a child or young person's family with intensive family support services.
- 2 The director-general or other service provider provided a child or young person with the same services that are provided under a therapy plan but the child or young person was not confined at an intensive therapy place.

Note 1 In a proceeding for an intensive therapy order, a fact is proved if it is proved on the balance of probabilities (see s 711).

Note 2 The Childrens Court may make an order imposing an obligation on a person only if the person agrees to it, has been given an opportunity to be heard about it or cannot be found (see s 718).

550 Intensive therapy order—confinement directions

- (1) If the Childrens Court authorises the director-general to issue a confinement direction in relation to a child or young person under an intensive therapy order, or an extension of the order, the court must state the following in the order:
- (a) that the child or young person may be confined as a last resort while the order is in force;

Note For the director-general's functions in relation to a confinement direction (see section 577).
 - (b) the place of confinement;
 - (c) the purpose of the confinement;
 - (d) any further conditions of the authorisation.
- (2) In this section:

confinement direction—see section 532, definition of ***intensive therapy order***, paragraph (b).

551 Intensive therapy order—length

The length of an intensive therapy order—

- (a) must be stated in the order; and
- (b) must not be longer than 12 weeks.

Note An intensive therapy order may be extended (see div 16.2.6).

552 Intensive therapy order—statement of reasons

If the Childrens Court hears and decides an application for an intensive therapy order, the court must record a written statement of reasons for the decision.

Note 1 A party may ask for the statement of reasons (see s 722 (2)).

Note 2 For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.

553 Offence—intensive therapy order

- (1) A person commits an offence if—
 - (a) an intensive therapy order is in force for a child or young person; and
 - (b) the person has been given a copy of the order; and
 - (c) the person is not the child or young person who is the subject of the intensive therapy order; and
 - (d) the person engages in conduct that contravenes a provision of the order.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) This section does not apply if the person has a reasonable excuse for contravening the order.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

Division 16.2.5 Review of intensive therapy orders

554 Definitions—div 16.2.5

In this division:

initial review—see section 555 (2).

ongoing review—see section 556 (2).

555 Initial review

- (1) This section applies if an intensive therapy order is in force for a child or young person.
- (2) The director-general must review the operation of the order (the *initial review*) not later than—
- (a) if the order authorises the director-general to issue a confinement direction—2 weeks after the order is made; or
 - (b) in any other case—6 weeks after the order is made, or 1 week before the order expires, whichever happens first.

556 Ongoing review

- (1) This section applies if an intensive therapy order is in force for a child or young person.

- (2) The director-general must review the operation of the order (an *ongoing review*) not later than—
- (a) if the order authorises the director-general to issue a confinement direction—2 weeks after—
 - (i) the initial review; and
 - (ii) each ongoing review; or
 - (b) in any other case—6 weeks after the initial review and each ongoing review, or 1 week before the order expires after the initial review or an ongoing review, whichever happens first.

557 Review—views to be considered

- (1) This section applies if the director-general is carrying out an initial review, or ongoing review, of the operation of an intensive therapy order.
- (2) In carrying out the review, the director-general must consider the views of the following people:
- (a) the child or young person;
 - (b) each person with parental responsibility for the child or young person (other than the director-general);
Note Parental responsibility is dealt with in div 1.3.2.
 - (c) each person who had daily care responsibility for the child or young person immediately before the order was made;
Note Daily care responsibility is dealt with in s 19.
 - (d) the chair of the therapeutic support panel;
 - (e) each official visitor who has visited the child or young person;
 - (f) the public advocate;

- (g) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner;
- (h) any other person the director-general considers appropriate.

558 Review report

- (1) This section applies if the director-general has carried out an initial review, or ongoing review, of the operation of an intensive therapy order.
- (2) The director-general must prepare a report (a *review report*) about the operation of the intensive therapy order.
- (3) The director-general must give a copy of the review report to the following:
 - (a) the child or young person;
 - (b) each person with parental responsibility for the child or young person (other than the director-general);
 - (c) each person who had daily care responsibility for the child or young person immediately before the order was made;
 - (d) the chair of the therapeutic support panel;
 - (e) each official visitor who has visited the child or young person;
 - (f) the public advocate;
 - (g) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner;
 - (h) if the Childrens Court has requested a copy of the report—the court.

559 Director-general's action after review

- (1) This section applies if the director-general has carried out an initial review, or ongoing review, of the operation of an intensive therapy order.
- (2) If the director-general decides that the order should be extended, the director-general must apply to the Childrens Court for the order to be extended.

Note The Childrens Court may extend the order under div 16.2.6.

- (3) If the director-general decides that the order should be amended, the director-general must apply to the Childrens Court for the order to be amended.

Note Amending an intensive therapy order is dealt with in div 16.2.7.

- (4) If the director-general decides that the order should be revoked, the director-general must apply to the Childrens Court for the order to be revoked.

Note Revoking an intensive therapy order is dealt with in div 16.2.7.

Division 16.2.6 Extending an intensive therapy order**560 Intensive therapy order—extension application**

The director-general may apply to the Childrens Court for extension of an intensive therapy order only if the director-general believes on reasonable grounds that the criteria for extending the order are met.

Note 1 Criteria for extending the order is in s 564.

Note 2 Statements, documents and reports must be included in the application (see s 696).

Note 3 Oral applications may also be made (see s 698).

561 Intensive therapy order—extension application must state grounds etc

An application for extension of an intensive therapy order must—

- (a) state the grounds for the proposed extension; and
- (b) include—
 - (i) the intensive therapy history (if any) for the child or young person; and
 - (ii) a further therapy plan for the child or young person for the period of the proposed extension; and
 - (iii) a further risk assessment for the child or young person; and
- (c) include a written statement summarising—
 - (i) whether the director-general has consulted with or sought advice from the therapeutic support panel about the child or young person under the intensive therapy order, and if so the substance of the consultation or advice; and
 - (ii) how the intensive therapy order was implemented; and
 - (iii) the extent of compliance with the order.

562 Intensive therapy order—who must be given extension application

The director-general must give a copy of an application for extension of an intensive therapy order to the following people at least 1 working day before the application is to be heard by the Childrens Court:

- (a) each party to the proceeding in which the order was made;
- (b) the public advocate;

- (c) if the intensive therapy order is for an Aboriginal or Torres Strait Islander child or young person—the Aboriginal and Torres Strait Islander children and young people commissioner.

Note Parties to proceedings are dealt with in pt 19.2.

563 Intensive therapy order—Childrens Court to consider extension application promptly

- (1) The Childrens Court must give initial consideration to an application for extension of an intensive therapy order not later than 2 working days after the day the application is filed.
- (2) The Childrens Court must give directions about the conduct of the proceeding (including the hearing of the application) at the time the application is initially considered.
- (3) If the intensive therapy order is in force on the day the application for extension is filed, but would end before the application is heard, the order continues in force until whichever of the following happens first:
 - (a) the application is heard and decided;
 - (b) 8 weeks after the application was filed.

564 Intensive therapy order—criteria for extension up to 6 months

- (1) The Childrens Court may, by order, extend an intensive therapy order only if satisfied that—
 - (a) if the order is not extended—
 - (i) there will be a significant risk of significant harm to—
 - (A) the child or young person; or
 - (B) someone else; and

- (ii) the risk of harm arises from the child or young person's conduct; and
- (b) there are no less restrictive ways to prevent the child or young person from engaging in harmful conduct than an extended intensive therapy order; and
- (c) the director-general has developed a further therapy plan for the child or young person; and
- (d) the further therapy plan is more likely than not to reduce the likelihood of the child or young person engaging in harmful conduct in the future; and
- (e) extending the order is in the best interests of the child or young person.

Note 1 In a proceeding for a care and protection order, a fact is proved if it is proved on the balance of probabilities (see s 711).

Note 2 The Childrens Court may make an order imposing an obligation on a person only if the person agrees to it, has been given an opportunity to be heard about it or cannot be found (see s 718).

- (2) The Childrens Court may extend an intensive therapy order—
 - (a) for as long as 8 weeks; and
 - (b) more than once.
- (3) However, the Childrens Court must not extend an intensive therapy order if the total length of the order and any extensions of the order will be longer than 6 months.

565 Intensive therapy order extension—statement of reasons

If the Childrens Court hears and decides an application for extension of an intensive therapy order, the court must record a written statement of reasons for the decision.

Note 1 A party may ask for the statement of reasons (see s 722 (2)).

Note 2 For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.

Division 16.2.7 Amending or revoking an intensive therapy order**566 Intensive therapy order—amendment**

The Childrens Court may by order, on application or on its own initiative, amend an intensive therapy order.

567 Intensive therapy order—revocation

The Childrens Court may by order, on application or on its own initiative, revoke an intensive therapy order.

568 Intensive therapy order—application for amendment or revocation

The following people may apply for amendment or revocation of an intensive therapy order for a child or young person if the person believes on reasonable grounds that the criteria for amending or revoking the order are met:

- (a) the director-general;
- (b) the child or young person;
- (c) someone who has parental responsibility for the child or young person;
- (d) a former caregiver of the child or young person;

- (e) the public advocate;
- (f) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

569 Intensive therapy order—application for amendment must state grounds etc

- (1) An application for amendment of an intensive therapy order must—
 - (a) state—
 - (i) how the provision is proposed to be amended; and
 - (ii) the grounds for the proposed amendment; and
 - (b) if the applicant is the director-general, include—
 - (i) the intensive therapy history (if any) for the child or young person; and
 - (ii) a revised therapy plan for the child or young person that takes into account the proposed amendment; and
 - (iii) a further risk assessment for the child or young person; and
 - (c) be given to the following:
 - (i) if the applicant is not the director-general—the director-general;
 - (ii) the public advocate;
 - (iii) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner;
 - (iv) an entity prescribed by regulation.

- (2) If the applicant is not the director-general, after the director-general receives a copy of the application, the director-general must file with the Childrens Court—
- (a) the intensive therapy history (if any) for the child or young person; and
 - (b) a revised therapy plan for the child or young person that takes into account the proposed amendment; and
 - (c) a further risk assessment for the child or young person.

570 Intensive therapy order—application for revocation must state grounds etc

- (1) An application for revocation of an intensive therapy order must—
- (a) state the grounds for the proposed revocation; and
 - (b) if the applicant is the director-general, include—
 - (i) the intensive therapy history (if any) for the child or young person; and
 - (ii) a further risk assessment for the child or young person.
- (2) If the applicant is not the director-general, after the director-general receives a copy of the application, the director-general must file with the Childrens Court—
- (a) the intensive therapy history (if any) for the child or young person; and
 - (b) a further risk assessment for the child or young person.

571 Intensive therapy order—who must be given application for amendment or revocation

The applicant for amendment or revocation of an intensive therapy order must give a copy of the application to the following people at least 1 working day before the application is to be heard by the Childrens Court:

- (a) each party to the proceeding in which the order was made;
- (b) anyone else who was required to be given a copy of the application for the intensive therapy order;
- (c) the public advocate;
- (d) if the intensive therapy order was for an Aboriginal or Torres Strait Islander child or young person—the Aboriginal and Torres Strait Islander children and young people commissioner.

Note Parties to proceedings are dealt with in pt 19.2.

572 Intensive therapy order—Childrens Court to consider application for amendment or revocation promptly

- (1) The Childrens Court must give initial consideration to an application for amendment or revocation of an intensive therapy order not later than 2 working days after the day the application is filed.
- (2) The Childrens Court must give directions about the conduct of the proceeding (including the hearing of the application) at the time the application is initially considered.

**573 Intensive therapy order amendment or revocation—
criteria for amendment or revocation**

The Children’s Court may, by order, amend or revoke an intensive therapy order or a condition of the order only if satisfied that—

- (a) the order or condition of the order is no longer needed to reduce the risk of harm to, or arising from, the child or young person; or
- (b) a less restrictive way than the order or condition of the order is available to prevent the child or young person from engaging in harmful conduct; or
- (c) the order or condition of the order is no longer in the best interests of the child.

**574 Intensive therapy order amendment or revocation—
statement of reasons**

If the Childrens Court hears and decides an application for amendment or revocation of an intensive therapy order, the court must record a written statement of reasons for the decision.

Note 1 A party may ask for the statement of reasons (see s 722 (2)).

Note 2 For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.

Division 16.2.8 Mental health referral**575 Referral of young person with mental disorder or illness**

- (1) In a proceeding for an interim intensive therapy order or intensive therapy order for a child or young person, the Childrens Court—
 - (a) if satisfied that the child or young person may have a mental disorder or mental illness—may order the child or young person to submit to the jurisdiction of the ACAT; or

- (b) if satisfied that the child or young person has a mental disorder or mental illness—must order the child or young person to submit to the jurisdiction of the ACAT.
- (2) However, the Childrens Court need not order the child or young person to submit to the jurisdiction of the ACAT if satisfied that making an interim intensive therapy order or intensive therapy order is the best way to support the child or young person.
- (3) The Childrens Court may, under an interim intensive therapy order or intensive therapy order, include a requirement that the child or young person submit to the jurisdiction of the ACAT if satisfied that an order with the requirement is the best way to support the child or young person.
- (4) If the Childrens Court makes an order under subsection (1), or an order with a requirement mentioned in subsection (3), the order must contain a provision directing the child or young person to submit to the jurisdiction of the ACAT to allow the ACAT—
 - (a) to decide whether the child or young person has a mental disorder or mental illness; and
 - (b) if the ACAT decides that the child or young person has a mental disorder or mental illness—to make recommendations to the Childrens Court about how the child or young person should be dealt with.

Part 16.3 Children and young people in intensive therapy

Division 16.3.1 Preliminary

576 When is a child or young person *in intensive therapy*?

In this Act:

in intensive therapy—a child or young person is *in intensive therapy* if the child or young person is subject to an intensive therapy order or an interim intensive therapy order.

Division 16.3.2 Confinement

577 Confinement direction

- (1) A confinement direction issued by the director-general as a last resort in relation to a child or young person must state the following:
 - (a) the nature of the confinement necessary and reasonable to ensure—
 - (i) assessment of the child or young person’s behaviour and needs; or
 - (ii) treatment of the child or young person in accordance with a therapy plan;
 - (b) the period of confinement;
 - (c) whether the child or young person may temporarily leave an intensive therapy place while the confinement direction is in force.
- (2) The director-general must not—
 - (a) direct the continuous confinement of a child or young person for a period longer than 14 days; or

- (b) allow a child or young person to temporarily leave an intensive therapy place if the leave would create a risk of harm to the child or young person or anyone else.
- (3) The director-general may issue more than 1 confinement direction in accordance with an intensive therapy order while the order is in force.
- (4) If the director-general issues a confinement direction, the director-general must for each period of confinement—
 - (a) record the fact of and reasons for the confinement; and
 - (b) tell the public advocate in writing of the confinement; and
 - (c) if the child or young person is an Aboriginal or Torres Strait Islander person—tell the Aboriginal and Torres Strait Islander children and young people commissioner in writing of the confinement; and
 - (d) record the confinement in the intensive therapy register.
- (5) In this section:
confinement direction—see section 532, definition of *intensive therapy order*, paragraph (b).

Division 16.3.3 Visits by accredited people

578 Who is an *accredited person*?

- (1) In this division:
accredited person, for a child or young person in intensive therapy, means each of the following:
 - (a) the director-general;
 - (b) a representative of an entity providing a service or program to the child or young person at an intensive therapy place;
 - (c) a lawyer representing the child or young person;

- (d) a health practitioner providing a health service to the child or young person;
 - (e) an official visitor;
 - (f) the chair of the therapeutic support panel;
 - (g) the public advocate;
 - (h) a commissioner exercising functions under the *Human Rights Commission Act 2005*;
 - (i) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner;
 - (j) the ombudsman;
 - (k) the senior practitioner;
 - (l) a person prescribed by regulation.
- (2) In this section:

senior practitioner—see the *Senior Practitioner Act 2018*, dictionary.

579 Intensive therapy—visits by accredited people must be allowed

To protect the human rights of children and young people in intensive therapy at intensive therapy places, the operating entity for the intensive therapy place must ensure, as far as practicable, that children and young people in intensive therapy have reasonable opportunities to receive visits from accredited people as often as needed.

580 Intensive therapy—visits by accredited people

An accredited person may visit a child or young person in intensive therapy.

Division 16.3.4 Searches and seizure

581 Application—div 16.3.4

This division applies to a child or young person who is in intensive therapy.

582 Meaning of *owner*—div 16.3.4

In this division:

owner, of a thing, includes a person entitled to possession of the thing.

583 Search and seizure—powers

- (1) The operating entity for an intensive therapy place may, at any time, direct an intensive therapy person to carry out a scanning search, frisk search or ordinary search of a child or young person if there are reasonable grounds for believing that the child or person is carrying anything—
 - (a) that would present a danger to the intensive therapy person or another person; or
 - (b) that could be used to assist the child or person to escape the intensive therapy place.
- (2) As far as practicable, the operating entity must ensure that the intensive therapy person is—
 - (a) if the child or young person requests an intensive therapy person of a particular sex—a person of the sex requested; or
 - (b) if the child or young person makes no request—a person of the same sex as the child or young person.
- (3) The intensive therapy person may seize a dangerous thing found on a child or young person or in a child or young person's custody or possession, unless the child or young person has the written approval of the operating entity to possess the thing.

(4) The intensive therapy person must make a written record of anything seized under this section.

(5) In this section:

frisk search means—

- (a) a search of a person conducted by quickly running the hands over the person's outer garments; and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

ordinary search means a search of a person, or of articles in a person's possession, that may include—

- (a) requiring the person to remove the person's overcoat, coat or jacket and any gloves, shoes, hat or bag; and
- (b) an examination of those items.

scanning search means a search of a person by electronic or other means that does not require the person to remove the person's clothing or to be touched by someone else.

584 Searches—intrusiveness

(1) An intensive therapy person conducting a search of a child or young person under this division must ensure, as far as practicable, that the search—

- (a) is the least intrusive kind of search that is necessary and reasonable in the circumstances; and
- (b) is conducted in the least intrusive way that is necessary and reasonable in the circumstances.

Example

searching for a dangerous thing by a scanning search rather than a frisk search

(2) A child or young person must not be subjected to a strip search.

(3) In this section:

strip search means a search of a person that includes—

- (a) requiring the person to remove all of the person's clothing; and
- (b) examining—
 - (i) the person's body (but not the person's body orifices or cavities); and
 - (ii) the person's clothing.

585 Searches—use of force

An intensive therapy person may use force, but only as much force as is necessary and reasonable—

- (a) to conduct or assist in a search under this division; or
- (b) to prevent the loss, destruction or contamination of anything seized, or that may be seized, during the search.

586 Seized property—must tell owner

- (1) As soon as practicable, but not later than 7 days, after the day a thing is seized under section 583, the operating entity for the intensive therapy place must tell the following people, in writing (a ***seizure notice***), about the seizure:
 - (a) the owner of the thing seized;
 - (b) if the owner cannot be identified after reasonable efforts (given the thing's apparent value)—the person from whom the thing was seized.
- (2) The seizure notice must—
 - (a) identify the thing seized; and
 - (b) outline the grounds for the seizure; and

- (c) include a statement about the effect of section 587; and
- (d) include anything else prescribed by regulation.

587 Seized property—forfeiture

- (1) A thing seized under section 583 is forfeited to the Territory if—
 - (a) after making reasonable efforts (given the thing's apparent value), the operating entity for the intensive therapy place is satisfied that—
 - (i) the owner of the thing cannot be found; or
 - (ii) the thing cannot be returned to the owner; or
 - (b) the operating entity for the intensive therapy place is satisfied that—
 - (i) possession of the thing by the child or young person is an offence; or
 - (ii) it is necessary to keep the thing to stop it being used for the commission of an offence; or
 - (iii) the thing is inherently unsafe.
- (2) The operating entity may deal with a thing forfeited to the Territory under this section, or dispose of it, as the operating entity considers appropriate.

Examples

- 1 giving a forfeited weapon to the director-general
- 2 disposing of a forfeited thing of little value

- (3) However, subsection (2) is subject to any order under the *Crimes Act 1900*, section 249 (Seizure of forfeited articles).

Note 1 The *Crimes Act 1900* also provides for articles forfeited under any law in force in the Territory to be seized by a member of the police force, taken before the Magistrates Court and for the court to order disposal of the article by the public trustee and guardian (see s 249 and s 250).

Note 2 The *Uncollected Goods Act 1996* provides generally for the disposal of uncollected goods, including goods abandoned on premises controlled by the Territory.

588 Seized property—return

- (1) If a thing seized under section 583 is not forfeited to the Territory, the operating entity for the intensive therapy place must return the thing to its owner—
- (a) at the end of the 6 months after the day the thing was seized; or
 - (b) if a proceeding for an offence involving the thing is started not later than the 6 months—at the end of the proceeding and any appeal from the proceeding.
- (2) However, if the thing was being kept as evidence of an offence and the operating entity believes on reasonable grounds that keeping the thing as evidence is no longer necessary, the operating entity must return the thing immediately to its owner.

Part 16.4 Intensive therapy—administration

Division 16.4.1 Intensive therapy places

589 Intensive therapy place—declaration

- (1) The director-general may declare a place to be an intensive therapy place for this Act.

- (2) However, the director-general may declare a place to be an intensive therapy place only if the place—
- (a) is not a detention place, former detention place or any part of a place that accommodates young detainees; and
 - (b) complies with the intensive therapy standards.

Note The Minister may make intensive therapy standards under s 887.

- (3) A declaration is a notifiable instrument.

Note An authorised person may, at any reasonable time, enter a place if the director-general is deciding whether to declare the place as an intensive therapy place under this section (see s 816).

590 Intensive therapy place—exclusion of matters from declaration etc

- (1) The director-general may exclude from an intensive therapy place declaration any matter that the director-general believes on reasonable grounds would be likely to disclose the location of an intensive therapy place.
- (2) However, the director-general must disclose the location of an intensive therapy place to the people entitled under section 597 (1) to have access to the intensive therapy register.

591 Intensive therapy place—policies and procedures

- (1) The director-general may make intensive therapy place policies and operating procedures, consistent with this Act, to facilitate the effective and efficient management of intensive therapy places.

Note A reference to this Act includes a reference to the statutory instruments made or in force under this Act, including any intensive therapy standards (see [Legislation Act](#), s 104).

- (2) Each intensive therapy place policy or operating procedure is a notifiable instrument.

Note 1 The amendment or repeal of an intensive therapy place policy or operating procedure is also a notifiable instrument (see [Legislation Act](#), s 46).

Note 2 An authorised person may, at any reasonable time, enter an intensive therapy place for which the director-general is not the operating entity (see s 816).

592 Authorisation of operating entity for intensive therapy place

The director-general may authorise an entity to be an operating entity for an intensive therapy place if satisfied that the entity—

- (a) is a suitable entity to operate an intensive therapy place; and

Note Suitable entities are dealt with in s 61.

- (b) complies with, and is likely to continue to comply with, the intensive therapy standards.

Note The Minister may make intensive therapy standards under s 887.

593 Suspension of operating entity's authorisation

- (1) The director-general may suspend an entity's authorisation under section 592 as an operating entity for an intensive therapy place if the director-general suspects on reasonable grounds that the entity—

- (a) is not a suitable entity to operate an intensive therapy place; or

- (b) has at any time failed to comply with the intensive therapy standards.

- (2) The director-general may suspend the authorisation by—

- (a) giving the entity written notice of the suspension, including the director-general's reasons for suspending the authorisation; and

- (b) telling the entity that the entity may make a submission, in writing, to the director-general about the suspension not later than 14 days after the day the notice is given to the entity.
- (3) A suspension takes effect immediately.
- (4) After the end of 28 days after the director-general gives notice of the suspension of an entity's authorisation under subsection (2) (b), the director-general must—
 - (a) consider any submission made by the entity; and
 - (b) either—
 - (i) revoke the suspension; or
 - (ii) give the entity notice of the director-general's intention to revoke the authorisation under section 594.

594 Revocation of operating entity's authorisation

- (1) The director-general may revoke an entity's authorisation under section 592 as an operating entity for an intensive therapy place if the director-general is satisfied that the entity—
 - (a) is not a suitable entity to operate an intensive therapy place; or
 - (b) has at any time failed to comply with the intensive therapy standards.
- (2) The director-general may also revoke an entity's authorisation if the entity asks the director-general to revoke the authorisation.
- (3) Before revoking an entity's authorisation under subsection (1), the director-general must—
 - (a) give the entity written notice of the director-general's intention to revoke the authorisation, including the director-general's reasons; and

- (b) tell the entity that the entity may make a submission, in writing, to the director-general about the notice not later than 14 days after the day the notice is given to the entity; and
- (c) if the entity makes a submission—consider the submission.

Division 16.4.2 Therapy plans

595 Public advocate etc may be given therapy plan

- (1) If the public advocate or an official visitor asks the director-general for a therapy plan for a child or young person, the director-general must promptly give the public advocate or official visitor a copy of the plan.

Note The therapy plan is protected information (see ch 25).

- (2) If the Aboriginal and Torres Strait Islander children and young people commissioner asks the director-general for a therapy plan for an Aboriginal or Torres Strait Islander child or young person, the director-general must promptly give the commissioner a copy of the plan.

Division 16.4.3 Intensive therapy register

596 Intensive therapy register

- (1) The operating entity for an intensive therapy place must keep a register (an *intensive therapy register*) in relation to children or young people for whom the Childrens Court makes an interim intensive therapy order or an intensive therapy order and who are confined at the intensive therapy place.
- (2) The intensive therapy register must include the following details for each child or young person for whom the Childrens Court makes an interim intensive therapy order or an intensive therapy order:
 - (a) name, sex and date of birth;

- (b) details of the intensive therapy order;
- (c) the therapy plan for each proposed period of confinement;
- (d) the intensive therapy history (if any) for each period of confinement;
- (e) if the child or young person is searched during a period of confinement—
 - (i) the reason for the search; and
 - (ii) when and where the search was conducted; and
 - (iii) the name of each person present at any time during the search; and
 - (iv) details of anything seized during the search; and
 - (v) details of any force used for conducting the search, and why force was used;
- (f) if force was used on the child or young person, other than as part of a search, during the period of confinement—
 - (i) the reason force was used; and
 - (ii) details of the force used; and
 - (iii) the name of each person present when force was used;
- (g) where and with whom the child or young person lived before the period of confinement;
- (h) anything else prescribed by regulation.

Note Information in the intensive therapy register is protected information (see ch 25).

- (3) The register may contain anything else the operating entity considers relevant.

597 Intensive therapy register—who may have access?

- (1) The following people may have access to an intensive therapy register:
- (a) the director-general or a person authorised by the director-general;
 - (b) a magistrate;
 - (c) a judge;
 - (d) the ombudsman;
 - (e) an official visitor;
 - (f) the public advocate;
 - (g) a commissioner exercising functions under the *Human Rights Commission Act 2005*;
 - (h) the Aboriginal and Torres Strait Islander children and young people commissioner;
 - (i) a person prescribed by regulation.
- (2) The operating entity must ensure that the intensive therapy register kept by the operating entity is accessed only by the people mentioned in subsection (1).

Note An authorised person may, at any reasonable time, enter an intensive therapy place (see s 816).

598 Intensive therapy register—public advocate to inspect

The public advocate must inspect the intensive therapy register at least once every 3 months.

**15 Police assistance
Section 679 (1) (i) and (j) and notes**

substitute

- (i) an interim intensive therapy order;

Note Interim intensive therapy orders are dealt with in div 16.2.3.

- (j) an intensive therapy order.

Note Intensive therapy orders are dealt with in pt 16.2.

**16 Safe custody warrant—criteria
Section 686 (1) (a) (vi) and (vii) and notes**

substitute

- (vi) an interim intensive therapy order; and

Note Interim intensive therapy orders are dealt with in div 16.2.3.

- (vii) an intensive therapy order;

Note Intensive therapy orders are dealt with in pt 16.2.

17 Section 686 (2)

substitute

- (2) The magistrate may also issue a safe custody warrant for a child or young person, for stated premises, if satisfied that—

- (a) an intensive therapy order, or an interim intensive therapy order, is in force for the child or young person; and

- (b) there are reasonable grounds for suspecting that—

- (i) the child or young person is absent without lawful authority or excuse from the intensive therapy place where the child or young person has been directed to be confined under the order; and

- (ii) the child or young person is at the premises or may be at the premises within the next 14 days.

18 Orders—statement of reasons

Section 722 (1) (b) and note

substitute

- (b) hears and decides an application for—
 - (i) extension of an intensive therapy order under section 564; or
 - (ii) amendment of an intensive therapy order under section 566; or
 - (iii) revocation of an intensive therapy order under section 567.

Note The court must record a written statement of reasons for these decisions (see s 565 and s 573).

19 Section 841

substitute

841 Application—ch 25

- (1) The provisions of this chapter apply to the following in the same way as they apply to young offenders and young detainees who are under 18 years old:
 - (a) an adult who is under 21 years old (a *young adult*) being dealt with by a police officer or held in police custody in relation to a youth offence;
 - (b) young adults being dealt with under the criminal law system for a youth offence;
 - (c) young offenders and young detainees who are adults.

(2) In this section:

youth offence, in relation to a young adult, means an offence committed or allegedly committed by the young adult when under 18 years old.

20 **What is *sensitive information*?**
**Section 845 (1), definition of *sensitive information*,
new paragraph (ba)**

insert

(ba) intensive therapy information;

21 **Section 845 (2)**
New definition of *intensive therapy information*

insert

intensive therapy information means information—

- (a) about anything said or done to facilitate, or anything said or done at, a meeting of the therapeutic support panel; or
- (b) in a report, or record, about whether action should be taken that would result in a child or young person being in intensive therapy; or
- (c) about anything said or done, or in a report or record, relevant to the implementation of an interim intensive therapy order or an intensive therapy order; or
- (d) used for the preparation of a therapy plan.

22 **Who is an *information sharing entity*?**
New section 859 (1) (ha)

insert

(ha) the chair of the therapeutic support panel;

**23 Care teams—sharing safety and wellbeing information
Section 863 (1), example 9***substitute*

9 an intensive therapy service

24 New section 871A*insert***871A Evidence relating to children and young people under age of criminal responsibility in intensive therapy etc inadmissible in criminal proceeding**

- (1) Evidence of anything said or done by, or an opinion or observation about, a child or young person under the age of criminal responsibility for an offence is inadmissible in any criminal proceeding able to be brought against the child or young person, if the evidence is based on information brought into existence for the purpose of any of the following:
 - (a) a referral to the therapeutic support panel;
 - (b) the exercise of a function of the therapeutic support panel;
 - (c) the preparation of a therapy plan;
 - (d) a child or young person in intensive therapy;
 - (e) the implementation of an interim intensive therapy order or intensive therapy order.
- (2) A reference in subsection (1) to a criminal proceeding able to be brought against a child or young person includes a criminal proceeding able to be brought when the child or young person is an adult.

(3) In this section:

under the age of criminal responsibility—a person is ***under the age of criminal responsibility*** for an offence if the person is not criminally responsible under the [Criminal Code](#), section 25 for the offence.

25 Protection of people giving certain information New section 874 (2) (ma)

insert

(ma) an information sharing entity to the chair of the therapeutic support panel under section 501P (Power to obtain information from information sharing entity); and

26 Standard-making power Section 887 (2) (e) and note

substitute

(e) the operation of intensive therapy places and services (***intensive therapy standards***);

Note A child or young person may be confined at an intensive therapy place under an intensive therapy order (see pt 16.2).

27 Dictionary, definition of *accredited person*, paragraph (b)

substitute

(b) for a child or young person in intensive therapy, for division 16.3.3 (Visits by accredited people)—see section 578.

28 Dictionary, definition of *body search*

substitute

body search, of a young detainee, for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

29 Dictionary, definition of *frisk search*

substitute

frisk search, for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

30 Dictionary, new definition of *in intensive therapy*

insert

in intensive therapy—see section 576.

31 Dictionary, definition of *initial review*

substitute

initial review, for division 16.2.5 (Review of intensive therapy orders)—see section 555 (2).

32 Dictionary, definition of *in need of emergency therapeutic protection*

omit

33 Dictionary, new definitions

insert

intensive therapy history, for a child or young person who has been confined under an intensive therapy order—see section 537.

intensive therapy order, for a child or young person—see section 532.

intensive therapy person, for chapter 16 (Care and protection—intensive therapy for children and young people)—see section 530.

intensive therapy place—see section 535.

intensive therapy register, for chapter 16 (Care and protection—intensive therapy for children and young people)—see section 596 (1).

intensive therapy standards—see section 887 (2) (e).

interim intensive therapy order, for a child or young person—see section 543.

34 Dictionary, definitions of *interim therapeutic protection order* and *in therapeutic protection*

omit

35 Dictionary, definition of *mental illness*

substitute

mental illness—see the [Mental Health Act 2015](#), section 10.

36 Dictionary, definition of *non-treating doctor* etc

substitute

non-treating doctor—

- (a) for chapter 6 (Criminal matters—detention places)—see section 137; and
- (b) for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

non-treating health practitioner, for the criminal matters chapters—see section 98.

non-treating nurse—

- (a) for part 6.7 (Alcohol and drug testing)—see section 235; and
- (b) for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

ongoing review, for division 16.2.5 (Review of intensive therapy orders)—see section 556 (2).

ordinary search, for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

37 Dictionary, definition of *owner*, paragraph (b)*substitute*

- (b) for division 16.3.4 (Searches and seizure)—see section 582.

38 Dictionary, new definitions*insert*

referral, of a child or young person, for chapter 14A (Care and protection—therapeutic support panel for children and young people)—see section 501A.

referring entity, for chapter 14A (Care and protection—therapeutic support panel for children and young people)—see section 501A.

39 Dictionary, definition of *risk assessment* etc*substitute*

risk assessment, for a child or young person, for chapter 16 (Care and protection—intensive therapy for children and young people)—see section 534 (1).

scanning search, for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

strip search, for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246.

40 Dictionary

omit the definitions of

therapeutic protection history

therapeutic protection order

therapeutic protection person

therapeutic protection place

therapeutic protection plan

therapeutic protection register

therapeutic protection standards

therapeutic protection transition plan

41 Dictionary, new definitions

insert

therapeutic support panel means the Therapeutic Support Panel for Children and Young People established under section 501B.

therapy plan, for a child or young person for whom the director-general has applied for an intensive therapy order—see section 536.

therapy transition plan, for a child or young person, for chapter 16 (Care and protection—intensive therapy for children and young people)—see section 538.

Part 3 Crimes Act 1900

42 Rules for conduct of strip search Section 228 (1) (e)

omit

under 10

substitute

under the age of criminal responsibility

43 Section 228 (1) (f)

omit

at least 10 but under 18

substitute

not under the age of criminal responsibility for the offence for which the person is arrested but is under 18 years old,

44 Identification parades for suspects under 18 etc Section 234 (1)

substitute

- (1) An identification parade must not be held for a suspect who is under the age of criminal responsibility.

45 Section 234 (3) (a)

substitute

- (a) is not under the age of criminal responsibility for the offence for which the person is suspected, but under 18 years old; and

46 Subdivision 10.7.1 heading

substitute

Subdivision 10.7.1 Arrest of children under the age of criminal responsibility

47 Section 252A heading

substitute

252A Warrant for arrest of child under the age of criminal responsibility

48 Section 252A (1)

omit

10 years old

substitute

the age of criminal responsibility

49 Section 252B heading

substitute

252B Arrest of child under the age of criminal responsibility—without warrant

50 Section 252B (1)

omit

10 years old

substitute

the age of criminal responsibility

51	Section 252C heading
	<i>substitute</i>
252C	Police action after arresting child under the age of criminal responsibility
52	Section 252C (1)
	<i>omit</i>
	10 years old
	<i>substitute</i>
	the age of criminal responsibility
53	Section 252J heading
	<i>substitute</i>
252J	Police to summons young people unless ineffective
54	Section 252J
	<i>omit</i>
	child or
55	Section 252K heading
	<i>substitute</i>
252K	Parents etc to be told if young people charged
56	Section 252K
	<i>omit</i>
	child or

57 **New section 442A***insert***442A** **Record of youth offence particulars not to be disclosed in court proceedings**

- (1) A record that discloses particulars of the following kind about a person must not be disclosed to a court in a proceeding involving the person unless the particulars have been omitted:
- (a) a conviction or finding of guilt against the person for a youth offence;
 - (b) any action carried out by a police officer in relation to the person for a youth offence;

Examples—action carried out by a police officer

- questioning
 - administering a caution
 - enforcing a warrant
 - arrest
- (c) a failure by the person to comply with—
- (i) a direction given by a police officer, or any other person acting under a territory law, in relation to a youth offence or a criminal proceeding for a youth offence; or
 - (ii) an order made by a court in a criminal proceeding for a youth offence;

- (d) a direction or order made by a court, in relation to a criminal proceeding for a youth offence, that identifies the person;

Examples—court direction or order identifying the person

- an order granting bail to the person
 - an order dismissing an appeal by the person
- (e) a finding that the person was not guilty of a youth offence;

(f) withdrawal of charges against the person for a youth offence.

(2) In this section:

youth offence means an offence against a territory law committed or allegedly committed by the person when under 12 years old.

**58 Record of youth offence particulars not to be disclosed in court proceedings
Section 442A (2)**

substitute

(2) However, a record disclosing particulars mentioned in subsection (1) may be disclosed to the court if the youth offence to which the particulars relate was a schedule offence committed or allegedly committed by the person when the person was at least 12 years old.

(3) In this section:

schedule offence—means an offence mentioned in the [Criminal Code](#), schedule 1, column 2.

youth offence means an offence against a territory law committed or allegedly committed by the person when under 14 years old.

59 **New part 33***insert***Part 33** **Transitional—Justice (Age of
Criminal Responsibility)
Legislation Amendment Act 2023****Division 33.1** **General****622** **Definitions—pt 33**

In this part:

commencement day means the day the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, section 59 commences.

youth offence means an offence against a territory law committed or alleged to have been committed by a person who was under 12 years old when the offence happened.

623 **Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.
- (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 elsewhere in this Act.

624 Expiry—pt 33

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 33.2 Ending action etc for youth offences**625 Application—div 33.2**

This division applies, despite any territory law to the contrary, to a person who is—

- (a) in police custody in relation to a youth offence, whether or not the person has been charged with the offence; or
- (b) subject to a criminal proceeding for a youth offence; or
- (c) subject to a sentencing order for a youth offence.

626 Law enforcement action

- (1) Law enforcement action carried out by a police officer in relation to a person for a youth offence before the commencement day ends on the commencement day.
- (2) If the law enforcement action that ends under subsection (1) is arrest or police custody, the chief police officer must ensure that reasonable steps are taken to ensure the safety of the person on the person's release from arrest or custody.
- (3) In this section:
law enforcement action means any of the following actions:
 - (a) execution of a warrant;
 - (b) arrest;
 - (c) police custody;

- (d) beginning a criminal proceeding;
- (e) administration of police bail.

627 Criminal procedures, proceedings and sentences

- (1) A summons issued for a youth offence is withdrawn and ceases to have effect on the commencement day.
- (2) A warrant issued for a youth offence is revoked and ceases to have effect on the commencement day.
- (3) A decision of a police officer to grant or refuse to grant bail to a person for a youth offence ceases to have effect and the person is entitled to be at liberty on the commencement day.
- (4) A decision of a court to grant or refuse to grant bail to a person, or otherwise remand a person, in a criminal proceeding for a youth offence ceases to have effect and the person is entitled to be at liberty on the commencement day.
- (5) A criminal proceeding against a person for a youth offence is discontinued on the commencement day.
- (6) A sentence imposed on a person for a youth offence ends on the commencement day.
- (7) In this section:

court attendance notice—see the [Magistrates Court Act 1930](#), section 41B.

summons includes a court attendance notice.

628 Destruction of forensic material etc

- (1) This section applies if, before the commencement day, any of the following happened in relation to a person who committed, or who is alleged to have committed, a youth offence:
 - (a) identification material was taken from the person;

- (b) forensic material was taken from the person;
 - (c) a forensic procedure was carried out on the person.
- (2) The chief police officer must ensure the destruction of each of the following:
- (a) the identification material;
 - (b) the forensic material;
 - (c) any information obtained from the forensic material;
 - (d) any record of a thing mentioned in paragraph (a) to (c).

- (3) The chief police officer must also ensure any information about a thing mentioned in subsection (2) entered into a database or record by a police officer is removed from the database or record.

- (4) In this section:

forensic material—see the *Crimes (Forensic Procedures) Act 2000*, section 5.

forensic procedure—see the *Crimes (Forensic Procedures) Act 2000*, section 5.

identification material, in relation to a person—see section 185.

629 Release of person from custody

- (1) This section applies if, on the commencement day, the director-general responsible for the *Crimes (Sentence Administration) Act 2005* is required under this part to release from custody a person who committed, or is alleged to have committed, a youth offence.
- (2) The director-general responsible for that Act must ensure that reasonable steps are taken to ensure the safety of the person on the person's release from custody.

Division 33.3 Validity of past criminal justice action

630 Meaning of *criminal justice action*—div 33.3

In this division:

criminal justice action, for a youth offence, includes any of the following:

- (a) investigating, apprehending, arresting, detaining, charging, or prosecuting a person for the youth offence;
- (b) adjudicating a charge against a person for the youth offence;
- (c) convicting or sentencing a person for the youth offence;
- (d) administering or enforcing any pre-sentence orders or sentence for the youth offence;
- (e) enforcing a requirement to pay a fine, costs, restitution, compensation or other money as a result of being found guilty, convicted, or sentenced for the youth offence.

631 Past lawful acts not affected

The commencement of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* does not affect the validity of criminal justice action, for a youth offence, under a territory law before the commencement day.

632 Protection from liability

- (1) A person is not personally liable for any criminal justice action for a youth offence done or omitted to be done honestly and without recklessness before the commencement day—
 - (a) in the exercise of a function under a territory law; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.

- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

633 No entitlement to compensation etc

A person who committed a youth offence before the commencement day is not, because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, entitled to compensation or damages as a result of any criminal justice action for the offence.

60 New part 34

insert

Part 34 Transitional—Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023

Division 34.1 General

634 Definitions—pt 34

In this part:

commencement day means the day the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, section 60 commences.

schedule offence means an offence mentioned in the [Criminal Code](#), schedule 1, column 2.

youth offence means an offence against a territory law, other than a schedule offence, committed or alleged to have been committed by a person who was at least 12 years old but under 14 years old when the offence happened.

635 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.
- (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 elsewhere in this Act.

636 Expiry—pt 34

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 34.2 Ending action etc for youth offences**637 Application—div 34.2**

This division applies, despite any territory law to the contrary, to a person who is—

- (a) in police custody in relation to a youth offence, whether or not the person has been charged with the offence; or
- (b) subject to a criminal proceeding for a youth offence; or
- (c) subject to a sentencing order for a youth offence.

638 Law enforcement action

- (1) Law enforcement action carried out by a police officer in relation to a person for a youth offence before the commencement day ends on the commencement day.

- (2) If the law enforcement action that ends under subsection (1) is arrest or police custody, the chief police officer must ensure that reasonable steps are taken to ensure the safety of the person on the person's release from arrest or custody.
- (3) In this section:
- law enforcement action* means any of the following actions:
- (a) enforcement of a warrant;
 - (b) arrest;
 - (c) police custody;
 - (d) beginning a criminal proceeding;
 - (e) administration of police bail.

639 Criminal procedures, proceedings and sentences

- (1) A summons issued for a youth offence is withdrawn and ceases to have effect on the commencement day.
- (2) A warrant issued for a youth offence is revoked and ceases to have effect on the commencement day.
- (3) A decision of a police officer to grant or refuse to grant bail to a person for a youth offence ceases to have effect and the person is entitled to be at liberty on the commencement day.
- (4) A decision of a court to grant or refuse to grant bail to a person, or otherwise remand a person, in a criminal proceeding for a youth offence ceases to have effect and the person is entitled to be at liberty on the commencement day.
- (5) A criminal proceeding against a person for a youth offence is discontinued on the commencement day.
- (6) A sentence imposed on a person for a youth offence ends on the commencement day.

(7) In this section:

court attendance notice—see the *Magistrates Court Act 1930*, section 41B.

summons includes a court attendance notice.

640 Destruction of forensic material etc

(1) This section applies if, before the commencement day, any of the following happened in relation to a person who committed, or who is alleged to have committed, a youth offence:

- (a) identification material was taken from the person;
- (b) forensic material was taken from the person;
- (c) a forensic procedure was carried out on the person.

(2) The chief police officer must ensure the destruction of each of the following:

- (a) the identification material;
- (b) the forensic material;
- (c) any information obtained from the forensic material;
- (d) any record of a thing mentioned in paragraph (a) to (c).

(3) The chief police officer must also ensure any information about a thing mentioned in subsection (2) entered into a database or record by a police officer is removed from the database or record.

(4) In this section:

forensic material—see the *Crimes (Forensic Procedures) Act 2000*, section 5.

forensic procedure—see the *Crimes (Forensic Procedures) Act 2000*, section 5.

identification material, in relation to a person—see section 185.

641 Release of person from custody

- (1) This section applies if, on the commencement day, the director-general responsible for the *Crimes (Sentence Administration) Act 2005* is required under this part to release from custody a person who committed, or is alleged to have committed, a youth offence.
- (2) The director-general responsible for that Act must ensure that reasonable steps are taken to ensure the safety of the person on the person's release from custody.

Division 34.3 Validity of past criminal justice action**642 Meaning of *criminal justice action*—div 34.3**

In this division:

criminal justice action, for a youth offence, includes any of the following:

- (a) investigating, apprehending, arresting, detaining, charging, or prosecuting a person for the youth offence;
- (b) adjudicating a charge against a person for the youth offence;
- (c) convicting or sentencing a person for the youth offence;
- (d) administering or enforcing any pre-sentence orders or sentence for the youth offence;
- (e) enforcing a requirement to pay a fine, costs, restitution, compensation or other money as a result of being found guilty, convicted, or sentenced for the youth offence.

643 Past lawful acts not affected

The commencement of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* does not affect the validity of criminal justice action, for a youth offence, under a territory law before the commencement day.

644 Protection from liability

- (1) A person is not personally liable for any criminal justice action for a youth offence done or omitted to be done honestly and without recklessness before the commencement day—
 - (a) in the exercise of a function under a territory law; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

645 No entitlement to compensation etc

A person who committed a youth offence before the commencement day is not, because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, entitled to compensation or damages as a result of any criminal justice action for the offence.

61 Dictionary, new definition of *under the age of criminal responsibility*

insert

under the age of criminal responsibility—a person is ***under the age of criminal responsibility*** for an offence if the person is not criminally responsible under the [Criminal Code](#), section 25 for the offence.

Part 4 Crimes (Restorative Justice) Act 2004

62 Objects of Act Section 6 (e), except note

substitute

- (e) to enable access to restorative justice in relation to offenders and offences not dealt with by the criminal justice process;
- (f) to enable referral of offences for restorative justice by—
 - (i) agencies that have a role in the criminal justice system; and
 - (ii) entities that have a role in dealing with offenders, and harm caused by offences, not dealt with by the criminal justice process.

63 Section 6, new note

insert

Note 2 **Offender** includes a person who carries out an offence but cannot be held criminally responsible because of their age (see s 12).

64 Application of restorative justice Section 7 (1), note

substitute

Note **Referring entities** are listed in table 22 and include agencies responsible for the various stages of the criminal justice process in relation to an offence, an entity responsible for dealing with offenders not dealt with by the criminal justice process and any entities prescribed by regulation.

**65 Definitions—*child victim, parent and victim*
Section 11, definition of *victim*, paragraph (a)**

substitute

- (a) has the meaning given by the *Victims of Crime Act 1994*, section 6; and

**66 Definitions—offences and offenders
Section 12, new definition of *child offender***

insert

child offender, in relation to an offence, means an offender who was at least 10 years old but under the age of criminal responsibility for the offence when the offence was committed or allegedly committed.

67 Section 12, definition of *young offender*

substitute

young offender, in relation to an offence, means an offender who was under 18 years old but not under the age of criminal responsibility for the offence when the offence was committed or allegedly committed.

68 New section 12 (2)

insert

- (2) In this section:

under the age of criminal responsibility—a person is ***under the age of criminal responsibility*** for an offence if the person is not criminally responsible under the *Criminal Code*, section 25 for the offence.

69 Application of Act—less serious offences
Section 14

before

young offender

insert

child offender,

70 Sections 15 and 16

substitute

15 Application of Act—serious offences

- (1) This Act applies to a serious offence committed by a child offender.
- (2) This Act applies to a serious offence committed by a young offender or adult offender, if the offender—
 - (a) is charged with the offence; and
 - (b) either—
 - (i) pleads guilty to the offence; or
 - (ii) is found guilty of the offence (whether or not the offender is convicted or sentenced for the offence).
- (3) This Act applies to a serious offence committed by a child offender, young offender or adult offender, even if the offence was committed before the day this section commenced.
- (4) This section does not apply to a family violence offence or a sexual offence.

Note For the application of this Act to family violence offences and sexual offences, see s 16.

16 Application of Act—family violence offences and sexual offences

- (1) This Act applies to a less serious family violence offence or a less serious sexual offence committed by a child offender, young offender or adult offender.
- (2) For a young offender or adult offender, subsection (1) applies whether or not the young offender or adult offender is charged with the offence.

Note 1 An offence may have been committed if it is alleged that the offence was committed (see s 12, def *commission*).

Note 2 For the director-general to decide that a less serious family violence offence or a less serious sexual offence committed by a young offender or an adult offender is suitable for restorative justice under pt 7 before the offender pleads guilty to the offence or is found guilty of the offence, the director-general must be satisfied that exceptional circumstances exist for the calling of a restorative justice conference (see s 33 (2)).

- (3) This Act applies to a serious family violence offence or a serious sexual offence committed by a child offender.
- (4) This Act applies to a serious family violence offence or a serious sexual offence committed by a young offender or adult offender if—
 - (a) the offender is charged with the offence; and
 - (b) either—
 - (i) the offender pleads guilty to the offence; or
 - (ii) the offender is found guilty of the offence (whether or not the offender is convicted or sentenced for the offence).
- (5) This Act applies to a family violence offence or a sexual offence committed by a child offender, young offender or adult offender even if the offence was committed before the day this section commenced.

**71 Eligible offenders
Section 19 (1) (b)**

substitute

- (b) any of the following apply to the offender:
- (i) the offender accepts responsibility for the commission of the offence;
 - (ii) if the offender is a young offender and the offence is a less serious offence—the offender does not deny responsibility for the commission of the offence;
 - (iii) if the offender is a child offender—the offender does not deny responsibility for the commission of the offence; and
- (c) the offender agrees to take part in restorative justice.

**72 Accepting or not denying responsibility for offences
Section 20 (1)**

omit

section 19 (1) (b) (i)

substitute

section 19 (1) (b)

73 Section 20 (2)

omit

or young offender

74 Section 20 (2)

omit

section 19 (1) (b) (i)

substitute

section 19 (1) (b)

75 Section 20, notes 1 and 2

substitute

Note 1 To be eligible to take part in restorative justice, an offender must accept responsibility for the commission of the offence or, if the offender is a young offender and the offence is a less serious offence or the offender is a child offender, must not deny responsibility for the commission of the offence (see s 19).

Note 2 The *Crimes (Sentencing) Act 2005*, s 33 (1) (y) provides that, in deciding how an offender should be sentenced (if at all) for an offence, the matters known to the court that it must consider include whether this *Act*, s 19 (1) (b) applies to the offender.

However, the *Crimes (Sentencing) Act 2005*, s 34 (1) (h) provides that a court must not increase the severity of the sentence that it would otherwise impose on a person for an offence because the offender has chosen not to take part, or to continue to take part, in restorative justice for the offence.

**76 Referring entities
Section 22 (1)**

substitute

- (1) An entity mentioned in table 22, column 2 (a *referring entity*) may refer an offence for restorative justice at the stage described for the entity in column 3 in relation to the offence.
- (1A) However, for an offence involving a child offender, the referring entity may refer the offence for restorative justice at any time.

77 Section 22 (2), new definition of *therapeutic support panel**insert**therapeutic support panel*—see the *Children and Young People Act 2008*, dictionary.**78 Table 22, column 3 heading***omit*

stage of criminal justice process

substitute

stage when referral may be made

79 Table 22, item 6*substitute*

6	therapeutic support panel	at any time after a child offender has been referred to the panel
7	referring entity prescribed by regulation	stage prescribed by regulation

**80 Suitability—general considerations
Section 33 (1) (c)***substitute*

- (c) the appropriateness of restorative justice at the current stage of the criminal justice process or any other process associated with the offence;

81 Dictionary, new definition of *child offender*

insert

child offender, in relation to an offence—see section 12.

Part 5 Crimes (Sentencing) Act 2005

82 Imposition of penalties Section 9 (2), note 1, new dot point

insert

- therapeutic correction orders (young offenders only) (see pt 8A.2A)

83 Application—pt 3.4 New section 22 (d)

insert

- (d) a therapeutic correction order.

84 Non-association and place restriction orders—maximum period Section 24 (1) (a) (i)

substitute

- (i) if the order is made with an intensive correction order, a drug and alcohol treatment order or a therapeutic correction order—24 months; or

85 Core conditions Section 80Y (3), definition of *positive*

omit

86 Treatment program conditions New section 80Z (3)

insert

- (3) In this section:

positive, for a test sample—see the [Corrections Management Act 2007](#), dictionary.

**87 Young offenders—notice of orders to parent etc
New section 133J (1) (l) to (n)**

insert

- (l) section 133XB (5) (Therapeutic correction orders);
- (m) section 133XU (7) (Therapeutic correction orders—review);
- (n) section 133XV (1) (Therapeutic correction orders—notice of proposed review).

88 New part 8A.2A

insert

**Part 8A.2A Young offenders—therapeutic
correction orders****Division 8A.2A.1 Preliminary****133XA Definitions—pt 8A.2A**

In this part:

assessor—see section 133XG (3).

core conditions, of a therapeutic correction order—see section 133XN (1).

sentencing court, for a young offender subject to a therapeutic correction order, means the court by which the sentence was first imposed, and includes that court differently constituted.

therapeutic correction assessment—see section 133XG (2) (a) (i).

therapeutic correction conditions—see section 133XO (1).

therapeutic correction obligations—see section 133XD.

therapeutic correction order—see section 133XB (2).

therapeutic correction plan—see section 133XJ (1).

therapeutic correction team means the following entities:

- (a) the court;
- (b) the CYP director-general;
- (c) an entity prescribed by regulation.

Division 8A.2A.2 Therapeutic correction orders— general

133XB Therapeutic correction orders

- (1) This section applies if a young offender has been convicted or found guilty of an offence.
- (2) The court may make an order (a *therapeutic correction order*) that requires the young offender to comply with the therapeutic correction conditions of the order.
- (3) The court must not make a therapeutic correction order if the young offender is subject to any other sentencing order.
- (4) The court must not fail to impose a sentence that the circumstances of the offence would ordinarily require only to allow the court to make a therapeutic correction order.
- (5) If the court makes a therapeutic correction order, the court must, as soon as practicable after the order is made, ensure that written notice of the order, together with a copy of the order, is given to the young offender.
- (6) Failure to comply with subsection (5) does not invalidate the therapeutic correction order.
- (7) This section is subject to divisions 8A.2A.3 and 8A.2A.4.

(8) In this section:

sentencing order means any of the following:

- (a) an order for imprisonment by full-time detention;
- (b) a suspended sentence order;
- (c) an intensive correction order;
- (d) a deferred sentence order;
- (e) a parole order;
- (f) an order under a law in force in Australia that corresponds to an order mentioned in paragraphs (a) to (e).

133XC Therapeutic correction order—maximum period

A therapeutic correction order must—

- (a) be for a period not longer than 4 years; and
- (b) state when it starts and ends.

133XD Therapeutic correction order—young offender obligations

A young offender subject to a therapeutic correction order has the following obligations (the ***therapeutic correction obligations***):

- (a) the core conditions of the order;
- (b) the therapeutic correction conditions;
- (c) any other obligation created by the court as part of the order.

133XE Court may make ancillary orders to achieve object of therapeutic correction order

The court may make any order that is not inconsistent with this Act or the *Crimes (Sentence Administration) Act 2005*, that the court considers appropriate to achieve the object of a therapeutic correction order.

Division 8A.2A.3 Therapeutic correction orders—suitability**133XF Therapeutic correction orders—requirement for assessment and therapeutic correction plan**

The court must not make a therapeutic correction order for a young offender unless the court has—

- (a) considered a therapeutic correction assessment for the offender; and
- (b) approved a therapeutic correction plan for the offender.

133XG Therapeutic correction assessments

- (1) This section applies if the court is considering whether to make a therapeutic correction order for a young offender.
- (2) The court must—
 - (a) order the CYP director-general to—
 - (i) prepare an assessment of the offender’s suitability for a therapeutic correction order (a *therapeutic correction assessment*); and
 - (ii) provide a copy of the assessment to the court or any other stated person; and
 - (b) adjourn the proceeding for the assessment to be prepared.

- (3) The CYP director-general must—
- (a) arrange for a suitable person (an *assessor*) to prepare the therapeutic correction assessment; and
 - (b) provide a copy of the assessment to the court and any other person the court considers should receive a copy.
- (4) The therapeutic correction assessment must address the matters mentioned in section 133XH.

133XH Therapeutic correction assessment matters

For section 133XG (4), the matters for assessing the young offender's suitability for a therapeutic correction order are the matters mentioned in table 133XH, column 2.

Table 133XH Assessment of suitability—therapeutic correction order

column 1 item	column 2 matter	column 3 indication of unsuitability
1	degree of dependence on alcohol or a controlled drug	major problem with alcohol or a controlled drug unlikely to change under a therapeutic correction order
2	psychiatric or psychological condition	major psychiatric or psychological disorder likely to prevent compliance with a therapeutic correction order
3	medical condition	medical condition likely to prevent compliance with a therapeutic correction order
4	response to previous court orders	substantial noncompliance with previous court orders
5	participation and degree of compliance with therapeutic correction assessment	substantial noncompliance with assessment
6	personal circumstances	potential impracticability of compliance with a therapeutic correction order

133XI Therapeutic correction assessments—powers of assessors

- (1) In preparing the therapeutic correction assessment for the young offender, the assessor may—
 - (a) investigate any matter the assessor considers appropriate; and
 - (b) ask any of the following to provide information for the purpose of the assessment:
 - (i) an administrative unit;
 - (ii) a territory authority;
 - (iii) a statutory office-holder;
 - (iv) for an assessment for an offender to be sentenced for a family violence offence—an approved crisis support organisation under the *Domestic Violence Agencies Act 1986*;
 - (v) a victim of the offence;
 - (vi) any other entity.
- (2) If an entity mentioned in subsection (1) (b) (i), (ii) or (iii) is asked to provide information, the entity must comply with the request as soon as practicable.
- (3) If an entity gives information honestly and with reasonable care in response to a request under subsection (1), the giving of the information is not—
 - (a) a breach of confidence, professional etiquette, ethics or a rule of professional misconduct; or
 - (b) a ground for a civil proceeding for defamation, malicious prosecution or conspiracy.
- (4) This section does not limit any other power of the assessor to obtain information for the purpose of the therapeutic correction assessment.

- (5) A regulation may make provision in relation to the preparation and provision of therapeutic correction assessments.
- (6) In this section:
information includes a document.

133XJ Therapeutic correction assessment—therapeutic correction plan

- (1) If the assessor preparing the therapeutic correction assessment considers a young offender to be suitable for a therapeutic correction order, the assessor must also prepare a plan (a *therapeutic correction plan*) for the young offender.
- (2) A therapeutic correction plan must address—
 - (a) any medical, psychological or psychiatric needs relevant to the offender’s rehabilitation; and
 - (b) any other matter prescribed by regulation.

133XK Therapeutic correction assessments—provision to court

The therapeutic correction assessment may be given to the court orally or in writing.

133XL Therapeutic correction assessments—cross-examination

- (1) The prosecutor and the defence may cross-examine the assessor who prepared the therapeutic correction assessment given to the court.
- (2) In this section:
defence means—
 - (a) any lawyer representing a young offender; or
 - (b) if the offender is not legally represented—a person who the court grants leave to cross-examine on behalf of the offender.

Division 8A.2A.4 Therapeutic correction orders— content

133XM Content of therapeutic correction order

A therapeutic correction order for a young offender must—

- (a) state the offence to which the order relates; and
- (b) record the young offender's conviction for the offence; and
- (c) state the total period for which the order is in force; and
- (d) state—
 - (i) the core conditions; and
 - (ii) the therapeutic correction conditions; and
 - (iii) any other conditions the court considers appropriate; and
- (e) state any relevant therapeutic support for the young offender; and
- (f) require the young offender to—
 - (i) comply with the order and any other obligations under the *Crimes (Sentence Administration) Act 2005* for the period the order is in force; and
 - (ii) submit to the supervision of the CYP director-general; and
 - (iii) comply with the directions of the CYP director-general.

133XN Core conditions

- (1) The *core conditions* of a therapeutic correction order are that a young offender subject to the order—
 - (a) must not commit another offence against a law in force in Australia or elsewhere; and

- (b) if the young offender is charged with an offence against a law in force in Australia or elsewhere—must tell the CYP director-general about the charge as soon as possible, but within 2 days after the day the offender becomes aware of the charge; and
- (c) must report to a member of the therapeutic correction team for the order at the places and times directed by a member of the team; and
- (d) must receive visits from a member of the therapeutic correction team for the order at the times directed by a member of the team; and
- (e) if the young offender’s contact details change—must tell the CYP director-general about the change as soon as possible, but not later than 1 day after the day the offender becomes aware of the change of details; and
- (f) must not—
 - (i) leave or stay outside the ACT without the permission of the court for a continuous period of more than 24 hours; and
 - (ii) if the court grants the offender permission to leave or stay outside the ACT—fail to comply with any condition of the court’s permission; and
- (g) must—
 - (i) appear before the court at the times directed by the court; and
 - (ii) comply with the directions of the court; and
- (h) must comply with any other reasonable direction of—
 - (i) a member of the therapeutic correction team for the order; or

- (ii) a person prescribed by regulation.
- (2) The court must not amend a condition mentioned in subsection (1).
- (3) In this section:
contact details, of a young offender, means the offender's—
 - (a) home address or phone number (if any); and
 - (b) work address or phone number (if any); and
 - (c) mobile phone number (if any).

133XO Therapeutic correction conditions

- (1) The *therapeutic correction conditions* of a therapeutic correction order are that a young offender subject to the order—
 - (a) must complete a program of treatment set out under a therapeutic correction plan approved by the court; and
 - (b) must comply with any other condition imposed by the court as necessary to achieve the purpose of the therapeutic correction plan.
- (2) Without limiting subsection (1) (b), the court may impose 1 or more of the following conditions, requiring the young offender to:
 - (a) submit to medical, psychiatric or psychological treatment that is relevant to the young offender;
 - (b) submit to detoxification at a stated facility that is not a correctional centre;
 - (c) participate in counselling or programs for treatment relevant to—
 - (i) the young offender's circumstances; or
 - (ii) the offending behaviour of the young offender;

- (d) attend meetings with a stated person or class of person for the therapeutic correction order;
- (e) participate in vocational, educational or employment programs or courses;
- (f) submit to alcohol and drug testing;
- (g) not return a positive test sample under alcohol and drug testing.

Note The court may make an accommodation order in relation to a young offender (see pt 8A.3).

- (3) In this section:

positive, for a test sample for alcohol or a drug—see the *Corrections Management Act 2007*, section 133.

Division 8A.2A.5 Therapeutic correction orders— supervision

133XP CYP director-general to report breach of therapeutic correction obligations

- (1) This section applies if the CYP director-general believes on reasonable grounds that a young offender has breached any of the offender's therapeutic correction obligations.
- (2) The CYP director-general must report the belief to the sentencing court.
- (3) A report under this section must be made in writing and set out the grounds for the CYP director-general's belief.

133XQ Summons to attend court—breach of therapeutic correction obligations

- (1) This section applies if information, whether in a report under section 133XP or otherwise, alleging that a young offender has breached any of the offender's therapeutic correction obligations is before the sentencing court.
- (2) The sentencing court may issue a summons directing the young offender to appear before the court.
- (3) The registrar of the sentencing court must ensure that a copy of the summons is given to the following people:
 - (a) the defence;
 - (b) the CYP director-general;
 - (c) the director of public prosecutions.
- (4) In this section:

defence means—

 - (a) any lawyer representing the young offender; or
 - (b) if the offender is not legally represented—the offender.

133XR Arrest without warrant—breach of therapeutic correction obligations

- (1) This section applies if a police officer believes on reasonable grounds that a young offender has breached any of the offender's therapeutic correction obligations.
- (2) The police officer may arrest the young offender without a warrant.
- (3) A police officer who arrests a young offender under this section must, as soon as practicable, bring the offender before the sentencing court.

- (4) However, if the sentencing court is not sitting, the police officer must, as soon as practicable, bring the young offender before a magistrate for a decision in relation to bail until the offender can be brought before the sentencing court.

Note For remanding or granting bail to the offender, see the [Bail Act 1992](#).

133XS Arrest warrant—breach of therapeutic correction obligations

- (1) A judge or magistrate may issue a warrant for a young offender's arrest if satisfied, by information on oath, that there are reasonable grounds for suspecting that the offender has breached any of the offender's therapeutic correction obligations.
- (2) The warrant must—
- (a) be in writing signed by the judge or magistrate; and
 - (b) be directed to all police officers or a named police officer; and
 - (c) state briefly the matter on which the information is based; and
 - (d) order the arrest and bringing of the offender before the sentencing court.
- (3) A police officer who arrests the offender under the warrant must, as soon as practicable, bring the offender before the sentencing court.
- (4) However, if the sentencing court is not sitting, the police officer must, as soon as practicable, bring the offender before a magistrate for a decision in relation to bail until the offender can be brought before the sentencing court.

Note For remanding or granting bail to the offender, see the [Bail Act 1992](#).

Division 8A.2A.6 Therapeutic correction orders—breach

133XT Breach of therapeutic correction order

- (1) If the sentencing court is satisfied on the balance of probabilities that a young offender subject to a therapeutic correction order has breached any of the therapeutic correction obligations of the order, the court must make 1 or more of the following orders:
 - (a) confirming the therapeutic correction conditions of the order with no further action to be taken on the breach;
 - (b) giving the offender a warning about the need to comply with the offender's therapeutic correction obligations;
 - (c) amending the therapeutic correction plan in accordance with subsection (2);
 - (d) cancelling the order and resentencing the offender in any way in which the court could deal with the offender at the time of sentencing.

Note The court must conduct a review before making an order mentioned in par (c) or (d) (see s 133XV (4)).

- (2) The therapeutic correction plan may be amended by adding, modifying or removing plan conditions.

Examples—therapeutic correction plan condition

- 1 frequency or kind of treatment measures
- 2 degree of supervision
- 3 frequency of drug and alcohol testing

- (3) The court may make an order under this section on its own initiative or on application by—
 - (a) the young offender; or
 - (b) the director of public prosecutions; or

- (c) a member of the therapeutic correction team; or
 - (d) a person prescribed by regulation.
- (4) If the court makes an order under this section, the court must, as soon as practicable after the order is made, ensure that written notice of the order, together with a copy of the order, is given to—
- (a) the young offender; and
 - (b) any other person who the court considers should receive the notice.
- (5) Failure to comply with subsection (4) does not invalidate the order.

Division 8A.2A.7 Therapeutic correction orders— review by court

133XU Application—div 8A.2A.7

This division applies to the review of a therapeutic correction order.

133XV Therapeutic correction orders—review

- (1) The sentencing court may review a therapeutic correction order for a young offender at any time and for any reason if it is satisfied the review is in the interests of justice.

Note The court may also review the offender's bail at any time, see the [Bail Act 1992](#), s 41A.

- (2) The court may review a therapeutic correction order—
- (a) on its own initiative; or
 - (b) on application by—
 - (i) the defence; or
 - (ii) the CYP director-general; or
 - (iii) any other member of the therapeutic correction team.

- (3) The court may carry out a review under this division in any way it considers appropriate.
- (4) However, the court must conduct a hearing for a review in which the court is considering making an order under section 133XT (1) (c) or (d).
- (5) An entity mentioned in subsection (2) (b) may appear at a hearing of the review.
- (6) The court may, on the review, confirm or amend the order as the court considers appropriate.
- (7) If the court amends the order, the court must, as soon as practicable, ensure that written notice of the review decision, together with a copy of the amended order is given to—
 - (a) the young offender; and
 - (b) any other person who the court considers should receive the notice.
- (8) Failure to comply with subsection (7) does not invalidate the order as amended.
- (9) In this section:
defence means—
 - (a) any lawyer representing the young offender; or
 - (b) if the young offender is not legally represented—the young offender.

133XW Therapeutic correction orders—CYP director-general must apply for review

The CYP director-general must apply to the sentencing court for a review of a young offender's therapeutic correction order if the director-general believes on reasonable grounds that a change in the offender's circumstances is likely to substantially affect the offender's ability to comply with the order.

133XX Therapeutic correction orders—notice of proposed review

- (1) The sentencing court must, as far as practicable, give written notice of a proposed review of the young offender's therapeutic correction order to the defence and the other members of the therapeutic correction team.
- (2) The notice must set out—
 - (a) the reasons for the review; and
 - (b) if a hearing for the review is to be conducted—the time and place for the review.
- (3) Failure to comply with this section does not invalidate the review.
- (4) In this section:
defence means—
 - (a) any lawyer representing the young offender; or
 - (b) if the young offender is not legally represented—the young offender.

Division 8A.2A.8 Therapeutic correction orders— miscellaneous

133XY Evidentiary certificates

- (1) A certificate that appears to be signed by or for any of the following, and states any matter relevant to anything done or not done under this part in relation to a person, is evidence of the matter:
 - (a) an assessor;
 - (b) the CYP director-general;
 - (c) the director-general responsible for the *Corrections Management Act 2007*;
 - (d) an analyst appointed under subsection (3).
- (2) The court must accept a certificate mentioned in subsection (1) as proof of the matters stated in it if there is no evidence to the contrary.
- (3) The CYP director-general may appoint analysts for this part.

Note For laws about appointments, see the *Legislation Act*, pt 19.3.
- (4) An appointment under subsection (3) is a notifiable instrument.

133XZ Information exchanges—therapeutic correction team

- (1) This section applies to personal information about a young offender held by a member of the therapeutic correction team that was obtained as a result of a therapeutic correction assessment, or the administration or making of a therapeutic correction order for the offender.
- (2) A member of the therapeutic correction team may give the information to another member of the therapeutic correction team for the purpose of the other member exercising their functions under this Act.

- (3) This section is additional to any other Act that provides for information to be given by, or to, a member of the therapeutic correction team.

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

- (4) In this section:

personal information, about a young offender, means any information or opinion relating to the offender, whether true or not, and whether recorded in a document or not.

89 Dictionary, definition of *assessor*, new paragraph (d)

insert

- (d) for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XG (3).

90 Dictionary, definition of *core conditions*

substitute

core conditions—

- (a) of a treatment order, for part 5.4A (Drug and alcohol treatment orders)—see section 80Y; and
- (b) of a therapeutic correction order, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XN (1).

91 Dictionary, definition of *sentencing court*

substitute

sentencing court—

- (a) for part 8.2 (Deferred sentence orders—supervision) and part 8.3 (Deferred sentence orders—amendment or cancellation)—see section 123; and
- (b) for a young offender subject to a therapeutic correction order, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XA.

92 Dictionary, new definitions

insert

therapeutic correction assessment, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XG (2) (a) (i).

therapeutic correction conditions, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XO (1).

therapeutic correction obligations, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XD.

therapeutic correction order, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XB (2).

therapeutic correction plan, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XJ (1).

therapeutic correction team, for part 8A.2A (Young offenders—therapeutic correction orders)—see section 133XA.

Part 6 Criminal Code 2002

93 Sections 25 and 26

substitute

25 Children under 12—criminal responsibility

A child under 12 years old is not criminally responsible for an offence.

26 Children 12 and over but under 14—knowledge that conduct wrong

- (1) A child who is 12 years old or older, but under 14 years old, can be criminally responsible for an offence but only if the child knows that their conduct is wrong.
- (2) The question of whether a child who is 12 years old or older, but under 14 years old, knows that their conduct is wrong is a question of fact.
- (3) The burden of proving that a child knows that their conduct is wrong is on the prosecution.

94 Sections 25 and 26

substitute

25 Children under 14—criminal responsibility

- (1) A child under 14 years old is not criminally responsible for an offence.
- (2) However, a child who is 12 years old or older, but under 14 years old, can be criminally responsible for an offence mentioned in schedule 1 (a *schedule offence*) but only if the child knows that their conduct is wrong.

- (3) A reference to a schedule offence does not include a reference to—
- (a) an offence against part 2.4 (Extensions of criminal responsibility) that relates to the schedule offence other than section 46 (Commission by proxy); or
 - (b) an offence against section 717 (Accessory after the fact) that relates to the schedule offence.

26 Children 12 and over but under 14—knowledge that conduct wrong

- (1) The question of whether a child who is 12 years old or older, but under 14 years old, knows that their conduct is wrong is a question of fact.
- (2) The burden of proving that a child knows that their conduct is wrong is on the prosecution.

**95 Incitement
New section 47 (5) (c)**

insert

- (c) even if the person incited was under the age of criminal responsibility for the offence incited.

96 New section 47 (8)

insert

- (8) In this section:

under the age of criminal responsibility—a person is ***under the age of criminal responsibility*** for an offence if the person is not criminally responsible under section 25 for the offence.

**97 Recruiting people to engage in criminal activity
New section 655 (2A)**

insert

- (2A) For subsection (2), ***criminal activity*** includes conduct that makes up the physical elements of an indictable offence engaged in by a person who is under the age of criminal responsibility for the offence.

98 New section 801

insert

801 Review of amendments made by Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023

- (1) The Minister must—
- (a) review the operation and effectiveness of the amendments to all Acts made by the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* as soon as practicable after the end of 5 years after this section commences; and
 - (b) present a report of the review to the Legislative Assembly before the end of 6 years after this section commences.
- (2) This section expires 7 years after it commences.

99 New schedule 1*insert***Schedule 1 Crimes Act 1900—Offences for which children 12 years old and older but under 14 years old are criminally responsible**

(see s 25 (2))

column 1 item	column 2 offence
1	s 12 (Murder)
2	s 19 (Intentionally inflicting grievous bodily harm)
3	s 51 (Sexual assault in the first degree)
4	s 57 (Act of indecency in the first degree)

Part 7 Family Violence Act 2016

100 Who may apply for protection order? Section 16 (1), note 2

substitute

Note 2 A child under 12 years old cannot be a respondent to an application for a protection order (see s 75).

101 Section 16 (1), note 2

substitute

Note 2 A child under 14 years old cannot be a respondent to an application for a protection order (see s 75).

102 Section 75

substitute

75 Child respondents

- (1) A child under 12 years old cannot be a respondent to an application for a family violence order.
- (2) Unless the court otherwise orders, for a proceeding for a family violence order, a respondent who is 12 years old or older but under 14 years old is taken to have impaired decision-making ability.

103 Section 75

substitute

75 Child respondents

A child under 14 years old cannot be a respondent to an application for a family violence order.

104 Representation—party with impaired decision-making ability
Section 76 (3), note

substitute

Note A child under 12 years old cannot be a respondent to an application for a family violence order (see s 75).

105 Section 76 (3), note

substitute

Note A child under 14 years old cannot be a respondent to an application for a family violence order (see s 75).

106 Police officer may apply for after-hours order
Section 99, note

substitute

Note A child under 12 years old cannot be a respondent to an application for a family violence order (see s 75).

107 Section 99, note

substitute

Note A child under 14 years old cannot be a respondent to an application for a family violence order (see s 75).

108 New part 23*insert***Part 23 Transitional—Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023****Division 23.1 General****211 Definitions—pt 23**

In this part:

child respondent means—

- (a) a child who is under 12 years old and a respondent in a proceeding for a protection order; or
- (b) a child against whom a family violence order was made when the child was under 12 years old.

commencement day means the day the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, section 108 commences.

212 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.
- (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 elsewhere in this Act.

213 Expiry—pt 23

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 23.2 Ending action etc for family violence orders

214 Application—div 23.2

This division applies, despite any territory law to the contrary, to a child respondent.

215 Enforcement action

- (1) Enforcement action carried out by a police officer before the commencement day in a proceeding for a family violence order against a child respondent ends on the commencement day.
- (2) If the enforcement action that ends under subsection (1) is arrest or police custody, the chief police officer must ensure that reasonable steps are taken to ensure the safety of the child respondent on the respondent's release from arrest or custody.
- (3) In this section:

enforcement action means any of the following:

- (a) execution of a warrant;
- (b) arrest;
- (c) police custody.

police custody includes detention under section 105 (After-hours orders—detention of person against whom order sought).

216 Family violence order procedures, proceedings etc

- (1) Each of the following is discontinued and ceases to have effect on the commencement day:
 - (a) an application under section 16 for a protection order against a child respondent;
 - (b) an application under section 83 for amendment of a protection order against a child respondent;
 - (c) an application—
 - (i) under section 87 for review of a special interim order against a child respondent; or
 - (ii) under section 89 for review of a final order against a child respondent;
 - (d) an application under section 91 for review of a consent order against a child respondent;
 - (e) an application under section 101 for an after-hours order against a child respondent;
 - (f) an application under section 133 for the amendment or revocation of a recognised FVO made against a child respondent;
 - (g) an application under section 134A for registration of a foreign order made against a child respondent;
 - (h) an application under section 147 that an FVO made against a child respondent is a recognised FVO in the ACT.
- (2) A warrant issued under section 54 for a child respondent is revoked and ceases to have effect on the commencement day.

- (3) If a child respondent is detained under section 105 (After-hours orders—detention of person against whom order sought)—the section ceases to apply and the child respondent is entitled to be at liberty on the commencement day.
- (4) Each of the following is discontinued on the commencement day:
 - (a) a proceeding for a protection order against a child respondent;
 - (b) a proceeding for an appeal against an appealable decision involving a child respondent.
- (5) A recognised FVO made against a child respondent is revoked on the commencement day.
- (6) In this section:
recognised FVO—see section 119 and section 144.

Division 23.3 Validity of past family violence order action

217 Meaning of *family violence order action*—div 23.3

In this division:

family violence order action, in relation to a child respondent, includes any of the following:

- (a) making an application mentioned in section 216 (1);
- (b) arresting or detaining the respondent under this Act;
- (c) making, amending or revoking a family violence order against the respondent;
- (d) administering or enforcing a family violence order against the respondent;

- (e) making or enforcing a requirement for a person to pay costs in relation to a proceeding for a family violence order against the respondent.

218 Past lawful acts not affected

The commencement of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* does not affect the validity of family violence order action in relation to a child respondent done under a territory law before the commencement day.

219 Protection from liability

- (1) A person is not personally liable for any family violence order action in relation to a child respondent done or omitted to be done honestly and without recklessness before the commencement day—
 - (a) in the exercise of a function under a territory law; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

220 No entitlement to compensation etc

A child respondent to a proceeding for a family violence order begun before the commencement day is not, because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, entitled to compensation or damages as a result of any family violence order action in the proceeding.

109 New part 24*insert***Part 24 Transitional—Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023****Division 24.1 General****221 Definitions—pt 24**

In this part:

child respondent means—

- (a) a child who is under 14 years old and a respondent in a proceeding for a protection order; or
- (b) a child against whom a family violence order was made when the child was under 14 years old.

commencement day means the day the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, section 109 commences.

222 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.
- (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 elsewhere in this Act.

223 Expiry—pt 24

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 24.2 Ending action etc for family violence orders

224 Application—div 24.2

This division applies, despite any territory law to the contrary, to a child respondent.

225 Enforcement action

- (1) Enforcement action carried out by a police officer before the commencement day in a proceeding for a family violence order against a child respondent ends on the commencement day.
- (2) If the enforcement action that ends under subsection (1) is arrest or police custody, the chief police officer must ensure that reasonable steps are taken to ensure the safety of the child respondent on the respondent's release from arrest or custody.
- (3) In this section:

enforcement action means any of the following:

- (a) execution of a warrant;
- (b) arrest;
- (c) police custody.

police custody includes detention under section 105 (After-hours orders—detention of person against whom order sought).

226 Family violence order procedures, proceedings etc

- (1) Each of the following is discontinued and ceases to have effect on the commencement day:
 - (a) an application under section 16 for a protection order against a child respondent;
 - (b) an application under section 83 for amendment of a protection order against a child respondent;
 - (c) an application—
 - (i) under section 87 for review of a special interim order against a child respondent; or
 - (ii) under section 89 for review of a final order against a child respondent;
 - (d) an application under section 91 for review of a consent order against a child respondent;
 - (e) an application under section 101 for an after-hours order against a child respondent;
 - (f) an application under section 133 for the amendment or revocation of a recognised FVO made against a child respondent;
 - (g) an application under section 134A for registration of a foreign order made against a child respondent;
 - (h) an application under section 147 that an FVO made against a child respondent is a recognised FVO in the ACT.
- (2) A warrant issued under section 54 for a child respondent is revoked and ceases to have effect on the commencement day.

- (3) If a child respondent is detained under section 105 (After-hours orders—detention of person against whom order sought)—the section ceases to apply and the child respondent is entitled to be at liberty on the commencement day.
- (4) Each of the following is discontinued on the commencement day:
 - (a) a proceeding for a protection order against a child respondent;
 - (b) a proceeding for an appeal against an appealable decision involving a child respondent.
- (5) A recognised FVO made against a child respondent is revoked on the commencement day.
- (6) In this section:
recognised FVO—see section 119 and section 144.

Division 24.3 Validity of past family violence order action

227 Meaning of *family violence order action*—div 24.3

In this division:

family violence order action, in relation to a child respondent, includes any of the following:

- (a) making an application mentioned in section 226 (1);
- (b) arresting or detaining the respondent under this Act;
- (c) making, amending or revoking a family violence order against the respondent;
- (d) administering or enforcing a family violence order against the respondent;

- (e) making or enforcing a requirement for a person to pay costs in relation to a proceeding for a family violence order against the respondent.

228 Past lawful acts not affected

The commencement of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* does not affect the validity of family violence order action in relation to a child respondent done under a territory law before the commencement day.

229 Protection from liability

- (1) A person is not personally liable for any family violence order action in relation to a child respondent done or omitted to be done honestly and without recklessness before the commencement day—
 - (a) in the exercise of a function under a territory law; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

230 No entitlement to compensation etc

A child respondent to a proceeding for a family violence order begun before the commencement day is not, because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, entitled to compensation or damages as a result of any family violence order action in the proceeding.

Part 8 Personal Violence Act 2016

110 Who may apply for personal protection orders? Section 12 (1), note

substitute

Note A child under 12 years old cannot be a respondent to an application for a protection order (see s 69).

111 Section 12 (1), note

substitute

Note A child under 14 years old cannot be a respondent to an application for a protection order (see s 69).

112 Section 69

substitute

69 Child respondents

- (1) A child under 12 years old cannot be a respondent to an application for a protection order.
- (2) Unless the court otherwise orders, for a proceeding for a protection order, a respondent who is 12 years old or older but under 14 years old is taken to have impaired decision-making ability.

113 Section 69

substitute

69 Child respondents

A child under 14 years old cannot be a respondent to an application for a protection order.

114 Representation—party with impaired decision-making ability
Section 70 (3), note

substitute

Note A child under 12 years old cannot be a respondent to an application for a protection order (see s 69).

115 Section 70 (3), note

substitute

Note A child under 14 years old cannot be a respondent to an application for a protection order (see s 69).

116 Recognised orders—registration
Section 92 (1)

substitute

- (1) On receiving an application under section 91 for registration of a recognised order, the registrar must register the order unless the respondent to the order was under 12 years old when the recognised order was made.

117 Section 92 (1)

substitute

- (1) On receiving an application under section 91 for registration of a recognised order, the registrar must register the order unless the respondent to the order was under 14 years old when the recognised order was made.

**118 Registered orders—revocation
Section 95 (1)***substitute*

- (1) This section applies if—
 - (a) a recognised court tells the registrar that a registered order has been revoked; or
 - (b) the respondent to a recognised order registered under section 92 was under 12 years old when the recognised order was made.

119 Section 95 (1)*substitute*

- (1) This section applies if—
 - (a) a recognised court tells the registrar that a registered order has been revoked; or
 - (b) the respondent to a recognised order registered under section 92 was under 14 years old when the recognised order was made.

120 New part 23*insert***Part 23 Transitional—Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023****Division 23.1 General****210 Definitions—pt 23**

In this part:

child respondent means—

- (a) a child who is under 12 years old and a respondent in a proceeding for a protection order; or
- (b) a child against whom a protection order was made when the child was under 12 years old

commencement day means the day the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, section 120 commences.

211 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.
- (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 elsewhere in this Act.

212 Expiry—pt 23

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 23.2 Ending action etc for personal protection orders

213 Application—div 23.2

This division applies, despite any territory law to the contrary, to a child respondent.

214 Enforcement action

- (1) Enforcement action carried out by a police officer before the commencement day in a proceeding for a protection order against a child respondent ends on the commencement day.
- (2) If the enforcement action that ends under subsection (1) is arrest or police custody, the chief police officer must ensure that reasonable steps are taken to ensure the safety of the child respondent on the respondent's release from arrest or custody.
- (3) In this section:

enforcement action means any of the following:

- (a) execution of a warrant;
- (b) arrest;
- (c) police custody.

215 Protection order procedures, proceedings etc

- (1) Each of the following is discontinued and ceases to have effect on the commencement day:
 - (a) an application under—
 - (i) section 12 for a protection order against a child respondent; or
 - (ii) section 13 for a workplace protection order against a child respondent;
 - (b) an application under section 76 for amendment of a protection order made against a child respondent;
 - (c) an application under section 81 for review of a final order made against a child respondent;
 - (d) an application under section 83 for review of a consent order made against a child respondent;
 - (e) an application under section 91 for registration of a recognised order made against a child respondent;
 - (f) an application under section 93 (b) for the amendment or revocation of a registered order made against a child respondent.
- (2) A warrant issued under section 49 for a child respondent is revoked and ceases to have effect on the commencement day.
- (3) Each of the following is discontinued on the commencement day:
 - (a) a proceeding for a protection order against a child respondent;
 - (b) a proceeding for an appeal against an appealable decision involving a child respondent;
- (4) A registered order made against a child respondent is revoked on the commencement day.

(5) In this section:

recognised order—see section 90.

registered order—see section 90.

Division 23.3 Validity of past protection order action

216 Meaning of *past protection order action*—div 23.3

In this division:

protection order action, in relation to a child respondent, includes any of the following:

- (a) making an application mentioned in section 215 (1);
- (b) arresting or detaining the respondent under this Act;
- (c) making, amending or revoking a protection order against the respondent;
- (d) administering or enforcing a protection order against the respondent;
- (e) making or enforcing a requirement for a person to pay costs in relation to a proceeding for a protection order against the respondent.

217 Past lawful acts not affected

The commencement of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* does not affect the validity of protection order action in relation to a child respondent done under a territory law before the commencement day.

218 Protection from liability

- (1) A person is not personally liable for any protection order action in relation to a child respondent done or omitted to be done honestly and without recklessness before the commencement day—
 - (a) in the exercise of a function under a territory law; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

219 No entitlement to compensation etc

A child respondent to a proceeding for a protection order begun before the commencement day is not, because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, entitled to compensation or damages as a result of any protection order action in the proceeding.

121 New part 24*insert***Part 24 Transitional—Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023****Division 24.1 General****220 Definitions—pt 24**

In this part:

child respondent means—

- (a) a child who is under 14 years old and a respondent in a proceeding for a protection order; or
- (b) a child against whom a family violence order was made when the child was under 14 years old.

commencement day means the day the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, section 121 commences.

221 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*.
- (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 elsewhere in this Act.

222 Expiry—pt 24

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Division 24.2 Ending action etc for personal protection orders

223 Application—div 24.2

This division applies, despite any territory law to the contrary, to a child respondent.

224 Enforcement action

- (1) Enforcement action carried out by a police officer before the commencement day in a proceeding for a protection order against a child respondent ends on the commencement day.
- (2) If the enforcement action that ends under subsection (1) is arrest or police custody, the chief police officer must ensure that reasonable steps are taken to ensure the safety of the child respondent on the respondent's release from arrest or custody.
- (3) In this section:

enforcement action means any of the following:

- (a) execution of a warrant;
- (b) arrest;
- (c) police custody.

225 Protection order procedures, proceedings etc

- (1) Each of the following is discontinued and ceases to have effect on the commencement day:
 - (a) an application under—
 - (i) section 12 for a protection order against a child respondent; or
 - (ii) section 13 for a workplace protection order against a child respondent;
 - (b) an application under section 76 for amendment of a protection order made against a child respondent;
 - (c) an application under section 81 for review of a final order made against a child respondent;
 - (d) an application under section 83 for review of a consent order made against a child respondent;
 - (e) an application under section 91 for registration of a recognised order made against a child respondent;
 - (f) an application under section 93 (b) for the amendment or revocation of a registered order made against a child respondent.
- (2) A warrant issued under section 49 for a child respondent is revoked and ceases to have effect on the commencement day.
- (3) Each of the following is discontinued on the commencement day:
 - (a) a proceeding for a protection order against a child respondent;
 - (b) a proceeding for an appeal against an appealable decision involving a child respondent;
- (4) A registered order made against a child respondent is revoked on the commencement day.

- (5) In this section:
- recognised order*—see section 90.
- registered order*—see section 90.

Division 24.3 Validity of past protection order action

226 Meaning of *past protection order action*—div 24.3

In this division:

protection order action, in relation to a child respondent, includes any of the following:

- (a) making an application mentioned in section 215 (1);
- (b) arresting or detaining the respondent under this Act;
- (c) making, amending or revoking a protection order against the respondent;
- (d) administering or enforcing a protection order against the respondent;
- (e) making or enforcing a requirement for a person to pay costs in relation to a proceeding for a protection order against the respondent.

227 Past lawful acts not affected

The commencement of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* does not affect the validity of protection order action in relation to a child respondent done under a territory law before the commencement day.

228 Protection from liability

- (1) A person is not personally liable for any protection order action in relation to a child respondent done or omitted to be done honestly and without recklessness before the commencement day—
 - (a) in the exercise of a function under a territory law; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

229 No entitlement to compensation etc

A child respondent to a proceeding for a protection order begun before the commencement day is not, because of the enactment of the *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023*, entitled to compensation or damages as a result of any protection order action in the proceeding.

Part 9 Spent Convictions Act 2000

122 Overview of Act Section 3 (3) (b)

substitute

- (b) the extinguishment of—
- (i) youth offence convictions, with limited exceptions; and
 - (ii) historical homosexual offence convictions.

123 Meaning of *extinguished* conviction Section 7A (1)

substitute

- (1) For this Act, the conviction of a person for an offence is ***extinguished*** if—
- (a) for youth offence convictions—section 19GB extinguishes the conviction; or
 - (b) for historical homosexual offence convictions—the director-general extinguishes the conviction in accordance with section 19D (Decision on application to have conviction extinguished).

124 Which convictions can become spent? Section 11 (2) (a)

substitute

- (a) a conviction for an offence committed by an offender who was at least 12 years old when the offence was committed and for which a sentence of imprisonment of longer than 6 months was imposed;

125 Section 11 (2) (a)

substitute

- (a) a conviction for an offence committed by an offender who was at least 14 years old when the offence was committed and for which a sentence of imprisonment of longer than 6 months was imposed;

**126 Meaning of *youth sexual offence conviction*—pt 2
Section 14A, definition of *youth sexual offence conviction*, paragraph (a)**

substitute

- (a) committed by a person who was at least 12 years old when the offence was committed; and

127 Section 14A, definition of *youth sexual offence conviction*, paragraph (a)

substitute

- (a) committed by a person who was at least 14 years old when the offence was committed; and

128 New part 3AA

insert

Part 3AA Extinguishing youth offence convictions**19GA Meaning of *youth offence conviction***

For this Act:

youth offence conviction means a conviction for an offence committed by a person who was under 12 years old when the offence was committed.

19GB Youth offence convictions extinguished

- (1) A youth offence conviction is extinguished.
- (2) A youth offence conviction spent before the commencement of this section is extinguished under this section.

129 Sections 19GA and 19GB

substitute

19GA Meaning of *youth offence conviction*

For this Act:

youth offence conviction means a conviction for an offence committed by a person who was under 14 years old when the offence was committed.

19GB Youth offence convictions extinguished

- (1) A youth offence conviction (other than a conviction mentioned in subsection (3)) is extinguished.

- (2) A youth offence conviction spent before the commencement of this section is extinguished under this section.
- (3) A youth offence conviction is not extinguished if the offence for which the conviction was imposed—
- (a) is an offence mentioned in table 19GB; and
 - (b) was committed by a person who was at least 12 years old.

Table 19GB

column 1 item	column 2 offence
1	Crimes Act 1900, s 12 (Murder)
2	Crimes Act 1900, s 19 (Intentionally inflicting grievous bodily harm)
3	Crimes Act 1900, s 51 (Sexual assault in the first degree)
4	Crimes Act 1900, s 57 (Act of indecency in the first degree)

130 Consequences of conviction becoming extinguished New section 19H (1A)

after the note, insert

- (1A) The following also applies to a person whose youth offence conviction has been extinguished:
- (a) in applying an Act to the person, the person is taken never to have committed or to have been charged with, convicted of, or sentenced for the offence the subject of the extinguished conviction (the *offence*);
 - (b) it is lawful for the person to state in a proceeding before a court or tribunal that the person has not been charged with or convicted of the offence.

131 New section 19H (3)

insert

- (3) However, subsections (1) and (1A) do not apply in relation to an application by a person for registration under the [Working with Vulnerable People \(Background Checking\) Act 2011](#).

132 Dictionary, new definition of *youth offence conviction*

insert

youth offence conviction—see section 19GA.

Part 10 Victims of Crime Act 1994

133 Long title

substitute

An Act relating to victims of crime and other harmful behaviour

134 Objects of Act Section 3AA (b) and (c)

substitute

- (b) contribute to upholding the safety, privacy and dignity of people adversely affected by crime and other harmful behaviour; and
- (c) help victims deal with the effects of criminal offences and other harmful behaviour; and

135 Who is a *victim*? Section 6 (1)

omit

In this Act:

substitute

In this Act (other than division 3A.3A):

136 New section 14AA

insert

14AA Application of victims rights to victims under div 3A.3A

- (1) A victims right applies, as far as possible, to a victim of a child's harmful behaviour under division 3A.3A.

(2) In this section:

harmful behaviour—see section 15CA (1).

137 **Victims may request referral of offences to restorative justice**
New section 15B (1A)

after the notes, insert

(1A) However, a victim of an offence committed by a person who is at least 10 years old but under the age of criminal responsibility for the offence may ask the agency or entity at any time and whether or not a criminal justice process has, or can be, begun for the offence.

138 **Section 15B (2), new definition of *under the age of criminal responsibility***

insert

under the age of criminal responsibility—a person is *under the age of criminal responsibility* for an offence if the person is not criminally responsible under the [Criminal Code](#), section 25 for the offence.

139 **New division 3A.3A**

insert

Division 3A.3A Victims rights—harm statement etc

15CA Definitions—div 3A.3A

(1) In this division:

child means a person under 12 years old.

harm—see section 6 (3).

harmful behaviour, of a child, means behaviour that causes harm to another person.

harm statement, in relation to a child's harmful behaviour, means a statement prepared by or for a victim of the behaviour for consideration by the therapeutic support panel.

therapeutic support panel—see the [Children and Young People Act 2008](#), dictionary.

victim, of a child's harmful behaviour, means—

- (a) a person (a ***primary victim***) who suffers harm because of the behaviour; or
- (b) if a primary victim dies because of the behaviour—a person who was financially or psychologically dependent on the primary victim before the primary victim's death.

(2) In this section:

because of, a child's harmful behaviour, means—

- (a) as a result of, or in the course of, the behaviour; or
- (b) in the course of assisting a police officer in the exercise of the officer's power to arrest a person for the behaviour or to take action to prevent the behaviour.

loss of a pregnancy means a miscarriage or stillbirth.

15CB Application—div 3A.3A

This division applies if—

- (a) a child has engaged in harmful behaviour; and
- (b) there is a victim of the behaviour.

15CC Harm statement—who may make a harm statement

- (1) The following people may make a harm statement in relation to a child's harmful behaviour:
 - (a) a victim of the behaviour;
 - (b) a person with parental responsibility for a victim of the behaviour;
 - (c) a close family member of a victim of the behaviour;
 - (d) a carer for a victim of the behaviour;
 - (e) a person with an intimate personal relationship with a victim of the behaviour.

- (2) In this section:

person with parental responsibility, for a victim who is a child or young person—means a person with parental responsibility for the child or young person under the *Children and Young People Act 2008*, division 1.3.2.

15CD Harm statement—form and contents

- (1) A harm statement may, but need not, identify the victim to whom the statement relates, but must not identify the victim if the victim does not wish to be identified in the statement.
- (2) However, if the statement does not identify the victim, the therapeutic support panel must—
 - (a) be told the identity of the victim; and
 - (b) not disclose the identity to any other person.
- (3) If the person who makes the statement is not the victim (or the victim's representative)—
 - (a) the statement must indicate that the victim does not object to the statement being made to the therapeutic support panel; and

- (b) if practicable, the victim (or representative) must sign the statement, or make a separate written or oral statement to the panel, to verify that the victim does not object.
- (4) If the victim to whom the statement relates is not a primary victim, the statement must identify the primary victim and state the nature and length of the victim's relationship with the primary victim.
- (5) If the statement is made by a person who is not the victim, the statement must indicate the nature and length of the person's relationship with the victim.
- (6) The statement may state the circumstances of the harmful behaviour, and the harm suffered by the victim.
- (7) The statement may contain photographs, drawings or other images.
- (8) The statement must not contain anything that is offensive, threatening, intimidating or harassing.
- (9) This section does not prevent a harm statement being made in relation to more than 1 victim.

15CE Harm statement—presentation to panel

- (1) A harm statement may be given to the therapeutic support panel as—
 - (a) a written statement signed by or for a victim of the behaviour;
or
 - (b) an oral statement by or for a victim of the behaviour; or
 - (c) in any other way the panel considers appropriate.
- (2) The panel must allow the written statement to be read aloud, or a statement that is not written to be given orally, if the victim wishes the statement to be given to the panel in that way.

15CF Harm statement—use by panel

- (1) In deciding how a child should be treated for their harmful behaviour, the panel—
 - (a) must take into account a harm statement given to the panel in relation to the behaviour when exercising any panel function to which the statement is relevant; and
 - (b) must not draw any inference about the harm suffered by a victim from the fact that a harm statement is not given to the panel in relation to the behaviour.

Examples—par (a)

- 1 assessing the therapeutic needs and best interests of a child
 - 2 developing a plan for therapeutic treatment of the child
 - 3 promoting a child's accountability for harmful behaviour
 - 4 use in restorative justice referrals
- (2) The panel may provide a copy or recording of a harm statement or part of a harm statement to the child if—
 - (a) the panel considers providing the statement to the child to be in the best interests of the child; and
 - (b) the victim agrees to the copy or statement being given to the child.

15CG Harm statement—relevant entity to tell victims about harm statement

- (1) A relevant entity must, as soon as practicable, tell the victim the following:
 - (a) who may make a harm statement;
 - (b) that a statement may be made orally or in writing;
 - (c) what information a statement must and may include;

- (d) how a statement may be used by the therapeutic support panel in carrying out its functions, including that—
 - (i) a copy of the statement may be given to the child but only if the victim agrees; and
 - (ii) the panel must consider the statement in carrying out its functions.

- (2) In this section:

relevant entity means the following:

- (a) the chief police officer;
- (b) the therapeutic support panel;
- (c) the commissioner.

15CH Information disclosure to victim of harmful behaviour

- (1) The therapeutic support panel or the commissioner may disclose information about a child's harmful behaviour, including information about the therapeutic treatment of the child's harmful behaviour, to the victim of the behaviour but only if—
 - (a) the chair of the panel and the commissioner agree that disclosure of the information is appropriate in the circumstances; and
 - (b) the information does not include personal information or personal health information about the child.
- (2) If the victim is under 15 years old, the panel or commissioner may disclose the information to a person with parental responsibility for the victim or a person acting for a victim or both.
- (3) In deciding whether disclosure of the information is appropriate in the circumstances, the panel and commissioner must consider all relevant circumstances, including the following:
 - (a) the age of the child;

- (b) the nature of the harmful behaviour;
- (c) the effect of the harmful behaviour on the victim.

(4) In this section:

personal health information—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

personal information—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

person with parental responsibility, for a victim under 15 years old—means a person with parental responsibility for the victim under the *Children and Young People Act 2008*, division 1.3.2.

140 Definitions—div 3A.3A
Section 15CA (1), definition of *child*

substitute

child means a person under 14 years old.

141 Section 15CB

substitute

15CB Application—div 3A.3A

This division applies if—

- (a) a child has engaged in harmful behaviour; and
- (b) there is a victim of the behaviour; and
- (c) the child is not the subject of a criminal proceeding for the harmful behaviour.

142 **Victims services scheme—eligibility**
Section 20

after

All victims

insert

, including a victim under division 3A.3A,

143 **Dictionary, new definitions**

insert

child, for division 3A.3A (Victims rights—harm statement etc)—see section 15CA (1).

harm, for division 3A.3A (Victims rights—harm statement etc)—see section 15CA (1).

harmful behaviour, for division 3A.3A (Victims rights—harm statement etc)—see section 15CA (1).

harm statement, for division 3A.3A (Victims rights—harm statement etc)—see section 15CA (1).

therapeutic support panel, for division 3A.3A (Victims rights—harm statement etc)—see the *Children and Young People Act 2008*, dictionary.

144 **Dictionary, definition of *victim***

substitute

victim—

- (a) for this Act generally—see section 6; and
- (b) of a child’s harmful behaviour, for division 3A.3A (Victims rights—harm statement etc)—see section 15CA (1).

Part 11

Victims of Crime (Financial Assistance) Act 2016

145 Meaning of *homicide* New section 10 (2)

insert

- (2) For the definition of *homicide*, it does not matter if the person who commits the offence lacks the legal capacity to be charged with, or convicted or found guilty of, the offence.

146 Application to commissioner New section 31 (2A)

after the note, insert

- (2A) However, the application need not comply with the requirement under subsection (2) (d) (i) if the act of violence was carried out by a person who was under the age of criminal responsibility for the offence in the course of which the act of violence occurred.

147 Section 31 (5), new definition of *under the age of criminal responsibility*

insert

under the age of criminal responsibility—a person is *under the age of criminal responsibility* for an offence if the person is not criminally responsible under the [Criminal Code](#), section 25 for the offence.

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Children and Young People Act 2008

[1.1] Section 37, definitions of *entitled person* and *visitable place*

omit

a therapeutic protection place

substitute

an intensive therapy place

[1.2] Section 336, definition of *care and protection chapters*, paragraph (d)

substitute

(d) Chapter 13 (Care and protection—emergency situations);

[1.3] Section 336, definition of *care and protection chapters*, new paragraph (ea)

insert

(ea) Chapter 14A (Care and protection—therapeutic support panel for children and young people);

[1.4] Section 336, definition of *care and protection chapters*, paragraph (g)

substitute

(g) Chapter 16 (Care and protection—intensive therapy for children and young people);

[1.5] Section 339 (4) (b), except note

substitute

- (b) is being confined at an intensive therapy place under an intensive therapy order—the person must be released.

[1.6] Section 340 (3)

substitute

- (3) A young person confined at an intensive therapy place under an intensive therapy order must be released immediately the young person becomes an adult.

[1.7] Chapter 13 heading

substitute

Chapter 13 Care and protection— emergency situations

[1.8] Section 406 (1)

omit

or emergency therapeutic protection

[1.9] Section 413 (1) (b) (iv)

substitute

- (iv) an intensive therapy order.

[1.10] Section 413 (2) (d)

substitute

- (d) section 541 (Intensive therapy orders—who must be given application).

[1.11] Section 415 (1) (a) (iv) and (v)

substitute

- (iv) an interim intensive therapy order;
- (v) an intensive therapy order; and

[1.12] Section 419, note

substitute

Note If the director-general applies for an appraisal order, a care and protection order, an assessment order or an intensive therapy order for the child or young person, the director-general need only give a copy of the application to people before the application is heard by the court (see s 413).

[1.13] Section 420

omit

or emergency therapeutic protection

[1.14] Section 502, new definition of *in intensive therapy*

insert

in intensive therapy—see section 576.

[1.15] Section 502, definition of *in therapeutic protection*

omit

[1.16] Section 694 (2) (e)

omit

a therapeutic protection

substitute

an intensive therapy

[1.17] Section 701 (1), note, paragraph (d)

substitute

(d) s 541 (Intensive therapy orders—who must be given application).

[1.18] Section 806 (1) (d)

substitute

(d) the researcher conducting the research project at a place of care, a detention place or an intensive therapy place.

[1.19] Section 814 heading

substitute

**814 Power to enter premises—ch 13 (Care and protection—
emergency situations)**

[1.20] Section 814 (1) (a) and notes

substitute

(a) the authorised person or police officer believes on reasonable grounds that a child or young person at the premises is in need of emergency care and protection; and

Note *In need of emergency care and protection* is defined in s 403.

[1.21] Section 816 heading

substitute

**816 Power to enter premises—ch 16 (Care and protection—
intensive therapy for children and young people)**

[1.22] Section 816 (1)

omit

a therapeutic protection place

substitute

an intensive therapy place

[1.23] Section 816 (2) (a) (i)

substitute

- (i) is deciding whether to declare the place as an intensive therapy place under section 589; and

[1.24] Section 816 (3)

omit

therapeutic protection place

substitute

intensive therapy place

[1.25] Dictionary, definition of *operating entity*

omit

therapeutic protection place

substitute

intensive therapy place

Part 1.2 Children and Young People Regulation 2009

[1.26] Section 3AC heading

substitute

3AC Intensive therapy register—who may have access—Act, s 597 (1) (i)

Part 1.3 Crimes (Sentencing) Act 2005

[1.27] Section 33 (1) (y)

substitute

(y) if the *Crimes (Restorative Justice) Act 2004*, section 19 (1) (b) applies to the offender—that fact;

Part 1.4 Criminal Code 2002

[1.28] Section 712A (5), definition of *childrens proceeding*, paragraph (b) (iv) and (v)

substitute

- (iv) an intensive therapy order; or
- (v) an interim intensive therapy order; or

Part 1.5 Food Act 2001

[1.29] Section 9 (1), definition of *sell* paragraph (o) (i)

omit

therapeutic protection place

insert

intensive therapy place

Part 1.6 Human Rights Commission Act 2005

[1.30] Section 8A, note 3

omit

therapeutic protection place

substitute

intensive therapy place

Part 1.7 Juries Regulation 2018

[1.31] Schedule 1, table 1.3, item 17, column 2

substitute

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 an intensive therapy place under the *Children and Young People Act 2008*, section 589

Part 1.8 Mental Health Act 2015

[1.32] Section 37 (1) (c)

substitute

- (c) the person is required to submit to the jurisdiction of the ACAT under—
 - (i) an ACAT mental health provision in a care and protection order or interim care and protection order; or
 - (ii) a mental health referral by the Childrens Court in a proceeding for an interim intensive therapy order or intensive therapy order; or
 - (iii) a requirement of an interim intensive therapy order or intensive therapy order.

[1.33] Section 178 (1)

omit

or interim therapeutic protection order

insert

, a mental health referral in a proceeding for an interim intensive therapy order or intensive therapy order, an interim intensive therapy order or intensive therapy order

[1.34] Dictionary, new definitions

insert

intensive therapy order, for a child or young person—see the [Children and Young People Act 2008](#), section 532.

interim intensive therapy order, for a child or young person—see the [Children and Young People Act 2008](#), section 543.

[1.35] Dictionary, definition of *interim therapeutic protection order*

omit

Part 1.9 Working with Vulnerable People (Background Checking) Act 2011

[1.36] Schedule 1, section 1.1 (2) (b)

substitute

(b) under an intensive therapy order.

[1.37] Schedule 1, section 1.1 (2), note

omit

- pt 16.2 (Therapeutic protection orders);

substitute

- pt 16.2 (Intensive therapy orders);

[1.38] Schedule 1, new section 1.1 (3)

insert

(3) In this section:

intensive therapy order, for a child or young person—see the [Children and Young People Act 2008](#), section 532.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 9 May 2023.

2 Notification

Notified under the [Legislation Act](#) on 15 November 2023.

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 Justice (Age of Criminal Responsibility) Legislation Amendment Bill 2023, which was passed by the Legislative Assembly on 1 November 2023.

Acting Clerk of the Legislative Assembly

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