



AUSTRALIAN CAPITAL TERRITORY

# **Children's Services (Amendment) Act (No. 2) 1991**

**No. 70 of 1991**

## **TABLE OF PROVISIONS**

Section	
1.	Short title
2.	Principal Act
3.	Interpretation
4.	Director of Family Services
5.	Childrens Services Council
6.	Functions of the Council
7.	Standing Committee of Council
8.	Insertion—
	19A. Official Visitor
	19B. Duties
9.	Interpretation
10.	Limitations in respect of criminal proceedings against children
11.	Criteria for bail

**TABLE OF PROVISIONS—continued**

## Section

- 12. Insertion—
  - 38A. Private property
- 13. Arrested children: bringing before Court
- 14. Remission of matter by Supreme Court
- 15. Disposition of young offenders
- 16. Insertion—
  - 47A. Early release
- 17. Probation orders: entry and inspection by supervisor
- 18. Attendance centre orders
- 19. Insertion—
  - PART IVA—INTERSTATE TRANSFER OF OFFENDERS**
    - Division 1—Interstate transfer generally*
      - 69A. Interpretation
      - 69B. Minister may enter into general agreements
      - 69C. Director may make arrangements
      - 69D. Arrangement for transfer from the Territory
      - 69E. Arrangement not to be made if facilities not adequate
      - 69F. Provisions to be contained in each arrangement
      - 69G. Transfer order
      - 69H. Transfer to the Territory in the temporary control of an escort
      - 69J. Escape from temporary control of young offender being transferred from the Territory
    - Division 2—Transfer of sentence or order*
      - 69K. Transfer from the Territory of sentence or order
      - 69L. Transfer to the Territory of sentence or order
    - Division 3—Transit through the Territory*
      - 69M. Lawful custody for transit through the Territory
      - 69N. Escape from temporary control
      - 69P. Search warrants
    - Division 4—Revocation of transfer orders*
      - 69Q. Revocation of transfer order on escape from temporary control
      - 69R. Revocation of transfer order by Director
      - 69S. Reports
- 20. Children in need of care
- 21. Direction for release of child
- 22. Application for declaration that a child is in need of care
- 23. Adjournment of hearing
- 24. Child care conference
- 25. Care orders
- 26. Residential orders and supervision orders: entry and inspection by Director etc.
- 27. Order to resolve disagreements

**TABLE OF PROVISIONS—continued**

Section

- 28. Child care agreements
- 29. Procedure where child voluntarily enters a place of safety
- 30. Notification of children in need of care and of child abuse
- 31. Incidents of wardship
- 32. Placement in homes etc.
- 33. Visits to wards
- 34. Wards from outside the Territory
- 35. Interpretation
- 36. Neglect etc. of children
- 37. Unauthorised removal of children
- 38. Medical examinations and surgical operations
- 39. Restrictions on publication of reports of proceedings
- 40. Preservation of appointment





AUSTRALIAN CAPITAL TERRITORY

**Children's Services (Amendment) Act  
(No. 2) 1991**

**No. 70 of 1991**

---

**An Act to amend the *Children's Services Act 1986***

*[Notified in ACT Gazette S120: 7 November 1991]*

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

**Short title**

**1.** This Act may be cited as the *Children's Services (Amendment) Act (No. 2) 1991*.

**Principal Act**

**2.** In this Act, "Principal Act" means the *Children's Services Act 1986*.<sup>1</sup>

**Interpretation**

**3.** Section 4 of the Principal Act is amended—

- (a) by inserting in the definition of "agreement" in subsection (1) "69B or" before "176";

- (b) by omitting from subsection (1) the definition of “custody” and substituting the following definition:
  - “ ‘custody’ in relation to a child, means—
    - (a) the right to have the daily care and control of the child; and
    - (b) the right and responsibility to make decisions concerning the daily care and control of the child;”;
- (c) by omitting from subsection (1) the definition of “Director” and substituting the following definition:
  - “ ‘Director’ means the Director of Family Services;”;
- (d) by inserting in subsection (1) the following definition:
  - “ ‘Official Visitor’ means the Official Visitor appointed under section 19A;”;
- (e) by omitting from subparagraph (a) (ii) of the definition of “residential order” in subsection (1) “care” and substituting “custody”; and
- (f) by omitting paragraph (a) of the definition of “supervision order” in subsection (1) and substituting the following paragraph:
  - “(a) placing the child under the supervision of—
    - (i) the Director or such other person as may be designated for the purpose by the Director from time to time; or
    - (ii) a person specified in the order;for the period specified in the order; and”.

### **Director of Family Services**

4. Section 7 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) For the purposes of this Act there shall be a Director of Family Services, who shall be appointed in writing by the Minister.”.

### **Childrens Services Council**

5. Section 13 of the Principal Act is amended—

- (a) by inserting before paragraph 2 (a) the following paragraph:
  - “(aa) the Chairperson;”;

- (b) by inserting after subsection (3) the following subsection:

“(3A) The Minister shall not appoint a person as Chairperson unless satisfied that the person—

  - (a) has appropriate status in the community;
  - (b) has relevant experience; and
  - (c) is not a person concerned with, or a person associated with a body, authority or agency concerned with, children's welfare.”;
- (c) by omitting from subsection (5) “The Director shall be the Chairman of the Council and” and substituting “The Chairperson”;
- (d) by omitting from subsection (6) “Chairman” and substituting “Chairperson”;
- (e) by omitting from subsection (6) “Chairman's” and substituting “Chairperson's”;
- (f) by omitting from subsections (8) and (11) “Chairman” and substituting “Chairperson”; and
- (g) by omitting subsection (12) and substituting the following subsection:

“(12) If a member of the Council other than the Chairperson or a member referred to in paragraph (2) (a), (b) or (c) is unable to attend a meeting of the Council, a person nominated for the purpose by the member may attend in the member's place and shall, in respect of that meeting, be regarded as a member of the Council, may vote and shall be taken into account in determining a quorum.”.

### **Functions of the Council**

6. Section 14 of the Principal Act is amended by omitting from paragraph (d) “money, or the furnishing of other assistance,” and substituting “assistance (other than financial assistance)”.

### **Standing Committee of Council**

7. Section 16 of the Principal Act is amended—
- (a) by omitting from subsection (3) “Chairman” and substituting “Chairperson”; and

- (b) by omitting subsection (9) and substituting the following subsection:

“(9) If a member of the Council referred to in paragraph 13 (2) (d) or (e) is unable to attend a meeting of the Standing Committee, a person nominated for the purpose by the member may attend in the member's place and shall, in respect of that meeting, be regarded as a member of the Standing Committee, may vote and shall be taken into account in determining a quorum.”.

### **Insertion**

8. After section 19 of the Principal Act the following sections are inserted:

### **Official Visitor**

“19A. (1) For the purposes of this Act there shall be an Official Visitor who shall be appointed by the Minister.

“(2) A person shall not be so appointed unless the Minister is satisfied that he or she has appropriate qualifications or experience.

“(3) A person so appointed holds office for a period not exceeding 3 years and is eligible for re-appointment.

“(4) A person so appointed may resign his or her office by writing signed by him or her and delivered to the Minister.

“(5) The Minister may terminate the appointment of an Official Visitor—

- (a) for misbehaviour;
- (b) for physical or mental incapacity;
- (c) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of those creditors; or
- (d) if he or she is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 12 months or longer.

“(6) The Official Visitor shall be paid such remuneration and allowances as are prescribed.

“(7) Subsection (6) does not apply in relation to—

- (a) remuneration if there is a subsisting determination relating to the remuneration to be paid to the Official Visitor; or



- (b) an allowance of a particular kind if there is a subsisting determination relating to an allowance of that kind to be paid to the Official Visitor.

“(8) In subsection (7)—

‘determination’ means a determination of the Remuneration Tribunal.

### **Duties**

“19B. (1) The Official Visitor shall—

- (a) visit and inspect shelters and institutions, as far as practicable at least once a week;
- (b) hear any complaints made by any children in the shelter or institution concerning—
  - (i) the manner of their care, detention or treatment; or
  - (ii) the manner in which the shelter or institution is conducted; and
- (c) investigate any such complaints.

“(2) A child may make complaints to an Official Visitor either—

- (a) personally; or
- (b) through a personal representative chosen by the child.

“(3) A child may have their complaint heard by the Official Visitor alone if the child so requests.

“(4) An Official Visitor may, of his or her own motion, or after investigating a complaint, make—

- (a) a report to the Minister; and
- (b) a recommendation to the Director.

“(5) The Official Visitor shall, as soon as practicable after each 30 June, lodge a report in writing to the Minister detailing how he or she has performed duties and exercised powers under this Act during the period of 12 months that ended on that date.

“(6) On receiving a report the Minister shall, as soon as practicable, table the report before the Assembly.”.

**Interpretation**

**9.** Section 29 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

“(4) For the purposes of this Division, a child is not under restraint if the child is in the company of—

- (a) a police officer by the roadside, whether or not the child is in a motor vehicle, for a purpose connected with the investigation of an offence, not being a serious offence, arising out of the use of a motor vehicle;
- (b) a police officer for the purpose of a screening, breath or blood test in accordance with the *Motor Traffic (Alcohol and Drugs) Act 1977*; or
- (c) an inspector, within the meaning of the *Liquor Act 1975* for a purpose connected with the investigation of an offence under that Act, which the inspector believes on reasonable grounds was not committed by the child.”.

**Limitations in respect of criminal proceedings against children**

**10.** Section 33 of the Principal Act is amended—

- (a) by omitting from subsection (1) “sub-section (4)” and substituting “subsections (4) and (8)”; and
- (b) by adding at the end the following subsection:

“(8) A police officer may institute a prosecution against a child without the consent of an authorised officer where—

- (a) the child is licensed to drive a motor vehicle; and
- (b) the police officer believes on reasonable grounds that the child has committed an offence arising out of the use of a motor vehicle.”.

**Criteria for bail**

**11.** Section 37 of the Principal Act is amended by omitting from subparagraph (4) (b) (i) “custody” (wherever occurring) and substituting “detention”.

### **Insertion**

**12.** After section 38 of the Principal Act the following section is inserted:

#### **Private property**

“38A. (1) The person in charge of an institution or shelter may require a child placed in the institution or shelter—

- (a) to surrender to the person in charge; or
- (b) to send away from the institution or shelter;

any or all property that is in the possession of the child.

“(2) Any property surrendered under subsection (1) shall be retained by the person in charge of the institution or shelter until the child is discharged or transferred.

“(3) When a child is discharged or transferred any property surrendered by that child shall be—

- (a) returned to the child; or
- (b) sent to the person in charge of the institution to which the child is transferred;

as the case requires.

“(4) The person in charge of an institution or shelter shall keep a record of all property surrendered and sent on under this section.”.

#### **Arrested children: bringing before Court**

**13.** Section 39 of the Principal Act is amended by omitting “custody” (wherever occurring) and substituting “detention”.

#### **Remission of matter by Supreme Court**

**14.** Section 46 of the Principal Act is amended by omitting from paragraph (3) (a) “custody” and substituting “detention”.

#### **Disposition of young offenders**

**15.** Section 47 of the Principal Act is amended by omitting from paragraph (1) (k) “6 months” and substituting “2 years”.

**Insertion**

**16.** After section 47 of the Principal Act the following section is inserted:

**Early release**

“47A. Notwithstanding an order of the court pursuant to which a child is detained in an institution or state institution, if the period for which the child may be so detained would expire on a Saturday, Sunday or public holiday, the child may be released on the last preceding day that is not a Saturday, Sunday or public holiday.”.

**Probation orders: entry and inspection by supervisor**

**17.** Section 56 of the Principal Act is amended by omitting from subsections (1) and (2) and paragraph (3) (a) “care, custody and control” and substituting “custody”.

**Attendance centre orders**

**18.** Section 57 of the Principal Act is amended—

(a) by inserting after paragraph (1) (a) the following paragraphs:

“(aa) shall specify the total number of hours the child will be required to attend in compliance with the order, such number being 8 or a multiple of 8 (not exceeding 104);

(ab) shall specify the period of time during which the attendance is required, being a period not exceeding 1 year;”;

(b) by omitting from subsection (2) “in the custody” and substituting “under the temporary control”;

(c) by omitting from subsection (3) “custody” and substituting “temporary control”; and

(d) by omitting from subsection (5) “in custody” and substituting “under temporary control”.

## Insertion

19. After Part IV of the Principal Act the following Part is inserted:

### **“PART IVA—INTERSTATE TRANSFER OF OFFENDERS**

#### ***“Division 1—Interstate transfer generally***

## Interpretation

“69A. In this Part—

‘arrangement’ means an arrangement under section 69C or, if such an arrangement has been varied by a further arrangement under that section, the arrangement as so varied;

‘escort’ means a person (whether or not an officer) who is authorised by or under an agreement or arrangement or a transfer order to take and keep temporary control of a young offender;

‘Minister’, in relation to a State or another Territory, means—

- (a) except as provided by paragraph (b)—a Minister of the Crown of that State or Territory; or
- (b) in the case of the Northern Territory—a person holding Ministerial office under the *Northern Territory (Self-Government) Act 1978* of the Commonwealth;

‘person responsible’, in relation to a young offender, means—

- (a) a parent of the young offender;
- (b) a person who has the temporary control of the young offender (whether or not the person has the custody of the young offender); or
- (c) a person who had the temporary control of the young offender immediately before the young offender became subject to detention under this Act;

‘receiving State’ means the State to which a young offender is transferred;

‘sending State’ means the State from which a young offender is transferred;

‘State’ includes a Territory;

‘transfer order’ means an order under section 69G;

‘young offender’ means—

- (a) a person who is—
  - (i) under the age of 18 years and has committed an offence against the law of a State; or

- (ii) of or over the age of 18 years, but under the age of 21 years, and has committed an offence against the law of a State when the person was under the age of 18 years;

and who has been dealt with for the offence under a law which applies in that State and which relates to the punishment of a person who is under the age of 18 years, but who is not on remand; or

- (b) a person in respect of whom an order under paragraph 47 (1) (b), (c), (d), (e), (f), (g), (h), (i) or (k) has been made.

### **Minister may enter into general agreements**

“69B. (1) The Minister may enter into an agreement with a Minister of a State, or with a person authorised to enter into an agreement on behalf of such a Minister, providing generally—

- (a) for the transfer of young offenders from or to the Territory; or
- (b) for the transfer of young offenders through the Territory from a State to another State.

“(2) An agreement relating to a State shall not be entered into unless a regulation is in force declaring that the State has enacted legislation dealing with the interstate transfer of young offenders.

### **Director may make arrangements**

“69C. If an agreement with or on behalf of a Minister of a State is in force, the Director may make an arrangement with that Minister, with a person authorised by that Minister or with another person as provided in the agreement, for the transfer of a particular young offender—

- (a) from the Territory to the State; or
- (b) to the Territory from the State;

and may make a further arrangement with that Minister or such a person for the purpose of rectifying any error in such an arrangement.

### **Arrangement for transfer from the Territory**

“69D. (1) An arrangement for the transfer of a young offender from the Territory to a State shall not be made unless—

- (a) the young offender or a person responsible for the young offender applies for the transfer to be made;

- (b) the Director is of the opinion that the transfer is appropriate, having regard to all the circumstances, including—
  - (i) the place or intended place of residence of the parents or other relatives of the young offender;
  - (ii) the present and future education, training or employment of the young offender; and
  - (iii) the medical or other needs of the young offender;
- (c) the young offender has been given independent legal advice of the effect of the arrangement;
- (d) the young offender consents to the arrangement, or the Director determines that the particular circumstances of the case indicate the arrangement should be made without the young offender's consent; and
- (e) the Director is satisfied that there is no appeal pending against an order of a court to which the young offender is subject.

“(2) For the purpose of deciding whether or not to arrange for the transfer of a young offender from the Territory to a State, the Director may ask—

- (a) the young offender; or
- (b) a person responsible for the young offender;

for any necessary information.

“(3) The Director may refuse to make an arrangement if information sought under this section is not supplied within the time specified by the Director.

“(4) This section does not apply to a further arrangement made for the purpose of rectifying an error.

#### **Arrangement not to be made if facilities not adequate**

“69E. An arrangement for the transfer of a young offender from a State to the Territory shall not be made unless the Director is satisfied that there are adequate facilities in the Territory for the young offender to be accepted and dealt with as provided in the arrangement.

#### **Provisions to be contained in each arrangement**

“69F. (1) An arrangement for the transfer of a young offender from or to the Territory shall—

- (a) be in writing;
- (b) provide for the acceptance of, and means of dealing with, the young offender in the receiving State; and

- (c) specify each order of a court of the sending State to which the young offender is subject (including any order required by a previous arrangement with the Territory or with a State to be treated as having been made by a court of the sending State).

“(2) For each order so specified, the arrangement shall—

- (a) state the way in which it is to operate in the receiving State, which shall be as similar as possible to the way in which it would operate in the sending State if the arrangement were not made;
- (b) state the maximum time for which it may operate, which shall not be longer than the maximum time for which it could operate in the sending State if the arrangement were not made;
- (c) state any entitlement of the young offender to a reduction in detention in the sending State and how that entitlement is to operate in the receiving State, which shall be as similar as possible to the way in which it would operate in the sending State if the arrangement were not made; and
- (d) state that a young offender who is subject to a non-probation period may be treated as being subject to an equivalent non-parole period, if the laws of the receiving State do not provide for non-probation periods.

“(3) A reference in this section to an order of a court shall be read as a reference to any sentence, detention, probation, parole or other order, which could be made or imposed by such a court.

### **Transfer order**

“69G. (1) If the Director makes an arrangement under this Act for the transfer of a young offender from the Territory to a State in the temporary control of an escort, the Director shall make a written order which—

- (a) directs the person who has temporary control of the young offender to deliver the young offender to the temporary control of the escort; and
- (b) authorises the escort to take and keep temporary control of the young offender for the purpose of transferring the young offender to the place in the receiving State and to the temporary control specified in the arrangement.

“(2) The authority conferred on an escort by this section is conferred only on an escort who is—

- (a) a member of the Police Force;
- (b) a person appointed by the Director;



- (c) an officer; or
- (d) a person acting as an escort with the approval of the Director.

**Transfer to the Territory in the temporary control of an escort**

“69H. If, under an arrangement for the transfer of a young offender to the Territory, an escort authorised under the arrangement brings the young offender into the Territory, the escort, while in the Territory is authorised to take and keep temporary control of the young offender for the purpose of transferring the young offender to the place in the Territory and to the temporary control specified in the arrangement.

**Escape from temporary control of young offender being transferred from the Territory**

“69J. A young offender in respect of whom an order under paragraph 47 (1) (k) has been made—

- (a) who is in temporary control under an arrangement made for his or her transfer from the Territory to a State; and
- (b) who escapes or attempts to escape from that temporary control while he or she is not within the Territory or the receiving State;

is guilty of an offence against this Act and is liable for committal to an institution for not more than 3 months.

***“Division 2—Transfer of sentence or order***

**Transfer from the Territory of sentence or order**

“69K. If a young offender is transferred from the Territory to a State under an arrangement, then, from the time the young offender arrives in that State, any sentence imposed on, or order made in relation to, the young offender in the Territory before that time ceases to have effect in the Territory except for the purpose of—

- (a) any appeal against or review of any conviction, judgment, sentence or order made, imposed or fixed by a court of the Territory;
- (b) taking into account any period of detention served before that time by the young offender or any reduction of the period of detention granted before that time;
- (c) taking into account anything done before that time by the young offender in carrying out the order; and
- (d) allowing for any remittance of money to the Territory which is or has been paid at any time in discharge or partial discharge of the sentence or order.

**Transfer to the Territory of sentence or order**

“69L. (1) If a young offender is transferred to the Territory from a State under an arrangement, then, from the time the young offender arrives in the Territory—

- (a) any sentence imposed on, or order made in relation to, the young offender by a court of the sending State and specified in the arrangement is to be considered as having been imposed or made by such court of the Territory as is specified in the arrangement;
- (b) any sentence or order considered by a previous arrangement with the Territory or with a State to have been imposed or made by a court of the sending State (being a sentence or order specified in the arrangement under which the young offender is transferred to the Territory) is to be considered as having been imposed or made by such court of the Territory as is specified in the arrangement; and
- (c) any direction given or order made by a court of the sending State concerning the time when anything is to be done under an order made by a court of that State is, so far as practicable, to be considered as having been given or made by such court of the Territory as is specified in the arrangement.

“(2) Any such sentence, order or direction has effect in the Territory as specified in the arrangement and the laws of the Territory apply as if the court of the Territory specified in the arrangement—

- (a) had had power to impose the sentence and to give or make the order or direction; and
- (b) did in fact impose the sentence and make or give the order or direction when it was imposed, made or given.

***“Division 3—Transit through the Territory*****Lawful custody for transit through the Territory**

“69M. (1) The Director may authorise the superintendent of an institution to receive, at the institution, young offenders being transferred through the Territory from a State to another State in accordance with an agreement.

“(2) If a young offender is brought into the Territory by an escort authorised by such an agreement to have temporary control of the young offender—

- (a) while in the Territory, the escort for the time being is authorised to take and keep temporary control of the young offender for the purposes of the transfer; and

- (b) a superintendent authorised under this section may (at the request of the escort for the time being and upon receiving from the escort written authority for the transfer of the young offender as provided in the agreement)—
  - (i) receive and detain the young offender at the institution in such temporary control and for such time as the escort requests, if it is reasonably necessary for the purposes of the transfer; and
  - (ii) at the end of that time, deliver the young offender into the temporary control of the escort.

“(3) In this section—

‘superintendent’ means the person for the time being in charge of an institution.

### **Escape from temporary control**

“69N. (1) A young offender being transferred through the Territory from a State to another State in accordance with an agreement who escapes from the temporary control of an escort authorised by the agreement to have temporary control of the offender may be apprehended by any person without a warrant.

“(2) Where a young offender being so transferred through the Territory from a State to another State in the temporary control of such an escort—

- (a) has escaped and been apprehended; or
- (b) has attempted to escape;

the young offender may be taken before a magistrate who may, by warrant under his or her hand, order the young offender to be detained in temporary control at an institution.

“(3) Such a warrant may be executed according to its tenor.

“(4) A young offender who is apprehended pursuant to such a warrant shall, as soon as practicable, be brought before the Magistrates Court, in the case of a young offender who is of or over the age of 18 years, or the Childrens Court, in the case of a young offender who is under the age of 18 years, which may order—

- (a) that the young offender be delivered to the temporary control of an escort; or
- (b) that the young offender be detained for no longer than 7 days until an escort is available from the sending State to carry out the arrangement or any orders made by a court of that State.

“(5) If a young offender who is the subject of an order made by a magistrate is not, in accordance with the order, delivered into the temporary control of an escort within 7 days after the making of the order, the order has no further effect, but nothing in this section prevents a further such order from being made.

“(6) The references in subsections (4) and (5) to an escort for a young offender being transferred through the Territory from a State to another State under an agreement shall be read as a reference—

- (a) to the escort authorised by the agreement to have temporary control of the young offender; or
- (b) where the offender has escaped or attempted to escape—to 1 or more of the following persons:
  - (i) that escort;
  - (ii) a member of the Police Force of the sending State;
  - (iii) a person appointed by instrument in writing (by the Minister of the sending State or a person authorised to enter into an agreement on behalf of that Minister) to be an escort for the purpose of carrying out any orders of a court of the sending State.

### **Search warrants**

“69P. (1) An escort, any member of the Police Force or any officer may apply to a magistrate for a search warrant if such a person has reasonable grounds for believing that a young offender, who has escaped from the temporary control of an escort while being transferred through the Territory from a State to another State in accordance with an agreement, is on or in premises.

“(2) A magistrate to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an escort, a member of the Police Force or an officer named in the warrant with such assistance, and with such force, as is necessary and reasonable—

- (a) to enter specified premises;
- (b) to inspect the premises for evidence of the young offender who has escaped from temporary control;
- (c) to observe and converse with any person apparently residing there; and
- (d) to apprehend the young offender at the premises.

“(3) There shall be stated in a warrant issued under this section—

- (a) a statement of the purpose for which the warrant is issued, which shall include a reference to the identity of and a description of the young offender in relation to whom entry and search are authorised;
- (b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (c) a date, not being later than 1 month after the date of issue of the warrant, upon which the warrant ceases to have effect.

“(4) A member of the Police Force—

- (a) may accompany an escort or an officer executing a search warrant issued under this section; and
- (b) may take all reasonable steps to assist in the apprehension of the young offender at the premises.

“(5) In this section—

‘escort’ means the escort authorised by the agreement to have temporary control of the young offender.

#### ***“Division 4—Revocation of transfer orders***

##### **Revocation of transfer order on escape from temporary control**

“69Q. (1) The Childrens Court may revoke a transfer order on application made to it by the Director that the young offender to whom it applies has, while being transferred, committed—

- (a) the offence of escaping or attempting to escape; or
- (b) any other offence.

“(2) This section applies whether—

- (a) the offence concerned was an offence against the law of the Territory or of the receiving State or of a State through which the young offender was being transferred; or
- (b) an information has been laid or a conviction secured in respect of the offence concerned or not.

##### **Revocation of transfer order by Director**

“69R. (1) The Director may revoke a transfer order at any time before the young offender is delivered in the receiving State into the temporary control specified in the arrangement concerned.

“(2) Where, under this section, the Director revokes a transfer order, the Director may make a further arrangement with the receiving State for the return of the young offender to the Territory.

**Reports**

“69S. (1) For the purpose of forming an opinion or exercising a discretion under this Act, the Director may—

- (a) be informed as the Director thinks fit; and
  - (b) have regard to reports from—
    - (i) any person responsible for a young offender; or
    - (ii) any person who has had the custody, temporary control, care or supervision of a young offender;
- in the Territory or in a State.

“(2) Any such reports that relate to a Territory young offender may be sent to a Minister of a State who has entered into an agreement or on whose behalf an agreement has been entered into or to a person authorised under an agreement to make arrangements with the Director.”.

**Children in need of care**

**20.** Section 71 of the Principal Act is amended by inserting in paragraph (1) (c) “, has lived or is reasonably likely to live” after “living”.

**Direction for release of child**

**21.** Section 75 of the Principal Act is amended by omitting from subsection (6) “80” and substituting “76”.

**Application for declaration that a child is in need of care**

**22.** Section 78 of the Principal Act is amended by adding at the end the following subsection:

“(3) The Youth Advocate may consult the Standing Committee by telephone.”.

**Adjournment of hearing**

**23.** Section 81 of the Principal Act is amended by omitting from paragraph (2) (b) “care” and substituting “custody”.

**Child care conference**

**24.** Section 82 of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:

“(5) A person who attends a conference or to whom a disclosure is made in accordance with this section shall not—

- (a) except in the course of his or her official duties; or
- (b) otherwise than is provided by this section;

disclose any information furnished to the conference or anything said at the conference.”.

### **Care orders**

**25.** Section 83 of the Principal Act is amended—

- (a) by omitting paragraph (1) (c); and
- (b) by omitting from subsection (7) “care” and substituting “custody”.

### **Residential orders and supervision orders: entry and inspection by Director etc.**

**26.** Section 85 of the Principal Act is amended by omitting “care, custody and control” from subsections (1) and (2) and paragraph (3) (a) and substituting “custody”.

### **Order to resolve disagreements**

**27.** Section 92 of the Principal Act is amended by omitting from subsections (1) and (2) “care” and substituting “custody”.

### **Child care agreements**

**28.** Section 94 of the Principal Act is amended—

- (a) by omitting from subsection (1) “under the care and”;
- (b) by omitting from paragraph (2) (a) “care” and substituting “custody”;
- (c) by omitting from subsection (3) “care and”;
- (d) by omitting from paragraph (6) (a) “under the care” and substituting “in the custody”;
- (e) by omitting from paragraph (6) (b) “care” and substituting “custody”; and
- (f) by omitting from subsection (6) “care and”.

### **Procedure where child voluntarily enters a place of safety**

**29.** Section 102 of the Principal Act is amended—

- (a) by adding at the end of paragraph (2) (a) “and”;
- (b) by omitting from paragraph (2) (b) “and”;
- (c) by omitting paragraph (2) (c); and
- (d) by inserting in subsection (2) “, as soon as practicable, but in any case within 12 hours after the child enters the place” after “shall”.

### **Notification of children in need of care and of child abuse**

**30.** Section 103 of the Principal Act is amended by omitting from subsection (1) “proceedings” and “Part” and substituting “action” and “Act” respectively.

**Incidents of wardship**

**31.** Section 109 of the Principal Act is amended by omitting from subsection (1) “care” and substituting “custody”.

**Placement in homes etc.**

**32.** Section 110 of the Principal Act is amended—

- (a) by omitting from subsection (1) “care” and substituting “custody”;
- (b) by omitting from subsection (2) “care” and substituting “custody”;  
and
- (c) by omitting from subsection (2) all the words from and including “in his” to and including “child and”.

**Visits to wards**

**33.** Section 112 of the Principal Act is amended by omitting “care” (wherever occurring) and substituting “custody”.

**Wards from outside the Territory**

**34.** Section 116 of the Principal Act is amended—

- (a) by omitting from subsection (1) “or control”;
- (b) by omitting from subsection (3) “under the custody and control” and substituting “a ward under the law of a State or another Territory”;
- (c) by omitting from subsection (4) “and control”; and
- (d) by inserting in subsection (4) “made or” before “declared”.

**Interpretation**

**35.** Section 117 of the Principal Act is amended by omitting from subparagraph (2) (b) (i) “attained the age of 6 years” and substituting “enrolled in primary school”.

**Neglect etc. of children**

**36.** Section 139 of the Principal Act is amended by inserting in paragraph (1) (a) “temporary” before “control”.

**Unauthorised removal of children**

**37.** Section 140 of the Principal Act is amended by omitting “the child has been placed” and substituting “or under whose temporary control, the child has been placed, or by whom the child is detained,”.

**Medical examinations and surgical operations**

**38.** Section 158 of the Principal Act is amended—

- (a) by inserting in paragraph (1) (b) “a hospital,” after “home,”; and



- (b) by omitting from subsection (4) "Sub-section (3) has" and substituting "Subsections (2) and (3) have".

**Restrictions on publication of reports of proceedings**

**39.** Section 170 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

"(1) A person shall not print or publish by any means a report or account of any proceedings under—

- (a) this Act or in relation to which this Act applies; or
- (b) a law of a State or another Territory in relation to the welfare of a child;

if the printing or publication discloses the identity of the child concerned or of a member of his or her family, or enables the identity of the child concerned or of a member of his or her family to be ascertained."

**Preservation of appointment**

**40. (1)** The person holding office as the Director of Welfare immediately before the date of commencement of this Act shall be taken to have been appointed on that date as the Director of Family Services.

**(2)** Subsections 27 (1) and 28 (1) of the *Interpretation Act 1967* apply in relation to the appointment referred to in subsection (1) as if that appointment had been made under subsection 7 (1) of the Principal Act as amended by this Act.

---

**NOTE**

1. Ordinance No. 13, 1986 as amended by Nos. 28 and 53, 1987; Nos. 18, 29 and 62, 1988; Nos. 21, 25 and 38, 1989; Act No. 23, 1989; Ordinances Nos. 5 and 9, 1990; Act No. 63, 1990; No. 65, 1991.

*[Presentation speech made in Assembly on 12 September 1991]*