

**2008**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**CHILDREN AND YOUNG PEOPLE (CONSEQUENTIAL AMENDMENTS)  
BILL 2008**

**EXPLANATORY STATEMENT**

Circulated by authority of  
Katy Gallagher MLA  
Minister for Children and Young People

Simon Corbell MLA  
Attorney General

**Children and Young People (Consequential Amendments) Bill 2008**  
**Explanatory Statement**

**Table of Contents**

OUTLINE .....	3
Schedule 1 Consequential amendments—transitional provisions .....	4
Part 1.1 Children and Young People Act 2008.....	4
Chapter 27 Transitional .....	4
Part 27.1 General.....	4
Part 27.2 Care and protection matters.....	5
Part 27.3 Care and protection matters — interim transitionals.....	11
Part 27.4 Criminal matters — transfers .....	12
Part 27.5 Criminal matters — interim transitionals .....	13
Part 27.6 Childcare services .....	13
Part 27.7 Employment of children and young people .....	15
Part 27.8 Enforcement.....	15
Part 1.2 Court Procedures Act 2004 .....	16
Part 1.3 Crimes (Sentence Administration) Act 2005.....	16
Part 1.4 Crimes (Sentencing) Act 2005.....	17
Part 1.5 Magistrates Court Act 1930 .....	17
Schedule 2 — Consequential amendments—criminal matters chapters .....	18
Part 2.1 — Bail Act 1992.....	18
Part 2.2 — Children and Young People Act 1999 .....	18
Part 2.3 — Coroners Act 1997 .....	19
Part 2.4 — Corrections Management Act 2007 .....	19
Part 2.5 — Court Procedures Act 2004 .....	19
Part 2.6 — Crimes (Child Sex Offenders) Act 2005 .....	20
Part 2.7 — Evidence (Miscellaneous Provisions) Act 1991.....	20
Part 2.8 — Food Act 2001 .....	20
Part 2.9 — Human Rights Commission Act 2005.....	20
Part 2.10 — Juries Act 1967 .....	20
Part 2.11 — Legislation Act 2001 .....	21
Part 2.12 — Listening Devices Act 1992 .....	21
Part 2.13 — Public Advocate Act 2005.....	21
Part 2.14 — Security Industry Regulation 2003.....	21
Schedule 3 —Consequential amendments—care and protection chapters.....	22
Part 3.1 — Adoption Act 1993 .....	22
Part 3.2 — Bail Act 1992.....	22
Part 3.3 — Charitable Collections Regulation 2003 .....	22
Part 3.4 — <i>Children and Young People Act 1999</i> .....	22
Part 3.5 — Civil Law (Property) Act 2006 .....	23
Part 3.6 — Court Procedures Rules 2006 .....	23
Part 3.7 — Crimes (Child Sex Offenders) Act 2005 .....	24
Part 3.8 — Crimes (Restorative Justice) Act 2004 .....	24
Part 3.9 — Crimes (Sentence Administration) Act 2005 .....	24
Part 3.10 — Crimes (Sentencing) Act 2005.....	25
Part 3.11 — Domestic Violence and Protection Orders Act 2001 .....	25
Part 3.12 — Education Act 2004.....	25
Part 3.13 — Evidence (Miscellaneous Provisions) Act 1991.....	25
Part 3.14 — Food Act 2001 .....	26
Part 3.15 — Health Records (Privacy and Access) Act 1997.....	26
Part 3.16 — Human Rights Commission Act 2005.....	26
Part 3.17 — Juries Act 1967 .....	27
Part 3.18 — Mental Health (Treatment and Care) Act 1994 .....	27
Part 3.19 — Testamentary Guardianship Act 1984.....	28
Part 3.20 — Tobacco Act 1927 .....	28
Part 3.21 — Victims of Crime (Financial Assistance) Act 1983.....	28
Schedule 4 — Consequential Amendments — remainder.....	29
Part 4.1 — Bail Act 1992.....	29
Part 4.2 — Charitable Collections Regulation 2003 .....	29
Part 4.3 — Confiscation of Criminal Assets Act 2003.....	29
Part 4.4 — Coroners Act 1997 .....	30

Part 4.5 — Court Procedures Act 2004 .....	30
Part 4.6 — Court Procedures Rules 2006 .....	30
Part 4.7 — Crimes Act 1900 .....	31
Part 4.8 — Crimes (Child Sex Offenders) Act 2005 .....	31
Part 4.9 — Crimes (Child Sex Offenders) Regulation 2005 .....	32
Part 4.10 — Crimes (Restorative Justice) Act 2004 .....	32
Part 4.11 — Crimes (Sentence Administration) Act 2005.....	33
Part 4.12 — Crimes (Sentencing) Act 2005.....	33
Part 4.13 — Drugs of Dependence Act 1989 .....	33
Part 4.14 — Education Act 2004.....	33
Part 4.15 — Evidence (Miscellaneous Provisions) Act 1991 .....	34
Part 4.16 — Hawkers Act 2003.....	34
Part 4.17 — Juries Act 1967 .....	34
Part 4.18 — Legislation Act 2001 .....	34
Part 4.19 — Mental Health (Treatment and Care) Act 1994 .....	35
Part 4.20 — Public Advocate Act 2005.....	35
Part 4.21 — Public Health Regulation 2000 .....	35
Part 4.22 — Victims of Crime (Financial Assistance) Act 1983.....	36
Schedule 5     Legislation repealed .....	36

## OUTLINE

The Children and Young People (Consequential Amendments) Bill 2008 outlines transitional arrangements for the implementation of the new Children and Young People Bill 2008 and amends other legislation because of the enactment of the Bill.

Schedule 1 of the Bill provides for a new chapter of the Children and Young People Bill 2008, which outlines transitional arrangements for the implementation of the new Act. It provides for the translation of orders, unfinished applications, outstanding warrants, licences and notices for care and protection, criminal matters, childcare services and employment of children and young people. It provides interim transitional arrangements for a three stage commencement of the Bill as follows:

Stage 1	Several key concepts in chapters 1 and 2, the criminal matters chapters (4 to 9) and part 1.1 of schedule 1 will commence to support the opening of Bimberi, the new youth detention place
Stage 2	The care and protection chapters (10 to 19), official visitors (part 2.3) and information sharing chapter (25)
Stage 3	All remaining provisions not yet commenced

Schedules 2 to 4 provide for technical amendments to various Acts and Regulations. The amendments are technical and are structured into 3 schedules to support the staged commencement of the Act. These amendments update or substitute references to the *Children and Young People Act 1999* with references to the Children and Young People Act 2008. The amendments also update various definitions and concepts, such as the concept of parental responsibility, across territory legislation.

The Bill also makes consequential amendments to Territory legislation to implement the reforms contemplated by schedule 1 of the Children and Young People Bill 2008 to reflect the application of the *Crimes (Sentencing) Act 2005*, the *Crimes (Sentence Administration) Act 2005* and the *Court Procedures Act 2004* to children and young people. Consequential amendments further reflect the consolidation and modernisation of provisions that govern the court procedures for matters involving children and young people, through the *Magistrates Court Act 1930*.

Schedule 5 provides for the repeal of the *Children and Young People Act 1999* and associated instruments

## DETAIL

### Clause 1 — Name of Act

This is a technical clause and sets out the name of the new Act as the *Children and Young People (Consequential Amendments) Act 2008*.

### Clause 2 — Commencement

This clause provides for a staged commencement of the *Children and Young People Act 2008*.

### Clause 3 — Legislation amended—sch 1-4

This clause outlines that the Act will amend the legislation in schedules 1 to 4.

### Clause 4 — Legislation repealed—sch 5

This clause enables legislation outlined in schedule 5 to be repealed in parts.

## **Schedule 1 Consequential amendments—transitional provisions**

### **Part 1.1 Children and Young People Act 2008**

#### **Clause 1.1 — New chapter 27**

This clause creates new chapter 27 (Transitional provisions) for the Children and Young People Act 2008.

The transitional chapter provides rules for identifying the correct law at the relevant time the law needs to be applied.

### **Chapter 27 Transitional**

#### **Part 27.1 General**

This part sets out general transitional provisions.

#### **Clause 889 — Meaning of *repealed Act*—pt 27.1**

This clause sets out the meaning of repealed Act for this part.

#### **Clause 890 — Construction of outdated references**

This clause provides a transitional arrangement for references to the repealed Act (the *Children and Young People Act 1999*) and provisions of the repealed Act. Any references in Acts, instruments, documents or forms to the repealed Act, or provisions of the repealed Act, are to be treated as references to the Children and Young People Act 2008 and corresponding provisions.

This clause also provides a transitional arrangement for references in Acts, instruments, documents and forms that are no longer relevant because of the repeal of the *Children and Young People Act 1999*. These references are taken to be references to corresponding matters under the Children and Young People Act 2008 where the context allows and if otherwise appropriate.

#### **Clause 891 — Procedural changes—applications under repealed Act**

This clause provides a transitional arrangement for procedural orders and procedures arising from proceedings on foot under the repealed Act immediately before commencement day.

Subsection (2) provides that if an application is made for an order under the 1999 Act that is not the same in substance as an order that could be made under the 2008 Act, then the application is taken to be for an order under the 2008 Act that most closely corresponds to the order originally applied for.

Any procedural order or procedure in relation to the unfinished application is taken to be in accordance with the 2008 Act. At the next return of the application, the Court may give directions or make orders that could be made by the Court under the 2008 Act.

This clause also requires the Court to decide whether a person is served with a copy of an application that is required to be given to the person under the 2008 Act but who was not required to be served under the 1999 Act.

#### **Clause 892 — References to orders in force immediately before commencement day**

This clause provides that references to orders in force under the repealed Act include orders in force before commencement day which were originally made under the repealed Children's Services Act 1986 and were transitioned, with the repeal of the Children's Services Act, to orders under the 1999 Act.

#### **Clause 893 — Transitional regulations**

This clause authorises the Executive to make regulations to address unforeseen transitional matters following the commencement of the foreshadowed Act.

### **Clause 894 — Expiry — ch 27**

This clause provides that this chapter expires 5 years after it commences.

## **Part 27.2 Care and protection matters**

This part outlines transitional arrangements related to care and protection matters.

### **Clause 895 — Definitions — pt 27.2**

This clause outlines definitions for commencement day and repealed Act for this part. The provisions in this part commence on the day that the care and protection chapters commence.

### **Clause 896 — Parental responsibility generally**

This clause provides that to remove any doubt, a person who has parental responsibility immediately before commencement day because of a court order in force under the 1999 Act or another Act continues to have parental responsibility for the child or young person under the 2008 Act while the court order remains in force.

### **Clause 897 — Agreement for exercise of general parental responsibility—in force before commencement day**

This clause provides a transitional arrangement for agreements entered into by the Chief Executive with a carer for any child or young person under section 30(1) of the 1999 Act in force before the commencement day.

From commencement day, the agreement is deemed to be an authorisation by the Chief Executive to the carer as follows:

- If the carer is an individual, the agreement is deemed to be an authorisation as a foster carer (general parental authority) under section 518 of the new Act.
- If the carer is a foster care service, the agreement is deemed to be an authorisation as a foster care service under section 516 of the new Act. Foster care services are not authorised to exercise parental responsibility on behalf of the Chief Executive.
- If the carer is a body other than a foster care service, the agreement is deemed to be an authorisation as a residential care service (general parental authority) under section 519 of the new Act.

### **Clause 898 — Authority to exercise parental responsibility for particular child or young person—in force before commencement day**

This clause provides a transitional arrangement for agreements entered into by the Chief Executive with a carer for a particular child or young person under section 31(1) of the 1999 Act in force before the commencement day.

From commencement day, the agreement is deemed to be an authorisation by the Chief Executive to the carer to exercise the responsibility—

- If the agreement is with a member of kin, the agreement is deemed to be an authorisation as a kinship carer (specific parental authority) under section 515 of the new Act.
- If the agreement is with a carer, the agreement is deemed to be an authorisation as a foster carer (specific parental authority) under section 517 of the new Act.

### **Clause 899 — Official visitor — continued appointment**

This clause provides that the appointment of Official Visitor that is in force immediately before commencement day continues in force from the date the care and protection chapters commence.

### **Clause 900 — Official visitor — unfinished complaints**

This clause provides that any complaints to the Official Visitor that are not finalised before commencement day are deemed to be complaints under the new Act.

### **Clause 901 — Suitable entities**

This clause provides that entities that are appointed, engaged, employed or authorised by the Chief Executive before commencement day under section 47 of the 1999 Act are deemed to

be approved as suitable entities by the Chief Executive under the new Act for the purpose for which they were appointed, engaged, employed or authorised.

**Clause 902 — Family group conference agreement — unfinished applications for registration**

This clause provides that an application for the registration of a family group conference agreement that is undecided before commencement day, is deemed to be an application by the Chief Executive to register the agreement under the new Act.

**Clause — 903 Family group conference agreement — in force before commencement day**

This clause provides that a family group conference agreement in force under the 1999 Act is deemed to be a family group conference agreement under the new Act and continues in force under its original terms.

**Clause 904 — Registered family group conference agreement — in force before commencement day**

This clause provides that a family group conference agreement registered by the Children's Court under the 1999 Act is deemed to be a family group conference agreement entered into and registered in accordance with the new Act. The agreement continues in force under its original terms however the new Act applies to the agreement. For example, the Chief Executive must implement the arrangements in the agreement in a way that complies with the family group conference standards (see section 90 of the new Act).

**Clause 905 — Voluntary care agreement — in force before commencement day**

This clause provides that a voluntary care agreement in force under the 1999 Act is deemed to be a voluntary care agreement under the new Act and continues in force under its original terms.

**Clause 906 — Short care and protection order — unfinished applications**

This clause provides that an application for a short care and protection order (other than a therapeutic protection order) under the 1999 Act, that is undecided before commencement day, is deemed to be an application for a care and protection order under the new Act by the Chief Executive under section 423 or someone else under section 424.

**Clause — 907 Final care and protection order — unfinished applications**

This clause provides that an application for a final care and protection order (other than a therapeutic protection order), that is undecided before commencement day, is deemed to be an application for a care and protection order under the new Act by the Chief Executive under section 423 or someone else under section 424.

**Clause 908 — Therapeutic protection order — unfinished applications**

This clause provides that an application by the Chief Executive for a therapeutic protection order, that is undecided before commencement day, is deemed to be an application for a therapeutic protection order under the new Act.

Unfinished applications for therapeutic protection orders made by someone other than the Chief Executive lapse. This reflects changed policy regarding who is entitled to apply for this type of order and as a consequence, any unfinished applications on foot at commencement day will need to lapse in accordance with the changed policy.

**Clause 909 — Short care and protection order — in force before commencement day**

This clause provides a transitional arrangement for short care and protection orders under the 1999 Act in force on commencement day of the new Act. For the new Act, a short care and protection order under the 1999 Act that is a:

- specific issues order relating to someone's drug use, is deemed to be a care and protection order with a drug use provision;
- specific issues order (not relating to someone's drug use), is deemed to be a care and protection order with a specific issues provision;

- contact order, is deemed to be a care and protection order with a contact provision;
- residence order, is deemed to be a care and protection order with a residence provision;
- assessment order, is deemed to be an assessment order; and
- therapeutic protection order, is deemed to be a therapeutic protection order.

Subsection (3) provides that a short care and protection order that is deemed to be an order under this section ends when it would have ended if the repealed Act had not been repealed unless it is revoked sooner.

**Clause 910 — Care and protection orders — unfinished cross-applications**

This clause provides that a cross-application by a party to a proceeding for a care and protection order, that is undecided before commencement day, is deemed to be a cross-application by the party under the new Act.

**Clause 911 — Interim care and protection orders — in force before commencement day**

This clause provides that an interim care and protection order (other than an interim therapeutic protection order) made under the 1999 Act is deemed to be an interim care and protection order under the new Act. The order continues in force under its original terms.

**Clause 912 — Interim therapeutic protection orders — in force before commencement day**

This clause provides that an interim care and protection order that is an interim therapeutic protection order made under the 1999 Act is deemed to be an interim therapeutic protection order under the new Act. The order continues in force under its original terms.

**Clause 913 — Interim protection orders — in force before commencement day**

This clause provides that an interim protection order made under the 1999 Act is deemed to be a DVPO interim protection order under the new Act. The order continues in force under its original terms.

**Clause 914 — Final protection orders — in force before commencement day**

This clause provides that a final protection order made under the 1999 Act is deemed to be a DVPO final protection order under the new Act. The order continues in force under its original terms.

**Clause 915 — Contact orders — in force before commencement day**

This clause provides that a contact order made under the 1999 Act is deemed to be a care and protection order with a contact provision under the new Act. The order continues in force under its original terms.

**Clause 916 — Residence orders — in force before commencement day**

This clause provides that a residence order made under the 1999 Act is deemed to be a care and protection order with a residence provision under the new Act. The order continues in force under its original terms.

**Clause 917 — Short care and protection order — unfinished applications for extension or variation**

This clause provides that an application for extension or variation of a short care and protection order (other than a therapeutic protection order), that is undecided before commencement day, is deemed to be an application for extension or amendment of a care and protection order under the new Act. Applications for extension or variation can be made by the Chief Executive or someone else.

**Clause 918 — Short care and protection order— unfinished applications for revocation**

This clause provides that an application for revocation of a short care and protection order (other than a therapeutic protection order), that is undecided before commencement day, is deemed to be an application for revocation of a care and protection order under the new Act. Applications for revocation can be made by the Chief Executive or someone else.



### **Clause 919 — Assessment orders — appraisals — unfinished applications**

This clause provides that an application by the Chief Executive for an assessment order to conduct a child protection appraisal, that is undecided before commencement day, is deemed to be an application for an appraisal order under the new Act.

### **Clause 920 — Assessment orders — special assessments — unfinished applications**

This clause provides that an application for an assessment order to conduct a special assessment, that is undecided before commencement day, is deemed to be an application for an assessment order under the new Act. This however only applies to applications made by the Chief Executive or another person who is a party to a proceeding for a care and protection order for the child or young person.

Applications made by other persons are intended to lapse on commencement day. This reflects changed policy regarding who is entitled to apply for this type of order and as a consequence, any unfinished applications on foot at commencement day will need to lapse in accordance with the changed policy.

### **Clause 921 — Assessment orders — in force before commencement day**

This clause provides that an assessment order authorising a child protection appraisal made under the 1999 Act is deemed to be an appraisal order under the new Act.

This clause further provides that an assessment order authorising a special assessment made under the 1999 Act is deemed to be an assessment order under the new Act.

The orders continue in force on commencement day under their original terms including their length.

### **Clause 922 — Emergency action**

This clause provides a transitional arrangement for the taking of emergency action in relation to a child or young person. If emergency action has been taken before commencement day, and the Chief Executive or police officer has parental responsibility for the child or young person because of the action, the action is deemed to have been taken under the new Act. Chapter 13 applies to the child or young person on and after commencement day.

### **Clause 923 — Release after emergency action — unfinished applications**

This clause provides that an application for an order for the release of a child or young person into the care of the applicant or another named person following emergency action that is undecided before commencement day is to be heard and decided under the 1999 Act as if it had not been repealed.

### **Clause 924 — Variation or revocation of therapeutic protection order— unfinished applications**

This clause provides that an application for variation or revocation of a therapeutic protection order that is undecided before commencement day, is deemed to be an application for amendment or revocation of a therapeutic protection order under the new Act.

### **Clause 925 — Interim orders before application adjourned — in force before commencement day**

This clause outlines transitional arrangements for interim orders made under the 1999 Act that are in force on commencement day:

- An interim order giving interim parental responsibility for the child or young person to the Chief Executive or someone else, is deemed to be an interim care and protection order with a parental responsibility provision;
- An interim contact order is deemed to be an interim care and protection order with a contact provision;
- An interim specific issues order (relating to someone's drug use) is deemed to be an interim care and protection order with a drug use provision;
- An interim specific issues order (not relating to someone's drug use) is deemed to be an interim care and protection order with a specific issues provision; and
- An interim assessment order is deemed to be an assessment order under this Act.

These orders continue in accordance with their original terms, including their length.

#### **Clause 926 — Specific issues orders — in force before commencement day**

This clause outlines transitional arrangements for specific issues orders made under the 1999 Act that are in force on commencement day. A specific issues order under the 1999 Act which includes:

- An order relating to the day-to-day or long-term care, welfare or development of the child or young person is deemed to be a care and protection order with a parental responsibility provision under the new Act. Orders that do not have a period stated or are made until the child or young person is 18 years are deemed to be a care and protection order with a long-term parental responsibility provision under clause 463(2)(g). Other orders are deemed to be a care and protection order with a short-term parental responsibility provision under clause 463(2)(f).
- An order requiring an entity to give the Chief Executive information about the care, protection, welfare or development of the child or young person, is deemed to be a care and protection order with a specific issues provision under the new Act.
- An order directing a named person not to live at the same premises as the child or young person is deemed to be a care and protection order with a residence provision under the new Act.
- An order directing that a named person have no contact with the child or young person is deemed to be a care and protection order with a contact provision under the new Act.
- An order that the child or young person submit to the jurisdiction of the mental health tribunal deemed to be a care and protection order with a mental health tribunal provision under the new Act.
- An order about supervision of the child or young person, is deemed to be a care and protection order with a supervision provision under the new Act.
- An order (relating to someone's drug use) requiring a named person to do, or refrain from doing, a stated thing or observe a stated condition, is deemed to be a care and protection order with a drug use provision under the new Act.
- An order (not relating to someone's drug use) requiring a named person to do, or refrain from doing, a stated thing or observe a stated condition, is deemed to be a care and protection order with a specific issues provision under the new Act.
- An order made under 246(3)(h) which the Childrens Court considers appropriate is deemed to be a care and protection order with a specific issues provision under the new Act.

These orders continue in accordance with their original terms.

#### **Clause 927 — Variation or revocation of interim care and protection orders — unfinished applications**

This clause provides that an application by a party for variation of an interim care and protection order that is undecided before commencement day, is deemed to be an application for revocation or amendment of the interim care and protection order under the new Act.

#### **Clause 928 — Final care and protection orders — in force before commencement day**

This clause provides a transitional arrangement for final care and protection orders (excluding therapeutic protection orders) in force under section 255 of the 1999 Act immediately before commencement day. Transitional arrangements for therapeutic protection orders in force immediately before commencement are addressed in clauses 908, 911 and 928.

From the day of commencement, a final care and protection order in force for a child or young person under section 255 of the 1999 Act is taken to be, in accordance with its terms, a care and protection order under clause 463(2) with a provision that corresponds in substance, as follows:

- An order under section 255(4)(a) that the Chief Executive supervise the care and protection of the child or young person in relation to matters mentioned in the order will become a care and protection order with a supervision provision under clause 463(2)(i);
- An order under section 255(4)(b) giving parental responsibility for the child or young person to the Chief Executive or someone else will become a care and protection order with a parental responsibility provision under clause 463(2)(f) or (g). Orders that do not have a period stated or are made until the child or young person is 18 years are deemed

to be a care and protection order with a long-term parental responsibility provision under clause 463(2)(g) of the new Act. Other orders are deemed to be a care and protection order with a short-term parental responsibility provision under clause 463(2)(f).

- An enduring parental responsibility order under section 255(4)(c) that has effect until the child or young person turns 18 will become a care and protection order with an enduring parental responsibility provision under clause 463(2)(c);
- An order under section 255(4)(d) that the child or young person submit to the jurisdiction of the mental health tribunal will become a care and protection order with a mental health tribunal provision under clause 463(2)(d);
- Any other order under section 255(4)(e) that the Childrens Court considers appropriate which relates to a person's drug use will become a care and protection order with a drug use provision under clause 463(2)(b).
- Any other order under section 255(4)(e) that the Childrens Court considers appropriate will become a care and protection order with a specific issues provision under clause 463(2)(h).

Any specific conditions, requirements or arrangements that are part of the care and protection order in force immediately before commencement day will become part of the new order as all orders will transition in accordance with their terms. For example, a care and protection order under section 255(4)(e) of the 1999 Act in force immediately before commencement day directing a child's parents to attend stated parenting programs will be taken to be a care and protection order with a specific issues provision directing the child's parents to attend stated parenting programs.

#### **Clause 929 — Final care and protection orders (therapeutic protection)—in force before commencement day**

This clause provides that a therapeutic protection order made as a final care and protection order under the 1999 Act is deemed to be a care and protection order with a therapeutic protection order under the new Act. The order continues in force under its original terms.

#### **Clause 930 — Variation or revocation of final care and protection orders — unfinished applications**

This clause provides a transitional arrangement for applications for variation and revocation of care and protection orders (excluding therapeutic protection orders) under section 264, which are on foot immediately before commencement day. A transitional arrangement for an unfinished application for variation or revocation of a therapeutic protection order is addressed in clause 921.

From the day of commencement, an application for variation of a care and protection order under section 264 of the repealed Act is taken to be an application for extension or amendment of the care and protection order, or a provision in the care and protection order, under clause 465.

From the day of commencement, an application for revocation of a care and protection order under section 264 of the repealed Act is taken to be an application for revocation of the care and protection order, or a provision in the care and protection order under clause 466.

#### **Clause 931— Safe custody warrant — unfinished applications**

This clause provides that an application for a warrant under the 1999 Act, that is undecided before commencement day, is deemed to be an application for a safe custody warrant under the new Act.

#### **Clause 932 — Safe custody warrant — in force before commencement day**

This clause provides that a warrant issued by a magistrate under section 270 of the 1999 Act, that has not lapsed or been executed before the commencement day, is taken to be a safe custody warrant issued by a magistrate under the new Act.

#### **Clause 933 — Administrative transfer of orders — in force before commencement day**

This clause provides that a care and protection order that has been transferred to a participating State under the 1999 Act by the Chief Executive before commencement date, is

deemed to be a child welfare order transferred to the participating State under the new Act. The order operates in accordance with its original terms.

#### **Clause 934 — Transfer of orders — unfinished applications**

This clause provides that an application for the transfer of a child care and protection order to a participating State under the 1999 Act, that is undecided before commencement day, is deemed to be an application for transfer of the order under the new Act.

#### **Clause 935 — Childrens Court transfer of orders — in force before commencement day**

This clause provides that a care and protection order that has been transferred to a participating State under the 1999 Act by the Childrens Court before commencement day, is deemed to be a child welfare order transferred to the participating State under the new Act. The order operates in accordance with its original terms.

#### **Clause 936 — Order transferring proceeding — unfinished applications**

This clause provides that an application by the Chief Executive for the transfer of a child care and protection proceeding to a court of a participating State under the 1999 Act that is undecided before commencement day, is deemed to be an application for transfer of the proceeding under the new Act.

#### **Clause 937 — Interim orders about transferred proceedings — in force before commencement day**

This clause provides that an interim order made under the 1999 Act for a child care and protection proceeding that is transferred to a participating State, is deemed to be an interim order under the new Act. The order continues to operate in accordance with its original terms.

#### **Clause 938 — Revocation of registration — unfinished applications**

This clause provides that an application by a person to revoke the registration of a child care and protection order filed under the 1999 Act that is undecided before commencement day, is deemed to be an application for revocation of the order under the new Act.

#### **Clause 939—Sensitive information and protected information**

This clause deems sensitive and protected information under the 1999 Act before commencement day to be sensitive and protected information respectively under the 2008 Act. To remove doubt, chapter 25 applies to this deemed information.

#### **Clause 940 — AAT review of decisions**

In exercising its powers to vary or substitute a decision of the Chief Executive's under the 1999 Act, this clause requires the Administrative Appeals Tribunal to:

- vary the decision in a way that is as consistent as possible with a power exercisable under the new Act; or
- make a decision that could be made by the Chief Executive under the new Act.

### **Part 27.3 Care and protection matters — interim transitionals**

This part outlines interim transitional arrangements to apply for the period between the commencement of the care and protection chapters and the repeal of remaining provisions the 1999 Act (stage 2).

#### **Clause 941 — Information secrecy and sharing**

This clause provides an interim transitional arrangement for the information secrecy and sharing provisions. During the interim transitional period, chapter 25 (Information secrecy and sharing) of new Act will apply to the giving or seeking of information under the *Children and Young People Act 1999*.

#### **Clause 942 — People with parental responsibility**

This clause provides an interim transitional arrangement for the concept of parental responsibility under the new Act, to apply to the 1999 Act for an interim period during stage 2.

This is necessary as revised concepts relating to parental responsibility under the new Act (outlined in division 1.3.2) rely on provisions in the care and protection chapters which commence in stage 2.

## **Part 27.4 Criminal matters — transfers**

### **Clause 943 — Definitions — pt 27.4**

This clause sets out definitions for this part.

### **Clause 944— Interstate transfers — agreements and arrangements with other jurisdictions**

This clause provides that a transfer agreement and any arrangements in force in relation to the agreement in force under the 1999 Act are deemed to be a transfer agreement and arrangements under the new Act.

### **Clause 945 — Interstate transfers — application for transfer of young offender**

This clause provides that an application to the Chief Executive to transfer a young offender under the 1999 Act, that is undecided before commencement day, is deemed to be an application made under the new Act.

### **Clause 946 — Interstate transfers — order for transfer of young offender**

This clause provides that a transfer order made under the 1999 Act and in force on commencement day, is deemed to be a transfer order made under the new Act.

### **Clause 947 — Interstate transfers — escape during transit through ACT**

This clause provides that a warrant issued by a magistrate under section 146(3) of the 1999 Act, that has not lapsed or been executed before the commencement day, is deemed to be a warrant issued by a magistrate under the new Act.

Sub-clause (2) provides that an order made by the Magistrates Court or Childrens Court under section 146(6) of the 1999 Act, in force immediately before the commencement day, is taken to be an order made by the Magistrates Court or Childrens Court under the new Act.

### **Clause 948 — Interstate transfers — search warrant for escapee**

This clause provides that a search warrant issued by a magistrate under section 147 of the 1999 Act, that has not lapsed or been executed before the commencement day, is deemed to be a search warrant issued by a magistrate under the new Act.

### **Clause 949 — Interstate transfers — revocation of transfer order**

This clause provides that an application to revoke a transfer order made in relation to a young offender under the 1999 Act, that is undecided before commencement day, is deemed to be an application made under the new Act.

### **Clause 950 — Interstate transfers — arrangements after revocation of transfer order**

This clause provides that an arrangement made by the Chief Executive after the revocation of a transfer order under the 1999 Act, and in force on commencement day, is deemed to be an arrangement made under the new Act.

### **Clause 951 — Special purpose leave**

This clause provides that special purpose leave granted to a young person under the 1999 Act, which is in force on commencement day, is taken to be a local leave permit given under the new Act.

## **Part 27.5 Criminal matters — interim transitionals**

This part outlines interim transitional arrangements to apply for the period between the commencement of the criminal matters chapters and commencement of the care and protection chapters (stage 1).

### **Clause 952 — Official visitor**

This clause provides an interim transitional arrangement for the scheme relating to Official Visitors under the 1999 Act, to apply to detention places under the new Act for an interim period during stage 1. Part 2.3 of the new Act relating to official visitors will commence for stage 2 in relation to detention places, places of care and therapeutic protection places.

### **Clause 953 — Person remanded in a shelter or committed to an institution**

This clause provides an interim transitional arrangement for terminology changes in relation to institution shelter and detention place. During the interim transitional period, if a person is remanded in a shelter, or committed to an institution, under the 1999 Act, the person is taken, for the purposes of the criminal matters chapters, to be remanded in, or committed to, a detention place.

This clause will have the effect of harmonising terminology changes during the interim transitional period.

### **Clause 954 — Application of youth justice principles etc**

This clause provides an interim transitional arrangement for the youth justice principles. During the interim transitional period, sections 8 (Best interests of children and young people paramount consideration), 9 (Principles applying to Act) and 94 (Youth justice principles) of the new Act will apply to decisions made under part 6.2 of the 1999 Act (Dealing with young offenders in the ACT). This clause is necessary to ensure the principles underpinning decisions made under the 1999 Act and 2008 Act in relation to young offenders and alleged young offenders are consistently applied at the one time. This clause will commence in stage one.

### **Clause 955 — Application of certain provisions relating to administration**

This clause provides an interim transitional arrangement for powers of the Chief Executive to get help and to give and receive information under the 1999 Act, to apply to the new Act for an interim period during stage 1. This is necessary as information sharing (chapter 25) and the power to seek help (clause 25) under the new Act relies on provisions in the care and protection chapters and will therefore commence at stage 2.

### **Clause 956 — Meaning of daily care responsibility and long-term care responsibility**

This clause provides an interim transitional arrangement for the concept of parental responsibility under the 1999 Act, to apply to the new Act for an interim period during stage 1. This is necessary as revised concepts relating to parental responsibility under the new Act (outlined in division 1.3.2) rely on provisions in the care and protection chapters and will therefore commence in stage 2.

## **Part 27.6 Childcare services**

### **Clause 957 — Definitions — pt 27.6**

This clause sets out definitions for this part.

### **Clause 958 — In-principle approval — unfinished applications**

This clause provides that an application to the Chief Executive for approval in principle to operate a childrens service under the 1999 Act, that is undecided before commencement day, is deemed to be an application for a childcare service licence under the new Act. This reflects the removal of the requirement for a proprietor to hold an approval in principle under the new Act.

#### **Clause 959 — In-principle approval — in force before commencement day**

This clause provides that an approval in principle for a childrens service that is in force under the 1999 Act immediately before commencement day is deemed to be a childcare service licence under the new Act. This reflects the removal of the requirement for a proprietor to hold an approval in principle under the new Act.

On commencement day, the childcare service licence is not subject to any condition to which the approval in principle was subject under the 1999 Act. Instead, the licence is subject to the childcare service standards under section 886 of the new Act.

The childcare service licence ends when the approval in principle would have otherwise ended under the 1999 Act, unless it is cancelled sooner.

#### **Clause 960 — Licence — unfinished applications**

This clause provides that an application to the Chief Executive for a licence to operate a childrens service, that is undecided immediately before commencement, is deemed to be an application for a childcare service licence under the new Act.

#### **Clause 961 — Licence to operate childrens service — in force before commencement day**

This clause provides that a licence to operate a childrens service that is in force under the 1999 Act immediately before commencement day is deemed to be a childcare service licence under the new Act.

On commencement day, the childcare service licence is not subject to any condition to which the licence was subject under the 1999 Act. Instead, the licence is subject to the childcare service standards under section 886 of the new Act.

#### **Clause 962 — Licence renewal — unfinished applications**

This clause provides that an application to the Chief Executive for renewal of a licence to operate a childrens service under the 1999 Act, that is undecided immediately before commencement, is deemed to be an application for renewal of a childcare service licence under the new Act.

#### **Clause 963 — Search warrant — unfinished applications**

This clause provides that an application for a warrant to enter premises under the 1999 Act, that has not been issued or refused to be issued by a Magistrate immediately before commencement, is deemed to be an application for the issue of a warrant under section 823(1) of the new Act.

#### **Clause 964 — Search warrant— in force before commencement day**

This clause provides that a warrant to enter premises issued by a magistrate under the 1999 Act, that has not lapsed or been executed before the commencement day, is deemed to be a warrant to enter the premises issued by a magistrate under section 823(4) of the new Act.

#### **Clause 965 — Notice to enforce requirements — in force before commencement day**

This clause provides that a notice under section 358(1) in relation to a childrens service under the 1999 Act, that is in force immediately before the commencement day and has not been complied with, is deemed to be a compliance notice under the new Act.

#### **Clause 966 — Suspension for non—compliance — order in force before commencement day**

This clause provides that:

- a notice suspending an approval in principle or licence to operate a childrens service, or
- a direction to the proprietor of the childrens service to stop operating the childrens service and suspend the care of children by the service

which is in force immediately before commencement day under the 1999 Act, is deemed to be a compliance suspension notice to the licensed proprietor of the service under new Act.

#### **Clause 967 — Suspension of operation for safety — order in force before commencement day**

This clause provides that an order that a childrens service stop operating, which is in force under the 1999 Act immediately before commencement day, is deemed to be a safety suspension notice to the licensed proprietor of the service under the new Act.

### **Part 27.7 Employment of children and young people**

#### **Clause 968 — Definitions — pt 27.7**

This clause sets out definitions for this part.

#### **Clause 969 — Work experience — continued exemption**

Under the 1999 Act, certain work experience for children and young people was exempt from the meaning of employment. Under the 2008 Act, this is replaced by a scheme to exempt work experience programs that meet work experience standards established by the Minister.

This clause has the effect of continuing the arrangement under the 1999 Act for a period of 6 months from commencement day. The educational institution where the child or young person is enrolled is deemed to have been granted an exemption under the new Act in relation to the work experience program conducted by the educational institution.

#### **Clause 970 — Light work — continued application of exception**

This clause provides that an employer who has given the Chief Executive notice in accordance with section 371(2) under the 1999 Act in relation to a young child employed in light work for longer than 10 hours is taken to have told the Chief Executive in writing about the employment for the new Act.

#### **Clause 971 — Notice regulating employment— in force before commencement day**

This clause provides that a notice given to an employer by the Chief Executive under section 375(1)(a) that is in force immediately before commencement day is deemed to be an employment prohibition notice under the new Act, in accordance with its terms.

This clause provides that a notice given to an employer by the Chief Executive under section 375(1)(b) that is in force immediately before commencement day, is deemed to be an employment conditions notice under the new Act in accordance with its terms.

### **Part 27.8 Enforcement**

#### **Clause 972 — Definitions — pt 27.6**

This clause sets out definitions for the part.

#### **Clause 973 — Search warrant — unfinished applications**

This clause provides that an application under section 396 for a warrant to enter premises under the 1999 Act, which has not been issued immediately before the commencement day or been refused is deemed to be an application for the issue of a warrant under section 823(1) of the new Act.

#### **Clause 974 — Search warrant — in force before commencement day**

This clause provides that a search warrant issued by a magistrate under section 396 of the 1999 Act, which has not lapsed or been executed before the commencement day, is deemed to be a warrant to enter the premises issued by a magistrate under section 823(4) of the new Act.



## **Part 1.2 Court Procedures Act 2004**

### **Clause 1.2 — New Part 13**

This part provides that any orders made for parents to attend court, or warrants issued under section 60 of the *Children and Young People Act 1999*, are taken to be orders made under the new Act.

It also provides that the provisions of the Act apply to any proceedings that have commenced prior to the commencement of the Act and have not been completed. This means that if a matter involving a young offender is before the court on the day that the Act commences, any amendments to the Act will apply to that proceeding. The court is directed to resolve any difficulties that arise from these amendments in an appropriate manner. It is not expected that any change to the procedures surrounding cases involving children and young people should disadvantage those young offenders in receiving a fair trial.

The clause also creates a regulation making power which allows this part to be amended to make provision in relation to any matters that have not been adequately dealt with in this Part.

The transitional arrangements in this part are to be in effect for two years from the date of commencement.

## **Part 1.3 Crimes (Sentence Administration) Act 2005**

### **Clause 1.3 — New Chapter 18**

This part provides that any amendments to the law regarding the sentencing of young offenders and their remand in custody will apply from the commencement of the Act, regardless of whether the young offender was sentenced before or after the commencement of the Act.

It then provides for the translation of orders and arrangements under the previous legislation into the new regime. It is expected that all existing orders relating to young offenders will become orders administered under the *Crimes (Sentence Administration) Act 2005*.

Existing conditional discharge orders under part 6.2 of the *Children and Young People Act 1999* will become good behavior orders under the Act for the purposes of administration of the orders. Outstanding orders for fines and reparation will be taken to have been made under the Act.

Existing probation orders and attendance centre orders will be considered to be good behavior bonds with supervision under the Act and community service orders will be treated as good behaviour bonds with community service conditions. An existing residential order will be an accommodation order under the Act.

Revocation applications under sections 100 or 117(1) of the *Children and Young People Act 1999* that are still on foot at the time of the commencement of the Act are to be treated as applications under section 112 of the Act.

An order for committal to an institution is to be taken to be an order for imprisonment under the Act, but the remissions that applied under the *Children and Young People Act 1999* will still apply. In making a decision about remissions, the chief executive is required to have regard to the youth justice principles outlined at section 94 of the new Act and to give notice of the decision to the young person which includes information about applying for a review of the decision under the *Administrative Decisions (Judicial Review) Act 1989*.

Orders made for referral to the Mental Health Tribunal after conviction will be taken to be orders made under section 331 of the *Crimes Act 1900*.

The clause also creates a regulation making power which allows this part to be amended to make provision in relation to any matters that have not been adequately dealt with in this Part.

## **Part 1.4 Crimes (Sentencing) Act 2005**

### **Clause 1.4 — New Chapter 11**

This part provides that the Act applies to any sentences imposed on young people or children after the commencement of the Act, and to any action to be taken in relation to a sentence that is imposed on a young offender, whether the sentence is imposed before or after the commencement date.

The clause also creates a regulation making power which allows this part to be amended to make provision in relation to any matters that have not been adequately dealt with in this Part.

## **Part 1.5 Magistrates Court Act 1930**

### **Clause 1.5 — New Part 17**

This part provides that the transitional provisions for matters in the Childrens Court. It provides that any existing declaration or assignment that a Magistrate is a Childrens Court Magistrate continues under the Act as if it had been made under the Act.

Any proceeding on foot at the time of the commencement of the Act will continue under the new provisions, with discretion for the Magistrate to resolve any issues that arise from this in the manner appropriate. It is expected that this should not disadvantage an accused person or young offender who is a party to the proceedings.

The clause also creates a regulation making power which allows this part to be amended to make provision in relation to any matters that have not been adequately dealt with in this Part.

## **Schedule 2 — Consequential amendments—criminal matters chapters**

This schedule sets out consequential amendments that will occur with the commencement of the criminal matters chapters in stage 1.

### **Part 2.1 — Bail Act 1992**

This part amends the *Bail Act 1992*.

#### **Clause 2.1 — Section 23 (1) (b)**

Section 23(1) provides criteria to be used by a court or authorised officer when making a decision about the granting of bail to a child in relation to an offence.

This clause replaces the principles in the *Children and Young People Act 1999* that must be considered when making a decision in granting bail to a child with the new youth justice principles outlined at clause 94 of the Children and Young People Bill 2008.

#### **Clause 2.2 — Section 26 (1) (b) (i)**

Section 26 outlines the conditions that may be imposed on the grant of a bail to a child.

This clause replaces principles outlined in the *Children and Young People Act 1999* with the new youth justice principles outlined at clause 94 of the Children and Young People Bill 2008.

#### **Clause 2.3 — Section 26 (4) (a) (ii)**

Section 26(4) indicates where a court or an authorised officer may not impose conditions when granting bail to an accused person who is a child unless it is in accordance with the relevant principles.

For section 26(4)(a)(ii), this clause replaces the relevant principles in section 68 of the *Children and Young People Act 1999* with the new youth justice principles outlined at Clause 94 of the Children and Young People Bill 2008 as the relevant principles.

### **Part 2.2 — Children and Young People Act 1999**

This part amends the *Children and Young People Act 1999*.

#### **Clause 2.4 — Section 68**

This clause removes section 68 that provides for the principles to be applied to a decision made under part 6.2 of the *Children and Young People Act 1999* in relation to a young person or young offender. This amendment is necessary, as the new youth justice principles outlined at clause 94 of the Children and Young People Bill 2008 will apply to decisions under part 6.2 of the 1999 Act in the interim transitional period during the staged commencement of the Bill (see clause 947).

#### **Clause 2.5 — Sections 85A to 87**

This clause removes section 85A (Taking young person to and from court), section 86 (Private property of a young person placed in an institution or shelter) and section 87 (Bringing arrested young people before Childrens Court) from the *Children and Young People Act 1999*. These sections are repealed to occur with the commencement of the criminal matters chapters in the new Act.

#### **Clause 2.6 — Division 6.2.4**

This clause removes division 6.2.4 (Transfer of a person between institutions) from the *Children and Young People Act 1999*. This division is repealed to occur with the commencement of Chapter 5 (transfers) in the new Act.

#### **Clause 2.7 — Sections 126, 128 and 129**

This clause removes section 126 (Young people in correctional centres), section 128 (Special purpose leave of absence to a young person who has been committed to an institution or placed in a shelter) and section 129 (Medical examinations and surgical operations of a young

person who is in an institution) from the *Children and Young People Act 1999*. These sections are repealed to occur with the commencement of the criminal matters chapters in the new Act.

#### **Clause 2.8 — Part 6.3**

This clause removes part 6.3 (Interstate transfer) from the *Children and Young People Act 1999*. This division is repealed to occur with the commencement of chapter 5 (transfers) in the new Act.

#### **Clause 2.9 — Chapter 13A**

This clause removes chapter 13A (Detainees—search and seizure) from the *Children and Young People Act 1999*. This chapter is repealed to occur with commencement of chapter 7 (searches) in the new Act.

#### **Clause 2.10 — Section 401A, sections 403 to 403B**

This clause removes section 401A (Definitions for chapter 14 — Standards and standing orders), section 403 (Standing order—making power), section 403A (Standing orders—provisions about security etc), section 403B (Standing orders—inspection) from the *Children and Young People Act 1999*. These sections are repealed to occur with the commencement of the criminal matters chapters in the new Act.

### **Part 2.3 — Coroners Act 1997**

This part amends the *Coroners Act 1997*.

#### **Clause 2.11 — Section 3C (1) (a)**

Section 3C (1) of the *Coroners Act 1997* outlines the meaning of death in custody for the Act.

This clause replaces the definition death in custody at a correctional centre or lockup with death in custody at a correction centre, lockup or detention place.

#### **Clause 2.12 — Section 3C (1) (g)**

For section 3C(1)(g) this clause replaces the meaning of death in custody while subject to transfer arrangements under the *Children and Young People Act 1999* to mean while subject to the transfer arrangements contained in the Children and Young People Bill 2008.

#### **Clause 2.13 — Section 3D (f)**

Section 3D provides a definition of a custodial officer for the *Coroners Act 1997*.

This clause replaces a reference to the Chief Executive or an officer under the *Children and Young People Act 1999* with a reference to the Chief Executive or an authorised person under the Children and Young People Bill 2008.

### **Part 2.4 — Corrections Management Act 2007**

This part amends the *Corrections Management Act 2007*.

#### **Clause 2.14 — Section 77 (8), definition of relevant Chief Executive, paragraph (a)**

Section 77(8) provides a definition of relevant Chief Executive for the *Corrections Management Act 2007*.

This clause replaces the Chief Executive responsible for any provision of the *Children and Young People Act 1999* with the Chief Executive responsible for the Children and Young People Bill 2008.

### **Part 2.5 — Court Procedures Act 2004**

This part amends the *Court Procedures Act 2004*.

### **Clause 2.15 — Section 15 (2) (c) (iv) (B)**

Section 15 provides for the remission, refund, deferral, waiver and exemption of fees for the *Court Procedures Act 2004*.

This clause inserts a reference to the Children and Young People Act 2008.

### **Clause 2.16 — Section 15 (2) (c) (v) (A)**

For section 15(2)(c)(v)(A) this inserts a reference to the Children and Young People Act 2008.

## **Part 2.6 — Crimes (Child Sex Offenders) Act 2005**

This part amends the *Crimes (Child Sex Offenders) Act 2005*.

### **Clause 2.17 — Section 124 (1) (e)**

Section 124 provides for the definition of what is child related employment for the *Crimes (Child Sex Offenders) Act 2005* in relation to registrable offenders prohibited from child related employment.

This clause amends the definition of child related employment involving contact with a child in relation to attendance centres, institutions or shelters under the *Children and Young People Act 1999* and replaces this with a reference to a detention place under the Children and Young People Bill 2008.

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

This part amends the *Evidence (Miscellaneous Provisions) Act 1991*.

### **Clause 2.18 — Section 16, definition of territory court, new paragraph (f)**

Section 16 provides a definition of territory court for part 3 (Use of audiovisual links and audio links) of the *Evidence (Miscellaneous Provisions) Act 1991*.

This clause provides an additional definition of territory court to mean a review officer under chapter 9 (conduct of disciplinary review) of the Children and Young People Bill 2008.

## **Part 2.8 — Food Act 2001**

This part amends the *Food Act 2001*.

### **Clause 2.19 — Section 9 (1) (o) (i)**

Section 9 provides a meaning of sell for the *Food Act 2001*.

This clause replaces the meaning of sell by substituting the selling of food to a correctional centre or lockup, or an institution or shelter under the *Children and Young People Act 1999* with the selling of food to a correctional centre or lockup, or a detention place under the Children and Young People Bill 2008.

## **Part 2.9 — Human Rights Commission Act 2005**

This part amends the *Human Rights Commission Act 2005*.

### **Clause 2.20 — Section 8A, example 3**

Section 8A defines what is a service for children and young people in the ACT under the *Human Rights Commission Act 2005*.

For section 8A this clause updates example 3 to be a service provided in relation to a shelter under the *Children and Young People Act 1999* or a detention place under the Children and Young People Bill 2008.

## **Part 2.10 — Juries Act 1967**

This part amends the *Juries Act 1967*.

### **Clause 2.21 — Schedule 2, part 2.1, item 23**

New schedule 2, part 2.1 replaces as exempt from jury service an employee at a place declared to be an attendance centre, institution or shelter under section 412 of the *Children and Young People Act 1999* with an employee at a place declared to be a detention place under the Children and Young People Bill 2008.

### **Part 2.11 — Legislation Act 2001**

This part amends the *Legislation Act 2001*.

### **Clause 2.22 — Dictionary, part 1, new definition of detention place**

This clause provides for a new definition of detention place for the *Legislation Act 2001*, which is outlined in section 141 of the Children and Young People Act 2008.

### **Part 2.12 — Listening Devices Act 1992**

This part amends the *Listening Devices Act 1992*.

### **Clause 2.23 — New section 3C**

This clause provides for a new section in relation to the application of the *Listening Devices Act 1992* to detention places. This clause provides that the Listening Devices Act 1992 does not apply to listening to, recording, communication or publication of the communication.

### **Part 2.13 — Public Advocate Act 2005**

This part amends the *Public Advocate Act 2005*.

### **Clause 2.24 — Section 10 (j)**

Section 10 outlines functions to be exercised by the Public Advocate.

This clause updates the functions by including those functions exercised by the Public Advocate under both the *Children and Young People Act 1999* and the Children and Young People Act 2008.

### **Part 2.14 — Security Industry Regulation 2003**

This part amends the *Security Industry Regulation 2003*.

### **Clause 2.25 — Section 6 (3), definition of custodial officer, paragraphs (b) and (c)**

Section 6 exempts certain persons (including custodial officers) from the application of the *Security Industry Regulation 2003* which provides for the licensing and regulation of people in the security industry.

New section 6(3) updates the exempt list by removing and substituting a youth detention officer as defined under the Children and Young People Bill 2008. The section also removes from the exempt list and substitutes a transfer escort (other than a police officer) under the Children and Young People Bill 2008.

## **Schedule 3 —Consequential amendments—care and protection chapters**

### **Part 3.1 — Adoption Act 1993**

This part amends the *Adoption Act 1993*.

#### **Clause 3.1 — Section 17(2)(a)**

Section 17 of the *Adoption Act 1993* provides for the appointment of a committee to review a decision of the Chief Executive to refuse to include an applicant on the register of persons seeking the placement of a child for the purpose of adoption.

For section 17(2)(a) this clause provides that an authorised person under the Children and Young People Act 2008 is not eligible to be part of the committee. Clause 26 of the Children and Young People Bill 2008 clarifies that a person is an authorised person for the new Act if the Chief Executive delegates a power under the Act or another Territory law, to the person.

#### **Clause 3.2 — Section 36(4)**

Section 36 of the *Adoption Act 1993* sets out arrangements for guardianship pending adoption.

For section 36(4) this clause provides that section 36 does not apply to a child for whom the Chief Executive has long term care responsibility. This reflects changes to the concept of parental responsibility for long—term care, welfare and development of a child or young person under clause 20 of the Children and Young People Bill 2008.

### **Part 3.2 — Bail Act 1992**

This part amends the *Bail Act 1992*.

#### **Clause 3.3 — Dictionary, definition of parental responsibility**

This clause provides a new definition of parental responsibility for the *Bail Act 1992* to reflect changes to the concept of parental responsibility outlined at division 1.3.2 of the Children and Young People Bill 2008.

### **Part 3.3 — Charitable Collections Regulation 2003**

This part amends the *Charitable Collections Regulation 2003*.

#### **Clause 3.4 — Dictionary, definition of parental responsibility**

The dictionary for the *Charitable Collections Regulation 2003* outlines a definition of parental responsibility for the regulation.

This clause updates the definition of parental responsibility to reflect changes to the concept of parental responsibility outlined at division 1.3.2 of the Children and Young People Bill 2008.

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

This part amends the *Children and Young People Act 1999*.

#### **Clause 3.5 — Section 15**

This clause removes section 15 (Indigenous placement principle) from the *Children and Young People Act 1999*. The repeal of this section will occur with the commencement of clause S12 of the *Children and Young People Bill 2008*.

#### **Clause 3.6 — Part 2.3**

This clause removes part 2.3 which relates to the parental responsibility provisions from the *Children and Young People Act 1999*.

### **Clause 3.7 — Sections 29 to 33**

This clause removes sections 29 to 33. The repeal of section 29 (power to give and receive information) will occur with the commencement of chapter 25 (information sharing and secrecy) of the Children and Young People Bill 2008.

Sections 30 to 31 which relate the Chief Executive's exercise of parental responsibility will be repealed with the commencement of the care and protection chapters.

### **Clause 3.8 — Sections 41 to 44**

This clause removes sections 41 to 44 of the 1999 Act. These sections which relate to the official visitor, will be repealed with the commencement of the official visitors scheme at part 2.3 of the new Act.

### **Clause 3.9 — Chapters 7 and 8**

This clause removes chapters 7 and 8 from the 1999 Act. These will be repealed with the commencement of the care and protection chapters in the new Act.

### **Clause 3.10 — Sections 389 and 390**

This clause removes sections 389 and 390 from the 1999 Act. The repeal of these sections occurs with the commencement of the care and protection chapters.

### **Clause 3.11 — Sections 399 and 401**

This clause removes sections 399 and 401 from the 1999 Act. The repeal of these sections occurs with the commencement of the care and protection chapters.

### **Clause 3.12 — Section 402 and sections 404 to 406**

This clause removes sections 399 and 402 and sections 404 to 406 from the 1999 Act. Section 402, which relates to a standard making power, will be repealed with commencement of the standard making power at 886 of the new Act.

Sections 404 to 406 are the secrecy provisions and will be repealed the commencement of chapter 25 in the new Act.

## **Part 3.5 — Civil Law (Property) Act 2006**

This part amends the *Civil Law (Property) Act 2006*.

### **Clause 3.13 — Section 257 (2) (a)**

Section 257 outlines the powers and duties of guardians for the *Civil Law (Property) Act 2006*. It excludes the Chief Executive who has long term care responsibility for a child under the *Children and Young People Act 1999*.

This clause updates the section to reflect changes to the concept of parental responsibility for the long—term care, welfare and development of a child or young person as outlined at clause 20 of the Children and Young People Bill 2008.

## **Part 3.6 — Court Procedures Rules 2006**

This part amends the *Court Procedures Rules 2006*.

### **Clause 3.14 — Rule 3150, definition of Chief Executive**

Rule 3150 provides general definitions regarding adoption for the *Court Procedures Rules 2006*.

This clause amends the rule to update the definition of Chief Executive under the *Children and Young People Act 1999* to mean the Chief Executive responsible for administering the new Children and Young People Act 2008.



### **Clause 3.15 — Rule 6435 (2) (c) (i)**

Rule 6435(2) provides for how a document is to be served on a child if the child does not have a litigation guardian for the proceeding.

This clause updates the reference for an adult who has parental responsibility in the *Children and Young People Act 1999* with the new reference the *Children and Young People Bill 2008*.

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

This part amends the *Crimes (Child Sex Offenders) Act 2005*.

#### **Clause 3.16 — Dictionary, definition of person with parental responsibility**

This clause updates the dictionary by amending the definition of person with parental responsibility to reflect changes to the concept of parental responsibility for a child or young person under division 1.3.2 of the *Children and Young People Bill 2008*.

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

This part amends the *Crimes (Restorative Justice) Act 2004*.

#### **Clause 3.17 — Section 11, definition of parent**

Section 11 provides a definition of a parent of a child for the *Crimes (Restorative Justice) Act 2004*.

This clause amends the definition of parent to reflect changes to the concept of parental responsibility for a child or young person under division 1.3.2 of the *Children and Young People Bill 2008*.

### **Part 3.9 — Crimes (Sentence Administration) Act 2005**

This part amends the *Crimes (Sentence Administration) Act 2005*.

#### **Clause 3.18 — Section 123 (5), definition of relevant person**

Section 123 provides a definition of relevant person in the context of the Sentence Administration Board seeking a victim's views for a parole inquiry under the *Crimes (Sentence Administration) Act 2005*.

This clause updates the definition of relevant person if the victim is a child under 15 years old. The relevant person is a person who has parental responsibility for the victim. The update reflects changes to the concept of parental responsibility as outlined at division 1.3.2 of the *Children and Young People Bill 2008*.

#### **Clause 3.19 — Section 133 (6), definition of relevant person**

Section 133 provides for the Sentence Administration Board to give notice of its decisions on parole applications for the *Crimes (Sentence Administration) Act 2005*. It also provides for a relevant person to make a submission to the Board if a victim of the offender is a child under 15 years old.

This clause updates the definition of relevant person if the victim is a child under 15 years old, as a person who has parental responsibility for the victim. The update reflects changes to the concept of parental responsibility for a child or young person as outlined at division 1.3.2 of the *Children and Young People Bill 2008*.

#### **Clause 3.20 — Section 292 (4) (a)**

Section 292 provides for an inquiry into an application for the release of an offender on licence and for the Sentence Administration Board to seek the victim's views on the application.

This clause reflects changes to the concept of parental responsibility for a child or young person as outlined at division 1.3.2 of the *Children and Young People Bill 2008*.

### **Clause 3.21 — Section 298 (6)**

Section 298 provides for a notice of an Executive decision to grant, or refuse to grant, an offender a release on licence.

This clause updates the definition of person who has parental responsibility (the person who receives the notice if a victim of the offender is a child under 15 years old) to reflect changes to the concept of parental responsibility of a child or young person as outlined at division 1.3.2 of the Children and Young People Bill 2008.

### **Part 3.10 — Crimes (Sentencing) Act 2005**

This part amends the *Crimes (Sentencing) Act 2005*.

#### **Clause 3.22 — Section 49 (2), definition of person who has parental responsibility**

Section 49 outlines who may make victim impact statements for this Act.

This clause updates the definition for a person who has parental responsibility as a person who may make a victim impact statement, to reflect changes to the concept of parental responsibility for a child or young person as outlined at division 1.3.2 of the Children and Young People Bill 2008.

### **Part 3.11 — Domestic Violence and Protection Orders Act 2001**

This part amends the *Domestic Violence and Protection Orders Act 2001*.

#### **Clause 3.23 — Section 32 (1) (a)**

Section 32 provides for the relationship between the *Domestic Violence and Protection Orders Act 2001* and the *Children and Young People Act 1999* for orders generally.

For section 32(1)(a) this clause removes the reference to the *Children and Young People Act 1999* and substitutes it with a reference to the Children and Young People Bill 2008.

#### **Clause 3.24 — Section 32 (1) (b)**

For section 32(1)(b) this clause updates reference to the Children and Young People Bill 2008.

#### **Clause 3.25 — Section 42A, definition of child facility, par (c) and note**

Section 42A, provides definitions for workplace orders in the *Domestic Violence and Protection Orders Act 2001*.

For section 42A, this clause updates the definition of a child facility to mean a place of care, a therapeutic protection place, an office or other facility used by the Territory under the Children and Young People Bill 2008.

For section 42A, this clause updates the note for the definition of a child facility to clause 344 of the Children and Young People Bill 2008.

### **Part 3.12 — Education Act 2004**

This part amends the *Education Act 2004*.

#### **Clause 3.26 — Section 6 (2)**

Section 6 provides a meaning for parent and carer for the *Education Act 2004*.

This clause replaces the meaning of parent as a person having parental responsibility under the *Children and Young People Act 1999* with the concept of parental responsibility outlined at division 1.3.2 of the Children and Young People Bill 2008.

### **Part 3.13 — Evidence (Miscellaneous Provisions) Act 1991**

This part amends the *Evidence (Miscellaneous Provisions) Act 1991*.

### **Clause 3.27 — Section 7 (d)**

Section 7 provides for the evidence of children in court proceedings for the *Evidence (Miscellaneous Provisions) Act 1991*.

This clause replaces a proceeding under part 7.3 (Care and protection orders and emergency action) of the *Children and Young People Act 1999* with a proceeding under the care and protection chapters of the Children and Young People Bill 2008.

### **Part 3.14 — Food Act 2001**

This part amends the *Food Act 2001*.

#### **Clause 3.28 — Section 9 (1) (o) (i)**

Section 9 provides a meaning of sell for the *Food Act 2001*.

This clause updates the meaning of sell by substituting the selling of food to a correctional centre or lockup, or an institution or shelter under the *Children and Young People Act 1999* with the selling of food to a correctional centre or lockup, or a detention place or a therapeutic protection place under the Children and Young People Bill 2008.

### **Part 3.15 — Health Records (Privacy and Access) Act 1997**

This part amends the *Health Records (Privacy and Access) Act 1997*.

#### **Clause 3.29 — Section 14A (a)**

Section 14A prohibits access to a health record relating to a complaint etc under the *Children and Young People Act 1999*.

For section 14A(a), this clause updates the provision to prevent access to a health record that relates to a child concern report, a prenatal report or care and protection report information under the Children and Young People Bill 2008.

#### **Clause 3.30 — Dictionary, definition of guardian, paragraph (a)**

This clause updates the definition of guardian for a young person in the *Health Records (Privacy and Access) Act 1997* to a guardian or someone else with parental responsibility for a young person as outlined at division 1.3.2 in the Children and Young People Bill 2008.

### **Part 3.16 — Human Rights Commission Act 2005**

This part amends the *Human Rights Commission Act 2005*.

#### **Clause 3.31 — Section 8A, example 3**

Section 8A defines what is a service for children and young people in the ACT for the purpose of the *Human Rights Commission Act 2005*.

For section 8A, this clause updates one of the examples of services for children, young people and their carers to include a service that is provided in relation to a detention place, therapeutic protection place or place of care under the Children and Young People Bill 2008.

#### **Clause 3.32 — Section 14 (1) (g)**

Section 14(1) outlines the Human Rights Commission's functions that include referring to the public advocate advocacy matters about individual children or young people for whom the Chief Executive has parental responsibility under the *Children and Young People Act 1999*.

This clause replaces the reference to the *Children and Young People Act 1999* with a reference to the Children and Young People Bill 2008.

#### **Clause 3.33 — Section 51A (1) (b)**

Section 51A(1) provides for the referral of advocacy matters and specifically complaints that relate to a child or young person for the *Human Rights Commission Act 2005*.

For section 51A(1)(b), this clause updates the reference to the *Children and Young People Act 1999* with a reference to the Children and Young People Bill 2008.

### **Part 3.17 — Juries Act 1967**

This part amends the *Juries Act 1967*.

#### **Clause 3.34 — Schedule 2, part 2.1, item 19**

Schedule 2, part 2.1 outlines a list of people who are exempt from jury service, under this Act.

New schedule 2, part 2.1 replaces as exempt from jury service a public servant exercising the functions of a social worker under chapter 2 of the *Children and Young People Act 1999* with an employee at a place declared to be a detention place, a place approved as a place of care and a place declared to be a therapeutic protection place under sections 141, 524 and 624 of the Children and Young People Act 2008.

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

This part amends the *Mental Health (Treatment and Care) Act 1994*.

#### **Clause 3.35 — Section 16 (1) (c)**

Section 16 provides for mental health orders for an assessment of a person under the *Mental Health (Treatment and Care) Act 1994*.

This clause updates references to relevant orders in the 1999 Act, to relevant orders under the 2008 Act.

#### **Clause 3.36 — Section 25 (1) (a)**

Section 25 provides a requirement for the tribunal to consult before making a mental health order in relation to a child.

This clause updates the requirement for the tribunal to consult with the people who have parental responsibility for the child to reflect changes to the concept parental responsibility for a child or young person as outlined at division 1.3.2 of the Children and Young People Bill 2008.

#### **Clause 3.37 — Section 70**

Section 70 provides for an order from a court to enable the tribunal to make recommendations about people with mental impairment. This clause updates section 70 by removing reference to part 7.3 (care and protection orders) of the *Children and Young People Act 1999*.

This clause introduces a new section 70A that provides for recommendations about people with mental illness or mental dysfunction. This section applies if a court makes a care and protection order, interim care and protection order with a mental health tribunal provision or interim therapeutic protection order under the Children and Young People Act 2008.

#### **Clause 3.38 — Section 71**

This clause updates the reference to include new section 70A created by clause 3.39

#### **Clause 3.39 — Section 83A (2) (f)**

Section 83A provides for when the tribunal must be constituted by more members when making a recommendation about a person.

This clause replaces reference to making a recommendation about a person who has a mental impairment with a reference to making a recommendation about a person with a mental impairment (under section 70), mental illness or mental dysfunction (under new section 70A) of the *Mental Health (Treatment and Care) Act 1994*.

#### **Clause 3.40 — Dictionary, definition of C&YP Chief Executive**

The dictionary provides for a definition for the C&YP Chief Executive meaning the Chief Executive responsible for administering the *Children and Young People Act 1999*.

This clause updates the definition with reference to the Chief Executive responsible for the Children and Young People Act 2008.

#### **Clause 3.41 — Dictionary, new definition of care and protection order**

This clause updates the dictionary for this Act by including the definition of a care and protection order outlined in clause 421 of the Children and Young People Bill 2008.

#### **Clause 3.42 — Dictionary, new definitions**

This clause adds definitions for the *Mental Health (Treatment and Care) Act 1994* to include definitions for an interim care and protection order, an interim therapeutic protection order and a mental health tribunal provision, under the Children and Young People Bill 2008.

### **Part 3.19 — Testamentary Guardianship Act 1984**

This part amends the *Testamentary Guardianship Act 1984*.

#### **Clause 3.43 — Section 5 (2) (a)**

Section 5 provides for the meaning of a guardian of a child for the *Testamentary Guardianship Act 1984* and excludes the Chief Executive responsible for administering chapter 2 of the *Children and Young People Act 1999*.

This clause replaces the reference to the Chief Executive responsible for chapter 2 of the *Children and Young People Act 1999* with a reference to the Chief Executive responsible for the Children and Young People Act 2008.

### **Part 3.20 — Tobacco Act 1927**

This part amends the *Tobacco Act 1927*.

#### **Clause 3.44 — Section 42E (2)**

Section 42 provides for conditions in relation to carrying out tobacco compliance testing. A young person may be used as a purchase assistant in a compliance test only if there is informed consent from at least one person who has parental responsibility under the *Children and Young People Act 1999*.

This clause amends the definition of a person who has parental responsibility and reflects changes to the concept of parental responsibility outlined at division 1.3.2 of the Children and Young People Bill 2008.

#### **Clause 3.45 — Section 42E (2), note**

This clause updates the note relating to 2 or more people sharing parental responsibility for a young person under section 19(2) of the *Children and Young People Act 1999* and replaces this with a reference to section 18(2) of the Children and Young People Bill 2008.

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

This part amends the *Victims of Crime (Financial Assistance) Act 1983*.

#### **Clause 3.46 — Dictionary, definition of guardian**

The dictionary provides a definition of guardian for the *Victims of Crime (Financial Assistance) Act 1983* and excludes the Chief Executive responsible for administering the *Children and Young People Act 1999*, chapter 2.

This clause updates the definition of guardian by replacing the *Children and Young People Act 1999* with the Children and Young People Act 2008.

## **Schedule 4 — Consequential Amendments — remainder**

### **Part 4.1 — Bail Act 1992**

This part amends the *Bail Act 1992*.

#### **Clause 4.1 — Section 9D(6)**

Section 9D sets out conditions of bail for a serious offence committed while a charge for another serious offence is pending or outstanding.

This clause removes a note from the definition of an outstanding charge that notes that found guilty of an offence includes having an order made for the offence under section 98 of the *Children and Young People Act 1999* (Disposition without proceeding to conviction).

#### **Clause 4.2 — Section 23(1)(c)**

This clause replaces the requirement for the court or authorised officer to consider if the decision is being made by a court and a report has been given to the court under Section 73 of the *Children and Young People Act 1999* with Section 74D, Court Procedures Act 2008 (Court may order report about young person).

#### **Clause 4.3 — New section 25A**

Section 25 outlines conditions that may be imposed on a grant of bail to an adult.

This clause provides for an agreement between Chief Executives for the supervision of people aged 18 to under 21 years, who are granted bail for a juvenile offence.

#### **Clause 4.4 — Section 26 (2) (a)**

Section 26(2) provides that a child may be required while released on bail to accept supervision by the Chief Executive under Chapter 6 (Young Offenders) of the *Children and Young People Act 1999*.

For section 26(2)(a) this clause replaces a reference to Chapter 6 (Young Offenders) of the *Children and Young People Act 1999* with a reference to the Children and Young People Bill 2008.

### **Part 4.2 — Charitable Collections Regulation 2003**

This part amends the *Charitable Collections Regulation 2003*.

#### **Clause 4.5 — Section 10, note**

Section 10 of the *Charitable Collections Regulation 2003* provides for statutory conditions relating to children taking part in collections.

This clause updates the note with the relevant provisions of the Children and Young People Bill 2008 in relation to employment.

### **Part 4.3 — Confiscation of Criminal Assets Act 2003**

This part amends the *Confiscation of Criminal Assets Act 2003*.

#### **Clause 4.6 — Section 15 (1) (c), note 1, 3rd dot point**

Section 15(1) provides for the *Confiscation of Criminal Assets Act 2003* that a person is taken to be convicted of an offence if found guilty of an offence.

This clause removes references in the explanatory note to an order made for the offence under the *Children and Young People Act 1999*, section 98 (Disposition without proceeding to conviction).

#### **Clause 4.7 — Section 15 (1) (c), note 2**

This clause removes note 2 that refers to how found guilty of an offence is defined in the *Legislation Act 2001*, dictionary, part 1.

## **Part 4.4 — Coroners Act 1997**

This part amends the *Coroners Act 1997*.

### **Clause 4.8 — Section 3C (1) (b), new note 2**

This clause updates the explanatory note for the definition of a death in custody while performing work under a community service condition of a good behaviour order, by adding a new note to allow for a community service order under the Children and Young People Bill 2008.

### **Clause 4.9 — Section 3C (1) (c)**

This clause removes the meaning of a death in custody while performing work under a community service order under the *Children and Young People Act 1999*.

### **Clause 4.10 — Section 3C (1) (f)**

For section 3C(1)(f) this clause replaces the meaning of death in custody while subject to an order under the *Children and Young People Act 1999* relating to the disposition of young offenders to mean while subject to an accommodation order under the *Crimes (Sentencing) Act 2005*, section 133Z.

### **Clause 4.11 — Section 3C (4)**

For section 3C(4) this clause updates the section to refer to the new note at section 3C(1) (b).

## **Part 4.5 — Court Procedures Act 2004**

This part amends the *Court Procedures Act 2004*.

### **Clause 4.12 — Section 15 (2) (c) (iv) (B)**

Section 15 provides for the remission, refund, deferral, waiver and exemption of fees for the *Court Procedures Act 2004*.

This clause removes the reference to the *Children and Young People Act 1999*.

### **Clause 4.13 — Section 15 (2) (c) (v) (A)**

For section 15(2)(c)(v)(A) this clause removes the reference to the *Children and Young People Act 1999*.

### **Clause 4.14 — Section 41 (2) (a)**

Section 41 provides for the right of entry to court premises open to the public subject to other Acts.

This clause replaces the proceedings not open to the public provisions of the *Children and Young People Act 1999* with the provisions relating to court proceedings involving children or young people not open to the public in section 72 of the *Court Procedures Act 2004*.

## **Part 4.6 — Court Procedures Rules 2006**

This part amends the *Court Procedures Rules 2006*.

### **Clause 4.15 — Rule 22 (1), note 2**

Rule 22 provides for the application of rules to civil proceedings generally.

This clause amends the explanatory note that states that the Magistrates Court includes the Childrens Court under section 53 of the *Children and Young People Act 1999*. The reference to the *Children and Young People Act 1999* is replaced with a reference to section 287 of the *Magistrates Court Act 1930*.

#### **Clause 4.16 — Rule 275 (1), example**

Rule 275 (1) provides for a person with a legal disability in civil proceedings where only the person's litigation guardian may start proceedings, unless a territory law otherwise provides.

This clause amends the rule by updating the example of how a territory law can provide an alternative to a litigation guardian by replacing the provision in relation to children and young people in need of care and protection under the *Children and Young People Act 1999* with the provision in relation to a child or young person in section 74E of the *Court Procedures Act 1999*.

#### **Clause 4.17 — Rule 6000 (1) note 2**

Rule 6000 provides for the application of general rules for all proceedings under the *Court Procedures Rules 2006*.

This clause amends the explanatory note that states that the Magistrates Court includes the Childrens Court under section 53 of the *Children and Young People Act 1999*. The reference to the *Children and Young People Act 1999* is replaced by section 287 of the *Magistrates Court Act 1930*.

### **Part 4.7 — Crimes Act 1900**

This part amends the *Crimes Act 1900*.

#### **Clause 4.18 — Section 39 (4)**

Section 39 provides for the neglect of children in the context of offences against the person and how a child officer may act to safeguard a child for the *Crimes Act 1900*.

This clause replaces the first reference to child officer with reference to the Chief Executive responsible for the Children and Young People Bill 2008.

#### **Clause 4.19 — Section 39 (4)**

This clause replaces the last mention of the title child officer with the title Chief Executive.

#### **Clause 4.20 — Section 39 (6), definition of child officer**

This clause updates section 39(6) by removing the definition of child officer for the *Crimes Act 1900*.

### **Part 4.8 — Crimes (Child Sex Offenders) Act 2005**

This part amends the *Crimes (Child Sex Offenders) Act 2005*.

#### **Clause 4.21 — Section 7 (1) (d) (ii)**

Section 7(1) provides for the meaning of finding of guilt for the *Crimes (Child Sex Offenders) Act 2005*.

This clause removes the reference to section 98 of the *Children and Young People Act 1999*.

#### **Clause 4.22 — Section 7 (1) (d) (iii)**

This clause amends the meaning of finding of guilt by removing the reference to section 98 of the *Children and Young People Act 1999*.

#### **Clause 4.23 — Section 9 (1) (a) (ii)**

Section 9 outlines when a person is not a registrable offender under the *Crimes (Child Sex Offenders) Act 2005*.

This clause removes the reference to section 98 of the *Children and Young People Act 1999*.

#### **Clause 4.24—4 — Section 9 (1) (a) (iii)**

This clause removes the reference to section 9(1)(a)(ii) which is removed by clause 4.24.



#### **Clause 4.25 — Section 17 (2), definition of *sentence***

Section 17 provides that a court may make a child sex offender registration order in relation to a person for an offence only if it imposes a sentence on the person for an offence.

For the definition of sentence, this clause replaces a reference to sections 96 or 98 of the *Children and Young People Act 1999* with a reference to sections 13, 17, 18, 19 or 27 of the *Crimes (Sentencing) Act 2005*.

#### **Clause 4.26 — Section 124 (2), definition of *family day care scheme***

This clause amends the definition of child related employment where it involves contact with a child in relation to a family day care scheme under the *Children and Young People Act 1999* by replacing it with a family day care scheme under clause 733 of the Children and Young People Bill 2008.

#### **Clause 4.27 — Dictionary, definition of *community service order***

Section 125 outlines when a person is considered to be engaged in child related employment for the *Crimes (Child Sex Offenders) Act 2005*.

This clause removes reference to section 106 of the *Children and Young People Act 1999*.

### **Part 4.9 — Crimes (Child Sex Offenders) Regulation 2005**

This part amends the *Crimes (Sex Offenders) Regulation 2005*.

#### **Clause 4.28 — Section 12 (1) (d) (i)**

Section 12 provides for those entities that must give a registrable offender a reporting obligations notice under the *Crimes (Sex Offenders) Regulation 2005*.

This clause updates a reference to the Children and Young People Act 2008.

#### **Clause 4.29 — Section 20 (2)**

Section 20 provides a definition of who is a supervising authority for a registrable offender for the *Crimes (Sex Offenders) Regulation 2005*.

This clause updates a reference to the Children and Young People Act 2008.

### **Part 4.10 — Crimes (Restorative Justice) Act 2004**

This part amends the *Crimes (Restorative Justice) Act 2004*.

#### **Clause 4.30 — Section 13, definition of *sentence-related order***

Section 13 provides a definition of a sentence related order for an offender for the *Crimes (Restorative Justice) Act 2004*.

This clause amends the definition of a sentence related order by removing references to orders under section 96 (Disposition of young offenders) and section 98 (Disposition without proceeding to conviction) of the *Children and Young People Act 1999*.

#### **Clause 4.31 — Section 22 (2), definition of *Chief Executive (children and young people)***

Section 22 allows referring entities to refer an offence for restorative justice under the *Crimes (Restorative Justice) Act 2004*.

This clause updates the definition of Chief Executive (children and young people) to mean the Chief Executive of the administrative unit responsible for the Children and Young People Bill 2008.

**Clause 4.32 — Section 22 (2), definition of Chief Executive (restorative justice), example (definitions of all Chief Executives)**

This clause updates the example that outlines definitions of all Chief Executives as referring entities for restorative justice by amending the definition for Chief Executive (children and young people). This clause updates a reference to the Children and Young People Act 2008.

**Part 4.11 — Crimes (Sentence Administration) Act 2005**

**Clause 4.33 — Section 217, definition of ACT sentence of imprisonment**

Section 217 provides for the definition of an ACT sentence of imprisonment for the purposes of interstate transfer of prisoners for the *Crimes (Sentence Administration) Act 2005*.

This clause removes from the definition orders under the *Children and Young People Act 1999* for the committal of a child to an institution or state institution. This reflects changes in sentencing law contemplated by the Children and Young People Bill 2008.

**Part 4.12 — Crimes (Sentencing) Act 2005**

This part amends the *Crimes (Sentencing) Act 2005*.

**Clause 4.34 — Section 38**

This clause replaces section 38 and updates the provisions for sentences of imprisonment and uncompleted young offender orders by amending the definition of young offender to be the dictionary definition contained in the Children and Young People Bill 2008. The new section provides for an adult offender if, at the time of sentencing, the adult is serving a sentence that was imposed on the person as a young offender. The new section provides for the court, in deciding the term of the sentence, to consider any remaining period during which the sentence that was imposed on the person as a young offender would remain in force if the previous sentence is not discharged.

**Clause 4.35 — Section 70 (2), definition of sentence of imprisonment**

Section 70 provides for a sentence of imprisonment (a primary sentence) imposed by a court on an offender for this Act.

This clause amends the definition of sentence of imprisonment to exclude any nonparole period that has been set for the primary sentence.

**Part 4.13 — Drugs of Dependence Act 1989**

This part amends the *Drugs of Dependence Act 1989*.

**Clause 4.36 — Section 121, definition of responsible officer, paragraph (a)**

Section 121 provides for definitions relating to treatment for the *Drugs of Dependence Act 1989*.

This clause updates the definition of a responsible officer in relation to an offender who is under 18 years old to the Chief Executive of the administrative unit responsible for the Children and Young People Bill 2008.

**Part 4.14 — Education Act 2004**

This part amends the *Education Act 2004*.

**Clause 4.37 — Section 6 (3)**

New section 6 (3) substitutes the meaning of carer under the *Children and Young People Act 1999* with the meaning of a carer as an out of home carer under section 507 of the Children and Young People Bill 2008.

**Clause 4.38— Section 13 (2), new note**

Section 13 provides for employment of children under school—leaving age.

New section 13(2) updates the section by adding a note that the provisions regarding the employment of children and young people in chapter 21 of the Children and Young People Bill 2008 is subject to this section.

## **Part 4.15 — Evidence (Miscellaneous Provisions) Act 1991**

This part amends the *Evidence (Miscellaneous Provisions) Act 1991*.

### **Clause 4.39 — Section 74 (2) (b)**

Section 74 provides for family objections in relation to a criminal proceeding but excludes the offences against the children and young people employment provisions in sections 374, 375 and 376 of the *Children and Young People Act 1999*.

This clause updates this exclusion by replacing the children and young people employment provisions in the *Children and Young People Act 1999* with the child or young person employment provisions in section 788, 790, 802 and 803 of the Children and Young People Bill 2008.

## **Part 4.16 — Hawkers Act 2003**

This part amends the *Hawkers Act 2003*.

### **Clause 4.40 — Section 4 (d)**

Section 4 outlines conduct that is excluded from and does not apply to the *Hawkers Act 2003*.

This clause replaces as excluded conduct the sale, delivery or distribution of newspapers by a child under chapter 10 of the *Children and Young People Act 1999* with the sale, delivery or distribution of newspapers by a child or young person that is light work under section 792 (What is light work?) of the Children and Young People Bill 2008.

## **Part 4.17 — Juries Act 1967**

This part amends the *Juries Act 1967*.

### **Clause 4.41 — Schedule 2, part 2.1, item 20**

Schedule 2, part 2.1 provides a list of people who are exempt from jury service.

New schedule 2, part 2.1 removes as exempt from jury service a public servant holding a delegation under the *Children and Young People Act 1999*, section 34 whose principal function is to direct and control the provision of youth justice services in the ACT.

## **Part 4.18 — Legislation Act 2001**

This part amends the *Legislation Act 2001*.

### **Clause 4.42 — Dictionary, definition of Childrens Court**

The dictionary provides a definition of the Childrens Court for the *Legislation Act 2001*.

This clause updates the definition by replacing the reference to section 53 of the *Children and Young People Act 1999* with section 287 of the *Magistrates Court Act 1930*.

### **Clause 4.43 — Dictionary, definition of found guilty, paragraph (c)**

The dictionary definition of found guilty of an offence for the *Legislation Act 2001* includes having an order made for the offence under section 98 (Disposition without proceeding to conviction) of the *Children and Young People Act 1999*.

This clause updates the definition by removing this provision under section 98 of the *Children and Young People Act 1999*.

## **Part 4.19 — Mental Health (Treatment and Care) Act 1994**

This part amends the *Mental Health (Treatment and Care) Act 1994*.

### **Clause 4.44 — Section 16 (1) (d)**

This clause updates the requirement to submit to the jurisdiction of the tribunal by removing the requirement under an order under chapter 6 (Young offenders) of the *Children and Young People Act 1999*.

### **Clause 4.45 — Section 70 (1) (b)**

This clause removes reference to part 6.2 of the Child of the *Children and Young People Act 1999*.

### **Clause 4.46 — Section 90 (5) (e) (except the note)**

Section 90 provides for a summons to appear in person before the tribunal and for the person to be accompanied by a copy of any order under part 6.2 or part 7.3 of the *Children and Young People Act 1999*.

This clause updates a reference to the Children and Young People Act 2008.

### **Clause 4.47 — Dictionary, definition of C&YP Act**

The dictionary provides for a definition of the C&YP Act to be the *Children and Young People Act 1999*.

This clause replaces the *Children and Young People Act 1999* with the Children and Young People Bill 2008.

### **Clause 4.48 — Dictionary, definition of offender with a mental impairment**

The dictionary provides a definition of an offender with a mental impairment.

This clause removes the reference to part 6.2 (Young offenders) of the *Children and Young People Act 1999*.

### **Clause 4.49 — Dictionary, definition of referring officer, paragraph (b)**

The dictionary provides a definition of a referring officer in relation to a person.

This clause updates the definition of referring officer by removing the meaning of referring officer in relation to a child.

### **Clause 4.50 — Dictionary, definition of referring officer, paragraph (d), note**

The dictionary provides for a referring officer to be the Chief Executive who may be required to supervise a child under chapter 6 (Young Offenders) of the *Children and Young People Act 1999*.

This clause updates the definition of referring officer by replacing the reference to the *Children and Young People Act 1999* with the Children and Young People Bill 2008.

## **Part 4.20 — Public Advocate Act 2005**

This part amends the *Public Advocate Act 2005*.

### **Clause 4.51 — Section 10 (j)**

Section 10 provides for those functions to be exercised by the Public Advocate.

This clause removes references to functions exercised by the Public Advocate under the *Children and Young People Act 1999*.

## **Part 4.21 — Public Health Regulation 2000**

This part amends the *Public Health Regulation 2000*.

#### **Clause 4.52 — Section 2, note 1**

Section 2 provides for an explanation as to how certain terms and references are used in the *Public Health Regulation 2000*.

This clause updates the explanatory note to reflect the updated definition of childcare centre in clause 732 of the Children and Young People Bill 2008.

#### **Clause 4.53 — Dictionary, definition of child-care centre**

The dictionary provides for a definition of childcare centre for the *Public Health Regulation 2000*.

This clause updates the definition of childcare centre to reflect the updated definition of childcare centre in clause 732 of the Children and Young People Bill 2008.

#### **Clause 4.54 — Further amendments, mentions of child-care**

This clause updates all mentions of the term childcare in the *Public Health Regulation 2000* by replacing it with the term childcare.

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

This part amends the *Victims of Crime (Financial Assistance) Act 1983*.

#### **Clause 4.55 — Section 66 (2) (a) (ii)**

Section 66 provides for the types of offences to which a compensation levy applies for the *Victims of Crime (Financial Assistance) Act 1983*. The levy does not apply to an offence in relation to which a reparation order is made under section 96 (Disposition of young offenders) of the *Children and Young People Act 1999*.

This clause removes the reference to the *Children and Young People Act 1999*.

### **Schedule 5 Legislation repealed**

This schedule provides for the repeal of the *Children and Young People Act 1999* and associated instruments.